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LA THÈSE A ÉTÉ
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THE CHILDREN OF APPIUS CLAUDIUS PULCHER (COS. 79).

by Garry W. Pinard

Thesis presented to the School of Graduate
Studies of the University of Ottawa for the
partial fulfillment of the requirements for
the Ph. D. in Classical Studies.

Ottawa, 1981.

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"quam non est facilis virtus: quam vero
difficilis eius diuturna simulatio: (A. 7.1.6)

"ullam Appietatem aut Lentulitatem valere
apud me plus quam ornamenta virtutis exis-
timas? cum ea consecutus nondum eram quae
sunt hominum opinionibus amplissima, tamen
ista vestra nomina numquam sum admiratus;
viros eos qui ea vobis reliquissent magnos
arbitrabar." (Pan. 3.7.5)

"Vides ut statuas signa picturas, hominum
denique multorumque animalium formas, ar-
borum etiam, si modo sint decorae, nihil
magis quam amplitudo commendet. Idem ora-
tionibus evenit; quin etiam voluminibus
ipsis auctoritatem quandam et pulchritu-
dinem adicit magnitudo." (Pliny Ep. 1.20.5)

"At est gratior multis actio brevis." Est,
sed inertibus quorum delicias desidiamque
quasi iudicium respicere ridiculum est.
Nam si hos in consilio habeas, non solum
satius breviter dicere, sed omnino non
dicere." (Pliny Ep. 1.12.23)

"ΕΣΠΕΤΕ ΝΟΥΝ ΜΟΙ, ΜΟΥ ΕΚΛΕΙΨΕΤΕ ΔΕ
ΠΡΩΤΟΝ ΠΥΡΡΕΣΕΕ." (A. 1.16.5)

RESUME

The marriage of Appius Claudius Pulcher (consul 79) and Caecilia Metelli f. produced six children: Appius (praetor 57, consul 54, censor 50), Gaius (praetor 56), Publius (tribune 58, aedile 56) and three sisters named Clodia. This work describes and discusses the political, social, religious and economic factors involved in their careers and it shows how these factors had an impact on the history of the Late Roman Republic.

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ABBREVIATIONS FOR ANCIENT AUTHORS

Appian: App. BCiv. = The Civil Wars

App. Han. = The Hannibalic War

App. Mith. = The Mithridatic War

App. Sic. = Of Sicily and the Other Isles

App. Syr. = The Syrian Wars

Asc. page number = Clark, A. C. Q. Asconii Pediani Oratorium Ciceronis Quinque Enarratio, 1907 rpt: Oxford: Clarendon Press, 1956.

Cato R.R. = Cato De Re Rustica

Cicero: A. = Epistulae Ad Atticum

Balb. = Pro Balbo

Brut. = Brutus

Cael. = Pro Caelio

Cat. = In Catilinam I-IV

Cluent. = Pro Cluentio

De Or. = De Oratore

Div. = De Divinatione

Dom. = De Domo Sua Ad Pontifices

Fin. = De Finibus

Flacc. = Pro Flacco

Har. = De Haruspicum Responsis

Leg. = De Legibus

Leg. Agrar. = De Lege Agraria

Leg. Man. = De Lege Manilia

Mil. = Pro Milone

Mur. = Pro Murena

Nat. Deo. = De Natura Deorum

Off. = De Officiis

Opt. Gen. Orat. = De Optimo Genere Oratorum

Or. = Orator

Part. Or. = Partitiones Oratoriae

Par. Stoi. = Paradoxa Stoicorum

Cicero: Pis. = In Calpurnium Pisonem

Phil. = Philippicae

Planc. = Pro Plancio

Prov. Cons. = De Provinciis Consularibus

Scaur. = Pro Scaura

Rab. Perd. = Pro Rabirio Perduellionis

Red Quir. = Post Reditum Ad Quirites

Red. Sen. = Post Reditum In Senatu

Rep. = De Re Publica

Sen. = De Senectute

Sest. = Pro Sestio

Sull. = Pro Sulla

Tusc. Disp. = Tusculanae Disputationes

Vat. = In Vatinius

Verr. = In Verrem

Quintus Cicero (?): Comm. Pet. = Commentariolum Petitionis

D.C. = Dio Cassius

Diod. Sic. = Diodorus Siculus

Dion. Hal. = Dionysius of Halicarnassus

Dom. ad Ter. Ad. = Donatus ad Terentium: Adelphoe

Dig. = Digest

Flor. = Florus

Gell. = Aulus Gellius

Juv. = Juvenal

Livy Per. = Livy Periocha

Luc. = Lucan

Macro. Sat. = Macrobius Saturnalia

Nep. Att. = Cornelius Nepos Atticus

Oros. = Orosius

Pliny N.H. = Pliny Naturalis Historia

Plutarch: Plut. Aem. Paul. = Plutarch Aemilius Paulus

Plut. Ant. = Plutarch Antony

Plut. Brut. = Plutarch Brutus

Plut. C. Gracch. = Plutarch Gaius Gracchus

- Plutarch: Plut. Caes. = Plutarch Caesar
 Plut. Cato = Plutarch Cato Minor
 Plut. Cic. = Plutarch Cicero
 Plut. Cor. = Plutarch Coriolanus
 Plut. Crass. = Plutarch Crassus
 Plut. Fab. Max. = Plutarch Fabius Maximus
 Plut. Luc. = Plutarch Lucullus
 Plut. Mar. = Plutarch Marius
 Plut. Marc. = Plutarch Marcellus
 Plut. Mor. = Plutarch Moralia
 Plut. Pomp. = Plutarch Pompeius
 Plut. Rom. = Plutarch Romulus
 Plut. Sull. = Plutarch Sulla
 Plut. Ti. Gracc. = Plutarch Tiberius Gracchus
 Polyb. = Polybius
 Quint. Or. = Quintilian Institutio Oratoria
 Rhet. ad Her. = Rhetorica ad Herennium
 Sall. Cat. = Sallust Bellum Catilinae
 Sall. Iug. = Sallust Bellum Iugurthium
 Schol. Bob. p. number = Ciceronis Orationum Scholiastae. Ed.
 by T. Stangl. Hildesheim: Olms, 1967.
 Strab. = Strabo
 Suet. Aug. = Suetonius Divus Augustus
 Suet. Iul. = Suetonius Divus Iulius
 Suet. Rhet. = Suetonius De Rhetoribus
 Suet. Tib. = Suetonius Tiberius
 Tac. Ann. = Tacitus Annales
 Val. Max. = Valerius Maximus
 Varro L.L. = Varro De Lingua Latina
 Varro R.R. = Varro De Re Rustica
 Vell. Pat. = Velleius Paterculus

ABBREVIATIONS FOR MODERN AUTHORS

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PREFACE

The marriage of Appius Claudius Pulcher (consul 79) and Caecilia Metelli f. produced six children: Appius (praetor 57, consul 54, censor 50), Gaius (praetor 56); Publius (tribune 58, aedile 56¹), and three sisters named Clodia. It is the purpose of this work to describe and discuss their careers.

The following methodology has been used to deal with the careers of the three brothers. The bulk of the evidence concerns Publius. Therefore, for the most part, it has proven convenient and necessary to discuss the careers of Appius and Gaius in conjunction with that of Publius. Such a procedure is feasible because Appius and Gaius were usually working with their younger brother. Nevertheless, there is sufficient information on Appius' consulship, proconsulship and censorship for them to be treated in separate chapters which fit in very well to the overall chronological framework of the thesis. Meanwhile, the three Clodiae have been dealt with in a thematic manner owing to the lack of information on the chronological development of their careers.

For the most part the ancient sources take a one sided view of the Claudii Pulchri in general and of Publius in particular. Such secondary sources as Appian, Dio Cassius and Plutarch tag Publius as Caesar's henchman, as a revolutionary,

as a demagogue. In dealing with these sources attention has been focussed on Publius' deeds: this allows for a more objective interpretation of his career. Several examples of this method of approach may be seen on pp. 243-5, 473-5, 490-1, 522. Perhaps these sources take a one sided view of Publius because they used Cicero as their main source on him.

Cicero is the main primary source for Publius. Since Publius was Cicero's enemy, Cicero adopts a uniformly hostile disposition towards him in his speeches. In many instances, Cicero's speeches provide the only evidence which we have on certain aspects of Publius' career. Given Cicero's hostile rhetoric, it is necessary to separate fact from fiction when using his speeches as a source. There are several ways of doing this. For instance, in a speech Cicero will make a statement aimed at undermining Publius' political position, but later he will present evidence which shows that statement to be an exaggeration. This occurs in the Pro Sestio where he states that Publius as tribune in 58 had abolished obnuntiatio; later in the same speech he cites instances of obnuntiatio which took place after Publius' tribunate. A detailed discussion of this type of rhetorical exaggeration is presented on pp. 102-3. At other times Cicero will make statements about Publius which can not be modified by other evidence in the speeches or elsewhere. Here it is necessary to establish the probable factual basis behind Cicero's statements. This can

best be done by taking Cicero's audience into consideration. For instance, he would not be as rhetorically inventive before a knowledgeable senate as he would be before the people or a jury. This point is thoroughly discussed on pp. 11-12, 108-9, 411-2.

Cicero's letters also provide information on Publius and his relatives. His letters to Atticus, to Quintus and to Appius provide a great deal of the evidence used in the present work. The letters furnish a more reliable source of information than the speeches. In the letters to Atticus Cicero, for the most part, can be trusted because he is writing to his best friend. Moreover, he was writing to a friend who was well informed and who had extensive contacts with the Claudii Pulchri and others. A discussion of Atticus' contacts with the Claudii Pulchri is presented on p. 520. Meanwhile the letters to Quintus can be interpreted as candid letters written to a brother. Finally, Cicero's correspondence with Appius must be viewed in light of Appius' contacts at Rome and in Cilicia: Cicero would know that Appius would be able to check on most of the things which he wrote him about.

The sons of Appius pater pursued different political policies. While Publius pursued a mainly popularis line of conduct, Appius, except when he was helping out Publius, followed the optimata path; as for Gaius, there is insufficient information on which to guess at his political pursuits. The

difference in the politics of the two brothers did not run counter to the political traditions of the Claudii Pulchri. In the reign of Tarquinius Superbus, Appius Clausus, together with his relatives and clients came from Sabine country to Rome. There, Appius was admitted to the patres and was given grants of land for himself and his entourage. His descendants played an important role in the history of Rome: they had numerous ³ consulships, censorships and triumphs to their credit. One thing which they did not share however, was a consistent brand of politics. From the time of Appius Clausus till that of his descendant Appius Claudius Caecus, the censor for the period 312-309, the Claudii displayed an aristocratic disdain of the plebs and of the tribunes in particular. Their attitude is best summed up by Gaius Claudius, the son of Clausus; he had heartily approved the proposition that the number of tribunes be doubled from five to ten ⁴ on the ground that their stupidity would thereby be doubled. Appius Claudius Caecus was the first to pursue a popularis line of conduct. As censor he distributed the freedmen through the tribes and thus acquired a great number of clients. ⁵ The censor C. Claudius Pulcher showed the same popularis tendency in 169. He prevented his colleague Tiberius Gracchus from removing the freedmen from the tribes altogether. He persuaded him to let ⁶ the freedmen be enrolled in one of the four urban tribes. Later, in 133 Appius Claudius Pulcher (cos. 143) pursued the same popularis policy as his son-in-law Ti-

berius Gracchus when he became one of the three members on Tiberius' land commission. Appius' two sons Gaius (cos. 92) and Appius (cos. 79) did not follow in their father's footsteps: while Gaius was chosen in 95 by the senate to draw up a constitution for Halaesa in Sicily, Appius was one of Sulla's nominees for the consulship of 79. Meanwhile, the two sons of the consul of 79, as noted above, pursued different political paths throughout their careers.

Each of the three sons of Appius (cos. 79) followed the cursus honorum with varying degrees of success. The following table is presented so as to show when the three brothers were in and out of office.

	Publius	Gaius	Appius
Quaestor	61	?	?
Tribune	58		
Aedile	56		
Praetor		56	57
Consul			54
Censor			50

CHAPTER I

THE BONA DEA TRIAL

P. Clodius Pulcher was a member of the gens of the Claudii Pulchri. This branch of the patrician Claudii had originated with Appius Claudius Caecus (censor 312-308) whose eldest son bore the cognomen Pulcher. The gens Claudia Pulchra remained in the mainstream of political life: by the time of Clodius' tribunate in 58, it had nine consulships and two censorships to its credit.

While his two brothers followed the patrician cur-sus honorum, Clodius did not. In late March of 61, after he had been acquitted of sacrilege in the Bona Dea affair, he announced that he would seek plebeian status in order to stand for the tribunate. Four factors induced him to pursue this course of action: his alienation from the optimates and the senate; his hatred of Cicero; the popularity with the plebs which would result from his plebeian status; the tribunate's political power.

Clodius' alienation from the optimates and the senate resulted directly from the Bona Dea affair. They had attempted to eliminate him from the political scene by ha-

ving him indicted for his alleged disruption of the Bona Dea sacrifice in December, 62. His early military and political career had given them good reason for seeking his political destruction.

The first sign of Clodius' participation in public life comes in 73. In that year a number of Vestal Virgins were prosecuted on the charge of incestum. M. Pupius Piso (cos. 61) successfully defended them. While they were under indictment, Clodius incited the people against them and members of the priestly college. M. Porcius Cato, however, opposed him so heatedly that he was compelled to leave town.²

Clodius is next heard of in 68. He was then serving, probably as a legatus, on the proconsular staff of his brother-in-law, L. Licinius Lucullus (cos. 74), who was in charge of the war against Mithridates and Tigranes.³ Clodius seriously undermined Lucullus' military position. After the capture of Nisibis in the winter of 68-67, he incited the two Valerian legions to mutiny in Lucullus' absence. He claimed that Lucullus kept the lion's share of the booty for himself and that he did not adequately reward the Valerians for the numerous battles they had fought or for the prolonged and difficult service they had endured under his command. He also contrasted their fate with that of the soldiers who had served under Pompey in Spain: whereas

Pompey's forces were rewarded for their modest achievements with discharges and with land allotments, they, the Valerians, had nothing similar to show for their more considerable exploits.⁴

The Valerians responded to Clodius' speeches.⁵ The issues which he raised struck home. Their conditions of service under Lucullus had been toilsome: they had spent their winters encamped in either enemy or allied territory and they were continually fighting Mithridates and Tigranes without decisively ending the war. Such conditions had led the Valerians and the rest of the army to disobey Lucullus twice in 68: not only did they refuse to campaign against the Parthians, but afterwards they refused to march against Artaxas in winter conditions.⁶

Clodius' claim that Lucullus did not sufficiently reward his troops also struck a responsive chord among the Valerians. In 73 Lucullus' troops complained that he deprived them of booty by using peaceful methods to win over the enemy cities. Finally, in late 67 the Valerians, some time after Clodius' speeches to them, were openly contemptuous of Lucullus when he entreated them to continue the campaign against Mithridates and Tigranes; they threw their empty purses at his feet and told him to fight the enemy by himself since he alone knew how to get rich from them.⁷

Several factors would have prompted Clodius' mutinous behaviour. Firstly, he wanted to avenge himself against Lucullus who had not given him the honours befitting his dignitas. Secondly, he sought popularity. The popularity, which he now acquired by sympathizing with the Valerians' plight, would later be useful: when the Valerians were discharged and had returned to Italy, their support would be useful in furthering his political career. Finally, he was trying to gain the favour of the populares at Rome who sought to remove Lucullus from the command of the Eastern war: the mutiny of the Valerians surely gave their cause an added boost.

Clodius dealt Lucullus a temporary setback. At Nisibis the Valerians mutinied and refused to take any action against Mithridates and Tigranes. However, when Mithridates defeated Triarius and Fabius, two of Lucullus' legates, they followed their general against him. Mithridates refused to give battle. Lucullus then sought to prevent the juncture of the armies of Mithridates and Tigranes, but the Valerians again mutinied. At the instance of Lucullus' other troops, the Valerians remained in camp till the end of summer. At that time they seceded from the army claiming that they had been discharged by a decree of the people.

Their departure was harmful to Lucullus: he had to stand

still while Tigranes and Mithridates took back many of their former possessions. Pompey, who succeeded him under the terms of the Manilian law, reconquered these lands and decisively defeated Mithridates and Tigranes. The fact that he brought this about with the aid of the Valerians, whom he had re-listed, must have stuck in Lucullus' craw.⁹

After his mutinous behaviour at Nisibis in early 67 Clodius deserted Lucullus for fear of reprisals. He then joined the staff of another brother-in-law, Q. Marcius Rex (cos. 68), the proconsul of Cilicia. The favourable reception was partly due to his relationship with Rex. The ill will of Rex towards Lucullus was probably also responsible: Dio Cassius states that Rex, while on his way to his province in early 67, had refused Lucullus' request for aid on the pretext that his troops would not go to the latter's assistance.¹⁰

Rex put Clodius in charge of his fleet. The latter, however, was soon captured by the Cilician pirates who demanded a ransom. He sent word to Ptolemy, the king of Cyprus, asking him to pay it, but Ptolemy did little to help. Fortunately Clodius managed to have himself ransomed through other means.¹¹ He was freed before May or June 67: by that time Pompey, who had been charged with the war against the pirates under the terms of the lex Gabinia, had cleared the seas of piracy.¹²

After his release Clodius went to Antioch in Syria where he offered to ally himself with the Syrians against the Arabs.¹³ The latter were trying to take territory from a weakened Syria.¹⁴ We do not know if Clodius' offer was taken up. His offer was probably aimed at winning over the Syrians as clientes: such a motive was in keeping with the Claudian policy of recruiting clientelae in the Greek-speaking East.¹⁵ His elder brother had adopted similar behaviour in 70. At that time a defeated Mithridates was being harboured by his son-in-law Tigranes. Lucullus sent his legate, Appius, to demand Mithridates' surrender from Tigranes. Tigranes refused. Appius, however, profited from his visit to Antioch: while he was there awaiting the arrival of Tigranes from Phoenicia, he won over many princes including Zarbienus, king of Gordyene, and he held out Lucullus' aid¹⁶ to many of the Syrian cities under Tigranes' power. In this way he very probably managed to extend the clientelae of the Claudii Pulchri in the Greek-speaking East. Clodius, through his efforts, was merely picking up where his brother had left off.

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While in Antioch Clodius raised a sedition. The sedition would have been aimed against the reigning monarch of Syria. Philip II was then king: by 67 he had ousted his¹⁸ cousin, Antiochus Asiaticus, from the throne.¹⁹ Moreover, he

had done so with the help of the Arabian chieftain Azizus. This being the case, Clodius' offer to the Syrians of an alliance against the Arabs may well be tied in with the sedition raised against Philip II: he may have implemented his offer to help the Syrians against the Arabs by directing his efforts against a king put on the Syrian throne by an Arab chieftain. He would have been seeking to replace Philip with the dethroned Antiochus Asiaticus: the possibility of having a Syrian king as a client must have been appealing to Clodius.²¹

Clodius' activities in Antioch must have angered Marcius Rex. Rex had gone to Antioch in 67 in his capacity as proconsul in order to strengthen Philip's position as king. He was responsible for the restoration of the palace and hippodrome at Antioch. The restoration was a sign of Roman support for Philip which would bolster his prestige and popularity with the people. Rex also requested a contribution from Philip, but it may have only been demanded as a token price of Rome's friendship.²²

In going to Syria Rex must have been acting on senatorial orders: he needed the senate's authority to undertake such a mission outside his proconsular province. The senate acted similarly in two other cases. In 57 it authorised P. Lentulus Spinther, the consul of the year, to act

outside his proconsular province of Cilicia: he was to restore Ptolemy Auletes to the throne of Egypt. Later, in 51, it authorised M. Tullius Cicero to ensure the safety of the client king Ariobarzanes.²³ Rex, like Spinther and Cicero, would have been entrusted with his mission in 68 before²⁴ setting out to his province.

Clodius' activities surely earned him the ire of Rex. He had probably arrived in Antioch after the visit of Rex; Rex would have found it too difficult to implement his mission in the tumultuous conditions created by his brother-in-law. In attempting to remove Philip from the throne, Clodius was depriving Rex of a prize client. Rex showed his displeasure with Clodius in his will. Rex, who died by May 61, included Appius in it, but excluded Publius: the only known reason for this is Clodius' behaviour in Antioch.²⁵

Clodius returned to Rome by July of 65. Shortly after his arrival he settled an outstanding matter with his relatives over which he had threatened legal action. Cicero gives only a vague reference to it in a satirical account of Clodius' early military and political career:

deinde iam robustus provinciae se ac rei militari dedit atque ibi piratarum contumelias perpressus, etiam Cilicum libidines barbarorumque satiavit: post exercitu L. Luculli sollicitato per nefandum scelus fugit illim Romaeque recenti adventu suo propinquis suis decedit ne reos faceret...²⁶

In July 65 Clodius unsuccessfully prosecuted L. Sergius Catilina de repetundis: Catiline was praetor in 68 and propraetor in Africa in 67-66. After his break with Clodius in 61, Cicero constantly alleged collusion between him and Catiline. Before that, however, he does not refer to it. For instance, in the speech In Toga Candida he casts doubt on Catiline's acquittal, but he does not ascribe it to praevaricatio. Nor is praevaricatio specifically mentioned in his letters at the time of the trial. Shortly before July 17, 65, he wrote to Atticus:

Catilina, si iudicatum erit meridie non lucere, certus erit competitor.²⁷

Later in the same month Cicero wrote:

hoc tempore Catilinam, competitorem nostrum, defendere cogitamus. iudices habemus quos volumus, summa accusatoris voluntate.²⁸

Collusion is one interpretation of Clodius' voluntas²⁹; during the relectio he deliberately rejected jurors unfavourable to Catiline. However, the summa voluntas may only signify that he did not make a rigorous relectio. Such a relectio was probably prompted by his confidence that he had more than enough evidence to have Catiline condemned. In 64 Cicero describes the evidence put forth by the prosecution:

~~Quid ego ut violaveris provinciam praedicem?~~

Nam ut te illic gesseris non audeo dicere, quoniam absolutus es. Mentitos esse equites Roma-

nos, falsas fuisse tabellas honestissimae civitatis existimo, mentitum Q. Metellum Pium, mentitam Africam: vidisse puto nescio quid illos iudices qui te innocentem iudicarunt. O miser qui non sentias illo iudicio te non absolutum verum ad aliquod severius iudicium ac maius supplicium reservatum.³⁰

Several other factors can explain a less than rigorous relectio. Clodius had recently returned from military service in the East. His prosecution of Catiline constituted the beginning of his political career. In the jury there were probably a number of prominent senators favourable to Catiline. To reject such politicians in the relectio could be detrimental: it made precious little sense for a politician just beginning his career to anger these men. Moreover, there were others at the trial who would be displeased with a rigorous relectio. Catiline was supported by an impressive array of politicians. M. Manlius Torquatus, the consul, assisted in his defence and a number of ex-consuls acted as his character witnesses; it was no doubt their combined auctoritas which moved the jury to acquit Catiline. Clodius may have been similarly impressed when it came to the relectio.³¹

In 64 Clodius went to Transalpine Gaul with the praetor L. Licinius Murena. He had served with Murena on Lucullus' staff in the East. At that time they had probably

formed an amicitia which now accounted for his appointment to the propraetorian staff. Besides this, there is the probability that he was by now married to Fulvia, Murena's step daughter.³²

Cicero gives a jaundiced view of Clodius' activities in Transalpine Gaul:

Inde cum Murena se in Galliam contulit, in qua provincia mortuorum testamenta conscripsit, pupillos necavit, nefarias cum multis scelerum pactiones societatesque conflavit...³³

Murena, whom Cicero depicts as an exemplary governor, would not have permitted these things.³⁴ The factual basis of such malicious and exaggerated comments is probably the following: Clodius was named as heir in wills; a ward or wards under his guardianship had died;³⁵ he established many useful contacts in Transalpine Gaul.

Clodius' stay in Transalpine Gaul was productive. In early 61, he sent several slaves to his vilicus, Diogenes, in Transalpine Gaul. Diogenes' presence there shows that Clodius possessed an estate or estates in that province; the slaves would have been sent to work on these. He had probably come by the land in 64; he may have inherited it or it may have come into his hands with the death of a ward.³⁶

Clodius probably returned to Rome with Murena in early 63. Murena left his province, which he put in charge

of his brother Gaius, to stand for the consulship of 62. Clodius would have returned with him to assist in his canvass: in doing so he fulfilled his duties as Murena's amicus, son-in-law and legatus. Murena was successful. However, widespread bribery was used in the consular elections. Cato and Servius Sulpicius Rufus, a defeated consular candidate, charged Murena with ambitus, but their prosecution failed: the combined oratorical skills of Q. Hortensius Hortalus, M. Licinius Crassus and Cicero sufficed to have³⁷ the defendant acquitted.

In all likelihood Clodius was involved on Murena's behalf in the bribery that preceded the consular elections of 63. Cicero describes his activities on his return from Gaul:

unde ut rediit, quaestum illum maxime fecundum
uberemque campestem totum ad se ita redegit,
ut homo popularis fraudaret improbissime popu-
lum, idemque vir clemens divisores omnium tri-
buum domi ipse suae crudelissima morte mactaret.³⁸

Here Clodius apparently butchers the divisores and defrauds the people. Clearly Cicero is trying to blacken his character through outrageous allegations which can be no more³⁹ than exaggerations of minor incidents: if Clodius valued his political career one iota, he would not alienate the people by defrauding them and by killing their divisores.

Cicero's remarks, however, would not be without some factual basis. There had to be some grain of truth in his allegations. In this case it must have been that Clodius had been somehow involved in the bribery which preceded the elections in 63.

During 63 Clodius was anti-Catilinarian: he was one of Cicero's most eager guards and co-workers. Three possible factors account for his stand. Firstly, he probably sought to forge a useful political amicitia with the consul Cicero through the efforts on his behalf. Secondly, he may have been acting out of loyalty to the consul designate Murena who was siding with Cicero and the senate against Catiline. Thirdly, he was a property owner: he had a house on the Palatine and an estate or estates in Gaul; he did not want to lose these in a Catilinarian revolution.

In 62 Clodius was elected quaestor for 61. In early 61 he was indicted for sacrilege: he had allegedly intruded upon the Bona Dea sacrifice. The sacrifice, which was performed for the welfare of the Roman people, was held yearly on the night of December 4 in the house of a praetor or a consul. The mistress of the house, the Vestal Virgins, a number of high born matronae and female musicians participated in the sacrifice. The proceedings were chaste: no men and no things male were allowed on the premises; a man's

inadvertent glance upon the proceedings was supposed to blind him; myrtle, which was sacred to Venus, was excluded from the sacrifice. Although the sacrifice was as old as the republic the name of the Bona Dea was a long-kept female secret. In their books the pontiffs cannot specifically identify her. They can only refer to her by a variety of names: Fatua, Fauna, Ops, Bona. Plutarch meanwhile identified her with the Greek goddess Gyneceia. As for the proceedings themselves, they were characterized by the sacrifice of a pig, by the use of sacred couches, by the presence of many blooming plants, by revelry and music, and by rites Orphic in nature. Much of the revelry could be attributed to the "milk" which the participants drank from the "honey-pot". The "milk" and "honey-pot" were the participants' euphemisms for the wine and wine jar.⁴¹

On the night of December 4, 62, the sacrifice was being performed in the house of C. Julius Caesar, praetor and Pontifex Maximus. Clodius, attired in female garb, was admitted to the house and to the sacrifice, but his true identity was soon discovered and he was forced to make a hasty escape. The occurrence caused the Vestals to repeat the ceremony.⁴²

No immediate official action was taken^{against} Clodius. The matter was only raised in the senate a month later. In the

interim, however, a whispering campaign was launched against Clodius;⁴³ Cicero even assumes that Atticus, who was in Greece, had heard of the affair.⁴⁴ The rumours were so persistent that the senate finally did act in early January. The praetorian Cornificius raised the issue. The senate referred the matter to the college of pontiffs and to the Vestal Virgins who were to decide if the intrusion constituted sacrilege. It was normal procedure that such an issue be put to the pontiffs for a decision. The Vestals were included because the sacrifice, which had been violated, was under their jurisdiction. The pontiffs and the Vestals decided that the intrusion was "nefas".⁴⁵ The fact that the Vestals had had to repeat the ceremony after the intrusion was sufficient ground for the verdict.⁴⁶ However, there were other reasons behind the verdict. In 73 Clodius had incited the people against those Vestals who were being tried for alleged sexual relations with men. The Vestals as a whole now had the chance to even the score for this attack upon their dignitas. More particularly, the Vestals Rabia and Licia had a chance to even the score: They had been two of the Vestals on trial in 73; they certainly would not have appreciated Clodius' antics when they were on trial for their lives.⁴⁷ The pontiffs had also been attacked by Clodius in 73. This may have played a part in their deci-

sion. The fact that the majority of the pontiffs and those priests, who sat in with them for decisions on religious matters, were Clodius' inimici played a very definite part. The membership of the college in January 61 can be determined with a high degree of accuracy. The members were Q. Lutatius Catulus, M. Aemilius Lepidus Livianus, P. Servilius Isauricus Vatia, M. Terentius Varro Lucullus, Q. Caecilius Metellus Creticus, M. Acilius Glabrio, M. Valerius Messalla, D. Iunius Silanus, C. Julius Caesar, Sextus (Quintilius Varus), L. Cornelius Lentulus the flamen Martialis, P. Sulpicius Galba, C. Caecilius Metellus Scipio, C. Fannius, M. Aemilius Lepidus, P. Cornelius Lentulus Spinther, L. Claudius the rex sacrorum, and the pontifices minores Q. Cornelius, P. Albinovanus and P. Volumnius. The positions, which they adopted towards Clodius before, during and after the judicial proceedings that were soon to be taken against him, can be used to construe their votes concerning the Bona Dea incident. Of those listed above, six were anti-Clodian: C. Fannius, L. Cornelius Lentulus the flamen, P. Cornelius Lentulus Spinther, Catulus, Messalla, Caesar. Meanwhile, Silanus and Lucullus were closely related to two of the prime movers of the anti-Clodian proceedings.

As for Isauricus there is no contemporary evidence for his position. However, if he were as ill-disposed to Clodius

in 61 as he was in ⁵⁶56, then he would have been siding against him. Thus, there were eight, and possibly nine, if we include Isauricus, who deemed the intrusion to be sacrilege. The remaining members of the college would have been moved by the auctoritas behind these votes, especially that of Catulus, the most senior pontifex, and that of Caesar, the Pontifex Maximus, and voted accordingly.

After the pontiffs and the Vestals had pronounced that the occurrence at the Bona Dea ceremony was sacrilege, the senate acted. It decreed that the consuls promulgate a bill dealing with the matter. The bill enacted that a special court be set up to deal with the Bona Dea incident; that a praetor choose a jury which would serve under his presidency; that the sentence for a guilty vote was exile. The bill also named Clodius as the defendant in the case. Clodius appealed for the bill's rejection. A good number of senators unwilling to press the matter yielded to him.⁵⁷ The consul, M. Pupius Piso, Frugi, out of friendship to Clodius also pleaded against the bill which he himself was promulgating.⁵⁸ Clodius, however, did not put all of his eggs into one basket: he prepared operae to defeat the bill should it come to a vote. Meanwhile, the opposition was not sitting still.⁵⁹ Cato and the other consul, Messalla, zealously promoted the consular bill.⁶⁰

In the period January 26 to 29, 61, the consular bill was brought before the Comitia Tributa.⁶¹ C. Scribonius Curio minor and Clodius' other upper-class friends spoke against the bill. M. Piso did likewise. Afterwards, Clodius' operae seized the gangways and distributed only negative voting tablets.⁶² Cato then mounted the rostra and delivered a blistering attack against Piso for undermining his own bill. His speech along with those of Q. Hortensius Hortalus, M. Favonius and other boni, who followed suit, brought the senate to a stricter frame of mind. After the concursus optimatum⁶³ the senate was summoned. It decreed that the consuls urge the people to accept the bill. The decree did not sway Piso. He fought against it, while Clodius besought the senators individually to reject the decree. C. Scribonius Curio maior moved for the rejection of the decree: the vote was 15 for and 400 against. Clodius, however, had the last word. His fellow popularis, the tribune Q. Fufius Calenus, vetoed the decree.⁶⁴

Clodius reacted to the senate's stringent position by seeking popular support against the bill. He spoke at a number of contiones summoned by Fufius during late January and early February. He aroused anti-senatorial feeling and attacked those who were spearheading the action against him: L. Licinius Lucullus,⁶⁵ Hortensius,⁶⁶ C. Calpurnius Piso,⁶⁷

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 Messalla. The senate's disposition only hardened: by February 13 it decreed that the sortitio for the propraetorian provinces and all other senatorial business be postponed till the bill's next rogatio. Both sides, however, reached a compromise on a new bill. Hortensius was certain of an iron-clad case against Clodius: a lead sword, he believed, would suffice to cut the defendant's throat. Therefore, he persuaded Fufius to promulgate a more lenient tribunician bill allowing for a relectio of jurors. No other change was made to the consular bill: Clodius was still named as the accused; he was to be tried by a special court set up to deal with the Bona Dea scandal; the penalty for conviction was exile. The new bill was made law by March 15. The trial itself was probably held in late March.

At the trial Clodius was defended by C. Curio maior.
 He was prosecuted by Hortensius, L. Cornelius Lentulus Crus with Cn. Cornelius Lentulus Marcellinus, L. Cornelius Lentulus Niger and C. Fannius as subscriptores. The official charge was incestum. The prosecution presented several key witnesses: Aurelia and Julia, the mother and sister of the Pontifex Maximus, and Cicero. Aurelia and Julia testified to Clodius' presence at the Bona Dea ceremony and other participants in the ceremony corroborated their testimony.

Meanwhile, Cicero maintained that Clodius had consulted

him on the day of the ceremony. Their testimony discredited Clodius' alibi. Clodius alleged that he was not in Rome on the night of December 4: he was in Interamna, 90 miles from Rome. His amicus and his alleged host at Interamna, G. Causinus Schola, and others corroborated his alibi.⁷⁴ To some extent, Clodius himself had weakened his alibi: he prevented the prosecution from obtaining the testimony of several of his slaves. He had sent five slaves out of Rome: some went to his brother Appius in Greece and others to his vilicus Diogenes in Transalpine Gaul.⁷⁵

The prosecution tried to prove that the debauching of Caesar's wife, Pompeia, was the motive behind Clodius' presence at the Bona Dea ceremony.⁷⁶ This is indicated by the fact that it elicited from Aurelia and Julia information concerning Pompeia's alleged affair with Clodius;⁷⁷ that it asked Caesar why he had divorced Pompeia after the Bona Dea incident;⁷⁸ that it argued that Habra, one of Pompeia's handmaidens, had assisted Clodius on the night of December 4. The prosecution's evidence, however, was of a circumstantial and hearsay nature. For instance, the information provided by Aurelia and Julia only formed a basis from which Clodius' motive might be deduced. As for the prosecution's arguments about Habra, there was only its account of her actions on the night in question; neither Habra nor any of

Pompeia's other handmaidens were sought for questioning under torture.⁷⁹ Meanwhile, with Caesar the prosecution met a brick wall. He said that adultery was not responsible for his divorce of Pompeia. His reason for the divorce was that the wife of Caesar must be even above suspicion of wrongdoing. The prosecution, therefore, had no incontrovertible proof concerning Clodius' motive.

The prosecution's contention may be doubted on other grounds. Would Clodius, a man of thirty-one, dress as a woman and then make his way into a strictly female festival simply to effect an amorous encounter with his lover?⁸⁰ Surely there must have been more convenient times and more convenient ways of bringing this about. Besides, even if he had gone undetected, what could he have done? Even a brief absence of the mistress of the house, who was in charge⁸¹ of the ceremony, would not go unnoticed. It is most unlikely that on the night in question Clodius was seeking out Pompeia.

If adultery were not Clodius' motive, then what was it? There are two not mutually exclusive hypotheses which can explain Clodius' presence in Caesar's house: he went out of curiosity and/or he had the religious right to be there.

Firstly, there is curiosity. Clodius' curiosity was piqued by the Bona Dea sacrifice. It was a sacrifice with

many interesting features: it had the distinction of being celebrated at night; it involved music, wine and revelry; it was celebrated only by females; no men were allowed to participate or even to know the goddess' name. Such features only whetted Clodius' appetite to know exactly what went on at the ceremony. His curiosity was probably stimulated all the more by an incident which had supposedly occurred at the ceremony in 63. Plutarch relates the incident. On the night of December 4, 63, the sacrifice was held in Cicero's house under the direction of his wife Terentia. During the proceedings a great fire blazed out from the ashes of the fire on the altar. The Vestals took this as an omen that Cicero must act resolutely towards the Catilinarian conspirators who were in custody. Terentia was instructed to bring word of the event and its significance to the consul Cicero who was spending the night at a friend's house. On December 5, Cicero did act resolutely; the Catilinarians were put to death. He had probably used the so called incident to defend his actions on December 5. What better defence than to claim the approval of a goddess whose main concern was the welfare of the Roman people. If he could claim to dine with Jupiter, then he could certainly claim the Bona Dea's sanction of his acts. Clodius may have also gone to the sacrifice to see if perhaps there might

be a more mundane explanation for blazes such as occurred on December 4, 63.

Clodius consequently attired himself in female garb and made his way into Caesar's house and to the sacrifice. The taboo against males and the sanctity of the sacrifice did not deter him. Throughout his early military and political career he had been totally unscrupulous. This lack of scruples obviously extended to the religious sphere. In going to the Bona Dea ceremony, he was being no more scrupulous than his great ancestor Publius Claudius Pulcher (cos. 249): when the sacred chickens had refused to favour him with good auspices by pecking at their food, he ordered them to be thrown overboard; if they would not eat, then they could ⁸⁴ drink. To Clodius, therefore, the transgression was no serious offence: to him it was no more than a challenging lark, something to be laughed at and ⁸⁵ laughed off. After the Bona Dea trial Clodius referred tongue in cheek to the goddess as Bona.

According to the second hypothesis, Clodius had a right to be at the ceremony. His presence there in disguise was part of the private religious rites of the gens Claudia Pulchra. In September of 57, he addressed the college of pontiffs when it met to decide the fate of his shrine to Libertas that stood on the former site of Cicero's house.

Cicero's reply to his speech was the De Domo Sua Ad Pontifices.
 In that speech Cicero rebuts Clodius' speech issue
 by issue. It is probably a rebuff to some of Clodius' state-
 ments that is found in Dom. 104-5:

Publiusne Clodius, qui ex pontificis maximi
 domo religionem eripuit, is in meam intulit?
 Huncine vos, qui estis antistites caerimoni-
 arum et sacrorum, auctorem habetis et magistrum
 publicae religionis? O di immortales! - vos enim
 haec audire cupio, - P. Clodius vestra sacra
 curat? vestrum numen horret? res omnes humanas
 religione vestra contineri putat? Nunc non illu-
 dit auctoritati horum omnium, qui adsunt, sum-
 morum virorum? non vestra, pontifices, gravi-
 tate abutitur? Ex isto ore religionis verbum
excidere aut elabi potest? quam tu eodem ore
accusando senatum, quod severe de religione
decerneret, impurissime taeterrimeque violasti.
Aspicite, pontifices, hominem religiosum et, si
vobis videtur, quod est bonorum pontificum, mo-
nete eum modum quemdam esse religionis: nimium
esse superstitiosum non oportere. Quid tibi
necesse fuit anili superstitione, homo fana-
tice, sacrificium, quod alienae domi fieret,
invisere? quae autem te tanta mentis imbecil-
litas tenuit, ut non putares deos satis posse
placari, nisi etiam muliebribus religionibus
te implicuisses? quem umquam audisti maiorum
tuorum, qui et sacra privata coluerunt et pu-
blicis sacerdotiis praefuerunt, cum sacrificium
Bonae deae fieret, interfuisse?

If Cicero's remarks were a rebuttal of Clodian statements, and not simply rhetorical inventions without factual basis, then Clodius would have claimed in his speech that he was scrupulously fulfilling the traditional private family rites of the Claudii Pulchri when he went to the Bona Dea ceremony and that the senate had dealt too harshly with him over his appearance at the ceremony. Clodius' probable claim acquires validity given the fact that it was made before the college of pontiffs; the wool would not easily be pulled over their eyes: they would certainly not fall for a baseless religious fabrication.⁸⁹ However, why did Clodius only mention the private family rite in 57? If attendance at the sacrifice were part of the family religion of the Claudii Pulchri, it would, given its nature, be a closely guarded secret.⁹⁰ For this reason Clodius probably gave a false alibi at the trial. Later, when he realised that the rite could no longer be performed, he would have let the cat out of the bag in order to justify his behaviour at the Bona Dea ceremony and to offset the invective of Cicero and others about it. Furthermore, it is extremely unlikely that Clodius made such an allegation without offering proof, proof which Cicero ignores in his condemnation of him.

Clodius' contention can be further validated. There are grounds for a long standing association of the Claudii

Pulchri with the cult of the Bona Dea which entailed the performance of rites on her behalf. Ovid refers to the Bona Dea in his Fasti:

quo feror? Augustus mensis mihi carminis huius
 ius habet: interea Diva canenda Bona est.
 est moles, nativa loco, res nomina fecit:
 appellant Saxum; pars bona montis ea est.
 huic Remus institerat frustra, quo tempore fratri
 prima Palatinae signa dedistis aves,
 templa Patres illic oculos exosa viriles
 leniter acclini constituere iugo.
 dedicat haec veteris Clausorum nominis heres.
 virgineo nullum corpore passa virum:
 Livia restituit, ne non imitata maritum
 esset et ex omni parte secuta suum.⁹¹

The Claudia in question is probably Claudia Quinta. Her dedication of the Bona Dea temple may well have caused the Pulchri to participate in the goddess' cult. Such a thing was no novelty in Roman religion. There were at least two similar occurrences: one concerns the Pulchri, the other, the Luculli. Claudia Quinta had been instrumental in bringing the Magna Mater to Rome. Her involvement with the goddess probably brought about the traditional association of the Claudii Pulchri with the goddess' cult, games and place of origin.⁹² The Luculli, on the other hand, were associated with the rites of the goddess Iuventas. In 60 Lucius and Marcus Licinius Lucullus were in charge of cele-

brating her annual rites. Iuventas had been a Roman goddess since the time of the kings. A temple, which had been vowed to her by the consul M. Livius in 297, was dedicated to her in 191 by the duumvir C. Licinius Lucullus. The dedication of Iuventas' temple by their ancestor very probably accounts for the participation of Marcus and Lucius in her cult.⁹³

The nature of the rite to be performed by Clodius can only be guessed at. Dissimulation played a part in the Bona Dea ceremony: the participants drank wine, which they called milk, and the wine jar was designated as the honey pot.⁹⁴ Clodius' pose as a female musician fits into such a pattern of dissimulation.

Besides adultery, the prosecution levelled other non-official charges against Clodius: the mutiny of Lucullus' troops in 67-66, perjury, bribery and recklessness. The charges were backed by the testimony of L. Lucullus and other influential senators. To top it all off Clodius was accused of committing incest with Clodia Luculli. Lucullus testified to the charge and even produced female slaves to validate it.⁹⁵

Clodius' attire at the Bona Dea sacrifice must have provided the prosecution with even more ammunition. The prosecution would have used this factor against Clodius

with the same belittling effect as did Cicero. Cicero, followed by Plutarch and Juvenal (in one instance), make Clodius out to be a psaltria.⁹⁶ Cicero has two references to Clodius attired as a psaltria.⁹⁷ Both of them are in speeches laden with rhetorical invective against Clodius: the Pro Sestio and De Haruspicum Responsis. It is very possible that he glosses over the facts to cast Clodius into the role of the lowly psaltria. It would not be the first or the last time that he twisted the truth when speaking about Clodius. The basis for the allegation may have been that Clodius was dressed as a female musician.

Clodius' role as a psaltria may be doubted on other grounds. How did Clodius disguise his face? He probably had the stylish type of fashionable goatee worn by the barba-⁹⁸
tuli iuvenes referred to by Cicero. He may have pulled his calautica over his face, but that action would have been⁹⁹ immediately suspect. Plutarch and Appian try to account for his facial features by stating that he had not yet started¹⁰⁰ to shave. They forget that in 61 he was in his thirties. Clodius must have disguised his face in some way: it was his¹⁰¹ deep voice that gave him away, and not his facial features. If he had worn a mask, the problem would be solved. There was one sort of female musician who wore a mask: the tibicina. The tibicinae had originally been blended in with the

tibicines by Appius Claudius Caecus. A part of their apparel was the mask. The tibicinae had good reason to be at the Bona Dea sacrifice. No sacrifice or official act was carried out in Rome without the music of the tibicines.¹⁰³ This would have applied especially to the national sacrifice performed at the Bona Dea ceremony. Since no males were allowed, the tibicinae would have replaced the tibicines.¹⁰⁴ According to Juvenal the music of the tibiae was heard at the Bona Dea ceremony.¹⁰⁵ Juvenal also gives a satiric account of the Bona Dea ceremony. His scenario is obviously sparked by Clodius' escapade there: he was well aware of the scandal.¹⁰⁶ His account depicts the participants of the ceremony as men in drag. Moreover, no females are permitted:

foedius hoc aliquid quandoque audebis amictu;
 nemo repente fuit turpissimus. accipient te
 paulatim qui longa domi redimicula sumunt
 frontibus et toto posuere monilia collo
 atque bonam tenerae placant abdomine porcae
 et magno cratere deam. sed more sinistro
 exagitata procul non intrat femina limen:
 solis ara deae maribus patet. 'ite profanae,'
 clamatur, 'nullo gemit tibicina cornu.'¹⁰⁷

Here there is a complete reversal of roles. The men are made to chase out the women who are profaning the house by saying, "Ite profanae." This corresponds with the women chasing out men at the real sacrifice. The only man ever

chased out of the Bona Dea sacrifice was Clodius. We thus have a general inverse reference to him. The men become more specific about whom they are excluding from the sacrifice when they go on to say, "nullo gemit hic tibicina cornu." They are saying that the tibicinae profanae, whom they have discovered, will not play music at their sacrifice. ¹⁰⁸ The tibicinae would have got in by posing as tibicines. Inversely, this signifies that the ladies at the Bona Dea sacrifice discovered their tibicina to be a man dressed as a tibicina. This would be another reference to Clodius who had dressed as a female musician in order to enter Caesar's house. Clodius, therefore, was probably disguised as ¹⁰⁹ a tibicina when he paid his visit to the Bona Dea.

Clodius' disguise can be viewed in another manner. If he dressed as a tibicina, he was not alone in this. The tibicines on the lesser Quinquatrus were allowed to dress in a womanly manner and to wear masks and headresses. They were permitted to roam through Rome in this festive raiment. The tibicines were closely tied to the goddess Minerva whose festival they celebrated on the lesser Quinquatrus. Could one or more of the tibicines in the manner described above have taken part in the Bona Dea festival along with the tibicinae unbeknown to the women there? Their clothing and mask would make them appear identical to the tibicinae.

If the Bona Dea were a manifestation of Minerva such a thing could occur: the tibicines would be celebrating another festival of their patroness Minerva in the same way as they celebrated her other festival on the lesser Quinquatrus.

Clodius, if he knew about this aspect of the Bona Dea's worship, would have dressed as a tibicens and made his way into the ceremony. The only problem with such a hypothesis is that no one but the women allegedly knew the name of the Bona Dea: the only basis for identifying the Bona Dea with Minerva is that they both shared the same virtuous trade-
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 mark: chastity.

Throughout the trial Clodius enjoyed popular support. It was a different matter with the jury. Although the defence had used its power of relectio as best it could, the jury was seemingly ill-disposed to Clodius. During the preliminaries of the trial it granted the prosecution's requests while refusing those of the defence. Then it displayed support for Cicero when Clodius' partisans attempted to shout him down. Finally, the jurors, fearing Clodius' partisans, demanded protection: they refused to come to court unless they were provided with a guard. Their request was put to the court. All but the defence approved it. The court's recommendation was forwarded to the senate which commended the jury and ordered the consuls to provide a guard. Sur-

prisingly the jury displayed no hostility to Clodius in its verdict. Clodius was acquitted: 25 votes for condemnation, 31 for acquittal.¹¹¹

Several probable factors account for the verdict. Firstly, there was fear. Throughout the trial Clodius' partisans were present in force. They must have posed a very definite threat to the jurors; otherwise the latter would not have requested a guard. They were especially threatening on the day when the jurors voted. Cicero claims that those jurors condemning Clodius were risking life and limb despite the presence of the guard.¹¹² Perhaps the jurors feared a repeat performance of what Clodius' operae had done at the Comitia Tributa when the consular bill was about to receive its rogatio. A clear and present danger would have at least prompted some of the jurors to vote not guilty.

Secondly, there were political overtones to the trial. From the beginning Clodius' enemies had been overly rigorous in their proceedings against him. At first Clodius was to be subjected to what was no more than a kangaroo court. Then all senatorial business was put aside until the consular bill concerning the quaestio extraordinaria was passed. At the trial every type of charge, even incest, was attested to by the leading senators. Some jurors would have realized that the Bona Dea scandal was just a pretext through

which Clodius' enemies were attempting to eliminate him from the political scene. Consequently they were not willing to make a sacrificial lamb out of Clodius. This attitude applied especially to those jurors with popularis beliefs.¹¹³

The nature of the offence must have also contributed to the verdict. Clodius had dressed as a female and had made his way into an all female sacrifice. Cicero and others had laughed about it.¹¹⁴ Some of the jurors probably laughed about it as well. This being so they could not bring themselves to condemn Clodius to exile for the sake of a funny and harmless prank.

Fourthly, Clodius' alibi has to be considered. In the minds of some jurors his alibi, supported by Schola and others, may have carried more weight than the testimony of Aurelia, Julia and other participants at the Bona Dea ceremony. The fact that the Pontifex Maximus, Caesar, did not corroborate the testimony of his mother and sister may have contributed to this frame of mind.¹¹⁵

There may have been a fifth factor at work: bribery. It is what Cicero believed and alleged:

Nosti Calvum ex Nanneianis illum, illum laudatorem meum, de cuius oratione erga me honorifica ad te scripseram. biduo per unum servum, et eum ex ludo gladiatorio, confecit totum negotium.

arcessivit ad se, promisit, intercessit, dedit.
 iam vero (o di boni, rem perditam!) etiam noctes
 certarum mulierum atque adolescentulorum nobi-
 lium introductiones non nullis iudicibus pro mer-
 cedis cumulo fuerunt...¹¹⁶

Many modern authors believe Crassus to be the Calvus alluded
¹¹⁷ to. However, such ancient writers as Cicero, Valerius Ma-
 ximus, Appian, Plutarch and Dio Cassius do not posit Cras-
¹¹⁸ sus as the briber. There is little reason for making Cras-
 sus the jury's corrupter unless we assume as does Shackleton
 Bailey that Calvus refers to Crassus' inferred baldness and
 to his ancestors, or at least gentiles, which included the
 fourth century Licinii Calvi; that "ex Nanneianis" adverts
 to the purchase by Crassus of the property of one Nannius
 or Nanneius during the Sullan proscriptions; that "illum
 laudatorem meum" is a reference to the complimentary speech
 about Cicero's consulship which Crassus delivered in the
¹¹⁹ senate during February 61.

This interpretation is fairly weak when we consider
 that there is no proof concerning Crassus' baldness; that
 others could claim a more direct descent from the Licinii
 Calvi than he; that Cicero's description of Crassus as a pro-
 fiteer in the Sullan proscriptions hardly seems relevant to
 the case in point; that there had been ample opportunity

since Crassus' speech for Cicero to acquire another enco-
¹²⁰ miast.

For that matter the same criteria can be used to make Curio the elder the briber of the jury: he was old and therefore probably bald; he had profited from the Sullan proscriptions; he may have responded to Cicero's verbal attacks on him before the trial with a blistering speech to which Cicero is referring sarcastically in the above passage; Besides this, he had the added advantage of being Clodius' lawyer. The only thing known of Clodius' relations with Crassus is that in 73 Clodius incited the people against the Vestals who were charged with stuprum. No doubt Clodius also attacked those charged with having illicit relations with the Vestals. Crassus was one of them. Finally, Curio was well able to afford the cost of the bribery. If he could afford to pay the enormous debt which had been incurred by his son, then he could probably afford the 9,300,000 or 12,400,000 sesterces the bribery is alleged to have cost.

There is another factor which can remove Crassus as the briber. Crassus was very probably not even in Rome during the Bona Dea trial. L. Valerius Flaccus was the praetor of Asia in 62 and in 61 till he was replaced by Q. Tullius Cicero. M. Cicero defended Flaccus de repetundis in 60. In the Pro Flacco he says that Crassus had taken a trip from Thrace to Asia in the fleet which had been established by Flaccus. Crassus probably did not go in 62. Plu-

tarch in Pomp. 43 seems to refer to Crassus' trip. According to his account Crassus feared that Pompey might use his army to install himself as dictator. Consequently, he took his family and his money and fled from Rome. If this story is a reference to Crassus' trip to Asia, it is erroneous. Crassus, if he feared Pompey, would not have gone to an area under his imperium. Secondly and more to the point, Crassus was in Rome upon Pompey's arrival. Pompey had arrived in Rome in early January 61. Not only was Crassus there, but in late January he delivered a speech which was nothing more than an insult to Pompey. In the speech Crassus went to great lengths to praise the deeds of Cicero's consulship; he did not say a word about Pompey's recent conquests in the East.¹²⁹ Crassus probably went to Asia in early 61 while Flaccus was still in charge. He would have gone after the senatorial meeting discussed above but before Flaccus was replaced in mid March.¹³⁰ At that time it was safe to go: Pompey was no longer in the East and he had relieved widespread anxiety when he disbanded his troops upon his return to Italy in 62. Moreover, Pompey would not pose a political threat to Crassus while he was away: after his return Pompey had shown signs of ineptitude which removed him as a threat¹³¹ on the political scene. Perhaps Crassus went to Asia to get a first hand look at the tax situation. In December 61 he

was responsible for the tax farmer's demand that their contracts for the Asiatic taxes be cancelled. They claimed their bid had been too high. They would have realized this after Crassus provided them with on the spot information
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concerning Asia's economic well being.

What Cicero has to say after alluding to "Calvum ex Nanneianis" also removes Crassus as Clodius' paymaster. The jury's corrupter uses a slave to bribe the jurors not only with money, but also with introductions to noble youths and ladies. The inclusion of these details of the jury's corruption shows that Cicero is either exaggerating or inventing the nature of the alleged bribery to besmirch the character of the briber. Atticus was aware of the desired effect of the depiction of the bribery: Cicero would not expect him to give credence to the type of rhetorical invective which he usually reserved for his speeches. Such a treatment of the jury's bribery excludes Crassus as its corrupter. If the portrayal of the bribery were aimed at Crassus, it would be a piece of malicious and irresponsible libel, for Crassus' dignitas as an elder statesman and his financial position, which enabled him to bribe a jury efficiently, provide no
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basis for it.

Another factor has to be considered: Crassus was ill-disposed to Pompey in 61-60. He supported such optimates

as Cato and Lucullus when they opposed the ratification of Pompey's eastern ¹³⁴acta. If the optimates got wind of his bribery of the jury, he would be isolated from them as well as Pompey: they would not take kindly to his interference with their plans to eliminate Clodius from the political scene. His relations with the optimates were not the best: he was very probably suspected of taking part in the Catilinarian conspiracy. Any hostile action on behalf of Clodius ¹³⁵may have prompted them to retaliate. It is doubtful, therefore, that he jeopardized his alliance with the optimates for the sake of earning Clodius' gratitude. It is also doubtful that he risked earning a reputation as a turncoat. In his speech in late January, he had praised the senate to the skies through his speech on Cicero. If he were later to impede the senatorial action taken against Clodius, he would be labelled a political hypocrite.

C. Licinius Macer Calvus is a more probable candidate for the job of corrupting the jury than Crassus. To begin with, "Calvum" is in all likelihood a cognomen, not an adjective; it need only be an adjective if we posit a bald Crassus as the briber. Cicero is pointing someone out to Atticus. It is only natural that he use the person's name in order to do so.

The Calvus in question is C. Licinius Macer Calvus. In his extant works Cicero usually designates him by his

cognomen Calvus: the reference to Calvus in A. 1.16.5 is¹³⁶
 in keeping with this practice. In A. 1.16.5, however, Cicero may have more in mind than identity through his usage of "Calvum"; he may be scornfully drawing attention to Calvus' baldness in order to ridicule him. This would be in¹³⁷
 keeping with Cicero's frame of mind in the passage.

Cicero says that "Calvum" is "ex Nanneianis". T. P. Wiseman holds that Calvus is the briber of the jury and that "Calvum ex Nanneianis" means "Calvus, one of the young men" who were Clodius' contemporaries. He puts forth the following hypothesis on the enigmatic expression "Calvus ex Nanneianis". Cicero had originally written ex Neaniais: ex with a transliteration of the Greek dative, νεανιαίς. Afterwards, a scribe failed to realize that Neaniais was the latinized form of a Greek word and gave it a proper Latin ablative case ending by changing the word to Neanianis. Another¹³⁸ corruption turned Neanianis to Nanneianis. There is one problem with the above hypothesis. Why would Cicero tell Atticus that Calvus was one of the young men? Surely Atticus would know who he was from a previous letter in which Cicero had mentioned him.

There is an equally plausible and tentative explanation¹³⁹ for "Calvum ex Nanneianis". Calvus was a salaputium.

The Greek word for dwarf is ναῦος. Cicero transliterated

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it into Latin and then obtained the masculine derivative¹⁴¹
Nannianus which he then put into the ablative, Nannianis.

A scribal error accounted for the change to Nanneianis, if¹⁴²
indeed Cicero himself had not written it in that way. "Cal-
vum ex Nanneianis", therefore, signifies, "Calvus, one of
the dwarfish clan". Such a contemptuous and pointed remark
is in line with Cicero's disposition towards the briber of
the jury. Either we must accept tentative explanations such
as the ones listed above, or must simply admit that Nannei-
anis is gibberish.

The other characteristics of the briber also apply to
Calvus. For instance, he can be posited as Cicero's enco-
miast, "laudatorem meum". By 61 he was old enough to speak¹⁴³
publicly. He may have delivered a complimentary speech
about Cicero which followed Crassus', but preceded the ver-
bal skirmishes between Cicero and Clodius before the trial.
On the other hand, "laudatorem meum" may well be an ironic
reference to a vituperative speech delivered by Calvus about
Cicero. There were at least two suitable occasions for such
a speech: when Clodius' youthful friends spoke against the
consuls' bill just before it was put to the vote; at one of
the contiones summoned by Fufius in which Clodius spoke
against those whom he deemed responsible for the senatorial
action taken against him.

Calvus' social position is also significant. He was an upper-class young man who probably frequented the same circles as the barbatuli iuvenes. This could have provided the basis for Cicero's allegation that a slave was used to bribe the jury through the backing of bills and introductions to noble youths and ladies.

There is at least one objection to Calvus as the briber of the jury: where did he get the money? ¹⁴⁴ The question poses no difficulty. Calvus probably received part of it from Clodius: Cicero constantly accuses Clodius of going into debt to secure his acquittal. ¹⁴⁵ However, Calvus himself had sufficient funds to bribe the jury. In 66, Calvus' father, C. Licinius Macer, was charged before the praetor Cicero with extortion in his propraetorian province. He was convicted, but he died before a litis aestimatio was held. ¹⁴⁶ His son, therefore, was able to inherit his money.

Calvus may have also inherited his father's popularis brand of politics. Macer had been a sworn enemy of the optimates. Calvus, being like-minded, would have sprung to the assistance of Clodius in order to foil the optimates' designs on him. ¹⁴⁷

Cicero's allegation that bribery was used does not have to be believed. He had expected a guilty verdict. When Clodius was acquitted, he naturally assumed that bribery had

been used. His reaction to the acquittal of Sextus Cloellius in March 56 exemplifies the same attitude. When presented with a not guilty vote, Cicero assumed that the prosecution was inept and the jury corrupt:

In iudiciis in sumus qui fuimus; domus celebratur ita ut cum maxime. Unum accidit (im) prudentia Milonis incommodum, de Sexto Cloelio, quem neque hoc tempore neque ab imbecillis accusatoribus mihi placuit accusari; ei tres sententiae deterri-¹⁴⁸mo in consilio defuerunt.

Moreover, Catulus reacted in the same way to Clodius' acquittal. Cicero describes his disposition to one of the jurors after the trial:

quorum Catulus cum vidisset quendam, 'quid vos' inquit 'praesidium a nobis postulabatis? an ne nummi vobis eriperentur timebatis?'¹⁴⁹

His belief in the bribery would have been reinforced by the effects which the verdict had on him. He had testified against Clodius: the jury's verdict had made a seeming liar out of him. In writing to Atticus he attaches little importance to the political effects of the verdict:

Noster autem status est hic: apud bonos iidem sumus quos reliquisti, apud sordem urbis et faecem multo melius quam reliquisti. nam et illud nobis non obest, videri nostrum testimonium non valuisse.¹⁵⁰

However, the jury's verdict must have had graver personal repercussions than he was willing to admit. It was certainly

a tremendous blow to his dignitas. He had prided himself on his integrity. During 62 the tribune Metellus Nepos had conducted a running verbal battle with him concerning the trials of the Catilinarians. Nepos had said that he brought death to more defendants as a hostile witness than he had saved as a defence attorney. Cicero replied that his credibility was greater than his eloquence.¹⁵¹ Moreover, throughout A. 1.16, a letter written more than two months after the trial, Cicero constantly alludes in a deprecatory manner to the jurors.¹⁵² He clearly bore a personal grudge against them. The hostility went beyond hostile references in a letter written to a friend. After the trial he had launched a blistering verbal attack against the jurors:

idem ego ille (non enim mihi videor insolenter
gloriari cum de me apud te loquor, in ea praesertim
epistula quam nolo aliis legi), idem, inquam,
ego recreavi adflictos animos bonorum,
unumquemque confirmans, excitans; insectandis
vero exagitandisque nummariis iudiciis omnem
omnibus studiosis ac fautoribus illius victoriae
πᾶσι γὰρ ἐκείνῳ ἐριπύ; ¹⁵³

Such behaviour had all the marks of a personal vendetta;

Catulus had been content with making a sarcastic remark

to one juror whom he met after the trial.¹⁵⁴ Such a reper-

cussion of the verdict would have helped to strengthen Ci-

cero's belief in the bribery which he alleges not only in

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A. 1.16 but also in his speeches and his other letters to Atticus.¹⁵⁵ His belief in the bribery and his publication of it helped him to clear his name.

Cicero's firm belief in the use of bribery at the Bona Dea trial helps to explain many of the elements contained in A. 1.16.5. At the beginning of the passage he says, "Εγενετο γυναικῶν, Μουσῶν ... ὁτι πῶς ἐν πρῶτον πῦρ ἐπ' ἔτεεε." This comes from Iliad 16.112 where Homer is asking the Muses to give him the inspiration with which to describe the burning of the Achaean ships. Cicero is also asking for inspiration, but for inspiration with which to tell of the jury's bribery: his description of the briber and the manner of the bribery would be but an inspired invented description of the bribery which he believed to have taken place. The rhetorical flavour of the whole passage suggests this. Even in the earlier passages of the letter he had been rhetorical: in A. 1.16.4, for instance, he had designated Clodius as P. Clodius, a manner of reference usually reserved for his speeches.¹⁵⁶ His description of the outcome of the trial is a humorous scenario designed to get a laugh out of Atticus who already knew about the trial and its outcome.¹⁵⁷ Cicero's portrayal of Baldy as a pimp who peddles

the flesh of noble youths and ladies, rather than a briber, was a type of Plautine political propaganda which would have

evoked a chuckle, or two from Atticus. As such it is in keeping with the earlier passages of the letter where he satirizes the jury in a tongue-in-cheek manner. In treating the outcome of the trial as nothing more than a joke, he was trying to downplay the effect which it had had on him. At the time of the writing of A. 1.16, he thought that he could afford to do this. He points out to Atticus he had been victorious in an altercatio which ^{he} had with Clodius in the senate on May 15. Moreover, he had recently formed an amicitia with none other than Pompey. Compared to these two things, nothing else mattered.¹⁵⁸

There are other reasons for dismissing Cicero's description of the bribery in A. 1.16.5. It conflicts with other information he provides on the bribery. Supposedly the jurors had been bribed in a variety of ways:

arcessivit ad se, promisit, intercessit, dedit.
iam vero (o do boni, rem perditam!) etiam noctes
~~certarum~~ mulierum atque adolescentulorum nobili-
um introductiones non nullis iudicibus pro mer-
cedis cumulo fuerunt.¹⁵⁹

However, later on in the letter Cicero says that the jurors¹⁶⁰ had got their money in advance. Moreover, according to Cicero, there had been but one middleman: a slave. That

middleman served to bring the jurors to the briber's house:

biduo per unum servum, et eum ex ludo gladiatorio, confecit totum negotium. arcessivit ad se...¹⁶¹

Contrasted to this there is a passage from the In Clodium et Curionem where the jury is represented as being bribed directly by rich middlemen:

Quasi ego non contentus sim, quod mihi quinque et XX iudices crediderunt, <XXXI tibi nihil crediderunt, qui ab senatu praesidium petierint>, qui sequestres abs te locupletes acceperint.¹⁶²

In this account the briber, his middleman and his house are dispensed with. Cicero cannot get his story straight. His story would not have stood up under cross examination.

Finally there is Calvus ex Nanneianis. Cicero needed to cast someone, anyone, into the role as briber. Given the nature of the whole passage the Calvus may be no more than an invention. Perhaps there was no reference to a Calvus in the previous letter written to Atticus. If this were so, Atticus would immediately be aware of Cicero's inspired purpose in A. 1.16.5. However, if Cicero were referring to a real Calvus, whom he had cast into the role of briber, then the Calvus was probably someone with whom he was on bad terms, someone such as Licinius Macer Calvus who may have delivered an uncomplimentary speech about him.¹⁶³ As for Nanneianis it is probably complete and utter gibberish, complicated by scribal errors, which is introduced by Cicero

to point out his inspired inventive purpose in writing A. 1.16.5. If an alternate explanation for Nanneianis is at-

tempted, one has to perform linguistic somersaults which
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arrive at no thoroughly satisfactory conclusion.

There are other problems with Cicero's account. How could he know even the most intimate details of the alleged bribery? Clodius, had he bribed, would not have been very conspicuous. He had to hide such a thing from the jury's guard. Moreover, his enemies, who had undertaken rigorous proceedings against him, must have taken additional measures to prevent him from escaping through bribery. They would have kept a very watchful eye over him. It is doubtful that Cicero knew of the bribery, when others did not. The scale of the alleged bribery is significant in this regard. In

A. 1.16.12 Cicero also speaks of bribery:

consul autem ille δευτερεύωντος histrionis similis suscepisse negotium dicitur et domi diviso-
sores habere.

This passage refers to the bribery undertaken by the consul Piso in the consular elections of 61. Such bribery was effected on a large scale and was, therefore, likely to become known. Cicero, only says that the bribery is in the realm of rumour: "dicitur". If such an event could only be rumoured, then one wonders how Cicero may have been informed of a smaller event like the secretive bribery of thirty-one jurors.

The four vote differential between condemnation and acquittal is also significant. Cicero himself points out

that Clodius had really only escaped by a four vote margin: if four of those voting for acquittal had voted the other way, Clodius would have been convicted by a vote of ¹⁶⁵ twenty-nine to twenty-seven. If Clodius had bribed, he would not have taken chances; surely he would have guaranteed himself a wider margin of victory.

Finally, one wonders that Clodius was never prosecuted for the alleged bribery. If Cicero knew of the bribery, then Clodius' other enemies must have known about it too. They had tenaciously sought to eliminate him from the political scene. If he eluded their efforts through bribery, they would not have let him get away with it. They had invested too much time and effort to let it happen.

One passage in A. 1.16 seemingly points to bribery as a hard fact and not as an allegation:

missus est sanguis invidiae sine dolore, atque
etiam hoc magis quod omnes illi fautores illius
flagiti rem manifestam illam redemptam esse a
iudicibus confitentur.¹⁶⁶

Here, only the sympathizers of Clodius' escapade acknowledge that a clear-cut case was purchased from the jury. How would they know of the bribery? If there had been bribery, only Clodius and his close associates would know of it. Besides, Clodius had certainly not admitted to it in the senate on May 15, 61. He had accused Cicero of perjury at that time.

The people of whom Cicero speaks were in the same boat as he. There had been an iron clad case against Clodius; the jury had acquitted Clodius; therefore, it was assumed that the jury must have been bribed.

What Cicero says can be interpreted in another way. Cicero may simply have misconstrued something said or done by the people in question as an acknowledgment that bribery had been used: after the trial he was not in the most objective frame of mind. They may have simply pointed out that there had been an open-and-shut case against Clodius, but he had been acquitted. Cicero would have taken this to signify bribery.

Two prominent politicians adopted neutral positions in the Bona Dea affair: Caesar and Pompey. Each had good reason to do so. At the outset Caesar pursued a course of action detrimental to Clodius. As Pontifex Maximus he had considerable influence in the college of pontiffs. When the college and the Vestal Virgins had decreed that Clodius' presence at the Bona Dea sacrifice constituted sacrilege, that decree must have had the sanction of the Pontifex Maximus. Then, immediately after the consuls had promulgated under senatorial decree a bill dealing with the Bona Dea incident, Caesar further undermined Clodius' precarious position by divorcing his wife Pompeia.

Husbandly anger with his wife's adulterer may have been one ^{of} Caesar's reasons for his behaviour as Pontifex Maximus and the timing of his divorce of Pompeia. There was probably a more serious cause for his anti-Clodian stance than this. In 63 he was almost killed by a number of Cicero's bodyguard. Clodius was one of Cicero's most zealous bodyguards. He may, then, have been one of those who surrounded Caesar as he was leaving the senate and threatened him with their swords. Caesar, therefore, could have been settling a very personal score with Clodius through the action he now adopted. ¹⁶⁸

Political considerations also played a part. By January 25, 61, the propraetors had not yet cast lots for their provinces. Caesar was one propraetor desperately in need of a rich province to offset his debts. If he were to take an anti-senatorial stand in the Bona Dea affair, there was every chance that the senate given its strict frame of mind towards Clodius may have put off the sortitio indefinitely or may have sought to deprive him of a province altogether. If the senate had adopted extraordinary measures against Clodius, then it might also do so in his case. It would thus have an opportunity to repay Caesar for the troubles he had caused in 63-2: his anti-senatorial stand in the Rabirius affair; his pro-Pompeian activities; his pro-Catilinarian

stand in the debate on the Catilinarian conspirators. Perhaps they were already attempting to even the score through the delay in the sortitio of the propraetorian provinces.

Caesar's disposition towards Clodius underwent a radical change. At the Bona Dea trial he gave no testimony against Clodius. When asked the reason for his divorce he replied in the manner befitting the dignitas of a patrician who was Pontifex Maximus and of praetorian rank: he said his wife must be above even suspicion of wrongdoing. In re-legating Pompeia's affair with Clodius to the realm of gossip he made it quite clear that he had adopted a neutral stance towards Clodius: he made the above statement despite the sworn testimony of Aurelia and Julia that Pompeia had committed adultery with Clodius.

Between the time of his divorce and that of his testimony, several political developments compelled Caesar to make a volte face. Firstly, the initial senatorial action on the Bona Dea scandal had mushroomed into a clear cut confrontation of the majority of the senate, under the leadership of the optimates, with Clodius and his supporters. The optimates were also Caesar's enemies. Therefore, it made little political sense to assist them by giving evidence against Clodius. Secondly, Caesar was now free to go to his propraetorian province. The sortitio had again been held up by the

senate when it decided that no senatorial business would be dealt with until the consular bill dealing with the Bona Dea scandal had been put to the vote. However, after the rogatio of Fufius' more lenient bill, the sortitio was held¹⁷¹ and Caesar received Spain. Thirdly, Clodius had shown that he was politically powerful. By the time of the trial he had secured popular support. Caesar, throughout his career, had gone to considerable lengths to curry the people's favour. Adverse testimony against their current hero would seriously weaken his position with them. Another factor affecting Caesar may have been that C. Curio the elder came out in favour of Clodius in the senate and later defended him. In 63 Curio had saved Caesar's life. Perhaps Caesar was now deferring to Curio's backing of Clodius and thus partly repaying his debt to him.¹⁷²

Caesar probably also had a more positive far ranging objective than those listed above. Clodius, while quaestor, had rallied the people and a number of prominent politicians to his side. On this basis his future political career looked promising. It was not wise, therefore, to alienate such a promising popularis: Caesar's neutrality at the trial would act as a springboard from which he could later form a very fruitful amicitia with him.

Pompey's neutral attitude towards the whole Bona Dea affair is revealed in A. 1.14.1-2:

Prima contio Pompei qualis fuisset scripsi ad te antea: non iucunda miseris, inanis improbis, beatis non grata, bonis non gravis. itaque frangebatur. tum Pisonis consulis impulsu levissimus tribunus pl. Fufius in contionem producit Pompeium. res agebatur in circo Flaminio, et erat in eo ipso loco illo die nundinarum $\tau\alpha\upsilon\eta\nu\gamma\upsilon\pi\varsigma$. quaesivit ex eo placeretne ei iudices a praetore legi, quo consilio idem praetor uteretur. id autem erat de Clodiana religione ab senatu constitutum. tum Pompeius $\mu\alpha\lambda\lambda\prime\ \alpha\rho\iota\sigma\tau\omicron\kappa\rho\alpha\tau\iota\kappa\omega\varsigma$ locutus est senatusque auctoritatem sibi omnibus in rebus maximi videri semperque visam esse respondit, et id multis verbis.

Postea Messalla consul in senatu de Pompeio quaesivit quid de religione et de promulgata rogatione sentiret. locutus ita est in senatu ut omnia illius ordinis consulta $\gamma\epsilon\nu\iota\kappa\omega\varsigma$ laudaret, mihi que, ut adsedit, dixit se putare satis ab se et iam de istis rebus esse responsum.

Pompey does not give direct answers to the queries of Fufius and Messalla concerning the alleged sacrilege and the method used to deal with it. Instead, he skirts them by praising the senatus auctoritas and the senatus consulta in general terms. His replies at best could only be taken as giving implicit indirect approbation of the senatorial action taken against his former legate Clodius. 173 Pompey had good reason to avoid a controversial issue which had split

Roman politicians into two warring factions: his Eastern

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acta had not yet been ratified. It was not the time to alienate one of the factions by siding with the other. His decision to take a middle of the road approach proved right.

Feelings between the two factions ran so high that the consul Piso, his long time legate in the Mithridatic war whose election as consul he had secured, temporarily broke off 175
relations with him merely because of his eulogy of the senate.

What would have been Piso's reaction had he sided with the senate? It is little wonder that Pompey, after his speech in the senate, hoped that he would not be pressed for further comment on the Bona Dea matter.

During the first few months of 61, we are presented with the following state of affairs at Rome. To the exclusion of all senatorial business, the senate, under the leadership of such optimates as Cato, Hortensius, Cicero, Lucullus, Favonius, the three Lentuli, the consul Messalla, C. Piso, and Fannius, had sought one aim: to eliminate Clodius from the political scene by having him condemned for sacrilege. It is highly improbable that his so-called intrusion upon the Bona Dea ceremony was not solely responsible for the concerted action taken against him. The offence was not all that serious. Cicero, for instance, had joked about 176
~~it in a letter to Atticus.~~ Moreover, a number of senators had been willing to drop their support of the consular bill

dealing with the Bona Dea incident, but they had been brought back into line by Clodius' enemies. The Bona Dea incident was no more than a pretext through which his enemies sought to eliminate him politically. The real reason for their concerted action was his political and military career. From 73 to 62 he had indulged in many activities - often popularis - which were detrimental to their interests: he had incited the people against the Vestals and members of the priestly college, two basic religious institutions in which senators and their families played a significant role: he had, through his behaviour at Nisibis, contributed substantially to the final mutiny of Lucullus' troops which facilitated the supersession of Lucullus, the senate's man, by Pompey, the populares' hero; he had infringed upon the senate's prerogative in external affairs in 67-66, when, after his release by the pirates, he became involved in the internal politics of Syria and adopted a course of action contrary to that of the proconsul Marcius Rex who was acting on senatorial orders; he had prosecuted Catiline in 65 who was supported at his trial by a consul and many ex consuls; he had become involved with the plebs through bribery in 63 on behalf of his father-in-law Murena who was seeking the consulship of 62.

Clodius was no political weakling: he was not overwhelmed by the concerted action taken against him. With the

help of his hired gangs, of the barbatuli iuvenes with the younger Curio as their leader, of M. Piso the consul, of Fufius the tribune, of a small number of senators and of C. Curio, he opposed the senatorial proceedings and obtained a regular trial where there was a relectio of jurors. Then, to the astonishment of his enemies, he was acquitted by a jury which had been ill-disposed to him during the trial.

After his acquittal Clodius swore vengeance upon his political enemies; they had come very close to nailing his hide to the wall; now he wanted to get even. He announced that he would avenge the attack, which they had made upon him, through the powers of the tribunate. Of his enemies there was one in particular whom he singled out for this
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revenge: Cicero.

CHAPTER II

CLODIUS' QUEST FOR THE TRIBUNATE

Clodius was on good terms with Cicero before the Bona Dea affair. He had been Cicero's friend and he had helped him in the Catilinarian crisis. His elder brother Appius had also assisted Cicero: he was one of the four senators chosen by the latter to record the senatorial proceedings taken against the Catilinarian conspirators.

They became enemies shortly before the Bona Dea trial. At first Cicero treated the Bona Dea incident light-heartedly. He even joked about it in a letter to Atticus:

P. Clodium Appi f. credo te audisse cum veste muliebri deprehensum domi C. Caesaris cum sacrificium pro populo fieret, eumque per manus servulae servatum et eductum; rem esse insigni infamia. quod te moleste ferre certo scio.²

Publicly his attitude to the incident was different: as a senator he initially adopted a hard line position which probably prompted ^{him} to vote for the senatorial decree that the consuls promulgate a bill dealing with the Bona Dea incident.

Afterwards, he and other senators began to tone down their opposition. He confided to Atticus:

boni viri precibus Clodi removentur a causa,
operae comparantur. nosmet ipsi, qui Lycurget
a principio fuissemus, cottidie demitigamur.³

After the disruption of the Comitia Tributa in late January 61 the senate decreed that the consuls urge the people to accept the bill. A motion for the rejection of the decree earned only fifteen of four hundred and fifteen votes. Cicero must have been one of the four hundred who voted against the motion. In contiones held after the senatorial vote, Clodius included Cicero among those whom he deemed responsible for the senatorial action taken against him.⁴ Cicero's initial Lycurgan views, followed by a vote that the consuls push their bill, would account for his inclusion in Clodius' list of enemies.

In his speeches against Cicero, Clodius' main target was his activities against the Catilinarian conspirators. According to Cicero, Clodius used his name to stir up popular ill will.⁵ The theme of Clodius' attacks was Cicero's anti-Catilinarian activities in 63: in his speeches he taunted him with "comperisse omnia", a derogatory reference to the covert manner in which Cicero gathered information on the Catilinarian conspiracy.⁶ Cicero responded vigorously with invective of his own.⁷ In a series of abusive speeches he attacked Clodius and his supporters: the consul Piso, the Curiones, and the barbatuli iuvenes. He went further than

speechmaking in his opposition to Clodius. When Hortensius was ready to compromise with Fufius on the relectio, he opposed him; he did not want the Bona Dea matter committed to an unreliable tribunal because he thought it better that Clodius be kept in disgrace than offered a fair chance of acquittal.⁸

After the Bona Dea trial, Cicero tried to justify his pre-trial behaviour towards Clodius. In letters to Atticus he puts forth political and moral considerations as the reasons behind his behaviour. In A. 1.16.1 he maintains that the defence of the senatus auctoritas prompted him to act:

Ego enim, quam diu senatus auctoritas mihi defendenda fuit, sic acriter et vehementer proeliatus sum ut clamor concursusque maxima cum mea laude fierent.

Then in A. 1.18.2 the reformation of Rome's moral fibre is posited as a motive for his anti-Clodian activities:

etenim post profectionem tuam primus, ut opinor, introitus fuit fabulae Clodianae, in qua ego, nactus, ut mihi videbar, locum resecandae libidinis et coercendae iuventutis, vehemens flavi et omnis profundi viris animi atque ingeni mei, non odio adductus alicuius sed spe non corrigendae sed sanandae civitatis.⁹

Cicero's defence of the senatus auctoritas and his moral reformation were not the immediate primary cause of his attack; Clodius' remarks about his consulship were res-

possible. Cicero himself points out in A. 1.16.1 what provoked him into lashing out at Clodius:

cum enim ille ad contiones confugisset in iisque meo nomine ad invidiam uteretur, di immortales! quas ego pugnas et quantas strages edidi!¹⁰

As it has been noted above, Clodius used Cicero's consular activities against the Catilinarians to stir up popular ill will. Cicero's consulship was the mainstay of his dignitas: the salvation of the res publica through the execution of the five Catilinarian conspirators had been the crowning jewel of that dignitas. In his opinion, his consular acta¹¹ had even raised him above the likes of Pompey. When Clodius attacked his consulship, Cicero did not let him get away with it. However, he may have over-reacted. In 62 during the trial of P. Cornelius Sulla, Torquatus, the prosecutor, had sought to discredit Cicero, the defence attorney, by attacking his consulship. Cicero was content to rebut Torquatus' allegations; he did not become his inimicus, nor did he follow up¹² with abusive speeches against him. There is one way of explaining Cicero's seeming over-reaction: Clodius may have had more ammunition than Torquatus. When he taunted Cicero with "comperisse omnia", he may have followed up the taunt with incriminating information on Cicero's secretive method¹³ of gathering evidence in 63, information provided by his wife Fulvia.

Cicero's verbal attacks before the trial aroused Clodius' enmity. His adverse testimony at the trial only added fuel to the fire. Not surprisingly Clodius announced that as tribune he would avenge himself especially against Cicero.¹⁴

Cicero did not take the threat seriously. Undeterred he acted against Clodius and his supporters:

insectandis vero exagitandisque nummariis iudiciis omnem omnibus studiosis ac fautoribus illius victoriae ~~propter~~ eripui; Pisonem consulem nulla in re consistere umquam sum passus, desponsam homini iam Syriam ademi; senatum ad pristinam suam severitatem revocavi atque abiectum excitavi; Clodium praesentem fregi in senatu cum oratione perpetua plenissima gravitatis tum altercatione...¹⁵

Through these actions Cicero felt that he dealt his enemies a devastating blow. He had thus repaid them for the harm they had inflicted upon the res publica and he prevented them from doing further harm. In his view the senate and the boni could now regain the upper hand in politics which they had enjoyed in his consulship.¹⁶

Cicero also had more personal reasons for his actions against the jurors, the sympathizers and the backers of the winning side, and Clodius himself. As noted above, the jurors had dealt an insufferable blow to his dignitas by rejecting

his testimony; he was now avenging that injury. In his campaign against the jury he also attempted to offset the unpopularity, which had probably resulted from their rejection¹⁷ of his testimony, by alleging that they had been bribed. His actions against the jurors silenced another source of unpopularity: the outspokenness ("παρρησία") of those who sympathized with Clodius' acquittal.¹⁸ The outspokenness probably concerned Clodius' judicial victory and the rejection of Cicero's testimony. The latter had caused Cicero unpopularity: he mentions that when these sympathizers came to acknowledge that Clodius had used bribery, his unpopularity¹⁹ lessened considerably. Clodius himself earned Cicero's wrath because he kept threatening to use the tribunate's powers²⁰ against him. Moreover, he had probably made an issue of the rejection of Cicero's testimony: he did so in the altercatio which he had with him on May 15; he had probably been doing²¹ it since the trial. Finally, Cicero would have deemed him directly responsible for all his troubles before, during and after the Bona Dea trial and would have decided that he must be put into his place once and for all.

Cicero believed the action taken against Clodius and his supporters to be devastating and final. He was mistaken; it only aggravated Clodius' hostility. Firstly, Cicero had brought the senate back to a strict frame of mind towards

him; the last thing he wanted was for the senate to be primed
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 for another onslaught on him. Secondly, there were Cicero's
 allegations about the bribery of the jury which would have
 severely diminished the impact of his hard earned last minute
 victory against the senate. Furthermore, Cicero had prevented
 Piso, his amicus and political supporter, from obtaining the
 23
 proconsular command of Syria. Above all there was Cicero's
 speech on the Ides of May 61 and the altercatio which fol-
 lowed. In both of these Cicero pulled out all of the stops:
 he branded Clodius as a public enemy whose fate would be the
 24
 same as Catiline's and Lentulus'; he ridiculed him for the
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 way in which he gained access to the Bona Dea ceremony; he
 pointed out his bribery of the jury and his resultant lack
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 of funds; he embarrassed him by alleging incestuous relations
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 with his sister; he laughed at his threat to seek vengeance
 28
 on those who had opposed him during the Bona Dea affair. In
 the altercatio Cicero outwitted and humiliated Clodius:

Surgit pulchellus puer, obicit mihi me ad Baias
 fuisse. falsum, sed tamen 'quid? hoc simile est'
 inquam 'quasi in operto dicas fuisse?' 'quid' in-
 quit 'homini Arpinati cum aquis calidis?' 'nasra'
 inquam 'patrono tuo, qui Arpinatis aquas concu-
 pivit' (nosti enim Marianas). 'quousque?' inquit
 'hunc regem feremus?' 'regem appellas' inquam,
 'cum Rex tui mentionem nullam fecerit?' - ille
 autem Regis hereditatem spe devorabat. 'domum'
 inquit 'emisti.' 'putes' inquam 'dicere iudices

emisti." "iuranti" inquit "tibi non crediderunt." "mihi vero" inquam "XXV iudices crediderunt, XXXI, quoniam nummos ante acceperunt, tibi nihil crediderunt." magnis clamoribus afflictus conticuit et concidit.²⁹

Cicero added insult to injury by the immediate publication of the speech and the altercatio.³⁰ This, combined with Clodius' other sources of dissatisfaction, would have only inflamed his already deep-seated hatred of Cicero; his desire for vengeance would have been increased immeasurably. Cicero was blind to this fact in the same way as he was blinded to Clodius' political capabilities and his ability to wreak vengeance. As subsequent events show, he made a serious mistake in thinking that Clodius was of such a low political caliber that he had put him in his place once and for all; he did not realize that it took more than a verbal browbeating to effect this. The amicitia, which he had recently formed with none other than Pompey, and which, in his mind, considerably bolstered his political position, contributed to his optimistic view of the effect which his speech and the ensuing altercatio had had on Clodius. As Balsdon remarks, an ostrich could not have been more blind.³¹

Clodius' alienation from the senate and his hatred of Cicero were two factors which prompted him to seek the tribunate. The extensive political powers which that office conferred upon its holder were a third factor. For instance,

the tribune's person was inviolable.³² Moreover, a tribune,³³ while in office, could not be prosecuted for his actions. The tribune also had the power to assemble and dismiss the senate and to put motions to it;³⁴ to arrest and imprison any citizen, even consuls and dictators;³⁵ to fine;³⁶ to consecrate the goods³⁷ of anyone interfering with tribunician prerogatives; to render auxilium³⁸ to anyone appealing the verdict of a magistrate. The most important facet of the tribunate was its flexible legislative powers. The only impediment to the tribunician bill was the tribunician veto. However, if the tribune proposing the bill were powerful enough, he might overcome the veto by having the opposing tribune deposed from office by a majority of the 35 tribes. In 133, for instance, Tiberius Gracchus had had Octavius deposed in this fashion when the latter vetoed his land bill. Then, in 67, Gabinius used the same tactic against his colleague Trebellius when he vetoed his bill giving Pompey an extraordinary command against the pirates. Trebellius, however, withdrew his veto before a majority of the tribes voted him out of office. The legislative capabilities of the tribunate and its other powers must have appealed to Clodius; properly used, these powers would enable him to assume a politically powerful³⁹ position.

Through his decision to seek the tribunate, Clodius was following in the footsteps of such prominent politicians

as Tiberius Gracchus, Gaius Gracchus and Lucius Appuleius Saturninus. Like Clodius these politicians had been attracted by the political potential of the tribunate. If we can trust the sources, their other reasons for seeking it bore a striking similarity to those of Clodius. For instance, the Gracchi and Saturninus also sought the powers of the tribunate to avenge themselves against the senate: Tiberius Gracchus, because the senate refused outright to honour the surrender treaty which he negotiated in his capacity as quaestor with the Numantines after the defeat of the proconsul Mancinus, and because it threatened retaliatory action against him on account of the nature of the treaty;⁴⁰ Gaius Gracchus, because the senate had been responsible for his brother's death, because its members sought to denounce him to the censors for ignoring its unjustified prolongation of his quaestorship in Sardinia, because it tried to have him condemned for allegedly conspiring to make the allies revolt;⁴¹ Saturninus, because the senate took away his quaestorian charge of the grain supply at Ostia and had transferred it to the princeps senatus,⁴² Marcus Scaurus. Finally, Gaius Gracchus and Saturninus shared another motive with Clodius: personal vengeance. While Gaius Gracchus sought vengeance against Popilius and Octavius through the powers of the tribunate,⁴³ Saturninus⁴⁴ sought to settle a personal score with Caecilius Metellus.

There is one motive which Clodius did not share with the Gracchi, Saturninus or any other tribune: the popularity which he would acquire by rejecting his patrician status in order to stand for the tribunate. Despite being a member of a patrician gens, which had been honoured with many consulships, censorships and triumphs, he had displayed popularis tendencies. The spelling of his name reflected his political views; by 61 he had already adopted the plebeian spelling of his nomen.⁴⁵ If he were also to reject his patrician status, his popularity among the plebs and his chances⁴⁶ of being elected tribune would be significantly increased. This proved to be the case, for Cicero says that when he was effectively transferred to plebeian status, it proved to be⁴⁷ a popular move.

Clodius probably left for Sicily, his quaestorian province, which was under the command of C. Vergilius, sometime after the senatorial meeting of May 15, 61. However, he seemingly preferred another assignment. According to Cicero, in his speech In Clodium et Curionem, he alleged that the senate had promised him Syria. Given the extremely vituperative nature of the In Clodium et Curionem, Cicero would have exaggerated or distorted any statement made by him; as the Scholiasts note, Cicero seeks to point out Clodius' greedy desire for a profitable province through his reference to Clodius' statement. Clodius may simply have claimed

that there was a pending senatorial motion giving him Syria as a quaestorian province. The consul M. Piso had also been promised Syria, but Cicero deprived him of it. Cicero must have quashed a senatorial motion dealing with Piso, for the allotment of proconsular commands was within the senate's jurisdiction. Perhaps the same senatorial motion enacted that Clodius accompany his amicus as proquaestor.⁴⁸

Both Piso and Clodius had their reasons for going to Syria. Piso probably sought Syria in accordance with the wishes of Pompey, his former commander. In his Eastern acta Pompey had transformed Syria into a Roman province; who better than Piso, his associate and former legate in the East, to be the province's first proconsul? There was also the advantage of having his friend Piso on the spot to see to it that his acta were not interfered with.⁴⁹ As for Clodius, he probably desired to go to Syria in order to expand the contacts which he had established there in 67-66.

Clodius made the most of his stay in Sicily. After his return from that province in early 60, he was able to taunt Cicero by telling him that as the Sicilians' new patron he would institute the practice of giving them seats at gladiatorial games. Through this practice, he would upstage Cicero who, as a patron of the Sicilians, did not indulge in such things.⁵⁰ The institution of this practice would allow

Clodius to expand the clientelae which his ancestors had acquired in Sicily over the centuries.⁵¹

The only other information on Clodius' activities in Sicily is that he spoke of contesting a will while he was there. Cicero refers very briefly to the incident in A.

2.1.5:

Ille autem non simulat, sed plane tribunus pl. fieri cupit. qua <de> re cum in senatu ageretur, fregi hominem et inconstantiam eius reprehendi. qui Romae tribunatum pl. peteret cum in Sicilia hereditatem se petere dictitasset...

As Shackleton Bailey points out, Clodius was hardly thinking of contesting his exclusion from the will of his brother-in-law Rex: that had occurred before he left for Sicily.⁵² Since Clodius spoke of contesting a will while in Sicily, it may have been the will of one of the Sicilian clients of the Claudii Pulchri. The nature of the case can only be guessed at. Perhaps it was similar to the case mentioned by Cicero in De Or. 1.176 where the Claudii Marcelli and the Claudii Pulchri became legally embroiled over the will of a Sicilian: both gentes claimed that they were the heirs on the grounds that the Sicilian was more of a client to their gens than to the other.

After the expiry of his quaestorship in 61, Clodius returned quickly from Sicily to Rome where he immediately set into action his plans to attain the tribunate. Before

he could announce his candidacy for the tribunate, he had to obtain plebeian status. After several unsuccessful constitutional attempts to become a plebeian, he resorted to an unconstitutional step: he abjured his patrician rank and stood for the tribunate despite the opposition of his brother-in-law, the consul Q. Caecilius Metellus Celer, the senate and several tribunes. Clodius, however, had a powerful ally, in Pompey. In return for Pompey's support of his candidacy, Clodius was to gather popular backing for the tribunician bill of Flavius which granted land allotments to Pompey's veterans and to the populace. Their alliance did not work out because Clodius was more interested in using Pompey to bolster his tribunician campaign than he was in pushing the Flavian land bill. This prompted Pompey to make a volte-face and join Metellus, the senate and the tribunes in their opposition to Clodius' candidacy. Their combined political power was sufficient to bring about Clodius' defeat at the ⁵³ polls.

In 60 Cicero continued to antagonize Clodius because he persisted in seriously underestimating him as a political force. His attitude is revealed in a letter to Atticus of June 3, 60:

Ille autem non simulat, sed plane tribunus pl.
fieri cupit. qua (de) re in senatu ageretur,
fregi hominem et inconstantiam eius reprehendi

qui Romae tribunatum pl. peteret cum in Sicilia hereditatem se petere dictitasset, neque magno opere dixi esse nobis laborandum, quod nihilo magis ei licitum esset plebeio rem publicam perdere quam similibus eius me consule patriciis esset licitum: iam cum se ille septimo die venisse a freto neque sibi obviam quemquam prodire potuisse et noctu se introisse dixisset in eo-que se in contione iactasset, nihil ei novi dixi accidisse: ex Sicilia septimo die Romam: at tribus horis Roma Interamnam. noctu introisse: idem ante. 'non est itum obviam: ne tum quidem cum iri maxime debuit.' quid quaeris? hominem petulantem modestum reddo non solum perpetua gravitate orationis sed etiam hoc genere dictorum.⁵⁴

Here Cicero believes that his speech sufficed to crush Clodius ("fregi hominem...") and to teach him a lesson ("hominem petulantem modestum reddo..."). He is still treating Clodius in the same way as he did in the previous year: as a political nonentity, whom he can easily keep underfoot through his oratorical skills, little realizing that his speech is aggravating the hatred of a potentially dangerous enemy and making his threat of vengeance an almost certainty. The security, which he felt his alliance with Pompey afforded him, and his conviction that Metellus, the consul, would keep Clodius from the tribunate continued to make Clodius a blind spot to him.⁵⁵

The same outlook was responsible for a rather obscene joke which he made at Clodius' expense. He tells Atticus

about it after his description of the speech against Clodius:

itaque iam familiariter cum ipso etiam cavillor
ac iocor. quin etiam cum candidatum deduceremus,
quaerit ex me num consueſsem Siculis locum gla-
diatoribus dare. negavi. 'at ego' inquit. 'novus
patronus instituum. sed soror, quae tantum habeat
consularis loci, unum mihi solum pedem dat.' 'noli'
inquam 'de uno pede sororis queri; licet etiam al-
terum tollas.'⁵⁶

The fact that he goes to the length of making a joke on Clodius' alleged incestuous relations with his sister shows that he did not consider him as a source of danger. Clodius' Latin blood must have boiled! It was another score which he would settle with his tormentor.

In early 59 Clodius finally acquired plebeian status when the consul C. Caesar had a lex curiata passed which acknowledged his adoption by the plebeian P. Fonteius. Pompey sanctioned the adoption by attending the Comitia Curiata in his capacity as augur. The adoption was a mere expedient because P. Fonteius was a young man capable of fathering his own sons and because Clodius was emancipated immediately afterwards. Moreover, the lex curiata was illegal: a triumdinium had not elapsed between the promulgatio and the rogatio of the lex curiata, and Bibulus, Caesar's fellow consul had been watching the skies when the law was passed: when the heavens were being watched by a magistrate, all legisla-

tive activity was prohibited. The measure, nevertheless, was effective, for it had the combined auctoritas of Caesar, Crassus and Pompey behind it.⁵⁷

Cicero's political behaviour was primarily responsible for Clodius' transitio ad plebem. During December 60 Caesar had given him the opportunity to join Pompey, Crassus and himself in the formation of a factio, but he refused: he preferred to maintain his role as defender of the senatus auctoritas and of the state. Shortly afterwards, while defending his former colleague, C. Antonius, on the charge of extortion,⁵⁸ he complained about the state of political affairs created by the factio. There was an immediate response: he made his remarks at the sixth hour of the day; at the ninth hour Caesar enabled Clodius through adoption into a plebeian family to become eligible for the tribunate, the powers of which he had sworn to use against Cicero.⁵⁹

Clodius' transfer to plebeian status was not simply a quid pro quo measure through which Caesar and his partners sought vengeance on Cicero: the fact that they subsequently attempted to stop Clodius from standing for the tribunate shows this. The move was a tactic designed to terrify Cicero into silence: Cicero had to be muzzled because his considerable oratorical talents, directed against the factio, could be dangerous. Through the move the factio warned Cicero just how quickly and effectively it could and would answer any

opposition on his part. Cicero took heed of the warning: for the remainder of 59 he maintained a neutral role in politics.⁶⁰

There are three other reasons which led to the decision to make a plebeian out of Clodius. Firstly, his transitio ad plebem intimidated the enemies of the factio. The action taken against Cicero indicated just how much political power the factio was able to wield against its enemies. Afterwards, anyone contemplating measures against the factio would think twice about it.

Secondly, Caesar's action on Clodius' behalf was a political slap in the face to the optimates and the senate because they had tried to prevent Clodius being elected as tribune in the previous year. Moreover, Caesar made him eligible for the tribunate, the powers of which he had also promised to use against the optimates and the senate. Caesar probably pursued this course of action vis à vis the optimates and the senate in order to retaliate for their opposition to his land legislation earlier in the year.⁶¹

Finally, the members of the factio expected Clodius to fit into their political plans in return for the service rendered to him. There is every indication of this. For instance, Pompey, shortly after the adoption, tried to protect his political amicus Cicero: he compelled Clodius to swear that he would not use his new status to harm Cicero. More-

over, the factio even tried to deprive him of the tribunate when it presented him with a legatio to the Armenian king Tigranes which would prevent him from standing for election in 59. Through this the members of the factio made it clear that he was to seek the tribunate when they thought the time was right, not before: he owed them a favour; not they, him. Cicero gives a succinct analysis of the situation:

Et hercule, verum ut loquamur, subcontumeliose tractatur noster Publius, primum qui, cum domi Caesaris quondam unus vir fuerit, nunc ne in viginti quidem esse potuerit; deinde alia legatio dicta erat, alia data est. illa opima ad exigendas pecunias Druso, ut opinor, Pisaurensi an epuloni Vatinio reservatur. haec ieiuna tabellari legatio datur ei cuius tribunatus ad istorum tempora reservatur.⁶²

Clodius broke with the factio: he refused to accept the position into which it had thrust him, a position of giving, not taking. The offer to him of a meagre legatio, especially when lucrative posts were being given to followers of the factio must have been an unendurable blow to his Claudian dignitas. The blow was made all the more intolerable by the fact that the factio had sought to shuffle him around: it had arbitrarily substituted the legatio to Tigranes for another legatio which it had promised him. His past behaviour had shown how he reacted when not given what he considered his

due: his brother-in-law, Lucullus, had given him a post on his proconsular staff, but he had incited the troops to mutiny when he judged that he was not receiving the honours due to himself.⁶³

There was a more imperative reason for the break with the factio: Clodius could not allow it to deprive him of the tribunate. To begin with, he would not want to postpone indefinitely the vengeance he had sworn against his enemies. More importantly, he had simply invested too much time and effort in the acquisition of the tribunate to have it slip through his grasp. Since his return from Sicily, he had sought the popularity required to obtain that goal. His popularity was such, that Pompey in 60 had turned to him for help with the Flavian land bill; it was not sufficient, however, to overcome the combined political clout of his opponents that prevented him from being elected tribune in that year. In early 59 he added to his popularity by effectively rejecting his patrician status. If he were to accept the legatio to Tigranes, his opportunity to seek the tribunate with very strong popular support would be taken away from him; as Cicero could tell him, the politician who was absent from Rome was quickly forgotten by the people. For Clodius, therefore, it was more advantageous to follow his plans, not those of the factio.⁶⁴

Clodius' break with the factio occurred on or about April 9, 59, when he announced his candidacy for the tribunate.

He also asserted that he was Caesar's enemy and that he would undo all that the factio had implemented. Caesar immediately but unsuccessfully denied that the lex curiata enacting his adoption had been passed.⁶⁵

Clodius' disposition towards Cicero in 59 is also indicative of his hostility towards the members of the factio. Despite their favourable attitude to him in 59, Clodius persisted in threatening him. As it has been noted above, shortly after Clodius' adoption, Pompey out of friendship for Cicero, had elicited from Clodius the promise that he would do him no harm. Clodius had little respect for Pompey's auctoritas: although Pompey made efforts to hold him to his promise, the latter continued to threaten Cicero. Pompey's hold over him was so ineffective that it was partly responsible for Cicero's⁶⁶ decision to make his own preparations for dealing with him.

Clodius also ignored Crassus' auctoritas. By mid-summer Crassus had joined his colleague Pompey in trying to coerce Clodius into adopting a hands off policy towards Cicero.

In A. 2.22.4-5, Cicero tells Atticus:

Nunc mihi et consiliis opus est tuis et amore et fide; qua re advola. Expedita mihi erunt omnia si te habebo: multa per Varronem nostrum agi possunt quae te urgente erunt firmiora, multa ab ipso Publio elici, multa cognosci quae tibi occulta esse non poterunt, multa etiam - sed absurdum est singula explicare cum ego requiram te ad omnia. Unum

illud tibi persuadeas velim, omnia mihi fore explicata si te videro; sed totum est in eo, si ante quam ille ineat magistratum. Puto Pompeio eum ~~(et)~~ Crasso urgente, si traderis qui per $\beta\omega\omega\pi\iota\nu$ ex ipso intellegere possis qua fide ab illis agatur, nos aut sine molestia aut certe sine errore futuros.⁶⁷

Crassus' action was of little consequence; in the above passage Cicero depicts Crassus as siding with Pompey in pressuring Clodius, but he is sufficiently doubtful of the impact of their pressure on Clodius that he wants Atticus in Rome to find out from Clodius through Clodia whether that pressure is worthy of thrust, that is to say, whether it moved Clodius from his anti-Ciceronian stance. Cicero was right to doubt: Clodius' threats, as we find out in subsequent letters, continued unabated.⁶⁸

Caesar manifested a friendly inclination towards Cicero by offering him such posts as a legatio libera, a commissionership on the Board of Twenty, a commissionership on the Board of Five and a legatio on his proconsular staff. Cicero refused the offers: several factors outweighed the protection proffered by Caesar. To begin with, the acceptance of any one of the offers would formally associate him with Caesar's consular policy: such an association would alienate him from his fellow optimates and constitute an open betrayal of the constitutionalist precepts he had espoused during and after his

consulship. In addition the acceptance of some of these posts such as the legatio libera would take him out of Rome when he wished to remain there to receive his brother Quintus, who was to return from his propraetorian province of Asia, and to defend him, if need be, against any charges de repetundis. Furthermore, nearly all the proffered posts were useless to him from the viewpoint of security: he makes it clear that an alliance with Caesar resulting from the acceptance of one of the offers was no protection from Clodius because the latter was not awed by the former's auctoritas.⁶⁹ For this reason he considered the legatio on Caesar's staff as being the most secure and convenient post: "illa et munitior et non impedit quo minus adsim cum velim."⁷⁰

Cicero was firmly convinced that he could deal with Clodius without the help of the factio. In his letters to Atticus of April 59, he displayed no fear of Clodius. He believed that Clodius would pick a fight with the factio, not himself.⁷¹ He soon learnt otherwise. In June and subsequent months Clodius started to threaten him. By the time of Clodius' election, however, he thought that he had sufficient resources to deal successfully with any danger offered by him, whether it was of a legal or violent nature. Although Pompey and Caesar made promises of assistance, he estimated that widespread popular support, the backing of his friends,

his "consular army", the boni, and the friendly disposition of the tribunes, praetors and consuls elect would suffice to counter any measure which Clodius might take against him.⁷² Besides these sources of support, Cicero set great store on what might be accomplished through his amicus Atticus who was able to extract from Clodia Metelli information concerning her brother's political plans. Cicero hoped to use the intelligence gathered by Atticus in the upcoming clash with Clodius. Moreover, he counted heavily on Atticus' advice for the tactics to be adopted against Clodius. For these two reasons he constantly urged Atticus, who was away from Rome, to come to his assistance before Clodius began his tribunate.⁷³

Clodius' threats against Cicero were but one sign of his hostility towards the factio. He vented his animosity in a more direct way by continuing to denounce the factio as he had done shortly after his adoption. He pursued this course of action because the members of the factio had become increasingly unpopular with all segments of society as a result of the political regnum they had established. For instance, they had alienated the senate by passing laws dealing with the distribution of land to the populace and to Pompey's veterans, the ratification of Pompey's Eastern acta and the reduction in the Asian tax farmers' contract. The fact that the laws were passed in the Concilium Plebis by Vatinius or in the Comi-

tia Tributa by Caesar without preliminary senatorial sanction⁷⁴ only added salt to the wound. The equites and the plebs viewed the factio with the same lack of esteem. For instance, the equites and plebeians present at the games of Apollo voiced their disapproval of Pompey and Caesar. The reaction of these two members of the factio did little to help their popularity: they threatened the Roscian law, which gave the equites the first ^{fourteen} ~~seventeen~~ rows of seats at the theatre, and the corn law, which enabled a large segment of the plebs to buy corn at a subsidized price. Two other incidents point particularly to their unpopularity with the plebs: while Caesar failed to rouse a mob for an attack on Bibulus' house after he had postponed the elections in mid July, Pompey did not get any response from his audience when he spoke against the edicts of Bibulus.⁷⁵ Given the unpopularity of the factio in 59, Clodius' opposition to it probably increased his popularity; his amicus Curio minor had attacked the factio and had found a very receptive audience. Clodius' enhanced popularity⁷⁶ would have been translated into votes.

Clodius may have taken more concrete action against the factio than that described above. Valerius Maximus mentions that he prosecuted Lucius Piso de repetundis and that he defended de ambitu one of the three Lentuli who had been his prosecutors in the Bona Dea trial.⁷⁷ If Lucius Piso is iden-

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tified as L. Calpurnius Piso Caesoninus, then there are two possible times when he was open to prosecution de repetundis by Clodius: after a probable propraetorian command or after his proconsular command. As consul in 58 he was given the proconsular command of Macedonia under the terms of Clodius' tribunician lex de provinciis consularibus. Since Clodius was responsible for giving him Macedonia, it seems doubtful that he prosecuted him upon his return from that province. Moreover, Piso returned in 55 when Clodius was supporting his son-in-law, Caesar, and the other members of the renewed factio. It is more probable that the trial had taken place in 59. At that time Piso, if he had held the praetorship in 61, would have been returning from a propraetorian command. In 59 Piso allied himself with Caesar through the marriage of his daughter Calpurnia. Caesar then backed Piso as his consular candidate for the year 58. Since Piso was a clearly identified supporter of the factio, Clodius may have displayed his opposition to the factio by prosecuting him de repetundis.

Clodius' defence of one of his former prosecutors may have had the same aim. The three Lentuli who prosecuted him were probably Lentulus Crus, Lentulus Marcellinus and Lentulus Niger. From the time of the Bona Dea trial till 52, when Clodius died, each of the Lentuli had run for one or more magistracies and had thus been liable to prosecution de am-

bitu. Any prosecution de ambitu took place after the elections in the year prior to successful candidates assuming office: in this way there was time for any convicted candidate to be replaced before the tenure of the magistracy began. On this basis we can obtain the possible years in which the Lentuli were open to prosecution de ambitu. Lentulus Marcellinus was praetor in 60 and consul in ⁸⁴56. He was, therefore, liable to prosecution in 61 and 57. It is unlikely that Clodius defended him in 61 because he was in his quaestorian province of Sicily when any prosecution de ambitu would have taken place. The year 57 can be ruled out on the grounds that Marcellinus as consul designate attempted to have Clodius ⁸⁵tried de vi. If Clodius had defended him in 57, surely he would have adopted a more conciliatory disposition towards him. Both Crus and Niger were open to prosecution in 59: the former was praetor in 58 and the latter had run as an ⁸⁶unsuccessful candidate for the consulship of 58. If either of them was prosecuted de ambitu in 59, the factio may well have been responsible. Each had shown his pro-senatorial bias through the prosecution of Clodius in 61. The same bias ⁸⁷may have made them oppose the factio in 59 along with the rest of the senate. The members of the factio would have tried to inflict a setback on their opponents by having one of their more illustrious members, one of the Lentuli, prosecuted and

convicted de ambitu. Perhaps Lentulus Niger was picked out rather than Lentulus Crus because he had contested the consular elections with the factio's two candidates, A. Gabinius and L. Piso. It was not the first time the factio would have sought to undermine his political position in 59. Before the consular elections it had attempted to incriminate him and others through the information provided by the informer Vettius.⁸⁸ In springing to the defence of either Lentulus in 59 Clodius would have again exhibited his opposition to the factio. His role as Lentulus' attorney and Piso's prosecutor would have been concrete signs of his defiance of the factio.

Throughout 59 Clodius also defied the optimates. In August Cicero wrote to Atticus:

Quam vellem Romae (esses) : mansisses profecto si haec fore putassemus. nam Pulchellum nostrum facillime teneremus aut certe quid esset facturum scire possemus. nunc se res sic habet, ~~volitat~~, furit; nihil habet certi, (multa) multis denuntiat; quod fors optulerit id acturus videtur. cum videt quo sit in odio status hic rerum, in eos qui haec egerunt impetum facturum videtur; cum autem rursus opes eorum, vim, exercitus recordatur, convertit se in (bo) nos...⁸⁹

Here Cicero points out that Clodius' behaviour is erratic and opportunistic because he is attacking both the factio

and its opponents, the boni.⁹⁰ However, his activities at this time were not as erratic or as mercenary as Cicero makes them

out to be: his attack on the boni resulted from their role in the Bona Dea affair and their opposition to his tribunician candidacy in 60, while his defiance of the factio was due to his political independence and the popularity which the defiance brought him. Therefore, he had good reason to assail both the factio and its opponents.

Clodius was ⁹¹ elected tribune. He took up the magistracy on December 10, 59. His election took place some time after July 25, 59. In A. 2.23.3 Cicero mentions to Atticus that the tribunician elections are upcoming. There is no date for this letter or the one preceding it. However, it is known ⁹² that A. 2.21 was written after July 25.

From what has been discussed above, the following conclusions are reached. In 62-61 four factors contributed to Clodius' decision to seek the tribunate: his alienation from the optimates and the senate, and his hatred of Cicero, both of which resulted from the Bona Dea affair; the political power of the tribunate itself; the popularity which would be acquired through the rejection of his patrician status. The following year, after his term as quaestor in Sicily, his bid to secure the tribunate was foiled by Metellus Celer who was supported by the senate, Pompey and several tribunes. Then in early 59 he was effectively transferred to plebeian status with the assistance of the factio. However, when it at-

tempted to foil his prospective candidacy for the tribunate, he turned against it. He also menaced Cicero, to whom Pompey, Crassus and Caesar were well disposed, and the optimates who had sought to undermine his political position in the period 62-60.

CHAPTER III

CLODIUS' PRELIMINARY LEGISLATION

A) Clodius and the Collegia

After he entered the tribunate on December 10, 59, Clodius quickly promulgated four bills which became laws on January 3, 58: ¹de collegiis, frumentaria; de lege Aelia Fufia, ²de censoria notione. The first of these, the lex de collegiis, reestablished those collegia, which had been banned by senatorial decree in 64, and allowed for the creation of new ones. The decree of 64 had outlawed those collegia which threatened the welfare of the state; such guilds as the collegia fabrorum pictorumque, which were deemed useful to the state, continued ³to exist. Apart from this nothing is known about the number or types of collegia affected by the decree. ⁴Through his law Clodius nullified the senatus consultum of 64 which had never ⁵been ratified by the people.

On the day of the Compitalia, two days before the rogatio of the lex de collegiis, Clodius had violated the senatus consultum when he directed Sextus Clodius to celebrate the ludi collegiorum which had been banned along with the collegia and the ludi compitalicii. ⁶The tribune L. Ninnius Qua-

dratus offered some opposition, but it was ineffectual.⁷ The celebration of the ludi would have been welcomed by the members of the banned collegia: it gave them a taste of the renewed libertas which they would enjoy when their associations were not only restored, but given a legal standing which prevented them from being banned by senatorial action. Besides the members of the collegia, the games would have attracted plebeians from inside and outside Rome. They too would have appreciated a taste of the freedom which had been curtailed by the senate in 64: this would have made them all the more favourably disposed to Clodius' bill de collegiis and his three other bills which were shortly to be put to the vote.⁸

Clodius probably also revived the ludi compitalicii. Like the Saturnalia, the Compitalia, which was held shortly afterwards, was a day especially given over to slaves: they were allowed to discard all signs of slavery and they alone assisted the magistri vici¹⁰ who performed sacrifices to the Lares at their shrines in the compita.¹¹ The ludi compitalicii, which were held by the magistri vici, had probably been one of the main sources of enjoyment to the slaves, on the Compitalia. Through their renewed celebration Clodius would have gained the appreciation and support of at least part of the slave population at Rome: as we shall see, Clodius knew the value of having the backing of the slave population.¹²

After the passage of his bill, Clodius, using the tribunal of Aurelius in the forum, formed new collegia which¹³ were organised in the vici and subdivided into decuriae.¹⁴ In this way they could be quickly assembled by their leaders who took their orders from Clodius or his closest associate,¹⁵ Sextus Cloelius. The collegia were made up of the poorer members¹⁶ of society: slaves, freedmen and ingenui;¹⁷ the freedmen and ingenui probably joined them in order to support a politician who had given them a taste of libertas by legalizing their right to form collegia and who had allowed them a free¹⁸ monthly allowance of wheat through his lex frumentaria; as for the slaves, he had probably reinstated their ludi. Moreover, through their membership in the collegia, all three groups would be able to offer him support for other measures¹⁹ which benefitted them. Besides this, there was probably a more immediate cause for their participation in the collegia:²⁰ Clodius would have paid them. To the slaves this would represent a source of income, which they could save as a peculium,²¹ while to the freedmen and ingenui, most of whom may not have²² had a regular employment, it was a very welcome revenue.

Clodius employed his collegia to attain several objectives. To begin with, they proved useful in securing at least partial control over the Concilium Plebis. His collegia,
~~being organised vici by vici, embraced a significant por-~~

tion of the urban plebs: as a result of this, he would have²³ had no trouble in securing the vote of the four city tribes.

The members of his collegia were also important to Clodius with regard to the rural vote. Since the time of the Gracchi there had been a flow into Rome of rural dwellers who had been prevented from earning their living through agriculture because of the adverse conditions in the countryside. This resulted in the presence at Rome of many voters²⁴ from the thirty-one rural tribes. Normally the tribes, in which these migrants voted, would have changed to urban ones through the census. However, from 70 to 28 there is no evidence for a completed census.²⁵ Within Clodius' collegia there would have certainly been a number of migrants who could still vote in their rural tribes: owing to their bleak employment prospects, they would have been especially attracted to the²⁶ collegia. These voters were very useful to Clodius: they resided in Rome and could be present at any time he chose to put one of his bills to the vote. Meanwhile, those voters who earned their living in the countryside could ill afford to take the time needed to come to Rome and vote; the only regular occasion on which they came to Rome was the nundinae²⁷ to sell their produce. Clodius, therefore, would have had a strong influence in the vote of the thirty-one rural tribes.

Clodius probably sought to assure himself of control over the voting in the Concilium Plebis by burning the temple

of the Nymphs which contained the censorial records. With the absence of these data, it would be an easy matter for him²⁸ to have his supporters vote in the rural tribes. Cicero may be referring to such a procedure in his speeches when he mentions that some voters did not vote in their own tribes.²⁹

Clodius did not rely solely on the members of his collegia for the backing of his bills. Many of them such as the lex de collegiis, lex frumentaria and the lex de capite civis Romani were popular measures which did not require organised political support to be passed.³⁰ Moreover, throughout his tribunate he was able to issue edicts closing the shops. The purpose of the edicts would have been to bring out the vote,³¹ especially that of the shop owners.

The collegia were of more than electoral importance to Clodius. He used the members of his collegia to perpetrate such acts of political violence as stonethrowing,³² the destruction or defacing of public buildings,³³ the siege and burning of enemies' houses,³⁴ and murder.³⁵ He was no newcomer when it came to acts of political violence: in January 61 he had organised operae who disrupted the assembly when it was preparing to vote on the consular bill dealing with the Bona Dea intrusion.³⁶

In 58 Clodius was able to control Roman politics by means of his operae.³⁷ Besides being well organised, they were

also well armed: their weapons were stored in the temple of Castor and Pollux which acted as their center of operations: Clodius had chosen this temple as his headquarters because it provided an easily accessible central rallying point to which his operae could be quickly summoned. There was also the fact that the temple with its high podium was an easily defensible spot: Clodius had assured himself of its defensibility by turning it into a veritable fortress through the removal of its steps. This action not only prevented any attack, but it also prevented any opposing magistrate from interfering with the legislative ³⁸ proposals which he presented from the tribunal of the temple. However, there was little likelihood that any such opposition would take place because he stationed his armed gangs around the forum at such times that he presented legislation to the people. The presence of the operae was also useful when he put his measures to the vote, for they would scare ³⁹ off or intimidate any anti-Clodian voters. Clodius' fellow magistrates were also intimidated by the operae: throughout ⁴⁰ 58 they were prevented from proposing any legislation because they were denied access to the temple of Castor and Pollux and other spots in the forum from which they might deal with the people.

During his tribunate and the years which followed, Clodius singled out his political opponents as targets of the at-

tacks of his operae: Hortensius, Cicero, Pompey, Milo, Sestius, Metellus Nepos, Gabinius, Fabricius, Flavius, Cispus, Q. Cicero, Curio maior, and Papirius could all testify to the rough handling which they had received from his gangs. The senate could also do so: from 58 to 56 it had been attacked in one form or another no less than three times.

The members of the collegia fulfilled another less violent but equally important political function: Clodius used them to sway public opinion. Whenever he spoke at a contio, he would seed the audience with his supporters in order to get a favourable response. His operae, however, could be used at contiones with more telling effect. We need only look at the contio of February 6, 56, which he had orchestrated against Pompey:

Ille furens et exsanguis interrogabat suos in
clamore ipso quis esset qui plebem fame necaret;
respondebant operae 'Pompeius'. Quis Alexandriam
ire cuperet; respondebant 'Pompeius'. Quem ire
vellent; respondebant 'Crassus'.⁵⁶

In this way Clodius embarrassed Pompey by publicizing the latter's badly kept secret wish to restore Ptolemy to the throne of Egypt. The contio also served the purpose of increasing the friction between Pompey and Crassus. The same type of public embarrassment was used against Cicero: upon the latter's return from exile in September 57, Clodius had sent a group of

his partisans to his residence who serenaded him by saying that he was responsible for the present high price of wheat: at the time of Cicero's return there had been a shortage of wheat and a consequent rise in price.⁵⁹

Through the collegia Clodius was able to secure a more significant goal than those listed above: self preservation.⁶⁰ Since the beginning of the Roman revolution, which began with the death of Tiberius Gracchus, most prominent populares had been eliminated by senatorial forces: Tiberius Gracchus in 132, Gaius Gracchus in 121, Saturninus in 100. The reason for their demise was a simple one: none had a permanent, accessible, wide-scale and well organised basis of political support which could ward off the attacks of their political enemies. When they were attacked by the senatorial forces, Tiberius Gracchus, Gaius Gracchus and Saturninus had had an ill equipped and insufficient number of partisans to protect them: Tiberius Gracchus had died on the Capitol with three hundred of his supporters;⁶¹ Gaius Gracchus had been killed with three thousand of his partisans on the Aventine;⁶² Saturninus had got together what forces he could from the country at the last moment in order to defend himself on the Capitol.⁶³ Clodius with his numerous and well equipped operae, whom he could easily assemble, would avoid the fate of his political predecessors.

Moreover, the fact that he had a personal bodyguard would

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help to prevent any attempt at assassination: the death of
another popularis tribune, Drusus, had pointed to the neces-
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sity for this type of protection.

There is another way in which Clodius differed from
most politicians: he did not hesitate to enlist slaves in
his collegia or to seek their support through popular mea-
sures. In doing this he was tapping for support a large seg-
ment of the Roman population which previous politicians had
left virtually untouched. Cinna, Marius and Sulla had been
the only other politicians to use slaves to bolster their po-
sitions. Cinna had included a number of slaves in his armed
forces to whom he had promised freedom in return for their
support; in the end he was compelled to eliminate them when
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they became too unruly. Marius had done much the same thing
as Cinna; after his return to Rome in 87 he had a picked
bodyguard of slaves who had deserted over to him. The band
of slaves, which he called the Bardylaei, carried out his or-
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ders for execution. Sulla had freed ten thousand slaves of the
proscribed. These Corneliū were to be one of their patron's
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main sources of protection after he stepped down from power.
Other politicians such as Fulvius, Saturninus, Marius, when
he made his escape from Rome in face of Sulla's forces, and
Catiline's co-conspirators had only sought help from the
slave population at Rome in last ditch attempts to counter

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the forces of their enemies. By recruiting among the slave population Clodius at least doubled the number of operae which he would have acquired had he directed his attention solely to the plebeian population: should any attempt be made to eliminate him from the political scene he would be able to ward it off by the sheer numbers of his operae and supporters.

In his speeches Cicero often compares Clodius to Catiline. He alleged that he had been Catiline's collusive prosecutor;⁷⁰ that he had almost become a follower of Catiline;⁷¹ that he had become the leader of the Catilinarian forces.⁷² Cicero's purpose in comparing Clodius to Catiline was a rhetorical one: to blacken his character. There were no real points of comparison in the way each had sought power. Catiline had said in the senate that there were two bodies in the state: one lean and wasted but with a head, the other was headless but strong and large. The former was the senate, the latter, the plebs. He had said that he would become the head of the headless body, that is to say that he would give leadership to the plebs.⁷³ He did not carry through his promise; the only attempt to enlist the aid of the plebs was that made by his co-conspirator Lentulus when he sought to effect his escape from custody.⁷⁴ Clodius, on the other hand, placed himself firmly on the shoulders of the plebs through his well orga-

nised operae and his popular legislation. It is perhaps this factor which prompted his partisans to dub him "feli⁷⁵x Catilina".

B) Lex Frumentaria

Clodius' second law, the lex frumentaria, instituted⁷⁶ the distribution of free wheat to all Roman citizens. The 6 1/3 asses which had previously been charged for subsidized wheat was thus abolished.⁷⁷ As for the amount of wheat distributed monthly, it probably remained the same as under the lex Terentia Cassia of 73: five modii.⁷⁸

Clodius kept the distribution program under his control by placing his close associate, Sextus Cloelius, in charge of it. Cloelius was also given extensive powers over the wheat supply. Cicero describes them in Dom. 25:

Tu...Sex. Cloelio...omne frumentum privatum et publicum, omnes provincias frumentarias, omnes mancipēs, omnes horrea⁷⁹ ~~ex~~ claves lege tradidisti.

In giving Cloelius these far reaching powers, Clodius sought to ascertain that enough wheat would be available for the heavy demands of his extensive distribution program.

The law had several effects. To begin with, like all⁸⁰ other leges frumentariae, it was a drain on the treasury. Cicero in March 56 said that the remission of the 6 1/3 asses

per modius took up a fifth of the revenues coming into the

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treasury. The situation became more serious as the numbers
of the plebs frumentaria increased: by 45 its number had ri-
sen to 320,000; ⁸² in comparison there had only been 40,000
recipients in 70 under the terms of the lex Terentia Cassia. ⁸³

The lex frumentaria also caused large scale manumis-
sions. Many masters simply freed their slaves in order to
have them fed at state expense. Many manumissions had been
effected before the passage of Clodius' law: in this way
the new freedmen would immediately be eligible as wheat reci-
pients. ⁸⁴ The process was an ongoing one: Pompey, who was in
charge of the distribution program in 56, was having trouble
with it on account of the large number of slaves who had been
freed in order to take advantage of it. ⁸⁵ Clodius had probably
intended his measure to bring about a widescale manumission
of slaves. Those slaves, who received their freedom because
of his law, would support the politician indirectly respon-
sible for that freedom.

Another effect of the lex frumentaria was that it pro-
vided a further incentive which accelerated the drift of peo-
ple from the country to Rome. ⁸⁶ Many had been prompted to leave
the bad conditions in the countryside by the various enter-
tainments and especially by the doles offered by the aediles, ⁸⁷
candidates for office, ⁸⁸ triumphant imperators, ⁸⁹ those holding

⁹⁰ funerary rites and games, those offering a sacrifice to a god
in the form of a feast ⁹¹ and those offering private largesses. ⁹²

These doles were only occasional: through his law Clodius assured those coming into Rome of a regular-free supply of a basic foodstuff.

Another effect of the law was the popularity with the plebs which it brought Clodius; that, no doubt, had been the main reason for proposing it. The plebs⁹³ would have appreciated any measure which alleviated their lot; their living conditions were squalid and many had to depend on seasonal work.⁹⁴ The distribution gratis⁹⁵ of the most basic foodstuff would have met with a very favourable response.

The supply of wheat and its distribution at a fair price had always been a very important economic-political issue at Rome. In early Rome the magistrates had gone to great lengths to assure the supply of a fairly priced wheat for the plebs.⁹⁶ There were at least three politicians of early Rome who reputedly owed their demise to the fact that they had used the supply and price of grain as a political issue:⁹⁷ Maelius and Cassius were condemned because they had sought to curry the people's favour through the distribution of free or cheap wheat, while Coriolanus owed his fall to his insistence that the plebs pay the market price for the wheat freely given to Rome by the Sicilians.⁹⁸ Gaius Gracchus was the first to introduce a law distributing subsidized wheat to the plebs.⁹⁹ Like Clodius he introduced his law at the begin-

ning of his tribunate, thus assuring himself of the support
 of the plebs while in office. ¹⁰⁰ Gracchus' grain legislation
 was later annulled by the tribune Marcus Octavius who replaced
 it with a more moderate plan. ¹⁰¹ Later, Saturninus, another po-
ularis tribune, tried to acquire popular favour by his grain
 law which was more generous than that of Gracchus; he propo-
 sed to distribute subsidized wheat at $5/6$ of an as per mo-
dus whereas the Gracchan price had been $6\frac{1}{3}$ asses. ¹⁰² Dru-
 sus, a tribune of 91, also proposed a grain law, but its pro-
 visions are unknown. ¹⁰³ Later, Sulla abolished all grain legis-
 lation in his dictatorship. ¹⁰⁴ By 75, however, the senate was
 compelled to take action, owing to the widespread unrest among
 the people which resulted from the extreme shortage of grain
 and its consequent high price: it sent the quaestor Corne-
 lius Lentulus Marcellinus to organise the finances of the pro-
 vince of Cyrene in order to have the necessary funds with
 which to relieve the famine at Rome. The money enabled the
 consuls of 73 to pass the lex Terentia Cassia which allowed
 for the purchase of wheat from Sicily and its distribution
 at a fair price at the rate of five modii per man per month. ¹⁰⁵
 In 74 the aedile M. Seius had given temporary relief to the
plebs by distributing wheat at an as per modius. ¹⁰⁶ The impor-
 tance of the grain supply and its distribution at a fair
 price was clearly pointed out by Licinius Macer a tribune of

73. He complained bitterly to the people that those in power were easily pacifying them through the distribution of wheat under the terms of the lex Terentia Cassia. He warned that if they could be bought off that cheaply, they would never recover their libertas.¹⁰⁷ Ten years later the senate again used the wheat issue as a means of quelling popular unrest. The praetor designate, Caesar, had stirred up the people over the issue of the senate's decision to put the Catilinarians to death without trial. At the instigation of the tribune Cato the senate extended the distribution of subsidized wheat to a larger number of recipients and thus effectively put an end to the popular unrest.¹⁰⁸ Yet another incident points to the importance of the grain program to the plebs: in 59 the plebeians had on several occasions displayed their disenchantment with Caesar and the other members of the factio: the latter reacted by threatening the grain law.¹⁰⁹ Finally, in 58 Clodius outdid all previous leges on the matter. If those measures, which only enacted the distribution of subsidized wheat had been well received, then his more generous law would have brought him overwhelming widespread popularity. His law also had another equally important effect: it removed a very useful political weapon from the senate; the senate could not, as it did in the case of Caesar, win the plebs away from him by means of further largesses in the wheat distribution program.

C) Lex de Lege Aelia Fufia

Clodius' third law modified the provisions of the lex¹¹⁰ Aelia Fufia¹¹¹ which had been in existence for nearly a century.

The sources only give a general picture of the make up of the lex Aelia Fufia¹¹²: it permitted and regulated obnuntiatio as it pertained to magistrates; it was concerned with the regulation of dies fasti and dies comitiales; it prohibited any bill from being brought before the people in the trinundinum¹¹³ between the announcement and the holding of elections.

Cicero in several brief generalised comments of his speeches seemingly states that Clodius had completely abolished magisterial obnuntiatio:

Isdemque consulibus sedentibus atque inspectantibus lata lex est, ne auspicia valerent, ne quis obnuntiaret, ne quis legi intercederet,¹¹⁴ ut omnibus fastis diebus legem ferri liceret, ut lex Aelia, lex Fufia ne valerent; qua una rogatione quis est qui non intellegat universam rem publicam esse delatam.¹¹⁵

...quae quidem leges anno post sedentibus in templo duobus non consulibus, sed proditoribus huius civitatis ac pestibus una cum auspiciis, cum intercessionibus, cum omni iure publico conflaverunt.¹¹⁶

quo inspectante ac sedente legem tribunus plebis tulit, ne auspiciis optemperaretur, ne obnuntiare concilio aut comitiis, ne legi intercedere liceret: ut lex Aelia et lex Fufia ne valerent,¹¹⁷

According to these statements no one could use obnuntiatio. Yet the evidence shows that both consuls and tribunes still had the right to use it against electoral and legislative assemblies after the passage of Clodius' law. Cicero's statements, therefore, must have been rhetorical exaggerations about some facet of Clodius' law which in some way modified the provisions of the lex Aelia Fufia concerning obnuntiatio: he certainly would not have told blatant lies about the provisions of Clodius' law on obnuntiatio. For instance, in the Pro Sestio he said quite clearly that obnuntiatio had been abolished, but he also mentioned that Sestius had used it against Metellus Nepos, that Appius had been able to use it against the tribune Fabricius and that it could have been used to prevent the Comitia Centuriata from voting on the measure enacting his recall. Obviously, therefore, Cicero's comments on obnuntiatio, as it was regulated by Clodius' measure, cannot be taken at face value.

In 59 Bibulus and three tribunes had exercised their right of obnuntiatio as specified by the lex Aelia Fufia. They had exercised their right by watching the skies for omens while the legislation of Caesar and Vatinius was being voted on by the assembly. Cicero in Prov. Cons. 46 points out that under the lex Aelia Fufia it was permitted to use

spectio and obnuntiatio against a legislative assembly while it was in session:

Quare aut vobis statuendum est legem Aeliam manere, legem Fufiam non esse abrogatam. non omnibus fastis legem ferri licere, cum lex feratur, de caelo servari, obnuntiari, intercedi licere...

Here he also shows that it was specifically this facet - the dismissal of an assembly while it was session - which was abrogated by Clodius' law. His law very probably curtailed the same use of spectio and obnuntiatio with regard to electoral assemblies. Cicero in Phil. 2.81 states that spectio and obnuntiatio were not permitted when that type of assembly was being held:

Quisquamne divinare potest, quid vitii in auspiciis futurum sit, nisi qui de caelo servare constituit? quod neque licet comitiis per leges, et, si qui servavit, non comitiis habitis, sed priusquam habeantur, debet nuntiare.

The mention of the "leges" is very probably a generalized reference to Clodius' law: there is no evidence for any other legislation. Moreover, in Phil. 2.81 Cicero stresses that spectio and obnuntiatio must take place before the assembly is summoned. This change in procedure was almost certainly due to Clodius' law modifying the provisions of the lex

Aelia Fufia and not to any legislation between 58 and 44;

the way in which the tribune Milo employed obnuntiatio in 57 suffices to exemplify this point. In November of 57 Milo used his spectio and obnuntiatio to prevent the consul Metellus Nepos from holding the elections for the aediles of 56. Milo came to the Campus Martius long before daybreak on each dies comitialis, exercised his right of spectio and then obnuntiated. He had to fulfill these functions before daybreak for them to be valid. This is made quite clear by the attempt of Nepos to circumvent Milo's obnuntiatio:

A. d. XII Kal. Dec. Milo ante mediam noctem cum manu magna in campum venit. Clodius, cum haberet fugitivorum delectas copias, in campum ire non est ausus. Milo permansit ad meridiem mirifica hominum laetitia, summa cum gloria. contentio fratrum trium turpis, fracta vis, contemptus furor. Metellus tamen postulat ut sibi postero die in foro obnuntietur; nihil esse quod in campum nocte veniretur; se hora prima in comitio fore.¹²⁵

Metellus obviously hoped that a gullible Milo would go to the Comitium at the first hour and obnuntiate to him: he sneaked into the Campus at dawn hoping to find Milo absent; he could then claim that Milo, being absent, had not properly complied with the required procedure for obnuntiatio, because he had not been in the Campus to exercise his powers of spectio and obnuntiatio before dawn. Milo, however, was present and made it quite clear to Metellus that his plan

had not worked: he ran after him and obnuntiated:

itaque a. d. XI Kal. in comitium Milo de nocte venit. Metellus cum prima luce furtim in campum itineribus prope deviis currebat; adsequitur inter lucos hominem Milo, obnuntiat. ille se recipit magno et turpi Q. Flaecii convicio. a. d. X Kal. nundinae. contio biduo nulla.¹²⁶

The procedure for obnuntiatio mentioned by Cicero and adopted by Milo was no doubt the modified procedure as laid down in the lex Clodia de lege Aelia Fufia: it is the only factor which can account for the difference between the way it was used by Bibulus and the three tribunes in 59 and the way it was employed by Milo in 57. The change in the procedure would be the factual basis behind Cicero's statements that obnuntiatio was abolished; his statements would signify that the practice of obnuntiatio as it existed under the lex Aelia Fufia had been abrogated. This being the case his audience would have known that he was indulging in a little rhetorical exaggeration; not lying.

Why did Clodius want such a change in the use of obnuntiatio? In 59 Bibulus had remained securely at home, watched the skies, and obnuntiated through edicts: on the one occasion when he did attempt to obnuntiate directly to Caesar, he was thrown down the steps of the temple of Castor and Pollux.¹²⁷

Through his use of obnuntiatio Bibulus attached a potential time bomb to the legislation of Caesar which might later be

exploited by the latter's enemies. That is precisely what occurred in 58: on more than one occasion Clodius and his brother Appius attacked his legislation on the ground that it had been passed while the skies were being watched. Clodius' purpose in modifying the use of obnuntiatio was very probably to prevent any hostile magistrate from impairing his legislation in the same way as Bibulus had Caesar's. By compelling any magistrate to leave the safe confines of his house and to make use of obnuntiatio in the open, Clodius created a situation which could be easily dealt with: any magistrate concerned for his own safety would not dare leave himself open to the attacks of Clodius' operae. To illustrate this point we need only look at what happened to Sestius. In early 57 when he had obnuntiated to the consul Metellus Nepos, Clodius' gangs dealt with him so severely that they left him for dead; Milo had only been able to obnuntiate because he provided himself with operae to counter those of Clodius. Thus, Clodius would effectively be able to prevent any obnuntiatio against his legislation: it is probably for this reason that he introduced his law on the lex Aelia Fufia at the beginning of his tribunate; he would be assured that the remainder of his tribunician legislative program would be unhampered by obnuntiatio.

Clodius probably had another practical reason for regulating obnuntiatio. Under the lex Aelia Fufia an assembly

could be dismissed by obnuntiatio after it had been summoned: this only caused a waste of time for the people and the presiding magistrates. Under Clodius' law the magistrate was informed of the obnuntiatio before he summoned the assembly: he and the other people would not go through the inconvenience of holding an assembly only to have it dismissed by obnuntiatio.

Cicero alleged that Clodius' law had also nullified the provision of the lex Aelia Fufia, which regulated dies fasti and comitiales, by making all dies fasti days on which legislation might be brought before the people.¹³¹ He made this allegation twice in the Pro Sestio and once in the De Provinciis Consularibus.¹³² Had he made the statement only in the Pro Sestio, where he only had a public audience and a jury to deal with, it might simply be dismissed as part and parcel of the vituperative and hyperbolic rhetoric used by a defence attorney against a personal and political enemy. However, he also made the statement in the senate in that passage of the De Provinciis Consularibus where he simply lists Clodius' measures and asks those senators, who declared Caesar's legislation invalid because the skies had been watched when it was passed, also to declare Clodius' acts illegal because the whole basis for his tribunate and legislation had been a

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lex curiata passed by Caesar when the skies were being watched.

Besides the lack of rhetorical invective in the passage, there is also an absence of rhetorical exaggeration: Cicero was speaking to fellow senators who would be well aware of the exact provisions of Clodius' law; any attempt to pull the wool over their eyes would be fruitless. At best he may have left out some provision of Clodius' law which set out conditions under which a dies fastus might be used as a dies comitialis. It can be concluded, therefore, that Cicero's statement about the dies fasti was essentially factual. The provision of Clodius' law allowing legislation on dies fasti was not a radical one; it would be no more radical than the consular lex Pupia which had probably been passed by Clodius' amicus, Piso, in 61; the lex Pupia prevented the senate from meeting on all dies comitiales in the latter part of January.¹³⁴

Clodius had good reason to desire additional days for legislative purposes: in 58 he passed no less than twelve laws. In the Roman calendar there were only one hundred and ninety five dies comitiales. This number was further diminished because the nundinae and probably the following day were fasti. The number of dies comitiales was also lessened by the celebration of ludi and the holding of supplicationes. On top of this no legislation could be passed between the announcement and the holding of elections.¹³⁵ In making dies fasti days on which legislation might be put to the vote, Clodius

would have made the legislative process somewhat easier for himself and others.¹³⁶

Clodius' law did not touch that provision of the lex Aelia Fufia which prohibited legislation from being passed in the trinundinum¹³⁷ between the announcement and the holding of elections. The provision was still in force in September 54 when the senate postponed the consular elections in order to allow time for a law setting up a special court to be brought before the people.¹³⁸ Besides this, there are the promises of the tribunes C. Cato and Caninius in January 56 not to bring any laws before the people until the elections of the aediles took place on January 20.¹³⁹ Through these promises they would have been adhering to the terms of the lex Aelia Fufia which prohibited legislation in that time period.¹⁴⁰

D) Lex de Censoria Notione

Clodius' fourth law severely curtailed the censors' awesome power of stigmatisation: it enacted that the censors could only remove a senator from the senate after he had been accused before them and after they had both found him guilty.¹⁴¹ Previously the censors could remove any numbers of senators from the senate by simply affixing the nota to their names.¹⁴² They were in no way compelled to justify their actions. Clodius had first hand knowledge of the arbitrariness of censorial stigmatisation: his father, Appius Claudius Pulcher

(cos. 79) had been passed over in the senatorial list by his own nephew, L. Marcius Philippus, one of the censors of 86.¹⁴³ His father's experience may have been one of his main reasons for curbing the arbitrariness of the censorship through his law.

His law also got rid of much of the dissension which could arise between fellow censors, for it compelled them to act conjointly. Before Clodius' measure, a senator could be removed from the senatorial list by one censor only to be replaced by the other censor; it had even occurred that censors would remove each other from the senate.¹⁴⁴ Henceforth, the censors would have to act in harmony.

Clodius probably had more than the reform of the censorship on his mind when he decided to bring in the lex de censoria notione; he may well have been thinking of his political hide. In removing the bite from the censors' power of stigmatisation, he was depriving his political enemies of a weapon which they could use against him to repay him for his past deeds and for the popularis program of legislation he was implementing: the fact that Clodius only limited the censors' powers vis à vis senators suggests that he had his own safety in mind when he proposed the law.

Clodius' law was put into effect by M. Valerius Messalla¹⁴⁵ and P. Servilius Vatia Isauricus, the censors of 55-54. It

was very probably at this time that Helvius Mancina of Formi-
ae, the son of a freedman, accused the senator L. Scribonius
Libo before the censors. The outcome of the trial is unknown,
but it is known that Pompey spoke on behalf of Libo who was
his political affiliate and a relative. He reproached Mancina
with his old age and low birth. Mancina replied by listing all
those whom Pompey had unjustifiably put to death. From Man-
cina's prosecution of Libo we are provided with another aspect
of Clodius' law: it made the censorship more democratic; a
freedman's son from Formiae could accuse a highly connected
senator before the censors.

The law was abolished by Metellus Scipio, the father-
in-law of Pompey and his colleague as consul in the latter
half of 52. His reason for abolishing the law may have been
that the procedure required by the lex Clodia was too cumber-
some. On the other hand, he may have abolished the law at the
instigation of Pompey; the latter may have wanted it quashed
as a result of the unpleasant experience he had had at Libo's
trial.

CHAPTER IV

CLODIUS AND THE EXILE OF CICERO

There had been a measure of reform in each of Clodius' first four laws: the lex de lege Aelia Fufia regulated the use of obnuntiatio more strictly; the lex de collegiis legalized the right to form collegia; the lex frumentaria provided the urban poor with a regular free supply of a basic food-stuff; the lex de censoria notione curbed the power of stigmatisation by allowing trials of the accused before the censors. In late February or early March 58 Clodius promulgated a bill which brought about another reform, the rogatio de capite civis Romani. It interdicted from fire and water anyone who had put an uncondemned citizen to death.¹ The law reaffirmed the principle set down in the laws of the XII tables, the Sempronian law and other laws: the citizen's right to trial.² By it Clodius sought to put a legislative check on the senate's consultum ultimum, the decree by which it ordered the magistrates to take care that the res publica suffered no harm. The decree empowered the magistrates to take arbitrary action against any citizen whose activity was deemed detrimental to the state.³ For instance in 121, the year in

which the senatus consultum ultimum was first voted, the senate used it to crush the apprehended insurrection of Gaius Gracchus.⁴ Afterwards the s. c. u. and its corollary, a decree specifying certain citizens as public enemies, who could be killed on sight, were used against such politicians as Saturninus,⁵ Sulpicius,⁶ Marius,⁷ Sulla,⁸ and Lepidus.⁹

Two unsuccessful attempts were made to curb the senate's use of the s. c. u. In 120 the tribune Decius and L. Crassus arraigned Opimius, the consul of 121, for his role in the death of Gaius Gracchus and his three thousand supporters. As consul Opimius had led the senatorial forces against the Gracchans after the s. c. u. had been passed. Opimius was defended by the consul Carbo, a former supporter of Gracchus. While Carbo argued that Opimius was justified in putting to death one who had endangered the safety of the state through his criminal deeds, the prosecution maintained that the s. c. u. was not a legal decree, for it had deprived those against whom it was directed of their right to trial. The popular assembly, before which the case was tried, did not accept the prosecution's argument: it acquitted Opimius.¹⁰ Another attempt was made to check the use of the s. c. u. in early 63 when Julius Caesar, with the help of the tribune Labienus, resurrected the ancient practice for dealing with perduellio, the procedure by which duumviri tried treason cases. The accused was

C. Rabirius, an aged senator, who was charged with the murder of Saturninus. The proceedings were clearly aimed at the s. c. u. which had ordered Rabirius and the senatorial forces to suppress the insurrection headed by Saturninus, Memmius and Saurfeius. Caesar and his kinsman, L. Caesar, were appointed duumviri through the complicity of the presiding praetor. They immediately pronounced Rabirius guilty before he could offer any defence. Through this act Caesar indicated that the trial was in large part a show trial designed to censure the use of the s. c. u. Even before the trial Caesar had scored a major point against the senate. The penalty for perduellio was crucifixion in the Campus Martius. Before the proceedings against Rabirius started, the senate, at the instigation of the consul Cicero, had passed a motion which replaced crucifixion with the penalty of exile. The senate, therefore, was compelled to deny the death penalty, the same penalty which was meted out by those acting under the auctoritas of the s. c. u. After the duumviri gave their verdict, the consul Cicero stepped in and somehow quashed the proceedings. Labienus then brought the case before the Comitia Centuriata. However, the case was abruptly ended when the praetor Metellus Celer raised a flag on the Janiculum. In earlier times this act signified that the Comitia Centuriata must disperse because the enemy was approaching Rome. Although the use of the flag no long-

er served any practical purpose, its raising was still sufficient to cause the dismissal of an assembly.¹¹

Clodius made his measure retroactive in order to include the s. c. u. of 63:¹² on December 5, 63, the senate, acting on the s. c. u. of October 29, decreed that Lentulus, Cethegus, Statilius, Gabinius and Caeparius be strangled in the Tullianum for their part in the Catilinarian conspiracy.¹³ The rogatio de capite civis Romani was but one more reaction to the s. c. u. of 63. Shortly after the death of the conspirators, Caesar, who had spoken and voted against the death penalty,¹⁴ used their fate to rouse the people against the senate. The senate, however, silenced their anger when it decreed, at the suggestion of the tribune M. Cato, that the subsidized wheat program be extended to cover a larger section of the plebs.¹⁵ The tribune Metellus Nepos, with the support of Caesar, also undertook measures against the senate for its arbitrary action. To begin with, he prevented Cicero from addressing the people at the expiry of his consulship; at that time it was customary for the consul to swear an oath that he had fulfilled his magisterial duties. Cicero had been a zealous proponent of the death penalty during the Catilinarian debate and he had been responsible for the execution of the senate's decision. He circumvented Metellus' obstructionism by swearing that his efforts had saved the res publica. This only served

to antagonize Metellus and the people. Metellus next promulgated a bill which enacted that Pompey be recalled to put an end to Cicero's ¹⁶ regnum. However, the tribune Cato obstructed Nepos while he read the terms of his bill to the people from the temple of Castor and Pollux. There ensued a clash between the partisans of Metellus and Cato. Afterwards, Metellus remained so adamantly opposed to Cicero that he sought to bring him to trial for the death of the conspirators. The senate then issued the s. c. u. and decreed that all the magistrates, who had administered the affairs of state during the Catilinarian crisis, should be free from prosecution. Metellus did not wait for the senate to act; he quickly left for ¹⁷ Asia and Pompey.

In directing his measure specifically against the senate's prerogatives, Clodius had more in mind than reform; vengeance. The overwhelming majority of the senate had come out against him in the Bona Dea affair and had tried to eliminate him from the political scene through a privilegium. As tribune he was now carrying out the threat which he had made after his acquittal in the Bona Dea trial, to seek vengeance on his enemies through the powers of the tribunate. The senate only gave him added reason for vengeance in 60 ¹⁸ when it vigorously opposed his candidacy for the tribunate.

Clodius obtained his vengeance against the senate: his proposed law flouted its auctoritas in more than one way.

Firstly, it hindered the future use of the s. c. u.: it subjected to exile anyone who justified the killing of a Roman citizen by the s. c. u. Secondly, it retroactively nullified the senatorial decree of 62 which prevented legal action against the magistrates who administered the affairs of state during the Catilinarian crisis.¹⁹ Thirdly, the proposed law must have applied to the senators who voted for condemnation of the conspirators. In 63 the conspirators were executed by the strangler in the Tullianum, not by the senators. However, since they were indirectly responsible for the fate of the conspirators, they might have been prosecuted under the lex Clodia.

Clodius' bill was directed against one senator in particular:²⁰ Cicero. After the Bona Dea trial Clodius had threatened to use the powers of the tribunate especially against Cicero. Cicero, however, underestimated Clodius and continued to antagonize him. In 59 Cicero began to take Clodius more seriously when he threatened legal action and violence against him. The legal action, judging from Clodius' subsequent behaviour, would have concerned Cicero's key role in the execution of the conspirators. Cicero probably refers to Clodius' threats in the Pro Flacco where he alleges that he is faced²¹ with a trial for his activities against the Catilinarians.

Through the rogatio de capite civis Romani Clodius indicated

the definite form of his revenge: a tailor-made law designed to punish the individual guilty of putting uncondemned citizens to death. Under the terms of the law Cicero would find it difficult to put up a cogent defence: he himself had openly admitted and eulogized his role in suppressing the Catilinarians. Clodius, therefore, did not have a show trial in mind as Caesar had had in the case of Rabirius; he wanted to eliminate Cicero from the political scene in much the same way that the senate had sought to eliminate him in 61.

Clodius knew that the bill would meet stiff opposition from the senate. Therefore, he secured the support of the two consuls, A. Gabinius and L. Piso, by promulgating a bill which gave them attractive proconsular commands. Initially Gabinius was given Cilicia. Later he received Syria by another law while Cilicia was given to a praetor. Piso, meanwhile, was given Macedonia and jurisdiction over a number of civitates liberae in that province. Clodius's bill on the proconsular provinces also contained provisions which allowed Piso and Gabinius to nominate their legati, to raise fresh legions and to wage war. Moreover, both consuls were furnished with generous expenses to fulfill their proconsular duties. ²²⁷

Clodius made certain that the consuls supported him and his lex de capite civis Romani. He tied in his bill on the provinces with his bill on uncondemned citizens by promulgating

all three on the same day; it was not by chance that later the bill on the provinces was only given its rogatio after the rogatio de capite civis Romani had become law.²³

Through the lex de provinciis consularibus Clodius dealt the senate's auctoritas another blow: it was traditionally the senate's prerogative to designate proconsular provinces and to nominate legates. His measure, however, was nothing new. He could easily point to other tribunician laws which granted proconsular commands: the lex Sulpicia which entrusted the Mithridatic war to Marius;²⁴ the lex Gabinia which put Pompey in charge of the war against the pirates;²⁵ the lex Manilia which granted Pompey the provinces in Asia Minor and the control of the war with Tigranes and Mithridates;²⁶ the lex Vatinia which allowed Caesar a five year proconsular imperium in Gaul and Illyricum.²⁷

Of the two measures contained in the law on the proconsular provinces, the one concerning Gabinus could be justified on the grounds that an experienced proconsul with fresh levies was required to deal with the Arab incursions into Syria;²⁸ Pompey had intended to deal with the Arabs in 64, but problems in Palestine caused him to call off his planned campaign.²⁹ Meanwhile, there was no need to send an ex consul with fresh troops to Macedonia; the governor L. Appuleius Saturninus had been able to hold the province with a small force.³⁰

Clodius and the consuls had come to terms long before the promulgation of the lex de provinciis consularibus. For instance, the consuls did not prevent Clodius and Cloelius from holding the ludi on the Kalends of January even though the ludi had been annulled by the senatus consultum of 64; strange behaviour for the chief magistrates. Three days later they openly supported Clodius: they stood by him while he put his four preliminary leges to the vote.³¹

After the promulgatio of the bill on the provinces the consuls gave their whole-hearted support to the rogatio de capite civis Romani. Their backing of Clodius soon became clear to Cicero. Shortly after the promulgatio of the bill he sought help from Piso who had already shown him several marks of respect: he had chosen Cicero as the vote-gatherer of the comitia praerogativa at his election and he had called upon him as the third speaker in the senate. Piso, however, refused to help Cicero. He told him that he must depend on his own resources and that he must not seek assistance from the consuls.³²

The consuls helped Clodius in a number of ways. To begin with, they came out publicly in favour of his law. When Clodius asked for their opinions on his bill at a large contio in the Circus Flaminius, they replied by soundly condemning the s. c. u. of 63. Their opinions on the s. c. u. of 63 very probably expressed their true feelings. For instance,

Gabinus, at the contio, launched into a heartfelt blis-
 tering attack on the equites for the protection which they
 had given the senate when it deliberated upon the fate of the
 five conspirators. ³³ Piso did not express himself as forcefully
 as Gabinus. However, he is found in 43 strenuously opposing
 Cicero's motion that the s. c. u. be directed against Antony. ³⁴
 His recent marriage alliance with Caesar would also point to
 his stand on the s. c. u.; it is hard to believe that Caesar
 would align himself with a proponent of that senatorial pre-
 rogative. ³⁵ Moreover, one of the consuls may have had a perso-
 nal reason to disapprove of Cicero's actions against Catiline
 and the conspirators: Cicero says that one of the consuls was
 a relative of the executed Cethegus. ³⁶

The consuls successfully stifled any senatorial action
 against the rogatio de capite civis Romani by refusing to en-
 tertain motions on it. ³⁷ The senatorial motions probably concer-
 ned the passing of the s. c. u., the only effective means of
 dealing with Clodius and his law. For instance, when a dele-
 gation of distinguished senators, which included Q. Sanga,
 L. Lentulus, L. Torquatus and M. Lucullus, visited Pompey at
 Alba and asked for his assistance against Clodius, he indica-
 ted that the s. c. u. would be the only method which could
 neutralize Clodius. He said he would act if that decree were
 issued. The delegation of senators then went to the consuls

to get their help in securing that decree, but they steadily³⁸ refused.

The tribune L. Ninnius Quadratus took matters into his own hands, when the consuls refused to act on the senate's behalf. He summoned the senate, which adopted his motion that it wear mourning garb in order to show its displeasure at the state of affairs caused by Clodius and the consuls.³⁹ This action prompted the equestrian order and many others to follow suit. The consuls, fearing that the move might arouse sympathy for Cicero and the senatorial cause, quickly issued an edict which forbade the wearing of mourning garb.⁴⁰

The consuls also contended with the pressure exerted by the equites on behalf of Cicero. In one instance a delegation of equites, which included two distinguished senators, Q. Hortensius Hortalus and C. Scribonius Curio, sought an audience with the senate in order to discuss Clodius' legislative activity against Cicero. The consuls refused its request. They also refused an audience to a group which consisted of the "whole" equestrian order and of a number of young nobiles.⁴¹

Gabinus was not satisfied to refuse the equestrian request for an audience with the senate. After his meeting with the equestrian delegations, he held a contio to which he summoned a number of equites. After he spoke out against them,⁴² he issued an edict which relegated the eques L. Aelius

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Lamia two hundred miles from Rome. Lamia, who had long standing ties with Cicero, had probably taken Gabinus and Piso to task for their refusal to do anything on behalf of his friend.⁴⁴ He was certainly not afraid to speak his mind, when he was displeased with consular behaviour or remarks. This facet of Lamia's character is revealed in an incident which took place at a senatorial meeting in February 54. At the meeting Lamia gave the consul Domitius a piece of his mind when the issue of Gabinus' proconsular behaviour was being discussed:

Eodem igitur die Tyriis est senatus datus frequens; frequentes contra Syriaci publicani. Vehementer vexatus Gabinus; exagitati tamen a Domitio publicani quod eum essent cum equis persecuti. L. noster Lamia paulo ferocius, cum Domitius dixisset 'Vestra culpa haec acciderunt, equites Romani; dissolute enim iudicatis', 'Nos iudicamus, vos laudatis' inquit.⁴⁵

While the two consuls neutralized opposition to his bill, Clodius zealously promoted it. He held daily meetings at which he spoke against Cicero's tyrannical action of December 5, 63. His edicts closing the shops indicated that his measure was of interest not only to the down-and-out but also to the artisans and tabernarii.⁴⁶ Clodius had little trouble in inciting the people against Cicero and the s. c. u. of 63.

Cicero's popularity had suffered drastically from the execution

of the Catilinarian conspirators. In the fourth Catilinarian Cicero himself admitted that it would bring him a great deal of unpopularity.⁴⁷ He was right. After the execution both Caesar and Metellus Nepos easily aroused popular dissatisfaction with Cicero and the senate.⁴⁸ His execution of the Catilinarians would have made him all the more unpopular inasmuch as it constituted a betrayal of the principles he had espoused in the De Lege Agraria and the Pro Rabirio; in those two speeches, which he delivered earlier in the year, he had stood forth as the champion of the citizen's libertas.⁴⁹

Cicero's speeches from 62 to 59 are also signs that he was under attack for the conspirators' death: in the speeches he continually defends his consular acta.⁵⁰ However, even they backfired; they only further antagonized his opponents.⁵¹ Cicero frankly admitted to Atticus in 61-60 that his popularity was at a very low ebb.⁵² For this reason Clodius had little difficulty in rousing anti-senatorial feeling during the Bona Dea trial by his attacks on Cicero's role in the suppression of the Catilinarian conspiracy.⁵³ Cicero's political position became so insecure by July 61 that he formed a political amicitia with Pompey. In his view the amicitia immeasurably bolstered his political standing and made him immune to the attacks of his political opponents.⁵⁴

Clodius used more than words to promote his bill. For instance, he brought Hortensius and Curio maior to a contio

where they were castigated by his henchmen for being part of the equestrian delegation which went to the senate. Afterwards, they were roughly handled by Clodius' operae. It was perhaps on the same occasion that the senator Gaius Vibienus was so roughly treated, that, allegedly, he later died. Besides this, Clodius subjected the young nobles, who supplicated the people on Cicero's behalf, to the violence of his operae. Moreover, on several occasions his gangs stoned groups of boni who solicited support for Cicero. Cicero himself did not escape the Clodian tactics of intimidation. While he made his rounds supplicating the people, Clodius' men harassed him and at one point stoned him.

Clodius did more than manhandle small groups of Cicero's partisans. One one occasion his armed men surrounded the senate while it was voting on Ninnius' motion concerning mourning garb; many senators fled the curia fearing for their lives.

One factor allowed Clodius to acquire increased acceptance of his bill. In his contiones he not only claimed that the consuls supported him, but he also asserted that Pompey, Crassus and Caesar fully backed him and his measure. His claim gained widespread acceptance: Pompey, Crassus and Caesar did not deny it. They shared one common reason for their silence: ~~Cicero's elimination from the political scene was in their in-~~terests. In late 60 he refused Caesar's offer to join a factic.

which, he was told, was to include Pompey and Crassus. Cicero declined because his optimate beliefs differed from the consular policy which Caesar intended to follow. Then, in early 59 he objected to the state of affairs created by the factio when he was defending C. Antonius. Although the factio responded to the attack by transferring Clodius to the plebs, nevertheless it still tried to win him over with legationes which would place him out of Clodius' grasp in 58.⁵⁹ Caesar's offer of a legatio was still in force in early 58. Cicero, however, continued to decline any form of association with the factio; he was sticking to his political beliefs. There was the danger, therefore, that he might spearhead a senatorial attack on Caesar's consular acta.⁶⁰ Through his tremendous oratorical skills he could rouse the senate into adopting a hard line.⁶¹ It need only be remembered that in 56 Cicero intended to speak against Caesar's Campanian land law even though he had been recalled from exile with Pompey's assistance and Caesar's approval. Therefore, in 58, when he was not in the factio's debt, he was all the more disposed to undermine Caesar's acta. Since the acta contained measures, which benefitted Pompey, Crassus and Caesar, and which they had supported to the hilt,⁶² it was in their interests that Cicero, a powerful opponent of their measures, be eliminated from the political scene. Any continued attempts to win

over Cicero would only run the risk of antagonizing a powerful tribune who had the legislative means to undermine their ⁶³
acta.

The three members of the factio played it safe with regard to their public stands on the bill. Caesar, for instance, adopted a thoroughly neutral stand towards it. One one occasion Clodius summoned a contio outside the pomerium so that the proconsul Caesar might attend. This was probably the same as the mass rally in the circus Flaminius where he asked the consuls their opinions on his proposed measure. When Caesar was questioned on the bill, he was as neutrally disposed as he had been when he gave evidence at the Bona Dea trial. He replied that he disapproved of the Catilinarians' execution in ⁶⁴
63. However, he objected to the retroactive clause of the bill. Clodius probably expected a more positive reaction from a politician who had been a virulent opponent of the s. c. u.: in early 63 he had sought to undermine the s. c. u. through the trial of Rabirius; later in the year he vigorously opposed the death penalty for the conspirators; then in late December 63 he used the fate of the conspirators to arouse public opinion against the senate. Afterwards, he supported the retaliatory measures which the tribune Metellus Nepos attempted to ⁶⁵
take against the senate.

Caesar had good reason to be neutral. In early 59 the praetors Domitius and Memmius attacked his legislation in the

senate. Their activity compelled him to defend his acta in a series of speeches. Afterwards, the attacks abated. The senate was probably too preoccupied with Clodius to take any action against his legislation. Moreover, Piso and Gabinius, the consuls, owed their electoral success largely to Pompey and Caesar. Therefore, they probably did their best to stifle senatorial opposition to Caesar's laws. However, if Caesar expressed himself adamantly in favour of the controversial rogatio de capite civis Romani, he ran the risk of rekindling widescale senatorial attacks on his legislation. Since he was about to leave for Gaul, he would not have time to defend his acta anew. Moreover, the senate might await his absence before taking any action. It was far better to leave matters where they lay and not to antagonize the senate further by publicly supporting Clodius' anti-senatorial piece of legislation.

The public behaviour of Pompey and Crassus was as benign as Caesar's. While Pompey told the delegation, which visited him at Alba, to bring its case before the consuls, Crassus said that Cicero's cause ought to be taken up by them. Both Pompey and Crassus could safely adopt such a stand: they knew full well that the consuls would not lift a finger to save Cicero.

Pompey was the only member of the factio to whom Cicero appealed for assistance. His appeals, however, fell on

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deaf ears. Several factors prompted Pompey to throw Cicero to the wolves. Firstly, he must have decided that the time was right to end his very unproductive political amicitia with Cicero. He had formed the amicitia with Cicero in 61 to obtain his support in acquiring land for his veterans and in having his Eastern acta approved. Cicero, however, did little to help. For instance, his support of the Flavian land bill was so qualified as to be non-existent.⁶⁹ Nevertheless, Pompey stood by his amicus in 59; he compelled Clodius to swear that he would do him no harm during his tribunate.⁷⁰ In 58, when it became clear that Cicero could not be won over and that he posed a threat to his political interests, Pompey simply abandoned him. A second, more imperative, factor also accounted for Pompey's behaviour. He lived up to the obligations imposed upon him by his recent marriage alliance with Caesar when the latter asked him to abandon Cicero and to leave him to his own resources.⁷¹ Caesar realized the danger of permitting a continued amicitia between Pompey and Cicero. He received a clear sign of that danger in 59 when Cicero had tried energetically to win Pompey over to his political views.⁷² Thirdly, Pompey's suspicions about Cicero contributed to the break up of the amicitia. According to Cicero, Pompey became very suspicious and wary of him when it was alleged that he was planning to assassinate him. In several of his speeches Cicero

points his finger at Vatinius and Piso, the henchman and
⁷³the father-in-law of Caesar. Caesar, therefore, may have
 been taking one further step to assure that Pompey remained
⁷⁴severed from Cicero.

Cicero left Rome shortly before the rogatio de capite
civis Romani and the rogatio de provinciis consularibus were
 put to the vote: ⁷⁵he did not want to face trial under Clodius'
 new law. Cicero offers several explanations for his departure.
 In the ~~speeches~~ ⁷⁵speeches, which he delivered after his return from
 exile ~~in 54~~, he claimed that he had decided to yield to ar-
 med violence and to start a civil war: had he remained and
 fought it out with Clodius, he would have embroiled the state
 in a civil war because Caesar and the consuls would have come
 to the assistance of Clodius. ⁷⁶However, in his letters from
 exile he states that he and his supporters had been blind to
 put on mourning when Clodius had laid no charge against him. ⁷⁷
 This implies that Clodius' harassment tactics were not so se-
 vere as to prevent him standing trial. Moreover, at the trial
 of Plancius in 54, the prosecutors, Laeterensis and Cassius,
 pointed out that Clodius' violence was not such that Cicero
 had had to fear for his life; he could have easily stood tri-
⁷⁸al. Besides this, Clodius' whole point was to pass a law un-
~~der which he could secure Cicero's conviction; if he only wan-~~
 ted to kill Cicero or to drive him out of town, he would not
 have bothered with the lex de capite civis Romani.

In the letters from exile Cicero alleges that the advice given him by certain senators, especially Hortensius and Arrius, caused him to leave Rome. According to Cicero, the senators in question took advantage of his distraught state of mind and out of hatred, treachery and jealousy urged him to flee Rome; the blame for his departure, therefore, was theirs, not his.⁷⁹ Atticus claimed that his charges were unfounded. In one very lucid letter to Atticus, Cicero frankly admitted that he had panicked.⁸⁰ However, he was quite justified in panicking. At a trial he and his supporters would have had to contend with the same political forces with which they had unsuccessfully contended in the campaign against the rogatio de capite civis Romani. Cicero, writing to Quintus, mentions the factors which precipitated his departure from Rome:

Haec mihi proficiscenti non proponebantur, sed saepe triduo summa cum gloria dicebar esse rediturus. 'Quid tu igitur?' inquires. Quid? multa convenerunt quae mentem exturbarent meam, subita defectio Pompei, alienatio consulum, etiam praetorum, timor publicanorum, arma. Lacrimae meorum me ad mortem ire prohibuerunt; quod certe et ad honestatem et ad effugiendos intolerabilis dolores fuit aptissimum.⁸¹

Here Cicero does not mention the senate. The consuls had politically neutralized it by refusing to entertain any motions

on Cicero's plight and by preventing it from going into mourning. Moreover, the presence of Clodius' armed gangs about the curia, when the senate voted on Ninnius' motion to go into mourning, must have cooled many senators' zeal for Cicero's cause. As Cicero left Rome, a neutralized senate could only give him letters of introduction to client kings and to
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governors of provinces.

Two days after Cicero's departure, Clodius' rogatio de capite civis Romani became law. The ill-will which had been aroused against Cicero was one of the reasons for its accep-
83
tance. It was also well received because it ensured the Roman citizen's right to trial; it was probably for this reason that Cicero himself later said that the law was a popular piece of
84
legislation.

The bill on the proconsular provinces received its roga-
tio and passage into law immediately afterwards. When the bills
had become law,⁸⁵ Clodius and his gangs destroyed Cicero's house on the Palatine and his country villas. The two consuls supposedly shared in the spoils. While Piso allegedly received the booty from the house on the Palatine, Gabinius was given
85
the goods from Cicero's Tusculum villa. In destroying Cicero's house Clodius inflicted upon him the punishment reserved for
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a public enemy.

Cicero was told by his supporters that his stay away from Rome would be a short one. He was informed that he would

return within three days. There must have been the hope that
 Clodius' rogatio de capite civis Romani would be defeated.⁸⁷
 When the bill was passed it was a devastating blow to Cicero
 and his partisans. However, what followed was even more devas-
 tating. Shortly after the successful rogatio of the lex de ca-
pite civis Romani, Clodius promulgated the rogatio de exsilio
Ciceronis.⁸⁸ He could easily justify the measure: he need only
 point out that Cicero displayed a guilty conscience when he
 fled Rome in order to avoid a trial under the lex de capite
civis Romani. The bill interdicted Cicero from fire and water
 on the grounds that he had acted upon an invalid senatorial
 decree in 63 when he had had the five Catilinarian conspira-
 tors put to death.⁸⁹ Initially the interdiction from fire and
 water probably covered the whole Roman empire, but excluded
 such civitates foederatae as Malta.⁹⁰ Later, an emended bill set
 the limits of Cicero's exsilium at four hundred miles from
 Italy.⁹¹ The bill also interdicted Cicero from fire and water
 immediately upon its passage⁹² into law. Afterwards, anyone find-
 ing him within the specified limits could kill him with impu-
 nity. Meanwhile, those who harboured Cicero would be severely
 penalized.⁹³ Another clause enacted that his property be con-
 fiscated and auctioned off.⁹⁴ Finally, to ensure that Cicero re-
 mained in exile, Clodius included a provision in his bill
 which prohibited senatorial decrees or any type of legislation
 on Cicero's recall. Moreover, his law contained a clause prohi-
 biting its repeal.⁹⁵

Clodius was not the first politician to use a lex de ex-
silio against a political opponent. For instance, Saturninus
 had Metellus Numidicus exiled in 100 when the latter refused
 to swear an oath of obedience to his grain law, while Sulla
 used the same type of law against Marius and Sulpicius⁹⁶ when
 he returned to Rome in 88. Despite these precedents, it was
 later argued that Clodius' law was illegal because it viola-
 ted the laws which prohibited the punishment of uncondemned
 citizens and because the rights of individual citizens could
 only be dealt with by the Comitia Centuriata, not by a pri-
⁹⁷vilegium. Clodius must have replied to these charges by ask-
 ing what had become of these principles on December 5, 63.

Clodius probably gave his bill its rogatio in mid A-
⁹⁸pril 58; it was passed into law after he quelled the opposi-
 tion with a dose of lapidatio.⁹⁹ Shortly after it became law,
 Cicero sailed into exile from Brundisium on April 29.¹⁰⁰ He
 was not the only^{one} to respect the terms of the lex Clodia.
 Both C. Vergilius, the propraetor of Sicily, and L. Appu-
 leius Saturninus, the ~~propraetor~~ of Macedonia, heeded the
 terms of the law; they refused to assist Cicero when he went
 into exile.¹⁰¹ Meanwhile, the consuls Gabinius and Piso refused
 to entertain motions on Cicero's recall by citing the provi-
¹⁰²sion in Clodius' law which prohibited such motions.

Clodius himself implemented the clause of his law on
¹⁰³the confiscation and auction of Cicero's goods. He probably

acted swiftly: Cicero, when he left Brundisium on April 29, imagined that his property had probably already been appropriated.¹⁰⁴ None other than Clodius purchased the site of Cicero's house on the Palatine: he did so through the middleman Scato. He used part of the site and the whole of the adjacent site, on which stood the porticus Catuli,¹⁰⁵ for his building program. After he demolished the porticus Catuli, he erected his own porticus and an accompanying ambulatio. He also set up a shrine to Libertas as the centre piece of his constructions.¹⁰⁶ With the cooperation of his brother-in-law, the pontiff L. Pinarius Natta,¹⁰⁷ he then dedicated the site to Libertas.¹⁰⁸ The dedicatio would attach a sanctity to the site that would prevent any future change in its use.¹⁰⁹

According to Cicero, Clodius planned to use the better part of his house's site for his own personal architectural schemes. Between Clodius' house and that of Cicero stood the mansion of Q. Seius. Clodius purchased the house after the death of Seius at one and a half times its value,¹¹⁰ and connected it to his own house. Cicero claims that he then planned to complete his architectural schemes by using his site for an elaborate paved colonnaded porticus with adjacent chambers. Cicero's allegation, however, was probably aimed at countering Clodius' claim that the dedicatio covered the whole of the site; if Cicero could show that Clodius intended to use part

of his site for secular reasons, then he could argue that the dedicatio of the site was inoperative.¹¹¹ Two facts indicate that Clodius did not have architectural designs on Cicero's site. Firstly, he gave part of the site to the gens Clodia.¹¹² As Nisbet notes, the property was probably intended to house a sacellum which would be the religious centre for the celebration of the rites of the gens Clodia.¹¹³ The establishment of such rites would allow Clodius to propagandize his kinship with the gens Clodia and, thus, his status as a plebeian. Secondly, he allowed part of the site to be used by one Menulla of Anagnia who used it to set up a statue.¹¹⁴

Clodius set up the statue of Libertas in order to symbolize freedom from the supposed tyranny which Cicero had exercised in his consulship through the execution of the five Catilinarian conspirators. The meaning of the shrine would be understood by all:¹¹⁵ during the Bona Dea affair, Clodius had taken Cicero to task for his activities as consul by calling him a rex; then, in his daily contiones before the passage of the rogatio de capite civis Romani, he designated him a tyrant.¹¹⁶ The shrine would also symbolize the fact that Clodius had bolstered a basic right of the citizen's libertas through the lex de capite civis Romani: the right to trial.

The action of Menulla is relevant to this discussion.

Cicero describes in the De Domo Sua how one Menulla of Anagnia set up a statue to Clodius:

At tu etiam, ereptor civitatis, legem de iniuriis publicis tulisti Anagnino nescio cui Menullae pergratam, qui tibi ob eam legem statuam in meis aedibus posuit, ut locus ipse in tanta tua iniuria legem et inscriptionem statuæ refelleret: quae res municipibus Anagninis ornatissimis multo maiori dolori fuit quam quae idem ille gladiator scelera Anagniae fecerat.¹¹⁷

Here Cicero tries to show that Clodius was hypocritical: he juxtaposes his treatment with that of Menulla. In his case Clodius was an "ereptor civitatis", but in the case of Menulla the latter was protected by Clodius' lex de iniuriis publicis. Cicero is contrasting his loss of civitas with Menulla's fate under the lex de iniuriis publicis. The law, therefore, would have concerned and protected some aspect of Menulla's civitas. Cicero also says that the statue to Clodius and its inscription, which were set up by Menulla on the site of his house in gratitude for the favours received under the terms of the lex de iniuriis publicis, contradicted the significance of the site. To Cicero the site of his destroyed house signified the loss of his civitas; the whole Menulla episode is introduced by Cicero to illustrate his loss of libertas and civitas. On this basis the statue and its inscription would have concerned the fact that certain wrongs inflicted on Menulla's civitas by the municipes of Anagnia were redressed by the provisions of the lex de iniuriis publicis.

Perhaps, the wrongs in question had something to do with Menulla's right to own property; that may be the reason why Cicero refers to him when he introduces the question of his destroyed property.

Clodius probably attached another meaning to his shrine: freedom from the unpopular political regnum which the factio had established in 59. Since he had publicly denounced the factio in 59 and continued to do so throughout 58, he no doubt pointed to his Libertas as representing freedom from the political suppression which the factio had achieved in the previous year.
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 CHAPTER V

CLODIUS AND THE EXPULSION OF CATO

In March and April 58, Clodius brought forth two other laws. Firstly, he passed a law on the annexation of Cyprus and the restoration of certain Byzantine exiles to their city. Afterwards, another lex Clodia entrusted M. Porcius Cato with executing the provisions of the first law. The exact dates on which the two measures received their promulgationes and rogationes are unknown. However, it is known that Cato was opposing the bill concerning himself before and after Cicero's departure from Rome. This signifies that by the third week of March, the time of Cicero's departure, the law on Cyprus and the exiles would have been already passed and that the measure on Cato would have received its promulgatio; the latter measure would have had its rogatio in late March or early April, depending on the date of its promulgatio.

Clodius' law on Cyprus and the Byzantine exiles enacted that Cyprus be annexed; that its king, Ptolemy, be dethroned; that all royal property be confiscated and auctioned off; that certain Byzantine exiles, who had been convicted of capital charges in the civitas libera of Byzantium, be reinstated in their city.

Clodius could proceed arbitrarily against Ptolemy, because, unlike his brother Ptolemy Auletes of Egypt, he had not obtained status as an amicus and socius of Rome. The lack of the same status left him open to Clodius' harsh treatment.

There were at least three causes for the treatment which Clodius meted out to Ptolemy. Firstly, Ptolemy had recently acted against Roman interests in the last Mithridatic war: he had been betrothed to Nyssa, the daughter of Mithridates. It was a prudent course of action, therefore, to eliminate a potential enemy. Secondly, there was vengeance. Ptolemy had been very miserly in the matter of Clodius' ransom in 67, when the latter had been captured by the pirates. Clodius was now seizing the opportunity to settle accounts with Ptolemy. However, the overriding cause was financial. Clodius' lex frumentaria and the generous expenses for Gabinius and Piso had placed a severe burden on the treasury. The confiscation and the sale of Ptolemy's goods would do much to offset the expenses incurred by his measures. Moreover, the money acquired would especially ensure the continuation of the grain distribution program which would be a lasting source of popularity for Clodius.

Clodius' main reason for reinstating the Byzantines was a simple one: bribery. The money acquired would be held to maintain his gangs and his network of collegia. Moreover, the reinstatement of the Byzantine exiles to their city was probably a

valuable propaganda. Clodius could claim that the exiles had been unjustly condemned on capital charges and that in accordance with the principles, which he espoused in the lex de capite civis Romani and the lex de iniuriis publicis, he was reinstating them as citizens in their city.¹²

The lex de Cypro had at least one repercussion in external affairs. It was one of the reasons why the Alexandrians ousted Ptolemy Auletes of Egypt from his throne in 57. The Alexandrians were angered over Ptolemy's refusal to demand that Cyprus, a Ptolemaic possession, be returned to him.¹³

Clodius empowered Cato to carry out the provisions of his law on Cyprus and the Byzantine exiles by means of a privilegium. The privilegium granted Cato the status of pro quaestore, pro praetore, gave him the right to wage war against Ptolemy should he offer resistance,¹⁴ and provided him with the services of a quaestor.¹⁵¹⁶

The main object of Clodius' law on Cato was to remove him from the political scene: he posed a very definite threat to his tribunate. Cato was a political opponent who had treated him very severely in the past. For instance, in 73 Cato responded to his accusations against the Vestals by scolding him so harshly that he left the city.¹⁷ Then, in 61 Cato was a

moving force behind the senatorial action taken against him for his presence at the Bona Dea ceremony. Clodius' lex de ca-¹⁸

pite civis Romani, not to mention his other measures, would certainly spark Cato's zealous opposition to his tribunate, since the law was a condemnation of the senate's decision in 63 to put the Catilinarians to death, a decision which had been brought about by Cato's fiery and persuasive speech. When Caesar tried to use the conspirators' fate to incite the people against the senate, Cato soon took the wind out of his sails: he persuaded the senate to decree that the subsidized wheat be distributed to a larger number of recipients. In this way Caesar's supporters, which consisted mainly of the urban poor, were easily pacified. Afterwards, Cato fiercely and successfully opposed the proposal of his fellow tribune, Metellus Nepos, that Pompey be recalled to end the regnum created by Cicero through the execution of the five Catilinarian conspirators. At one point Cato mounted the steps of the temple of Castor and Pollux, which was manned by Metellus' armed supporters, and prevented him from putting the measure to the vote. Cato, therefore, if Clodius gave him time and opportunity, would very strenuously oppose his lex on uncondemned¹⁹ citizens.

The opposition, which Cato could mount, would be very dangerous to Clodius. Cato, for example, had the ability to rally the senate behind him. He had done it on a number of occasions: in 63 he persuaded the senate to put the conspi-

rators to death; in 63-62 he acquired the senate's whole hearted support in his efforts against Caesar and Metellus; in 61²⁰ he convinced the senate to refuse the tax-farmers a reduction in the terms of their contracts; in 61 he also spurred the senate to take vigorous action against Clodius in the Bona Dea affair. Perhaps the greatest sign of his influence on the senate came in 59. After he had spoken vehemently against one of Caesar's land laws, Caesar ordered him arrested and imprisoned. When the senate indicated that it would follow Cato, Caesar²¹ wisely rescinded the order. Thus, even though Clodius had the support of the two consuls, Cato was well able to push the senate into overriding the opposition of the consuls and taking stern measures against Clodius. Clodius was well aware of the danger posed by Cato. After he had sent him off to Cyprus, he²² boasted that he had deprived the senate of its leader.²³

This was not the only potential threat posed by Cato. He also enjoyed a certain amount of popular support. Two incidents show his influence with the people. In 62 he aroused a significant part of the populace against the efforts of Metellus Nepos to recall Pompey to Rome.²⁴ Then in 60 he was the main opponent of the Flavian land bill which provided land allotments to Pompey's veterans and to the urban plebs: as a result of his opposition, the bill's popularity was so low that Flavi-²⁵ us simply dropped it. His influence with the plebs was in part

due to the key role which he had played in enlarging the number of recipients of subsidized wheat.²⁶ It was also due to the almost magical effect which his auctoritas and oratorical skills²⁷ had on his audiences. Clodius, therefore, was faced with an opponent who had the potential to mount opposition to him on more than one front. It is little wonder that Caesar wrote to Clodius congratulating him on having disencumbered his tribunate of Marcus Porcius Cato.²⁸

Clodius' recital of Caesar's letter at a contio clearly shows that his principal motive for the law on Cato had been the latter's elimination from the political scene. Clodius' method of elimination was a devious one. He gave Cato a much sought-after commission. For Clodius it was the only convenient, practical way to rid himself of his long time enemy. Had he attempted to expell Cato by prosecuting him for his part in the fate of the Catilinarian conspirators, he would have been faced with a powerful opponent who would resist him to the bitter end; unlike the weak-kneed Cicero, he did not panic, but met challenges head on. The last thing which Clodius would have contemplated for his tribunate was a long-drawn-out court battle with Cato. In comparison, the mission to Cyprus was the ideal solution to the threat posed by Cato.

~~Cato's dutiful concern for the well-being of the treasury~~ was another factor which prompted Clodius to send him

off to Cyprus. Clodius needed someone very reliable to execute the terms of the lex de Cypro. He had to be certain that as much money as possible came back to the treasury: he needed it to offset the cost of his lex frumentaria and his other measures. Cato was made to order for this task. His past behaviour had shown him to be zealously preoccupied with the fortunes of the treasury. As quaestor in 64, Cato was placed in charge of the treasury. He applied himself dutifully to his job: he kept the accounts scrupulously in order; he zealously called in the money due to the treasury; he put an end to the corrupt practices of the scribae.²⁹ The same concerns probably³⁰ led Cato to oppose the reduction in the tax contracts in 61. Clodius, therefore, could rest assured the treasury would benefit handsomely from Cato's efforts on Cyprus.

The effect of the privilegium on Cato was probably yet another reason behind Clodius' choice. By sending Cato off to Cyprus, Clodius would silence his opposition to his tribunician acta: after Cato returned from Cyprus he would not be able to attack Clodius' tribunate without also attacking his own actions on Cyprus and in Byzantium.

A measure of revenge may have also played a part in the choice of Cato. In sending Cato to Cyprus, Clodius was compelling him to act against his political principles. Although the mission to Cyprus was a plum job, Cato was the last per-

son who would seek it: he was an outspoken critic of extraordinary commands.³¹ Clodius made it clear that he was inflicting a distasteful task on Cato: he and the consuls taunted Cato by declaring that he could no longer denounce extraordinary commands after he had been entrusted with the annexation of Cyprus. Cato did not remain idle. He vigorously campaigned against the bill and passionately denounced the extraordinary commands of the consuls.³²

In his efforts to promote the bill Clodius adopted other tactics which indicated that it was not prompted by good will towards Cato. For instance, he used Cato's key role in the execution of the Catilinarian conspirators as a means of stirring up ill-will against him. He also hampered Cato's opposition to the bill with violence. Cicero describes the rough treatment to which he was subjected:

Atque in hoc solum inconstantiam redarguo tuam; quem tu in ea re non pro illius dignitate produceres, sed pro tuo scelere subduceres, quem tuis Sergiis, Lolliis, Titiis ceterisque caedis et incendiorum ducibus obieceras, quem carnificem civium, quem indemnatorum necis principem, quem crudelitatis auctorem fuisse dixeras, - ad hunc honorem et imperium extra ordinem nominatim rogatione tua detulisti;³³

~~When the bill became law, Cato obeyed it. Four factors brought~~
 about his acquiescence. Firstly, one of Cato's principal po-

litical and moral tenets was adherence to the letter of the law; this facet of Cato's make-up had led Cicero to tell Atticus that he lived in Plato's republic and not Romulus' cesspool.³⁴ It was for this reason that he prosecuted Murena in 62; that he held the tax-farmers to their contracts in 61;³⁵ that he opposed Caesar's request to stand for the consulship in absentia in 60;³⁶ that he swore the oath of obedience enacted by Caesar's land law in 59;³⁷ that in 51, at the trial of Plancus he refused to listen when in defiance of the law Pompey's panegyric on the defendant was read out in court.³⁸

Secondly, Cato was very probably following the same advice which he gave Cicero shortly before the latter's departure from Rome. He advised Cicero not to become embroiled in an armed conflict with Clodius that would be harmful to the state.³⁹ Cato probably foresaw that if he chose to disobey the privilegium on himself, he would have to deal with the same gangs which had harassed him in his campaign against the privilegium: to meet this threat he would have to resort to the unacceptable alternative of raising his own gangs.⁴⁰

Thirdly, there is Cato's concern with the welfare of the treasury. By carefully fulfilling his duties on Cyprus, he would be able to replenish it. A job well done would also do much to enhance his dignitas among his fellow Romans.

Fourthly, Cato was deeply interested in sound provincial administration and the welfare of the provincials. Through

his efforts on Cyprus he would personally ensure both of these objectives. Moreover, a sound administration of Cyprus would do much to win over the Cypriots as his clients. He would then be able to add them to his other two clients, king Deiotarus⁴¹ and king Ariobarzanes.

Cato effectively carried out the provisions of Clodius' lex de Cypro. Before setting out from Rome he sent his friend Canidius to Ptolemy with an offer of the priesthood of the goddess at Paphos as compensation for his losses. Ptolemy, however, had poisoned himself upon discovering that he had been dispossessed of his kingdom by Clodius' law. Cato, who learnt of his death while on his way to Byzantium, sent his nephew Brutus to take charge of matters in the island. After he reconciled the exiles to their fellow citizens in Byzantium, Cato proceeded to Cyprus where he raised 7000 talents through the efficient liquidation of the king's property. He made a triumphant⁴² return to Rome in 56.

CHAPTER VI

CLODIUS: AN INDEPENDENT POLITICIAN

After Cato's departure Clodius passed a law in favour of Brogitarus, the tetrarch of the Trocmi in eastern Galatia. The law enacted that the priest of the Magna Mater, who was in charge of her sanctuary in Pessinus, be deposed and that Brogitarus take control of her sanctuary. The law further stipulated that Deiotarus, the tetrarch of the Tolistobogoi of western Galatia, share his title of king with his son-in-law,¹ Brogitarus.

Brogitarus would have sought control of the sanctuary, the cult center of the Magna Mater, for reasons of religious prestige, but his overriding motive was probably money: the cult of the Magna Mater was widespread in the East with the result that her shrine and her chief priest benefited handsomely from the gifts of her worshippers. Meanwhile, he probably wanted the title of king in order to be on a pied d'égalité with his fellow tetrarch Deiotarus whose royal status had been confirmed in 59 when Pompey's eastern acta were ratified.²

Clodius granted these favours to Brogitarus in return³ for a bribe. Another factor behind the law was the interference⁴

rence which it brought about in the Eastern settlement of Pompey. According to Plutarch, Clodius interfered in Pompey's Eastern acta immediately after Cato's departure from Rome; the lex de Brogitaro would have been part of that interference.⁵ In his Eastern settlement Pompey enlarged the territory of both Deiotarus and his son-in-law Brogitarus, but he only gave the title of king to the former. Clodius, therefore, violated the arrangements of Pompey when he gave the kingship to Brogitarus. Moreover, he showed that he was deliberately flouting Pompey's acta through the gratuitous inclusion of a provision in his law which confirmed Deiotarus' title as king.⁶

Brogitarus only controlled the sanctuary at Pessinus for a short time. In the De Haruspicum Responsis, which he delivered in April or May 56, Cicero says that Deiotarus had expelled Brogitarus from the sanctuary in Pessinus. Deiotarus had good reason for doing so. Pessinus was the capital of his part of Galatia: he was not willing to have a rival tetrarch control a sanctuary which was in his territorial jurisdiction and which was under his protection.⁷

The law on Brogitarus was a minor part of the campaign of intimidation which Clodius launched against Pompey. He also defied Pompey through the Tigranes affair. After his conquests in the East Pompey had brought back Tigranes the Younger and his family and had exhibited them in his triumph. After-

wards, he placed Tigranes in the care of his amicus Flavius. In early May⁸ Clodius, while he entertained Flavius, asked that Tigranes be brought to the banquet so that he might have a look at him. Flavius complied with the request and a chained Tigranes was led to the house of Clodius. Clodius then took Tigranes into his custody, released him from his chains, and later refused Pompey's requests for his return. Instead, he put Tigranes on ship at Rome in order to send him out of Italy. Bad weather, however, forced Tigranes to put in at Antium. Clodius then sent his familiaris, Sextus Cloelius, to fetch Tigranes and to return him to Rome. When Flavius discovered that Cloelius was returning to Rome with Tigranes, he set out with his own supporters to recover him. Flavius and his men encountered Cloelius and his force at the fourth milestone on the Via Appia. In the ensuing battle the Flavians got the worst of it: they were routed and Flavius himself barely managed to escape. The loss of Tigranes and the defeat of Flavius' men were humiliating blows to Pompey's dignitas, blows which easily sufficed to rouse his anger against Clodius. His anger, however, would have reached a fever pitch because his amicus M. Papirius⁹ was one of the many victims who fell on Flavius' side.

Pompey retaliated: he compelled Gabinius, whose election as consul he had helped to secure, to join him in opposing

Clodius. The other consul, Piso, remained loyal to Clodius.

There followed many clashes between the partisans of Pompey and Gabinius, and those of Clodius. Both consuls were roughly handled in the conflicts: Gabinius' fascēs were broken while Piso was wounded. Clodius, as tribune, even sought to consecrate Gabinius' property to Ceres, but his brilliant tactic recoiled on his own head. The tribune Ninnius, a friend of Cicero who sided with Pompey and Gabinius, proceeded to consecrate Clodius' goods to Ceres. Ninnius took his opposition a step further. On June 1, 58, he put forth a motion in the senate for the recall of Cicero. The senate voted in favour of the motion, but Clodius' ally and fellow tribune, Aelius Ligus, vetoed the measure. Ninnius then promulgated a tribunician bill to the same effect. There is no evidence that the bill was given a rogatio: it was either vetoed or prevented from being put to the vote by the prevalent political violence.¹¹

The struggle between Pompey and Clodius came to an end on August 11 when Clodius posted one of his slaves near the curia and supposedly entrusted him with the assassination of Pompey. The slave was unsuccessful. When Pompey entered the senate house the slave's dagger conveniently or inconveniently fell to the floor.¹² The slave was then brought before Gabinius to whom he confessed his alleged mission. Afterwards, Pompey fled to the security of his house where he was besieged by armed men under the leadership of Clodius' libertus

Damio. On August 16 Damio was brought before the praetor Flavius, but he appealed to the tribunes for auxillium. The tribune L. Novius answered his appeal and curtailed the proceedings against him. ¹³ Meanwhile, Pompey became so fearful of Clodius that he spent the rest of the year at home or in his country estates. Clodius, on the other hand, held contiones in which he designated Pompey an enemy of the Romans' libertas and in which he promised to match his portico on the Palatine ¹⁴ with another in the Carinae on the site of Pompey's house. Through his threats Clodius indicated that Pompey, like Cicero, had violated one of the basic tenets of libertas: the right to due process. Pompey had also executed such uncondemned citizens as Carbo, Brutus, Domitius and Perpenna. ¹⁵ There was probably another point to Clodius' threat: a portico on the site of Pompey's house would also symbolize freedom from the political regnum which he and the other members of the factio had established in 59.

Clodius obtained three objectives through his campaign of intimidation against Pompey. Firstly, he effectively eliminated Pompeius Magnus, the conqueror of Spain, Africa and the East, from the political scene: such a feat could have only bolstered Clodius' auctoritas. Secondly, the defeat of Pompey allowed Clodius to demonstrate his independence. In 59, Pompey had placed him in a subservient position: he repeatedly

compelled him to give his word that Cicero would suffer no harm in his tribunate.¹⁶ Through the elimination of Pompey Clodius avenged the blow to his dignitas and clearly demonstrated that he was his own man. He may have had an added motive for revenge: in 60 Pompey initially supported his candidacy for the tribunate, but then made a volte face and joined his enemies in opposing it: Cicero, therefore, was not the only victim of a Pompeian political pirouette. Pompey's change of stance was probably a key factor, which deprived Clodius of the tribunate in 60, and which only gave him added reason for vengeance in 58. Finally, his behaviour towards Pompey brought him into alliance with the optimates. The optimates must have been extremely pleased to see Pompey besieged in his house; in 59 he and the other members of the factio were responsible for shutting up their champion, Bibulus, in his house for the better part of the year. Bibulus' fate reflected that of the senate in 59: it too had been powerless against the political regnum of the factio. Caesar, with the open support of Pompey and Crassus, rode roughshod over the senate in 59. Such measures as the ratification of Pompey's Eastern acta, the reduction in the Asian tax-farmers' contracts, and the two agrarian laws were passed despite the mortification and opposition of the senate. The senate was even compelled to swear an oath of obedience to Caesar's first land law. It made its views

known when it prepared to follow Cato after he had been placed under arrest on Caesar's order. The optimates, therefore, looked very favourably on the humiliating blow which Clodius dealt to the principal partner in the factio.¹⁷ The fact that Clodius had dealt a humiliating blow to the senatus auctoritas through the lex de capite civis Romani and the lex de exsilio Ciceronis no longer mattered: he had eliminated¹⁸ their enemy from the political scene.

Clodius was endeared to the optimates for another reason. Before, during and after his campaign against Pompey, which started in early April and ended on August 11, he argued for the repeal of Caesar's consular legislation on the ground that it was passed contra auspicia. He spoke against the legislation not only in the senate but also in public. In conjunction with his elder brother Appius, the praetor designate, he held numerous contiones in which Bibulus and the augurs certified that Caesar's legislation was invalid because the skies were being watched when it was passed. Bibulus, however, added that Clodius was not tribune inasmuch as the lex curiata, which granted him the plebeian status necessary for the tribunate, was also passed while the heavens were under observation. Nevertheless, the optimates conveniently overlooked the point in return for Clodius' anti-Caesarian stand. Cicero later complained very bitterly that the optimates not only acknowledged

the legitimacy of Clodius' tribunate but even accepted the lex de exilio Ciceronis because it was not passed in violation of the auspices.¹⁹

The optimates could rest assured that Clodius' stand against Caesar was not a propagandist trick designed to win their support. Through the law, which gave Gabinius the proconsular command of Syria, Clodius had interfered with the provisions of the lex Iulia concerning the Campanian land. Under the terms of the lex Iulia money from the treasury was set aside for the purchase of land allotments. Clodius appropriated part of that money in order to furnish Gabinius with the funds required for his proconsular administration.²⁰ Clodius also violated the lex Iulia de repetundis, which restricted the governor's power to interfere in the affairs of civitates liberae, and which prohibited him from waging war on his own initiative. Under the terms of his law on the proconsular provinces, Clodius gave Piso jurisdiction over certain civitates liberae in Greece and he gave both Piso and Gabinius the right to wage war.²¹ Clodius' anti-Caesarian stand, therefore, was not all show. However, as it will be shown, his anti-Caesarian stand at this time did not permanently estrange Caesar, if indeed it estranged him at all.

There was another reason behind Clodius' propaganda against Caesar's legislation. By July 7, 58, Pompey was dis-

posed to take²² action on Cicero's recall, if he received Caesar's permission. Through his activity against Caesar's legislation, which contained measures in the interests of Caesar and Pompey, Clodius was warning them that he could and would take action against their acta should they do anything to have Cicero recalled. The manoeuvre was effective. Pompey's promised aid to Cicero failed to materialize and Caesar gave Sestius, a tribune designate of 57, a very cool reception when the latter in late 58 asked his approval for the measures²³ that were to be taken on Cicero's behalf.

CHAPTER VII

THE MOVEMENT FOR CICERO'S RECALL

At a senatorial meeting of June 1, 58, the tribune L. Ninnius Quadratus moved¹ that Cicero be recalled. The senate voted in favour of his motion, but the tribune Aelius Ligus vetoed. The senate, however, persisted in its efforts on Cicero's behalf. Many senators, for instance, repeatedly asked the consuls to entertain motions on Cicero. The consuls repeatedly refused: they claimed that the lex de exsilio Ciceronis prohibited any motion on or mention of the subject. The senate retaliated against the consuls: it refused to deal with any motions put forth by them unless it was first allowed to deal with Cicero's recall. The senate's agitation became so fierce that Clodius posted up in the senate the clause of his law² which forbade any mention of the subject. However, the continued persistence of the senate was rewarded in a limited manner: on August 1, 58, there was a senatorial debate on Cicero's recall. Cicero mentions that Curio maior and the praetor Domitius Ahenobarbus were among those who spoke in his favour.³

During the debate Domitius went so far as to state that he would put a motion to the house in his capacity as praetor.

While the debate proceeded, Clodius, who had recently posted up the clause of his law, did not say a word. There was no need to waste his breath. A veto would be just as effective against Domitius' motion as it had been against that of Nin-nius. The same realization by others would explain why nothing concrete came from the senatorial meeting.⁴

The result of the consular elections, which were held in late July 58, dealt a temporary blow to Cicero's cause. Although Lentulus Spinther, an ardent advocate of Cicero's recall, was elected, Metellus Nepos, Clodius' cousin and Cicero's long time enemy,⁵ was also returned. Cicero's chances of returning to Rome would look dim with such a consul in power. However, Metellus' election had another significance. Throughout 62 he⁶ strenuously opposed the senate's decision to put the five Catilinarians to death. His opposition was so extreme that the senate issued the s. c. u. which compelled him to make a hasty retreat from Rome. Through his election the Comitia Centuriata had at least in part given approbation to his political stand.⁶ Clodius would have taken his election as popular approval of the policy he espoused through the lex de capite civis Romani and the lex de exsilio Ciceronis.

As consul elect Lentulus Spinther was a zealous promoter of Cicero's recall. Although the consuls tried to silence him and Clodius read out the clause of his law prohibiting mo-

tions on or mentions of Cicero's restoration, Spinther persisted in voicing his pro-Ciceronian opinions.⁷

Spinther was not the only one to ignore Clodius' law. In October eight tribunes proposed a motion in the senate for the restoration of Cicero. Clodius probably allowed the motion to pass: had it been vetoed Cicero would certainly have mentioned it in his detailed references to the tribunes' efforts on his behalf. Afterwards, on October 29, the eight tribunes, with the approval of Pompey and the support of Lentulus Spinther, promulgated a measure which recalled Cicero and which restored his ordo and civitas to him.⁸ The bill was very probably vetoed by November 13: in A. 3.23 of November 29 Cicero mentions that the bill was a lost cause; he had probably been made aware of that fact through Atticus' latest letter which had been dispatched on November 13.⁹ Clodius did not immediately veto the bill because one of its provisions was advantageous to himself. The bill contained the following clause:

'si quid in hac rogatione scriptum est quod per leges plebisve scita' (hoc est, quod per legem Clodiam) 'promulgare, abrogare, derogare, obrogare sine fraude sua non liceat, non licuerit, quodve ei qui promulgavit, (abrogavit), derogavit, (obrogavit) ob eam rem poenae multaeve sit, E. H. L. N. R.' (eius hac lege nihil rogatur)¹⁰

The inclusion of this clause made the bill quite useless: Clodius' lex de exilio Ciceronis forbade any motion on or mention

of the recall of Cicero. Clodius took advantage of the provision: at a contio of November 3, he pointed out that any future tribunician bills on Cicero might not go beyond the limits established by that provision.¹¹ He was serving warning that he would not brook any measure which contravened the clause against repeal in his lex de exsilio Ciceronis. He probably expected that the new tribunes, like the present eight tribunes, would be fearful of his power and would only promulgate harmless self-defeating measures on Cicero's behalf.

Clodius' efforts to prevent Cicero's return suffered a setback in late November when Atticus and Cicero's other supporters won over his ally, the consul designate Metellus Nepos, by an accommodation: they were behind the unprecedented senatorial decree that the consuls designate be granted their proconsular expenses before entering office.¹²

Metellus was not the only opponent with whom Clodius would have to contend in the matter of Cicero's recall. Of the magistrates designate, there were eight tribunes, seven praetors and Metellus' colleague, Lentulus, who espoused his enemy's cause.¹³ Cicero could also count on the senate which had resolved to suspend all business until it could deal with his restoration; it only broke that resolve when it made the decree on the proconsular expenses of the consuls designate.

Moreover, there was Pompey who, with Caesar's agreement, com-

mitted himself to Cicero's cause. Their former partner in the factio, meanwhile, was seemingly ready to acquiesce in his recall.¹⁵

Clodius would not be a political weakling when he went out of office on December 9, 58. He won over two of the tribunes for 57: Serranus and Rufus.¹⁶ He would be able, therefore, to use their vetoing power to quash any senatorial or legislative action on behalf of Cicero. He would also enjoy the support of his brother Appius, one of the praetors for 57.¹⁷ Finally and most importantly, he could rely on his operae to silence effectively any concerted attempt to bring back Cicero. Cicero was well aware that as a private citizen Clodius would be no mean political force. He wrote Quintus:

De novis autem tribunis pl. est ille quidem in me officiosissimus Sestius et (spero) Curtius, Milo, Fadius, Fabricius, sed valde adversante Clodio, qui etiam privatus eadem manu poterit contiones concitare; deinde etiam intercessor parabitur.¹⁸

On January 1, 57, the consuls referred the matter of Cicero's restoration to the senate. L. Cotta, an ex-consul and eminent jurist, was the first to speak. He argued that Clodius' law on Cicero was illegal: it inflicted penalties which were the sole prerogative of the Comitia Centuriata and it was improperly drafted. Cotta concluded that no law was required to repeal Clodius' measure: it sufficed to recall Cicero by

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 a senatus consultum. Pompey proposed a different solution. In his view it was necessary to follow up any senatus consultum with a law: Cicero's return would then be placed on a firm legal footing which would prevent Clodius from rousing popular discontent over Cicero's return.²⁰ Cotta and Pompey were followed by other prominent senators who also spoke in favour of Cicero's cause. However, when the senate was ready to vote on a motion recalling Cicero, Clodius' ally, the tribune Serranus, intervened. He requested an adjournment so that he might have the night to consider his position on the motion: he could not decide if he should use his veto against the measure. His father-in-law Cn. Oppius Cornicinus threw himself at his feet and begged him to abandon his delaying tactics. Serranus did not yield. The senate reluctantly granted his request after he promised not to delay the next sitting. However, on the next day and the few remaining days in January, on which it could meet, the senate was prevented from voting on any motion concerning Cicero. It can be assumed that Serranus did not keep his promise. He was probably abetted in his obstructive tactics by his fellow Clodian tribune, Rufus, and by Clodius' brother, the praetor Appius.²¹

The senate's attempt to recall Cicero was followed by that of the tribune Fabricius in late January. His bill on Cicero was to have its rogatio on January 23. On that day he and

his partisans came to the forum before dawn in order to secure a safe passage for the bill. Clodius had anticipated them: during the night he had stationed his operae in the senate house, the forum and the comitium. When Fabricius and his supporters came to the forum, Clodius's operae gave them a very bloody reception. Fabricius and his fellow tribunes were driven from the forum while Q. Tullius Cicero only managed to escape through hiding. They were fortunate; many others, who had come to support the bill, were killed. Cicero later magnified the incident in the Pro Sestio:

Meministis tum, iudices, corporibus civium Tiberim compleri, cloacas refarciri, e foro spongiis effingi sanguinem...²²

Through the incident Clodius evidently sought to neutralize the movement for Cicero's recall; he was terrorizing Cicero's supporters into silence. Moreover, on January 23 he had supplemented his operae with gladiators provided by his elder brother Appius.²³ Their inclusion in his forces meant that he was prepared to adopt the most violent means. Clearly Clodius was not prepared to be reasonable; he was a Roman politician who meant business. Had he only desired to nullify Fabricius' measure, he could have easily done so: his political allies, Serranus and Rufus, could have vetoed the measure, or his brother Appius could have exercised his praetorian powers of obnuntiatio against the bill; Appius, in fact, had threa-

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 tended to use them. Clodius, therefore, was showing his enemies that although he had the legal means to counter Fabricius' bill, he had deliberately chosen the path of political violence in order to demonstrate the severity and the extent of the opposition which he could mount against Cicero's return.

Clodius did not limit his reign of terror to January 23. On the following days his operae harassed pro-Ciceronian magistrates and even attacked their houses. It was probably on this occasion that the Clodiani made an assault on the house of the praetor urbanus L. Caecilius Rufus. Meanwhile, the tribune Sestius, an ardent supporter of Cicero's cause, was almost killed. Shortly after January 23, Sestius used his powers of obnuntiatio against the consul Metellus who had realigned himself with Clodius. After he obnuntiated to Metellus at the temple of Castor and Pollux, Clodius' operae under the leadership of Titius and Lentidius attacked and beat him so severely that he was left for dead. Fortunately he was saved by the valiant efforts of L. Bestia. Clodius' men, who feared that they had killed a tribune of the plebs, began to seek out a scapegoat. Q. Numerius Rufus was chosen. His number was almost up. Cicero dramatizes Rufus' narrow escape:

At vero ipsi illi parricidae, quorum effrenatus furor alitur impunitate diuturna, adeo vim facinoris sui perhorruerunt, ut, si paulo longior opinio mortis Sesti fuisset, Gracchum illum suum trans-

ferendi in nos criminis causa occidere cogitarint. Sensit rusticulus non incautus (neque enim homines nequam tacere potuerunt) suum sanguinem quaeri ad restinguendam invidiam facinoris Clodiani; mulionem paenulam arripuit, cum qua primum Romam ad comitia venerat: messoria se corbe contextit. Cum quaererent alii Numerium, alii Quintium, gemini nominis errore servatus est. Atque hoc scitis omnes, usque adeo hominem in periculo fuisse, quoad scitum est Sestium vivere. Quod ni esset patefactum paulo citius, quam vellem, non illi quidem morte mercennarii sui transferre potuissent invidiam, in quos putabant, sed acerbissimi sceleris infamiam grato quodam scelere minuissent.²⁹

Clodius' concerted political violence cooled the zeal³⁰ of many pro-Ciceronian magistrates. Even the senate was cowed: in early February its members were so frightened that they did not hold sessions to meet the provincial legationes.³¹ The terrorist tactics would have also prevented further tribunician bills from being promulgated or put to the vote; in a letter of January 57 to Atticus Cicero speaks of measures for his recall which had not yet been acted upon. The bill of the tribune Messius was probably one of the measures: Messius gave the bill its promulgatio early in his term of office, but nothing is heard of its rogatio. The violence which followed the attack on Fabricius, and which brought all business to a standstill was no doubt responsible for the bill's demise. The

same violence would have prevented Sestius and Fadius from promulgating their bills on Cicero's recall, which they ~~had~~³² had drafted in 58.

Clodius did not go unchallenged. The tribune Milo arrested the gladiators who were responsible for the greater part of the bloodshed on January 23. He had them chained and brought before the senate where they confessed to their part in the Clodian campaign of violence. However, Clodius' ally, the tribune Serranus, interceded and set them free.³³ Milo then indicted Clodius under the lex de vi. That action was also unsuccessful because Clodius' allies came to the rescue: Metellus Nepos, Appius and a tribune issued edicts forbidding Clodius' prosecution.³⁴

When the efforts to neutralize Clodius failed, Milo and Sestius took a page from Clodius' book: they acquired gangs of gladiators and bestiarii. Self-preservation was one of the reasons behind the acquisition of these forces. While Sestius had been left for dead by the Clodian operae in the temple of Castor and Pollux, Milo had been harassed by them and he had even had his house attacked.³⁵ The gangs also served another purpose: they would allow the two tribunes to counter Clodius' use of violence and allow steps to be taken for the restoration of Cicero. This object was finally achieved: after numerous pitched battles between Clodius' operae and those of the two tribunes, the former's ability to use political violence was ³⁶curbed.

The senate was eventually able to meet in safety and to deliberate on Cicero's recall. In late June or early July, it met in the temple of Honos et Virtus while the games sponsored by the consul Lentulus were being celebrated. At the meeting the senate decreed its thanks to such civitates liberae as Dyrrhachium which received Cicero while he was in exile. Moreover, it commended his welfare not only to all nations, but also to the holders of imperium in the provinces and to their legati and quaestors. It also thanked Plancius for the services and kindnesses which he rendered Cicero at Thessalonica. In its pronouncements the senate deliberately flouted Clodius' lex de exsilio Ciceronis: it designated Cicero as a citizen who had deserved highly of the res publica. Finally, the senate ordered the consul Lentulus to seek the cooperation of all the Italians in bringing about Cicero's restoration: to that end he was ordered to send dispatches to all the Italian communities which summoned them to Rome when Cicero's recall was to be definitely acted upon by the senate.

At the ludi the people in the theatre gave a warm reception to the senate's action on Cicero's behalf. Cicero gives a warm account of their enthusiastic response in the Pro Sestio:

Quo quidem tempore quid populus Romanus sentire
se ostenderet, utroque in genere declaratum est,
primum cum audito senatus consulto rei ipsi

atque absentī senatui plausus est ab universis
 datus, deinde cum senatoribus singulis specta-
 tum e senatu redeuntibus; cum vero ipse, qui
 ludos faciebat, consul assedit, stantes ei mani-
 bus passis gratias agentes et lacrimantes gaudio
 suam erga me benevolentiam ac misericordiam de-
 clararunt.³⁹

The plays themselves were used to elicit further popular sup-
 port for Cicero's cause: the actors themselves aroused public
 sympathy by making allusions and direct references to his past
 services and present plight.⁴⁰ Lentulus, the sponsor of the
 games and a most zealous advocate of Cicero's return, proba-
 bly instructed the actors to behave in this way. The plays
 were not the only thing to be orchestrated. In the passage
 cited above it is seen how, first, the news of the senate's
 decrees was brought to the theatre; then, how the senators
 came to the theatre one by one; finally, how the consul made
 his appearance to thunderous applause. Thus, if Clodius were
 able to orchestrate contiones, then Lentulus was just as able
 to orchestrate his ludi in favour of Cicero. Clodius himself
 fell victim to the well-rehearsed plays of Lentulus. In the
Pro Sestio Cicero shows how Clodian tactics were used against
 Clodius:

At cum ille furibundus incitata illa sua vaecordi
 mente venisset, vix se populus Romanus tenuit,
~~vix homines odium suum a corpore eius impuro at-~~
 que infando represserunt; voces quidem et palma-

rum intentus et maledictorum clamorem omnes profuderunt. Sed quid ego populi Romani animum virtutemque commemoro libertatem iam ex diuturna servitute dispicientis, in eo homine, cui tum petenti iam aedilitatem ne histriones quidem coram sedenti pepercerunt? Nam cum ageretur togata 'Simulans,' ut opinor, caterva tota clarissima concentione in ore impuri hominis imminens contionata est: huic, Tite, tua post principia atque exitus vitiosae vitae!

Sedebat exanimatus; et is, qui antea cantorum convicio contiones celebrare suas solebat, cantorum ipsorum vocibus eiciebatur.⁴¹

Clodius was beaten at his own game; but he was ~~to~~ even the count.

Shortly before the meeting at the temple of Honos et Virtus, Cicero's cause received another demonstration of popular support at the gladiatorial games given by Metellus Scipio in honour of his deceased adoptive father, Q. Caecilius Metellus. There, the populace, according to Cicero, showed approval of his cause through the favourable reception which it gave to Sestius, one of the principal movers for his recall. Sestius' mere presence sufficed to rouse the people: it probably had such an impact because it was the first time he made a public appearance after the severe beating he had received at the hands of Clodius' operae earlier in the year.⁴²

There was another expression of anti-Claudian sentiment at the gladiatorial games. Appius received as enthusiastic a

welcome at these games as Clodius was later to receive at the ludi of the consul Lentulus: he was hissed by the crowd. In order to avoid the hissing Appius was forced to find a rather novel way of making his way into the stands.

At vero ille praetor, qui de me non patris, avi, proavi, maiorum denique suorum omnium, sed Graeculorum instituto contionem interrogare solebat, velletne me redire, et, cum erat reclamatum semivivis mercennariorum vocibus, populum Romanum negare dicebat, is cum cotidie gladiatores spectaret, numquam est conspectus, cum veniret. Emergebat subito, cum sub tabulas subrepserat, ut

mater, te appello

dicturus videretur. Itaque illa via latebrosior, qua spectatum ille veniebat, Appia iam vocabatur. Qui tamen quoquo tempore conspectus erat, non modo gladiatores, sed equi ipsi gladiatorum, repentinis sibilis extimescebant.⁴³

After the meeting in the temple of Honos et Virtus, Lentulus, through his despatches, solicited the support of the Italian municipia and coloniae for Cicero's restoration. He was not alone in this. Pompey also sought their backing through letters and visits. At Capua Pompey in his capacity as duumvir⁴⁴ even had an honorific decree passed on Cicero's behalf. The Italians responded very favourably to the efforts of Pompey and Lentulus: they came to Rome in large numbers to demonstrate their support for Cicero's cause when the senate met in the temple of Jupiter on July 19 and the curia on July 20.⁴⁵

At the meeting Q. Metellus Nepos once again espoused Cicero's cause. According to Cicero, he was won over by P. Servilius who delivered an impressive speech in which he pointed out that Metellus' conduct was not worthy of his ancestors' dignitas and in which he dwelt upon the case of Metellus Numidicus who preferred exile to taking the oath of obedience to Saturninus' land law. Although Cicero stresses the effect of Servilius' speech on Metellus, he also mentions another factor which brought about his conversion: the senatus auctoritas:

Atque ita in his rebus unus est solus inventus, qui ab hac tam impensa voluntate bonorum palam dissideret, ut etiam Q. Metellus consul, qui mihi vel maxime ex magnis contentionibus rei publicae fuisset inimicus, de mea salute rettulerit. Qui excitatus cum summa auctoritate senatus tum P. Servili incredibili quadam gravitate dicendi, cum ille omnes prope ab inferis evocasset Metellos et ad illius generis, quod sibi cum eo commune esset, dignitatem propinqui sui mentem a Clodianis latrociniiis reflexisset, cumque eum ad domestici exempli memoriam et ad Numidici illius Metelli casum vel gloriosum vel gravem convertisset, conlacrimavit vir egregius ac vere Metellus totumque se P. Servilio dicenti etiam tum tradidit, nec illam divinam gravitatem plenam antiquitatis deditus homo eiusdem sanguinis potuit sustinere et mecum absens beneficio suo rediit in gratiam.⁴⁶

Metellus obviously realized that the senate was in no mood to

have its wishes obstructed by a troublesome consul. The prudent course of action was to accede to the senate's wishes. He had learnt his lesson in 62 when he vigorously opposed the senate over the death of the five Catilinarian conspirators: the senate had reacted to his obstruction by declaring the s. c. u.⁴⁷

At the meeting Servilius was not the only one to speak: Pompey and other prominent senators made speeches in which they styled Cicero the preserver of the res publica and they urged his recall. The session ended when Metellus and Lentulus moved that Cicero be ordered to return to Rome and that a bill to that effect be promulgated. The vote in favour of the motion was almost unanimous: 416 votes for, 1 against. Clodius must have been a very lonely man when he faced the rest of the senate on the other side of the chamber. Even his brother Appius was not there to console him; he probably remained at home for fear of offending a strict and united senate.⁴⁸

The bill, which ordered Cicero's return, also enacted that he recover his status and his property. It was promulgated by no less than seventeen magistrates: Appius and the tribunes Serranus and Rufus, were the only ones to withhold their sanction. The bill would have received its promulgatio immediately after the motion ordering it had been passed.⁴⁹ On the

~~next day another senatorial meeting was held in the curia at~~

which the senate enacted sanctions safeguarding the bill. On the motion of Pompey the senate decreed that anyone interfering with Cicero's recall would be deemed a public enemy and that Cicero might return five dies comitiales after the proposed date of the bill's rogatio, if that rogatio were delayed. During the same session the senate also decreed its thanks to those who had flocked to Rome to demonstrate their backing of its actions on behalf of Cicero.⁵⁰ After the session the senate went out to greet them. Pompey, Lentulus and other leading politicians then made pro-Ciceronian speeches: they extolled his consular acta and implored their listeners to secure his recall. Finally, the Italians were asked to return when the bill was given its rogatio in the Comitia Centuriata⁵¹ on August 4.

Afterwards, Cicero's supporters campaigned vigorously for the bill's acceptance. Many contiones were held in which P. Lentulus, L. Gellius and other prominent politicians advocated Cicero's return. Moreover, there were demonstrations of support from numerous public bodies. Cicero gives his version of their support in De Domo:

Summum est populi Romani populorumque et gentium omnium ac regum consilium senatus: decrevit ut, omnes, qui rem publicam salvam esse vellent, ad me unum defendendum venirent, ostenditque nec stare potuisse rem publicam, si ego non fuisset, nec futuram esse ullam, si non redisset. Proximus est

huic dignitati ordo equester: omnes omnium publicorum societates de meo consulatu ac de meis rebus gestis amplissima atque ornatissima decreta fecerunt. Scribae, qui nobiscum in rationibus monumentisque publicis versantur, non obscurum de meis in rem publicam beneficiis suum iudicium decretumque esse voluerunt. Nullum est in hac urbe collegium, nulli pagani aut montani, quoniam plebei quoque urbanae maiores nostri conventicula et quasi concilia quaedam esse voluerunt, qui non amplissime non modo de salute mea, sed etiam de dignitate decreverint. Nam quid ego illa divina atque immortalia municipiorum et coloniarum et totius Italiae decreta commemorem, quibus tamquam gradibus mihi videor in caelum ascendisse, non solum in patriam revertisse?⁵²

Clodius could not offer any effective opposition. His brother Appius and his two tribunician allies probably took no concrete action against the bill on account of the sanctions attached to it.⁵³ Meanwhile, his gangs had been neutralized by the forces of Milo and Sestius. He was only able to offer vocal opposition: he and his brother Appius held a number of anti-Ciceronian contiones in which their audiences vociferated against the recall of Cicero. The contiones were to no avail; the Comitia Centuriata voted in favour of Cicero's restoration on August 4, 57.

From a constitutional point of view, there was little which Clodius could have done to prevent the passage of the

bill. To begin with, his support in the assemblies lay mainly in the urban plebs; his enemies successfully countered it by soliciting the support of the Italians from the thirty-one rural tribes. Moreover, they passed the bill in the Comitia Centuriata where the richer classes had the lion's share of the voting power; they would naturally be favourable to Cicero who prided himself on being the protector of the well-to-do.⁵⁴

Cicero's restoration inflicted a double setback on Clodius. Firstly, through the lex de capite civis Romani he had impugned the senate's right to issue the s. c. u. The blow to the senate's auctoritas was rendered more crushing by the fact that it was compelled to stand by powerless while Clodius expelled the main proponent of the s. c. u. In its efforts to have Cicero recalled the senate drew attention to, and praised, the deeds which Cicero had performed at its bidding in 63. Cicero's recall by the Comitia Centuriata, therefore, would be a vindication of its previous acta and its right to issue the s. c. u. Secondly, the recall of Cicero meant that once again Clodius would have to contend with his worst personal and political enemy, an enemy whose zealous opposition to him would have increased immeasurably because of the trials and tribulations to which he had been subjected by the lex Clodia de exilio Ciceronis. Clodius would not relish the prospect of being at the receiving end of the virulent, invective-laden speeches which Cicero, the master of innuendo, would direct his way once he returned to Rome.

CHAPTER VIII

A TEMPORARY SETBACK TO CLODIUS

Cicero came to Brundisium on August 5 and arrived in Rome on September 4.¹ He probably proceeded at such a leisurely pace in order to receive the delegations which the Italian communities sent to him. Moreover, the slow pace allowed news of his coming to get to Rome well ahead of him. The result was an enthusiastic welcome by the people when he entered Rome.² The day after his arrival, Cicero addressed the senate with his Post Reditum In Senatu.³

Clodius did not wait long to give him his own reception. On September 6 and 7 he incited riots over the very high price of wheat.⁴ During the riots Clodius' lieutenants claimed that Cicero was responsible for the price of wheat. He even sent a group of his partisans to Cicero's residence where they serenaded him by demanding that he produce wheat. Cicero describes the sing song:

Quid operarum illa concursatio nocturna? non a te ipso instituta me frumentum flagitabat?⁵

The explanation for this treatment of Cicero lay in events earlier in the year. During the Iudi Apollinares, which were

held by the praetor urbanus, Caecilius, from July 6-13, the high price of wheat had caused a riot in the theatre. However, it soon took a downward plunge. According to Cicero, the decrease occurred when the senate met in the temple of Jupiter on the Capitol and decreed that he return and that legislation be brought in to effect that return. Afterwards, the price remained stable until Cicero's return when it again shot up. Cicero's supporters had claimed that the reduction in the price of wheat resulted from the political stability brought about by his recall. When Cicero returned, therefore, Clodius made him responsible for the high price of wheat. By serenading Cicero about the price of wheat, Clodius was taunting him to live up to the publicity of his supporters.

On the first day of the riots, September 6, Clodius' operae went unchallenged. They were even able to attack the senate when it met in the temple of Concord to discuss the wheat crisis. Under the leadership of Lollius and Sergius, who wounded the consul Metellus, they subjected the senators to lapidatio. On the next day, according to Cicero, Clodius' forces were dispersed and the real people called upon him to resolve the wheat crisis by placing Pompey in charge of its supply. Cicero remains conspicuously quiet on the reason for their dispersal. They had probably been routed by Milo's operae who then called upon Cicero to come to the senate. Cicero would have remained silent about Milo's action in order to dwell on Clodius' fury

and to obfuscate the circumstances which brought him to the senate. He is also quiet about the specific reason for the absence on that day of the senators who did not favour Pompey's taking charge of the grain supply; he only says that they were absent because they thought it unsafe to speak their minds.

However, any opposing senator seeing Pompey's amicus Milo with his men about the senate house was probably frightened off.⁸

When Cicero went to the senate on September 7, he proposed that Pompey take control of the wheat supply and that legislation be introduced to bring it about. The senate adopted his motion and had it recited to the people. Afterwards, Cicero himself addressed the people.⁹

On September 8 the question of rescinding the previous day's decree was brought up in a well attended meeting of the senate. The proposal probably came from the senators who had not attended the senate on September 7 for fear of expressing anti-Pompeian opinions. The proposal was abandoned when the better part of the senate opposed it. The consuls then drafted a bill which gave Pompey what he asked for: he received fifteen legates and the control over the wheat supply and its distribution for a five year period.¹⁰

From September 5 to 8, Clodius suffered several setbacks. Firstly, he again discovered that he could no longer control

Roman politics through the use of armed violence. Earlier in the year Milo had curbed his political violence and had allowed Cicero to be recalled. Now he probably again outmuscled Clodius' gangs by routing them from the Capitol and enabled Cicero to go to the senate where he secured the wheat commission for Pompey. In doing this Cicero made Clodius and his operae eat their words: they had sarcastically bidden him to produce wheat: to their dismay and to popular satisfaction he resolved the situation when the senate adopted his motion on Pompey.

The appointment of Pompey to the wheat commissionership was another setback to Clodius. In 58 he did his best to alienate the senate from Pompey; now he saw the senate entrusting him with an extraordinary command. Through his lex frumentaria Clodius had obtained a great deal of popularity. Henceforth, he would have to share that popularity with Pompey who was not only responsible for the supply of wheat to Rome but also for the wheat distribution program instituted by the lex frumentaria. Moreover, the appointment of Pompey meant that he no longer exercised direct control of the program which he previously had through Sextus Cloelius. The whole situation would have been more galling to Clodius had it been stage managed by Pompey. According to Plutarch, Clodius did complain that the shortage of wheat was engineered by Pompey in order to obtain a command which would bolster his position. Perhaps,

just perhaps, Pompey did operate behind the scenes. The following scenario can be brought forth to show that Pompey may have used the wheat situation to his own advantage. Before the promulgation of the bill on Cicero's recall, the scarcity of wheat¹³ had caused its price to rise. When the bill on Cicero was promulgated, the price of wheat suddenly fell. Cicero's supporters claimed that his recall was the reason for the decline. However, it seems that a large supply of cheap wheat infused into the market by Pompey would have been more effective in reducing the market price of wheat; the new low price could then be pointed to as the auspicious result of Cicero's impending restoration. Cicero, therefore, was identified with the low prices. On his return the supply of cheap wheat was cut off and incidents such as those at the ludi Apollinares were repeated. Cicero, whose return had augured low prices, was then looked to for a solution. He was quite willing to oblige. With the assistance of Milo who frightened off the opposition, he proposed that Pompey be appointed wheat commissioner. The senate, with no one else of proven ability to turn to, accepted the proposal and gave Pompey what he required for the implementation of his duties.

Clodius suffered another setback on October 2, 57, when the senate restored to Cicero the site of his house on the Palatine and compensated him for the damages inflicted on his

property by Clodius in the previous year. The senate restored the site to Cicero after the pontiffs on September 29 had made their pronouncement on its sanctity. The question of the site's sanctity had been referred to the pontiffs by the senate, on the motion of Bibulus, after the lex Centuriata on Cicero had been passed. Although that law gave Cicero legal title to his site on the Palatine, it still remained to remove the religious bar which Clodius had allegedly placed on it through his dedication of the shrine to Libertas.¹⁴

In late September the pontiffs met at least twice to hear the arguments of Clodius and Cicero on the sacrosanctity of the site.¹⁵ Cicero spoke on September 29.¹⁶ In his speech he indicates that Clodius spoke a few days beforehand and that his own speech was arranged to deal with the matters which Clodius had raised.¹⁷ Since Cicero deals in this way with the issues raised in Clodius' speech, it is possible to surmise what Clodius said.

When Clodius went before the pontiffs, he did not deal exclusively with the religious issue. His speech was partly designed to undermine Cicero's standing with the pontiffs. For instance, he charged that Cicero had gone over to the popularis side through his key role in securing Pompey the extraordinary command over the wheat supply. The following background information shows why Clodius made the point. Pompey's acqui-

sition of the grain commissioners had angered most of the consulars. On September 7, when Cicero's motion on Pompey's commissionership had been accepted, all of the ex-consuls, except for the amici of Pompey, stayed away for fear of voicing dissenting opinions. When the senate met on the next day, with all the consulars present, a bill was drafted by the consuls which gave Pompey what he required to carry out his duties. However, the tribune Messius then proposed a far more generous bill of his own which enacted that Pompey receive an army, a fleet, maius imperium in the provinces, and control over all moneys. Pompey reacted to Messius' proposal in typical Pompeian form:

legem consules conscripserunt qua Pompeio per quinquennium omnis potestas rei frumentariae toto orbe terrarum daretur; alteram Messius, qui omnis pecuniae dat potestatem, et adiungit classem et exercitum et maius imperium in provinciis quam sit eorum qui eas obtineant. illa nostra lex consularis nunc modesta videtur, haec Messi non ferenda. Pompeius illam velle se dicit, familiares hanc.¹⁸

The consulars angrily and vigorously opposed it. Their anger would have been aimed as much at Pompey as at Messius: Pompey was given all that he asked for, yet the tribune Messius, probably at his instigation, put forth an intolerable bill on his behalf. Since the better part of the college of pontiffs

consisted of these consulars, Clodius would have sought to undermine Cicero's case by pointing to his close association with Pompey and the role he had played in Pompey's acquisition of the extraordinary command.¹⁹ Cicero was well aware of the danger. In the matter of Messius' bill he had remained silent for fear that he would offend the consulars and thus endanger his cause with the pontiffs.

consulares duce Favonio fremunt. nos tacemus,
et eo magis de domo nostra nihil adhuc pontifices responderant.²⁰

Clodius' point struck home: Cicero had to devote a considerable part of his speech to justifying his actions on Pompey's behalf. He stated that his renewed amicitia with Pompey and the efforts which Pompey had made for his recall justified his conduct. Moreover, he argued that the problems in the wheat supply posed a serious threat to the res publica and that Pompey had the proven ability to remedy them.²¹

Clodius also criticised Cicero's behaviour in 58. He argued that his departure from Rome before the passage of the lex de capite civis Romani was a confession of his guilt: it showed that he was unwilling to stand trial for his misdoings of December 5, 63. Moreover, in his view Cicero was still an exile despite the lex Centuriata. Clodius also complained that Cicero was still an incorrigible boaster: the complaint was probably prompted by the recent self-glorifying remarks which

Cicero had made in his speeches, Post Reditum In Senatu and Post Reditum Ad Quirites, shortly after his return. In the De Domo Cicero replied to Clodius' charges by extolling his behaviour in 63 and 58 and by attacking the validity of the lex Clodia de exsilio Ciceronis. Moreover, he savagely impugned Clodius' character: he levelled numerous charges against him: bribery, buggery, incest, other sexual deviations, innovations and permutations, murder, poisoning and sacrilege, to name a few.

Both Clodius and Cicero put forth their respective arguments on the sanctity of the site. Clodius maintained that the lex de exsilio Ciceronis empowered him to consecrate Cicero's site under the presidency of a pontiff. He also argued that the consecration covered the whole site and that it had a binding force. Cicero, when he later addressed the pontiffs, cited various precedents to prove that a consecration such as Clodius' required a separate law. Moreover, he held that not all of his site had been consecrated; only a tenth part of it had been used by Clodius for his porticus and shrine to Liber-²³tas.

The pontiffs reached a seemingly ambiguous decision on the matter:

Cum pontifices decreverunt ita, ' si neque populi
iussu neque plebis scitu is qui se dedicasse
diceret nominatim ei rei praefectus esset neque

populi iussu aut plebis scitu id facere iussus
 esset, videri posse sine religione eam partem
 areae mihi restitui',...²⁴

Cicero and Clodius each thought the case adjudged in their
 favour:

...mihi facta statim est gratulatio (nemo enim
 dubita(ba)t quin domus nobis esset adiudicata),
 cum subito ille in contionem escendit quam Ap-
 pius ei dedit. nuntiat [iam] populo pontifices
 secundum se decrevisse, me autem vi conari in
 possessionem venire; hortatur ut se et Appium
 sequantur et suam Libertatem ut defendant.²⁵

- For Cicero the decision probably meant that the pontiffs had
 accepted his argument that a separate law had been required
 for Clodius' consecration; for Clodius it probably signified
 the pontiffs' approval of his claim that the terms of the
lex de exilio Ciceronis empowered him to consecrate the site.²⁶

The pontiffs gave their decision on September 29. On
 the Kalends of October there was a senatorial meeting in which
 the pontiffs acknowledged that their decision was in Cicero's
 favour. Afterwards, Clodius attempted to talk out the sitting
 when the senate was preparing to restore the site to Cicero
 and to compensate him for damages to his property. He filli-
 bustered for three hours until the exasperated cries of his
 fellow senators compelled him to desist. The consuls then re-
 ferred a motion to the house: it enacted that Cicero be com-

compensated for the losses incurred through the destruction of his house on the Palatine and his villas at Formiae and Tusculum and that Clodius' porticus be demolished and replaced with a new one in honour of Catulus. One senator voted against the motion: Clodius. However, his ally Serranus vetoed the decree. The senate reacted angrily when the consuls referred the veto to it; even Serranus' father-in-law begged him to withdraw his veto. Cicero describes le feu de l'action:

cum fieret senatus consultum in sententiam Marcellini, omnibus praeter unum adsentientibus, Serranus <intercessit. de> intercessione statim ambo consules referre coeperunt. cum sententiae gravissimae dicerentur, senatui placere mihi domum restitui, porticum Catuli locari, auctoritatem ordinis ab omnibus magistratibus defendi, si quae vis esset facta, senatum existimaturum eius opera factam esse qui senatus consulto intercessisset, Serranus pertimuit et Cornicinus ad suam veterem fabulam rediit; abiecta toga se ad generi pedes abiicit. ille noctem sibi postulavit. non concedebant; reminiscebantur enim Kal. Ian. vix tamen ei de mea voluntate concessum est.²⁷

On October 2 Serranus did not interfere and the senatorial decree was passed. Under its terms the consuls contracted for the restoration of Catulus' porticus. Little time was wasted in this regard: the consuls immediately signed a contract

~~and the contractors demolished Clodius' porticus just as quickly.~~

The consuls also acted swiftly to compensate Cicero for his ruined properties: with their senatorial assessors they gave Cicero 2,000,000 sesterces for the house on the Palatine, 500,000 for the Tusculum villa and 250,000 for the Formian villa. If the compensation was swift, it was not generous. In public Cicero did not criticise the amount of compensation, but in his letters to Atticus he complained that it did not offset his losses. He had just cause for grievance: his house on the Palatine had cost him 3,500,000 sesterces. Moreover, he was seemingly only compensated for the buildings, not for the contents which had been plundered by Clodius and the two consuls of 58. Cicero did not have to look far for the reason behind the low evaluation: the jealousy of the optimates towards a pretentious novus homo. His house on the Palatine had been a symbol of the dignitas accruing to him from his consular acta and had been an object of the optimates' displeasure. In giving a low evaluation they sought to clip his wings:

verum iidem, mi T. Pomponi, iidem, inquam, illi,
quos ne tu quidem ignoras, qui mihi pinnas inci-
derant, nolunt easdem renasci. sed, ut spero, iam
renascuntur.²⁸

In restoring Cicero's property and compensating him for his losses, the senate was acting in its own interests. Clodius in 58 had undermined the senate's right to use the s. c. u. through the lex de capite civis Romani and he had exiled

the main proponent of that decree through the lex de exsilio Ciceronis. Afterwards, he drove home his point by the destruction of Cicero's house: it suffered the ignominious fate reserved for the dwellings of public enemies: it was razed to the ground. Such an action was a blow to the auctoritas senatus: Cicero was branded as a public enemy for his obedience to its decision of December 5, 63. Clodius added salt to the wound when he erected the shrine to Libertas on part of the site: among other things it symbolized freedom from senatorial suppression which he had secured for the citizen's right to trial. The senate, therefore, had more on its mind than Cicero's welfare when it restored his site and compensated him for his losses: it sought to undo much of the harmful Clodian propaganda of 58; the swiftness with which the consuls had had Clodius' monument to Libertas destroyed clearly attested to the senate's frame of mind.

Clodius came out on the losing side. To begin with, the removal of the religious bar on Cicero's property by the pontiffs and the compensation to Cicero nullified the effects of the lex de exsilio Ciceronis by virtue of which he had destroyed Cicero's house, confiscated his goods, and consecrated the site on the Palatine. The setback was more galling because he was utterly powerless to prevent it: his filibuster in the senate had floundered; he had not even had the vote of his bro-

ther Appius in opposing the senate's decree; Serranus' veto had been withdrawn for fear of retaliation by a strict-minded senate. Above all, the loss of his Libertas must have been the most crushing blow. His statue to Libertas was enshrined within a porticus bearing his name. Moreover, there was the statue of Clodius himself which Menulla set up on the site of Cicero's house to commemorate the former's activities on behalf of his libertas. These monuments were situated on a spot of the Palatine which stood in full view of the forum. Consequently, they were highly visible reminders of the policy which he had pursued in his tribunate. Their removal therefore, meant the loss of a very valuable source of propaganda,

The restoration of Cicero's site on the Palatine contained yet another setback for Clodius: it was a blow to his dignitas and to his pocketbook. In 58 he purchased the site of Cicero's house through the agency of one Scato; now the site was returned to Cicero by the senate without any thought of compensating Clodius for his financial loss.

Clodius did not immediately retaliate. He bided his time. He waited till November 3 when the porticus Catuli was almost reconstructed and when the neighbouring houses of Marcus and Quintus Cicero were under construction. On November 3 his opere struck: they attacked and destroyed the buildings.

The senate did not remain idle. Before the assault on the buildings, it had ordered the consuls to provide security

for Cicero's house. Afterwards, it decreed that the individuals responsible for the attack be subject to trial under the lex de vi.³¹ According to Cicero, Clodius' political fortunes were at a very low ebb after the attack: most of his supporters had deserted him on account of his mad violence; he was taking slaves as his advisers; he was going from street to street offering slaves their freedom.³² Cicero's assessment was overly optimistic. On November 11 Clodius had sufficient operae with which to make a surprise attack on Cicero and his bodyguard as they went down the Via Sacra. Cicero's men, however, effectively countered Clodius' operae in a skirmish that involved stone throwing and sword play.

The attack was meant to do more than intimidate Cicero. Clodius meant business: his men were equipped with swords and they actively sought out Cicero. Cicero describes the attack:

Itaque a.d III Id. Nov. cum Sacra via descenderem, insecutus est me cum suis. clamor, lapides, fustes, gladii; et haec improvisa omnia. discessi in vestibulum Tetti Damionis. qui erant mecum facile operas aditu prohibuerunt. ipse occidi potuit;³³

Clodius had good reason to eliminate Cicero: hatred. He must have been incensed to see his enemy recover the position and fortune of which he had stripped him under the lex de exsilio Ciceronis. Cicero also aggravated his anger through his pro-

~~Pompeian activities. On Cicero's motion the senate had decreed~~

that Pompey take over the wheat supply and the distribution program which had been under the control of Cloelius, Clodius' familiaris. As a result of Cicero's action Clodius lost a valuable source of continuing widespread popularity. Besides these factors, there was Cicero's speech making. After his return Cicero had condemned and vilified Clodius in his speeches Post Reditum In Senatu and Post Reditum Ad Quirites, and had praised his own heroic behaviour on behalf of the state's safety. This kind of talk, as is revealed in the De Domo, put Clodius beside himself with rage:

Hic tu me etiam gloriari vetas: negas esse ferenda quae soleam de me praedicare, et homo facetus inducis etiam sermonem urbanum ac venustum, me dicere solere esse me Iovem, eundemque dictitare Minervam esse sororem meam. Non tam insolens sum, quod Iovem esse me dico, quam, ineruditus, quod Minervam sororem Iovis esse existimo. Sed tamen ego mihi sororem virginem ascisco: tu sororem tuam virginem esse non sisti. Sed vide ne tu te soleas Iovem dicere, quod tu iure eandem sororem et uxorem appellare possis. Et quoniam hoc reprehendis, quod solere me dicas de me ipso gloriosius praedicare, quis umquam audivit, cum ego de me nisi coactus ac necessario dicerem?³⁴

The De Domo would have only brought Clodius' anger to a boil. Cicero had promised in the Post Reditum Ad Quirites to obtain vengeance on his enemies not by the power of the sword but by the power of his words. In the De Domo he effectively carried

out that threat by savagely attacking Clodius' political and personal life. He then added insult to injury through the immediate publication of the speech. It was all too much for Clodius: he resorted to vengeance by the power of the sword.

Clodius' violence was directed against another enemy: Milo. At eleven oclock on the morning of November 12, Clodius and his men, who were equipped with swords and firebrands, came out from their assault base, the house of P. Sulla, and stormed Milo's house on the Cermalus. Milo, however, resorted to Clodian tactics of gang warfare: his men surprised Clodius from the rear. While the Clodiani were besieging his house on the Cermalus, Milo's men, under the command of Q. Flaccus, came out from his other house on the Clivus Capitolinus and attacked them from behind. Milo's men then routed the Clodiani and killed several of them. Clodius himself barely managed to escape the wrath of Q. Flaccus who sought him out.

Through the attack on his house Clodius was settling a long standing score with Milo: he was repaying him for his antagonizing obstructionist tactics of the previous months; Milo had held his operae in check and had paved the way for Cicero's recall. Later he probably chased away the Clodiani from the temple of Concord when the senate met to deal with the wheat shortage. The reaction to Clodius' onslaught against Cicero's house and against Cicero himself was probably another

Reason behind the attack. His activity against Cicero resulted in widespread demands that he be prosecuted for his acts of violence.³⁸ Through a successful attack on his chief protagonist, Milo, Clodius probably sought to terrorize the opposition into silence and thus stifle any thoughts of a trial; the same motive had probably also been behind the attack on Cicero. Moreover, Clodius would have selected Milo as the object of his violence because the latter, judging from his subsequent behaviour, was probably among the first to call for a trial.

On November 14 the consul designate Lentulus Marcellinus³⁹ proposed in the senate that the aedilician elections, for which Clodius was a candidate, be delayed until Clodius was brought to trial for his recent acts of violence.⁴⁰ His motion was well received, but the consul Metellus Nepos with the help of Appius and another senator, probably Hortensius, talked out the sitting. Metellus had been willing to support the senate's recall of Cicero in defiance of Clodius. However, he probably drew a line when it came to eliminating his cousin and fellow popularis from the political scene. Meanwhile Appius was simply helping out his younger brother. As for Hortensius, his reason for assisting Clodius is a mystery.⁴¹

Clodius, who remained at home while the senate met, reacted vigorously to Marcellinus' proposal. He threatened re-

prisals if the elections were not held. Undeterred, Milo put up Marcellinus' motion and made it clear that he would watch the skies in the Campus Martius on all dies comitiales in order to prevent Metellus from holding the aedilician elections and that he would continue to put off the elections until Clodius was brought to trial. Clodius, therefore, would not be able to escape prosecution through the safety of the aedileship.⁴² Milo's plans threw the opposition into a frenzy of rage. Cicero describes it:

contiones turbulentae Metelli, temerariae Appi, furiosissimae Publi; haec tamen summa, nisi Milo in campo obnuntiasset, comitia futura.⁴³

Milo carried out his promise. Each night he went to the Campus with his men in order to announce his obnuntiatio at first light. The consul Metellus Nepos attempted to outwit Milo, but was himself outwitted. On November 19 Metellus told Milo that there was no need to go the Campus at night; he would be happy to allow Milo to declare his obnuntiatio to him in the Comitium on the next day. Milo did not fall for the ploy. On the morning of November 20 he went to the Campus as usual. Metellus was making his way to the Campus at dawn in the hope that Milo was absent; he could then hold the elections before Milo came to watch the skies. As soon as the consul was spotted Milo ran up to him and made his announcement that the auspices were unfavourable.⁴⁴

Metellus was not the only one whom Milo outwitted. On November 19, the first day on which Milo went to the Campus, Clodius had assembled his operae for an attack on him and his men. Despite the preparations Clodius did not go to the Campus: Milo had outmanoeuvred him; he had occupied the Campus before midnight with a large following. In doing so, he probably had Clodius' modus operandi in mind. He need only have remembered the night of January 22-23 when Clodius had stationed his men in the forum, Comitium and the senate house to ambush Fabricius and his partisans when they came down to the forum to pass the tribunician bill enacting Cicero's recall. The recent surprise attacks on Cicero's house, on Cicero and on his own house would have reinforced the need to take precautions against Clodius. Deprived of the element of surprise, Clodius decided to stay away and not to risk a pitched battle with Milo's forces. Afterwards, Clodius, knowing that he could not surprise Milo, gave up his efforts to prevent Milo's obnuntiationes with violence. He and his supporters could only stand idly by and complain that Milo was acting at the instigation of Cicero. In a letter to Atticus, however, Cicero indicates that Milo did not need anyone to prompt him:

nova quaedam divina mitto, sed haec summa est:
comitia fore non arbitror, reum Publium, nisi
~~ante occisus erit, fore a Milone puto, si se~~
in turba ei iam obtulerit occisum iri ab ipso

Milone video. non dubitat facere, prae se fert;
casum illum nostrum non extimescit. numquam enim
cuiusquam invidi et perfidi consilio est us(ur)us
nec inertī nobili(tati) crediturus.⁴⁵

When Milo went out of office on December 9, the aedilician elections had not yet been held. Milo, therefore, had used his powers of obnuntiatio to block the elections up till that⁴⁶ time. At the same time, however, he did not succeed in bringing Clodius to trial. The reason for this failure was the delay in the quaestorian elections. The quaestors, who entered office on December 5,⁴⁷ empanelled the jurors for the praetors' courts. However, the quaestors for 57-56 had not been elected: their election could only take place after the election of the aediles. Therefore, when Milo blocked the aedilician elections,⁴⁸ he was also delaying the quaestorian elections. Any trial of Clodius would have to take place under the juries empanelled by the new quaestors: Milo had promised to bring Clodius to trial in the latter half of November; it is highly unlikely that he could push through the proceedings in the courts already empanelled by the quaestors then in office. Even if he did indict Clodius, the latter could easily delay proceedings till the end of the year when the jurors' term of service expired.⁴⁹ Milo's action, therefore, would appear self-defeating. If he wanted to bring Clodius to court, he would require the new quaestors and their jurors. In order to obtain them the

aedilician elections would first have to be held. Clodius could then secure the aedileship of 56; he would then only have to delay the court proceedings from December 5 till he entered the aedileship and obtained the immunity which that office gave him.⁵⁰

Milo's action makes sense when it is remembered that he had posted up Marcellinus' proposal that the trial of Clodius take place before the aedilician elections. Marcellinus' proposal of November 14 probably contained some clause which provided for the trial of Clodius in spite of the lack of new jurors resulting from the delay in the quaestorian elections. Almost a month later Marcellinus was still attempting to bring about Clodius' trial. At that time he put forth the following motion which Cicero describes in a letter to Quintus:

Racilius surrexit et de iudiciis referre coepit; Marcellinum quidem primum rogavit. Is cum graviter de Clodianis incendiis, trucidationibus, lapidationibus questus esset, sententiam dixit ut ipse iudices per se praetor urbanus sortiretur, iudicum sortitione facta comitia haberentur; qui iudicia impedisset, eum contra rem publicam esse facturum.⁵¹

The motion was probably a carbon copy of his initial motion on November 14: the motion of November 14 had been neutralized by the filibuster of Metellus and company. Afterwards, Marcellinus would have persisted in his attempts to bring Clo-

dius to trial by repeatedly putting forth his motion. His initial motion, therefore, would have contained the provision that the praetor urbanus himself choose the jurors for Clodius' trial. Moreover, Milo's action in blocking the elections would make sense: once Marcellinus' motion was approved, immediate action could be taken against Clodius as a privatus; Clodius would then not even have the prospect of delaying the trial until he escaped into the aedileship.

Clodius was not able to obtain his election as aedile immediately after the termination of Milo's tribunate on December 9. At a senatorial meeting, which was probably held on December 10, the new tribune Vetus Antistius announced that he would not allow the aedilician elections to take place until Clodius was brought to court. Through his statement he probably indicated that he would use his veto or the same tactics as Milo to prevent Clodius' acquisition of the aedileship.

Vetus very probably spoke on December 10. If Vetus said that he would stop the aedilician elections, he must have done so on December 10, the day of his entry into office. The tenth was a dies comitialis on which the consul Metellus could hold the elections. Up till that time Milo would have voided all dies comitiales through his use of obnuntiatio. Vetus' policy statement, therefore, would only make political sense, if he made it in order to thwart any electoral activity by Metellus.

This date also helps to explain two circumstances under which the senatorial meeting was held. According to Cicero, the tribunes were presiding⁵² over the session; perhaps it was customary to allow tribunes to do so on the day^{on} which they entered office. Cicero also says that the senatorial meeting was held⁵³ "sub dies festos". If these are considered as beginning on the eleventh with the Agonia, then the tenth is an acceptable date for the meeting.

Vetus made his statement while speaking on the motion of the consul Marcellinus. The latter made his motion when the tribune L. Racilius called upon him first for his opinion on the proposed prosecution of Clodius. Marcellinus proposed that the praetor urbanus choose the jury for Clodius' trial.⁵⁴ Through his proposal Marcellinus was short cutting the regular procedure by which the jurors were empanelled by the quaestors: that procedure was unacceptable to him: the quaestors of 57-56, who would normally provide the jurors for Clodius' trial, had not yet been elected and their election could only be held after the aedilician elections: under that procedure Clodius would secure the aedileship and would only be open to prosecution after the new quaestors had entered office and only until the end of the month. Delaying tactics on his part and the dies festi, on which no judicial business was allowed, would allow him to make it safely into the aedileship on January 1.

Marcellinus' motion, therefore, did away with the need for quaestors, who could only be elected after the aediles, and their allotment of jurors; it allowed action to be taken against Clodius before any election could be held; he could be proceeded against as a privatus. His proposal, however, was opposed by Cassius and C. Cato, two tribunes favourable to Clodius: they wanted the elections before the trials. Their opposition was countered by the consul Philippus who supported his colleague's proposal. Racilius then called upon Cicero who made a blistering attack against Clodius in which he scolded him for his use of violence. The next speaker on Marcellinus' motion, Vetus, then made his announcement that he would not allow the elections to be held before judicial proceedings were instituted against Clodius. Afterwards, Marcellinus' motion was put to the vote. Clodius, however, tried to talk out the sitting. In his speech he accused Racilius of having tormented him in a rude and obstinate manner. Clodius was probably angry with Racilius because he had raised the matter of his prosecution and had asked Marcellinus to speak on it. There may have been another factor behind Clodius' accusation. A vituperative anti-Clodian pamphlet, bearing the title Edictum L. Racilii was probably making the rounds. The Scholia Bobiensia refer to it briefly in the commentary on the Pro Plancio:

Exstat autem libellus eiusdem Ciceronis qui
ita inscribitur: Edictum Lucii Racilii tri-

buni plebi: quod sub nomine ipsius Cicero
scripsit in invectionem P. Clodi.⁵⁵

With Cicero as ghost writer the pamphlet would have had a bite that made Clodius wince. Clodius brought the senatorial meeting to a close when his operae climbed the Græcostasis and raised such a terrifying yell that the senators dispersed.⁵⁶

There were probably no further senatorial meetings in December on Clodius' proposed trial or on the aedilician elections: after the break up of the meeting Cicero presumed that the senate would only take up the matters again in January.⁵⁷ In early January the senate dropped the proposed prosecution of Clodius and allowed the elections to take place. Clodius was elected aedile on January 20; he had finally evaded prosecution.⁵⁸

CHAPTER IX,
CLODIUS' AEDILESHIP

Clodius was elected aedile on January 20, 56¹. The holding of the aedilician elections signified that the senate had decided to drop the proposed prosecution of Clodius. Cicero points to the senate's decision in a letter to Lentulus Spinther where he discusses the political situation which prevailed upon his return from exile:

Sed attende, quaeso, quae sint consecuta. primum illa furia, ille fur muliebrium religionum, qui non pluris fecerat Bonam Deam quam tris sorores, impunitatem est illorum sententiis adsecutus qui, cum tribunus pl. poenas a seditioso civi per bonos viros iudicio persequi vellet, exemplum praeclarissimum in posterum vindicandae seditionis de re publica sustulerunt, ...²

Here Cicero must be alluding to an attempt by the tribune Racilius to have the senate vote in favour of Clodius' prosecution. In December 57 he raised the matter of Clodius prosecution in the senate and Marcellinus then brought in his motion on it. No vote was taken on the motion and the whole question was probably delayed till early January.³ At that time Racilius

presumably followed through on the course of action he had pur-

sued in December. He brought the matter to a vote, as is indicated in the above passage, but the senate voted against the prosecution and for the holding of elections. Why did the senate act in this way? Firstly, the aediles and the quaestors were magistrates who were needed to make the state function: their absence would be harmful to the res publica. Secondly, a partisan political reason accounted for the senate's decision. A number of senators demonstrated their favourable disposition towards Clodius by voting in his favour. Cicero refers to the reason behind their votes in De Haruspicum Responsis when he says:

Videtis igitur hominem per se ipsum iam pridem afflictum ac iacentem perniciosis optimatum discordiis excitari, cuius initia furoris dissensionibus eorum, qui tum a vobis seiuncti videbantur, sustentata sunt. Reliqua iam praecipitantis tribunatus etiam post tribunatum obstrictatores eorum atque adversarii defenderunt, ne a re publica rei publicae pestis removeretur restiterunt, etiam ne causam diceret, etiam ne privatus esset. Etiam ne in sinu atque in deliciis quidam optimi viri viperam illam venenatam ac pestiferam habere poterunt? quo tandem decepti munere? Voló, inquiunt, esse qui in contione detrahat de Pompeio. Detrahat ille vituperando? Velim sic hoc vir summus atque optime de mea salute meritis accipiat, ut a me dicitur: dicam quidem certe quod sentio.⁴

In January 56 Roman politics revolved around one burning issue: the restoration of Ptolemy Auletes as king of Egypt. He

had been ousted from power in 57 by the dissatisfied Alexandrians who placed his sister Berenice on the throne. He came to Rome and petitioned the senate to restore him. The senate entrusted Lentulus Spinther, the consul of 57 and the proconsul designate for Cilicia and Cyprus, with the task: he was empowered to go outside the bounds of his proconsular imperium in order to restore Ptolemy to his throne at Alexandria.⁵

The tribune C. Porcius Cato interfered with the senate's arrangements. In early January a thunderbolt struck the statue of Jupiter on the Alban mount. The Sibylline verses were then consulted to discover the significance of the portent. The verses revealed that the Romans should not help an Egyptian king with armed forces should he come requesting assistance. Cato got wind of the oracle and publicized it; he even brought the priests of the Sibyl before the people and had them recite the appropriate verses.⁶

Cato's activity was partly directed against Lentulus Spinther who was to restore Ptolemy with armed forces. His later policy indicates this: in early February he promulgated a measure which stripped Lentulus of his proconsular command altogether.⁷

Pompey would have been another intended victim of Cato's activity. Although the mission of restoring the king was entrusted to Lentulus, a factio sought to have it reallocated to

Pompey. Publicly, Pompey advocated Lentulus' cause. However, Ptolemy and his advisors sought to have the mission given to Pompey through widescale bribery. Moreover, Pompey's closest friends such as Hypsaeus and Libo made no secret that they wanted Pompey to do the job. Finally, the tribune L. Caninius Gallus had promulgated a measure in late December or early January which enacted that Pompey restore the king with two lictors. It was simply another case of Pompey saying one thing, but desiring another.⁸ Cato's publication of the verses, however,⁹ undoubtedly dealt a blow to his political plans.

Cato's action bore fruit. The majority of the senate was opposed to entrusting any further extraordinary commands to Pompey. The publication of the Sibyl's verses by Cato gave it the excuse it needed to keep the mission out of Pompey's hands.¹⁰ It passed a number of decrees to ensure this. For instance, it decreed that no multitudo be used to restore the king.¹¹ Later, it enacted that no one at all restore the king.¹² The latter senatus consultum was vetoed. The intervening tribune must have been Caninius who sought to safeguard his bill which gave the mission to Pompey.¹³ Before these two decrees, the senate even passed a motion enacting that there be no legislation on the question of Ptolemy's restoration. Caninius also vetoed that decree in order to protect his bill. However, C. Cato also vetoed it. His action would seemingly contradict the policy which

he had espoused through his activity vis à vis the Sibyl's verses which enacted that no troops be used to restore the Egyptian king. However, Cato too had promulgated a bill in either late December or early January. If his bill dealt in some way with Ptolemy's restoration, then he had every reason to veto the senatorial decree which prohibited legislation on the matter. His bill may have stipulated that the restoration of Ptolemy be removed from the hands of Lentulus Spinther: such a bill would be in keeping with the policy, which he had espoused through the publication of the Sibylline verses, and which he continued to pursue in early February when he promulgated a bill which stripped Lentulus Spinther of his proconsular imperium. The senate would have issued its prohibition against legislation on Ptolemy to nullify the bills of Caninius and Cato which interfered with its traditional control of foreign affairs.¹⁴

The senate had taken a firm stand in the matter of Ptolemy's restoration. Through its decrees it had shown itself steadfastly opposed to bestowing an extraordinary imperium on Pompey. The senatorial decrees, however, had a side effect: The mission entrusted to Lentulus Spinther in the previous year was effectively taken out of his hands. Although the senatorial decree that no one restore Ptolemy had been vetoed, it was nevertheless sufficient grounds for keeping Lentulus out of

Alexandria. If Lentulus fulfilled his mission he would be acting against the auctoritas senatus: this would be grounds for prosecution by his enemies in the senate. Moreover, if he did restore the king, he would have to do so in accordance with the senate's prohibition of armed forces. Pompey, therefore, was not the only victim of the senatorial decrees. Cicero makes it clear that Lentulus had ill wishers in the senate who were well aware of the effects of the decrees on Lentulus. These same ill wishers would no doubt bring Lentulus to court for maiestas if he went out of the bounds of his proconsular imperium.¹⁶

Ultimately C. Cato's activity was responsible for the senatorial activity against Pompey and Lentulus. His timely publication of the Sibyl's verses had sparked the senate into taking action which sought to effectively deprive both of an attractive mission. Why did Cato initiate the action? There is no information on Cato's earlier relations with Lentulus. However, one of Cicero's letters of 59 provides information on his earlier relations with Pompey. In the letter Cicero tells Quintus how Cato almost lost his life when he mounted the Rostra and called Pompey a dictator:

Nunc ea cognosce quae maxime exoptas. Rem publicam funditus amisimus, adeo ut Cato, adulescens nullius consili sed tamen civis Romanus et Cato, vix vivus effugerit quod, cum Gabinium de ambitu

vellet postulare neque praetores diebus aliquot adiri possent vel potestatem sui facerent, in contionem ascendit et Pompeium 'privatum dictatorem' appellavit; propius nihil est factum quam ut occideretur. Ex hoc qui sit status totius rei publicae videre potes.¹⁷

Cato no doubt remembered that traumatic experience and probably sought to even the score by his anti-Pompeian behaviour in early 56. Cato's political activity can be explained in another way: he was probably cooperating with Clodius. Several factors point in this direction. Firstly, there is Cato's policy itself: it was aimed squarely at undermining the positions of both Lentulus and Pompey.¹⁸ Such a policy fitted into Clodius' political plans; if anyone benefited from undermining the positions of both Lentulus and Pompey, it was Clodius. They were both enemies with whom he had scores to settle. They had dealt him a severe setback by their zealous efforts to have his deadly enemy Cicero recalled. They had also got the better of him in other ways. Pompey, for instance, had robbed him of a source of continuing popularity when he acquired the wheat commissionership.¹⁹ Meanwhile, Lentulus had been given the proconsular command over Cilicia and Cyprus:²⁰ it must have galled Clodius to see his enemy obtain a proconsular command which had been rendered all the greater by the inclusion of a territory which he himself had incorporated into the empire.²¹

Secondly, Cato and Clodius were well disposed to one another: in December 57 Cato had sided with Clodius when he de-

clared in the senate that the aedilician elections ought to be held before Clodius' trial; in January 56 he withheld the ²² rogatio of his bill so that Clodius' aedilician elections would not be delayed; in February 57 Clodius was ready to back the ²³ rogationes of two of Cato's bills with his ²⁴ operae. These friendly relations would enable Clodius to work through or with Cato in order to avenge himself on his enemies.

Thirdly, Clodius' previous political record is relevant. In 58 he secured the cooperation of his fellow tribune Aelius Ligus. Then, in 57 he acquired the assistance of the tribunes Serranus and Rufus. In 56, therefore, he probably pursued this ²⁵ policy when he secured the help of Cato to obtain his political objectives.

Finally, there are the circumstances surrounding the publication of the Sibylline verses. The verses were consulted after the statue of Jupiter on the Alban mount had been struck by a thunderbolt. Cato, who got wind of the verses, which explained the significance of the portent, publicized them and brought them to the senate's attention. However, how did Cato ²⁶ obtain knowledge of the verses? He needed an inside source, one of the quindecimviri who guarded the Sibylline verses and looked into them when occasion demanded. Clodius was one of ²⁷ ~~these priests. The thunderbolt which struck Jupiter would have~~ come as a godsend to Clodius: it allowed him to look into the

Sibylline verses and, to arm Cato with the appropriate oracle²⁸ which could be used against both Lentulus and Pompey. Afterwards, at Cato's request Clodius would have stood before the people with the other quindecemviri and recited the verses in question. Later in the year Cicero was probably making a sarcastic allusion to Clodius' self-serving behaviour as a quindecemvir when he vilified him in the De Haruspicum Responsis for the way in which he had celebrated the ludi Megalenses:

Istius modi Megalesia fecit pater tuus? istius modi patruus? Is mihi etiam generis sui mentionem facit, quum Athenionis aut Spartaci exemplo ludos facere maluerit quam Gaii aut Appii Claudiorum? Illi cum ludos facerent, servos de cavea exire iuebant: tu in alteram servos immisisti, ex altera liberos eiecisti. Itaque qui antea voce praeconis a liberis semovebantur, tuis ludis non voce, sed manu liberos a se segregabant. Ne hoc quidem tibi in mentem veniebat, Sibyllino sacerdoti, haec sacra maiores nostros ex vestris libris expetisse? si illi sunt vestri, quos tu impia mente conquiris, violatis oculis legis, contaminatis manibus attrectas.²⁹

There is adequate cause, therefore, to postulate Clodius as the instigator of Cato's political behaviour in the matter of Ptolemy's restoration.

In early February Cato tried to undermine Lentulus' position altogether. Between February 2 and 6 he promulgated a

bill which enacted that Lentulus be stripped of his proconsular ³⁰imperium. Besides this, he promulgated another bill which ³¹was probably designed to have Milo tried in a special court. The two bills served Clodius' purposes. Through the measure against Lentulus, he deprived him of a proconsular imperium which included Cyprus. Moreover, Clodius obtained a measure of poetic revenge for the senate's attempt to repeal his lex de provinciis consularibus in 57 by recalling Piso and Gabinius ³²from their proconsular provinces. Meanwhile, the other bill would effectively eliminate his inimicus Milo from the political scene. The bill, however, had more than vengeance behind it. Clodius was also attempting to remove the check on his use of unbridled political violence. Throughout 57 Milo's operae had continually outmuscled those of Clodius. With Milo removed, Clodius could resume his former political behaviour. The existence of the bill shows the extent to which Clodius desired to eliminate the queller of his political violence. He had already ³³instituted proceedings against Milo under the lex de vi; if his prosecution of Milo under this law failed, he could then have him tried in a special court which would probably be set up in such a way as to ensure his conviction.

Clodius was clearly the instigator of both bills. He was ready to use his operae to secure their successful rogationes.

In a letter to Quintus, Cicero mentions that Milo in February

56 had a sufficient number of men to counter the Clodian ope-
rae at the next session of his trial on the Quirinalia. He also makes it clear that extra reinforcements would be called in to deal with the Clodians when Cato's two bills were given their rogationes:

Operas autem suas Clodius confirmat; manus ad Quirinalia paratur. In ea multo sumus superiores ipsius Milonis copiis; sed magna manus ex Piceno et Gallia exspectatur, ut etiam Catonis rogationibus de Milone et Lentulo resistamus.³⁴

The extent of Clodius' support for the bills indicates that he had a very important stake in them.

The rogationes of Cato's bills were frustrated by the consul Marcellinus who cancelled the dies comitiales. Cicero tells Quintus about it in a letter of March 56:

Res autem Romanae sese sic habent. Consul est egregius Lentulus non impediante collega, sic, inquam, bonus ut meliorem non viderim. Dies comitialis exemit omnis; nam etiam Latinae instaurantur, nec tamen deerant supplicationes. Sic legibus perniciosissimis obsistitur, maxime Catonis, cui tamen egregie imposuit Milo noster.³⁵

It is not surprising to find Marcellinus opposed to bills which had Clodius' strong backing: he had been a virulent opponent of Clodius in late 57. However, the nature of the bills sufficed to arouse his opposition: one bill undermined the se-

natus auctoritas by stripping Lentulus Spinther of the imperium

conferred upon him by the senate, while the other bill was aimed at Milo, his political ally in November and December of 57.³⁶

Cato reacted to Marcellinus' obstructions: he announced at a contio that he would not allow the elections to be held should he not be allowed to put his bills to the vote. Afterwards, nothing further is heard about his two bills. However, it is known that Cato blocked the elections of 56. In doing so he would have carried out his threat. Marcellinus, therefore, probably continued to obstruct his legislative efforts.³⁷

In the early months of 56 Clodius was busy in the law courts. He prosecuted Milo and was behind the prosecution of Sestius. His proceedings against them under the lex de vi were strongly motivated by vengeance. In 57 their efforts were responsible for checking his use of political violence and for allowing Cicero to be safely recalled. His judicial proceedings were also retaliation for the legal action which both Milo and Sestius had attempted to institute against him.³⁸ However, there was more than retaliation to Clodius' activity. As noted above, Milo had allowed the recall of Cicero by checking the violence of Clodius. He continued to keep Clodius in check after Cicero's recall in August 57. In September Milo's men drove Clodius' operae from the Capitol;³⁹ then, in November they dealt sternly with the Clodians when the latter attacked Milo's house.⁴⁰ Milo's forces had been so overpowering that Clodius did

not even dare to obstruct his obnuntiationes in the Campus in late November.⁴¹ By eliminating Milo, Clodius would remove the check on his use of violence.

Milo's trial under the lex de vi started on February 2. Clodius was the prosecutor, while Cicero and Pompey were the defence attorneys.⁴² On February 2 Cicero called upon M. Marcellus⁴³ as a witness. Marcellus probably gave very positive evidence on Milo's behalf because Cicero says that his side came off with the honours on that day.⁴⁴ The trial was adjourned till February 6 when Pompey spoke for Milo.⁴⁵ The only reference to the exact content of Pompey's speech comes from Asconius who says that he reproached Clodius for his attack on the house of the praetor urbanus, Caecilius, in the previous year.⁴⁶ When he spoke, Clodius' operae did their best to interrupt him. Cicero tells Quintus:

A.d. VII Id. Febr. Milo adfuit. Dixit Pompeius sive voluit; nam, ut surrexit, operae Clodianae clamorem sustulerunt, idque ei perpetua oratione contigit, non modo ut acclamatione sed ut convicio et maledictis impediretur. Qui ut peroravit (nam in eo sane fortis fuit; non est deterritus; dixit omnia atque interdum etiam silentio, cum auctoritate pervicerat) - sed ut peroravit, surrexit Clodius.⁴⁷

Afterwards, Clodius spoke against Milo, but Milo's supporters gave him the same treatment which he had meted out to Pompey:

Ei tantus clamor a nostris (placuerat enim referre gratiam) ut neque mente nec lingua neque ore consisteret. Ea res acta, cum hora sexta vix Pompeius perorasset, usque ad horam octavam, cum omnia maledicta, versus denique obscenissimi in Clodium et Clodiam dicerentur.⁴⁸

Clodius, beside himself with anger, then vented his rage on Pompey. However, he did so in a prearranged manner. He asked his men a series of questions and they gave him the appropriate answers. To begin with, he asked who was starving the plebs. They answered, "Pompey!" Through this question and answer Clodius publicized Pompey's alleged failure as wheat commissioner: he had not yet succeeded in solving all of the problems associated with the supply of wheat.⁴⁹

Clodius' next question indicated that Pompey wanted to rid himself of the problematic wheat commissioners and to obtain the mission of restoring Ptolemy Auletes to his throne. He asked who wanted to go to Alexandria. Again his men answered, "Pompey!" Through this question Clodius put Pompey's desire to go to Alexandria out into the open. Pompey had played his cat and mouse game with the issue: he said one thing but desired another. In this instance he espoused Lentulus' cause, but his friends worked feverishly to secure the mission for him.⁵⁰

The next question was designed to antagonize Pompey and to rouse his suspicions of Crassus. Clodius asked whom the peo-

ple wanted to send to Alexandria. His cronies replied, "Cras-
sus!"⁵¹ After the orchestrated question and answer period, Clodius' men spat on Milo's men who retaliated by charging and routing them. The trial was then adjourned till the Quirinalia⁵² on February 17.

Clodius' well rehearsed vilification of Pompey had several effects. Firstly, the publicity, which Clodius gave Pompey's temporary inability to deal successfully with the wheat supply, an issue of the utmost importance to the plebs, would have embittered the populace against him. Their dissatisfaction over the wheat shortages would now be focussed on Pompey. Pompey's popularity, which was already at a low ebb because of his defence of Milo, would have plummeted even further.⁵³ Several days after the question and answer period, Pompey himself seemingly admitted that Clodius' publicity had had an effect on his popularity when he spoke to Cicero:

Itaque magnae mihi res iam moveri videbantur.
Nam Pompeius haec intellegit nobiscumque communicat, insidias vitae suae fieri, C. Catonem a Crasso sustentari, Clodio pecuniam suppeditari, utrumque et ab eo et a Curione, Bibulo, ceterisque suis obtrectatoribus confirmari; vehementer esse providendum ne opprimatur, contionario illo populo a se prope alienato, nobilitate inimica, non aequo senatu, iuventute improba; itaque se comparat, homines ex agris accersit.⁵⁴

Secondly, the attention focussed on Pompey's desire to go to Alexandria also had its repercussions. After the adjour-

ment of the trial on the sixth, the senate convened. At the meeting an absent Pompey was violently attacked:

Senatus vocatus in curiam; Pompeius domum; ne-
que ego tamen in senatum, ne aut de tantis rebus
tacerem aut in Pompeio defendendo (nam is carpeba-
tur a Bibulo, Curione, Favonio, Servilio filio)
animos bonorum virorum offenderem; res in poste-
rum dilata est.⁵⁵

Their attack probably centered on the Alexandrian affair. The senate had steadfastly opposed the allocation of Ptolemy's restoration to Pompey. When it heard that Pompey himself wanted the job, it would have reacted angrily. On February 7 Pompey made a speech to the senate in which he attempted to pacify its anger: in the speech he probably disavowed any interest in the matter of Ptolemy's restoration. In a letter to Quintus, Cicero describes Pompey's speech in very general terms. However, when he wrote to Lentulus Spinther shortly after February 6, Pompey had apparently given up any hopes of restoring Ptolemy:

Hic quae agantur quaeque acta sint ea te et
litteris multorum et nuntiis cognosse arbitror;
quae autem posita sunt in coniectura quaeque vi-
dentur fore, ea puto tibi a me scribi oportere.

Postea quam Pompeius et apud populum a.d. VII
Id. Febr., cum pro Milone diceret, clamore convi-
cioque iactatus est in senatuque a Catone aspere
et acerbè inimicorum magno silentio est accusa-
tus, visus est mihi vehementer esse perturbatus.

itaque Alexandrina causa, quae nobis adhuc integra est (nihil enim tibi detraxit senatus nisi id quod per eandem religionem dari alteri non potest), videtur ab illo plane esse deposita.⁵⁷

Cicero's impressions about Pompey's intentions on the Alexandrian issue probably resulted from the latter's speech in the senate on February 7. Clodius, therefore, brought about two important results through the publication of Pompey's unsuccessfully dissembled desire to reinstate Ptolemy: the senate's anger with Pompey over the issue became aggravated and Pompey was compelled to disavow any interest in the issue. Pompey probably had the senate's anger in mind, when he spoke to Cicero:

Itaque magnae mihi res iam moveri videbantur. Nam Pompeius haec intellegit nobiscumque communicat, insidias vitae suae fieri, C. Catonem a Crasso sustentari, Clodio pecuniam suppeditari, utrumque et ab eo et a Curione, Bibulo, ceterisque suis obtrectatoribus confirmari; vehementer esse providendum ne opprimatur, contionario illo populo a se prope alienato, nobilitate inimica, non aequo senatu, iuventute improba; itaque se comparat, homines ex agris accersit.⁵⁸

Finally, there is Clodius' reference to Crassus as the people's candidate for restoring Ptolemy. The remark aroused Pompey's dormant, or perhaps not so dormant, suspicions about Crassus. Clodius made the remark on February 6. On February 8 the senate met in the temple of Apollo. There, the tribune Cato

praised Cicero but subjected Pompey to a blistering attack in which he rebuked him for his betrayal of Cicero in 58. His speech was well received by the senate which now had little sympathy for Pompey. Pompey vehemently replied to Cato's aspersions. In his speech Pompey indicated that it was necessary for himself to guard his life against the designs of Crassus:

A.d. VI Id. Febr. senatus ad Apollinis fuit, ut Pompeius adesset; acta res est graviter a Pompeio; eo die nihil perfectum est. A.d. V Id. Febr. senatus ad Apollinis; senatus consultum factum est ea quae facta essent a.d. VII Id. Febr. contra rem publicam esse facta. Eo die Cato vehementer est in Pompeium invectus et eum oratione perpetua tamquam reum accusavit; de me multa me invito cum mea summa laude dixit, cum illius in me perfidiam increparet; auditus est magno silentio malevolorum. Respondit ei vehementer Pompeius Crassumque descripsit dixitque aperte se munitiorem ad custodiendam vitam suam fore quam Africanus fuisset, quem C. Carbo interemisset.⁵⁹

Pompey later told Cicero that Crassus was at the root of his problems:

Itaque magnae mihi res iam moveri videbantur. Nam Pompeius haec intellegit nobiscumque communicat, insidias vitae suae fieri, C. Catonem a Crasso sustentari, Clodio pecuniam suppeditari, utrumque et ab eo et a Curione, Bibulo, ceterisque suis obtreptatoribus confirmari;...⁶⁰

Pompey's allegations concerning Crassus' material backing ("suppeditari", "sustentari") of Cato and Clodius were based

more on suspicion than fact. For instance, it is highly improbable that Crassus was supplying Cato with any material assistance. In March 56 Cato was in such a financial bind that he could not afford to feed his bodyguard: he had to sell them.⁶¹ If Cato were being sustained by the bottomless purse of Crassus, then surely Crassus, who could maintain an army out of petty cash, could also afford the grocery bill for Cato's guard. The same argument applies to Clodius. In April of 56 the poor state of his finances compelled him to put up for sale his apartment block on the Palatine.⁶² Then, in 55 he eagerly sought a legatio libera to Byzantium and to Brogitarus so that he might collect the money owed him for services rendered in his tribunate.⁶³ If the millionaire Crassus were financing Clodius, the latter would not have needed to resort to such money raising schemes. Moreover, the absence of any close ties between Clodius and Crassus is pointed to by their respective roles in March at the trial of Sestius: while Crassus was a defence attorney,⁶⁴ Clodius was behind the prosecution. Besides this, they were on opposite sides of the fence in April at Caelius' trial: Crassus was a defence attorney and Clodius, a prosecutor.⁶⁵

Nor is it probable that Crassus or anyone else was hatching plots against Pompey's life. Pompey made his allegations about Crassus' threat on his life after he had endured a series of very hostile attacks: on February 6 Clodius vilified

him before the populace and his senatorial opponents then berated him in the senate; on February 7 he had to defend himself before a hostile senate; on February 8 C. Cato had subjected him to a vicious harangue which was well received by the senate. These demonstrations of hostility greatly perturbed Pompey and probably aroused his ever present, almost neurotic fear of assassination; despite being at times a very cool calculating politician, who had risen to a position of unrivalled power, Pompey had this one weak spot in his make up. Pompey, therefore, would have suspected plots stemming from these demonstrations of hostility and the widespread unpopularity which they had brought him. Cicero points to these factors as the grounds for Pompey's suspicions when he mentions the measures which Pompey was taking to safeguard himself against them:

Itaque magnae mihi res iam moveri videbantur. Nam Pompeius haec intellegit nobiscumque comunicat, insidias vitae suae fieri, C. Catonem a Crasso sustentari, Clodio pecuniam suppeditari, utrumque et ab eo et a Curione, Bibulo, ceterisque suis obtreptatoribus confirmari; vehementer esse providendum ne opprimatur, contionario illo populo a se prope alienato, nobilitate inimica, non aequo senatu, iuventute improba; itaque se comparat, homines ex agris accersit. Operas autem suas Clodius confirmat; manus ad Quirinalia paratur. In ea multo sumus superiores ipsius Milonis copiis; sed magna manus ex Piceno et Gallia exspectatur, ut etiam Catonis rogationibus de Milone et Lentulo resistamus.⁶⁷

Pompey's specific suspicions about Crassus had been aroused by Clodius' remark at the trial on February 6. Through that remark Clodius set up Crassus as Pompey's rival and as the people's choice for the restoration of Ptolemy. Moreover, he deliberately gave Pompey the impression that he was working on Crassus' behalf by openly espousing the latter's cause. ~~Had~~ Clodius really been in Crassus' employ, he certainly would not have publicized it: the last thing which Crassus would want was open confrontation with Pompey. The seed of suspicion which Clodius then sowed in Pompey's mind would have quickly sprouted. Pompey would have now suspected that Crassus was working against him through Clodius. Afterwards, when Cato made his speech on February 8, he would have assumed that he too was acting on Crassus' orders. This would have prompted Pompey's allusion to Crassus' designs on his life. The seed of suspicion which Clodius had sown on February 6 was the only basis for Pompey's allegation about Crassus. There is no mention of bad relations between Pompey and Crassus immediately before Clodius' question and answer session. What evidence there is points to a state of truce. In January 56 Crassus adopted a conciliatory disposition towards Pompey in the matter of Ptolemy's restoration. In the senate he had proposed that Ptolemy should be restored by three commissioners who would be chosen from those with or without imperium. His motion, therefore,

allowed for the inclusion of Pompey, who held the grain commis-
⁶⁸sionership, among the Commissioners. Although such a motion
 was unacceptable to Pompey, nevertheless it does show that
 Crassus was not at odds with him.

Pompey was certainly right on one score: when he alle-
 ged that Clodius and Cato were being encouraged by Crassus,
 Bibulus, Curio and his other detractors. The antagonistic be-
 haviour of Pompey's senatorial opponents on February 6 and 7
 and the respectful hearing which they gave Cato on February 8
⁶⁹are sufficient proof of it.

The events of February 6 had other repercussions besi-
 des those discussed above. On February 6 there was a violent
 confrontation between the operae of Clodius and those of Milo
⁷⁰which caused the adjournment of the trial. Two days later the
 senate reacted to the violent outburst when it decreed that
 what had been done on February 6 was against the welfare of the
⁷¹state. The senate took more wide ranging action of February 10.
 In a letter to Quintus, Cicero says:

Eodem die senatus consultum factum est ut soda-
 litates decuriatique discederent lexque de iis
 ferretur, ut qui non discessissent ea poena quae
⁷²est de vi tenerentur.

The decree would have sought to break up the organised gangs
 of Milo and Clodius which were responsible for the political
 violence at Rome.

Although the senate had stipulated that those who did not comply with its order would be held accountable under the lex de vi, no one paid any heed: Clodius and Milo readied their men for the next session of the trial on the Quirinalia.⁷³ There is no information on the events of February 17. Afterwards, Milo's trial was scheduled to resume on May 7. Nothing definite is heard of any further proceedings after that date.⁷⁴

On February 10, 56, Sestius was brought to trial under the lex de vi for his use of armed violence in his tribunate. Although Clodius was not a prosecutor, he was responsible for the proceedings taken against Sestius by P. Albinovanus and T. Claudius. As defence attorneys Sestius had none other than Hortensius, Crassus, Licinius Macer Calvus and Cicero.⁷⁵ The trial did not go well for the prosecution. When Vatinius, one of its witnesses,⁷⁶ took the stand Cicero discredited his testimony in the cross examination. Then another prosecution witness, L. Aemilius Paullus, threatened to institute legal proceedings against Vatinius, if Licinius Macer were slow to do so. Licinius replied from the defence bench that he would act quickly. The harsh treatment caused Clodius' amicus, Vatinius, to leave the court in a state of nervous collapse. Cicero delightfully describes his exit from the court:

~~Homo petulans et audax Vatinius valde perturbatus debilitatusque discessit.~~⁷⁷

L. Gellius Poplicola, a leader of Clodius' operae, also appea-

red as a prosecution witness, but he too was subjected to Cicero's rhetorical skills. The lack of conviction of the prosecution witnesses and the oratorical skills of Sestius' attorneys sufficed to secure him a unanimous acquittal on March 11.⁷⁹

In the latter half of March Clodius almost suffered another setback in the courts. Milo had countered the legal action against himself by backing the prosecution of Clodius' familiaris, Sextus Cloelius. Cloelius was probably charged under the lex de vi for his role in the political violence of 58-57: Cicero refers to his long list of violent accomplishments when he discusses his case in the Pro Caelio. He managed to secure acquittal but only by a three vote margin.⁸⁰ Cicero gives two standard reasons for Cloelius' acquittal: a corrupt jury and inept prosecutors.⁸¹ A third reason was Pompey's unpopularity with the jurors, especially the senatorial ones. Cicero writes Quintus:

Ea ipsa in re Pompei offensio nobis obstitit;
senatorum enim urna copiose absolvit, equitum
adaequavit, tribuni aerarii condemnarunt.⁸³

Some jurors, therefore, were dissatisfied with Pompey to the point that they refused to condemn one of his enemies.

In early April Clodius participated in the trial of Caelius Rufus. While Clodius and L. Herennius Balbus were subscriptores, L. Sempronius Atratinus was the main prosecutor. Meanwhile, Caelius defended himself with the assistance of

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Crassus and Cicero. Brotherly loyalty to his sister Clodia, who was behind the prosecution, probably accounted for his participation in the trial: there were no signs of any hostility between Clodius and Caelius before the trial; Caelius, in fact, had been one of the tenants in his apartment block on the Palatine.⁸⁵

Cicero refers briefly to Clodius' speech and dismisses it as a source of danger:

Nam P. Clodius, amicus meus, cum se gravissime vehementissimeque iactaret et omnia inflammatus ageret tristissimis verbis, voce maxima, tametsi probabam eius eloquentiam tamen non pertimescebam; aliquot enim in causis eum videram frustra litigantem.⁸⁶

His reason for setting aside the speech so abruptly was a simple one: he could defend Caelius much more effectively by concentrating his attentions on Clodia; an invective-laden speech against Clodius would only detract from that purpose. In the Pro Caelio, therefore, Cicero contented himself with a few passing remarks about Clodius' incestuous behaviour.⁸⁷

From April 4 till April 10, Clodius, as curule aedile,⁸⁸ held the ludi Megalenses. However, he celebrated them in a novel manner. He recruited a large number of slaves to whom he gave permission to attend the games. They did not attend in an orderly manner. Clodius created havoc when he sent them in to two theatres where the audiences had already gathered for

the performances: they filled the stage of one theatre and the auditorium of another. In one theatre the consul Lentulus Marcellinus, the senate and the equites rose to protest the chaotic conditions. From all appearances Clodius' actions were those of a Spartacus or Athenio, not an aedile. What were Clodius' reasons for this Megalesia of slaves? Firstly, he was providing the slaves with a new source of entertainment; previously the slaves had been prohibited from attending these ludi. Through his action Clodius would have gained the gratitude and support of the largest segment of the population at Rome. Such support was politically useful: it would allow him to recruit more easily among the slave population for membership in his operae and to count upon its support in moments of need. The pursuit of this policy was not new to Clodius. In 58, for instance, he probably courted the favour of the slaves by allowing them to celebrate their ludi compitaliticii. He had also done so through his lex frumentaria: one of its effects had been to facilitate manumission: many masters freed their slaves in order to feed them at the state's expense. Moreover, Clodius was to pursue the same policy in 53-52 when one of his planned measures as praetor involved the widespread manumission of slaves.

Secondly, Clodius was probably settling an old score.

When he went to the games of the consul Lentulus Spinther in

57, he was given a very disconcerting reception by both actors and audience. Now, approximately a year later, he decided to retaliate by his treatment of the spectators and actors at his ⁹⁴ ludi.

After the celebration of the ludi Megalenses, Clodius once again focussed his attention on Cicero's house. In early 56 there had been earth tremors in Latium which were taken as signs from the gods. The haruspices interpreted the signs and proclaimed that the gods were displeased by a number of human transgressions. The most serious was that sacred places were ⁹⁵ being put to secular use. When the haruspices had made their proclamation, the senate convened and decreed that at some future date it would discuss the matter of consecrated sites and take action. ⁹⁶ Clodius, for his part, held a contio in which he said that the haruspices' pronouncement on consecrated sites was aimed specifically at Cicero. According to Clodius, Cicero was building his new house on the site which he had correctly ⁹⁷ dedicated to Libertas in 58. Shortly afterwards, Clodius led his gangs to the site in an attempt to destroy the partially constructed house of Cicero. However, Milo and his men were ⁹⁸ there to stop him. About April 15 Cicero, in response to the attempted attack on his house, wrote to Atticus asking him to post guards on the site and to have a word with Milo about its ⁹⁹ defence.

The senate also reacted: it decreed that any further attack on the house would be deemed as an act contrary to the welfare of the state. ¹⁰⁰ Cicero did not have much faith in the effect which the decree would have on Clodius: Atticus was ¹⁰¹ still keeping an eye on the house in June.

At his contio Clodius dwelled on other subjects besides Cicero and his house. To Cicero's bewilderment in the De Haruspicum Responsis he claimed that he had ^{been} reconciled with Pompey and that they were now amici:

Sed ne id viros optimos diutius delectet, legant hanc eius contionem, de qua loquor: in qua Pompeium ornat an potius deformat? certe laudat et unum esse in hac civitate dignum huius imperii gloria dicit et significat se illi esse amicissimum et reconciliationem esse gratiae factam. Quod ego quamquam quid sit nescio, tamen hoc statuo, hunc, si amicus esset Pompeio, laudaturum illum non fuisse. Quid enim, si illi inimicissimus esset, amplius ad eius laudem minuendam facere potuisset? Videant ii, qui illum Pompeio inimicum esse gaudebant ob eamque causam in tot tantisque sceleribus conivebant et non numquam eius indomitos atque effrenatos furores plausu etiam suo prosequebantur, quam se cito inverterit. Nunc enim iam laudat illum: in eos invehitur, quibus se antea venditabat. Quid existimatis eum, si reditus ei gratiae patuerit, esse facturum, qui tam libenter in opinionem gratiae irrepat. ¹⁰²

T. P. Wiseman views the reconciliation in the following manner. Cicero on April 5, 56, raised the issue of the Campanian land which was being distributed to Pompey's veterans and members of the populace under the terms of Caesar's agrarian law of 59. On his motion the senate voted to discuss the matter on May 15. Pompey, who became secretly angry with Cicero, because of his motion, contacted Clodius, reconciled with him, and used him to frighten Cicero. Wiseman also thinks that the iustitium, which Clodius called for at the contio, was meant to prevent any further senatorial discussion on the distribution of the Campanian land. ¹⁰³ There are several objections to Wiseman's view. To begin with, Pompey would have made his stand very clear if he reconciled with Clodius in order to use him to frighten Cicero off the Campanian land issue; if Cicero knew that Clodius was backed by Pompey, then the former would have been all the more frightening. It need only be recalled that in 59, when Caesar had had Clodius transferred to plebeian status to terrify Cicero into silence, Pompey had made his stand very clear to Cicero by attending Clodius' adoption in his capacity as augur. ¹⁰⁴

Secondly, there is the iustitium. In his speech De Haruspicio Responsis Cicero only mentions Clodius' call for a iustitium; he does not give Clodius' reason for it:

Monent enim eidem, ne occultis consiliis res publica laedatur. Quae sunt occultiora quam eius,

qui in contione ausus est dicere iustitium edi-
ci oportere, iuris dictionem intermitti, claudi
aerarium, iudicia tolli? nisi forte existimatis
hanc tantam colluvionem illi tantamque eversio-
nem civitatis in mentem subito in Rostris nec
cogitanti venire potuisse. Est quidem ille ple-
nus vini, stupri, somni plenusque inconsidera-
tissimae ac dementissimae temeratis: verum tamen
nocturnis vigilis, etiam coitione hominum, iusti-
tium illud concoctum atque meditatatum est. Memen-
tote, patres conscripti, verbo illo nefario tem-
ptatas aures nostras et perniciosam viam audien-
di consuetudine esse munitam.¹⁰⁵

Had Clodius given the Campanian land issue as the reason for
the iustitium, then Cicero, to whom the issue was a burning
¹⁰⁶concern, would not have missed an opportunity to discuss it.
Moreover, he would have had a rhetorical field day by pointing
out the inconsistencies of Clodius' political behaviour: in 58
he had violently opposed all of Caesar's legislation and he
had even appropriated funds set aside by Caesar to finance the
¹⁰⁷Campanian land distribution.

Thirdly, there is the nature of the reconciliation it-
self. Did Pompey contact Clodius, and then become reconciled
to him in order to use him against Cicero? It is improbable
that Clodius, given his political track record, was "used" by
anyone. For instance, in 59 he had broken off with the factio
when it sought to dictate the political course he was to fol-

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low. Nor is it likely that a reconciliation resulted from any contact initiated by Pompey; his differences with Clodius were simply too great. As in the case of Cicero's reconciliations with Crassus and Appius, there was probably an intermediary who brought it about.¹⁰⁹ The intermediary was probably Caesar. In a letter to Quintus of March 56, Cicero makes a brief remark about the visit, which Appius was then paying Caesar, after he discusses Cloelius' acquittal and C. Cato's threat to delay the elections if he were not allowed to put his bills to the vote:

Appius & Caesare nondum redierat.¹¹⁰

One of Caesar's objects in seeing Appius was probably to reach some arrangement with him whereby Clodius could be persuaded to drop his opposition to Pompey and to be reconciled with him: through such a manoeuvre Caesar would make Pompey more willing to renew the factio. Caesar was probably in a position to bring this about: he was seemingly on good terms with both Appius and Clodius. The fact that Appius had gone to see him indicates good relations between the two. Moreover, Cicero indicates through the use of "nondum" that Appius' visit was not a short one; obviously both Caesar and Appius had a number of questions to discuss. Meanwhile, in late May or June Caesar was in frequent contact with Clodius by means of letters, letters in which he brought accusations against Cato's administration

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of Cyprus. His relations with Clodius, therefore, had not been soured by the latter's opposition to his consulship: with the exception of a few minor peccadilloes by Clodius, that opposition had been mostly a verbal one.

Clodius' reconciliation with Pompey must have estranged his optimate supporters. Since 58 Clodius had won over such leading optimates as Bibulus, Favonius, Curio maior and P. Servilius minor by his attacks on Caesar's legislation and by his continuous opposition to their enemy Pompey. He had also ingratiated himself with the optimates by his anti-Ciceronian behaviour: there was more than one optimate who was disgusted with this pretentious, boastful, insufferable novus homo who was constructing a new opulent building on the Palatine as a monument to his inflated dignitas. Although they had had Cicero recalled, they were happy to have Clodius knock him down to

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size. The optimates' support was useful to Clodius. To Cicero's dismay they claimed that Clodius' tribunate had been legal and that his exile had been lawfully enacted. Later, in January 56 they prevented Clodius from standing trial when Racilius sought to have him prosecuted before he could be elected to the aedileship. Then, in March, at the trial of Sextus Cloelius, Clodius' familiaris, a majority of the senatorial jurors voted
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for acquittal.

Clodius is next heard of at the hearing which the senate gave to Publius Tullio, a Syrian representative, and the tax-

farmers of Syria, in late April or early May. While Cicero spoke on behalf of the publicani, Clodius interrupted him with questions and comments. Cicero, however, evened the score when Clodius was posing questions to Tullio which were slanted against the publicani. He put an end to his questions when he delivered a bitter invective-laden harangue in which he scolded not only Clodius but also the proconsuls Gabinius and Piso: he berated them for their role in his exile and their proconsular administrations. Cicero's attack was so scorching that he was apologetic about it to the senate when he delivered the De Haruspicio Responsis on the following day. Clodius was utterly dumbfounded by Cicero's harangue. He was so flustered that he decided to leave the senate. As he left he made threats against Cicero. Cicero then prepared to follow him outside to settle the matter. He was joined by the rest of the senate and the publicani who had been attacked by Clodius. Clodius glanced back at the assembled array, tripped, and fell. Publius Servilius, the consular colleague of Clodius' father in 79, seized the opportunity to finish off what Cicero had started. Cicero gives a colourful, vivid account of this very comic incident which seems more appropriate to one of Plautus' plays than to senatorial proceedings:

Ac tamen ignarus ille qui consules essent, ex-
~~sanguis atque aestuans, se ex curia repente pro-~~
 ripuit cum quibusdam fractis iam atque inanibus

minis et cum illius Pisoniani temporis Gabinianique terroribus. Quem quum egredientem insequi coëpissem, cepi equidem fructum maximum et ex consurrectione omnium vestrum et ex comitatu publicanorum. Sed vaecors repente sine suo vultu, sine colore, sine voce constitit: deinde respexit et simul atque Cn. Lentulum consulem aspexit, concidit in curiae paene limine, recordatione, credo, Gabinii sui desiderioque Pisonis. Cuius ego de effrenato et praecipiti furore quid dicam? an potest gravioribus a me verbis vulnerari quam est statim in facto ipso a gravissimo viro, P. Servilio, confectus ac trucidatus? Cuius si iam vim et gravitatem illam singularem ac paene divinam adsequi possem, tamen non dubito, quin ea tela, quae coniecero inimicus, quam ea, quae collega patris emisit, leviora atque hebetiora esse videantur.¹¹⁸

Clodius must have left the senate house a very bitter and humiliated man.¹¹⁹

On the next day Cicero delivered his De Haruspicum Responsis.¹²⁰ In the speech he sought to justify his behaviour on the previous day. However, he then proceeded in a speech full of invective and innuendo to list the wrongdoings cited by the haruspices and to find Clodius guilty on every count by pointing to incidents in his previous military and political career.¹²¹

Cicero was also on the defensive. He devoted a considerable part of his speech to the defence of the secular status

of his house's site. He argued that his site could not be the subject of discussion in the upcoming meeting in which the senate was to discuss consecrated sites. As support for his argument he pointed out that the pontiffs had absolved the site from sanctity; that the lex centuriata enacting his recall had given him legal title to the site; that the site and house had been subject to many favourable decrees of the senate. ¹²² Cicero defended his house at length to counter Clodius' allegations that it was the object of the haruspices' imprecations. Moreover, there were a number of nobiles who did not need Clodius' allegations to adopt a hostile view of Cicero's house, and who might question the status of his house at the upcoming meeting of the senate. ¹²³

In late May or early June there was another bitter confrontation between Clodius and Cicero in the senate. ¹²⁴ The conflict revolved around Clodius' tribunician tablets which commemorated Cicero's exile. Earlier Cicero had gone to the Capitol with Milo and his other supporters and had taken possession of the tablets, but Clodius and his brother Gaius, who was praetor, came to the scene and compelled him to replace them. However, in late May or early June, when Clodius was out of town, Cicero again seized the tablets and brought them home.

He later defended his action in the senate. He argued that Clodius' tribunate and his tribunician acta, especially the

lex de exsilio Ciceronis, were illegal: the skies had been under observation when Clodius obtained the plebeian status necessary to stand for the tribunate. However, there was a more immediate emotional reason for Cicero's action: it was his retaliation for Clodius' attempted attack on his house on or about April 13.¹²⁵

Clodius countered Cicero by asserting that his exile had been legally enacted, but his recall was illegal. He was not the only one to challenge Cicero on the issue of the tablets. M. Porcius Cato, who had recently returned from Cyprus, sprang to the defence of Clodius' tribunician acta. His annexation of Cyprus had been brought about by a lex Clodia: should Clodius' acta be abrogated on any grounds, his glorious deeds on Cyprus would be nullified.¹²⁶

Cato had returned to Rome in triumph. The consuls, the senate and a large segment of the populace lined the banks of the Tiber when he sailed up the river with the ships bearing the 7000 talents which he had acquired through the liquidation of Ptolemy's assets. Afterwards, the consuls proposed that Cato be rewarded with an extraordinary praetorship and other privileges for his accomplishments on Cyprus; the fact that the consul Philippus was Cato's brother-in-law may have had something to do with the proposal. Cato declined the unconstitutional measure. He only asked that the royal steward Nicias be given his freedom. The request was granted.¹²⁷

The consuls and the senate had a very good reason to afford Cato a very favourable reception: money. At a senatorial meeting of April 5 the scarcity of public funds had been a source of grave concern. It had caused an almost riotous session of the senate.¹²⁹ Later, Cicero referred to the depleted condition of the treasury in his speech De Haruspicum Responsis.¹³⁰ The grants of money to Caesar's troops would have only aggravated the financial situation. According to Plutarch, the senate groaned over its own decrees when it gave Caesar the money for his troops; the lack of money would have accounted for¹³¹ much of the groaning. The consuls and the senate, therefore, would have gratefully acknowledged the 7000 talents with which Cato refilled the treasury.¹³² They would have been all the more grateful because the money would have helped to offset the continual drain on the treasury caused by the wheat distribution program.

Cato's triumphant return was not well received by Clodius. He had sent Cato to Cyprus in order to remove a stumbling block from his tribunate. He had also sent Cato so that as much money as possible would be returned to the treasury for the financing of the wheat distribution program which he had set up through his lex frumentaria. Clodius, however, probably never contemplated the risk that his enemy would accomplish the mission with such resounding success. Later, to Clodius' mortifi-

cation, Cato was to boast that without infantry or cavalry he¹³³ had brought back more money to the treasury than Pompey.

At first, Clodius tried to take advantage of Cato's accomplishments. Cato had brought back a number of Cypriot slaves to Rome. Clodius sought to have the slaves named after himself because he had sponsored the law on Cyprus, but Cato successfully opposed him. Cato also refused to have the slaves named after himself. In the end they were simply designated as Cypriots.¹³⁴ Nor did Clodius acquire Cyprus as a client community: in¹³⁵ a letter of 51 Cicero refers to the Cypriots as Cato's clients.

Clodius next attempted to discredit Cato's accomplishments by attacking his administration on Cyprus. He took advantage of the fact that the two accounts, which Cato made of his transactions on Cyprus, had perished: one was lost in a tent fire and the other in a shipwreck. Cato defended himself with the help of the royal stewards who testified to his honesty in the financial transactions involved in the liquidation of the royal property on Cyprus.¹³⁶

Clodius attacked Cato in another way. According to Dio, some sources stated that Caesar was sending Clodius letters with accusations against Cato: one of the accusations was that Cato had persuaded the consuls to propose the praetorship for him so that he could refuse it willingly before he lost it unwillingly. Presumably Clodius read out Caesar's letters at con-

tiones in much the same way as he had done in 58 when he had read out Caesar's letter which congratulated him on having disencumbered his tribunate of Cato.¹³⁷

Later in 56 Clodius came into conflict with the senate. Ultimately the cause of the confrontation resulted from the agreement reached by Pompey, Crassus and Caesar in April 56. According to that agreement Pompey and Crassus were to canvass for the consulships of 55. Since it was too late for them to stand for the consulship, they sought to postpone the elections till the end of the year when they could be elected after the appointment of an interrex.¹³⁸ They brought this about through the services of the tribune C. Cato who cancelled the dies comitiales through his tribunician powers.¹³⁹ The consuls and the senate reacted severely to Cato's obstructive tactics: they voted to wear mourning garb. Cato sought to prevent the decree by bringing outsiders into the senate house. As a further sign of its dissatisfaction with the current state of political affairs created by Cato, the senate then decided not to attend the games which were being celebrated. When Cato also attempted to oppose this measure, the senate went to the forum where the consul Marcellinus discussed the prevalent political chaos.¹⁴⁰ Afterwards, Marcellinus and the senators returned to the senate house. Clodius, who had not changed into mourning, then came

to the forum where he harangued against Marcellinus and the se-

nators. He was so angry that he left in mid-speech and went to the senate house where his entry was barred by the senators and a group of equites. Their reception was so hostile that Clodius had to cry out for help. His operae saved him in the nick of time.¹⁴¹

According to Dio, Clodius acted in this way to further the political designs of Pompey: he says that Clodius had gone over to Pompey's side and was espousing his cause in the hope of making him his friend. In other words, Clodius would have opposed the senate's signs of displeasure caused by the electoral delays of Pompey's man Cato.¹⁴² However, it may be asked if Clodius would risk life and limb for the sake of his hoped for amicus. To begin with, Pompey and Clodius had already become amici by the time of the delivery of the De Haruspicum Responsis in late April or, early May.¹⁴³ Moreover, there was a more immediate urgent reason for Clodius' behaviour. Clodius only came on the scene after the senate decided not to attend the games which were then being celebrated. The games in question would have been the ludi Romani which were celebrated from September 5-18. Clodius, as curule aedile, was in charge of these games.¹⁴⁴ When he heard that the senate and the equites proposed to boycott his games,¹⁴⁵ he would have been utterly dismayed: his games would lack the prestige given them by the attendance of the senate and the equites: it would be quite a

sight: the orchestra and the first fourteen rows of his theatre would be deserted.¹⁴⁶ Consequently he then rushed to the forum, where he deplored the senatorial action on the games. He was so perturbed over the issue that he left in mid-speech and went to the senate with the intention of speaking against the boycott. The senate and the equites, however, were not prepared to suffer his admonitions: the treatment, which they had received at Clodius' ludi Megalenses,¹⁴⁷ would have only made them all the more ill disposed. Therefore, when he came to enter the senate house, they gave him a hostile reception from which he was saved by his partisans.

Dio provides information which allows^{us} to pinpoint the time at which Clodius made his protest. Shortly after the incident described above, Pompey and Crassus let it be known that they were in fact seeking the consulship. Dio says that the consuls and the senate responded in the following manner: they no longer went to the senate; they remained in mourning, they did not attend the games; they did not celebrate the feast of Jupiter Capitolinus or attend the Feriae Latinae which were¹⁴⁸ being celebrated for the second time on the Alban mount. Here, Dio is probably referring to those games which, he said earlier, the senate was boycotting. These games, as Dio shows, took place before the feast day of Jupiter. Therefore, they were held before September 13, the date of Jupiter's feast day.

The ludi Romani meet this qualification: they were celebrated from September 5-18. Moreover, there are no other games before September 13 to which Dio could be alluding. The senate had only decided to boycott the games in response to C. Cato's delay of the elections. The elections were usually held at the end of July.¹⁴⁹ The senate's boycott, therefore, came after that time. From the end of July till September 5, there were no ludi. From this it can be concluded that the senate boycotted the ludi Romani, Clodius' ludi.

In the latter half of 56 Clodius probably supported the consular candidacies of Pompey and Crassus. Like his elder brother Appius, who went to the conference of Luca, Clodius was probably won over to the reformed factio: his reconciliation with Pompey before the conference of Luca certainly points in this direction.¹⁵⁰ It may indeed have been his operae which gave Domitius Ahenobarbus such a rough time when he alone persisted in canvassing against Pompey and Crassus for the consulship of 55.¹⁵¹

In February of 55 Clodius asked the consuls Pompey and Crassus for a legatio libera to Brögitarus and Byzantium.¹⁵² The legatio was a lucrative one. Cicero says, "Plena res nummorum."¹⁵³ Clodius no doubt intended to collect the money owed him by Brögitarus and the restored Byzantine exiles: while tribune in 58 he had done favours for both and had accepted syngraphae as

partial payment for his services. He was now probably in need of the money. The expenses incurred by his aedileship had probably depleted his funds. They would be further depleted by his campaign for the praetorship of 53. A sign of his financial woes is that in April 56 he had put up for sale his apartment block on the Palatine.

The consuls were willing to grant Clodius his request, but before doing so they secured Cicero's acquiescence in the matter. Although Cicero had been brought under control by the factio, there was still the danger that he might flare up against a measure proposed on behalf of his deadly enemy. The nature of the measure itself would only make him all the more disposed to attack: Cicero was an ardent opponent of such legationes; in his consulship he had limited them to a year's duration. The consuls, however, were in a position to make Cicero draw in his horns. He wanted to set up certain works and inscriptions in his brother's honour. In order to erect them he needed the cooperation of the consuls. To begin with, he consulted Pompey about them. Pompey was favourably disposed to Cicero's request, but told him to have a talk with Crassus. Crassus then informed Cicero of Clodius' request and advised him that if he did not interfere, he would not have any difficulty in honouring Quintus with works and inscriptions. Cicero agreed to the proposal.

There is no evidence for Clodius' actual acquisition of the legatio. However, the consuls, after neutralizing Cicero's potential opposition, would have carried through the business. Clodius would have received the legatio, shortly after Cicero's mention of it in a letter of February 11, 55,¹⁵⁹ and he would have set out immediately to Brogitarus and Byzantium in order to obtain his money as quickly as possible. He would have returned to Rome by the end of June.¹⁶⁰ In a letter of June 26, 55, Cicero asks Atticus for information about Appius and Clodius:

quare ut homini curioso ita perscribe ad me
quid primus dies, quid secundus, quid censores,
quid Appius, quid illa populi Appuleia;¹⁶¹

Cicero's statement seemingly places Clodius in Rome, for he is asking about news of the city: he asks about the gladiators' games, the censors' doings, and Appius' campaign for the consulship, all of which were taking place at Rome.¹⁶² Therefore, his query about Clodius, the Appuleia of the people at Rome, would have had to do with the latter's political activities at Rome; since Cicero mentions Clodius immediately after Appius, he may have been referring to help which he was giving the latter in his canvass.

Clodius would have had little trouble in collecting the money from the restored Byzantines or Brogitarus. If the Byzantines refused to pay up, he could rely on his amicus, Piso,

the proconsular governor of Macedonia, ¹⁶³ to apply the appropriate pressure. Meanwhile, his brother Gaius, the proprætor ¹⁶⁴ of Asia, would be at hand to assist him should Brogitarus, the tetrarch of eastern Galatia, be recalcitrant in paying his ¹⁶⁵ debt.

The money acquired by the lucrative legatio does much to explain Clodius' financial solvency in the following years: he continued to maintain his operæ and a large bodyguard; he sustained the expenses of two campaigns for the prætorship in ¹⁶⁶ 54 and 53. The allegations which he made in the senate in late 53 may also be relevant. He alleged that Milo had borrowed too much money to finance his canvass for the consulship; he probably would not have made the allegation, if he himself were ¹⁶⁷ in debt. Besides this, in late 53 Clodius was able to afford the house on the Palatine which he bought from M. Scaurus for ¹⁶⁸ the princely sum of 14,800,000 sesterces. It was more expensive than the houses of either Cicero or Messalla: they had ¹⁶⁹ paid 3,500,000 and 13,400,000 respectively for their houses..

CHAPTER X
APPIUS' CONSULSHIP

In 55 Clodius' eldest brother, Appius, was elected to the consulship of 54 after his return from the propraetorian province of Sardinia. His election did not take place until late November or December of 55: in a letter to Atticus of November¹ 15 or 16, Cicero said, "comitiorum non nulla opinio est."

Appius probably had little trouble in being elected: his² reputation, the clientes built up by succeeding generations of Claudii Pulchri and the backing of Clodius would have brought him considerable electoral support. Besides this, he would have the backing of Caesar and the consuls Pompey and Crassus: when he went to Luca in April 56, he probably exchanged his support of the factio's acta in 55 for its support of his consular canvass.³

There was no love lost between Appius and one member of the factio: Crassus. In a senatorial meeting, probably held shortly after January 13, 54, he joined his colleague Domi-⁴tius Ahenobarbus and many ex-consuls in attacking Crassus. The only reference to the onslaught comes in Cicero's letter to

Crassus:

Quantum ad meum studium exstiterit dignitatis
 tuae vel tuendae vel etiam augendae, non dubi-
 to quin ad te omnes tui scripserint. non enim
 fuit aut mediocre aut obscurum aut eius modi
 quod silentio posset praeteriri. nam et cum
 consulibus et cum multis consularibus tanta
 contentione decertavi quanta numquam antea ulla
 in causa suscepique mihi perpetuam propugnatio-
 nem pro omnibus ornamentis tuis veterique nos-
 trae necessitudini iam diu debitum sed multa
 varietate temporum interruptum officium cumu-
 late reddidi.⁵

Here Cicero tells Crassus that he defended his position, but
 he does not specify the nature of the attack: he assumes that
 Crassus' other correspondents had pointed it out. As Shackle-
 ton Bailey notes, the senators probably took Crassus to task
 over two issues: the number of troops required for his expe-
 dition against the Parthians and the amount of money required
 for supplies.⁶ The senate customarily got up in arms over these
 two issues. Appius, therefore, along with Domitius and the ex-
 consuls would have been angered with Crassus for reasons of
 state.⁷ Moreover, Appius and Domitius would have especial rea-
 son for concern: Crassus' exactions may well have put a dent
 in their hopes to obtain generous expenses for their procon-
 sular commands: the fact that they did not secure any expenses
 may well be explained by the strain which the proconsular im-
 peria⁸ of Pompey and Crassus had put on the treasury.

Appius' opposition to Crassus did not signify that he had now broken off relations with the other members of the factio. In a letter of early June 54, Cicero indicates that Appius and Caesar were on good terms. While he discusses his application to Caesar for a military tribuneship on behalf of M. Curtius, Cicero mentions why he did not seek it from Domitius:

R M. Curtio tribunatum ab eo petivi (nam Domitius se derideri putasset, si esset a me rogatus; hoc enim est eius cottidianum, se ne tribunum militum quidem facere; etiam in senatu lusit Appium conlegam propterea isse ad Caesarem ut aliquem tribunatum auferret), sed in alterum annum; id et Curtius ita volebat.⁹

The passage reveals that Appius' friendly relations with Caesar antagonized Domitius, the arch enemy of the factio.¹⁰ It also shows that Appius, as in March 56, still consulted with Caesar: his visit would have had more items on the agenda than the military tribuneship referred to by Domitius.¹¹

Later in the year Appius' relations with Caesar may have suffered a temporary setback when he supported Pomptinus' triumph. Pomptinus had been praetor in 63 and had been propraeor of Transalpine Gaul from 62-60. As governor he suppressed an uprising by the Allobroges in 62-61. His victory was commemorated with supplicationes, supplicationes which Caesar's henchman Vatinius refused to recognize as valid. According to the Scholia Bobiensia, Caesar's friends afterwards prevented

Pomptinus from securing his triumph, but they do not say how they prevented it.¹² Cicero, in the In Pisonem, however, gives a tantalizingly vague glimpse of the method used to obstruct the triumph:

C. ipsi Pomptino, necessario meo, iam non est integrum; religionibus enim susceptis impeditur.¹³

Pomptinus waited patiently outside the pomerium until 54 when the praetor, Ser. Sulpicius Galba who had served under him in Gaul, adopted an expedient means to pass the enabling legislation: he passed it before dawn. Pomptinus celebrated his triumph on November 2 with the support of the consul Appius, Cicero and the majority of the praetors and tribunes. The praetors, M. Cato and Servilius, who had threatened to obstruct it, did not intervene. However, some of the the tribunes, angered by Galba's manner of bringing in the enabling legislation, attempted to block it: bloodshed resulted. The tribune Q. Mucius Scaevola, who had been violently opposed to the triumph, probably instigated the tribunician opposition.¹⁴

On the surface Appius' support of Pomptinus' triumph appears to be an anti-Caesarian action: Caesar had no doubt been behind the delay in Pomptinus' triumph: he simply did not want to share with anyone the glory emanating from the pacification of Gaul. Caesar, however, would not take too dim a view of Appius' action because the latter was fulfilling the officia im-

posed on him by his amicitia with Pomptinus. The evidence for the amicitia is provided by an incident of 50. In 51-50 Pomptinus was a legatus on Cicero's proconsular staff in Cilicia. However, he was compelled to leave for Rome on urgent family business in early 50. While he was at Ephesus waiting to board ship for home, he learnt of a commission which Appius wanted him to fulfill at Laodicea. Despite his haste to return home, Pomptinus went to Laodicea and performed what Appius had requested. The fact that Appius entrusted Pomptinus with the commission and that Pomptinus went well out of his way to do it, ¹⁵ indicates an amicitia between the two. The officia involved in that amicitia would have prompted Appius to support Pomptinus' triumph. Appius' action, therefore, was not a slight manufactured to undermine Caesar's dignitas. Cicero too had backed the triumph of Pomptinus, but his relations with Caesar did not ¹⁶ deteriorate: he was on good terms with Caesar throughout 54 and there is no indication that the latter felt slighted by his behaviour vis à vis Pomptinus. Moreover, Appius' amicitia with Pomptinus would have prompted him to take a different stand on the triumph than that of Cato, who was perhaps by ¹⁷ now his political ally.

The good relations between Appius and Caesar would not have lasted till the end of 54. It was probably in 54 that ¹⁸ Appius married one of his two daughters to M. Iunius Brutus.

The marriage meant that Appius was forging a new political connection with Cato, Brutus' uncle, and that he was abandoning his ties with Caesar, Cato's inimicus. The break in Appius' relations with Caesar is also pinpointed by Brutus' refusal to serve as quaestor on Caesar's staff in 53; instead, he served under Appius in Cilicia.¹⁹ Since the marriage constituted a break with Caesar, it would have taken place after early June when they were still on good terms with one another.²⁰ As is pointed out below, the match may have occurred as early as the latter part of June.²¹

Appius was also on good terms with Pompey in 54. For instance, Pompey was responsible for bringing about his reconciliation with Cicero before or during February 54.²² If Pompey were able to have Appius be reconciled with Cicero, then Appius must have been his amicus. Pompey's reason for the reconciliation was simple: he did not want his amici at odds with another; they would be of little help to him if they were constantly at each other's throats.

The stand, which Appius adopted towards Gabinius in February 54, also indicates his favourable disposition towards Pompey. Gabinius had restored Ptolemy Auletes as king of Egypt in 55. Pompey and Crassus as consuls had prevented any retaliatory measures being taken against him. However, in late January or early February 54 the tribunes promulgated detrimental

legislation dealing with Gabinus which was to have its rogatio on the dies comitiales which followed the Quirinalia on February 17.²³ Appius intended to obstruct the tribunes: in a letter to Quintus of February 13, Cicero says that Appius planned to void these dies comitiales by receiving the foreign deputations in the senate till the end of February:

Comitialibus diebus qui Quirinalia sequuntur Appius interpretatur non impediri se lege Pupia quo minus habeat senatum et, quod Gabinia sanctum sit, etiam cogi ex Kal. Febr. usque ad Kal. Mart. legatis senatum cottidie dare. Ita putantur detruendi comitia in mensem Martium. Sed tamen his comitialibus tribuni pl. de Gabinio se acturos esse dicunt.²⁴

There is no direct evidence on Appius' subsequent behaviour. The tribunes, however, did not pass any legislation against Gabinus: Cicero would not have failed to mention it in his letters which covered Gabinus' return in September 54 and his subsequent trials.²⁵ Appius, therefore, may have carried through his planned action.²⁶

Appius' efforts on behalf of Gabinus shows that he acted in the interests of Pompey: throughout 55 and 54, one of Pompey's overriding concerns had been to protect Gabinus from the political backlash unleashed by the restoration of Ptolemy.²⁷ The fact that Appius' stand on Gabinus was opposed to that of Domitius, Pompey's inimicus, also suggests that he was working

on Pompey's behalf. On February 14 Domitius, who had been deprived of the consulship of 55 by Pompey and Crassus,²⁸ probably sought a measure of revenge against the former when he presided over a senatorial meeting in which an absent Gabinius was fiercely abused by the publicani who collected the Syrian taxes. At the meeting Domitius clearly showed his attitude towards Gabinius:

Eodem igitur die Tyriis est senatus datus frequens; frequentes contra Syriaci publicani. Vehementer vexatus Gabinius; exagitati tamen a Domitio publicani quod eum essent cum equis persecuti. L. noster Lamia paulo ferocius, cum Domitius dixisset 'Vestra culpa haec acciderunt, equites Romani; dissolute enim iudicatis', 'Nos iudicamus; vos laudatis' inquit.²⁹

Appian's relations with Pompey took a turn for the worse in midsummer. Shortly before August 9, the consular candidate C. Memmius, at the instigation of Pompey, revealed a pact in the senate which he and his fellow candidate, Domitius Calvinus, had made with the consuls, Appius and Domitius Ahenobarbus, in order to secure their support in the upcoming elections.³⁰ Cicero describes the nature of the deal in a letter to Atticus:

Consules flagrant infamia quod C. Memmius candidatus pactionem in senatu recitavit quam ipse ~~(et) suus competitor Domitius cum consulibus fecisset~~, uti ambo HS. [XXXX] consulibus darent, si essent ipsi consules facti; nisi tris augures dedissent qui se adfuisse dicerent cum lex curiata

ferretur quae lata non esset, et duo consularis qui se dicerent in ornandis provinciis consularibus scribendo adfuisse cum omnino ne senatus quidem fuisset. haec pactio non verbis sed nominibus et perscriptionibus multorum <per> tabulas cum esse facta diceretur prolata a Memmio est nominibus indictis auctore Pompeio. hic Appius erat idem; nihil sane iacturae. corruerat alter et plane, inquam, iacebat. Memmius autem dirempta coitione invito Calvino plane refrixerat et eo magis nunc || quod iam intellegamus enuntiationem illam Memmi valde Caesari displicere.³¹

Here Cicero dismisses Memmius' disclosures as not being damaging to Appius' reputation: "hic Appius erat idem; nihil sane iacturae."³² Appius, however, suffered other types of damage: he did not obtain the lex curiata for the sortitio of the proconsular provinces; nor did he receive the expenses, the military and civil provisions required for the administration of a proconsular province.³³ He and Domitius Ahenobarbus had probably made the pact with the two candidates because they had failed to obtain the lex curiata and the expenses in the regular manner and because they could not hope to secure them in the remainder of their consulships. The reason for this state of affairs may have been the veto of a hostile tribune: it need only be remembered that Appius had planned to obstruct tribunician legislation earlier in the year; had he carried

through on his plans he would have made enemies among the tribunes, enemies who would have avenged the wrongs done them by interfering with Appius' hopes of a proconsular command. On the other hand, the exactions of Pompey and Crassus for their proconsular commands may have put a dent in the treasury with the result that the senate in 54 was unwilling to grant proconsular expenses to Appius or Domitius.

Appius was able to recover from the blow dealt by the revelations of Memmius. He took matters into his own hands: at the end of the year he went to Cilicia without a lex curiata. In doing so he was carrying out the threat which he had made earlier in the year. Cicero describes it in a letter to Lentulus Spinther:

Appius in sermonibus antea dictitabat, postea dixit etiam in senatu palam, sese, si licitum esset legem curiatam ferre, sortiturum esse cum collega provinciam; si curiata lex non esset, se paraturum cum collega tibi que successurum, legemque curiatam consuli ferri opus esse, necesse non esse;³⁴

He probably also went to Cilicia without expenses: in a letter to Atticus of November, Cicero had said:

Pomptinus vult a. d. IIII Non. Nov. triumphare. huic obviam Cato et Servilius praetor(es) ad portam et Q. Mucius tribunus. negant enim latum de imperio, et est latum hercule insulse. sed erit cum Pomptino Appius consul. Cato ta-

men adfirmat se vivo illum non triumphaturum.
 Id ego puto ut multa ad nihil ~~(um)~~ recasurum.
 Appius sine lege suo sumptu in Ciliciam cogi-
 tat.³⁵

The exposition of the pact would have displeased Appius in another way. Besides causing trouble about his proconsular command, it brought him unpopularity. Cicero refers to that unpopularity in the passage cited above when he says, "Consules flagrant infamia..."³⁶

Why did Pompey instigate Memmius' disclosures which undermined Appius' political position? Why did he get Memmius to reveal the deal between the consuls and the two consular candidates? Cicero gives a glimpse of Pompey's disposition towards the deal in July 54 before he had had it revealed by Memmius:

Memmii Caesaris omnes opes confirmant. cum eo Domitium consules iunxerunt, qua pactione epistulae committere non audeo. Pompeius fremit, queritur, Scauro studet; sed utrum fronte an mente dubitatur.³⁷

The pact, therefore, caused Pompey to grumble and growl. The reason for his discontent was very probably the exclusion from the pact of Scaurus, the consular candidate whom he was backing. The exclusion of Scaurus would also indicate that Pompey himself had not been brought in on the deal. To Pompey such an exclusion may have been an affront to his dignitas which gave him

all the more reason to grumble and growl. The pact, therefore, was clearly against his interests. Through Memmius' exposition Pompey avenged himself against the four principals in the pact who had excluded him and his candidate. In publicizing the pact Pompey probably sought yet another object: since he exposed the pact shortly before the elections, he was probably hoping to discredit the consular candidates involved in it with the populace and to enhance Scaurus' chances of election. Moreover, his efforts on behalf of Scaurus would have answered the doubts which Cicero had expressed to Atticus about the firmness of his support in a letter of July 27, 54: "...sed u-³⁸trum fronte aut mente dubitatur." However, later in the year, when Scaurus' candidacy was a lost cause, Pompey did abandon³⁹ him.⁴⁰

Pompey's action was probably also aimed specifically at Appius because he was then behind the court proceedings taken against Scaurus. Scaurus had been governor of Sardinia. After he returned to Rome in 55, he was indicted de repetundis on June 28 by P. Valerius Triarius; he was acquitted on September 2. Initially Appius had the proceedings launched against Scaurus because his brother Gaius Claudius Pulcher intended to stand as a patrician candidate for the consulship of 53. The successful prosecution of Scaurus, another patrician, would greatly enhance Gaius' chances of securing election as the sole

⁴⁴
 patrician consul. Afterwards, when Gaius' *propraetorian* com-
 mand of Asia was prorogued, Appius, nevertheless, continued
 to press the prosecution. As Gruen points out, he probably did
 so in order to enhance the electoral positions of the two can-
 didates with whom he and Domitius had made the pact. Scaurus'
⁴⁵
⁴⁶
 prosecution, in fact, may well have been part of the deal made
 with the consular candidates. In the pact, as it is described
 by Cicero in the passage cited above, only the obligations of
 the consular candidates are outlined; those of the consuls are
 not. However, it was very probably understood that the consuls
 would exert their influence to effect the election of the two
 consular candidates; what better way for the consuls to fulfill
 their part of the bargain than by eliminating Scaurus, one of
 the leading consular candidates?

Appius had at least two other reasons for taking action
 against Scaurus. Firstly, they were enemies. The source of
 their enmity is unknown: Cicero only makes a brief passing re-
 ference to the *inimicitia* in the *Pro Scauro*. Secondly, Appius
⁴⁷
 was acting on behalf of the Sardinians. As governor of Sardi-
 nia Scaurus had been extremely rapacious: he had recouped the
 money spent on his extravagant aedileship of 58 and he had to
 obtain funds for his upcoming canvass for the consulship. Ap-
⁴⁸
 pius, who had been governor of Sardinia in 56, acted as a good
~~patronus and took up the Sardinians' cause when they applied~~
⁴⁹
 to him for redress against Scaurus' extortions.

The above discussion presents the following sequence of events. Appius and his colleague, Domitius Ahenobarbus, made a pact with Memmius and Domitius Calvinus. Pompey was dissatisfied with the pact because it was against his interests: he and his candidate had been excluded from it. Consequently, he had the pact revealed to avenge himself and to increase Scaurus' chances of election by discrediting the consular candidates. He also sought to retaliate specifically against Appius for his attempt to eliminate Scaurus' candidacy by the prosecution under the lex de repetundis.

To what extent were Appius' activities deliberately anti-Pompeian? Appius, as it has been noted above, was motivated by reasons of political self-interest when he participated in the pact and played a role in Scaurus' prosecution. The conflict with Pompey's interests would have been their effect rather than the cause. Nevertheless, Appius must have been willing to risk that by-product. Why? There is only one known factor which can account for it: one of Appius' daughters was probably married to M. Iunius Brutus in 54.⁵⁰ Prosopographically, the marriage indicated a rapprochement with Cato, Brutus' uncle, and a décrochement from Pompey, Cato's inimicus. The marriage and the resulting alliance with Cato may have taken place at some point in June 54,⁵¹ before Appius had initiated Scaurus' prosecution or formed the pact. Having become estranged from Pompey

by the change in political affiliations. Appius would have been willing to proceed with activities which adversely affected Pompey in an indirect manner.

Appius' changed disposition towards Gabinus in 54 is another sign of his deteriorating relations with Pompey. According to Dio Cassius, he and his colleague Domitius, despite Pompey's protestations, ordered that the Sibylline books be read to discover if they contained any punishment for Gabinus who had violated the books' interdiction against using troops to restore the king of Egypt. When nothing was found in the Sibyl's books, the senate decreed that Gabinus should be accorded harsh treatment on his return. Dio is not specific about the timing of these events: he only mentions that they occurred before Gabinus' return to Italy.⁵² Nevertheless, a terminus ante quem and a terminus post quem can be obtained. Gabinus arrived on the outskirts of Rome on September 19. Given a leisurely trip to Rome, he would have arrived at Brundisium or Tarentum by late August or early September.⁵³ This period would be the terminus ante quem for Appius' attack which, according to Dio, occurred before Gabinus' arrival in Italy. Meanwhile, the terminus post quem for the attack on Gabinus would be February 54 when Appius had staunchly defended his position against tribunician legislation.⁵⁴

~~Appius' disposition towards Gabinus can be interpreted~~
in several ways. As has been noted, Gabinus' political safety

was of the utmost importance to Pompey. An attack on Gabinius amounted to an affront against Pompey. Pompey's exposition of the pact in early August may have induced Appius to make such an affront. This being the case, he would have acted against Gabinius some time after August 9, but before his arrival in Italy near the end of the month or in early September. The only objection to this interpretation is that Cicero in his letters covering the period does not refer to any of Appius' activities against Gabinius.⁵⁵ However, there are any number of factors which may have prevented him from mentioning it: he may have been too busy to refer to it;⁵⁶ he was out of town in the first part of September and would not have heard of it in time to put it in his letters;⁵⁷ he only gave the highlights of the three previous months to his correspondent Atticus.⁵⁸

Late August and early September was not the only time when Appius was disposed to adopt antagonistic behaviour towards Pompey by attacking Gabinius. As early as June his relations with Pompey were such that he was willing to initiate the prosecution of his consular candidate Scaurus.⁵⁹ By that time, to the detriment of Pompey, he had probably also formed the pact with his fellow consul and the two consular candidates.⁶⁰ He had probably been disposed to undertake those actions because of his new political connection with Cato. That same connection with Cato would have disposed him to make an attack

on Pompey's amicus Gabinus: the fact that he cooperated with Domitius Ahenobarbus, Cato's brother-in-law, who had attacked Gabinus in February, points to this state of affairs.

There was more to Appius' political behaviour towards Gabinus than petty motives evolving from prosopographically inspired partisan politics. Appius did not go out of his way to be at odds with Gabinus and Pompey simply because they were on the other side of the political fence. A more practical, useful, mundane object was probably at the root of his behaviour towards Gabinus: money. Dio Cassius alleges that Appius created trouble for Gabinus so that the latter would silence him with a bribe.⁶¹ Dio's allegation is not that far fetched. Gabinus had made a great deal of money through the restoration of Ptolemy Auletes in early 55.⁶² As a result he was able to provide Crassus, one of the richest Romans, with a bribe large enough to secure his acquiescence over Ptolemy's restoration.⁶³ It was probably after the receipt of this bribe that Crassus had made the volte face over the issue which Cicero refers to in a letter to Lentulus Spinther.⁶⁴ Appius, therefore, like Crassus was very probably angling for a very sizeable catch. Such behaviour would not be out of character for a man who formed a nefarious pact with the two consular candidates.

Appius' opposition to Gabinus was not limited to the reading of the Sibyl's verses. He also gave Gabinus a very

hard time after the latter's return to Rome. Gabinus arrived at the outskirts of Rome on September 19. There, he awaited permission to celebrate a triumph. However, when C. Alfius, the quaesitor de maiestate issued an edict ordering him to appear in his court at two o'clock on September 28, Gabinus crossed the pomerium on the night of September 27 in order to present himself before Alfius on the next day. However, he was prevented from appearing in court because of a demonstration of popular ill will towards him. Cicero describes the scene to his brother:

Quid praeterea? quid? etiam: Gabinus a.d IIII Kal. Oct. noctu in urbem introierat et hodie hora VIII, cum edicto C. Alfi de maiestate eum adesse oporteret, concursu magno et odio universi populi paene adflictus est. Nihil illo turpius; proximus est tamen Piso; itaque mirificum embolium cogito in secundum librum meorum temporum includere, dicentem Apollinem in concilio deorum qualis reditus duorum imperatorum futurus esset, quorum alter exercitum perdidisset, alter vendidisset.⁶⁶

On the following day, September 29, when Gabinus appeared in the senate for the first time, Appius heated things up even more.⁶⁷ When Gabinus wished to leave, he and his colleague Domitius detained him and subjected him to a blistering senatorial meeting. They made certain that Gabinus was raked over the coals, for they invited to the senate the publicani who

had allegedly suffered from his depredations during his pro-consular command of Syria.⁶⁸ At the meeting Gabinius was abused from all sides. For Cicero it provided an opportunity to repay Gabinius for his behaviour as consul in 58. He blazed out at Gabinius. His speech must have been especially memorable because it galvanized the senators and the publicani into expressing openly their seething disgust with Gabinius. Cicero described it in a letter to Quintus:

Homo undique atius et, cum a me maxime vulneraretur, non tulit et me trementi voce exsulem appellavit. Hic (o di! nihil umquam honorificentius nobis accidit) consurrexit senatus cum clamore ad unum sic ut ad corpus eius accederet; pari clamore atque impetu publicani.⁶⁹

Later in the same letter Cicero shows that Appius had not been merely content to subject Gabinius to a fuming senate:

qui quidem mirificus illo die, quod paene praeterii, fuit in Gabinium; accusavit maiestatis; nomina data, cum ille verbum nullum.⁷⁰

Appius, as it has been noted above, had his reasons for dealing harshly with Gabinius. However, there was another factor which may have prompted him to threaten prosecution: his reconciliation with Cicero. At the senatorial meeting Gabinius had called Cicero an exile. The taunt had provoked a hostile reaction by the senate and the publicani. Appius' outburst against Gabinius may have been a reaction to that taunt. Appius

would have been avenging the slight against his recent ami-
cus, Cicero: through his action he would have shown the
 strength of his reconciliation with Cicero.⁷¹

Appius and Cicero were reconciled by early February ⁷²54.
 In 63 they had been on good terms: Appius was one of the four
 senators chosen by Cicero to record the proceedings taken a-
 gainst the Catilinarian conspirators and as augur he declared⁷³
 the inauspicious results of his auguratio salutis to Cicero.
 Later, however, he became Cicero's political enemy after the
Bona Dea trial in 61 when he supported Clodius' activities a-
 gainst him.⁷⁴ Throughout 54, 53, 52, Appius and Cicero, for the
 most part, were well disposed to one another. Little is known
 of Appius' officia towards Cicero in these years. As noted a-
 bove, his attack on Gabinius in the senate may have been an
 indication of his friendship with Cicero. Besides this, there
 was Appius' dedication to Cicero of a treatise on augury af-
 ter the latter became augur in ⁷⁵53. Meanwhile, there is more
 information on Cicero's services to Appius in these years. In
 reciting his services to Appius, Cicero says that he had sup-
 ported Appius, as consul, with his votes in the senate; that
 he had fulfilled the commissions given to him at Puteoli by
 Appius when the latter left for his proconsular command of Ci-
 licia; that he had defended Appius' cause in the senate while
 he was absent in Cilicia; that he had supported the grant of⁷⁶
supplicationes to Appius for his victories in the province.

Cicero naturally passes over one minor incident in which he displayed unfriendly behaviour towards Appius. In early February of 54, when the senate was receiving the foreign deputations, Appius sought a senatus consultum for the renewal of certain honours which had been given to Antiochus, the king of Commagene, in Caesar's consulship. Cicero, however, was opposed to it: he ridiculed the renewal of the honours and made some biting remarks about Antiochus himself. Appius, fearing that Cicero might adopt the same disposition towards the other proposals which he wanted to put to the senate, appealed to Cicero personally and through Atticus. Afterwards, Cicero made no further trouble for Appius: he did not want to jeopardize the reconciliation.

CHAPTER XI

CLODIUS' QUEST FOR THE PRAETORSHIP

In 54 Clodius stood for the praetorship of 53. However, when the elections were delayed into the next year, he changed his plans and stood for the praetorship of 52: he wanted a full year as praetor.¹

In 54 Clodius was also busy in the law courts. For instance, he was one of Scaurus' defence attorneys when the latter was prosecuted de repetundis.² Meanwhile, at the trial of Procilius he played the role of prosecutor. His efforts were successful: on July 4, 54, Procilius was condemned: 28 guilty votes to 22 not guilty votes. Cicero describes the trial:

Nunc Romanas res accipe. a.d. III (1) Non Quint. Sufenas et Cato absoluti, Procilius condemnatus. ex quo intellectum est $\tau\pi\alpha\chi\alpha\pi\epsilon\iota\omicron\tau\alpha\gamma\iota\tau\alpha\varsigma$ ambitum, comitia, interregnum, maiestatem, totam denique rem publicam flocci non facere, patrem familias domi suae occidi nolle, neque tamen id ipsum abunde; nam absolverunt XXII, condemnarunt XXVIII. Publius sane diserto epilogo criminans mentis iudicium meverat. Hortalus in ea causa fuit cuius modi solet. nos verbum nullum; verita est enim pusilla, quae nunc laborat, ne animum Publi offenderet.³

His reasons for prosecuting Procilius are unknown: the identity of the latter is in doubt.⁴ However, from the above passage it can be seen that the relations between Clodius and Cicero were not in doubt: Cicero's willingness to interfere with Clodius' speech is a clear sign of the continuing inimicitia between the two. Obviously Cicero's reconciliation with Appius did little to alter his feeling towards the latter's brother. In a letter to Quintus of July 54, he foresaw no let-up in Clodius' animosity during 53:

in hac vero re hoc profecto quaeris, cuius modi illum annum qui sequitur exspectem. Plane aut tranquillum nobis aut certe munitissimum, quod cottidie domus, quod forum, quod theatri significationes declarant; nec laborant, quod mea conscientia copiarum nostrarum, quod Caesaris, quod Pompei gratiam tenemus, haec me ut confidam faciunt. Sin aliquis erumpet amentis hominis furor, omnia sunt ad eum frangendum expedita.⁵

Here Cicero sees Clodius as a potential source of danger for 53. His prospective praetorship of 53 was probably the reason for the concern. Cicero had suffered grievously at Clodius' hands when he held office in 58; he probably feared that Clodius might use the praetorship to the same end in 53. Such fears also explain why Cicero opted to take a legatio on Pompey's proconsular staff in 53; it was far safer to be out of Clodius' way; he had learnt his lesson when he refused Caesar's legatio in 58.⁶

Clodius was also on bad terms with Pompey. In April 56 he had been reconciled with Pompey. The reconciliation was still in force in February 55 when Pompey worked with his fellow-consul Crassus to obtain Clodius' legatio to Byzantium and Brogitarus. However, by September 19, 54, it had definitely come to an end. In a letter to Quintus of October 24, Cicero explained why he had not prosecuted Gabinius de maiestate:

Aiunt non nulli, ut Sallustius, me oportuisse accusare. His ego iudicibus committerem? quid essem, si me agente esset elapsus? Sed me alia moverunt: non putasset sibi Pompeius de illius salute sed de sua dignitate mecum esse certamen; in urbem introisset; ad inimicitias res venisset; cum Aesernino Samnite Pacideianus comparatus viderer; auriculam fortasse mordicus abstulisset; cum Clodio quidem certe redisset in gratiam. Ego vero meum consilium, si praesertim tu non improbas, vehementer adprobo.⁸

Pompey and Clodius must have broken off relations before Gabinius' prosecution de maiestate: Cicero says that had he undertaken the prosecution, Pompey would have retaliated by being reconciled with Clodius. Gabinius' potential prosecutors had put forth their names by September-19, the day on which he approached Rome. Cicero, had he envisaged legal action against him, would have also put forth his name by that time.⁹

The reconciliation had probably ended well before September 19. In a letter to Lentulus Spinther of December 54,

Cicero defended his recent political behaviour. In response to Lentulus' queries about the defence of Publius Vatinius in late August, Cicero stated that his action had been prompted by an urgent request of Caesar. He also informed Lentulus how he had justified his defence of a former enemy to the jury:

de Vatinio autem, primum, reditus intercesserat. in gratiam per Pompeium, statim ut ille praetor est factus, cum quidem ego eius petitionem gravissimis in senatu sententiis oppugnassem, neque tam illius laedendi causa quam defendendi atque ornandi Catonis; post autem Caesaris ut illum defenderem mira contentio est consecuta. cur autem laudarim, peto a te ut id a me neve in hoc reo neve in aliis requiras, ne tibi ego idem reponam cum veneris. tametsi possum vel absenti; recordare enim quibus laudationem ex ultimis terris miseris; nec hoc pertimueris, nam a me ipso laudantur et laudabuntur idem. sed tamen defendendi Vatini fuit etiam ille stimulus de quo in iudicio, cum illum defenderem, dixi me facere quiddam quod in 'Eunucho' parasitus suaderet militi:

'ubi nominabit Phaetiam, tu Pamphilam continuo. si quando illa dicet "Phaetiam intro mittamus commissatum", Pamphilam cantatum provocemus. si laudabit haec illius formam, tu huius contra. denique par pro pari referto, quod eam mordeat.' sic petivi a iudicibus ut, quoniam quidam nobiles homines et de me optime meriti nimis amarent inimicum meum meque inspectante saepe eum in se-

natu modo severe seducerent, modo familiariter
 atque hilare amplexarentur, quoniamque illi ha-
 berent suum Publium, darent mihi ipsi alium Pu-
 blium in quo possem illorum animos mediocriter
 laccessitus leviter repungere. neque solum dixi
 sed etiam saepe facio dis hominibusque appro-
 bantibus.¹¹

The Publius, whom Cicero depicts as being on good terms with
 the nobiles, is Publius Clodius: Cicero usually uses his prae-
nomen to refer to him in a derisory manner.¹² His close ties
 with the nobiles very probably meant that he was now estranged
 from Pompey: he would not be on good terms with both the nobi-
les and their opponent: in 56 the close ties, which he had
 with the nobiles before his reconciliation with Pompey, had
 resulted from his **stringent** opposition to the latter. Thus, by
 late August, the time of Vatinius' trial, Clodius and Pompey
 had very probably broken off relations. The end of the recon-
 ciliation probably occurred before that point: Cicero does not
 describe Clodius' realignment with the nobiles as a recent de-
 velopment.

There are several possible factors which may have brought
 about the break-up of the amicitia between Clodius and Pompey.
 Clodius' renewed ties with the nobiles would have been one
 such factor: he may have abandoned Pompey because he considered
 it politically advantageous to align himself with the nobiles.
 His brother Appius had probably been thinking along those lines

when his daughter married Brutus, the nephew of Cato who was influential with the nobiles. From a strictly prosopographical point of view, such a match would have prompted Clodius to gravitate towards the policies of Cato and his fellow nobiles. Clodius, however, was not usually a prosopographically operative entity: as Lucullus and Marcius Rex could testify, Clodius had unscrupulously used his relationships with them to his advantage and to their disadvantage.¹³ At best, the match between Brutus and Appius' daughter would have affected his political behaviour only slightly.

Pompey's behaviour as consul in 55 may have also brought about a break in the amicitia. In 55 the consuls had obtained considerable proconsular commands through the lex Trebonia. The extensive exactions in terms of money and manpower for these commands had been subject to widescale unpopularity. Had Clodius then acted as a good amicus and supported Pompey on the issue, he would have shared his unpopularity. Such a stand was anathema to a popularis like Clodius; it is far more likely that Clodius broke with Pompey and opposed his unpopular actions. This course of action would have also suited any renewed ties which he may have established by then with the nobiles: they too were opposed to the exactions.¹⁴

The differences between Clodius and Pompey were not irreconcilable; they were able to become reconciled anew by early

53. Although Cicero often refers to this reconciliation, he does not provide precise information on its timing. Plutarch, however, gives information which allows its timing to be approximately calculated. In his life of Cato minor, he says that after Clodius had again sided with Pompey, he delivered an abusive speech against Cato in which he attacked his administration of Cyprus and took him to task for his harsh treatment of Pompey. Plutarch then gives verbatim the speech with which Cato replied to the attack.¹⁵ In his reply Cato makes several remarks which allow his speech to be dated: the date of the speech in turn provides a terminus ante quem for the reconciliation between Clodius and Pompey which preceded. To begin with, Cato said that after his praetorship he had not taken a province. This places the speech after 54: Cato held his praetorship in that year.¹⁶ Cato goes on to say that Pompey had very recently lent a legion to Caesar. Pompey had lent the legion at the end of 54.¹⁷ If Cato could say that the loan had taken place very recently - Plutarch uses VUV - then he must have been speaking very early in 53, probably in January or February; this would also be the terminus ante quem for Clodius' reconciliation with Pompey.¹⁸

Clodius and Pompey had one common reason for the reconciliation: Milo's candidacy for the consulship. Previously, Pompey had been Milo's steadfast ally; he had cooperated with

him in having Cicero recalled; he had defended him at his trial in 56; he had helped him to secure the praetorship of 55.¹⁹

Something, however, had occurred to sour Pompey's amicitia with him. As a result he did not support his bid for the consulship of 52. Cicero describes the very strained relations between the two in a letter of November 54:

Nunc de Milone. Pompeius ei nihil tribuit et omnia Guttae dicitque se perfecturum ut in illum Caesar incumbat; hoc horret Milo nec iniuria et, si ille dictator factus sit, paene diffidit. Intercessionem dictaturae si iuverit manu et praesidio suo, Pompeium metuit inimicum; si non iuverit, timet ne per vim perferatur.²⁰

The main reason for Pompey's hostile disposition towards Milo was probably Milo himself. Pompey probably could not keep him under his thumb; he was too independent.²¹ Moreover, Milo's candidacy received the support of Pompey's antagonists, the nobiles.²² In the end Pompey threw his weight behind two candidates who were more reliable: his former quaestor, Hypsaeus, and his soon to be father-in-law, Metellus Scipio.²³ Pompey would have welcomed a reconciliation with Clodius: he would need his support to defeat Milo's candidacy and to get Hypsaeus and Scipio elected.²⁴

Clodius would have had the same reason for being reconciled with Pompey: it suited his political interests to pool his resources with Pompey and his two consular candidates in

order to have Milo defeated. After he gave up his canvass for the praetorship of 53 and stood for that of 52, he was faced with the prospect of holding office while his arch enemy Milo was consul. If Milo became consul, his plans for the praetorship would be ruined.²⁵ It was a wise course of action, therefore, to reconcile with Pompey and to back his two candidates. With friendly consuls in office, he would have more freedom of action. Moreover, as past experiences had shown, he might be able to receive complete freedom of action by making lucrative deals with the consuls.²⁶

Clodius had another reason for being reconciled with Pompey and to support his consular candidates. In return for his assistance he could count on receiving their combined electoral support when the praetorian elections were held in the Comitia Centuriata. Although Clodius had developed some control over the Concilium Plebis because of his influence with the urban plebs, such would not necessarily be the case in the Comitia Centuriata where the voting power of the richer classes prevailed.²⁷

The fact that Milo had a number of prominent senators as backers of his candidacy may have also played a role in Clodius' reconciliation with Pompey. Clodius had aligned himself with the nobiles and probably counted on their support of his candidacy. When some of them, Cato included, went over to Milo,

he would have been left out in the political and electoral cold, unless he bolstered his position by aligning himself with a powerful ally: Pompey. This being the case, he may have been the one to seek the reconciliation, not Pompey. Therefore, when Cicero, in the speech De Aere Alieno Milonis, alleged that Clodius had begged Pompey for the reconciliation, there may have been a grain of truth to his statement.

Clodius' relations with Caesar were not as fluctuating as those with Pompey. From 54 till his death in January 52, he remained on good terms with him. For instance, in 54 he was still communicating with Caesar. The correspondence had outraged Q. Cicero who was serving under Caesar in Gaul. In reply to one of Quintus' letters, which he received in early September 54, Cicero wrote:

Rescripsi epistulae maximae. Audi nunc de minuscule, in qua primum est de Clodi ad Caesarem litteris; in quo Caesaris consilium probo, quod tibi amantissime petenti veniam non dedit uti ullum ad illam furiam verbum rescriberet.³¹

Clodius' relations with Caesar went beyond correspondence. On September 20 Cicero received letters from Quintus and Caesar which had been dispatched on August 23. From the letters he learnt that Caesar, through his agent Oppius, was cooperating with Clodius in some matter. He had not approved of that co-operation.

Cum hanc iam epistulam complicarem, tabellarii a vobis venerunt a.d. XI Kal. septimo vicesimo die. O me sollicitum! quantum ego dolui in Caesaris suavissimis litteris! sed quo erant suavi-
ores, eo maiorem dolorem illius ille casus ad-
ferebat. Sed ad tuas venio litteras. Primum
tuam remansionem etiam atque etiam probo, prae-
sertim cum, ut scribis, cum Caesare communi-
caris. Oppium miror quicquam cum Publio; mihi
enim non placuerat.³²

Clodius' contacts with Caesar lend validity to the claim which he made in his canvass for the praetorship: he asserted that Caesar was behind his candidacy. Cicero mentions his claim in the Pro Milone:

obstabat eius cogitationibus nemo praeter Mi-
lonem; illum ipsum, qui obstare poterat, novo
reditu in gratiam quasi devinctum arbitrabatur;
Caesaris potentiam suam esse dicebat; bonorum
animos in meo casu contempserat: Milo unus ur-
gebat.³³

Besides amicitia, Caesar had another reason for backing Clo-
dius. In supporting Clodius' candidacy he was also supporting
his attempt to deprive Milo of the consulship; the last thing
which Caesar desired was the success of a candidate who had
optimate backers such as Cato. For this reason Cicero's advo-
cacy of Milo's candidacy received a very cool reception from
Caesar, and Pompey was certain that he could persuade the ^{lat-}for-
^{ter}mer to back his candidate.³⁴ The treatment which Caesar afforded

Milo in 49 also exhibits his disposition. In early 49 Caesar complained bitterly about those who had become exiles because of the laws which Pompey had passed as consul in 52. He complained particularly about Milo's fate and asserted that he would restore all those who had been condemned under the terms of Pompey's laws. However, when he did restore the exiles,³⁵ Milo was left out in the cold.

Little is known about Clodius' plans for his praetorship. The only direct references to the measures which he intended to carry out are made by his old time enemy Cicero in the Pro Milone and the fragmentary speech, De Aere Alieno Milonis, and by Asconius and the Scholia Bobiensia in their commentary on the speeches. Clodius had at least two measures in mind. The first concerned the distribution of the freedmen from the four urban tribes into all thirty-five tribes. In the Pro Milone Cicero says:

incidebantur iam domi leges, quae nos servis
nostris addicerent;³⁶

In his commentary on this line, Asconius says that Cicero was referring to the redistribution of freedmen among the tribes:

Significasse iam puto nos fuisse inter leges
P. Clodi quas ferre proposuerat eam quoque
qua libertini, qui non plus quam in IIII tri-
bulus suffragium ferebant, possent in rusticis
quoque tribulus, quae propriae ingenuorum sunt,
ferre.³⁷

Cicero refers to the same proposal in the De Aere Alieno Milonis when he states:

- Nec suffragia dabis, quibus ostentas.³⁸

On this the Scholia Bobiensia comment:

...Comminatur et se denuntiat actionibus eius aduersarium futurum neque in legationem cum Pompeio discessurum. Laturus autem de suffragio libertinorum P. Clodius legem videbatur, ut et ipsi cum (ingenuis) in censum aequaliter pervenirent.³⁹

Asconius and the Scholia Bobiensia have extracted the factual basis that lay in Cicero's exaggerated account of Clodius' planned measures: Clodius intended to redistribute the freedmen among the tribes. By redistributing the freedmen among the thirty-five tribes, he would increase their voting power in the tribal assembly. As a result of the favour granted them, the freedmen would regard him as an unofficial patronus: they would support him with their new-found voting power. Clodius would then have overwhelming influence in the assembly.⁴⁰

Cicero also contends in the Pro Milone that Clodius intended to bring about a widescale manumission program whereby he would become patron to large numbers of new freedmen:

Oppressisset omnia, possideret, teneret; lege nova quae est inventa apud eum cum reliquis Clodianis, servos nostros libertos suos fecisset;⁴¹

He had probably been referring to the same measure in De Aere Alieno Milonis:

Nec vero illam nefariam libertatem.⁴²

The comment of the Scholia Bobiensia on the remark is fragmentary:

...legis mentio fit in oratione quae habita est pro Milone atque per....: 'de nostrum omnium - non audeo totum dicere: videre quid exitii lex habitura fuerit cuius periculosa etiam reprehensio est.' Opinio erat legem...in praetura...um...serv...liarum.⁴³

The last part of the commentary of the Scholia Bobiensia has been reconstructed to signify that Cicero was speaking of a rumoured law by which Clodius intended to manumit slaves during his praetorship:

legem laturum in praetura Clodius de servis liberandis...familiarum.⁴⁴

It is unlikely that Clodius ever dreamed of implementing the radical type of legislation mentioned by Cicero. His remarks on the planned measure would be no more than partisan exaggerations designed to discredit Clodius. However, since Cicero made the statements to audiences, which knew as much about Clodius' program as he did, they must have contained a factual basis which gave them some verisimilitude.⁴⁵ Cicero would have blown out of proportion some facet of Clodius' program which had to do with the manumission of slaves. Perhaps Clodius

had simply intended to facilitate the manumission of slaves. He may have intended to pass such a measure in conjunction with the one discussed above. A slave would find it easier to obtain his freedom. Then, upon being manumitted his voting power would not be hampered by his allocation to one of the four urban tribes. In this way Clodius would secure a steady stream of new voters who would regard him favourably because of what he had done for them. Clodius' interest in the slaves was not new. Previously, he had pursued a policy designed to win over the slave population; in 58 he had probably renewed the celebration of their ludi, he had speeded up manumission in some cases by means of his lex frumentaria, he had recruited slaves into his gangs; in 56 he had allowed the slaves to attend his ludi Megalenses. Therefore, it is not out of the question that as praetor he would win them over by taking further steps in their interests such as the facilitation of manumission and the improvement of their electoral power upon manumission.

One question about Clodius' legislative program needs to be answered: how did he propose to enact it? As a praetor, Clodius' legislative capabilities would be severely restricted. Although he had the right to propose legislation, that right could be effectively nullified by the consul who had the power to dismiss the comitia assembled by a praetor. However, he could easily circumvent the limitation by using the services

of a friendly tribune to pass his measures: with the backing of his operae, a tribune would have little difficulty in implementing them. Clodius had made a practice of befriending tribunes and using their services: Aelius Ligus (tr. pl. 58), Q. Numerius Rufus (tr. pl. 57), Sextus Atilius Serranus (tr. pl. 57) and C. Porcius Cato (tr. pl. 56) could all testify to this aspect of his political behaviour.⁴⁷ He would have resorted to the same practice in 52. As subsequent events show, there was at least one tribune in 53-52 on whom Clodius could have relied for the implementation of his legislative program: Q. Pompeius Rufus, his familiaris and an ardent advocate of his brand of politics.⁴⁸ Moreover, Cicero in the Pro Milone, was probably indicating that Clodius was intent on using a tribune to enact his legislative program when he called that program a "munus atque instrumentum tribunatus":

Exhibe, quaeso, Sexte Cloeli, exhibe librarium illud legum vestrarum, quod te aiunt eripuisse e domo et ex mediis armis turbaque nocturna tamquam Palladium sustulisse, ut praeclarum videlicet munus atque instrumentum tribunatus ad aliquem, si nactus esses, qui tuo arbitrio tribunatum gereret,...

Milo's prospective consulship was the only obstacle to Clodius' plans for the praetorship. In order to secure Milo's defeat Clodius joined forces with the former's two rival candidates: P. Plautus Hypsaeus and Q. Metellus Scipio. Milo,

however, was no pushover. His candidacy had widescale backing.
 His supporters included Cicero,⁵¹ Cato,⁵² Caelius,⁵³ Cumanus, Q. Servilius Caepio, Faustus Sulla his brother-in-law, Q. Hortensius, M. Marcellus, M. Calidius and a number of other senators. In a letter to Curio of 53 Cicero pointed out Milo's other supporters: the youth, the boni, those with vote getting ability and the vulgus:

habemus haec omnia, bonorum studium conciliatum ex tribunatu propter nostram, ut spero te intellegere, causam, vulgi ac multitudinis propter magnificentiam munerum liberalitatemque naturae, iuventutis et gratiosorum in suffragiis studia propter ipsius excellentem in eo genere vel gratiam vel diligentiam, nostram suffragationem, si minus potentem, at probatam tamen et iustam et debitam et propterea fortasse etiam gratiosam.⁵⁴

From this passage it is seen that Milo had made inroads on Clodius' traditional source of support: the urban plebs. He had brought this about by spending no less than three patrimonies on games and shows.⁵⁵ According to Cicero, he acted more like an aedile than a consular candidate. In a letter of November 23, 54, Cicero said that he had already given "ludos magnificentissimos".⁵⁶ Then, in December 54 he wrote that Milo was preparing to give other games at a cost of one million sesterces.⁵⁷ Later, at some point in 53, Cicero informed Curio that there was no one at Rome who was not sick and tired of games.⁵⁸

Milo's candidacy was so strong that he was certain of election. Clodius attempted to give Hypsaeus and Scipio the opportunity of improving their electoral positions by using his operae to break up the comitia which the consuls Messalla and Domitius Calvinus convoked after their own elections in July 59. During the disruptions even the consuls were injured. Cicero refers to this in his speech De Aere Alieno Milonis when he says, "Lapidibus consules ceciderunt."⁶⁰ They had probably fallen as a result of Clodius' use of lapidatio and other violent tactics to break up the comitia. Cicero describes his tactics in the Pro Milone:

Quid? Comitibus in campo quotiens potestas fuit:
Cum ille in saepta ruisset, gladios destringendos,
lapides iaciendos curavisset, dein subito-
vultu Milonis perterritus fugeret ad Tiberim,
vos et omnes boni vota faceretis, ut Miloni uti
virtute sua liberet.⁶¹

The senate met regularly to deal with the disruptions of the comitia.⁶² At one senatorial meeting there was a bitter confrontation between Clodius and Cicero. Clodius alleged that Milo was responsible for much of the prevalent political and electoral chaos and that once elected he would hold the republic to ransom because of the large amounts of money which he had borrowed to finance his consular candidacy. Cicero, who was also attacked in the speech, responded with a venomous, invective-charged harangue in which he belittled Clodius' per-

sonal and political conduct. In his speech Cicero impugned Clodius' fides in being reconciled with Pompey; he attacked his legislative plans; he poked fun at the deferment of his candidacy to 53. Nor did he forget to take him to task for his ill spent youth, his alleged incest, his presence at the Bona Dea ceremony, his alleged bribery at the Bona Dea trial, and his enactment of the lex de exsilio Ciceronis. Moreover, Cicero did not hold back when it came to making scurrilous remarks on Clodius' character: he pictured him as a timorous, shamefully shameless, man who behaved like a woman and who could not win court cases because of his bad reputation. Afterwards, Cicero added insult to injury when he circulated the speech.

The disruption of the comitia was only part of the widespread violence being perpetrated by the candidates during the electoral campaign. Clodius and the consular candidates each had a huge number of operae at their disposal. Milo, for instance, on the day of Clodius' death, was allegedly travelling with a force of three hundred armed men. Their forces included men who were prepared to do serious battle. Milo's forces included two well known gladiators, Leo and Eudamus. Clodius, meanwhile, had bolstered his operae by enlisting rough and ready recruits from the Apennines. The operae of Milo were often engaged in fights with those of Clodius, Hypsaeus and Scipio. The fights were more than mere scuffles. In one engagement, which

took place when the forces of Milo and Hypsæus met by chance on the Via Sacra, many of Milo's men were despatched to the shades.⁸⁰

Both Cicero and Clodius had narrow escapes from violent deaths during the campaign. In the Pro Milone Cicero describes his close encounter with death:

Itaque quando illius postea sica illa, quam a Catilina acceperat, conquievit? Haec intentata nobis est, huic ego vos obici pro me non sum passus, haec insidiata Pompeio est, haec istam Appiam, monumentum sui nominis, nece Papirii cruentavit, haec eadem longo intervallo conversa rursus est in me; nuper quidem, ut scitis, me ad regiam paene confecit.⁸¹

The incident must have occurred at some point during 53 or in 52 before Clodius' death on January 18. Cicero, who was speaking on April 8, 52, says that it had taken place recently.⁸² Moreover, it was still fresh in the jury's recollection, for Cicero does not elaborate upon it: he assumes that the jury was aware of it when he says, "ut scitis".⁸³ Perhaps it was an encounter similar to that of November 11, 57, when Clodius and his men made a surprise attack on Cicero and his bodyguard as they descended the Via Sacra.⁸⁴

Clodius needed little incentive to make an attempt on Cicero's life: since the time of the Bona Dea trial Cicero had fueled Clodius' hatred by his deeds and his invective-laden

speeches. Had Cicero's De Aere Alieno Milonis and its subsequent publication preceded the attempt on Cicero's life, then it would have probably helped to provoke the attempt: it would only have aggravated Clodius' daemonic hatred of him. Clodius, however, would have also been influenced by a political motive: in eliminating Cicero he would be disposing of one of the most energetic opponents to his candidacy; at the same time he would⁸⁵ deprive Milo of his most zealous vote-getting supporter.

Clodius also had a close call when Mark Antony chased him through the forum. Cicero describes the scene in the Philippics:

Venisti e Gallia ad quaesturam petendam. Aude dicere te prius ad parentem tuam venisse quam ad me. Acceperam iam ante Caesaris litteras, ut mihi satis fieri paterer a te; itaque ne loqui quidem sum te passus de gratia. Postea sum cultus a te, tu a me observatus in petitione quaesturae. Quo quidem tempore P. Clodium adprobante populo Romano in foro es conatus occidere, cumque eam rem tua sponte conarere, non impulsu meo, tamen ita praedicabas, te non existimare, nisi illum interfecisses, umquam mihi pro tuis in me iniuriis satis esse facturum.⁸⁶

Thus, at the request of Caesar, Cicero buried his differences with Antony and assisted him in his candidacy. Antony then sought to make amends for his wrongs against Cicero by slaying

Clodius. Inimicitia with Clodius would have also motivated Antony. Cicero gives a tantalizingly brief account of the break up of the amicitia between Clodius and Antony:

Intimus erat in tribunatu Clodio, qui sua erga me beneficia commemorat; eius omnium incendi-
diorum fax, cuius etiam domi iam tum quiddam
molitus est. Quid dicam, ipse optime intellegit.⁸⁷

What Antony had tried to do in Clodius' house can only be guessed at. A reasonable guess would be that Antony then and there initiated a relationship with his future wife Fulvia.

From a political point of view Antony had no reason to desire Clodius' elimination. Both he and Clodius were aligned in varying degrees with Caesar. Moreover, he would not have been acting against Clodius because of any ties with Milo: he prosecuted the latter when he was brought to trial for Clodius' murder.⁸⁸

During the campaign the candidates practised large scale bribery.⁸⁹ Asconius gives an idea of the amounts involved when he describes the bribes which Milo distributed upon his return to Rome after Clodius' murder on January 18, 52:

Itaque Milo, quem opinio fuerat ivisse in voluntarium exsilium, invidia adversariorum recreatus nocte ea redierat Romam qua incensa erat curia. Petebatque nihil deterritus consulum; aperte quoque tributim in singulos milia assium dederat.⁹⁰

Clodius also bribed the electorate. Cicero points to it in the Pro Milone when he describes Clodius' activities in the electoral campaign.

Occurrebat ei mancam ac debilem praetoram futuram suam consule Milone, eum porro summo consensu populi Romani consulem fieri videbat. Contulit se ad eius competitores, sed ita, totam ut petitionem ipse solus etiam invitis illis gubernaret, tota ut comitia suis, ut dictitabat, umeris sustineret; convocabat tribus, se interponebat, Collinam novam dilectu perditissimorum civium conscribebat; quanto ille plura miscebat, tanto hic magis in dies convalescebat.⁹¹

Here Cicero says that Clodius had placed himself in charge of the canvass of Milo's rivals. Then he goes on to say: "convocabat...conscribebat". This sentence would have been used to exemplify how Clodius had acted on behalf of Milo's rivals: Cicero makes a general statement on Clodius' control of the candidates' canvass; then, he gives a specific instance of that control. This factor is pointed to when he says: "se interponebat,"; Clodius is pictured as an agent working on behalf of the candidates, However, how did he fulfill that task? "convocabat tribus, se interponebat." He assembled the tribes and intervened with them in some way. Bribery would be the only reason for Clodius to meddle with the tribes during an election campaign. Cicero, who was condemning Clodius' campaigning techniques, would have deliberately exaggerated his dea-

lings with the tribes by saying that he had summoned them; his dealings with the tribes would have been no different than those of Milo which are described in the passage quoted above. Clodius, therefore, would have been acting as the consular candidates' bribery agent. How would he manage to effect such a complex task? Cicero gives the answer when he says: "Collinam novam dilectu perditissimorum civium conscribebat". If it is conjectured that the Colline tribe was notorious for being bribed, metaphorically the phrase would signify that Clodius, by making a selection of the worst citizens, had formed a new tribe, a tribe of divisores which would permit him to bribe the populace effectively. ⁹² If the phrase is taken literally, it means that Clodius was enlisting a new tribe like the Colline by selecting the worst citizens. But what would that have to do with campaigning techniques, Cicero's subject in the above passage? By itself, the phrase, "convocabat...conscribebat," can perhaps be construed as an indirect reference to the legislation on the slaves and freedmen which Clodius had probably intended to implement in his praetorship. However, such an interpretation can only make sense if the terms "nova" and "dilectu" are concretely and completely explained. ⁹³

At some point in the latter part of 53 the senate attempted to curb the violence and the bribery employed by the candidates. It sought to dampen their overzealous strivings for

office by making the consulship and praetorship less attractive, less lucrative magistracies: it decreed that praetors and consuls would henceforth receive promagisterial commands five years after giving up office: in this way successful candidates could not expect to defray the expenses of their canvass by means of the provincial command which they received after they stepped out of office. The senate's decree did little to check the disorders caused by the candidates' rivalry. As a result of the disorders, the consuls Domitius Calvinus and Messalla were unable to hold any comitia. The year 52 opened with only the tribunes in office. Milo was still favoured to win the consulship, but the comitia were still being put off by his opponents. In early January 52 Pompey, in conjunction with the tribune T. Munatius Plancus Bursa, delayed the comitia by preventing the senate ~~from convoking~~ the patricians who would choose an interrex: the successor of the first interrex was empowered to hold the comitia.

On January 18 Milo instigated a deed, the dire results of which dealt a deadly blow to his candidacy; on that day he fulfilled the prophecy which Cicero had uttered more than once: he had Clodius put to death. On January 18 Clodius was returning to Rome after he had spoken to the decuriones at Aricia. He was accompanied by the eques C. Causinius Schola and two prominent plebeians, P. Pomponius and C. Clodius. As he went

down the Via Appia with his men, he encountered Milo, who, with his wife Fausta his friend M. Fufius and his bodyguard, was on his way to his home town of Lanuvium where as dictator he was to appoint a flamen. As the two forces passed one another near Bovillae, two of Milo's gladiators, Eudamus and Birria, who were at the rear of their column, started a scuffle with several of Clodius' slaves. When Clodius turned to see what was happening, Birria threw a javelin which struck him in the shoulder. A pitched battle ensued. Clodius' forces were mauled: they were allegedly outnumbered, 300 to 26. After receiving two other wounds Clodius was taken to a tavern in Bovillae. What followed showed that Milo then decided a dead Clodius was much preferable to a vengeful, crazed, wounded Clodius. Under the leadership of his lieutenant, M. Saufeius, his men stormed the tavern, killed the inn keeper and dragged a skulking Clodius out into the Appian way. There, they ushered him to the shades with a torrent of blows. Clodius' mutilated remains were left on the Appian way: his remaining men had fled for their lives.

According to Cicero in the Pro Milone, Clodius had conspired to kill Milo on January 18. He cites a number of circumstances with which he attempts to support the contention. For instance, he says that Clodius was travelling without his wife or his comites Graeculi, that he was travelling on horse-

back and that he had left Rome on the previous day. He weaves these circumstances into what he considers a tightly knit conspiracy by Clodius against Milo. He even invents a few circumstances. For example, he places Clodius' forces on high ground near his villa that he might represent them as having a tactical advantage over Milo and his men. Asconius and other sources, however, contradict his scenario. They agree that the battle on the Via Appia resulted from a chance encounter between Clodius and Milo.

The threats, which Clodius had made against Milo shortly before the encounter on the Via Appia, are the only seemingly valid non-circumstantial evidence which Cicero had for backing his contention about Clodius' conspiracy. However, it is evidence which he carefully seasons for the jury. In Pro Milone 44 he says that the battle on the Via Appia took place precisely on the day^{on} which Clodius had intended to kill Milo:

Sed quid ego argumentor? Quid plura disputo?
Te, Q. Petili, appello, optimum et fortissimum civem; te, M. Cato, testor, quos mihi divina quaedam sors dedit iudices: vos ex M. Favonio audistis Clodium sibi dixisse et audistis vivo Clodio perituum Milonem triduo: post diem tertium gesta res est quam dixerat. Cum ille non dubitarit aperire quid cogitaret, vos potestis dubitare quid fecerit?

Earlier in the Pro Milone, however, Cicero had himself hesitated about the timing of the threat:

Res erat minime obscura: etenim palam dicti-
 tabat consulatum Miloni eripi non posse, vitam
 posse. Significavit hoc saepe in senatu, dixit
 in contione; quin etiam M. Favonio, fortissimo
 viro, quaerenti, ex eo qua spe fureret Milone vi-
 vo, respondit triduo illum aut summum quadriduo
 esse perituum; quam vocem eius ad hunc M. Ca-
 tonem statim Favonius detulit.¹⁰¹

Cicero, therefore, had no hard evidence to support his alle-
 gations of conspiracy. Moreover, he conveniently overlooks one
 piece of information: Milo's force had allegedly outnumbered
 Clodius', 300 to 26.¹⁰² Had Clodius, whom Cicero portrays as
 knowing Milo's comings and goings, been conspiring to ambush
 his enemy, then surely he would have been better prepared to
 fall on the unsuspecting, unprepared Milo.¹⁰³ Therefore, Asco-
 nius and the other sources are closer to the truth when they
 say that the battle on the Appian way resulted from a chance
 encounter.¹⁰⁴ At Milo's trial in April of 52, even the prosecu-
 tion argued in that vein. Through the testimony of C. Causinius
 Schola,¹⁰⁵ and C. Clodius, it presented the following sequence
 of events. On January 18 Clodius returned from Aricia to his
 Alban villa where he intended to stay for the rest of the day.
 However, when a messenger arrived and announced that the ar-
 chitect Cyrus had died, he immediately set out for Rome; on the
 previous day he and Cicero had witnessed the dying Cyrus' will.
 On his way to Rome he stopped off at Pompey's Alban villa. When

he found out that Pompey was not at home, he continued his journey down the Appian way until he met Milo and his fate.¹⁰⁶

The senator Sextus Teidius, who was on his way to Rome, came upon the grisly scene of Clodius' murder. He had Clodius' remains placed on his litter. Sextus himself did not accompany the litter; he prudently returned to his point of departure. At dusk Clodius' corpse reached Rome where it was placed in the forecourt of his new home on the Palatine. There, it was surrounded by large numbers of slaves and plebeians. The widow Fulvia viewed the body and showed herself as adept at handling a crowd as her dead husband:

Augebat autem facti invidiam uxor Clodi Fulvia quae cum effusa lamentatione vulnera eius ostendebat.¹⁰⁷

On the morning of January 19, Clodius' corpse was surrounded by an even greater crowd of his supporters. The tribunes Q. Pompeius Rufus and T. Munatius Plancus Bursa appeared on the scene and orchestrated the crowd's behaviour. At their instigation the crowd carried Clodius' body to the forum where it was placed on the Rostra. With his naked, butchered body before them on the Rostra, the tribunes roused the crowd against Milo and voiced their support for his rival candidates. The tribunes very probably urged their audience to do what followed. Under the leadership of Sextus Cloelius, the crowd took Clodius' corpse to the senate house where it placed it on an

improvised pyre of benches, tables, tribunals and books from the nearby booksellers' stalls. In the ensuing fire both Clodius and the senate house went up in smoke.¹⁰⁸

Appian is not sure why Clodius was burnt in the senate house. He thinks it was done either to honour Clodius as a senator or to show that the senate was responsible for Clodius' death.¹⁰⁹ Cicero is not so uncertain. He gives an explanation in the Pro Milone at the end of his description of Cloelius' inflammatory deed:

An ille praetor, ille vero consul, si modo haec templa atque ipsa moenia stare eo vivo tam diu et consulatum eius exspectare potuissent, ille denique vivus mali nihil fecisset, qui mortuus uno ex suis satellitibus Sex. Cloelio duce curiam incenderit? Quo quid miserius, quid acerbius, quid luctuosius vidimus? Templum sanctitatis, amplitudinis, mentis, consilii publici, caput urbis, aram sociorum, portum omnium gentium, sedem ab universo populo concessam uni ordini, inflammari, exscindi, funestari, neque id fieri a multitudine imperita, quamquam esset miserum id ipsum, sed ab uno? Qui cum tantum ausus sit ustor pro mortuo, quid signifer pro vivo non esset ausus? In curiam potissimum abiecit, ut eam mortuus incenderet, quam vivus everterat.¹¹⁰

Cloelius and the tribunes, who had directed the crowd's activities during the funeral, no doubt orchestrated its subsequent

111
behaviour. The crowd, which very probably included 'Clodius'
112
operae, then attacked the houses of Milo and the interrex Le-
113
pidus. Milo's house, however, was well defended: those who at-
tacked it were dispersed by showers of arrows. Afterwards, the
crowd took the consuls' fasces from the temple of Libitina and
bore them to Milo's rival candidates, Hypsaeus and Scipio. From
there it brought them to Pompey's gardens where it hailed him
114
as dictator and as consul.

After Clodius' funeral the tribunes Rufus, Plancus and
Q. Sallustius Crispus conducted a campaign in which they sought
to have Milo eliminated from the political scene for the mur-
der of Clodius. Vengeance was probably the main reason behind
the campaign. Each tribune probably had sufficiently close
ties with Clodius that would prompt a desire for vengeance.

No conclusive evidence exists for Sallust's ties with
Clodius. However, there are two factors which can be taken to
indicate such ties. Firstly, Sallust would have been on very
bad terms with Milo. Milo had found him in flagrante delicto
with his wife Fausta. As punishment he had him beaten with
thongs and he refused to release him until a ransom was paid.
115
The resulting inimicitia would have prompted Sallust to sup-
port Clodius' anti-Milonian canvass in 53-52.

Secondly, there are references from Cicero and Asconius
to the contio of a pro-Clodian tribune. In the Pro Milone Ci-

cero says that on January 18 Clodius had not attended a contio which was summoned by a tribune in his pay:

...atque ita profectus est, ut contionem turbulentam, in qua eius furor desideratus est, quae illo ipso die habita est, relinqueret, quam nisi obire facinoris locum tempusque voluisset, numquam reliquisset.¹¹⁶

...vidit necesse esse Miloni proficisci Ianuvium illo ipso quo est profectus die: itaque antevertit. At quo die? Quo, ut ante dixi, fuit insanissima contio ab ipsius mercenario tribuno plebis concitata: quem diem ille, quam contionem, quos clamores, nisi ad cogitatum facinus, approperaret, numquam reliquisset.¹¹⁷

In his commentary on the second passage Asconius points to two contiones held on January 18, one by Sallust and one by Rufus:

Hoc significat eo die quo Clodius occisus est contionatum esse mercennarium eius tribunum plebis. Sunt autem contionati eo die, ut ex Actis apparet, C. Sallustius et Q. Pompeius, utrique et inimici Milonis et satis inquieti. Sed videtur mihi Q. Pompeium significare; nam eius seditiosior fuit ^Contio.¹¹⁸

Here Asconius presumes that Rufus' contio was the one mentioned by Cicero because it was the more seditious of the two. Cicero, however, was not necessarily referring to a more seditious contio; he was referring to a contio which sadly missed Clodius' furor. He may very well have been indicating the less tumult-

tuous of the two contiones: that of Sallust. Sallust, therefore, may well have been Clodius' "mercenario tribuno plebis".

There is more conclusive proof for the alignment of Plancus and Rufus with Clodius: their control of the latter's supporters. On the day of Clodius' funeral both Plancus and Rufus took charge of the Clodiana multitudo and in conjunction with Sextus Cloelius, Clodius' right hand man, orchestrated its behaviour. The crowd of Clodian supporters must have been willing to follow the directions of the tribunes; and Cloelius must have been disposed to cooperate with them, because they had had close ties with Clodius and had worked on his behalf. Moreover, after the day of the funeral these tribunes probably continued to lead the Clodian gangs and supporters. Plancus and Rufus, judging from their control of the Clodiani on January 19, would have been those tribunes, who, with their armed followers, broke up the contio which the tribune Caelius gave to Milo a few days after his return to Rome on the evening of the nineteenth; at that contio Milo sought to dispell the unpopularity, which the murder of Clodius had brought him, by claiming that the latter had tried to ambush him on January 18. Plancus was still in control of the Clodiani in April when Milo was being tried for Clodius' murder. On the day before the jurors were to vote, Plancus held a contio in which he urged

his audience of Clodiani to be present at the court on the next day so that they might press the jurors to condemn Clodius' murderer. On the next day, the shops were closed: The followers of Clodius were out in force.¹²⁰

For Rufus there is additional evidence on his ties with Clodius. Asconius specifically describes him as a familiaris of Clodius and as an ardent follower of his brand of politics:

Q. Pompeius Rufus tribunus plebis, qui fuerat familiarissimus omnium P. Clodio et sectam illam sequi se palam profitebatur...¹²¹

The tribunes, therefore, had ties with Clodius which would have disposed them to avenge his death by the campaign which they initiated against Milo in order to have him eliminated from the political scene. It is highly improbable that they took steps against Milo merely to bolster the candidacies of his rivals, Hypsaeus and Scipio: their activities against Milo continued after Pompey was appointed sole consul in the intercalary month and until Milo was found guilty of Clodius' murder. Any boost in popularity, which Hypsaeus and Scipio received from the anti-Milonian propaganda of the tribunes, was a by-product of that propaganda, not its direct objective.

From January 19 the tribunes pursued a course of action which culminated in Milo's condemnation for Clodius' murder on April 8, 52. On January 19 Rufus and Plancus incited the people against Milo: they had probably instigated the attack on his

house and prompted the Clodian multitude to bring the fascēs to Milo's rivals for the consulship. A few days later Rufus and Plancus would have been the tribunes who broke up the contio which Caelius gave to Milo to diminish the unpopularity caused by Clodius' demise. Besides this, Rufus, Plancus and Sallust held daily contiones in which they vilified Milo's murder of Clodius. Asconius describes one contio where Rufus was out for Milo's blood:

Q. Pompeius Rufus tribunus plebis, qui fuerat familiarissimus omnium P. Clodio et sectam illam sequi se palam profitebatur, dixerat in contione paucis post diebus quam Clodius erat occisus: 'Milo dedit quem in curia cremaretis: dabit quem in Capitolio sepeliatis.' In eadem contione idem dixerat - habuit enim eam a. d. VIII Kal. Febr. - cum Milo pridie, id est VIIII Kal. Febr., venire ad Pompeium in hortos eius voluisset. Pompeium ei per hominem propinquum misisse nuntium ne ad se veniret.¹²²

The three tribunes were probably responsible for an incident that prompted the senate to issue the s. c. u. in the intercalary month. According to the sources, the disturbances created by the rivalry among the consular candidates caused the senate to order the proconsul Pompey, the interrex and the¹²³ tribunes to see that the republic suffered no harm. However, one specific incident probably triggered the senatus consultum: the popa Licinius alleged that some of Milo's slaves had ad-

mitted to being involved in a plot on Pompey's life. Cicero describes the whole episode in the Pro Milone:

Laudabam equidē incredibilem diligentiam Cn. Pompeii, sed dicam, ut sentio, iudices: nimis multa audire coguntur neque aliter facere possunt ei, quibus tota commissa est res publica. Quin etiam fuit audiendus popa Licinius nescio qui de circū maximo, servos Milonis apud se ebrios factos sibi confessos esse de interficiendo Pompeio coniurasse, dein postea se gladio percussum esse ab uno de illis, ne indicaret: Pompeio in hortos nuntiavit; arcessor in primis; de amicorum sententia rem defert ad senatum. Non poteram in illius mei patriaeque custodis tanta suspitione non metu exanimari, sed mirabar tamen credi popae, confessionem servorum audiri, volnus in latere, quod acutum videretur, pro ictu gladiatoris probari. Verum, ut intellego, cavebat magis Pompeius quam timebat, non ea solum, quae timenda erant, sed omnia, ne vos aliquid timeretis.¹²⁴

Here Cicero does not say how the senate reacted to Licinius' information: his object in presenting the story about Licinius was to illustrate the type of rumours which were used to arouse Pompey's suspicions about Milo. Asconius, however, discloses the senate's reaction when he describes a contio at which Sallust, Rufus and Munatius questioned Pompey about Licinius:

Prius etiam quam Pompeius ter consul crearetur,

tres tribuni, Q. Pompeius Rufus, C. Sallustius Crispus, T. Munatius Plancus, cum cotidianis contionibus suis magnam invidiam Miloni propter occisum Clodium excitarent, produxerant ad populum Cn. Pompeium et ab eo quaesierant num ad eum delatum esset illius quoque rei indicium, suae vitae insidiari Milonem. Responderat Pompeius: Licinium quendam de plebe sacrificulum qui solitus esset familias purgare ad se detulisse servos quosdam Milonis itemque libertos comparatos esse ad caedem suam, nomina quoque servorum edidisse; se ad Milonem misisse utrum in potestate sua haberet; a Milone responsum esse, ex iis servis quos nominasset partim neminem se umquam habuisse, partim manumisisse; dein, cum Licinium apud se haberet,..... Lucium quendam de plebe ad corrumpendum indicem venisse: quae re cognita in vincla eum publica esse coniectum.¹²⁵

After he describes the contio Asconius says:

Decreverat enim senatus ut cum interrege et tribunis plebis Pompeius daret operam ne quid res publica detrimenti caperet. Ob has suspiciones Pompeius in superioribus hortis se continuerat;¹²⁶

Here he explains that Pompey could put Lucius in chains because the senate issued the s. c. u. At the same time he is explaining the outcome of the Licinian affair: it prompted the senate to issue the s. c. u. which allowed Pompey to take that action. He would not be indicating that Pompey was able to act by vir-

tue of a s. c. u. which existed before the advent of the Licinian affair; after he mentions that the senate declared the s. c. u., Asconius points out that following the Licinian affair Pompey implemented the ultimate decree:

deinde ex S. C. dilectu per Italiam habito
cum redisset, venientem ad se Milonem unum
omnium non admiserat.¹²⁷

Since Asconius places the decree's implementation after the Licinian affair by using "deinde", then it is understood that it was issued after the affair. The point can be made even more convincingly. Asconius could not have been saying that Pompey had the powers emanating from the s. c. u. before the Licinian affair and he only implemented its terms after the affair. In his introduction to the Pro Milone Asconius says that Pompey implemented the terms of the s. c. u. immediately after its enactment:

Itaque primo factum erat S. C. ut interrex et
tribuni plebis et Cn. Pompeius, qui pro cos.
ad urbem erat, viderent ne quid detrimenti res
publica caperet, dilectus autem Pompeius tota
Italia haberet. Qui cum summa celeritate prae-
sidium comparasset...¹²⁸

On this basis there was simply no time for the Licinian affair to have intervened between the decree and Pompey's implementation of it. Nor would there have been time for him to take off from the implementation of the s. c. u. to appear in public and to answer the questions put to him by the three tribunes.

Licinius' story about the plot on Pompey's life was almost certainly a fabrication. Its validity can be impugned in a number of ways. Firstly, one would expect that Milo would be more careful, if he were planning to assassinate Pompey. Surely he would have kept his co-conspirators, especially slaves prone to wine-bibbing, in tow until he had perpetrated the deed. Secondly, when Pompey sent Milo the list of slaves, whom Licinius alleged to be in on the plot, Milo sent word that he had freed some of them and that he had never heard of the others: his claim would have been valid enough to bear any investigation launched by Pompey. Thirdly, Milo had nothing to gain from Pompey's assassination: such a measure was self-defeating. The mere news of the alleged plot had caused the senate to issue the s. c. u. The murder of Pompey would have achieved the same result. However, there would have been one difference: Pompey's numerous supporters would have been out for Milo's blood. The three reasons presented above are only Ciceronian, sophistic reasons which can be put forth to explain Licinius' story as fabrication. However, there is one very hard fact which undoubtedly makes the story a fairy tale. Pompey's assassination was virtually an impossible task. Pompey had been so terrified of Milo as it was that he had withdrawn to the safe confines of his horti where as proconsul he provided himself with a military bodyguard. Such precautions

would have made any plotting by Milo an impractical project. He would have required an army to kill Pompey, not a motley crew of alcoholic slaves who could not hold their tongues!

Cicero was right to dismiss Licinius' tale as a fabrication designed to aggravate Pompey's deep-seated suspicions about Milo. Pompey's suspicions were indeed aggravated. Asconius describes his behaviour towards Milo after the incident:

Item cum senatus in porticu Pompeii haberetur
ut Pompeius posset interesse, unum eum excuti
prius quam in senatum intraret iusserat.¹³⁰

Why did Licinius' incredible allegations bring about a harsh reaction by Pompey? The reason was simple. In the past he had been very fearful of attempts on his life and very credulous about allegations of such attempts. In 59 Caesar and Vatinius had played on these aspects of Pompey's character to alienate him from the optimates. One Vettius had allegedly plotted to kill Pompey. After he had been caught and imprisoned, Caesar and Vatinius coached him (on the next day he responded to their questioning on the conspiracy to murder Pompey by naming prominent optimates as his co-conspirators.¹³¹

The assassination of Pompey had seemingly not been the original purpose of Vettius' conspiracy. Rather it had been a conspiracy designed to instill in Pompey the fear of a conspiracy on his life. In a letter to Atticus, Cicero points to the original intention of Vettius' conspiracy:

res erat in ea opinione ut putarent id esse actum ut Vettius in foro cum pugione et item servi eius comprehenderentur cum telis, deinde ille se diceret indicaturum. idque ita actum esset nisi Curiones rem ante ad Pompeium detulissent.¹³²

The conspiracy, therefore, was very probably intended to frighten Pompey and to take advantage of that fright; the capture of Vettius and the others would frighten Pompey; then when Vettius confessed, Pompey would become alienated from those whom he named.

The instigator of Vettius' original plot can only be guessed at. The modus operandi, however, bears a striking resemblance to an incident which took place in 58. That incident involved the seemingly foiled assassination attempt made on Pompey by one of Clodius' slaves. Clodius had sent one of his slaves to the senate house where he waited for Pompey's entrance. When Pompey came to the senate, a dagger suddenly fell from the slave. The slave was hustled off to the consul Gabinius to whom he confessed his alleged mission. Pompey became so terrified that he locked himself in his house; later in the year he remained away from Rome by visiting his country estates. Clodius, therefore, had orchestrated an assassination "attempt" which attained its object: to frighten Pompey away from the political scene for the remainder of the year.¹³³

Earlier in the year Pompey's excessive fear of assassination had played a role in his abandonment of Cicero. When Vq-

tinus, Piso and others informed him that Cicero was plotting against him, he believed them. Subsequently he turned a cold shoulder to Cicero when the latter sought his support against Clodius' legislation.¹³⁴

In 56 Pompey's suspicious nature was again exploited. On February 6, 56, Clodius had openly insinuated at a contio that he was working on Crassus' behalf against Pompey. Two days later, Pompey after he had been violently abused in the senate on February 6, 7, 8, came to the conclusion that Crassus was hatching plots against his life.¹³⁵

It is not surprising that Pompey was very seriously influenced by Licinius' story. It is highly improbable that Licinius was acting on his own. He came forward as a witness and made allegations about Milo's slaves, but the sources do not record that he was given any rewards for services rendered. His profit had probably come from those who instigated him to make the allegations. Several factors point to the tribunes Rufus, Sallust and Plancus as the instigators of Licinius' story. As a result of their enmity for Milo, the three tribunes conducted a concerted campaign to eliminate him which started before the Licinian affair and lasted till April 8 when he was convicted for Clodius' murder under the lex Pompeia. That same enmity may have prompted them to include the Licinian affair as part of their anti-Milonian activity. Through the Licinian

affair they would have further alienated Pompey from Milo and perhaps provided the spark that would prompt him to take drastic action against the latter. At any rate they would have fabricated a nice piece of malicious propaganda for use against Milo. Pompey's fear of Milo had already been part of the propaganda which the tribune Rufus had used in at least one of his contiones to discredit Milo.¹³⁶ By sending in Licinius, the tribunes would have been able to follow up this aspect of their campaign against Milo. It comes as no surprise that the three tribunes squeezed out every ounce of propaganda from the Licinian affair by questioning Pompey about it ⁺ what must have been a mass rally.¹³⁷

Plancus' later behaviour points at least to his direct complicity in the Licinian affair. After Pompey as sole consul had promulgated his law on Clodius' death and other violent events on the twenty-eight day of the intercalary month, Plancus alleged that Milo was preparing a force for his elimination. Pompey then became so fearful of Milo's plots on his life that he increased his military bodyguard. Asconius describes Plancus' allegations and Pompey's reaction:

Plancus autem infestissime perstitit, atque in Ciceronem quoque multitudinem instigavit. Pompeio autem suspectum faciebat Milonem, ad perniciem eius comparari vim vociferatus: Pompeiusque ob ea saepius querebatur sibi quoque fieri insidias et id palam, ac maiore manu se armabat.¹³⁸

The same basic modus operandi had been used in the Licinian affair. The suspicious Pompey was alienated from Milo when Licinius alleged that Milo had been plotting against him. If Plancus later used this Clodian tactic against Milo, then it is probable that he had also resorted to it earlier through the agency of Licinius. He would have used Licinius as an agent to give more verisimilitude to the charges against Milo; any information provided by himself might be deemed partisan allegations. Later, his own allegations would have carried more weight because Pompey had become more gun shy.

The two other tribunes, Sallust and Rufus, would have cooperated with Plancus in instigating the Licinian affair: throughout the campaign against Milo the three tribunes acted jointly. For instance, they held joint contiones and they cooperated closely in initiating and supporting the lex Pompeia¹³⁹ in the intercalary month. Therefore, it is likely that Rufus and Sallust pooled their resources with Plancus when it came to discrediting Milo through Licinius' revelations.

The three tribunes also played a key role in the promulgation and successful rogatio of the lex Pompeia which brought about Milo's exile. By the twenty-fifth day of the intercalary month the consular elections had not yet taken place. On that day Bibulus, with the backing of Cato, moved that the situation be resolved through the appointment of Pompey as sole con-

¹⁴⁰
sul. On the twenty-eighth day of the intercalary month Pompey promulgated two bills ex senatus consulto:

Deinde post diem tertium de legibus novis ferendis rettulit: duas ex S. C. promulgavit, alteram de vi qua nominatim caedem in Appia via factam et incendium curiae et domum M. Lepidi interregis oppugnatam comprehendit, alteram de ambitu: poena graviore et forma iudiciorum breviori. Utraque enim lex prius testes dari, deinde uno die atque eodem et ab accusatore et a reo perorari iubebat; ita ut duae horae accusatori, tres reo darentur.¹⁴¹

Pompey's laws contained other clauses: the presidents of the special courts were to be chosen from ex-consuls; Pompey was to appoint the jurors; there were to be no character witnesses¹⁴² or written eulogies for the defendants. Through the first of these two laws Pompey virtually secured Milo's elimination. Under the existing court procedures Milo would have been able to secure acquittal by means of prominent character witnesses and by the oratorical skills of any number of Rome's best advocates.¹⁴³ In the special courts set up by Pompey's law, these procedures were not allowed: his courts were set up with a view to dwelling on the facts. Under such circumstances, Milo¹⁴⁴ was a doomed man: he had admitted to the murder of Clodius. It is little wonder that the tribune Caelius opposed Pompey's laws on the grounds that they were privilegia aimed at Milo.¹⁴⁵

The actions of the tribunes Sallust, Plancus and of Q. Fufius, Clodius' old amicus, paved the way for Pompey to elimi-

nate Milo through his law on Clodius' death and the violent events which followed. Without their manipulation of the senate, he could not have directed a privilegium ex senatus consulto¹⁴⁶ against an enemy whom he still very much feared. On the twenty-eighth day of the intercalary month, Q. Hortensius proposed in the senate that special precedence be accorded under the existing laws for dealing with Clodius' murder, the burning of the senate house, and the attack on Lepidus' house. The senate, the majority of which sympathized with Milo's murder of Clodius, would have approved Hortensius' motion had it not been for the intervention of the senator Q. Fufius, who as tribune in 61 had helped Clodius to secure a regular trial in the Bona Dea affair. Fufius called for a separate vote on each of the two proposals inherent in Hortensius' motion: that the events be given special precedence; that they be dealt with under the existing legal framework. A separate vote was then taken: the first proposal was approved, but the tribunes Sallust and Plancus vetoed the second one. In a contio on the following day Plancus described how he and his confederates had manipulated the senate to their advantage:

Cum Hortensius dixisset ut extra ordinem quaereretur apud quaesitorem; existimaret futurum ut, cum pusillum dedisset dulcedinis, largiter acerbitatis devorarent: adversus hominem ingeniosum nostro ingenio usi sumus; invenimus Fufium, qui diceret 'Divide'; reliquae parti sententiae ego et Sallustius intercessimus.¹⁴⁷

Fufius and the tribunes, therefore; were responsible for a decree enacting that special precedence be given to Clodius' death. In doing this they allowed Pompey on the same day to promulgate his law against Milo ex senatus consulto. If Pompey had not been provided with such a senatus consultum, it is doubtful that he would have promulgated his law: the senate, which had been ready to approve Hortensius' twofold motion, had been dead set against such a measure; Pompey, who had been appointed consul by the senate only three days before, probably would not have endangered his new ties with that body by promulgating, on his own initiative, a law to which it was opposed. However, the ingenuity of the tribunes and Fufius made it possible to overcome that obstacle: they presented to him on a goldenⁿ platter the senatus consultum with which he could uphold his law aimed at Milo. Thus, the tribunes had created a state of affairs which they very well knew would prompt Pompey to react in an expected manner against Milo. They had acted and Pompey reacted as expected to the state of affairs caused by their action; they initiated an historical process¹⁴⁸ with which they knew that Pompey would comply. In other words, Pompey had been set up by the Clodians!

Plancus, Rufus and Sallust were the most zealous proponents of Pompey's rogatio. They held numerous contiones in which they pushed the bill by arousing the people against Milo.

At one contio the tribune Plancus produced M. Aemilius Philemon, a freedman of M. Lepidus. According to Philemon, he and his companions had come upon the scene when Clodius was being murdered; Milo then kidnapped him and his friends and incarcerated them in his villa for two months. At another contio Plancus and Rufus produced Galata, a triumvir capitalis, who testified that he had seized one of Milo's slaves in the act of murder. The tribunes also created anti-Milonian propaganda by stoking Pompey's fear of Milo. Plancus alleged that Milo was preparing a force to destroy Pompey. Pompey then openly complained, in much the same way as he had complained about Crassus in February 56, that plots were being laid against his life and he increased his military bodyguard. The tribunes undoubtedly used Pompey's timorous behaviour to good effect against Milo in their contiones. They also sought to have the bill passed by raising ill will against Milo's most zealous advocate, Cicero. Plancus, who was especially hostile to him, daily asserted at his rallies that Milo had committed the murder, but Cicero had prompted it. He and Rufus even threatened to take legal action against Cicero. The basis for the action was probably his alleged complicity in Clodius' murder. The efforts of Plancus, Sallust and Rufus were successful: Pompey's bill was passed ¹⁴⁹ into law on March 16, 52. Immediately afterwards, L. Domitius Ahenobarbus was elected as quaesitor

of the new court set up by the law, and Pompey chose the jury. Milo was then charged with the murder of Clodius by the two sons of Clodius' brother, C. Claudius, who were named Appius
 150
 Claudius.

At the trial, which started on April 4, the two Appii were joined in the prosecution by M. Antonius and P. Valerius Nepos. Cicero and M. Marcellus acted for the defence. Since the court procedure was designed to put the spotlight on the facts, the prosecution had little trouble in proving that Milo had had Clodius killed; even Cicero, who argued that the deed was justifiable, freely admitted it. During the trial Clodius' supporters made themselves heard and feared. On the first day of the trial the Clodians created such a tumult, when M. Marcellus began to examine the prosecution witness C. Causinius Schola, that he took refuge on Domitius' tribunal. Domitius then obtained a protective force for the court from Pompey. Clodius's partisans were not deterred. On April 7, the day before the prosecution and defence made their closing statements and the jury voted, Plancus held a contio at which he urged his audience to be at court on the next day to intimidate the jurors into condemning Milo for Clodius' murder. His audience contained many who were loyal to Clodius' memory. On the next day the shops were closed and the people thronged to the trial. After the prosecution and the defence had presented their

closing statements, the jury voted: thirty-eight votes for condemnation, twelve for acquittal. Milo, after being convicted under the lex de vi, the lex Pompeia de ambitu and the lex de sodaliciis, went into exile at Massilia where he engaged himself in Grecian gastronomic delights.¹⁵¹ Thus, the anti-Milonian campaign of Plancus, Sallustius and Rufus was crowned with success: Clodius' spirit could now rest in blissful peace: he stood delightfully avenged: Plancus, Rufus and Sallust had learnt well from their political mentor.

Milo's friends also sought vengeance. After he had gone into exile a series of successful prosecutions was launched against Clodius' former supporters: their ranks were decimated. Sex. Cloelius, the leader of the Clodian operae, was condemned under the lex Pompeia for his role in the burning of the senate house. Later, the two tribunes who had been the most energetic in the campaign against Milo, Rufus and Plancus, were condemned on the same charge at the expiry of their tribunates. Their fate had a certain irony to it: they were convicted under the terms of a law which they had zealously promoted. Both were prosecuted by close associates of Milo: Rufus by Caelius, Plancus by Cicero. Although Caelius had no problems with his case against Rufus, Cicero encountered some difficulty in his prosecution of Plancus. None other than Pompey supported Plancus: he even intervened on Plancus' behalf by sending a written eu-

logy to court; such a procedure contravened the clause of his own law against panegyrics on the defendant's behalf. Cato who was one of the jurors refused to listen; Plancus later included him as one of the five jurors whom he was permitted to challenge before the defence and prosecution made their closing statements.¹⁵² Pompey's support probably resulted at least partly from Plancus' behaviour immediately after the promulgation of the two bills on the twenty-eighth day of the intercalary month. Plancus had then warned him of Milo's alleged plots on his life. Pompey would have been requiting that service at the trial. It is doubtful that his other anti-Milonian activities were responsible: Rufus, who had been just as zealous in his activities against Milo was completely ignored at his trial by Pompey. There is also the very slim possibility that ties existed between Plancus and Pompey before that time. The existence of these ties hinges on the interpretation of the following passage where Asconius depicts the actions resorted to by Pompey and Plancus to delay the elections in January 52:

...cum Milo quam primum comitia confici vellet confideretque cum bonorum studiis, quod obsistebat Clodio, tum etiam populo propter effusas largitiones impensasque ludorum scaenicorum ac gladiatorii muneris maximas, in quas tria patrimonia effudisse eum Cicero significat; competitors eius trahere vellent, ideoque Pompeius gener Scipionis et T. Munatius tribunus plebis referri ad senatum de patriciis convocandis qui interregem proderent non essent passi, cum interregem prodere stata res esset...¹⁵³

Asconius' statement is extremely vague. He does not say if Pompey and Plancus were cooperating or how they prevented the senate from convoking the patricians. However, it can be conjectured that Plancus was using his power of veto against the senate and that he was siding with Pompey in delaying the election. Such Political behaviour may or may not have resulted from ties with Pompey. He may have just as equally been acting at the instigation of Clodius who pursued a policy of delaying the elections until his two consular candidates, Hypsaeus and Scipio, stood a chance to defeat Milo.¹⁵⁴ Despite Pompey's intervention, Plancus was convicted, to the extreme gratification of Cicero who had been bitterly attacked by him in 52. He wrote to his friend Marius that Plancus' conviction had given him more pleasure than Clodius' death:

credas mihi velim magis me iudicio hoc quam
~~morte~~ inimici laetatum.¹⁵⁵

CHAPTER XII

APPIUS' PROCONSULSHIP AND CENSORSHIP

Appius was proconsul of Cilicia from 53 till July 31, 51, when he was replaced by C¹icero. Besides Cilicia proper, the territory under his jurisdiction included Lycia, Pamphylia, Pisidia, Isauria, Lycaonia, Cyprus, Laodicea, Apamea and Synnada.² Appius would have had a considerable proconsular staff to assist him in administering the province. However, only a few members of his staff are known. In 53 his son-in-law Marcus Brutus served under him as quaestor for a brief spell.³ Meanwhile, L. Clodius was his praefectus fabrum whereas C. Fabius Vergilianus and probably Q. Mucius Scaevola were his legates.⁴ C. Flaccus the son of Cicero's client in 59 and perhaps M. Octavius also served under Appius, but not as legates.⁵ Two other individuals assisted the governor Appius, but it is unknown if they did so in an official capacity. They were L. Lucilius and Q. Servilius, who helped him by delivering letters and messages on his behalf.⁶ Appius was also aided in that capacity by his freedmen Cilix and Phania.⁷

In either 53 or 52 Appius earned the title of imperator. Like his predecessor Lentulus Spinther, he was probably victo-

8

rious over the Cilician highlanders. For his victory the senate rewarded him with supplicationes. On his return to Rome, Appius sought to enhance his military prestige by seeking a triumph. However, he had to abandon all hopes in that direction when he crossed the pomerium to defend himself against the charges which had been laid by Dolabella.⁹

Appius was able to accomplish his military feats despite the weak forces at his disposal. He would have commanded the same two skeleton legions which his successor disposed of in 51-50. Nothing occurred to increase the number of legions under the command of Cicero. In 51 Appius, through his legate C. Fabius Vergilianus, warned Cicero of the need for reinforcements. Cicero could not get them: the consul Sulpicius was opposed to any recruitment. The senate, however, took two measures about the military strength in Cilicia: it instructed Appius not to allow any discharges; it authorized Cicero to strengthenth his forces by the addition of auxiliaries from the provincials.¹⁰

Although he had been saluted as imperator by the troops, Appius was not the best of generals. In 51 his troops mutinied: he had not been paying them. Cicero points to the cause of the mutiny in a letter to Atticus of July 27, 51:

interea tamen haec quae mihi quae vellem adferebantur, primum otium Parthicum, dein confectae pactiones publicanorum, postremo seditio militum sedata ab Appio stipendiumque eis usque ad Id. Quint. persolutum.¹¹

Appius may have pacified the troops, but he did not reestablish any firm control over them. When Cicero entered the province in August 51, the army was in a sad state. He later wrote to Cato:

cumque ante adventum meum seditione quadam exercitus esset dissipatus, quinque cohortes sine legato, sine tribuno militum, denique etiam sine centurione ullo apud Philomelium consedissent, reliquus exercitus esset in Lycaonia, M. Anneio legato imperavi ut eas quinque cohortis ad reliquum exercitum duceret coactoque in unum locum exercitu castra in Lycaonia apud Iconium faceret.¹²

Here Cicero fails to mention three cohorts whose whereabouts were unknown to him. On August 29, 51, he wrote to Appius:

illud, vere dicam, me movet, in tanta militum paucitate abesse tris cohortis, quae sint plenissimae, nec me scire ubi sint. molestissime autem fero quod te ubi visurus sim nescio; eo-que ad te tardius scripsi quod cottidie te ipsum exspectabam, cum interea ne litteras quidem ullas accepi quae me docerent quid ageres aut ubi te visurus essem. itaque virum fortem mihi in primis probatum, D. Antonium, praefectum evocatorum, misi ad te, cui si tibi videretur, cohortis traderes, ut, dum tempus anni esset idoneum, aliquid negoti gerere possem.¹³

A portion of Appius' forces was stationed in Cyprus.

However, their presence there had nothing to do with the mu-

tiny. In 56 representatives from the senate at Salamis had gone to Rome where they borrowed a large amount of money from their patron Brutus: he would have become a patron of Salamis in the years 58-56 when he assisted his uncle Cato in the annexation of Cyprus under the lex Clodia. The amount borrowed is unknown, but it is known that in late 51 the Salaminians allegedly owed two hundred talents on a bond with a monthly interest rate of four per cent. When the Salaminians were unable to repay the loan in early 51, Appius acted the part of a good father-in-law towards Brutus. He appointed M. Scaptius, Brutus' financial agent, as prefect and gave him command of a squadron of horse. With this force Scaptius went to Cyprus where he attempted to collect the debt by coercion: he blockaded the senate in the senate house with the result that five of its members were starved to death. The siege was only lifted when Cicero became governor: he was informed of Scaptius' siege of the Salaminian senate when he was at Ephesus from July 22 to July 26. On July 31, the day before he entered his proconsulship, he sent a letter ordering Scaptius and his cavalry out of Cyprus. Scaptius reluctantly obeyed.¹⁴

The financial burdens, which Appius imposed on the provincials, probably lay behind the Salaminians' inability to pay Brutus' financial agent. Appius pursued a policy whereby he required the richer communities in the province to pay him

so that he would not quarter the army in their territories. The Cypriots alone had paid annually two hundred talents for the exemption. Under Cicero's proconsulship the removal of the imposition allowed the Salaminians to acquire the funds needed to pay off their debt.¹⁵ Appius also resorted to other large-scale impositions which brought the province to a state of near economic collapse. For instance, he strained the provincial economy by the large-scale requisitions in kind which he needed to maintain himself and his staff.¹⁶ In order to comply with his demands the provincials had to resort to a number of fund raising measures: poll taxes, door taxes and the sale of taxes.¹⁷ Cicero gives an indirect pointer to the amounts which Appius required when he speaks of the taxes which king Ariobarzanes of Cappadocia was levelling on his kingdom:

tricesimo quoque die talenta Attica XXXIII,
et hoc ex tributis; nec id satis efficitur
in usuram menstruam. sed Gnaeus noster cle-
menter id fert; sorte caret, usura nec ea so-
lida contentus est. alii neque solvit cuiquam
nec potest solvere; nullum enim aerarium, nul-
lum vectigal habet. Appi instituto tributa im-
perat; ea vix in faenus Pompei quod satis sit
efficiunt.¹⁸

In another letter, of August 14, Cicero, who entered his province on July 31, gives Atticus his candid verdict of the effects which Appius' impositions had had on the province:

Maxima expectatione in perditam et plane ever-
sam in perpetuum provinciam nos venisse scito
prid. Kal. Sext., moratos triduum Laodiceae,
triduum Apameae, totidem dies Synnadē. ^aaudivi-
mus nihil aliud nisi imperata ἐπικεφάλια sol-
vere non posse, ὧν ας omnium venditas, civita-
tum gemitus, ploratus, monstra quaedam non ho-
minis sed ferae nescio cuius immanis, quid quae-
ris? taedet omnino eos vitae. levantur tamen
miserae civitates quod nullus fit sumptus in
nos neque in legatos neque in quaestorem ne-
que in quemquam. scito non modo nos faenum aut
quod e lege Iulia dari solet non accipere sed
ne ligna quidem, nec praeter quattuor lectos
et tectum quemquam accipere quicquam, multis
locis ne tectum quidem et in tabernaculo ma-
nere plerumque. itaque incredibilem in modum
concursus fiunt ex agris, ex vicis, ex oppi-
dis omnibus; et omnes mehercule etiam adventu
nostro reviviscunt, iustitia, abstinētia, cle-
mentia tui Ciceronis cognita, quae opiniones
omnium superavit.¹⁹

Appius had a different view of his proconsulship. Before lea-
ving the province he saw to it that the provincial communities
send⁺ deputations to Rome where they would extol the virtues of
his proconsular administration to the senate. The communities
involved had to decree large amounts to meet the expenses in-
curred by their delegations; according to Cicero, the provin-
cials could ill afford the added expenditure.²⁰
²¹

On his departure from the province Appius left the pro-
vincials in Aprias with a financial burden of another kind. At

Appias, a town in the conventus of Synnada, the local government imposed a special tax to finance the construction of a building which was probably an honorific monument to Appius: the fact that he was later extremely dissatisfied by the delay of its construction clearly points in this direction. Moreover, he had probably pushed the local government into exacting the additional taxes for its construction. The government would certainly not have acted on its own initiative; the better part of the citizenry bitterly resented the tax.²²

Appius was replaced as governor by Cicero on August 1, 51. Earlier in the year, probably in February, the senate had decreed that Bibulus and Cicero take the proconsular commands of Syria and Cilicia respectively: a lex Pompeia of 52 enacted that consuls and praetors only take up promagisterial commands five years after the expiry of office; this created a short term need for governors which was filled by allocating provinces to those praetors and consuls who had not taken one after their magistracies; Cicero and Bibulus were the first to²³ go.

Normally, Appius could have expected to have a full three year proconsular command. For instance, his predecessor, Lentulus Spinther, had had a three year proconsular imperium, while Q. Cicero and C. Claudius Pulcher had each governed Asia for three year terms. Now, however, by senatorial decree he

was being superseded halfway through his third year. A combination of two factors may have been partly behind his early replacement: his apparent mismanagement of the province and the Parthian threat. Since Crassus' defeat at Carrhae, the Parthians had posed a definite military threat to Syria: that was probably why the senate had put the ex-consul Bibulus in charge of it and why it urged him to get there as quickly as possible. Cilicia adjoined Syria. Should Cilicia continue to be molested by the regime imposed on it by Appius, there was the distinct possibility that the provincials might seize the opportunity to rebel in conjunction with a Parthian thrust into neighbouring Syria. This possibility could be nullified if the senate quickly sent in Cicero, who, with his known devotion to duty, would win over the Cilicians to Roman rule. ²⁴ Such a partial explanation is reasonable and perhaps true. Moreover, there may have been a number of senators who sought to repay Appius who had gone out to Cilicia on his own initiative at the expiry of his consulship; by his replacement they repaid him for his high-handed Claudian behaviour.

Whatever the reason for the supersession, Appius was not pleased with his ~~early retirement~~. His behaviour towards his successor shows that he was disgruntled by it all. To begin with, he apparently gave Cicero the run-around as to where they could meet in Cilicia; he wrote Cicero that the meeting

was the reason why he did not leave the province at an early date. Cicero received conflicting reports on Appius' itinerary. When he arrived at Brundisium in late May, he met Appius' freedman, Phania, who informed him that Appius was leaving Cilicia by ship from Side: therefore, it would be convenient for Appius if Cicero should land there. Cicero readily agreed. However, when he arrived on Corcyra in early June, Appius' praefectus fabrum, L. Clodius, was there to tell him about Appius' new schedule. Appius had now decided to await him at Laodicea on the western edge of the province; it would provide a more convenient meeting place for both parties; Cicero could easily get there upon entry into the province and Appius could make a swift departure from it. When Cicero came to Tralles on July 27, L. Lucilius gave him a letter from Appius. The latter's plans had changed again. Although he had received Cicero's letter complying with his request that they meet at Laodicea, Appius was now off to Tarsus at the eastern extremity of the province.²⁵ In the same letter Appius wrote that he had requested Q. Mucius Scaevola to take charge of the province²⁶ during his absence at Tarsus and until Cicero's arrival. In his reply to Appius' letter Cicero shows that this was but another confusing signal received from the proconsul of Cilicia:

Quod te a Scaevola petisse dicis ut, dum tu abesses, ante adventum meum provinciae prae-

esset, eum ego Ephesi vidi fuitque mecum familiariter triduum illud quod ego Ephesi commoratus sum nec ex eo quicquam audiui quod sibi a te mandatum diceret. ac sane vellem potuisset obsequi voluntati tuae; non enim arbitror noluisse.²⁷

Appius' antagonistic behaviour did not cease with Cicero's entry into the province. While Cicero held assizes at Apamea, Synnada and Philomelium from August 5 to 20, Appius did the same thing at Tarsus. Through his behaviour Appius clearly displayed an unwillingness to effect a smooth transfer of power to his successor Cicero. He had told Cicero that he was eager to leave the province, but that he would remain to confer with him. In order to obtain both of these objectives he had suggested that they meet at Laodicea. Then, after Cicero complied, he set off to the far reaches of his province where he held assizes during the first month of Cicero's proconsular command. Such behaviour was very probably symptomatic of his anger at being superseded, and superseded by a novus homo at that.²⁸

Another sign of his displeasure may have been his flouting of the Cornelian law which prohibited a governor from remaining in his province more than thirty days after the arrival of his successor: he only left Cilicia in early September. On his way out of the province he indicated that he never had any real interest in ~~meeting~~ and in conferring with his successor.²⁹

As he was leaving the province, he passed Cicero's camp near Iconium on the night of September 1-2. However, he did not go out of his way to visit Cicero. Instead, he sent a slave with word that he would be in Iconium at dawn. Cicero sent out two legates to intercept him, but he had already passed the camp. Cicero then went to Iconium on September 2. In all probability Appius had left the town before his arrival: later he accused Cicero of not coming out to meet him.³⁰

Before he left Asia for Rome, Appius sent Cicero plaintive letters. Cicero received one of them by October 8, when he was encamped at Mopsuestia. In the letter Appius cited various complaints which had allegedly been made against Cicero by certain provincials: Cicero's behaviour on and off the bench was judged to be inimical to Appius: he had publicly spoken about Appius in an uncomplimentary manner; he had added a clause to his governor's edict so as to interfere with the despatch of Appius' provincial delegations to Rome; he had made himself scarce so that some of the delegations could not secure his permission to leave the province; he had been a less extravagantly spending governor than Appius. In his reply Cicero suggests that the complaints were really Appius', not those of the provincials. He also defended himself against Appius' complaints: he had not, to his knowledge, behaved or spoken in an insolent manner about Appius; he had only inter-

ferred with the deputations to the extent of decreeing that their expenses be reduced in accordance with the wishes of the "principes civitatum"; he had only been parsimonious to avoid making demands on the fragile economy of the province.³¹

In a second letter Appius bitterly complained that Cicero had hampered the building program at Appias by prohibiting the collection of special taxes needed for its implementation. Cicero had prevented taxation until such time as he could investigate the whole matter. Appius charged that his action would delay the building program till winter, for he could only investigate the matter after his return from Cilicia proper. Moreover, Appius complained that Cicero could have dealt with the matter by going to Appias before going to Cilicia; it was only a short side trip. Cicero was incensed with Appius' letter. He could not fathom why Appius expected him to go to the Appians, not they to him. Another factor fueled Cicero's anger to the boiling point:

Ad omnia accipe et cognosce aequitatem expositionis tuae. primum, cum ad me aditum esset ab iis qui dicerent a se intolerabilia tributa exigi, quid habuit iniquitatis me scribere ne facerent ante quam ego rem causamque cognossem? non poteram, credo, ante hiemem; sic enim scribis. quasi vero ad cognoscendum ego ad illos, non illi ad me venire debuerint? 'tam longe?' inquis. quid? cum dabis iis litteras per quas mecum agebas ne eos impedirem.

quo minus ante hiemem aedificarent, non eos
ad me venturos arbitrabare? tametsi id quidem
fecerunt ridicule; quas enim litteras adfere-
bant ut opus aestate facere possent, eas mihi
post brumam reddiderunt. sed scito et multo
 pluris esse qui de tributis recusent quam qui
 exigi velint et me tamen quod te velle exis-
 timem esse facturum. de Appianis hactenus.³²

Why had the Appians delayed so long? Appius after all had given them a letter in which he urged his successor to allow them to proceed swiftly with the taxation and the building program. In all probability, they delayed so long because they had as little interest in the building program as Cicero: Cicero says that the majority of the Appians were opposed to the taxation; he had no doubt been provided with that information by the delegation delivering Appius' letter.³³ Despite his reservations about the extra expenses incurred by the program, Cicero placated Appius by allowing it to go ahead.

In the same letter Cicero discussed remarks which Appius had made to Pausanias, the freedman of Lentulus Spinther. From Pausanias, Cicero learnt that Appius was disgruntled because he did not go out to meet him when he left the province. Appius had spoken to Pausanias about Cicero's lack of respect in a manner befitting his Appietas:

A Pausania, Lentuli liberto, accenso meo, audivi cum diceret te secum esse questum quod tibi obviam non prodissem. scilicet contempsisti

te, nec potest fieri me quicquam superbius...
 sed haec hactenus. illud idem Pausania dicebat
 te dixisse: 'quidni? Appius Lentulo, Lentulus
 Appio processit obviam, Cicero Appio noluit.'³⁴

Cicero, who was writing in a hurry, replied that he had taken every precaution to meet him when he passed the camp at Iconium in early September; he did not counterattack by admonishing Appius for having gone out of his way to avoid such a meeting.³⁵ Yet he did find time to rebuke Appius' aristocratic snub:

ullam Appietatem aut Lentulitatem valere apud me plus quam ornamenta virtutis existimas? cum ea consecutus nondum eram quae sunt hominum opinionibus amplissima, tamen ista vestra nomina numquam sum admiratus; viros eos qui ea vobis reliquissent magnos arbitrabar. postea vero quam ita et cepi et gessi maxima imperia ut mihi nihil neque ad honorem neque ad gloriam acquirendum putarem, superiorem quidem numquam, sed parem vobis me speravi esse factum. nec mehercule aliter vidi existimare vel Cn. Pompeium, quem omnibus qui umquam fuerunt, vel P. Lentulum, quem mihi ipsi antepono. tu si aliter existimas, nihil errabis si paulo diligentius, ut quid sit ΕΥΡΕΥΕΙΑ [quid sit nobilitas] intellegas, Athenodorus, Sardonis filius, quid de his rebus dicat attenderis.³⁶

In a letter to Atticus, Cicero pinpointed what he thought was the basic underlying reason for Appius' behaviour towards him:

Quod meam βαθύνῃ in Appio tibi, liberalita-
 tem etiam in Bruto probo, vehementer gaudeo;
 ac putāram paulo secus. Appius enim ad me ex
 itinere bis terve ὑποχρεῖται litteras
 miserat quod quaedam a se constituta rescin-
 derem. ut si medicus, cum aegrotus alii medico
 traditus sit, irasci velit ei medico qui sibi
 successerit si quāe ipse in curando constitu-
 erit immutet ille, sic Appius, cum ἐξ ἀφαιρε-
 ῶνς provinciam curarit, sanguinem miserit,
 quicquid potuit detraxerit, mihi tradiderit
 enectam, προκατατρέφουμένην eam a me non li-
 bentex videt sed modo suscenset, [et] modo gra-
 tias agit. nihil enim a me fit cum ulla illius
 contumelia; tantum modo dissimilitudo meae ra-
 tionis offendit hominem. Quid enim potest esse
 tam dissimile quam illo imperante exhaustam
 esse sumptibus et iacturis provinciam, nobis
 eam obtinentibus nummum nullum esse erogatum
 nec privatim nec publice? quid dicam de illius
 praefectis, comitibus, legatis etiam? de ra-
 pinis, de libidinibus, de contumeliis? nunc au-
 tem domus mehercule nulla tanto consilio aut
 tanta disciplina gubernatur aut tam modesta
 est quam nostra tota provincia. haec non nulli
 amici Appi ridicule interpretantur. qui me id-
 circo putent bene audire velle ut ille male
 audiat et recte facere non meae laudis sed il-
 lius contumeliae causa. sin Appius, ut Bruti
 litterae quas ad te misit significabant, gratias
 nobis agit, non moleste fero, sed tamen eo
 ipso die quo haec ante lucem scribebam cogita-
 bam, eius multa inique constituta et acta tol-
 lere.³⁷

Cicero, therefore, was building up a reputation as a latter-day Q. Mucius Scaevola. Appius, according to Cicero, simply could not bear it: Cicero's reputation as governor was casting a giant shadow over his apparently self-seeking administration of the province. He no doubt had the sneaking suspicion as did Caelius and others that Cicero was acting deliberately to denigrate his reputation. Another factor probably gave Appius more reason for disenchantment with Cicero: the latter had won over the provincials by his sound jurisdiction and his altruistic economic policy: he received warm receptions wherever he went and he even had to prevent the Cypriots from erecting statues, temples and chariots in return for his life saving ~~saving~~ measures. Therefore, Cicero, not Appius, would be looked upon as the provincials' patron; Appius definitely would not be pleased at having potential clients taken from him.

One underlying basic factor would have made Appius extremely aggravated over the reputation which Cicero was acquiring as the judicious, generous, moderate, altruistic, Scaevolan governor of Cilicia. Cicero could afford the reputation; Appius could not. From the time he set out from Rome for his province until he returned home, Cicero was able to acquire his pristine reputation as a model proconsular because there was one commodity which he had and which Appius did not have as

proconsul: money. Cicero had been given proconsular expenses for his promagisterial command. With these he had been able to meet his expenses and he did not have to make the requisitions from the provincials which he was entitled to under the law. The expenses must have been generous. After his governorship, he still had over 1,000,000 sesterces in hand. From Athens on October 16, 50, he wrote Atticus:

quam non est facilis virtus! quam vero difficilis eius diuturna simulatio! cum enim hoc rectum et gloriosum putarem, ex annuo sumptu qui mihi decretus esset me C. Coelio quaestori relinquere annum, referre in aerarium ad HS $\bar{m}$, ingemuit nostra cohors, omne illud putans distribui sibi oportere, ut ego amicior invenirer Phrygum et Cilicum aerariis quam nostro. sed me non moverunt; nam et mea laus apud me plurimum valuit nec tamen quicquam honorifice in quemquam fieri potuit quod praetermiserim.³⁹

Appius, meanwhile, was not as lucky. In a letter of late October or early November 54, Cicero informed Atticus of the financial circumstances which would surround the consul Appius' departure to his proconsular province:

Quid aliud novi?...Pomptinus vult a. d. IIII Non. Nov. triumphare. huic obviam Cato et Servilius praetor(es) ad portam et Q. Mucius tribunus. negant enim latum de imperio, et est latum hercule insulse. sed erit cum Pomptino Appius consul. Cato tamen adfirmat se vivo illum non triumphaturum. id ego puto ut multa eius-

dem ad nihil um recasurum. Appius sine lege
suo sumptu in Ciliciam cogitat.⁴⁰

Appius, therefore, was planning to go to Cilicia without a lex curiata or expenses which would cover his expenses as proconsul of the province. From the time of the above letter till the end of 54, Appius would not have obtained expenses for his provincial command. In a letter to Lentulus Spinther of December 54, Cicero says that Appius was going to his province without a lex curiata. Since he went without such a lex, he would have also gone without having acquired an expense account: had he obtained the latter Cicero would certainly have mentioned it to Lentulus. Moreover, Cicero says that Appius would go to the province after arranging the sortitio with his colleague Domitius; if the provinces had not yet been allocated, it is unlikely that the senate would have yet allocated the expenses necessary for the administration of the provinces.⁴¹ As proconsul, therefore, Appius would have had to make the provincials pay for the administration of their province by means of the measures which Cicero so smugly and self righteously looks down upon; it is little wonder that Appius had found difficulty in paying the troops. Appius' lack of funds was factor which the pompous puffed-up novus homo casually omits when he compares his self glorified exploits in the province with those of Appius. Consequently, Cicero's description of Appius' measures in the province may be factual, but his inter-

pretation is not: Appius' exactions were not the wounds inflicted upon the provincial economy by a half-crazed, money-hungry megalomaniacal aristocratic madman; rather, they were for the most part the results of the governor's lack of an expense account.

When Appius reached Rome, probably in December 51, he discovered from his friends and his freedman Phania that Cicero had protected his interests at Rome during his absence in Cilicia: Cicero had defended him in the senate, pushed for supplicationes in his honour and fulfilled the commissions entrusted to him. His anger with Cicero diminished. He wrote him an urbane letter in which he promised to requite his loyalty. More specifically, he promised to push for the senate's grant of supplicationes to Cicero for his military victories in Cilicia; Appius had already been helpful in this regard; at some earlier point he suggested to Cicero that he should not send a despatch to the senate immediately upon winning the title of imperator, but that he should wait till he had completed his campaigning. Appius carried out his promise in April 50 when he spared no effort to secure Cicero's supplicationes.

He fulfilled his promise even though he received further negative reports about Cicero and the provincial delegations. He raised the matter in a letter to Cicero, subsequent to the one mentioned above. In his reply to the letter, Cicero refers to Appius's concern over the issue:

Sed tamen significatur in tuis litteris suspicio quaedam et dubitatio tua, de qua alienum tempus est mihi tecum exostulandi, purgandi autem mei necessarium. ubi enim ego cuiquam legationi fui impedimento quo minus Romam ad laudem tuam mitteretur? aut in quo potui; si te palam odissem, minus quod tibi obsesset facere, si clam, magis aperte inimicus esse? quod si essem ea perfidia qua sunt ii qui in nos haec conferunt, tamen ea stultitia certe non fuisset ut aut in obscuro odio apertas inimicitias aut in quo tibi nihil nocerem summam ostenderem voluntatem nocendi. ad me adire quosdam memini, nimirum ex Epicteto, qui dicerent nimis magnos sumptus legatis decerni. quibus ego non tam imperavi quam censui sumptus legatis quam maxime ad legem Corneliam decernendos; atque in eo ipso me non perseverasse testes sunt rationes civitatum, in quibus quantum quaeque voluit legatis tuis datum induxit.⁴⁶

Later in the letter Cicero pinpoints the cause of Appius' suspicion when he is discussing his own past relationship with Pompey:

quo studio providit ne quae me illius temporis invidia attingeret, cum me consilio, cum auctoritate, cum armis denique textis suis: quibus quidem temporibus haec in eo gravitas, haec animi altitudo fuit non modo ut Phrygi alicui aut Lycaoni, quod tu in legatis fecisti, sed ne summorum quidem hominum malevolis de me sermonibus crederet.⁴⁷

The Phrygian or Lycaonian in question was probably an angry member of Appius' provincial delegations which had by now reached Rome. The cuts which Cicero brought about in the delegates' expense accounts would have caused the anger. Appius' subsequent action in the matter of Cicero's supplicationes, however, shows that his suspicions did not alienate him from the latter.

Appius had good reason for maintaining sound relations with Cicero: he needed his assistance as governor of Cilicia in order to be acquitted of charges under the lex Cornelia de maiestate. When he returned to Rome, Appius remained beyond the pomerium because he hoped to obtain a triumph for his military successes in Cilicia. He had to forego the triumph when he was indicted under the lex Cornelia de maiestate: as soon as his prosecutor Dolabella laid the charge he crossed the pomerium in order to fight it. The exact timing of Dolabella's prosecution is uncertain. However, in a letter of February 50 Caelius informed Cicero that the court proceedings had progressed to the point where there had been a postulatio and a delatio nominis.⁴⁸ The precise nature of the charge is also uncertain, but to a lesser degree. From what is known Appius had twice flouted the lex Cornelia de maiestate: he had gone to his province without a lex curiata; he had remained in his province for more than thirty days after the arrival of

his successor . The fact that Appius counted heavily on Cicero's influence as governor of Cilicia indicates that he was probably being tried for the second offence. Moreover, the prosecution called a number of witnesses in the trial. There would have been no need for the witnesses had Appius been charged with going to his province without a lex curiata; what evidence could they offer?⁴⁹

At the trial Appius was supported by many prominent politicians including his son-in-law Brutus and Pompey: Pompey backed Appius because their relations had improved to the point where Gnaeus Pompeius the younger had married one of Appius' two daughters.⁵⁰ The support which Appius received helped him to secure acquittal by April 5,⁵¹ 50.

Afterwards, Appius was a successful candidate in the censorial elections. He was elected along with L. Piso, Caesar's father-in-law. Before he entered office, he was prosecuted de ambitu by Dolabella. The charge must have stemmed from alleged irregularities connected with Appius' canvass for the censorship. Moreover, Dolabella had apparently promised to charge him with this offence during the previous trial. Appius, who was defended by Brutus and Hortensius, baffled his prosecution by obtaining a unanimous acquittal in June 50.⁵² During the course of the trial, Appius had to put up with one major inconvenience: Dolabella became Cicero's son-in-law. It thus ap-

peared that Cicero had come out against his amicus. Cicero was flabbergasted when news of the match reached him in August. In February Caelius wrote Cicero that he had contacted Dolabella about a possible match with Tullia. Nevertheless, he warned Cicero to hold back any approval of the match lest Dolabella use it to his advantage while prosecuting Appius de maiestate. In his reply to Caelius in early May Cicero agreed to keep his own counsel on the matter. Dolabella was indiscreet. While prosecuting Appius, he spoke about his possible match with Tullia. When Appius wrote to Cicero about Dolabella's allegation, Cicero treated it as "sermo stultus et ⁵³perilis". Then in the course of Appius' trial de ambitu, Dolabella became Cicero's son-in-law; the members of his family had gone ahead with Tullia's betrothal without his knowledge; he had left the matter in their hands on his departure to Cilicia. When Cicero found out, he could only write Appius a very apologetic letter exculpating himself. Appius, however, took the event in ^{his} stride. After his unanimous acquittal he sent Cicero a letter congratulating him on the marriage.⁵⁴

Appius' censorship in 50 was tinged with a streak of the old Roman morality. In early August he was busily curbing extravagance in a number of areas. According to Caelius, he was taking strict censorial action concerning statues, paintings, acreage and debts. Caelius, who knew of Appius' extensive art

collection, could only laugh at his ostentatious censorial behaviour:

Prope oblitus sum quo(d) maxime fuit scribendum. scis Appium censorem hic ostenta facere, de signis et tabulis, de agri modo, de aere alieno acerrime agere? persuasum est ei censuram lomentum aut nitrum esse. errare mihi videtur; nam sordis eluere vult, venas sibi omnis et viscera aperit.⁵⁵

As censor Appius freely used his censorial notio; that power had been restored to its former status two years earlier when the consul Metellus Scipio abrogated the lex Clodia de censoria notione.⁵⁶ For the most part, Appius browbeat his colleague L. Piso into acquiescence and proceeded to expel many from the senatorial and equestrian orders; since Roman politics was then polarized between the Pompeian and Caesarian factiones, Appius as a leading Pompeian, probably affixed his nota beside the names of many Caesarians.⁵⁷ Two of Appius' victims were Q. Sallustius Crispus and C. Ateius Capito. While Sallust was expelled from the senate for his lustful behaviour towards other men's wives, Capito received the nota because as tribune in 55 he had falsified the auspices when Crassus left for his war against the Parthians; Appius believed that Capito's false inauspicious omens had brought about Crassus' demise.⁵⁸

Two of Appius' intended victims escaped his grasp: Caecilius and Curio. Appius' unsuccessful attempt to stigmatize Caecilius

lius was but part of the battle which he waged against him.⁵⁹ As early as 54, Caelius had been on bad terms with Claudius: in February of that year Cicero records that Servius Pola was prosecuting Caelius at the instigation of the gens Clodia.⁶⁰ By February of 50, however, Caelius was attempting to get on good terms with Appius: he even asked Cicero to give him credit for anything he did on Appius' behalf. Moreover, Caelius had probably been of assistance to Appius during his two trials.⁶¹ Yet, in either August or September Caelius came into conflict with Appius when he asked him to requite his past services to him in a financial way. Appius reacted with hostility to Caelius' request for money. He sounded out his colleague L. Piso to discover his attitude towards stigmatizing Caelius. He also consulted Caelius' bitter enemy, Domitius Ahenobarbus,⁶² about the course of action which he should adopt against Caelius.⁶³ Appius probably had three reasons for reacting so severely to Caelius' request. Firstly, he did not want to give Caelius any money. Secondly, the request was an insult to his dignitas: Appius considered it utterly scandalous that anyone would want a reward for having helped a Claudius, especially an Appius Claudius. Thirdly, Caelius in the recent election for the vacancy in the augurate created by the death of Hortensius had exhibited his pro-Caesarian leanings by supporting Antony's candidacy against that of Domitius Ahenobarbus.⁶⁴ Appius, there-

fore, was doing himself and Pompey a favour by stigmatizing him. Caelius had probably been pointing to this when he wrote Cicero about the small favour which Appius would bestow on Pompey by taking action against him:

deinde aperte cum quibusdam locutum, cum L.
Domitio, ut nunc est, mihi inimicissimo ho-
mine, deliberare, velle hoc munusculum deferre
Cn. Pompeio,....⁶⁵

In spite of Appius' behaviour, Caelius sought to demonstrate the validity of his request by appealing to him through his friends. When Appius again refused, Caelius laid himself under obligation to the censor L. Piso so that he would prevent Appius from using his nota against him. When Appius learnt of Caelius' action, he was incensed. He claimed that Caelius was using his refusal to pay the money merely as a pretext for becoming his enemy. Afterwards, Appius in conjunction with Domitius decided on the following strategy: they had Servius Pola, the prosecutor, charge Caelius with homosexual offences under the lex Scantinia.⁶⁶ Caelius was not taken aback. He immediately turned round and levelled the same charge at the censor Appius. Appius was flabbergasted. As Caelius relates, he suffered a great deal of public discomforture:

vix hoc erat Pola elocutus cum ego Appium cen-
sorem eadem lege postulavi. quod melius caderet
nihil vidi. nam sic est a populo et non infimo
quoque approbatum ut maiorem Appio dolorem fama
quam postulatio attulerit.⁶⁷

Caelius then added insult to injury by instituting proceedings against Appius to make him return a state-owned shrine which he had in his home. ⁶⁸ Unfortunately, the probably very interesting climax to the struggle between Caelius and Appius is unknown.

The tribune Curio was another intended recipient of Appius' nota. As tribune in 50 Curio became an ardent supporter of Caesar. This was probably the reason why Appius wanted to affix the nota to his name on the senatorial roll. However, when he made his intention known, L. Piso, his colleague and Caesar's father-in-law, and L. Paullus, the Caesarian consul, intervened on Curio's behalf. Appius acceded to their wishes, but proceeded to express his opinion of Curio in the senate. An ugly scene ensued. Curio did not sit still for Appius' abuse. He retaliated by attacking Appius and ripping his clothing. The consul Marcellus then seized Curio and attempted to have the senate censure his behaviour. The senate refused. ⁶⁹

Appius was not able to finish his term of office. The Civil War intervened. In the Civil War, Appius sided with his adfinis Pompey. Although his office as censor technically debarred him from leaving Italy, nevertheless, he went over to Greece with the other Pompeians at the outbreak of the war. ⁷⁰

In a letter to Atticus, Cicero shows that Appius had good reason to flee:

Marcelli quidem, nisi gladium Caesaris timuis-
sent, manerent. Appius et eodem timore et ini-
micitiarum recentium.⁷¹

Appius' behaviour as censor would have provoked such action by Caesar. Caesar was a long standing proponent of the citizen's right to due process. It was for this reason that he bitterly complained of those who had been arbitrarily exiled under the leges Pompeiae of 52; no doubt his remarks were also intended as anti-Pompeian political propaganda. He would have been all the more incensed by the arbitrary, probably partisan, house-cleaning of the senatorial and equestrian orders which Appius had effected as censor.⁷²

In Greece, Appius was given command of Achaëa. His governorship was short lived: he died in Euboea before the battle of Pharsalus. Appius, however, went to the shades in a manner befitting his Appietas. Lucan and Valerius Maximus provide a colourful account of the events leading up to his death. Shortly before his dying day, Appius had used his powers as governor to have the temple of Apollo reopened that he might obtain an oracle from the priestess on the outcome of the Civil War. When he obtained his oracle, Appius compelled the priestess to adopt the same rigid adherence to her duties as he had adopted towards his practice of augury; he compelled the reluctant priestess to go to the rear of the temple and to breathe in the prophecy inspiring vapours of Apollo which there

issued forth from the grotto. Her bosom being filled with divine inspiration from Apollo, she, according to Lucan, uttered:

Effugis ingentes, tanti discriminis experts,
Bellorum, Romane, minas solusque quietem
Euboici vasta lateris convalle tenebis.⁷³

Appius, like Croesus and many others, failed to grasp the double edged meaning of Apollo's prophecy. In his case he did not realize the loaded meaning of "quietem": he would remain at peace in Euboea and he would not take part in the Civil War because he would be resting in eternal peace on the shores of Euboea in his sepulchre. After receiving the oracle, Appius went to Euboea where he intended to take over an estate in Chalcis. However, he died while he was in the island, and he was laid to rest in a sepulchre on its shore. Lucan specifies the location:

...Secreta tenebis
Litoris Euboici memorando condite busto,
Qua maris angustat fauces saxosa Carystos
Et, tumidis infesta colit quae numina, Rhamnus,
Artatus rapido fervet qua gurgite pontus,
Euripusque trahit, cursum mutantibus undis,
Chalcidicas puppes ad iniquam classibus Aulin.⁷⁴

At first glance, Appius' visit to Delphi might appear to be only a topos which Lucan and Valerius Maximus used to create a novel story about Appius' last days. If the story were told

of any of Appius' contemporaries, it might well be make-believe. Appius, however, despite the qualities which made him a highly cultured Roman - his urbanitas, prudentia, eruditio, his knowledge of public law and ancient history - was an extremely superstitious man with a deeply engrained belief in the divination of future events.⁷⁵ Therefore, it is not at all surprising that he turned to Apollo, the god of prophecy, for an oracle on the outcome of the Civil War.

CHAPTER XIII

QUAESTIONES CLODIANAE

A) Ancestral Aunts

The three daughters of Appius could boast of several illustrious ancestral aunts. The ancient sources take the trouble to record the exploits of three of them. Firstly, there is one of the five daughters of Appius Claudius Caecus (censor 312, cos. 307)¹. When she returned from some public games, she was jostled by a crowd of plebeians; as this occurred she expressed her desire that her brother P. Claudius Pulcher (cos. 249)² should return to life so that he might lead another naval expedition which, like the first one, would end with the death of many plebeians and thus reduce their number in Rome. The tribunes fined her for this display of Claudian arrogance towards the plebs³. Secondly, there is Quinta Claudia, the matrona who was chosen by virtue of her chastity to accompany P. Scipio in welcoming the black stone, which represented the Magna Mater⁴, to Rome and to the Palatine. Finally, we have the Vestal Claudia who prevented a tribune from interfering with her father's triumph: she brought this about by accompanying her father, Appius Claudius Pulcher (cos. 143)⁵, in his triumphal chariot.⁶

7 B) Praenomina

W. C. McDermott argues that the Clodiae bore numerical praenomina, which designated the order of birth among Roman daughters, because one of the sisters was named Clodia Tertia. He designates her two sisters with the praenomina Quarta and Quinta arguing that they were born after her: two earlier daughters, Prima and Secunda, would have died in infancy.⁸

T. W. Hillard objects to McDermott's theory on the names of the Clodiae. In his opinion the lack of evidence for the numerical praenomina of the two other surviving daughters of Appius militates against McDermott's hypothesis.⁹ However, the sources' failure to mention the numerical praenomina can be explained. The sources usually mention the Clodiae by their gentilicium or as the sisters of one of the brothers. The fact that they are mentioned by their gentilicium does not mean that they did not bear numerical praenomina. We need only look at the case of Mucia, the ex-wife of Pompey: Asconius at one point alludes to her as Tertia; a little later, however, he refers to her as Mucia.¹⁰ Similarly, Appian in his Hannibalic War mentions a Claudia Quinta and later refers to her as Claudia.¹¹

Hillard also argues that numerical praenomina had no relationship to the order of birth; they would have been chosen as arbitrarily for girls as for boys. As proof he cites Varro L.L. 9. 60 where Varro says:

In praenominibus ideo non fit item, quod haec instituta ad usum singularia, quibus discernerentur nomina gentilicia, ut ab numero Secunda, Tertia, Quarta in mulieribus, in viris ut Quintus, Sextus, Decimus, sic ab aliis rebus.

In his view Varro's evidence supersedes Plutarch Rom. 14.7¹² where Plutarch mentions that Romulus' daughter was called Prima because of the order of her birth. There are three objections to Hillard's point of view. Firstly, he assumes that both the male and female praenomina in Varro were given arbitrarily. It is certain that Quintus, Sextus and Decimus were among the two dozen or so praenomina by which the Romans named their male offspring and that these numerical praenomina did not designate the fifth, sixth or tenth son.¹³ There is no evidence that the same process applied to females, that is, that there was a set number of names among which there were Secunda, Tertia and Quarta, and from which a name could be chosen arbitrarily for a girl. Secondly, Hillard seems to think that Varro's omission of a Prima vitiates Plutarch's information that Prima was the praenomen given the first born. In my opinion, Varro was simply stylistically balancing three female praenomina with three male ones; it does not signify that they were the only female praenomina. This would account for the omission of Prima and Quinta,¹⁴ a very authentic praenomen.¹⁵ Moreover, Varro mentions female praenomina which follow each other

numerically; that is not the case with regard to the male prae-nomina. Thirdly, if the names Prima, Secunda, Tertia, Quarta and Quinta were given to a series of sisters, it would be highly illogical, let us say, to designate the first born as Quinta, or the second born as Tertia. It is reasonable to assume that when girls were given numerical prae-nomina, the prae-nomina given matched the order of birth among the sisters or perhaps the children as a whole.¹⁶

I. Kajanto admits the possibility of sisters being given numerical names: their purpose would be simply to denote the order of birth and to differentiate in a series of sisters. However, he believes that they would only be given when the family was full sized and they could be changed with the birth or death of a daughter.¹⁷ Apart from the contradiction within this view, my only objection to it is that it denies all individuality to Roman women. Surely, if a girl grew up being known as Tertia, she would not have to change her name to Secunda upon the death of one of her sisters? As for a girl having to change her name with the birth of a sister, that simply does not make one scintilla of sense: the newly born sister would receive a numerical name, but no change would be required in the names of the other sisters.

Hillard also seeks to show that Clodia Tertia's prae-nomen is not numerical. He indicates that Plutarch Cic. 29 and

Dio Cassius 36.15, 17 are the only sources which refer to Clodia Regis as Clodia Tertia and that they allude to her not by the word $\tau\epsilon\rho\tau\eta$ (third) but by $\tau\epsilon\rho\tau\iota\alpha$, "a pure transliteration of the Latin, meaningless in Greek." Here, it should be noted that Dio does not refer to Clodia Regis as Tertia in 36.15, 17; Plutarch is the only author to refer to her as $\tau\epsilon\rho\tau\iota\alpha$. We may ask why he should not refer to her by her proper name $\tau\epsilon\rho\tau\iota\alpha$? It would be one thing to translate Tertia by $\tau\epsilon\rho\tau\eta$ if it simply meant third, but it would be quite another thing to translate a praenomen in this way. Tertia was as much a praenomen for a female as Quintus was for a man. Indeed why should Plutarch refer to Tertia by the word $\tau\epsilon\rho\tau\eta$ when he designates Cicero's brother by $\kappa\acute{o}\iota\nu\tau\omicron\nu$ in Cic. 33.¹⁹ Nor is this the only place where Plutarch refers to a Tertia as $\tau\epsilon\rho\tau\iota\alpha$: he designates the daughter of Aemilius Paulus in this way in Mor. 197 f, Aem. Paul. 10 and Cato Maior 20. It is certain that the person of whom Plutarch speaks in these three places bore the name Tertia because Cicero in Div. 1.103 and Valerius Maximus 1.5.3 also designate her as such.

C) The Order of Birth of the Three Clodiae

McDermott thinks that the following passage from Plutarch's Life of Cicero indicates that Clodia Tertia was the oldest of the three sisters, Clodia Metelli the second eldest and Clodia Luculli the youngest:

— And Lucullus actually produced female slaves who testified that Clodius had commerce with his youngest sister when she was living with Lucullus as his wife. There was also the general belief that Clodius had intercourse with his two other sisters, of whom Tertia was the wife of Marcius Rex and Clodia of Metellus Celer; the latter was called Quadrantaria because one of her lovers had put copper coins into a purse and sent them to her as silver, and the smallest copper coin was called quadrans.²⁰

According to McDermott, Plutarch mentions the youngest sister, Clodia Luculli, and then goes on to speak about the eldest,²¹ Clodia Regis, and then the second eldest, Clodia Metelli. Plutarch, however, may be referring to the sisters in inverse order: Clodia Luculli would be the youngest, Clodia Regis the second eldest, and Clodia Metelli the eldest. Hillard suggests Plutarch may be placing Clodia Metelli last in order to save till the end the interesting explanation of how she received her infamous nickname. He also thinks that the sentence structure demanded that Clodia Tertia be placed second: it would be an awkward sentence if Clodia Metelli and the relative sentence concerning the origin of her nickname were placed before the brief mention of Clodia Tertia as the wife of Marcius Rex.²²

McDermott states that the order of the girls' birth can be attested by their praenomina; as noted above, Clodia Metelli would be Quarta and Clodia Luculli, Quinta. As proof that

Clodia Metelli had the praenomen Quarta, he postulates that her nickname Quadrantaria was a pun on quadrans which in turn was a pun on her praenomen Quarta. With regard to Clodia Luculli, he states that her name Quinta may be alluded to by Cicero when he speaks of the chastity of the famous Quinta Claudia in Har. 27: Cicero's reason for referring to this Quinta would have been to aim innuendo at the scandalously divorced wife of Lucullus.²³ There are two objections to this interpretation. Firstly, it is likely that Cicero's remark was aimed at Clodia Metelli: she is usually the one at whom he directed such remarks.²⁴ Secondly, at least ten years had elapsed between Lucullus' divorce of Clodia and the delivery of Cicero's speech:²⁵ if Cicero were making such an allusion the divorce would have had to take place near the time of his speech for it to have any bite.

Both Wiseman and Hillard think that Clodia Metelli was the eldest sister. Wiseman believes that she is the eldest on the grounds that the eldest daughter of a Metella Claudii would be given in marriage to a Metellus.²⁶ From a political point of view, his hypothesis is an improbable one: Appius had cemented an alliance with the Metelli through his own marriage; there was no need to reinforce his ties with the Metelli so quickly. Marriage alliances with other gentes such as the Reges and the Luculli may have had much more importance for Appius than the strengthening of preexisting ties.

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Hillard has a different "slight" reason for positing Clodia Metelli as the eldest sister. Only one of the sisters was married in Appius' lifetime; it was either Clodia Metelli or Clodia Regis; Clodia Luculli was married after Appius' death. Hillard thinks that Clodia Metelli was the sister in question and that she would have been married by 79: at that time she was fourteen, the usual age for marriage; she was a politically attractive match; it would have reflected very seriously upon Appius' dignitas if he had not yet been able to marry her off. In my view Clodia Regis may have equally well been the sister married in Appius' lifetime: she may have been older than Clodia Metelli and therefore married before her. If Appius left the marriage of Clodia Metelli unattended to, it need not have reflected very seriously upon his dignitas. A man of his influence was in a seller's market, not a buyer's market; there were any number of suitable candidates who would welcome an alliance with the Pulchri by marrying Clodia Metelli, no matter what her age. We need only point out that Lucullus, after Appius' death, had married a Clodia without a dowry; he even eased the financial distress of the Pulchri by giving Appius ²⁸ f. a legacy.

D) The Marriages of the Clodiae

The three sisters married politically prominent men: Clodia Tertia married Marcius Rex (cog. 68); Clodia "quadran-

taria" married Metellus Celer (cos. 60); the youngest Clodia married Lucullus (cos. 74)²⁹. Varro is the only ancient source who gives any information concerning the order of the marriages. In R.R. 3.16.2 Appius f. is made to say:

Nam cum pauper cum duobus fratribus et duabus sororibus essem relictus, quarum alteram sine dote dedi Lucullo, a quo hereditate me cessa primum et primus mulsum domi meae bibere coe-pi ipse...

Appius f., therefore, was left with two unmarried sisters on his hands after the death of Appius. From Plutarch Cic. 29 we know that the youngest sister was married to Lucullus, but we do not know whether it was Clodia Regis or Clodia Metelli who was already married at the time of their father's death.

There are two factors which have been left out of the discussion concerning the probable order of the marriages of Clodia Regis and Clodia Metelli: the political attractiveness of their ~~husbands~~ as indicated by the stage of the cursus honorum they had reached when they married, and their husbands' bloodlines. It is possible to construct a probable cursus honorum for Metellus Celer and Marcus Rex because we know the year of Rex's consulship³⁰ and the years of Celer's praetorship and consulship.

Office	Age	Metellus	Marcus
Quaestor	30	72 B. C.	80 B. C.
Praetor	39	63 B. C.	71 B. C.
Consul	42	60 B. C.	68 B. C.

From a political point of view Rex must have been more attractive than Celer; the former started his cursus in 80 while Metellus had to wait eight years to do so. If Appius used political considerations in determining to whom he married his first daughter, then Rex would certainly have taken precedence over Celer. Appius f. seems to have used such a political yardstick when he gave the youngest Clodia to Lucullus after the death of Appius in 76: Lucullus would have married her sometime before he left for the Mithridatic war at the end of 74;³¹ therefore he was either of praetorian rank (praetor 78) or of consular rank (cos. 74)³² at the time of the marriage. The bloodlines of Rex and Celer may have also been a factor: while Rex was a patrician, Celer was a plebeian.³³ Appius may have thought that there was more dignitas to be had through a connection with another patrician gens. As it has been noted above, the fact that Appius was already allied to the Metelli through his own marriage may have been another point which favoured Rex as his first son-in-law; Appius would not have wanted to strengthen these ties so quickly. From this discussion, it can be concluded that Clodia Regis was perhaps the daughter who was married in her father's lifetime. Moreover, as the first married, she may have been the eldest of the sisters.

E) Fate of the Marriages

Two of the sisters, Clodia Regis and Clodia Metelli became widows. Marcius Rex was dead by May of 61: in a senato-

rial meeting of that month, Cicero had taunted Clodius with having been left out of Rex's will. Clodius' elder brother Ap³⁴pius seems to have benefited from the ~~will~~ for it was probably under its terms that he had been made the guardian of Marcius' son. Besides this, Ap³⁵pius may have celebrated funeral games in his honour in 57.

The marriage of Metellus and Clodia was not a happy one. In a letter of June 60, Cicero writes that she is not only bat³⁶tl³⁷ing with Metellus, but also with her lover Fabius. Her affair with Caelius at this time would have only further complicated matters. Metellus Celer died by April 59; in the Pro Cae³⁸lio Cicero alleged that his wife had poisoned him. Clodia Metelli did not suffer financially after his death: she had a house on the Palatine, horti near the Tiber, a place near Bai³⁹ae, possibly a villa in Solonium and the slaves to run them efficiently. Moreover, she was supposedly rich enough to provide her lovers with gold.

In one respect Clodia Luculli was not as fortunate as her two sisters: her husband would have divorced her in 66 on his return from Asia in order to sever his ties with his brother-in-law who had incited his troops to mutiny at Nisibis. The severity of Lucullus' hatred for his former wife and brother-in-law is shown by his behaviour at the Bona Dea trial: he said on oath that Clodius had committed incest with his sis-

ter when she was his wife and he backed up his charge with testimony of female slaves. After his divorce Lucullus married Servilia, the sister (or niece) of Cato. He divorced her sometime after January 60; in a letter of that month Cicero mentions that Memmius had debauched the wives of both Luculli. Lucullus, after living a life of extravagance, died in 57.⁴⁰

F) The Children of the Clodiae:

a) Clodia Metelli

Clodia Metelli almost certainly had a daughter whose name was Metella. In 45 Cicero sought to buy some land near Rome on which to erect a shrine to his recently deceased daughter Tullia. He was interested in the property of Scapula and of a Clodia. In A. 12.52.2 he writes:

tu mi aut Scapulanos aut Clodianos efficias
necesse est. sed nescio quid videris dubitare
de Clodia; utrum quando veniat an sintne vena-
les? sed quid est quod audio Spintherem fecisse
divortium?

Here he probably mentions Spinther's divorce immediately after his reference to Clodia because the divorce was somehow linked in his mind with Clodia; Shackleton Bailey thinks that he makes this connection because Spinther was married to a Metella, who may have well been the daughter of Clodia Metelli. As proof for the identification of Clodia Metelli with the Clodia in question, he indicates that the grounds, which Cicero was in-

terested in , were near Rome and therefore could correspond to the gardens near the Tiber which were owned by Clodia Metelli.⁴¹

b) Clodia Regis

Clodia Regis had at least one son, Marcius Rex. The proof of this is that under the terms of the will of Appius Claudius Pulcher who died in 48; Marcius Rex, who had probably been made a ward of Appius under the will of Rex, and Claudius Pulcher were to finish the construction of a monumental gateway at Eleusis.⁴² This same Rex may have also been the recipient of Cicero Fam. 13.52.

c) Clodia Luculli

Wiseman thinks that Clodia Luculli may have given her husband a son named Lucius. In his view the fact that the son, which Lucullus' second wife Servilia bore, was called Marcus implies that there was an elder son named Lucius whose mother was Clodia. As support for this hypothesis, Wiseman points to two individuals who may have been the L. Lucullus in question: a magistrate of Interamna and a L. Lucullus in the Augustan era.⁴³ He places emphasis on Plutarch's reference to Servilia as bearing only one child; for this reason he sees no other choice but to give the hypothetical Lucius to Clodia. However, it should be noted that Plutarch when alluding to the marriage of Clodia and Lucullus makes no mention of children. If he

goes to the trouble of mentioning the offspring of Servilia and Lucullus, then he probably would have done so in the case of Clodia and Lucullus, especially if their marriage had produced a boy.⁴⁴

There are several objections to an adult Lucius. To begin with, if there was a son of Lucullus named Lucius, he may very well have died in infancy. This would account for Plutarch passing over any reference to him. Secondly, there is no reference to this Lucius in either Varro or Cicero where we would expect to find it.⁴⁵ Both Varro and Cicero mention Cato as being the guardian of the son of Lucullus; no mention is made of another son. If there had been an elder son and he were sufficiently mature, then he, and not Cato, would have been the executor of Lucullus' estate and the guardian of Marcus Lucullus. Thirdly, it is possible that L. Lucullus named his first and only son after his brother Marcus. L. Lucullus had been exceptionally close to his younger brother Marcus: he had even waited for him to catch up to him on the cursus honorum. It is possible that this same closeness resulted in L. Lucullus naming his son after him.⁴⁶ As for the fate of L. Lucullus' son,⁴⁷ he died at the second battle of Philippi.

Wiseman also gives Clodia Luculli a daughter. He points to a statue at Athens with the inscription: "Licinia, the daughter of Lucius Licinius Lucullus." According to Wiseman,

the occasion on which the statue was set up was the exodus of Roman aristocrats to Pompey in 49. Among the exiles there were Licinia's brother and his mother Servilia. The exiles also included L. Metellus and his mother-in-law, Clodia. To Wiseman it "looks as if" this Clodia was the ex-wife of Lucullus, and Metellus was the husband of her daughter Licinia. I disagree with Wiseman's hypothesis because we must simply assume that the Clodia was Clodia Luculli and that the Metellus was her son-in-law through marriage to Licinia, Clodia's alleged daughter. Nor can we assume, as I have noted above, that Licinia was in fact Clodia's daughter. As for the occasion on which the statue was set up, it is unlikely that it took place in 49: surely the exiles had more on their minds than the erection of a statue at the outset of the Civil War. Besides this, there is the fact that Licinia's presence in Athens in 49 is not attested to.

G) Remarriage

Each of the sisters was in a position to remarry. Wiseman thinks that the brothers would not have left the sisters "unproductively single"; they would have formed other alliances through the almost immediate remarriage of their sisters because they did not have funds to match their ambitions. He also argues for the quick remarriage of the sisters by indicating that their contemporaries did not long remain single. There

are several objections to Wiseman's view. Firstly, he cites Varro R.R. 3.16.2 as proof that the Claudii Pulchri were poverty stricken and that they, therefore, would have sought to bolster their political position through the quick remarriage of the sisters. However, Varro R.R. 3.16.2 only depicts the financial situation of the Claudii Pulchri immediately after the death of Appius pater in 76; it does not indicate the financial position of the Claudii after Lucullus' divorce of Claudia in 66, the death of Rex in 61 or the death of Celer in 59. After the connections with the Luculli, the Reges and Metelli had been severed, the Claudii Pulchri were by no means in financial straits. A brief description of their military and political careers suffices to show this. When Lucullus married the youngest of the three sisters after the death of Appius in 76 and before his departure for the East at the end of 74, he gave Appius ⁵⁰ a legacy which eased the financial woes of the Claudii Pulchri. As a legate on the staff of Lucullus in the Mithridatic war Appius would have been enriched by his share ⁵¹ of the rich booty. He must have been in a sound financial position by 70, because Plutarch relates that he refused the generous bribes of Tigranes, unless of course his principles ⁵² prevented him from accepting Tigranes' gifts. In 61 Appius was rich enough to make a trip to Greece with the object of obtaining ⁵³ art objects for his prospective aedileship in 57. Publius,

like his elder brother, may have also benefited from his services as legate in the Mithridatic war. His activities in Cilicia and Syria in 67-66 may have been another source of profit.⁵⁴ On his return to Rome he probably married Fulvia who was a wealthy woman.⁵⁵ He also seems to have benefited from his trip to Gaul with Murena in 64.⁵⁶ Then, in his tribunate in 58, he used his influence to obtain money from king Brogitarus⁵⁷ and from the Byzantine exiles. As for Gaius, he may have profited somewhat from his stint as Caesar's legate in 58.⁵⁸ In any case, he certainly would have enriched himself during the tenure of the proconsulship of Asia from 55 to 53.⁵⁹ Besides this, the three brothers had probably used to the hilt the alliances, which they had established with the Luculli, Reges and Metelli, in order to further their political careers. We know that this is the case at least with regard to Publius. For instance, Metellus Celer had attempted to assist Clodius with his political plans in 60 by promulgating a measure that would allow him to assume plebeian status and thus become eligible for the tribunate. Metellus had assisted him for a time despite the fact⁶⁰ that he was a fervent optimate.

Nor is there any evidence for assuming that the sisters, out of family loyalty, were more than willing to remarry and bolster the political positions of the three brothers; the evidence points in the other direction. Clodia Metelli, for in-

stance, was in no hurry to marry after the death of her husband in early 59. By the date of Caelius' trial, April 4, 56,⁶¹ she had been a widow for approximately three years. She does not seem to have been the type of woman who would obediently comply with the possible wish of her brothers that she remarry. Cicero points to her independence from them in the Pro Caelio:

At sunt servi illi de cognatorum sententia, nobilissimorum et clarissimorum hominum, manumissi. Tandem aliquid invenimus, quod ista mulier de suorum propinquorum fortissimorum virorum sententia atque auctoritate fecisse dicatur.⁶²

Clodia Metelli's wealth would have permitted her to adopt an independent course of action. Her dos would have been sizeable, for she probably lived off of it alone; her bad relations with her husband may have kept her out of the will.⁶³ If Clodia Metelli was able to live off her dos, then Clodia Regis would have also been able to live off her dos although she may well have been included in her husband's will; there is nothing to suggest that she was left out of it. As for Clodia Luculli, we know that she was given to Lucullus without a dos. However, since he had helped out Appius financially, he may have taken the additional step of providing Clodia Luculli with a dos.

Wiseman mentions the marriage of a Clodia to the eques Ofilius. This Clodia bore fifteen children and is reputed to

have lived to the age of 115.⁶⁴ Wiseman thinks that she may have been one of the patrician sisters because she is mentioned along with two women of standing, Terentia Ciceronis and Livia Rutuli, and because the patrician Clodiae were the only ones among the Pulchri to spell their gentilicium in that way.⁶⁵ Valerius Maximus' mention of a Clodia with two women of distinction does not necessarily mean that she was one too: his point may have simply been to refer in a general manner to women who lived to advanced ages; even if the Clodia in question was of low birth, her advanced age may have earned her a place beside Terentia and Livia. Moreover, we do not have to assume that the Clodia in question had to be a Clodia Pulchra if she were a lady of standing; it is only on that assumption that the spelling of the gentilicium becomes a factor; even then there is so little known about the spelling of the gentilicia of the other Claudiae in general, that we can not posit a Clodia Pulchra. Another factor to be considered is whether someone who may have had a Rex or a Lucullus for a husband would have settled for an eques.

Wiseman thinks that either of the younger two Clodiae may have been married to Ofilius: Clodia Luculli or Clodia Regis.⁶⁶ He excludes Clodia Metelli on the grounds that she was the eldest of the sisters and that she was still a widow in April⁶⁷ 56. In my opinion she was not the eldest sister; therefore, I⁶⁸

shall include her in the following discussion which will examine the ages at which the sisters were able to remarry and their ability to produce fifteen children.

It is known that Clodia Metelli was older than Publius⁶⁹ and that he was born in 92; her year of birth would have been 93 or earlier. In April 56, about three years after the death⁷⁰ of her husband Metellus, she was still a widow; therefore, she would have been thirty-seven or older before she remarried.⁷¹ Clodia Regis was almost certainly older than Clodia Metelli: this would place her year of birth c. 94 or earlier. Since her husband Rex died in 61,⁷² she would have been thirty-three or older when she was ready to marry again. Clodia Luculli, meanwhile, was the youngest of the sisters: this would place her year of birth after that of Clodia Metelli. If she were fourteen, when she married Lucullus at some time in the years 76-74,⁷³ her year of birth was c. 90-88. When she was divorced by Lucullus in 66, therefore, she would have been anywhere from twenty-two to twenty-four years old. From this it can be seen that there is no likelihood of either Clodia Metelli or Clodia Regis having been the wife of Ofilius. Clodia Metelli, who probably⁷⁴ had one child by Metellus, would have had to produce fourteen more children starting at the age of thirty-seven. Clodia Regis, who had but one child that we know of, would have had to produce fourteen more children beginning at the age of thirty-three. Moreover, there is the probability that

Clodia Metelli, who only gave Metellus one daughter, and Clodia Regis, who bore one son, may not have been sufficiently fertile to begin a massive production of children at their advanced child bearing ages. If Ofilius did marry one of our Clodiae - a very unlikely possibility - the only apparent candidate is Clodia Luculli who was in her early twenties after the divorce from Lucullus. However, her fertility may also be called into question: the sources attest to no children resulting from her marriage with Lucullus.

H) Clodia and Cicero

There are various interpretations of Plutarch's reference to the contact which took place between Cicero and Clodia in the late sixties. Plutarch Cic. 29 describes that contact:

However, it was thought that Cicero did not give his testimony for truth's sake, but by way of defence against the charges of his wife Terentia. For there was enmity between her and Clodius on account of his sister Clodia, whom Terentia thought to be desirous of marrying Cicero and to be contriving this with the aid of a certain Tullus. Now Tullus was a companion and especial intimate of Cicero, and his constant visits and attentions to Clodia, who lived nearby, made Terentia suspicious. So being a woman of harsh nature, and having sway over Cicero she incited him to join in the attack upon Clodius and give testimony against him.

According to H. D. Rankin, Plutarch in this passage tells us that negotiations were begun to bring about Cicero's marriage with Clodia Metelli at a time when his power and prestige were at their highest (63-62); that Cicero was not reluctant and visited Clodia often; that Terentia's ascendancy over him enabled her to persuade him not to divorce her; that he was reluctant to give evidence when the Bona Dea scandal broke out, but she persuaded him to do so. ⁷⁵Rankin, I think, misconstrues what Plutarch is saying. Plutarch mentions that Clodia established contact with Cicero through Tullus, not that there was frequent contact between the two. He also relates that this contact was established when Cicero was living on the Palatine, for he states that Clodia Metelli lived nearby: Cicero bought his house on the Palatine in the latter half of 62. ⁷⁶If there was any contact between Clodia Metelli and Cicero it would have taken place in the last few months of 62 when Cicero was living in his house on the Palatine. Finally, Plutarch only mentions that a Clodia was involved, not a Clodia Metelli.

Rankin thinks that Cicero may have given testimony against Clodius because of his desire to avoid a marriage alliance in which his prestige was "captured" by Clodius and because of his personal fastidiousness with regard to Clodia Metelli. ⁷⁷It is improbable that Cicero gave testimony against



Clodius for these reasons. If anything prompted Cicero to give evidence against Clodius, it was his enmity for the latter.

Before the Bona Dea trial, Clodius had earned the undying enmity of Cicero by his remarks that the latter in the Catilinarian conspiracy "comperisse omnia". Cicero answered Clodius' attacks with a series of vituperative speeches.⁷⁸

McDermott puts forward the hypothesis that Plutarch's mention of the contact between Cicero and Clodia is a reference to the fact that the Claudii had made a formal offer of marriage to Cicero in the first eleven months of 62. The Claudii had been on friendly terms with him in 63 and would be eager to form an alliance with him through marriage because he had greatly increased his auctoritas and dignitas as consul. McDermott thinks that the sister offered in marriage was Clodia Tertia; unlike her sisters she did not have a lurid reputation and she would have been available with the death of Rex⁷⁹ in late 63. The hypothesis has several weaknesses. For instance, Plutarch does not mention a formal offer of marriage by the Pulchri to Cicero; only Clodia's desire to marry Cicero is referred to. Nor need we assume that Tertia was the sister in question because she was the only sister with a good reputation and that Rex died in late 63. There is no evidence showing that Clodia Metelli had a lurid reputation in 62 and the only information which we have on the death of Rex comes

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in May 61. McDermott also rules out Clodia Metelli on the grounds that she was the wife of Cicero's ally Metellus Celer. However, the evidence from the letters exchanged between Celer⁸¹ and Cicero in 62 reveals a distinct coolness between them. Besides this, Plutarch mentions that the Clodia in question lived near Cicero: Clodia Metelli may have lived three doors away from Cicero on the Clivus Victoriae.⁸² He also gives us an indication that Tertia (Clodia Regis) was not the sister in question: he designates both Clodia Metelli and Clodia Luculli as Clodia whereas he designates Clodia Regis as Tertia; the sister who was eager to marry Cicero was called Clodia.⁸³

McDermott identifies the Tullus in the story with L. Volcatius Tullus (cos. 33) the son of the consul of 66. He points out that the Tullus was probably born in 76 and serving his tirocinium fori with Cicero in 62.⁸⁴ However, we may ask why Clodia and Cicero would be using a fourteen year old boy in such a touchy situation and why Cicero would be introducing someone in his charge to the world of politics in such a manner.

Wiseman replaces Tullus with the name Thyllus on the basis of manuscript evidence. As Wiseman shows, a Θύλλος is pointed to in the following passage of the manuscript Ν. Σ. Δ. Θύλλου τινὸς Ἰαπωντινοῦ. The Θύλλος has been emended by the editor of the Teubner text to Τύλλος in order to get the Roman name Tullus. However, Wiseman indicates that Tul-

lus was usually rendered in the Greek by *Θύλλος*. He identifies Thyllus of Tarentum with Thyillus the poet who abandoned Cicero in 61, because only the simplest of emendations is required to turn Thyllus into a perfectly good Greek name. We would then have a Greek coming from the Greek town of Tarentum. Wiseman backs up his case by pointing out that there are grounds for assuming that Thyillus, Cicero's poet, came from a town on the coast.

Wiseman thinks that Plutarch followed a source hostile to Cicero which invented a reason for the contact between Clodia and Cicero when the real reason for the contact was forgotten. The contact for which the source invents a reason would be that which took place between Cicero and Clodia Metelli in 63, when Cicero was attempting to ward off the political attacks of the tribune Metellus Nepos by appealing to his sister-in-law, Clodia Metelli, to use her influence to prevent him from undertaking any hostile action. Wiseman believes that the story in Plutarch would become more believable if the go-between of Clodia and Cicero at that time were named. According to Wiseman the go-between would have been Thyillus.⁸⁵

We do not have to posit, as does Wiseman, the existence of a go-between for Clodia Metelli and Cicero in 63. Cicero refers to his contact with Clodia Metelli in a letter to her husband:

quem ego cum comperissem omnem sui tribunatus
conatum in meam perniciem parare atque meditari,
egi cum Claudia, uxore tua, et cum vestra soro-
re Mucia, cuius erga me studium pro Cn. Pompei
necessitudine multis in rebus perspexeram, ut
eum ab illa iniuria detererent.⁸⁶

In this passage, Cicero makes no mention of a go-between, nor of any sustained contact which required one.

The foregoing discussion has been based on the assumption that Plutarch's story contained some element of historical truth. However, there is the strong possibility that the story is sheer fabrication. In Plutarch Cic. 29 Cicero is depicted as being compelled by his wife Terentia to give evidence against Clodius; he is depicted as a moral weakling who gave evidence against Clodius in order to defend himself against his wife's charges that he intended to divorce her and marry Clodia. The role of the contact between Clodia and Cicero would be to provide the means by which the utter dominance of Terentia over Cicero is able to be shown. The contact between Clodia and Cicero is by no means the main factor in the story told in Plutarch Cic. 29; it is secondary and used to bolster the primary factor of the story: Terentia's dominance over Cicero. Plutarch may have drawn upon an anti-Ciceronian source for the story, a source which may well have fabricated the whole story concerning the reason for Cicero's testimony in order to blacken his reputation; if the story were fabricated

some time after the alleged contact between Clodia and Cicero, it would be very hard to deny or affirm the contact. Plutarch's source, however, may have simply drawn his data from the gossip prevalent around the time of the Bona Dea trial or he may have mentioned the gossip that surrounded that trial. In introducing the story concerning Cicero's testimony, Plutarch makes it quite clear that he is dealing with rumour by using the word "εἰς ἄκουσιν". This indicates that he was either treating his source with some scepticism because it was biased or that his source simply mentioned the rumours that surrounded the Bona Dea trial. In all probability the story was originated by Clodius. Cicero's testimony had completely shattered Clodius' alibi that he was elsewhere when the intrusion by a male on the Bona Dea sacrifice took place. Moreover, Cicero's evidence made a liar out of Clodius; this must have been a blow to the latter's dignitas. Clodius, therefore, had good reason to avenge himself against Cicero. What better way than to put forth the story which Plutarch relates in Cic. 29? There would have been very little which Cicero could do to counter such a story; what objective proof could he offer to rebut it? He certainly could not have gotten Clodius' sister or all people to deny it publicly. Nor could any public statements by Thyllus be of assistance because they would have been attacked on the grounds that he had been the "companion and especial intimate" of Ci-

cero. In addition Cicero would have been hard put to counter the baseless accusation that his wife had him under her thumb. He would have been as much at a loss to counter this type of accusation as was Clodius when he levelled the incest charge against him. His difficulties would have been added to by the fact that rumours about his relationship with Terentia were probably already prevalent. It is probably on such gossip that Plutarch's source explained what lay behind Cicero's decision to adopt a stringent line against the Catilinarian conspirators. In Cic. 19-20 Plutarch relates that on the night of December 4, 63, the Bona Dea sacrifice was being held in Cicero's house. When a flame blazed out from a dying fire, it was taken as a sign that Cicero must act resolutely against the Catilinarians. Terentia was chosen by the Vestals at the sacrifice to bring news of the omen to Cicero who was staying at a friend's house. He is described as a weak and indecisive man unable to take a stern course of action towards the conspirators. Terentia, however, brought him round to her way of thinking:

So Terentia, who was generally of no mild spirit not without natural courage, but an ambitious woman, and as Cicero tells us, more inclined to make herself a partner in his political perplexities, than to share with him her domestic concerns, gave him the message and incited him against the conspirators; so likewise did Quintus, his brother, and Publius Nigidius...⁸⁷

There were probably also rumours about Terentia's political importance vis à vis Cicero floating around in early 62. In the In M. Tullium Ciceronem Oratio, attributed to Sallust, Cicero is accused in conjunction with Terentia of having extorted money from individuals in return for not implicating them in the Catilinarian conspiracy. ⁸⁸ Given the rumours about Terentia, Cicero would have had his hands tied in refuting the story about his testimony. The only way in which he could retaliate was by levelling equally baseless innuendo against Clodius.

I) Clodia Metelli "Quadrantaria"

Cicero gives us the best indication to the meaning of Clodia Metelli's nickname "quadrantaria" in Cael. 62:

...nisi forte mulier potens quadrantaria illa
permutatione familiaris facta erat balneatori.

In this passage Cicero insults Clodia by insinuating that she had to purchase the bathman's favour for a quadrans, a quarter of an as. Through the double meaning he attaches to the word "permutatione" he is also insinuating that the bathman purchased her favours for a quadrans. Her nickname "quadrantaria" would, therefore, be used to label her as a prostitute and a cheap one at that: the cheapest rate for a prostitute at Pompeii was two asses. ⁸⁹ In Cael. 69, Cicero makes another pun on her nickname:

quod profecto numquam hominum sermo atque opinio comprobasset, nisi omnia, quae cum turpitu-

dine aliqua dicerentur in istam quadrare
apte viderentur.

The word "quadrare" is used to suggest quadrans and thus quadrantaria. The jury would quickly pick this up, as Cicero's allusion to her nickname in Cael. 62 was still fresh in their minds. The word "quadrare" is also used to show that an obscene joke, which was played on Clodia, squared perfectly with her reputation: this would be a pointer to the reputation referred to in Cael. 62.

Caelius Rufus also designated Clodia Metelli as Clodia "quadrantaria" when he spoke in his own defence. Quintilian mentions Caelius' remark about her when he discusses riddles:

ut Caelius 'quadrantariam Clytaemnestram,'
et 'in triclinio coam, in cubiculo nolam.'⁹⁰

Caelius probably attached the same meaning to her nickname as did Cicero: the latter would not have confused the jurors and the audience by infusing it with another meaning; He would have kept up the joke about her name, which Caelius had spoken about a day earlier.

Caelius probably compared Clodia to Clytemnestra in order to describe her as an adulteress and the slayer of her husband; Cicero in his speech accused Clodia of murdering her husband;⁹¹ the fact that he does so may indicate that he was expanding upon Caelius' comparison of her to Agamemnon's wife. Another element of Caelius' comparison may be an attempt to show

that Clodia like the Clytemnestra of Aeschylus was ambitious and independent: Cicero may have picked up on this when he depicts Clodia as being behind the proceedings against Caelius, as assisting in the acquittal of Sextus Cloelius and as being free from the control of her brothers.⁹²

Plutarch in his life of Cicero gives his explanation for Clodia Metelli's nickname:

There was also a general belief that Clodius had intercourse with his other two sisters of whom Tertia was the wife of Marcius Rex and Clodia of Metellus Celer; the latter was called Quadrantaria, because one of her lovers had put copper coins in a purse and sent them to her for silver and the smallest coin was called "quadrans".⁹³

Here Plutarch may be attempting to explain the nickname which he found in the works of Cicero and Caelius. However, it is more probable that he is simply relating the incident which earned Clodia Metelli her nickname. The problem is that he does not say why copper was given to her instead of silver. Cicero makes it clear that her name "quadrantaria" signified that she could be had for a quadrans. The incident which gave rise to her nickname would have prompted Cicero to make the allusion that the favours of Clodia Metelli were worth no more than a quadrans. This being the case, a lover, in appreciation of Clodia's favours, would have sent her a purse full of quadrantes.

rather than silver in order to display his low estimation of her. Perhaps it was the same incident, which Caelius had in mind when he said of Clodia: "triclinio ⁱⁿ coam, in cubiculo non lam."

J) The Incest Charge

In his speeches Cicero accuses all three Clodiae of incest:

Qui tribunus pl. felix in evertenda re publica fuit nullis suis nervis, qui enim in eius modi vita nervi esse potuerunt hominis frateris flagitiis, sororis stupris, omni inaudita libidine exsanguis?⁹⁴

...an ex sororum cubiculo egressus pudorem pudicitiamque defendat?⁹⁵

qui post patris mortem primam illam aetatulam suam ad scurrarum locupletium libidines detulit, quorum intemperantia expleta in domesticis est germanitatis stupris volutatus.⁹⁶

quis unquam nepos tam libere est cum scortis quam hic cum sororibus volutatus?⁹⁷

primum illa furia, ~~(ille fur)~~ muliebrum religionum, qui non pluris fecerat Bonam Deam quam tris sorores...⁹⁸

These allegations are part and parcel of the sexually tinged invective which Cicero directed against Clodius.⁹⁹ They may be generalizations on the common belief or suspicion that Clodius had an incestuous relationship with one of his sisters:

... cum scurrarum locupletium scorto, cum sororis adultero, cum stuprorum sacerdote...¹⁰⁰

This is not the only passage which mentions Clodius' alleged incest with one sister; there are several other passages in Cicero's speeches and letters where he refers to an incestuous sister but does not specifically identify her. By comparing these passages with those in the Pro Caelio where Clodia Metelli is depicted as her brother's lover, we can identify Clodia Metelli as the sister whom Cicero is pointing out to his audience.

In Har. 38, Cicero says:

Quis enim ante te sacra illa vir sciens viderat, ut quisquam poenam quae sequeretur id scelus scire posset? an tibi luminis obsesset caecitas plus quam libidinis? ne id quidem sentis, coniventes illos oculos abavi tui magis optandos fuisse quam hos flagrantis sororis?

Here Cicero is speaking about Clodius' alleged incest with that sister whose eyes he describes as "hos flagrantis sororis". In Cael. 48-49 he employs similar terminology to describe the eyes of Clodia Metelli:

Hic ego iam rem definiam, mulierem nullam nominabo; tantum in medio relinquam. Si quae non nupta mulier domum suam patefecerit omnium cupiditati palamque sese in meretricia vita collocarit, virorum alienissimorum conviviis uti instituerit, si hoc in urbe, si in hortis, si in Baiarum illa celebritate faciat, si denique ita

sese gerat non incessu solum, sed ornatu atque comitatu, non flagrantia oculorum, non libertate sermonum, sed etiam complexu, osculatione, actis, navigatione, conviviis, ut non solum meretrix, sed etiam proterva meretrix procaxque videatur:

In Cael. 36 and 7⁸ Cicero also alleges that Clodia Metelli committed incest with Clodius. Therefore, she has two things in common with the sister mentioned in Har. 38: she has oculi flagrantes and incest is alleged against her.

These two attributes are also those of that Lady Ox-Eyes whom Cicero mentions as the sister of Clodius. He uses the word Βοωνίς to designate her eyes: the epithet would designate the largeness and the beauty of feminine eyes in much the same way as would the epithet flagrantes. The fact that he points out this distinguishing physical characteristic in depicting Lady Ox-Eyes and Clodia Metelli is ground for drawing the plausible conclusion that they are one and the same person.

Lady Ox-Eyes also has the other attribute which makes her identification with Clodia Metelli plausible. As Shackleton Bailey notes, Cicero applies the same epithet, Βοωνίς, to lady Ox-Eyes that Homer used to describe Hera, the sister and wife of Zeus: he probably does so to indicate the alleged incestuous relationship between her and her brother. Besides this, Cicero in one of his letters to Atticus may be suggesting

very subtly that lady Ox-Eyes committed incest with Clodius.

He writes:

sed Boopidis nostrae consanguineus non mediocris terrores iacit atque denuntiat et Sampsiceramo negat...¹⁰³

In this passage he employs consanguineus rather than frater to designate Clodius. As Shackleton Bailey notes, consanguineus may have an obscene connotation.¹⁰⁴ It may be used to suggest union. Perhaps it has much the same meaning as "socio tui sanguinis", the phrase which Cicero employs to describe Sextus Cloelius' relationship with Clodia in Dom. 25.

Cicero refers to one of Clodius' sisters in Har. 27 where he compares a sister's virtue to that of the famous Quinta Claudia:

Hac igitur vate suadente quondam, defessa Italia Punico bello atque ab Hannibale vexata, sacra ista nostri maiores ascita ex Phrygia Romae collocarunt: quae vir is accepit, qui est optimus populi Romani iudicatus, P. Scipio, femina autem, quae matronarum castissima putabatur, Q. Claudia: cuius priscam illam severitatem mirifice tua soror existimatur imitata.

This passage corresponds to Cael. 34 where Clodia Metelli is contrasted with the same Quinta Claudia. Cicero speaks in the guise of Clodia's ancestor, the famous blind censor Appius Claudius Caecus:

Cum ex amplissimo genere in familiam claris-

simam nupsisses, cur tibi Caelius tam coniunctus fuit? cognatus, adfinis, viri tui familiaris? Nihil eorum. Quid igitur fuit nisi quaedam temeritas ac libido? Nonne te, si nostrae imagines viriles non commovebant, ne progenies quidem mea, Q. illa Claudia, aemulam domesticae laudis in gloria muliebri esse admonebat...

In both passages he uses the same comparison. I suggest that he does this because he probably had the same lady in mind.

Cicero also points to Clodius' incestuous behaviour in Sest. 116:

Ipse ille maxime ludius, non solum spectator, sed actor et acroama, qui omnia sororis embolia novit, qui in coetum mulierum pro psaltria adducitur...

In this passage Cicero employs terms which have to do with acting and writing: spectator, actor, acroama, embolia. About three weeks later he used similar terminology to describe Clodia Metelli in Cael. 64-65:¹⁰⁵

Velut haec tota fabella veteris et plurimarum fabularum poetriae quam est sine argumento, quam nullum invenire exitum potest!...Tempore igitur ipso se ostenderunt, cum Licinius venisset, pyxidem expediret manum porrigeret, venenum traderet. Mimi ergo est iam exitus, non fabulae; in quo cum clausula non invenitur, fugit aliquis e manibus, deinde scabilla concrepant, aulaeum tollitur.

Here too are allusions to writing, acting and comedy. We can

identify the Clodia of Sest. 116 with Clodia Metelli on the basis that Cicero employs the same type of theatrical metaphors to satirize them. However, there are more specific grounds for identifying the Clodia of Sest. 116 as the Clodia of Cael. 64-65. In Sest. 116 he states that Clodius knows all the embolia of his sister. Embolia were dramatic interludes. The Clodia in question, therefore, was a writer or composer, since she was the creator of these embolia. In Cael. 64, Clodia is called a fabularum poetria. She too is a writer. This makes her identification with the Clodia of Sest. 116 all the more probable.

Another similarity between the anonymous Clodia and Clodia Metelli comes to light when we compare Dom. 92 with Cael. 36. In Dom. 92 Cicero alleges that incest had taken place before the sister in question was married:

...tu sororem tuam virginem non sisti.

He implies the same thing with regard to Clodia Metelli in Cael. 36:

Sin autem urbanus me agere mavis, sic agam tecum; removebo illum senem durum ac paene agrestem; ex his igitur tuis sumam aliquem ac potissimum minimum fratrem, qui est in isto genere urbanissimus; qui te amat plurimum, qui propter nescio quam, credo, timiditatem et nocturnos quosdam inanes metus tecum semper pusio cum maiore sorore cubitavit. Eum putato tecum loqui: "Quid tumultuaris, soror? quid insanis?"

Quid clamorem exorsa verbis, parvam rem magnam facis?

Yet another similarity between the two Clodiae is the language which Cicero uses to describe their relationship to Clodius. He speaks of the undesignated Clodia as being the wife and sister of Clodius in Har. 39 and Dom. 92:

...cum uxorem sororemque non discernis... (Har. 39)

Hic tu me etiam gloriari vetas: negas esse ferenda quae solem de me praedicare, et homo facetus inducis etiam sermonem urbanum ac venustum, me dicere solere esse me Iovem, eundemque dictitare Minervam esse sororem meam. Non tam insolens sum, quod Iovem esse me dico, quam ineruditus, quod Minervam sororem Iovis esse existimo. Sed tamen ego mihi sororem virginem ascisco, tu sororem tuam virginem esse non sistsi. Sed vide ne tu te soleas Iovem dicere, quod tu iure eandem sororem et uxorem appellare possis. (Dom. 92)

He refers to Clodia Metelli in the same way in Cael. 32 and 78:

Sin ista muliere remota nec crimen ullum nec opes ad oppugnandum Caelium illis relinquuntur, quid est aliud quod nos patroni facere debeamus, nisi ut eos, qui insectantur, repellamus? Quod quidem facerem vehementius, nisi intercederent mihi inimicitiae cum istius mulieris viro - fratre volui dicere; semper hic erro. (Cael. 32)

in ^{ea} hac civitate ne patiamini illum absolutum muliebri gratia, M. Caelium libidini muliebri condonatum, ne eadem mulier cum suo coniuge et fratre et turpissimum latronem eripuisse et honestissimum adolescentem oppressisse videatur. (Cael. 78)

In all four passages Cicero denotes the incestuous relationship by describing the sister in question as being both the wife and sister of Clodius. In using the same type of portrayal in the four passages he probably has the same sister in mind: Clodia Metelli. However, he permits us to adduce a more specific argument. In Cael. 32 he says:

...nisi intercederent mihi inimicitiae cum istius mulieris viro - fratre volui dicere; semper hic erro.

He alleges that he always mistakes Clodius for Clodia Metelli's husband. On this basis the sister mentioned in Har. 39 and Dom. 92 is Clodia Metelli. Besides this, there is another way to identify the sister as Clodia Metelli. As it has been noted above, Cicero referred to Clodia Metelli as lady Ox-Eyes, Bovinas, in his letters to Atticus, and Shackleton Bailey has pointed out that he may have given her this epithet, which Homer employs to describe Hera as the wife-sister of Zeus, to denote her alleged incestuous relationship with her brother. In Dom. 92 he says that Clodius, like Jupiter, can apply the names of sister and wife to the same woman. The sister in question, therefore, would be likened to Hera or her Roman counterpart, Juno. Since Clodia Metelli is the only sister whom he seemingly compares to Hera, she is probably the one whom Cicero has in mind when he compares Clodius to Jupiter in Dom. 92.

Finally, there is the fact that Cicero links the unspecified Clodia and Clodia Metelli with Clodius' right hand man

Sextus Cloelius. In Dom. 25 and 83 he describes one of the sisters' contacts with Sextus Cloelius:

Hic vir extra ordinem rei frumentariae praeficiendus non fuit? Scilicet tu helluoni spurcatissimo, praegustatori libidinum tuarum, homini egentissimo et facinorosissimo, Sex. Cloelio, socio tui sanguinis, qui sua lingua etiam sororem tuam a te abalienavit, omne frumentum privatum et publicum, omnes provincias frumentarias, omnes mancipes, omnes horreorum claves lege tua tradidisti. (Dom. 25)

Ubi cavisti ne meo me loco censor in senatum legeret? quod de omnibus, etiam quibus damnatiss interdictum est, scriptum est in legibus. Quaere hoc ex Cloelio, scriptore legum tuarum: iube adesse: latitat omnino, sed si requiri iusseris, invenient hominem apud sororem tuam occultantem se capite demisso. (Dom. 82-83)

Cicero also associates Sextus Cloelius with Clodia Metelli in Cael. 78:

Quare oro obtestorque vos, iudices, ut, qua in civitate paucis his diebus Sex. Cloelius absolutus sit, quem vos per biennium aut ministrum seditionis aut ducem vidistis...in hac civitate ne patiamini illum absolutum muliebri gratia, M. Caelius libidini muliebri condonatum...

Through this passage Cicero alleges that Clodia Metelli was sufficiently associated with Sextus Cloelius so as to work for his acquittal. In Dom. 25 and 82-83 Cicero is probably using



this relationship as a basis for his allegations concerning the sexual relationship between the two of them. Cael. 78, however, is not the only evidence we have for the relationship between Sextus Cloelius and Clodia Metelli. In one of his letters to Atticus Cicero writes:

quanto magis vidi ex tuis litteris quam ex illius sermone quid ageretur, de ruminacione cotidiana, de cogitatione Publi, de lituis Βοῶν-
 τισος, de signifero Athenione, de litteris missis ad Gnaeum, de Theophanis Memmique sermone.¹⁰⁶

The Athenio alluded to here would probably be none other than Sextus Cloelius. In this passage Cicero is pointing out Clodius' closest associates: he describes Clodius, lady Ox-Eyes and Athenio as an army ready to do battle: in political terms he would be referring to the members of the Clodian factio: Clodius, Cloelius and Clodia Metelli. During the period 58-52¹⁰⁷ Sextus Cloelius played a leading role in the factio. Lady Ox-Eyes was also a member of the factio: in 59, for instance,¹⁰⁸ she was aware of her brother's political plans. She would have had frequent contact with her fellow member of the Clodian factio: Sextus Cloelius. This contact would easily provide Cicero with sufficient material for the insinuations he makes in Dom. 25 and 82-83.

Cicero seems to have taken it for granted that his audience knew which sister he was referring to, when he alluded to

her lurid reputation. We need only look at one of his letters to Quintus to perceive this:

Ea res acta est, cum hora sexta vix Pompeius
perorasset, usque ad horam octavam, cum omnia
maledicta, versus denique obscenissimi in Clo-
dium et Clodiam dicerentur.¹⁰⁹

Here Cicero assumes that Quintus knows which sister he is talking about. If all three sisters had notorious reputations, he would have to be more specific in his letters and speeches. Since he is not specific, there must have been one sister which he and his audience especially had in mind: Clodia Metelli. Cicero refers to her in the following manner in the Pro Caelio:

Res est omnis in hac causa nobis, iudices, cum
Clodia, muliere non solum nobili, sed etiam nota.¹¹⁰

There is also evidence from one of Cicero's letters to Atticus which pinpoints the sister whom he alludes to when he alleged incest between Clodius and one of his sisters. In June 60, he writes in A. 2.1.5:

itaque iam familiariter cum ipso etiam cavillor
ac iocor. quin etiam cum candidatum deduceremus,
quaerit ex me num consuessem Siculis locum gla-
diatoribus dare. negavi. 'at ego' inquit 'novus
patronus instituum. sed soror, quae tantum habe-
at consularis loci, unum mihi solum pedem dat.'
'noli' inquam 'de uno pede sororis queri; licet
etiam alterum tollas.' 'non consulare' inquires
'dictum.' fateor; sed ego illam odi male consu-
larem.

In this passage Cicero shows that he readily replied to Clodius' complaint with his joke on Clodia Metelli: he would have done so, because he thought of her as the incestuous sister.

According to Plutarch, incest was also alleged against Clodia Luculli at the Bona Dea trial in 61:

And Lucullus actually produced female slaves who testified that Clodius had commerce with his youngest sister when she was living with Lucullus as his wife.¹¹¹

Cicero also refers to the charge in the Pro Milone:

eum, quem cum sorore germana nefarium stuprum fecisse L. Lucullus iuratus se quaestionibus habitis dixit comperisse.¹¹²

It is very doubtful, however, that Clodia Luculli was the sister whom Cicero had in mind when he levelled the charge of incest against one of the Clodiae in his letters and speeches of 60 and afterwards. As it has been mentioned above, Clodia Metelli can be identified as the Clodia of whom he is thinking when he makes the accusation of incest. Moreover, there was no motive for his inclusion of Clodia Luculli in the charges of incest, which he levelled against Clodius, whereas there was in the case of Clodia Metelli. We know that beginning in June 60 he had a deep-seated hatred of her: "...sed odi illam male consularem."¹¹³ It was this hatred which had prompted his rather unconsular joke about her incest with Clodius. His hatred of her would have only increased in 58 and afterwards as a re-

sult of her cruel treatment of his family during his exile:

Obliviscor iam iniurias tuas, Clodia, depono
memoriam doloris mei; quae abs te crudeliter
in meos me absente facta sunt, neglego.¹¹⁴

His hatred for her is also attested to in the Pro Caelio by
the numerous biting remarks which he made about her reputa-
tion.¹¹⁵ His hatred of her, therefore, would have made her the
target of his innuendo concerning the incest in 60 and after-
wards.

K) The Incest Charge - Fact or Fiction?

There was only one attempt to substantiate the allegation
that Clodius had committed incest. At the Bona Dea trial in 61,
he was accused of having committed incest with Clodia Luculli
when she was the wife of Lucullus. Cicero tells us that Lucul-
lus testified on oath that he had learnt through an investiga-
tion about Clodius' alleged incest with his sister, while Plu-
tarch relates that he produced female slaves who testified to
the incest.¹¹⁶ Vengeance was no doubt Lucullus' reason for this
action; Clodius' mutinous behaviour at Nisibis had contributed
directly to his supersession by Pompey in the East.¹¹⁷ The same
motive had probably prompted him to take a leading role in the
proceedings which brought Clodius to trial. The evidence sub-
mitted by Lucullus can be seriously doubted. To begin with, his
word that incest had taken place was no more than an allega-

tion. As proof of his allegation, Plutarch tells us, he produced female slaves. However, since he produced the female slaves, they must have been his own slaves, not those of Clodia Luculli; had her slaves been brought forth for the purpose of offering testimony, the prosecution would have been responsible, not Lucullus.¹¹⁸ The validity of the testimony, therefore, can be seriously questioned. In the Pro Milone, Cicero describes a similar case of eliciting testimony from slaves and points out the pitfalls of such a procedure.¹¹⁹ He sums up the whole situation with one rhetorical question:

in reum de servo accusatoris^{cum} quaeritur verum
inveniri potest?¹²⁰

L) Lesbia - Clodia Metelli?

Lesbia was the object of Catullus' attentions. She was a Clodia.¹²¹ In poem 79 Catullus makes it clear that Clodia - Lesbia was a sister of P. Clodius Pulcher:

Lesbius est pulcher: quid ni? quem Lesbia malit
quam te cum tota gente, Catulle, tua.
sed tamen hic pulcher vendat cum gente Catullum,
si tria notorum savia reppererit.

Catullus makes it clear that Lesbius is a Pulcher and implies that he is a brother of Lesbia - Clodia by referring to him as Lesbius. He also points to the incestuous relationship between the two; the brother in question, therefore, would be P. Clodius Pulcher, the only one of the three Pulchri against whom incestuous behaviour was alleged.

From Plutarch and Cicero we learn that Clodius was rumoured to have committed incest with all three sisters. On this basis, Catullus' allegation can be applied to any one of the three sisters. He may have had more in mind than a general rumour which applied equally to all three sisters. His allegation was probably meant to be biting and sarcastic innuendo intended to denigrate Clodia's reputation. If his innuendo were aimed at one of the sisters who was especially rumoured to be Clodius' sexual partner, then it would have had the necessary bite and sarcasm. What information we have indicates that Clodia Luculli and Clodia Metelli found themselves singled out in this manner. Had Catullus' poem been written in 61, it would have been aimed at Clodia Luculli because in that year the rumours about her incest with Clodius would have been rampant as a result of the disclosures at the Bona Dea trial: his innuendo would have been especially biting as it rested on these current rumours. If he composed his poem in 60 or afterwards, it would have been directed against Clodia Metelli who was the object of the current rumours in that period. In June of 60 Cicero had made his rather obscene joke to Clodius about Clodia Metelli and he had done so without thinking twice about it. He had probably made the joke about her, because it was against her that the rumours of incest were especially directed. What Cicero has to say to Atticus after telling him about the joke is very significant:

'noli' inquam 'de uno pede sororis queri; licet etiam alterum tollas.' 'non consulare' inquires 'dictum.' fateor; sed ego illam odi male consularem: 'ea est enim seditiosa, ea cum viro bellum gerit', neque solum cum Metello sed etiam cum Fabio, quod eos nihili esse moleste fert.¹²³

Here Cicero describes Clodia's marital problems with Metellus and her extramarital problems with her lover Fabius. The latter is depicted as objecting to the immoral behaviour of "eos",¹²⁴ Clodia and Clodius. The object of his complaint was probably the alleged incest between the two: Cicero suggests this through the expression "nihili esse" which, as Shackleton Bailey points out, he uses to imply "moral obliquity".¹²⁵ If Cicero knew of Fabius' complaints of the close brother sister relationship, then others would have also known: the rumours about the relations of Clodius and Clodia Metelli would have¹²⁶ been on many tongues. In 59 and afterwards, rumours concerning Clodia Metelli and Clodius would have been fuelled by the former's close participation in her brother's factio. In the period 57-55 Cicero could refer to one sister as being incestuous, and he took it for granted that his audience knew the sister in question: Clodia Metelli. Moreover, his direct and graphic references to the alleged incest in the Pro Caelio¹²⁷ would have fed the rumour mill. It may well have been the rumours directed against Clodia Metelli from 60 and afterwards, which caused Plutarch to say that incest was especially rumoured against Clodia Metelli.¹²⁸

There are two other tentative grounds on which Catullus' Lesbia may be identified with Clodia Metelli. Firstly, both of them had a number of lovers.¹²⁹ However, we cannot attach too much importance to this similarity, because we have no evidence concerning the promiscuity of the other two Clodiae.

Secondly, there is the slight possibility of identifying the associates of Clodia Metelli with those of Catullus and Lesbia. In his poems Catullus mentions a Caelius, who is his friend, and a Rufus who was once his friend but became his rival for Clodia.¹³⁰ T. P. Wiseman has shown convincingly that Catullus' friend Caelius is not to be identified with Caelius Rufus, Clodia Metelli's lover: while Caelius Rufus came from Teramo,¹³¹ Catullus' Caelius came from Verona.

Wiseman disagrees with Nisbet's identification of Catullus' Rufus with Caelius Rufus. Nisbet argues that Catullus' Rufus is probably to be identified with Caelius Rufus: otherwise there would be too much of a quaint coincidence: two Clodiae would be mistresses of two Rufi; Clodia Metelli would be the mistress of Caelius Rufus and Clodia-Lesbia, the mistress of Rufus. Wiseman points out that Caelius Rufus was a histrionic orator, a good man in a rough house, and one of the best dancers of his age: on this basis he cannot be identified with the Rufus whom Catullus depicts as being malodorous and suffering from gout.¹³² In my view Wiseman does not take into consideration the probability that Catullus' as Rufus' rival

for Clodia would exaggerate out of proportion any physical defects he may have had; Clodia at any rate did not find any physical defects to object to. Catullus' Rufus, therefore, may have been the elegant Caelius Rufus. However, this does not definitely make Caelius Rufus the lover of Lesbia: there were numerous other Rufi who could fill that role.¹³³

M) Marcus Camurtius, Gaius Caesernius
and Clodia Metelli

Cicero refers to the case of Marcus Camurtius and Gaius Caesernius in Cael. 71:

Atque hoc etiam loco M. Camurti et C. Caeserni damnatio praedicatur. O stultitiam! stultitiamne dicam an impudentiam singularem! Audetisne, cum ab ea muliere veniatis, facere istorum hominum mentionem? audetis excitare tanti flagitii memoriam non extinctam illam quidem, sed repressam vetustate? Quo enim illi crimine peccatoque perierunt? Nempe quod eiusdem mulieris dolorem et iniuriam Vettiano nefario stupro sunt persecuti. Ergo ut audiretur Vetti nomen in causa, ut illa vetus aeraria fabula referretur, idcirco Camurti et Caeserni est causa renovata?

This is the only mention which we have about the case of Camurtius and Caesernius. Cicero, however, provides us with sufficient information to propose the roles of Clodia, Vettius, Camurtius and Caesernius.

In Cael. 70 Cicero points out the incongruity of having Caelius tried under the lex Plautia de vi which was aimed at curbing political violence:

Dicta est a me causa, iudices, et perorata.
Iam intellegitis, quantum iudicium sustineatis,
quanta res sit commissa vobis. De vi quaeritis.
Quae lex ad imperium, ad maiestatem, ad stárum
patriae, ad salutem omnium pertinet, quam le-
gem Q. Catulus armata dissensione civium rei
publicae paene extremis temporibus tulit; quae-
que lex sedata illa flamma consulatus mei fuman-
tes reliquias coniurationis exstinxit, hac nunc
lege Caeli adulescentia non ad rei publicae poe-
nas, sed ad mulieris libidines et delicias de-
poscitur?

At the beginning of Cael. 71 he shows that the prosecution has brought forth the case of Camurtius and Caesernius in reference to the lex Plautia de vi; after the discussion of the lex Plautia, he begins Cael. 71 with "Atque hoc etiam loco". The prosecution's reason for bringing in the Camurtius-Caesernius incident was to prove that a precedent existed for having Caelius prosecuted under the lex Plautia de vi for the crimes he had allegedly committed. Cicero's rebuttal of the prosecution's judicial tactic indicates that this had been its purpose: after making fun of the Camurtius Caesernius case, he points out sarcastically that what Camurtius and Caesernius had done was not included under the lex Plautia de vi and that

similarly the charges against Caelius did not fall under its jurisdiction:

qui quamquam lege de vi certe non tenebantur, eo maleficio tamen erant implicati, ut ex nullius legis laqueis eximendi viderentur. M. vero Caelius cur in hoc iudicium vocatur? cui neque proprium quaestionis crimen obicitur nec vero aliquod eius modi, quod sit a lege seiunctum, cum vestra severitate coniunctum.¹³⁴

Clodia Metelli was involved in the Camurtius-Caesernius case and it was her prosecutors who mentioned it in court. The case, therefore, would not have contained anything damaging to her reputation; the prosecution knew better than to offer Cicero something he could use with telling effect against Clodia Metelli. As a result of this, the sentence wherein he describes the roles of Camurtius, Caesernius, Vettius and Clodia cannot be taken to mean that Clodia was the instigator of the assault. The sentence is: "Nempe quod eiusdem mulieris dolorem et iniuriam Vettiano nefario stupro sunt persecuti." It will not signify: "No doubt because they avenged the spite and resentment of this same woman by an infamous Vettian assault."¹³⁵

Rather it would signify an incident wherein Clodia was the victim and not the instigator of the assault; it would have been legally sensible for the prosecution to use as a precedent a case in which Clodia was the victim and an object of sympathy. The sentence would signify: "No doubt because they

avenged the pain and anguish, which that woman had caused them, by the infamous assault of Vettius upon her." Clodia would be the victim, Camurtius and Caesernius the instigators, and Vettius the agent. This hypothesis is supported by the fact that Camurtius and Caesernius were convicted, not Clodia Metelli. It is also supported by the satire and sarcasm with which Cicero treats the Camurtius Caesernius case.¹³⁶ His main purpose in making fun of the case was obviously to stop it from being established as a precedent for Caelius' prosecution under the lex de vi. A secondary aim was probably that of nullifying any sympathy which may have accrued to Clodia through the prosecution's mention of the case.

The prosecution may have had an additional motive in introducing the case of Camurtius and Caesernius into Caelius' trial. He was accused of Dio's murder and of attempting to poison Clodia: in both cases he is alleged to have used middlemen to effect the crime.¹³⁷ The point, which the prosecution was probably attempting to make through the reference to the Camurtius Caesernius case, was that the instigator and not the agent of a crime was to be primarily responsible under the law: Camurtius and Caesernius would have been convicted because they were the cause of the assault on Clodia by Vettius.¹³⁸

N) Pyxis Clodiana

In Cael. 69 Cicero mentions the story that someone had played a very immodest, obscene joke on Clodia Metelli by se--

ding her a pyxis:

At sunt servi illi de cognatorum sententia, nobilissimorum et clarissimorum hominum, manu missi. Tandem aliquid invenimus, quod ista mulier de suorum propinquorum fortissimorum virorum sententia atque auctoritate fecisse dicatur. Sed scire cupio, quid habeat argumenti ista manumissio; in qua aut crimen est Caelio quaesitum aut quaestio sublata aut multarum rerum consciis servis cum causa praemium persolutum. 'At propinquis' inquit 'placuit.' Cur non placeret, cum rem tute ad eos non ab aliis tibi adlatam, sed a te ipsa compertam deferre diceres? Hic etiam miramur, si illam commenticiam pyxidem obscenissima sit fabula consecuta? Nihil est, quod in eius modi mulierem non cadere videatur. Audita et percelebrata sermonibus res est. Percipitis animis, iudices, iam dudum, quid velim vel potius quid nolim dicere. Quod etiamsi est factum, certe a Caelio non est factum (quid enim attinebat?); est enim ab aliquo adulescente fortasse non tam insulso quam non verecundo. Sin autem est fictum, non illud quidem modestum, sed tamen est non infacetum mendacium; quod profecto numquam hominum sermo atque opinio comprobasset, nisi omnia, quae cum turpitudine aliqua dicerentur, in istam quadrare apte viderentur.

W. C. McDermott and T. P. Wiseman have discussed the nature of the joke. McDermott quotes the first line of Cael. 69:

"Hic etiam miramur, si illam commenticiam pyxidem sit fabula

consecuta." Then he says that the passage was quickly understood by the jury because Cicero added: "Percipitis animis, iudices, iam dudum, quid velim vel potius quid nolim dicere." According to McDermott, he probably made the meaning of the first sentence very clear through the use of an obscene gesture which informed the jury about the nature of the fabula.¹⁴⁰

I would object to McDermott's view on the ground that the jury had for some time ("iam dudum") understood the nature of the joke. Besides this, Cicero makes it quite clear that the jury and the audience knew the joke: "Audita et percelebrata sermonibus res est." As soon as he mentioned the "obscenissima fabula" the jury and the audience knew what he was talking about; he did not have to rely upon any gesture to get across the gist of the joke.

McDermott attempts to pinpoint the exact nature of the joke: he believes that the term pyxis was used to signify cun-
nus and that the pyxis was a pottery jar, which Caelius had had fashioned for Clodia during their affair, with a representation on the lid that was the cunus Clodiae. He also designates the pyxis as the pyxis Caeliana and states that this¹⁴¹ made for a double pun, "of Caelius" or "heavenly". Cicero, however, says that the pyxis had nothing to do with Caelius: "quid enim attinebat?" As for the pyxis itself being identified with female or male sexual parts, T. P. Wiseman dispells any

such notion: he points out that there is nothing to prove¹⁴² that a pyxis had a sexual connotation.

Wiseman points to the manumission of Clodia's slaves and wonders if they may have been manumitted because it was through their agency that the famous pyxis came to Clodia's hands. He thinks that Cicero links the manumission of the slaves to the story by his use of the word "hic" at the beginning of Cael. 69: in Cael. 68 Cicero discusses the manumission of Clodia's slaves and then in Cael. 69 begins his description of the joke played on Clodia Metelli with "hic", "at this point". He believes that the connection between the slaves and the pyxis would have been picked up earlier by the jury in Cael. 57 where Cicero¹⁴³ said that secret things were entrusted to the slaves.

Wiseman points to Caelius' exhibition of a pyxis, when he spoke in his own defence. He thinks that Caelius used it to allude or to remind his audience of something funny or indecent which involved a pyxis or something kept in one and that the laugh was at Clodia's expense. Wiseman is not specific about what may have been in the pyxis: perhaps it contained an aphrodisiac or something that would cause an "ungentlemanly" laugh¹⁴⁴ when word got out about the joke played on Clodia.

In my opinion, we can be more specific about the contents of the alleged pyxis. As noted above, Cicero makes it clear that the joke about the pyxis was known to the jury and to his

audience. They would know, therefore, what, if anything, was in the pyxis: this being so they would pick up very quickly any veiled or unveiled references which Cicero made about the contents. In Cael. 69 he may be making two direct references to the contents: "Nihil est, quod in eius modi mulierem non cadere videatur." "quod profecto numquam hominum sermo atque opinio comprobasset, nisi omnia, quae cum turpitudine aliqua dicerentur, in istam quadrare apte viderentur." Translated literally these sentences mean: "There is nothing which does not seem to fit into a woman of that kind"¹⁴⁵ "Indeed the talk and even opinion of men would never have accepted it (the story about the pyxis) unless all things, which are said with some infamy, did not seem to fit tightly into such a woman." In both of these references Cicero uses the same grammatical construction: the preposition in followed by the accusative which in turn is followed by an infinitive and the passive of the verb videre: this is probably an indication that in the second passage, he is picking up the reference made in the first passage. From the two passages cited above, we can easily deduce what was in the pyxis: an imitation of some kind of phallus or some other object which would be applicable to Clodia Metelli. We need not shy away from such an interpretation, for Cicero, a Roman, said that the story was "obscenissima fabula". He also refers to the immodesty of the joke when he says: "est

enim ab aliquo adolescente fortasse non tam insulso quam non verecundo. Sin autem est fictum, non illud quidem modestum, sed tamen est non infacetum mendacium." Moreover, he does say that all shameful things said about Clodia matched her reputation. Besides this, we must take into consideration that it was not out of character for Cicero to make the type of graphic references discussed above. In his defence of Caelius he depicts Clodia Metelli and Clodius as going to bed together when they were children. He had Clodius say: "Quid tumultu-
 aris, soror? quid insanis? Quid clamorem exorsa verbis par-
 vam rem magnam facis?"¹⁴⁶ Other passages in his speeches also show that it was not out of character for him to be graphic:

unde ut rediit, quaestum illum maxime fecundum
 uberemque campestrum totum ad se ita redegit,
 ut homo popularis fraudaret improbissime popu-
 lum...¹⁴⁷

Scilicet tu helluoni spurcatissimo, praegusta-
 tori libidinum tuarum, homini egentissimo et fa-
 cinorosissimo, Sex. Cloelio; socio tui sangui-
 nis, qui sua lingua etiam sororem tuam a te a-
 balienavit...¹⁴⁸

primum, quod eae vestrae sint aetates, ut is,
 qui te adoptavit, vel filii tibi loco per ae-
 tatem esse potuerit vel eo, quo fuit.¹⁴⁹

Quaere hoc ex Cloelio, scriptore legum tuarum:
 iube adesse: latitat omnino, sed si requiri ius-
 seris, invenient hominem apud sororem tuam oc-
 cultantem se capite demisso.¹⁵⁰

I) The Dating of Clodius' Marriage to Fulvia

Charles L. Babcock and Lily Ross Taylor argue that Clodius was not married to a Pinaria before he married Fulvia. The only basis for a Pinaria as Clodius' wife comes from Dom. 139 and Mur. 73 where L. Pinarius Natta, the stepson of Murena, is designated as Clodius' brother-in-law. Taylor and Babcock argue convincingly that Pinarius was the brother of Fulvia. Fulvia's mother, Sempronia, the daughter of Sempronius Tuditanus, would have first married a Pinarius. The marriage produced L. Pinarius Natta. Then she married M. Fulvius Bambalio and bore Fulvia. Finally she married L. Licinius Murena to whom Fulvia and Pinarius became stepchildren. Babcock, "Fulvia," 3-8; Taylor, "Caesar's Colleagues," 396-7, 409. There is another possibility. Pinarius was the stepson of Murena. If Murena had a daughter, she would be the stepsister of Pinarius. This poses the possibility that Clodius may have become Pinarius' brother-in-law by marrying a Licinia. Babcock believes that the marriage between Clodius and Fulvia took place in 62, the year of Murena's consulship. Since she was the stepdaughter of a consul and of his former commander, Clodius would have found her too attractive a match to pass by; her probable wealth only added to the attractiveness. Babcock, "Fulvia," 56-8. In my view the match took place in 65 before Murena and Clodius set out for Transalpine Gaul. Fulvia was then the step-

daughter of a mere praetor of plebeian family. Mur. 35-41, 53. However, as Babcock points out, her father Bambalio was a patrician and she was probably a wealthy woman: she probably came into some of the money left by her maternal grandfather Sempronius Tuditanus. Babcock, "Fulvia," 1-5. Clodius was in no position to shy away. The only thing he had going for him was his ancestry: he was the descendant of many patrician consuls and censors, but his own status was not remarkable. He had not yet held the quaestorship and Appius pater had left the family in dire financial straits upon his death in 76. his son Appius had even been compelled to marry off one of his sisters to L. Lucullus without the benefit of a dowry. Varro R.R. 3.16. 1-2. Clodius, therefore, would have been happy to marry the rich stepdaughter of Murena. Besides this, Murena was probably aiming at the consulship even in 65. The prospect of having a father-in-law as a future consul would have made the marriage to Fulvia all the more attractive. Another factor points to a marriage in 65. It was customary for a governor to appoint relatives to his staff. Clodius' past track record is sufficient evidence for this. In his military career he had already served in the East under two brother-in-laws, Lucullus and Rex. His appointment to the staff of a father-in-law would fit into this pattern.

II) Clodius and the Divisores in 63

A probable factual basis can be put forth. Firstly, there is the incident concerning the divisores. Cicero says that Clodius in his own house punished the divisores of all the tribes with a very cruel death. It was customary for a Roman politician involved in bribery to call the divisores to his home. A. 1.16.12; see p.293 . This explains the presence of the divisores in Clodius' house. The death of the divisores cannot be taken literally; if Clodius had murdered the divisores of all the tribes he would have had to murder at least thirty-five men in his house on the Palatine. Such an event would have merited more comment than a mere line in a speech delivered eight years after the event. Har. 42. Cicero must be speaking figuratively. He may well be indicating that Clodius deprived the divisores of their livelihood: Clodius would have called the divisores to his house and there informed them that he would attend to the bribery himself. Such an event would thus cause the economic death of the divisores; it would be a death blow to their economic livelihood. Next there is the defrauding of the people. What was the nature of the incident involved? Cicero mentions the fraud in the same breath as the divisores . Therefore, it too was concerned with bribery. Besides, how else could a politician defraud the people except by depriving them of their bribes? Such fraud would occur

should a politician promise a bribe but not deliver it. Clodius may have been guilty of such a misdemeanour. Indeed Cicero may be referring to the same incident in a remark which he made in July 61 in the senate: "dixi hanc legem P. Clodium iam ante servasse; pronuntiare enim solitum esse et non dare." A. 1.16.13. If Clodius had defrauded the people, it was not on a wide scale. Fraud on a wide scale would have destroyed his credibility with the voters. Moreover, the fraud may have been accidental. If Clodius had taken over the bribery, as suggested above, it was only natural that as a first-timer he accidentally overlooked the payment of bribes to a segment of the voters.

III) J. P. V. D. Balsdon and Aurelia

App. BCiv. 2. 14, 54; Sic. 5.7; Asc. 52-3; A. 1.12.3; 1.13.2-3; 1.16.10¹-1; 2.1.5; 2.7.3; Dom. 77; Har. 4, 8, 12, 43-4, 57; Leg. 2.14.36; Mil. 55, 59, 72; Par. Stoi. 4.32; Sest. 116; D.C. 37.45.1; Livy Per. 102; Plut. Caes. 7, 9-10; Schol. Bob. 86.23-27, 87.20, 88.31-89.2, 89.13-24, 90.33-35, 145.21-27; Suet. Iul. 6; Vell. Pat. 2.45.1. J. P. V. D. Balsdon dismisses the secondary sources' "sensationalist stories" concerning Clodius' activities at the Bona Dea sacrifice. The sources in question are Velleius Paterculus, Plutarch, Suetonius, Appian, Dio Cassius and Periocha 102 of Livy. He does not take their word that Clodius was the intruder. Nor does he grant any credibility to the biased references of Cicero to the event. He boils down the whole question of Clodius' presence at the sacrifice to the testimony given by Aurelia when Clodius was on trial for the alleged offence. At the trial she identified him as the culprit. Her testimony, however, is doubted by Balsdon on the grounds that failing eyesight or perhaps darkness may have made her mistake the identity of the intruder. Nevertheless, Balsdon himself points out that an indeterminate number of other participants who witnessed the intrusion, also gave testimony. Nor should we forget that Julia, Aurelia's daughter, also pointed the finger at Clodius during the trial. Balsdon, "Fabula Clodiana," 64-5, 71-2; Schol. Bob. 89.25-29, 90.33-35.

IV) The Dating of the Bona Dea Trial

According to Cicero in the speech In Clodium et Curionem, Clodius had belittled the senators for taking the waters at Baiae in April. The Scholia Bobiensia say that April was a quiet month with little to keep the senators at Rome. This comment was probably based on what Cicero had said in the speech. At any rate the comment is true. We need only look at the fact that Cicero in 59 spent the month of April away from Rome.

A. 2.4-2.16. Since the speech mentioned above was made in 61, Clodius' comment was also made in that year. His remark concerned April 61. It is doubtful that the senators would have gone to Baiae in April and left the pressing matter of the Bona Dea trial unattended. It is very probable, therefore, that the trial was held in late March immediately after the rogatio of Fufius' bill. A. 1.16.10; Schol. Bob. 88.13-30; for the reputation of Baiae, see Cael. 18, 27.

V) C. Scribonius Curio Pater

Despite several handicaps, C. Curio was a good speaker. He had served as a legatus under Sulla in the East. Later he benefited from the Sullan proscriptions. In 76 he was consul with Octavius and in the the following year he was proconsul of Macedonia. For his campaigns against the Dacians he was awarded a triumph. In 66 he supported the Manilian law which gave Pompey an extraordinary command in the East. Then in the late sixties he was compelled to pay out 6,000,000 sesterces for his son who had gone surety for that amount on behalf of Marcus Antonius. In 59, he opposed the factio. He died in 53. The majority of Clodius' adherents supported him out of friendship and/or political sympathy. This was not the case with Curio: he was an optimate and there is no sign of friendship with Clodius. In 58, for instance, he made a speech on behalf of the exiled Cicero even though Clodius had posted up that clause of his lex de exsilio Ciceronis forbidding any mention or motion of Cicero's recall. His son's relationship with Clodius may have have played a part in his backing of Clodius. However, there was a deeper-seated motive than this for his actions on behalf of Clodius: justice. Initially, Curio held his peace when the senate decreed that the consuls propose a bill enacting the constitution of a special court to deal with the Bona Dea incident. Yet, when the senate took the further

step of decreeing that the consuls urge the people to accept the bill, he moved for the rejection of the decree. Curio probably felt the alleged offence did not merit unduly severe measures: it was like cracking a nut with a jackhammer. He would have later defended Clodius for the same reason. It was not the first time. Curio had exhibited his disapproval of such undue severity. In 63 he had come to the defence of another popularis politician with whom he had no ties of amicitia. After the debate in the senate concerning the fate of the Catilinarian conspirators, Curio prevented Caesar from coming to undeserved harm because of his advocacy of leniency for them: as he was leaving the senate, Caesar was surrounded by Cicero's bodyguard who threatened him with drawn swords; before they could wreak any damage, Curio threw his cloak around Caesar and ushered him away. Political considerations and ties of amicitia certainly played no part in this: in 59 Curio was bitterly opposed to Caesar's consular policies. There is another instance of Curio's dislike of excessive severity. Plutarch relates in Cato 14 a story about Curio and Cato. When Cato was about to set out for Asia, Curio is reported to have told him that the experience would do him good, for he would return a tamer and more agreeable individual. In view of Curio's disposition to Caesar and to Cato, it can be concluded that his actions on behalf of Clodius fit into a clearly recognizable pat-

tern. A. 1.16.10; 3.15.3, 6; Brut. 122, 210, 216-220, 311; Fam. 2.2; Leg. Man. 51-2, 56, 68; Phil. 2.44-5; Pis. 44, 58; Verr. 1.7.18-9; Flor. 1.18.4; Plut. Ant. 2; Caes. 8; Sull. 14; Schol. Bob. 85.16-22, 89.3-7; Val. Max. 9.1.6; M.R.R. II, 59, 92, 99. W. C. McDermott argues that the friendship of Curio minor with Clodius did not account for his father's role as the latter's defence attorney; there was no strong father-son relationship; Curio minor was probably closer to Cicero than to his own father. McDermott, "Curio pater and Cicero," 401-3. Nevertheless, the tie had been strong enough for Curio pater to pay off his son's debt of 6,000,000 sesterces. McDermott gives reasons for Curio's defence of Clodius. He was jealous of the oratorical success attained by two of Clodius' inimici: Cicero and Hortensius. His role as defence attorney also displayed his dislike of another of Clodius' opponents: Cato. He was displeased with his street fighting brand of politics and with his flouting of senatorial protocol. The fact that religion was being used as a political weapon also prompted him to defend Clodius. McDermott, "Cicero and Curio pater," 403-4. My only objection concerns the mention of Curio's dislike of Cato's street fighting brand of politics. This is a reference to the running battle which Cato had with his fellow tribune Metellus Nepos in 62. It should be pointed out that Curio's client was in the same league. One need only remember Clodius' violent disruption of the Comitia Tributa when it had met to vote on the consular bill.

VI) The Prosecutors in the Bona Dea Trial

There is no direct reference to Gnaeus Cornelius Lentulus Marcellinus or Lucius Cornelius Niger as prosecutors. Schol. Bob. 89.26 lists Cn. and L. Lentulus as subscriptores. Balsdon and Gruen have arbitrarily identified them as Lentulus Marcellinus and Lentulus Niger. Balsdon, "Fabula Clodiana," 71; Gruen, L.G.R.R. p. 174. However there are grounds for positing these Lentuli as the two mentioned by the Scholia Bobiensia. Lentulus Niger was one of the boni. A. 4.6.1. As a consular candidate in 59 he ran against the popularis candidate Gabinius. A. 2.24.2; Vat. 25. He would have sided with Cato and the rest of the optimates against Clodius in 61. This makes him a probable candidate for the L. Lentulus mentioned by the Schol. Bob. His position as flamen Martialis must also be considered. Clodius' opponents would clearly realize the value of having someone with the religious prestige of the flamen Martialis as a prosecutor in a case involving a religious offence. A. 2.24.2; Vat. 25. Marcellinus was of the same political stripe as Niger. As consul in 57 he was strenuously opposed to Clodius. If his discontent with Clodius had originated before the Bona Dea trial, then it gave him sufficient reason for prosecuting. Therefore, he is probably the Cn. Lentulus mentioned by Schol. Bob. Neither Gruen nor Balsdon includes Hortensius or C. Fannius as prosecutors. C. Fannius is mentioned as a subscriber by Ci-

cero in A. 2.24.3. Meanwhile, Lentulus Crus was joined as principle prosecutor by Hortensius. Cicero in his description of the trial makes it clear that Hortensius was one of the main prosecutors. None of the other prosecutors ^{is} ever mentioned.

A. 1.16.2-4.

VII) Clodius' Alibi

Balsdon places Clodius' visit to Cicero at the morning salutatio. His basis for this is Schol. Bob. 85.28-30 where Cicero is depicted as saying that Clodius visited him; the Schol. Bob. , however, makes no reference to the morning salutatio: "Verum ita res cecidit, ut in eum multi grave testimonium dicerent: quorum in numero Marcus ipse Tullius interrogatus ait ad se salutatum venisse ipsa die Clodium qua se ille contenderat Interamnae fuisse millibus passuum ferme LXXX ab urbe disiunctum." According to Balsdon, if the salutatio took place in the morning, Clodius would have had the time to travel to Interamna by the evening of December 4. He discounts Cicero's later statement which places Clodius' visit only three hours before the intrusion upon the Bona Dea ceremony: "ex Sicilia septimo die Romam: at tribus horis Roma Interamnam." A. 2.1.5. Clodius would not have used his alibi, if the visit to Cicero preceded the offence by only three hours. Balsdon, "Fabula Clodiana," 71-2. But why was Cicero called as a witness? The prosecution's ^{case} benefited little from placing Clodius in Rome on the morning of December fourth. Its case did benefit, however, if it placed Clodius in town a mere three hours before the intrusion on the sacrifice. Therefore, Cicero's testimony was probably used to break Clodius' alibi. When Cicero refers to the three hour trip in A. 2.1.5 he must be pointing to the

effect of his testimony on Clodius' alibi. Moreover, Cicero, after the not guilty verdict had been returned, says his testimony "non valuisse". A. 1.16.11. If he had testified that Clodius visited him in the morning, a not guilty verdict would not be taken as discrediting his testimony: Clodius would have had time to go to Interamna by nightfall. However, if he had testified that Clodius visited him shortly before the offence, his evidence would be discredited by the verdict. There is another aspect of Clodius' alibi which is interesting. Clodius was quaestor-elect. The sortitio for the quaestors and the scribae took place on December 5. What was Clodius doing in Interamna on the night of December 4 when he had to be in Rome on the next day for this event? Clodius was there the next day. If his alibi were true, he had to ride 90 miles on the fourth and then turn around and ride the same 90 miles to make it back to Rome for the sortitio on the fifth. Cat. 4.15; Schol. Bob. 87.14-19. Clodius must have been as swift or swifter than Cato the Elder who, according to Plutarch, had arrived in Rome on the fifth day after landing at Tarentum, which was 300 miles, as the crow flies, from Rome. Plut. Cato Maior 14.

VIII) Cicero's Initial Reaction to the Bona Dea Scandal

Indeed that is precisely what Cicero did when he first found out about the intrusion. Moreover, after the initial senatorial decree concerning the Bona Dea intrusion a large number of senators yielded to Clodius' pleas and were dropping their support of the decree: the reason must have been that the senatorial action was much more severe than was justified by the offense. Clodius' escapade was just the sort of thing to be expected from the spoiled and licentious youth of the late Republic. According to the letters of Cicero at the time of the Bona Dea trial there was much to be desired in the moral fabric of the younger generation which held nothing as sacred. A. 1.14.5; 1.16.1-2, 7; 1.18.2; 1.19.6, 8. This seems to have applied especially to religious rites in the late Republic. An occurrence similar to that at the Bona Dea ceremony took place in early January, 60. C. Memmius was the culprit this time. He seems to have violated the annual rites of the goddess Iuventa by debauching the wife of Marcus Lucullus. Cicero mentions the incident after referring to the lack of moral fibre in the younger generation: "etenim post profectio- nem tuam primus, ut opinor, introitus fuit fabulae Clodianae, in qua ego nactus, ut mihi videbar, locum resecandae libidinis et coercendae iuventutis, vehemens flavi et omnis profundi vi- ris animi atque ingeni mei, non odio adductus alicuius sed spe

non corrigendae sed sanandae civitatis. Adflicta res publica
est empto constupratoque iudicio. vide quae sint postea con-
secuta...instat hic nunc annus egregius. eius initium eius mo-
di fuit ut anniversaria sacra Iuventatis non committerentur;
nam M. Luculli uxorem Memmius suis sacris initiavit. Menelaus
aegre id passus divortium fecit. quamquam ille pastor Idaeus
Menelaum solum contempserat, hic noster Paris tam Menelaum
quam Agamemnonem liberum non putavit." A. 1.18. 2-3.

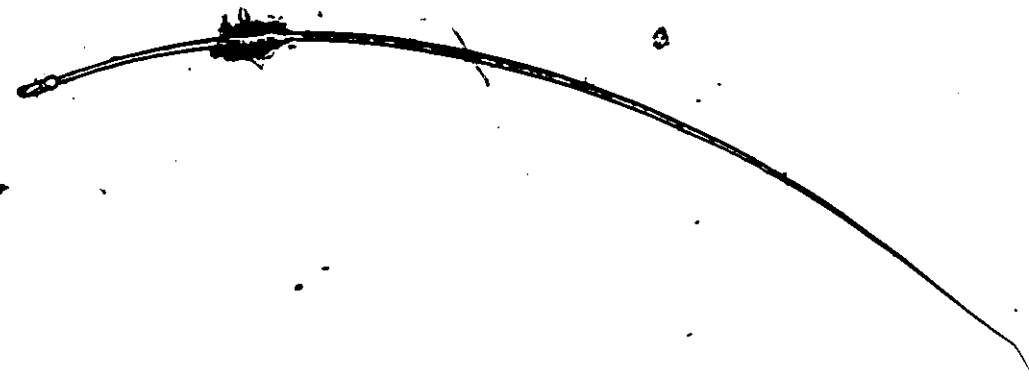
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IX) Clodius in Spain

According to D.C. 38.15.6 Clodius was a relative of Pompey and he had served under the latter for a long time. Dio does not say when he served under Pompey. However, his service can be assigned to the period 77-71 when Pompey was conducting the war against the rebels in Spain. Clodius would have been old enough to accompany Pompey: he was approximately 16 years old in 77. See p.530 for his probable year of birth. Besides this, absence in Spain goes a long way in accounting for the lack of information on his political activities at Rome during this time; the only information we have on this has to do with his attack on the Vestals in 73. Plut. Cato 10. More significantly is the point that the Spanish war provided the only opportunity which Clodius had to serve under Pompey for any lengthy period. He was hardly able to serve under Pompey during the war against the pirates in early 67: when Pompey was busy with the pirates, he was busy being held for ransom by them. See p. 5. After his release he went to Antioch in early 67 where his activities against the king and the Arabs must have been time consuming. See pp.6-8. These activities precluded any lengthy term of service under Pompey who took control of the war against Mithridates and Tigranes in early 66. Even if he did join Pompey in early 66, he was only able to serve under him for perhaps little more than a year; he was back in

Rome by July 65. See p. 8. Another factor puts Clodius in Spain. At Nisibis in the winter of 68-67 he incited the Valerians to mutiny. He contrasted their lot with that of Pompey's troops upon their return to Rome. Plut., Luc. 34. The Valerians would not be impressed with this information if it were second-hand, but they would be impressed with such information if Clodius had served under Pompey and had been there to witness the lot of his soldiers. The information would be even more impressive if the Valerians had been unaware of it. Lucullus had probably done his best to ensure that his battle weary and dissatisfied troops did not know of it. However, Clodius, whom he had probably appointed to his staff a short time before, spilled the beans; Clodius' short fused temper would have accounted for a short stay with Lucullus. He had incited the Valerians against Lucullus mainly because the latter did not bestow sufficient honours upon him. If he had gone over to Lucullus after his attacks on the Vestals in 73, he would have had to endure this situation for six years. Throughout his career, he reacted immediately and forcefully when he felt short-changed. In 59, for instance, Caesar, Pompey and Crassus transferred him to plebeian status. Although they did this, they did not want him to stand for the tribunate. Instead, they offered him a legatio to Tigranes. Clodius reacted quickly. He declared his hostility for Pompey, Crassus and Caesar and announced

his candidacy for the tribunate, A. 2.7.2-3; 2.12.1-2. Therefore, he had probably been with Lucullus but a year or two before his dissatisfaction with the latter prompted the mutinous outburst at Nisibis. Dio also mentions that Pompey and Clodius were relatives. He does not give the exact nature of the relationship. He is possibly referring to the fact that Pompey and Clodius were related through the former's third wife. Pompey had married Mucia after the death of his second wife Aemilia. The marriage probably took place in 80. Mucia was the half sister of Q. Caecilius Metellus Celer and Q. Caecilius Metellus Nepos. Nepos and Celer were cousins of Clodius: Clodius' mother was a Caecilia Metella. Clodius, therefore, was a cousin of Mucia. Through her he was related to Pompey. The relationship ended when Pompey divorced Mucia in 62. Asc. 19, 29; A. 1.12.3; 5.3.1-2; Fam. 5.2.6; Plut. Pomp. 9, 42; O.C.D. "Mucia", p. 702.



X) Clodius, Cicero, Wiseman and "comperisse omnia"

According to T. P. Wiseman, Clodius' taunt that Cicero "comperisse omnia" would concern the fact that Cicero was able to disprove his intended alibi about his whereabouts on the day of the Bona Dea sacrifice. The remark would signify that Cicero had discovered everything about his whereabouts in the same way as he had discovered everything about the Catilinarian conspiracy in 63. Wiseman, Cinna, p. 139. I disagree with Wiseman. If the taunt were aimed at anything other than Cicero's Catilinarian activities, surely Cicero would have explained it to Atticus. Moreover, the bill, which set up a court to deal with the Bona Dea incident, had not yet been passed. A reference by Clodius to Cicero's ability to break his alibi would not have been à propos at that time. In my opinion the taunt was a direct allusion to Cicero's activities as consul during the Catilinarian crisis. As consul, Cicero did not disclose the source of his information concerning the Catilinarians' revolutionary activities; instead, he simply claimed that he had come upon the information: Cat. 1.10: "Haec ego omnia vixdum etiam coetu vestro dismisso comperi:"; Cat. 3.3: Quae quoniam in senatu inlustrata, patefacta, comperta sunt per me, vobis iam exponam breviter..."; Cat. 1.27: "M. Tulli, quid agis? Tunc eum, quem esse hostem comperisti..." Cicero's detractors used the same expression to suggest mockingly that the infor-

mation, which Cicero gathered about the conspiracy, was as much fiction as fact. His former colleague, C. Antonius, had taunted him in this way. Cicero writes to Antonius: "Nam comperisse me, non audeo dicere, ne forte id ipsum verbum ponam quod abs te aiunt falso in me solere conferri." Fam. 5.6.3. See also Ps. Sall. In. Cic.: "qui vero nihil poterat, is erat calumniae proximus, is aut domum tuam oppugnatum venerat aut insidias senatui fecerat, denique de eo tibi compertum erat." Cf. Fam. 5.2.6.

XI) Fulvia and Q. Curius

According to Sallust, Fulvia, a mulier nobilis, had an affair with the bankrupt ex-senator Q. Curius. Through him she became aware of the Catilinarian conspiracy as early as 64. She maintained her liaison with him into 63 and provided the consul Cicero with information about the conspiracy. Sall. Cat. 23.3-4; 26.2; 28.2. Clodius' wife may have been this Fulvia. Like Sallust's Fulvia she was of noble birth and she was involved in politics. Phil. 3.16-7; for the involvement in politics, see Babcock, "Fulvia," 1-32. There is also the fact that Sallust simply refers to a Fulvia; he may have left it to his readers to identify her with the renowned Fulvia who had been the wife of Clodius, C. Curio and Antony. Seep. 5523. Sallust's brief mention of a Sempronia may also be relevant. He includes her among the women who took part in the conspiracy: she is described as a cultured lady "quae multa saepe virilis audaciae facinora commiserat." Sall. Cat. 25.1-2. This Sempronia may have been Fulvia's mother who had the same forceful character. Babcock, "Fulvia," 6-7. If this were the case, then both mother and daughter may have been involved in the conspiracy, albeit on different sides. Both would have had the opportunity to be thus involved: their husbands, Murena and Clodius, were in Transalpine Gaul in 64 and early 63. See p. 11. When he returned from Gaul, a forgiving Clodius would have learnt

that Fulvia was Cicero's informer. Moreover, he would have been informed of the precise data which she had fed to Cicero. He would then have been in a position to know to what extent Cicero was manufacturing evidence or twisting the truth when he said that he "comperisse omnia" on the Catilinarian conspiracy. Perhaps Clodius used his inside knowledge against Cicero in his speeches before the trial. Such a move by Clodius would explain Cicero's apparent overreaction to his attacks.

XII} Cicero and "fautores illius flagiti"

In A. 1.16.11 Cicero says: "nam et illud nobis non ~~best~~, videri nostrum testimonium non valuisse, missus est sanguis invidiae sine dolore, atque etiam hoc magis quod omnes illi fautores illius flagiti rem manifestam illam redemptam esse a iudicibus confitentur." These sympathizers of the outrage, "illi fautores illius flagiti", may have acknowledged that bribery had been used, because Cicero persuaded them that it had been used. The "illi fautores illius flagiti" are mentioned earlier in the letter in 1.16.8: "insectandis vero exagitandisque nummaris iudicibus omnem omnibus studiosis ac fautoribus illius victoriae ~~Wappn610v~~ eripui." The "fautores" are simply those who sympathized with Clodius' judicial victory; they are by no means his closest political supporters. As such they were probably happy to see the underdog escape from the concerted senatorial action taken against him. Cicero says that he had silenced them by vilifying the jury for its alleged corrupt nature. Through his allegations of bribery at this time and later he probably persuaded the sympathizers "illius victoriae" that bribery had been employed. They would have been ready to admit such a thing; what mattered to them was that Clodius had escaped, not how he had escaped.

XIII) Watt, Shackleton Bailey and
 "Pompeio eum et Crasso urgente"

A. 2.22.4-5; for the date of this letter see S. B., A., I, 395. The last sentence contains Watt's emendation, "Pompeio eum ~~(et)~~ Crasso urgente". It replaces "Pompeium Crasso urgente" which Reid had argued convincingly to be corrupt. According to Watt the sense of the sentence is as follows: Cicero hopes to avoid trouble when Clodius becomes tribune because someone is pressuring someone else. In view of an earlier passage in the letter, 2.22.2, where Pompey is depicted as pressuring Clodius on Cicero's behalf, Watt thinks that Pompey is applying pressure and that Clodius is its object. Watt posits that Pompey along with Crassus is putting pressure on Clodius and it is in this that Cicero doubts their sincerity; for this reason he wants Atticus in town to get to the bottom of things. He obtains this sense by reading "Pompeio eum ~~(et)~~ Crasso urgente". Watt, "Notes on Ad Atticum I and II," 261. I have but two minor disagreements with Watt's view. The first concerns the precise nature of the information Atticus is to obtain from Clodius. Through Atticus Cicero wants to find out "qua fide ab illis agatur". Watt renders this by saying that Cicero wants Atticus to find out from Clodius via Clodia how sincere Pompey and Crassus are in applying pressure on him. From a strict philologically literal viewpoint Watt is accurate in interpreting "qua fide ab illis agatur" in this

way. However, the sense of the sentence allows for a wider interpretation of these words: there is a nuance in them which Watt's rendering does not capture. It is extremely improbable that Cicero sought to obtain, or could obtain, from Clodius, through Atticus and Clodia, his moral evaluation of the amount of sincerity behind the efforts of Pompey and Crassus. The only information provided by Clodius would concern whether he was yielding or standing his ground vis à vis Pompey and Crassus. As a result of this, Cicero would then know "how creditable" or "how deserving of trust were their efforts". Secondly, I disagree with Watt's rendering of "nos aut sine molestia aut certe sine errore futuros". He interprets this as meaning that Cicero hopes to avoid trouble when Clodius becomes tribune because of the pressure put upon him. Cicero, however, makes it clear that he wants to avoid trouble from Clodius in the future by obtaining through Atticus an accurate assessment of the pressure in question. In view of the above discussion I translate the sentence as follows: "I think, though Pompey and Crassus are applying pressure, if you are here, you, who are able to extract from Clodius through his sister to what extent their effort is deserving of trust, then we shall avoid danger or at least miscalculation." Shackleton Bailey thinks that Watt's emendation is graphically neat, but historically unsatisfactory. He wonders why Crassus would put pressure on

Clodius for the sake of Cicero and points out that Crassus was not usually a friendly influence by alluding to Fam. 14.2.2 which Cicero wrote from exile: "id erit firmum si Pompei voluntas erit; sed Crassum metuo." In addition, he believes that Crassus would not assist Cicero without first getting Caesar's approval. S. B. A., I, 397. I disagree with this interpretation. To begin with, Crassus, according to the evidence we have, for the period before Cicero's exile, was, if anything, well disposed towards Cicero. For instance, there is the speech which Crassus delivered in 61 in which he eulogized Cicero's consulship. As a result of the speech, Crassus and Cicero were on good terms: "hic dies me valde Crasso adiunxit." A. 1.14.3. Moreover, there are no grounds for supposing that Crassus required Caesar's approval for assisting Cicero. Crassus, with his formidable auctoritas, was answerable to no one. If anyone did any asking, it would be Caesar; he was the junior partner in the factio. Besides this, there is the fact that Caesar was not hostile towards Cicero: as it has been shown, he adopted a conciliatory disposition towards Cicero. Finally, Crassus may have simply been cooperating with Pompey, a colleague in the factio. What was the point of having a factio if its members did not cooperate.

XIV) The Dating of Clodius' Preliminary Legislation

Asc. 7-8; Pis. 8-9. In Pis. 8-9 Cicero says: "tu, cum in Kalendas Ianuarias compitaliorum dies incidisset, Sex. Cloelium, qui numquam antea praetextatus fuisset, ludos facere et praetextatum volitare passus es, hominem impurum ac non modo facie, sed etiam oculo tuo dignissimum. Ergo his fundamentis positus consulatus tui, triduo post inspectante et tacente te a fatali portento prodigioque rei publicae lex Aelia et Fufia eversa est, propugnacula murique tranquillitatis atque otii." Clodius, therefore, passed his legislation triduum post Kalendas. This indicates that, counting inclusively, Clodius' laws were passed on January 3 which was a dies comitialis. A. K. Michels has a different view on the timing of the legislation. In her view, Cicero in Pis. 8 states that the rogatio of Clodius' four bills took place three days after the ludi compitalicii and not after the Kalends. She argues that the ludi compitalicii were almost certainly not celebrated on the day of the Compitalia itself, but the days which followed. This would place Clodius' rogatio on the seventh as the fifth and the sixth were dies fasti. Michels, Calendar, pp. 205, 205-6, n. 28. Cicero, however, makes it clear that Piso had allowed Sextus to roam around in a toga praetextata on the Kalends and that "triduo post", three days afterwards, the laws were passed. R. G. M. Nisbet thinks that the laws were passed on

January 4 on the grounds that "triduo" was not used inclusively. He argues that a trinundinum, a period of 24 days, had to elapse between the promulgatio and rogatio of Clodius' bills: they would have been promulgated on December 10 and passed into law on January 4. Nisbet, In Pisonem, p. 67. However, there is reason to believe that the trinundinum may have only been a period of 17 days. See p. 464. With only 17 days required between the promulgatio and rogatio of the bills, Clodius could have promulgated them as late as December 16 in order for them to have their rogatio on January 3.



XV) The Senatus Consultum of 64 B.C.

Asc. 7-8; Pis. 9; D.C. 38.13.2. Dio Cassius in a brief general reference to the outlawed collegia says only that the collegia, which existed of old, and which had been banned for some time, were reinstated by Clodius. 38.13.2. Asconius is more specific: "L. Iulio C. Marcio consulibus quos et ipse Cicero supra memoravit senatus consulto collegia sublata sunt quae adversus rem publicam videbantur esse constituta." Asc. 7. "Frequenter tum etiam coetus factiosorum hominum sine publica auctoritate malo publico fiebant: propter quod postea collegia et S.C, et pluribus legibus sunt sublata praeter pauca atque certa quae utilitas civitatis desiderasset, sicut fabrorum fictorumque." Asc. 75. J. Linderski thinks that the passage "propter quod...fabrorum fictorumque" in the latter passage would refer to the senatus consulta and laws aimed at the collegia from 64 to the Augustan era. According to Linderski, the "S.C." mentioned by Asconius should not be taken to refer only to the senatus consultum of 64; that senatus consultum would be but a restatement of the law of the Twelve Tables: "his (sodalibus) potestatem facit lex (XII Tab) pactionem quam velit sibi ferre, dum ne quid ex publica lege corrumpant." D. 47.22.4. He believes that the senate restated this law on the grounds that it had done so in 186 to outlaw the bacchic collegia. Linderski, Der Senat, pp. 94-8. J. P. Walt-

zing argues that there was no such law: it is a mistake to believe that the law of the Twelve Tables, alluded to above, regulated collegia, because its purpose was to permit collegia to set up statutes for their cult so long as they conformed to the law. He cites a passage from Livy where the consul Postumius is justifying his actions against Bacchic reunions: "Maiores vestri ne vos quidem, nisi cum aut vexillo in arce posito comitiorum causa exercitus eductus esset...forte temere coire voluerunt; et ubicumque multitudo esset, ibi et legitimum rectorem multitudinis censebant esse debere." Livy 39.15. Waltzing comments that if the consul had to justify his action by analogy, it was because he could use no law to do so. On the senatus consulta of 186 and 64, he adds that the senate resorted to these measures in order to curtail the activities of the collegia because there was no law for their control. Waltzing, Corp. I, 79-81; for the senatorial decree of 186 see C.I.L. I, 196; for an instance of a consul not being able to ban public gatherings on legal grounds see Livy 4.13.9-12 where the senate was angered at the consuls designate for not putting a stop to Maelius' contiones; the situation was resolved through the appointment of Cincinnatus as dictator; cf. Dion. Hal. 7.41. 1-3; Livy 2.23.6-15, 24.1-3. As for Linderski's assumption that "S.C." stands for all the senatus consulta aimed at the collegia and not only the senatus consultum of 64, it should be

pointed out that Asconius immediately before and after his reference to the collegia, in the passage cited above, uses "S.C." to designate but one senatus consultum. Besides this, Asconius also uses the same expression in a comment on the In Corneliā to allude to a single senatorial decree. Asc. 57. On this basis, the "S.C.", which is used in the passage cited above, could be in the singular and it could refer only to the senatus consultum of 64.

XVI) Ludi Collegiorum

There is much controversy concerning the nature of the collegia and the ludi banned by the senatorial decree of 64. J. P. Waltzing thing^{KS} that the word collegia was applied especially to professional guilds. He concludes that the ludi compitalicii were celebrated by the residents of the vici under the direction of their magistri vici and that the professional guilds would have taken part in the ludi compitalicii because the members of a guild lived in the same quarter of the city. Waltzing, Corp., I, 40-1, 48-9. 107-9. L. R. Taylor views the collegia as organisations of slaves and freedmen in guilds centering on the Lares and other divinities in the vici. Taylor, Voting Districts, p. 77. A. W. Lintott argues that the collegia were organisations in the vici which celebrated the ludi compitalicii. He thinks that the collegia need not only have maintained the cult of the Lares; they may have chosen a divinity appropriate to their occupation or place of residence. Lintott, Violence, pp. 80-3. J. Linderski simply states that the collegia, which were a threat to the state, were outlawed by the senatorial decree of 64. Linderski, "Der Senat," 96-8. A part of Asconius' comment on Pis. 8 is the main piece of evidence used to link the ludi compitalicii and the cult of the Lares to the collegia. Since I shall later be referring to other parts of Asconius' comment on Pis. 8 and to Pis. 8 itself, it

will be convenient to cite Asconius' entire comment on Pis. 8:
dicit de ludis Compitaliciis:

#8) Quos Q. Metellus - facio iniuriam fortissimo viro mortuo, qui illum cuius paucos pares haec civitas tulit cum hac importuna belua conferam -, sed ille designatus consul, cum quidam tr. pl. suo auxilio magistris ludos contra S. C. facere iussisset, privatus fieri vetuit. - Tu cum in Kal. Ian, Compitaliorum dies incidisset, Sex Cloelium, qui numquam ante praetextatus fuisset, ludos facere et praetextatum volitare passus es.

L. Iulio C. Marcio consulibus quos et ipse Cicero supra memoravit senatus consulto collegia sublata sunt quae adversus rem publicam videbantur esse constituta. Solebant autem magistri collegiorum ludos facere, sicut magistri vicorum faciebant, Compitalicios praetextati, qui ludi sublati collegiis discussi sunt. Post VI deinde annos quam sublata erant P. Clodius tr. pl. lege lata restituit collegia. Invidiam ergo et crimen restitutorum confert in Pisonem, quod, cum consul esset, passus sit ante quam lex ferretur facere Kal. Ianuar. praetextatum ludos Sex. Cloelium. Is fuit familiarissimus Clodi et operarum Clodianarum dux, quo auctore postea illato ab eis corpore Clodii curia cum eo incensa est. Quos ludos tunc quoque fieri prohibere temptavit L. Ninnius tr. pl. Ante biennium autem quam restituerentur collegia, Q. Metellus

Celer consul designatus magistros vicorum ludos Compitalicios facere prohibuerat, ut Cicero tradit, quamvis auctore tribuno plebis fierent ludi; cuius tribuni nomen adhuc^{non} inveni.

Max Cohn, followed by S. M. Treggiari, suggest that the comma after "faciebant" should be dropped. Max Cohn, Zum romischen Vereinsrecht, (Berlin, 1873), p. 40, n. 62; Treggiari, Freedmen, p. 170, n. 8. With the comma removed the passage signifies that the magistri vici in togae praetextae held the ludi compitalicii and that the magistri collegiorum simply celebrated games. In my opinion Asconius is providing us with a more detailed account. Cicero in Pis. 8 says that Metellus Celer as a private citizen had prevented a senatus consultum from being violated by not allowing the magistri to celebrate the games. Then he goes on to say that Piso as consul had permitted Sextus Cloelius, clad in a toga praetexta, to hold games. Cicero, however, does not say which games Sextus Cloelius was celebrating in a toga praetexta nor does he say why he compares Piso allowing games to Metellus Celer not allowing them. Asconius informs his audience of these two items by the underlined comment above. The purpose of that comment would have been to show that Sextus Cloelius was celebrating the ludi collegiorum in the capacity of a magister collegii and that those games, like the ludi compitalicii of the magistri vicorum which Metellus Celer had prevented from being held, had been banned by sena-

torial decree. Asconius, moreover would have been explaining that Sextus Cloelius was praetextatus because the magistri collegiorum, just like the magistri vicorum, were allowed to wear the toga praetexta. As a result of the above discussion I propose the following reading for the passage in question: "Solebant autem magistri collegiorum ludos facere, sicut magistri vicorum faciebant Compitalicios, praetextati, qui ludi sublatiis collegiis discussi sunt." Thus, both magistri collegiorum and magistri vicorum would have been praetextati, the former while holding the ludi collegiorum and the latter while holding the ludi compitalicii. A further point may be made about the ludi collegiorum and the ludi compitalicii. The ludi collegiorum held by Sextus Cloelius were held on the Compitalia. Therefore, they were held on the same day as the ludi compitalicii which, as is indicated by their name, also took place on the Compitalia. Cf. Livy 34.7.2 for the right of the magistri vicorum to wear the toga praetexta.

XVII) Clodius' Lieutenants

With regard to some of the leaders we have little else but their names: Decimus (A. 4.3.2; Dom. 50), perhaps to be identified with D. Iunius Brutus Albinus (see Wiseman, "Two Friends," 289; Firmidius (Sest. 122); Lentidius (Dom. 89; Sest. 80); Plaguleius (Dom. 89); Titius, a Sabine from Reate (Dom. 21; Har. 59; Sest. 80, 112). There is considerably more information on the other leaders. Lucius Sergius is described by Cicero as "armiger Catilinae, stipator tui corporis, signifer seditionis, concitator tabernariorum, damnatus iniuriarum, percussor, lapidator, fori depopulator, obsessor curiae". Dom. 13. With the name Lucius Sergius he may have been a freedman of Catiline. He had led the operae in attacking the senate in early September 57 when it met to discuss the shortage of grain. There was stone throwing and the consul Q. Metellus Nepos claimed that Sergius and Lollius, another leader, had stabbed him. Dom. 13-4, 21, 89; Marcus Lollius, as noted above, had participated in the attack on the senate. Besides this, Cicero says that in 58 he had demanded the surrender of Pompey for execution, but he does not give the reason behind this demand. In 57 Lollius was with Clodius on September 29 when Cicero was delivering his speech De Domo Sua Ad Pontifices: "Quis est iste Lollius? qui sine ferro ne nunc tecum est." Dom. 13-4; A. 4.2.2; Dom. 21, 89. Clodius' freedman Damio also acted as a

leader of his patron's operae. On August 11, 58, Pompey had managed to escape an assassination attempt by one of Clodius' slaves. After he returned to his house, Damio besieged it with a number of armed men. He was brought up on charges before the praetor L. Flavius on August 18, but he was released by the tribune L. Novius after he had made an appeal to the tribunes. Asc. 46-7. Next, there is Lucius Gavius. Cicero had given him a prefecture in Cappadocia at the request of Brutus. Despite the favour, Gavius behaved insultingly towards the proconsul. Cicero explains his behaviour by saying that he was one of the dogs who ran at Clodius' heels: "Gavius est quidam, cui cum praefecturam detulissem Bruti rogatu multa et dixit et fecit cum quadam mea contumelia, P. Clodi canis." A. 6.3.6; 6.6.7; 6.9.4. Cicero had applied the same term, canis, to describe leaders of Clodius' operae: Sextus Cloelius, Gellius and Titius. Har. 59; Pis. 23. In applying the term to Gavius he was indicating that he too had been one of the leaders of the operae. The bankrupt equus L. Gellius Poplicola also led Clodius' operae. He was the stepson of Marcus Philippus and the uterine brother of Lucius Philippus, the consul of 56. He gave evidence against Sestius at his trial in March of 56. Cicero in his Pro Sestio and In Vatinius launched stinging attacks against him: he pointed out that Gellius should rather be known a Plebicola because of his marriage to a freedwoman; that his

nephew Postumius refused to appoint him in his will as guardian of his children; that his literary pursuits were merely an affectation; that he was "nutricula seditiosorum omnium"; that he had been jubilant to see him exiled. Q. Fr. 2.4.1; Sest. 110-2; Vat. 4; Schol. Bob. 135.10-14. In December 57 Gellius had been the recipient of another verbal attack, that of the tribune Lupus. Q. Fr. 2.1.1. Two months before that, Cicero had depicted him as loitering about Clodius' porch on the Palatine. A. 4.3.2. Shackleton Bailey thinks that he can almost certainly be identified as the brother of Lucius Gellius Poplicola (cos. 72) and as the elder of the two Gellii lampooned by Catullus in 74, 80, 88 and 89. He also thinks that he may be identified as Atticus' friend Gellius Canus, thus making his name Q. Gellius L. f. Poplicola Canus. S. B. A. II, 174-5; V, 348; cf. Wiseman, Cinna, pp. 119-20. However, Gellius' praenomen according to Schol. Bob. 135.10-14 was Lucius.

XVIII) Sextus Cloelius

Not Sextus Clodius. Shackleton Bailey, "Sextus Clodius-Sextus Cloelius," 41-2. He was Clodius' familiarissimus and the leader of his operae, Asc. 7-8; Cael. 78; Dom. 50; Har. 59. On April 4, 56, Cicero, in his speech, the Pro Caelio, had laid the blame for the violent acts committed by Clodius' operae in 58 and 57 squarely on his shoulders. A few days earlier he had been brought to trial by Milo under the lex de vi, but he had been acquitted. Cael. 1-2, 78; Q.Fr. 2.5.4. He continued to lead the operae till 52, when, after Clodius' death, he and the operae set fire to the senate house in order to cremate Clodius' body. Asc. 33, 46, 55; Mil. 33-4, 90. Cloelius served Clodius in other capacities. For instance, Clodius in his lex frumentaria placed him in charge of the wheat supply and the monthly distribution of the dole. Dom. 25-6. He also acted as Clodius' scriptor; he was responsible for drafting all of the latter's bills. Asc. 33; Dom. 49, 83, 129; Mil. 33; Sest. 133. Cicero in his speeches claimed that Cloelius had relations with Clodia Metelli. The basis for these allegations would have been simply that as a member of the Clodian factio Cloelius was in close touch with Clodia Metelli who played an active role in her younger brother's politics. Dom. 25; see p. 80. Nothing certain is known of Cloelius' ancestry: Cicero describes him a humilior and as a client of Atticus. A. 10.8.3;

14.13b. Shackleton Bailey thinks that he may have been a descendant, or that he may have claimed to be a descendant, of the Cloelii Siculi; he thinks that Cicero's allusion to him as Athenio may be a reference to the cognomen Siculus. S. B. A., I, 376. In 52 Cloelius was tried, convicted and exiled for his part in the burning of the senate house. Asc. 56. Later, in 44, he was recalled from exile by Mark Antony. The latter may have recalled him at the instigation of his wife Fulvia, the widow of Clodius and Curio minor. Another factor may have also been responsible: Antony needed a good scriptor for his legislative proposals; after his return from exile Cloelius acted as Antony's sole lawyer. A. 14.13; 14.13a; 14.13b; 14.19.2; Phil. 2.9, 37, 95-6.

XIX) The Members of Clodius' Collegia

Cicero usually describes the members of the collegia as servi. However, as S. M. Treggiari points out, he may use the term perjoratively to describe freedmen. Treggiari, Freedmen, pp. 172-3, 265-6. Moreover, we can ask how Cicero was able to distinguish between free man and slave when there was no distinctiveness of dress between the two. App. BCiv. 2.120; Plut. Cor. 20. On a few occasions he does mention that the collegia were not made up entirely of slaves. In Dom. 54 he admits that liberi were enlisted and in Dom. 13 he calls Sergius a conci-tator tabernariorum. Cicero also alleged that Clodius had emptied the prisons in order to supply himself with operae. This along with Clodius' use of slaves prompted Cicero to nickname him Spartacus. Har. 34; Par. Stoi. 4.30; Rep. 3.11.25; Sest. 95. Besides this, he mentions that Clodius made use of a peregrina manus. Sest. 95. His allegation may be a reference to Clodius' possible use of resident aliens in his gangs. They could be politically active. Flacc. 17. For instance, a number of them had sided with Catiline. App. BCiv. 2.12. Their political disturbances had probably caused the tribune Papius to issue an edict banishing them from Rome in 65; the tribune Pennus had acted similarly in 126. Off. 3.4.7; D.C. 37.9.5.

XX) The Flow of Rustics into Rome

Since the dismantling of the land legislation of Gaius Gracchus, there had been a steady flow of rural dwellers into Rome. App. BCiv. 1.27; 2.120; D.C. 38.1.3; Livy 6.12.3; Plut. Tib. Gracch. 8; Sall. Cat. 3.7.7; Varro R.R. 2.3. This inflow had been caused by the adverse conditions in the countryside. A number of factors had brought these about: the devastations in the countryside caused by the Social War and later by the slave uprising led by Spartacus and Crixus. (App. BCiv. 1.49-53, 104-7, 116-21); the confiscation of land by Sulla for his 120,000 veterans and the consequent displacement of rural dwellers (App. BCiv. 1.96-104); the economics of farming and enforced military service; the expansion of the latifundia and their use of slave labour (App. BCiv. 1.7-10, 12-13, 27; Livy 6.12.5); the increasing importation of cheap grain (Varro R.R. 2.3). The flow of rustics into Rome was nothing new; it had occurred in earlier centuries when conditions in the countryside had deteriorated. Livy 4.12.7-8; 25.1.12; 28.11.6-9; 41.8.9-10; 42.10.3.

XXI) Clodius and the Discharged Valerians

Clodius had probably increased the efficiency of his operae by enlisting ex-soldiers. The soldiers in question would have been the Valerians who had returned to Italy with Pompey in 62. Pompey only succeeded in obtaining land for them in 59 through Caesar's agrarian legislation. It is probable that the Valerians were still in Italy and Rome in 58; the land was apparently still being assigned in 56. Fam. 1.9.8-10; Q.Fr. 2.1.1; 2.6.1; 2.7.1-2. The Valerians knew Clodius well; he had sympathized with their plight at Nisibis in 67. See p. 2. This would have facilitated their enlistment into his gangs. Moreover, the fact that most of them would have long since spent the money given them by Pompey at the termination of the campaigns in the East probably made them more than willing to earn a wage by serving under Clodius. See App. BCiv. 2.120 where a situation very similar to that of the Valerians is described. The presence of veteran soldiers in the operae would have made the latter an awesome political weapon.

XXII) Clodius and the Temple of Castor

The temple of Castor and Pollux, which had been reputedly vowed after a victory over the Latins in 499 and dedicated by Aulus Postumius on July 15, 482, was centrally located in the forum. It had been a traditional rallying point for mobs and a place from which politicians put forth legislation. App. BCiv. 1.25, 64; 3.4; Nat. Deo. 3.5.13; Verr. 2.129, 186; Dion. Hal. 6.13.4; Livy 2.20.12; 2.42.5; Plut. Cor. 3; Sull 8, 33. Clodius probably had two recent events in mind when he removed the steps of the temple. In January 62 the tribune Metellus Nepos was proposing a bill enacting that Pompey return to Rome in order to deal with events emanating from the Catilinarian conspiracy. His colleague, M. Cato, mounted the steps of the temple of Castor and prevented him from reading the bill to the people. Three years later the consul Bibulus attempted to prevent his colleague, Caesar, from presenting one of his agrarian laws to the people from the temple; Bibulus was thrown down the temple's steps. Vat. 4; D.C. 38.6.2-3; Plut. Cato 27-8; Suet Inl. 20. With the steps removed, Clodius would not be the victim of a similar occurrence when he presented his legislation.

XXIII) The Economic Effect of Clodius'
Grain Law on 'the Urban Poor

The ancient sources think that the grain distribution program was only good for draining the treasury and drawing the plebs from a life of honest toil to one of idleness. In their ~~view~~ the grain distributions were means by which politicians bought off the support of the plebs. App. BCiv. 1.120-1; A. 1.16.11; Off. 2.72; Sest. 103; Flor. 2.1.13.7; Sall. Cat. 37-8; Varro R.R. 2.6. At best Clodius' distribution of free wheat only partially alleviated the lot of the plebs. It need only be remembered that each adult male received 5 modii per month. This amount would have been barely sufficient to meet the needs of one person: Macer in his speech to the plebs in 73 had allegedly said that 5 modii per month was a prisoner's ration (Sall. Oratio Macri Tr. Pl. Ad Plebem 19-20); Marcus Cato the Elder had limited his slaves, depending on the labours performed, from 4 to 4½ modii per month (Cato R.R. 4) see Polybius 6.39 for rates of consumption in the military. Since the males had to feed the females in the family, extra wheat had to be purchased at the market price. Moreover, the plebeians would have to supplement their diets with foodstuffs other than wheat; man did not live by bread alone. Plut. Cato Maior 4. In order to get the money for these provisions and for their rent they had to find jobs in Rome. Many freedmen would have learnt

a trade as an artisan or craftman while still slaves. However, for the ingenui it was another matter altogether owing to the Roman bias with regard to the trades; the only honourable professions were warfare and agriculture. Flacc. .27; -Off. 1.150-1; Dion. Hal. 2.28.1; 9.25.1; Livy 2.51.4-52.1; cf. Treggiari, Freedmen, pp., 87-91 on the question of employment. Nevertheless, there would have been jobs in the building trades, at the dockyards and in the countryside at harvest time. App. BCiv. 1.1.7; Dion. Hal. 7.7.4. Besides there would have been odd jobs. One important consideration must be kept in mind; there was probably only so much work to go round; owing to the overpopulation at Rome, many would have been very hard pressed to find any work at all. D.C. 38.1.3. It would have been especially difficult for those drifting in from the countryside to find work in an already tight job market. In a time when there was no unemployment insurance, unemployment meant starvation. It was especially to alleviate the economic conditions of the latter that the tribune Cato had persuaded the senate in 63 to provide a more generous distribution of subsidized wheat. Plut. Cato 26. It is also worth noting that Clodius may have aimed his recruiting drives for his collegia at this segment of the population; its members could have certainly welcomed an opportunity for employment. Even more, they would have welcomed the free distribution of a basic foodstuff.

XXIV) Lex Aelia Fufia

Pis. 10; Vat. 23. There are differing hypotheses as to the date and the purpose of the lex Aelia Fufia. W. F. McDonald, who posits 153 as the probable year for the passage of the lex Aelia Fufia, thinks that it regulated the use of obnuntiatio by the tribunes and the consuls in the assemblies and that it was inspired by the optimates and designed to be an effective curb upon the power of the tribunician office because it provided the consuls with the ius obnuntiationis which would serve as a counterweight to the tribune's ius intercessionis. He also says that the lex Aelia Fufia prohibited the holding of legislative assemblies on dies fasti non comitiales, among which was the period of three nundinae before the Comitia Consularia. McDonald, "The Lex Aelia Fufia," 165-7, 176. A. K. Michels takes exception to this last statement of McDonald. She states that his conclusion is impossible because it implies that before the lex Aelia Fufia there was no distinction between dies fasti and dies comitiales. As proof for her claim she refers to the lex Hortensia of 287 which designated nundinae as dies fasti, days on which comitia were not permitted to be held. She considers as being more plausible L. R. Taylor's suggestion that the Concilium Plebis had been permitted to meet on dies fasti and dies comitiales before the lex Aelia Fufia while the comitia were restricted to dies comitiales.

Michels adds that the lex Aelia Fufia, whose purpose would have been to restrain tribunician activities, would have also limited the number of days available for these activities by enacting that the Concilium Plebis could no longer meet on dies fasti. Michels, Calendar, pp. 95-97. S. Weinstock, who places the law ca. 150, takes a slightly different view than McDonald, for he argues that the lex Aelia Fufia appears to have confirmed previous legislation concerning the regulation of the use of obnuntiatio by the curule magistrates and the tribunes. Weinstock, "The Lex Aelia Fufia," 216-7. G. V. Sumner suggests that the lex Aelia and the lex Fufia were both passed in 132 and that they reaffirmed the constitutional principles challenged by Tiberius Gracchus. Sumner, "Lex Aelia-Lex Fufia," 346-50. A. E. Astin, however, disagrees with Sumner's dating of the laws. He points out that in Vat. 23 Cicero explicitly states that the two laws "in Gracchorum ferocitate...vixerunt." He also thinks that the phrase "centum prope annos" which Cicero employs to describe the lex Aelia Fufia in Pis. 10 can hardly be interpreted as the seventy-four years which Sumner thinks it to be. Astin himself situates the lex Aelia in 147 or 146 and the lex Fufia a little later. With respect to the nature of these laws he thinks that they may have restated and defined the circumstances which would prevent or nullify proceedings in the assemblies; that they may

have attempted to do this in a comprehensive manner; that they may have restated and defined all legal conditions for the holding, prevention or vitiation of assemblies. A. E. Astin, "Leges Aelia et Fufia," 440, 444-5. E. S. Gruen takes a more cautious approach. He believes that we can only say with certainty that the lex Aelia Fufia allowed obnuntiatio and prohibited some if not all legislation between the announcement and the holding of elections: Gruen, L.G.R.R., p. 255.

XXV) Instances of Obnuntiatio Before and After
the Lex Clodia de Lege Aelia Fufia

After the passage of Clodius' law there are instances of the tribune's continued use of obnuntiatio against legislative and electoral assemblies. For example, in early 57 the tribune Sestius announced obnuntiatio to the consul Metellus Nepos who was holding a legislative assembly before the temple of Castor and Pollux in the forum. Sest. 79-83, 95. In November of the same year the tribune Milo used his power of obnuntiatio to prevent Metellus Nepos from holding an assembly for the election of the aediles for 56. A. 4.3.3-5. Two years later, in April 55, Cicero wrote to Atticus asking if the tribunes were holding up the census by means of obnuntiatio. A. 4.9.1. Then in October 54 the tribune Scaevola repeatedly employed obnuntiatio to stop the consuls from holding the consular elections for 53. A. 4.17.4.

Before the passage of Clodius' law, there was only one (recorded) instance of tribunician obnuntiatio. That had been in 59 when the tribunes Domitius Calvinus, Q. Ancharius and C. Fannius, along with the consul Bibulus, used the right of spectio and obnuntiatio in an attempt to invalidate the laws passed by the consul Caesar and the tribune Vatinius. A. 2.9.1; 2.16.2; Dom. 39-40; Fam. 1.9.7; Har. 48; Sest. 113; Vat. 5-6, 15-6, 37; D.C. 38.13.3-5; Schol. Bob. 135.15-22; 146.23-7?

162.1; Suet. Iul. 20. Therefore, we know that before Clodius' law the tribunes could use obnuntiatio against legislative assemblies held by consuls or fellow tribunes. After the law, as it has been noted above, the tribunes used obnuntiatio against electoral and legislative assemblies held by consuls. However, there are no recorded instances of a tribune using obnuntiatio against the assembly of another tribune. It is doubtful that this was the result of Clodius' law: a popularis tribune like him would not have brought in a measure limiting the tribunate's powers, unless of course it were a measure designed to stifle the prerogatives of optimate tribunes.

The consuls also retained the power of obnuntiatio against legislative and electoral assemblies. Cicero, for instance, in 44 had subjected the consul Antony to a lecture on the proper procedure for using his consular obnuntiatio against an electoral assembly. He had also pointed out that the consuls and other magistrates had the right of spectio: this signifies that they had the right of obnuntiatio which was dependent upon spectio. Cicero, however, does not qualify his statement by saying which magistrates could exercise these rights nor does he mention the assemblies against which these rights might be exercised. Phil. 2.81. He may not have mentioned any restrictions because there were none to speak of: the magistrates were still permitted to use spectio and obnuntia-

tio against both electoral and legislative assemblies. Cicero elsewhere uses the term magistratus to describe a tribune; therefore, when he stated that the magistrates still had the power of spectio, he may have also been thinking of the tribunes. A. 1.16.3.

There is other evidence for the continued use of consular obnuntiatio. In January of 57 the praetor Appius Claudius Pulcher threatened to use obnuntiatio against the legislative assembly of the tribune Fabricius. Sest. 78-9. Cicero said that he would have been within his constitutional rights had he employed obnuntiatio. If the praetor were able to use obnuntiatio against a tribunician legislative assembly, then the consul would have also been able to do so; the praetor's auspicia were equal to those of his colleague the consul and both were elected under the same auspicia. Gell. 13.15.16; Livy 7.1.5-6; 8.32.2. It is unlikely that any changes would have been effected by Clodius' law in the auspicia of the consul without also affecting those of the praetor; it would have made precious little sense to do so.

Three passages in Cicero's speeches also show that the consul retained the right of obnuntiatio against legislative assemblies. In Sest. 129 Cicero relates that the senate had decreed in July 57 that no one should watch the skies in order to nullify the vote in the Comitia Centuriata on his re-

call from exile. Meanwhile, in Prov. Cons. 45-6 and Dom. 42 he asserts that the optimates had sanctioned Clodius' tribunician bill exiling ^{Cicero} because no one had watched the skies on the day when it was passed into law. In all three instances, Cicero is not specific; he does not say who could use obnuntiatio against Clodius' bill of exile or whom the senate forbade from using obnuntiatio against the bill enacting his recall. In both cases he would have certainly designated those capable of employing obnuntiatio after the passage of Clodius' law if that law had removed the power of obnuntiatio from consul, praetor or tribune. Cicero, therefore, is pointing out indirectly that Clodius left intact the power of obnuntiatio of the consul and the others with regard to legislative assemblies.

As it had been noted above, Bibulus as consul in 59 had used obnuntiatio against the legislative assemblies of Caesar and Vatinius. After the passage of Clodius' law, the consul could use obnuntiatio against legislative or electoral assemblies. Clodius' measure, therefore, had seemingly not restricted the jurisdiction within which the consul could use obnuntiatio.

From the above discussion it can be concluded that Clodius' lex de lege Aelia Fufia did not abolish obnuntiatio and that it did not prevent the consul or the tribune from using it against either electoral or legislative assemblies.

XXVI) The Trial of C. Cato under the Lex Fufia

C. Cato was charged under the lex Fufia in July 54. A. 4.15.4; 4.16.5. In A. 4.16.5 Cicero tells Atticus that Cato will be acquitted under the lex Fufia. Later in the same letter he says: " quibus si non valuerit, putant fore aliquem qui comitia in adventum Caesaris detrudat, Catone praesertim absoluto." A. 4.16.6. Here he says that Cato's acquittal will make it easier to find someone to delay the comitia. This would be a reference to Cato's upcoming acquittal under the lex Fufia. Two provisions of the lex Aelia Fufia dealt with the comitia: it prohibited legislation between the announcement and the holding of elections and it regulated the use of obnuntiatio against legislative as well as electoral assemblies. As tribune in 56 Cato had probably violated one of these provisions when he delayed the consular comitia so that Pompey and Crassus might stand as candidates for 55. Livy Per. 105 mentions the way in which Cato blocked the elections: "Cum C. Catonis tribuni plebis intercessionibus comitia tollerentur, senatus vestem mutavit." Cf Dio Cass. 39.27.3. The reference may simply signify that Cato had blocked the elections by obnuntiationes; intercessio could be applied both to the tribunician veto and intervention by obnuntiatio. See p. 565, n.114. In using obnuntiatio Cato would have contravened some provision of the lex Aelia Fufia on obnuntiatio which had not been modified by the

lex Clodia. Afterwards, Cato would have been charged for his obstructions under the lex Fufia. When he was acquitted, as seemed probable to Cicero, others would be encouraged to follow in his footsteps and would be willing to delay the comitia in contravention of the terms of the lex Aelia Fufia. The above discussion allows us to shed light on A. 4.15.4 where Cicero describes Cato's actual acquittal ~~under~~ the lex Fufia: "Nunc Romanas res accipe. a. d. III (I) Non. Quint. Sufenas et Cato absoluti, Procilius condemnatus. ex quo intellectum est Τριεπελονπαχίτας. ambitum, comitia, interregnum, maiestatem, totam denique rem publicam..." Here he refers to the violations with which Cato and Sufenas had been charged, but he does not mention which one pertains to Cato's acquittal under the lex Fufia. It must have been clear to Atticus, however, that the reference to the comitia would have applied to Cato's acquittal.

XXVII) Methodology for Determining the
Dates of Elections and Laws

Cicero probably left Rome in the third week of March, shortly before the rogatio of Clodius' bill on uncondemned citizens. S. B. A. II, 227-32. Given a trinundinum of seventeen days, the bill was promulgated in either late February or early March; if 58 were intercalary, however, then it may have been promulgated in the intercalary month. In my calculations regarding the promulgatio and rogatio of a bill, and the announcement and holding of elections, I have taken the trinundinum to refer to the seventeen days which elapsed within the space of three nundinae; I have not taken the position that three nundinae per se had to pass in order to constitute a trinundinum. In this way a rough idea on the timing of the announcement and holding of elections, or, the promulgatio and rogatio of bills can be obtained. If these calculations were made on the basis of three nundinae elapsing, it would be an impossible task to determine specific dates, for no definite nundinal series is known; the establishment of the nundinal series depends mainly on the knowledge of the years in which there was intercalation; that knowledge is by no means certain given the ad hoc way in which intercalation was used in the late Republic for political reasons.

XXVIII) Clodius' Reconciliation with Cicero in 58

According to Plutarch and Dio Cassius, Clodius tricked Cicero into remaining at Rome by a false reconciliation. He promised not to take any measures against Cicero on the condition that he and his amicus, the tribune L. Ninnius Quadratus, desisted from obstructing his legislation. After the reconciliation Cicero declined the legatio from Caesar which he had previously requested in order to escape the wrath of Clodius. Caesar then became angry with Cicero and backed Clodius when the latter showed his true colours by proposing anti-Ciceronian legislation. D.C. 38.12-4; Plut. Cic. 30. Against this story is Cicero's claim that he had never accepted any of Caesar's offers. See p. 78. There is also Fam. 14.3.1 where Cicero tells Terentia that he should have accepted Caesar's offer of a legatio. However, the stories of Plutarch and Dio may contain some factual basis, that is that Clodius lulled Cicero into a sense of false security and quelled the opposition of the tribune Quadratus by reconciliation with Cicero. Dio and Plutarch say that Cicero did not oppose Clodius' preliminary legislation as the result of the reconciliation. This tallies with A. 3.15.4 where Cicero says that he only accepted the lex de collegiis, but was persuaded that it was to his advantage. Such acquiescence would point to acceptance of the preliminary legislation brought about by reconciliation with Clodius.

XXIX) Clodius and Vatinius

Vatinius may have also acted at the behest of Clodius himself. For Clodius' way of dealing with Pompey's suspicious nature, see pp. 224-5. Vatinius would have been willing to assist Clodius because he too was Cicero's enemy and an opponent of the measures resorted to by Cicero on December 5, 63; according to Cicero, Vatinius even assisted Sextus Cloelius in drafting the lex de capite civis Romani. Sest. 132-3; Vat. 6-8, 22-3; Plut. Cic. 9, 26. If Clodius had already helped out Vatinius in his trial under the lex Licinia Iunia, Vatinius would have been all the more willing to assist him in every way. Vatinius had been summoned back to Rome from his staff appointment with Caesar by the praetor Memmius to face charges under the lex Licinia Iunia. He returned to Rome, but protested that he did so of his own free will: the legatio with Caesar allegedly prevented any legal action from being taken against him. However, it is doubtful that Memmius' action was without legal basis: one need only cite the case of Messius who was ordered back to Rome by the praetor Servilius in 54 from his legatio with Caesar to face charges under the lex de sodaliciis. A. 4. 15.9; Sest. 135; Vat. 33-5; S. B. A. II, 211. At Vatinius' trial the praetor Memmius chose the jury under the terms of the lex Vatinia. The lex Vatinia, however, was obscure about who was responsible for the relectio of the jury, the presiding

praetor or the opposing counsels. Memmius, an enemy of Vatinius, interpreted the law to mean that he could perform the relectio. Vatinius, who was unwilling to face a hostile jury, appealed to the tribunes for auxilium. Clodius responded vigorously. His operae threw Memmius' court and the adjoining courts into a state of chaos. Afterwards, no further action was taken against Vatinius. Sest. 133-5; Vat. 33-5; Schol. Bob. 97.30-6-98.2; 150.15-25. Clodius had several reasons for assisting Vatinius. Firstly, he may simply have acted out of principle: he wanted to prevent his enemies, the optimates, from persecuting the popularis tribune of 59. Secondly, the auxilium, which he rendered Vatinius, would have demonstrated his concern for the Roman's right of appellatio, a basic right of the latter's libertas. Thirdly, Vatinius was probably married to the sister of Mark Antony at this time. For the first part of 58 Antony was a close associate of Clodius. Consequently, Clodius would have been willing to prevent Antony's brother-in-law from standing trial. Plut. Ant. 2; see S. B. A. I, 363-4, for Antony's relationship with Vatinius; see Gruen, L.G.R.R., p. 292 and Badian, "The Attempt to Try Caesar," 108-21, for the circumstances surrounding Vatinius' trial.

XXX) Cato, Gabinius, Clodius, Badian
and the Annexation of Cyprus

Dom. 20-1; 52-3, 65; Sest. 56-7, 62, 84; D.C. 38.30.4; Flor. 1.44.4; Livy Per. 104; Plut. Cato 34; Cic. 34; Pomp. 48; Schol. Bob. 133.1-30; Strabo 14.6.6; Vell. Pat. 2.38.6; 2.45.4-5. There are at least two other clauses which may have been included in the law. Firstly, it may have provided Ptolemy with a priesthood at Paphos in compensation for the loss of his throne. After he had been assigned the task of annexing Cyprus, Cato offered this position to Ptolemy. Cato would probably not have made the offer unless it was included in the provisions of the law. If he exceeded the limitations of Clodius' law, he would leave himself open to prosecution on the charge of maiestas. Plut. Cato 35. Secondly, it may have included a clause which united Cyprus to Cilicia and thus formed a new provincial unit. The evidence for the union of Cyprus with Cilicia is that in 56, Lentulus Spinther, the consul of 57, was governing both Cilicia and Cyprus: Fam. 1.7.4. Under the terms of the Sempronian law this proconsular command would have been chosen for one of the consuls of 57 by the senate in 58. Therefore, it is possible that Clodius included a clause in his lex de Cypro which joined Cyprus to Cilicia. However, it is equally possible that the senate in designating the proconsular commands of 56 had done so. The silence of Cicero supports the latter view. Had Clodius inserted a clause in the law which

created a new proconsular command, surely Cicero would not have hesitated to attack Clodius for this further infringement on the senate's prerogative of dealing in foreign affairs. Badian supports the view that Clodius was responsible for the attachment of Cyprus to Cilicia. According to his view the fact that in 56 Cilicia and Cyprus were under the administration of a single governor indicates that the arrangement was foreseen when Cyprus' annexation was planned. He believes that this union is a sure sign that Clodius had at first intended to provide Gabinius with a suitable proconsular command: the governorship and the annexation of Cyprus would without doubt appeal to Gabinius. As another argument for this interpretation, Badian states that Cato had only been chosen for the mission sometime after the passage of the law concerning Cyprus. Clodius, therefore, would have had someone else in mind for the job: Gabinius. Badian points out that at the last moment it was decided that Cato should be the one to go to Cyprus because unlike the debt-ridden Gabinius he would not embezzle any money. The money was desperately needed for the treasury which had been seriously depleted by Caesar's agrarian legislation and Clodius' grain law. With respect to the decision to send Cato to Cyprus, Badian comments that it is not known whether this was the decision of Clodius or his backers, "the three dynasts". He conjectures the latter because Gabinius like Clo-

dius "meekly" obeyed. As a result of this change Gabinus would have been given Syria instead of the proconsular command from which the annexation of Cyprus was now removed. Badian, "Cato and the Annexation and Early Administration of Cyprus," 116-8. There are several objections to this reconstruction of the circumstances surrounding the annexation of Cyprus. Firstly, as it has been shown above, the senate and not Clodius may have united Cyprus to Cilicia. Secondly, if Clodius had already passed the lex de Cypro, did he intend to give Gabinus the power of executing its provisions by one law and to give him the governorship of Cilicia by another law? Thirdly, there is the fact that Gabinus was later given Syria instead of Cilicia. This need not necessarily imply that he was being compensated for the loss of the annexation of Cyprus in his proconsular command. Gabinus may simply have wished to obtain a more lucrative province than Cilicia in return for his services. The language of Cicero, despite its invective, shows that Gabinus sought and was not given Syria in exchange for Cilicia. Dom. 23. Fourthly, Clodius in passing the lex de Cypro at the beginning of 58 indicated that he wanted to secure the money as quickly as possible in order to offset the costs of his grain law. He would, therefore, have had no intention of recovering it only after the expiry of Gabinus' term as consul. Fifthly, as I have attempted to prove, it is extremely

doubtful that Clodius "meekly" obeyed anyone in 58, including the factio. Finally, Badian claims that Clodius chose Cato after Gabinius had been disposed of in order to ensure that all of the money from Cyprus reached the treasury. When Clodius had passed the lex frumentaria he must have been preoccupied with recovering as much money as possible from Cyprus. The money would ensure the continuation of the grain dole, which was a main source of his popularity. He would certainly not jeopardize the program by putting Cyprus into the hands of a proconsul who would seek to recover the money he had spent for his election. Cato, therefore, must have been Clodius' first and only choice. Cato's honesty would serve as a certain means of furthering Clodius' political career.

XXXI) Aelius Ligus

Earlier, Ligus had been pro-Ciceronian. Cicero, as in the case of the two tribunes of 57, Serranus and Rufus, alleges that Clodius' bribery was the reason for his change of loyalties. Har. 50 Sest. 69, 94. After his return from exile in 57, Cicero attacked him in the Pro Sestio and the De Domo. In Sest. 69, he alleges that Ligus had appropriated the name Aelius in order to claim an illustrious lineage. Shackleton Bailey remarks that Ligus probably claimed descent from P. Aelius Ligus the consul of 172. S. B. A., III, 197-8. Meanwhile, in Dom. 49 Cicero ridicules him for the suit which he instituted against Sextus Propertius, Ligus' brother, Marcus Papirius, who had been slain by Cloelius' men on the Appian way, excluding him from his will. A dejected Ligus then instituted a suit against Sextus Propertius, a beneficiary of the will, but he did not pursue it. Cicero satirically suggests that he let the case drop for fear that he himself might be arraigned and convicted because of his connections with Clodius. Cf. Nisbet, De Domo, p. 113.

XXXII) Dio Cassius and Pompey's Backing of Cicero's Recall

According to Dio Cassius, Pompey was behind Ninnius' pro-Ciceronian activity. D.C. 38.30.2-5. His interpretation is doubtful. Ninnius was very probably acting on his own. Earlier in the year he took an anti-Clodian stance: he unsuccessfully attempted to prevent Cloelius from holding the ludi. Asc. p. 7. Shortly thereafter he was favourably disposed to Cicero and he was ready to oppose Clodius' preliminary legislation on his behalf. Clodius, however, neutralized his opposition when he falsely reconciled with Cicero. D.C. 38.14.1-3; see p. 465. Then when the lex de capite civis Romani was put forth, he again supported Cicero, but Clodius contained his opposition. D.C. 38.16.4. Ninnius, therefore, did not need Pompey to orchestrate his behaviour; his previous political activity indicates that he was quite willing to oppose Clodius and to assist Cicero on his own. Moreover, when Cicero mentions Ninnius' motion in Sest. 66 he does not point to Pompey as the instigator; he only says that Ninnius acted out of loyalty to his cause. Moreover, Ninnius may not have been on friendly terms with Pompey if his behaviour towards him in 55 can be used as any sort of indicator. In 55, he, Cato and Favonius vigorously opposed the lex Trebonia which gave the consuls Pompey and Crassus their extensive proconsular commands. 39.34.1-2; 39.35.4-5. Finally,

the information provided by Cicero's letters shows that Pompey did not come out in favour of Cicero's return till late October; Ninnius made his motion on June 1. Har. 5; Red. Sen. 3; Sest. 26, 68. In Sest. 67-8 Cicero insinuates that Pompey opposed Clodius on his behalf well before October: "Hic aliquando, serius, quam ipse vellet, Cn. Pompeius invitissimis iis, qui mentem optimi ac fortissimi viri suis consiliis, fictisque terroribus a defensione meae salutis averterant, excitavit illam suam non sopitam, sed suspicione aliqua retardatam consuetudinem rei publicae bene gerendae. Non est passus ille vir, qui sceleratissimos cives, qui acerrimos hostes, qui maximas nationes, qui reges, qui gentes feras atque inauditas, qui praedonum infinitam manum, qui etiam servitia virtute victoriaeque domuisset, qui omnibus bellis terra marique compressis imperium populi Romani orbis terrarum terminis definisset, rem publicam everti scelere paucorum, quam ipse non solum consiliis, sed etiam sanguine suo saepe servasset; accessit ad causam publicam, restitit auctoritate sua reliquis rebus, questus est de praeteritis. Fieri quaedam ad meliorem spem inclinatio visa est. Decrevit senatus frequens de meo reditu Kalendis Iuniis dissentiente nullo referente L. Ninnio, cuius in mea causa numquam fides virtusque contremuit. Intercessit Ligus iste nescio qui, additamentum inimicorum meorum." However, in A. 3.10.1 of July 17, Cicero, in response to a letter

of Atticus which apprised him of the situation at Rome up to May 25, clearly indicates that Pompey's struggle with Clodius had nothing to do with his cause: "omnino adhuc nihil mihi significatis nisi discordiam istorum; quae tamen inter eos de omnibus potius rebus est quam de me. itaque quid ea mihi prosit nescio. sed tamen quoad me vos sperare vultis, vobis obtemperabo." Later, Pompey did give qualified support to Cicero: he promised that after the elections in late July he would take up his cause and appoint an agent to effect his recall, if Caesar granted his permission. Despite the promise, Pompey did not commit himself openly to Cicero until October 58 when he approved of the bill which the eight tribunes promulgated on behalf of Cicero. A. 3.8.3; 3.9.2-3; 3.13; 3.14.1; 3.15; 3.18.1; 3.19.2; 3.22.2; 3.23.1; Red. Sen. 29; Sest. 69. Pompey, therefore, was not opposing Clodius for Cicero's sake; as has been shown earlier, he was opposing Clodius because he had interfered in his eastern acta and because he had kidnapped Tigranes and killed Marcus Papirius. See pp. 151-3. Cicero in the passage of the Pro Sestio cited above insinuated that this opposition was initiated out of concern for his cause. In all probability Dio, or his source, had read Sest. 67-8 and had come to the conclusion that Pompey was behind the agitation for Cicero's recall and he was consequently behind Nirnius' motion.

XXXIII) Why Did Lentulus Spinther Back the
Movement for Cicero's Recall?

Q.Fr. 1.4.3; Red. Sen. 21-2, 24. Cicero believed that Lentulus' zeal for his cause was due to Pompey: "Lentulus suo in nos officio, quod et re et promissis et litteris declarat, spem nobis non nullam adfert Pompei voluntatis; saepe enim tu ad me scripsisti eum totum esse in illius potestate." A. 3.22.2; cf. Fam. 1.9.4. Lentulus' past relations with Clodius also explains it: according to Dio Cassius there was a source of personal enmity between Clodius and Lentulus; that enmity had caused Lentulus to vote for Clodius' condemnation in the Bona Dea trial. D.C. 39.6.1. Moreover, like Metellus, he had sought his proconsular expenses as an inducement to support Cicero. A. 3.24.1. Finally, Lentulus as aedile in 63 was a supporter of Cicero's actions against the Catilinarians; one of the conspirators, the former praetor Lentulus, was placed in his custody. Sall. Cat. 47-8. Therefore, his zealous advocacy of Cicero's return was also a defence of his previous political behaviour, behaviour which Clodius had condemned through the lex de capite civis Romani and the lex de exsilio Ciceronis.

XXXIV) The Desertion of Numerius Quintius
Rufus and Sextus Atilius Serranus

Numerius Quintius Rufus and Sextus Atilius Serranus. Cicero alleged that they, like Aelius Ligus in 58, had been bribed by Clodius for their support. Of the two tribunes, Serranus was initially well disposed to Cicero, but he deserted to the Clodian side before January 1, 57. Pis. 35; Sest. 72, 87, 94. He may have sided with Clodius for a reason other than that alleged by Cicero in his speeches. Cicero himself points out a probable reason in A. 3.24.1-2 of December 10, 58, where he mentions the senatorial decree which granted the consuls designate their expenses. He relates that the tribunes designate wanted the expenses to be dealt with only after the consul's entry into office; they could then veto them should the consuls be less than zealous in promoting his recall. He warned that the premature allocation of the expenses might estrange the tribunes from his cause. Serranus, therefore, may have been alienated in this way. Moreover, the same may have happened with Rufus: Cicero in A. 3.24.1 gives the impression that all the tribunes designate would be behind him: "nam si tribuni pl. nobis suscensent, quae potest spes esse? ac videntur iure suscensere, cum et expertes consili fuerint ei qui causam nostram susceperant et nostra concessione omnem vim sui iuris amiserint, praesertim cum ita dicant, se nostra causa vo-

luisse suam potestatem esse de consulibus ornandis, non ut eos impedirent sed ut ad nostram causam adiungerent; nunc, si consules a nobis alieniores esse velint, posse id libere facere; sin velint nostra causa, nihil posse se invitis. nam quod scribis, ni ita vobis placuisset, illos hoc idem per populum adsecuturos fuisse, invitis tribunis pl. fieri nullo modo potuit. ita vereor ne et studia tribunorum amiserimus et, si studia maneant, vinclum illud adiungendorum consulum amissum sit." For Serranus and the fun which Cicero makes of his nomen, see Sest.72 where Cicero gives a satirical account of his entry into the gens Atilia.

XXXV) Appius' "Aedileship" and the Intended
Prosecution of Q. Cicero

Initially Appius intended to be aedile in 57. In 61 he collected statues and other art objects in Greece for his prospective aedileship; Clodius used one of the statues as a representation of his Libertas on the site of Cicero's house. In 58, however, Appius changed his mind and stood for the praetorship. As praetor he presided over the quaestio de repetundis. A. 3.17.1; Dom. 111-2; M.R.R. II, 200; S. B. A. II, 154-5. In mid 58 it was rumoured that Quintus Cicero, governor of Asia 61-59, would stand trial in his court. Quintus returned from his proconsular command of Asia in June 58. Marcus had urged him to head directly to Rome in order to meet any suit which Clodius might bring against him for his provincial administration; he feared that Clodius' hatred of him would extend to Quintus. His concern for Quintus' safety was heightened by Appius' presidency of the quaestio de repetundis. Throughout the summer of 58 serious consideration was given to the prosecution of Quintus; at one point it was rumoured that a son of C. Claudius Pulcher, Clodius' brother, would be the prosecutor. In the end no legal action was taken against Quintus. Clodius had probably decided that it was simply not worth the trouble to eliminate such an insignificant politician as Quintus. If he carried his personal vendetta with Cicero to the point of having his brother Quintus prosecuted out of malice,

such a rash and vengeful course of action might only serve to lose him supporters and to create public sympathy for the restoration of Marcus himself. Conversely, if he initiated Quintus' prosecution, all those who sympathized with Marcus' plight would rally behind Quintus. A. 3.7.3; 3.8.2; 3.9.1; 3.11.2; 3.17.1-3; 3.22.1-2; Dom. 59; Q.Fr. 1.3.5, 7-8; 1.4.5; Sest. 67-8.

XXXVI) The Attack on the House of L.
Caecilius Rufus (praetor 57)

In his commentary on Mil. 38 Asconius p. 48 mentions the attack, but he does not know when it occurred. Cicero, however, mentions the attack immediately after his description of the massacre on January 23 and he places it in the midst of the incidents which occurred around that time: "Quid simile Milonis? Cuius vis omnis haec semper fuit, ne P. Clodius cum in iudicium detrahi non posset, vi oppressam civitatem teneret; quem si interficere voluisset quantae quotiens occasiones, quam praeclarae fuerunt! Potuitne, cum domum ac deos penatis suos illo oppugnante defenderet, iure se ulcisci? Potuitne civi egregio et viro fortissimo, P. Sestio, collega suo, volnerato? Potuitne Q. Fabricio, viro optimo, cum de reditu meo legem ferret, pulso, crudelissima in foro caede facta? Potuitne L. Caecilius, iustissimi fortissimique praetoris, oppugnata domo? Potuitne illo die, cum est lata lex de me, cum totius Italiae concursus, quem mea salus concitarat, facti illius gloriam libens agnovisset, ut, etiam si id Milo fecisset, cuncta civitas eam laudem pro sua vindicaret? Mil. 38; see also Red. Sen. 5-7; Sest. 75-85, for the other events mentioned in the above passage. Clodius had good reason to pay special attention to Caecilius: as praetor urbanus he carried his support of Cicero to extremes: he refused access to his court to those who had benefited from the confiscation of Cicero's property. Red. Sen. 22.

XXXVII) Sestius' Obnuntiatio and the
volte face of Metellus Nepos

Sest. 79-85. Cicero only says that Sestius obnuntiated to a consul. The consul must be Metellus Nepos; it is highly improbable that Sestius would clash with Lentulus Spinther, another supporter of Cicero's cause. The presence of Clodius' gangs at the temple and their reaction to Sestius' obnuntiatio also suggest that Metellus Nepos is the consul in question. By this time Nepos would have made the change of allegiance referred to by Cicero in Fam. 5.4.2. The nature of the business, which he was transacting with the people when Sestius used his obnuntiatio, is not mentioned. However, it can be assumed that Metellus was putting a bill to the vote: he would not be dealing with any election: according to Cicero's letters, the elections for 57 had gone off without a hitch in the previous year. A. 3.13.1; 3.17.1; 3.18.1-2; 3.19.1; 3.24.1-2. What the bill was about can only be guessed at. As for Metellus' volte face, there are two probable reasons behind it. Firstly, he had obtained the provincial expenses in return for his adherence to Cicero's cause. Now that he had them he felt free to remain loyal to his political convictions and to support Clodius in keeping the executioner of the five Catilinarians out of Rome. In the previous year Cicero warned Atticus that such a thing might occur: once the consuls received their expenses, the senate would have no means of keeping them in

line. A. 3.24.1-2. Metellus, therefore, like a good crooked politician had taken his bribe and absconded. Secondly, Metellus probably found it difficult to be a political bedfellow with the likes of Pompey. In 62 Metellus as tribune promulgated a bill which enacted that Pompey be recalled to deal with the political regnum established by Cicero. The senate reacted so severely that Metellus fled to Pompey. However, Pompey, on his return to Rome in late 62, clearly demonstrated his attitude to Metellus Nepos by divorcing the latter's half-sister Mucia. Nepos' brother, Celer, who had been a legate on Pompey's staff in the East, bore the repulse so badly that as consul in 60 he vehemently opposed all measures in Pompey's interests. There is no reason to suppose that Nepos did not bear a similar grudge to Pompey. When he openly declared his hostility for the factio in 59, his alienation from Pompey was probably responsible; his alienation would not have been caused by Caesar who was a close political ally in 62. App. Mith. 94; Asc. p. 20; A. 1.12.3; 2.12.2; Pinard; "Clodius' Bid for the Tribunate in 60 B.C.," 45; see pp. 116-7.

XXXVIII) The Meeting of the Senate in the
Temple of Honos et Virtus

Sest. 117-23. R. Gardner thinks that the games were the Ludi Apollinares, celebrated from July 6-13. Gardner, Pro Sestio et In Vatinius, p. 194. This could not be; the praetor urbanus gave the Ludi Apollinares. Livy 25.12.9-15; 26.23.1-4; 27.23.5; 39.33.15. Moreover, Asconius records that L. Caecilius Rufus, the praetor urbanus of 57; did give the games. Asc. p. 48. The Scholia Bobiensia can only assume that the games were the ludi Honoris et Virtutis. Schol. Bob. p. 136. 3-7, 21-27. These ludi, if there were any such ludi and the Scholia Bobiensia are not making but an educated guess, would have been held on the same date as the dedicatio of the temple: July 17. July 17, however, is an impossible date for the session of the senate held in the temple of Honos et Virtus. At that session the senate instructed the consul Lentulus to send despatches to the municipia and coloniae in order that their citizens be present at Rome when the senate dealt decisively with the matter of Cicero. See pp. 169, 172. The senate did deal decisively with his recall on the two consecutive days in July when it met in the temple of Jupiter and in the curia. See pp. 172-5. The dates for these two days can be approximated. On the first day, rather than the second day, the bill for Cicero's recall ex senatus consulto was very probably given its promulgatio. The bill received its rogatio on

August 4. See p. 176 . Given a trinundinum of seventeen days, the bill would have been promulgated on July 19. The senate, therefore, met in the temple of Jupiter on the Capitol on July 19 and dealt decisively with Cicero by having a bill for his recall promulgated. This being the case, the meeting in the temple of Honos et Virtus could not, as the Scholia Bobiensia seemingly indicate, have taken place on July 17; Lentulus, who was ordered to communicate with the coloniae and municipia at that meeting, would have had to be very swift: in his letters he would be asking his recipients to come to Rome on July 19 when the senate was to meet on the Capitol to take decisive action in the matter of Cicero's return. Not even Cato the Elder with his Plutarchian reputation for swiftness could have fulfilled such a task. Since the senate was to meet on July 19, it can be assumed that Lentulus was ordered to send his despatches at the latest in late June or early July in order to allow sufficient time for the recipients to receive and to respond to his letters. As for the games which were being celebrated, it can only be ascertained that they were sponsored by Lentulus. They need not have had anything to do with Honos et Virtus. The temple of Honos et Virtus had probably been chosen for the simple reason that it was near the ludi sponsored by Lentulus. According to Appian, the senators usually met in a temple near the ludi so that they could easily reach them after deliberation; it was simply a matter of convenience. App. BCiv. 2.115.

XXXIX) The Date of Cicero's Recall
and the Trinundinum

Dom. 14-5; Red. Quir. 18; Red. Sen. 35. The grain riot during the Ludi Apollinares and the stability of its price after the senate dealt with Cicero's recall are two other factors which allow further discussion on the date of the bill enacting Cicero's recall. The bill was promulgated on the first of the two consecutive days on which the senate met in the temple of Jupiter and then in the curia. See pp. 174-5. The price of grain was high during the Ludi Apollinares from July 6-13. Asc. p. 48. However, when the bill for Cicero's return was promulgated, the price of wheat took a plunge and remained stable until his return. Dom. 14-5; see pp. 178-80. Therefore, the riot over the high price of grain during the Ludi Apollinares could only have occurred before the bill's promulgation. Moreover, the promulgation of the bill would have only taken place after the celebration of the Ludi Apollinares from July 6-13. The senate would not have gathered on the Capitol and decreed a bill for Cicero's return when the Ludi Apollinares were in the process of being celebrated; it would have made little sense to compete with the ludi for the public's attention. The senate would have only taken its measures concerning Cicero after the ludi when it could be sure of the public's complete attention. Moreover, Cicero in describing the measures for his return makes no mention of the Ludi Apollinares being celebra-

ted when these measures were enacted. The bill for his recall received its rogatio on August 4. See p. 176. If the trinundinum, the amount of time which had to elapse between the promulgatio and the rogatio of a bill, is taken as a period of twenty-four days, the bill would have been promulgated on July 12 at the latest, right in the middle of the Ludi Apollinares. However, given a trinundinum of seventeen days, the bill would have been promulgated on July 19 at the latest. As has been noted above, the bill was promulgated after the Ludi Apollinares, July 6-13. The date obtained for the promulgatio of the bill, using a trinundinum of twenty-four days, does not mesh with this factor. The date obtained for the promulgatio, using a seventeen day trinundinum, does.

XL) The Date of the Post Reditum Ad Quirites

A. 4.1.6; Dom. 9, 10, 14, 16-7, 20, 26; D.C. 39.9.3.

According to Shackleton Bailey this was not the occasion of the Post Reditum Ad Quirites; Cicero's speech at this time would have had to concern the corn shortage or Pompey's appointments; there is no mention of either in the Post Reditum Ad Quirites. S. B. A. II, 168. It must be remembered, however, that on the seventh, when the people called upon Cicero to go to the senate and to deal with the wheat situation, they also called upon him to express his thanks for the favour they had granted through his recall. Cicero mentions this factor when he describes how it came about that he went to the senate on the seventh: "Ego vero neque veni et domo me tenui, quam diu turbulentum tempus fuit, cum servos tuos a te iam pridem ad bonorum caedem paratos cum illa tua conscleratorum ac perditorum manu armatos in Capitolium tecum venisse constabat: quod cum mihi nuntiaretur, scito me domi mansisse et tibi et gladiatoribus tuis instaurandae caedis potestatem non fecisse. Postea quam mihi nuntiatum est, populum Romanum in Capitolium propter metum atque inopiam rei frumentariae convenisse, ministros autem scelerum tuorum perterritos, partim amissis gladiis, partim ereptis diffugisse, veni non solum sine ullis copiis ac manu, verum etiam cum paucis amicis. Am ego cum P. Lentulus consul, optime de me ac de re publica meritus, cum Q. Metellus, qui, cum

meus inimicus esset, frater tuus, et dissensionī nostrae et precibus tuis salutem ac dignitatem meam praetulisset, me accesserent in senatum, quum tanta multitudo civium tam recenti officio suo me ad referendam gratiam nominatim vocarent, non venire, cum praesertim te iam illinc cum tua fugitivorum manu discessisse constaret?" Dom. 6-7. It was only fitting that after he dealt with the grain issue in the senate, he should go before the populace and fulfill their wish by thanking them for his restoration.



XLI) Dio Cassius and Milo's Attempted Prosecution
of Clodius in 57 B.C.

Q.Fr. 2.1.3. Dio provides a different account on how Clodius escaped trial. According to him, Clodius sought to elude trial through election to the aedileship, but he was indicted by Milo. The consul Metellus Nepos then prevented any further proceedings when he ordered the praetor not to hold any trial before the quaestors were elected and the jurors were allotted by them. The action put a stop to the proceedings because the aedilician elections had to be held before those of the quaestors. D.C. 39.7.3-4 Dio, however, puts the whole episode into the early part of 57 before Milo had acquired his gladiators or Cicero had returned from exile. At that time Milo did indict Clodius, but he was prevented from proceeding against him by the edicts of Metellus, Appius and one of the Clodian tribunes. See pp. 167-8. On this basis, the incident described by Dio would not have taken place at that time: there was no need for Metellus' action: the edicts sufficed to prevent the prosecution of Clodius. Moreover, Clodius would then have no reason to seek the security of the aedileship. Had he obtained the aedileship, Milo would still have had the better part of the year to prosecute him while he was aedile elect. The same time factor makes it useless for Metellus to prohibit the praetor from proceeding with any trial before the quaestors were elected and they allotted the jurors: plenty of time would remain

in which to proceed with a trial in 57 in the existing courts. Finally, Dio also places the elections at the time of Milo's attempted indictment in early 57; these elections would usually take place in July. A. 3.13.1-2; 3.14.1-2. The facts contained in Dio's account better suit Milo's second attempt to prosecute Clodius in November, December 57. At that time the new quaestors and their allotment of jurors would be required to proceed judicially; too little time would remain to squeeze Clodius' case into the existing docket. Then, there was also the danger that Clodius could escape into the safety of the aedileship on January 1: insufficient time would remain before the beginning of his magistracy to have him prosecuted after the allotment of the jurors. Finally, Metellus' order that the praetor not hold a trial makes sense in this context. Marcellinus had moved in December that the praetor urbanus himself choose the jury for Clodius' trial. According to the existing evidence, Marcellinus' proposal was not passed in the senate. This being the case, Metellus' interdict would not be required to offset the motion. However, the interdict may have been needed to prevent the praetor urbanus Caecilius from using Marcellinus' proposal as an expedient specious means of proceeding against Clodius: Caecilius was a zealous opponent of Clodius and may have been ready to pursue that course of action. Asc. p. 48; Mil. 40; Red. Sen. 22.

XLII) The Attempt To Recall Gabinius and Piso

Cicero refers to the attempted recall in Prov. Cons. 13-4: "Hos vos de provinciis, si non aliquando deducendi essent, deripiendos non putaretis et has duplices pestes sociorum, militum clades, publicanorum ruinas provinciarum vastitates, imperii maculas teneretis? At idem vos anno superiore hos eosdem revocabatis, cum vix in provincias pervenissent. Quo tempore si liberum vestrum iudicium fuisset nec totiens dilata res nec ad extremum e manibus erepta, restituissetis, id quod cupiebatis, vestram auctoritatem iis, per quos erat amissa, revocatis et iis ipsis praemiis extortis, quae erant pro scelere atque eversione patriae consecuti. Quae e poena si tum aliorum opibus, non suis, invitissimis vobis evolarunt, at aliam multo maiorem graviolemque subierunt." The attempted senatorial action took place in early 57, for the proconsuls had barely ("vix") reached their provinces. In all probability Clodius would have had either Serranus or Rufus interfere with the senate's proposed action; they perhaps vetoed a senatorial decree on the matter: this would help to explain "ad extremum e manibus erepta". Clodius, however, would not have been alone in opposing this action: "Quae e poena si tum aliorum opibus, non suis..." The "aliorum" probably includes Caesar and Pompey who would not want to see the candidates, whom they had supported for the consulship of 58, deprived of their proconsular imperia.

XLIII) Dio Cassius, Clodius, Pompey
and the Lex Curiata

However, see A. 4.5 of June where Cicero says that he had to be ready for Milo in the morning. As Shackleton Bailey notes, Clodius' prosecution of Milo may be relevant; the trial may have again been postponed on May 7. S. B. A. II, 188. According to Dio Cassius, Clodius, at the time of Milo's trial, sought to embarrass Pompey further by preventing the passage of a lex curiata: without the lex curiata no serious business could be enacted, nor any suits instituted. D.C. 39.19.3. Dio's statement seemingly makes little sense. In his letters of January-April 56, Cicero makes no reference whatever to any such obstruction: the senate was meeting and passing decrees (Q.Fr. 2.3.2, 5); the tribunes were promulgating laws (Fam. 1.4.1; Q.Fr. 2.5.3); suits were instituted in the courts against Milo (Q.Fr. 2.3.10), Sestius (Q.Fr. 2.3.5), Cloelius (Q.Fr. 2.5.4), Caelius (Cael. 1) and Bestia (Q.Fr. 2.3.6). Moreover, it is difficult to see how suspension of public business could embarrass Pompey in particular. There is one possible explanation to Dio's vague general statement about the lex curiata. Pompey was given the imperium to carry out his duties as grain commissioner. A. 4.1.7; Fam. 1.1.3. By March 56 that imperium was not yet formally bestowed: at that time Pompey crossed the pomerium to give evidence at Sestius' trial; a month earlier he was present in the city at Milo's trial in the capacity of defence

counsel. Fam. 1.9.7; Q.Fr. 2.3.1-2. Since he was able to cross the pomerium, his imperium would not yet have been formally bestowed on him by a lex curiata. Cf. Leg. Agrar. 2.26; D.C. 41.43.2; S. B. Fam. I, 316-7. Clodius would have delayed the passage of that lex curiata by means of a friendly tribune to delay formal sanction to his grain commissionership. One problem in this interpretation is that Pompey, irrespective of any lex curiata which would have confirmed his grain commissionership, may have been permitted to enter the city in order to deal with the wheat distribution program. Even if this was the case, however, Clodius may simply have antagonized Pompey by preventing the lex curiata which formally confirmed his imperium. Pompey would have then had to carry out his duties as grain commissioner without the benefit of a lex curiata.

XLIV) Clodius, a Subscriber at the Trial
of Caelius in 56 B.C.

Cael. 27. R. G. Austin does not think that Clodius is the P. Clodius referred to as a prosecutor in the Pro Caelio. Instead, P. Clodius would have been some obscure member of the gens Clodia; if the P. Clodius had been the prosecutor, then Cicero would have dealt with him at more length. Austin, Pro Caelio, Appendix vi, p. 156. Austin, however, does not take Cael. 78 into consideration where Cicero discourses on the acquittal of Sextus Clodius and the prosecution of Caelius: "in ^{ea} ~~hae~~ civitate ne patiamini illum absolutum muliebri gratia, M. Caelius^m libidini muliebri condonatum, ne eadem mulier cum suo coniuge et fratre et turpissimum latronem eripuisse et honestissimum adolescentem oppressisse videatur." Moreover, as it has been noted above, there was little point in raking Clodius over the coals; more amusing positive results could be obtained by applying that treatment to Clodia Metelli.

XLV) Clodius, Wiseman, and the Servi at the Ludi

Sest. 116-9. The evidence for Clodius' Ludi Megalenses comes solely from Har. 22-7. According to T. P. Wiseman, Cicero thoroughly distorted what really happened at the Ludi Megalenses. Clodius would have simply allowed his clientes from the urban plebs, which included many freedmen, to attend the games. Six weeks later, Cicero would have subjected the whole episode to rhetorical exaggeration when he delivered the De Haruspicum Responsis. In typical rhetorical fashion, he would have referred to Clodius' freedmen as servi and would have taken advantage of the lapse of time (6 weeks) between the incidents and the delivery of his speech to give his own slanted picture of those incidents. Wiseman, Cinna, pp. 161-2. There are several objections to Wiseman's reconstruction. Cicero said repeatedly that the introduction of the servi brought about chaotic conditions (Har. 22-7): this is a far cry from any disruptions which could be supposed to result from the mere presence of Clodius' clients. Surely, even Cicero could not expect to get away with such outlandish inaccuracy. After all, he had an audience of that type of individual who had the longest memory: the senate. Cf. Syme, "Ten Tribunes," 55. The senators had been in attendance at the games and knew exactly what ^{had} happened. Har. 22. Moreover, the incident would have still been very fresh in their minds because the De Haruspicum Res-

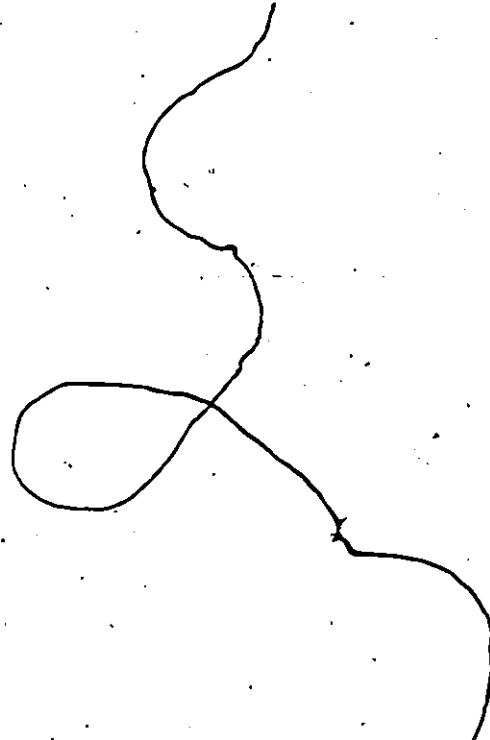
ponsis was probably delivered in late April or early May. See pp. 500-501. Nor can it be assumed that Cicero was pejoratively using the term servi to describe the freedmen among Clodius' clients. Cicero not only refers repeatedly to the disrupters as servi, but he goes out of his way to depict their status. Har. 24, 39. He also says that the slave population was specifically permitted to attend the games despite the prohibition of their presence. Har. 25-6.

XLVI) The Attempted Attack on Cicero's
House and Its Chronology

A. 4.7.3. Cicero wrote the letter by April 15. S. B. A., II, 181, 283. If April 15 is taken as the date of the letter, a terminus ante quem can be obtained ~~can be obtained~~ for the attack on Cicero's house and the events which preceded it: the proclamation of the Haruspices, the senatus consultum about consecrated sites and Clodius' contio. Cicero was at Arpinum when he wrote the letter to Atticus. The news of the attempted attack on his house would have taken a minimum of two days to reach Arpinum: Arpinum was c. 60 miles from Rome as the crow flies. This would make April 14 the t. a. q. for the attack on the house. Clodius' contio and other events which preceded the attempted attack would have occurred before that date. The terminus post quem for Clodius' contio would have been April 10: up till and including that day Clodius would have been too busy with his Ludi Megalenses to hold any contiones. That contio would have been held immediately upon the heels of the Haruspices' responses: one need only look at the swiftness with which Clodius addressed a contio after the Pontiffs' verdict on Cicero's site on September 29, 57, to confirm this point.

A. 4.2.3. Thus, the Haruspices' pronouncements had probably also taken place after the tenth. The senatorial decree on the Haruspices' pronouncements probably took place the day after those pronouncements; in September 57, the senate discussed

the Pontiffs' verdict on the following day. A. 4.2.4. From this discussion a probable chronology can be established for the events in question. On April 11 the Haruspices delivered their pronouncements. Clodius immediately summoned a contio to point out that Cicero's house was the object of the imprecations. On April 12 the senate met and decided that the matter of consecrated sites would be dealt with at some future date. Har. 11, 14, 31. On that day, or the following day, April 13, Clodius attempted to attack Cicero's house; he may have felt that the senate was putting off the matter and that stern action was immediately required on his part. Milo, however, thwarted his efforts. See D.C. 39.20.1-3 where Dio says that Clodius' attempted attack did not take place immediately after his contio. Two days later, on April 15, Cicero found out about the attempted attack and asked Atticus to see that the site was guarded by Milo.



XLVII) The Timing of De Haruspicum Responsis

Har. 1. The senatorial meeting was held on the day before Cicero delivered the De Haruspicum Responsis. In that speech, Cicero says that the senate's decision to hold a session on consecrated sites, the Haruspices' responses and Clodius' contio had taken place shortly beforehand. For the timing of the contio, he uses the word "paullo" and for the senate's decision, "nuper". Har. 8, 31. Since the contio and the senatorial decision had taken place around April 11, 12, it is reasonable to place Cicero's speech, and the meeting on the previous day, in late April or early May: the ultimate terminus ante quem for the speech De Haruspicum Responsis would be May 15, the date by which he knew of the conference of Luca; in Har. 50-1 he shows that he obviously did not know about it when he exclaimed that there was no rhyme nor reason to Pompey's reconciliation with Clodius. Fam. 1.9.9; Q.Fr. 2.7.1-2. The senate would have given Tullio and the tax gatherers an audience despite the fact that it was usually a period reserved for the senatorial recess. Schol. Bob. p. 88. 13-30; S. B. Fam., I, 353; Wiseman, Cinna, pp. 188-9. As usual the provincial legationes had been due to be dealt with in February, but they, like the allotment of the propraetorian expenses, would have been delayed for some unknown reason, with the result, that the senate only dealt with them in the latter part of April or ear-

ly May. Fam. 1.4.1; Q.Fr. 2.3.1; 2.12.2; see p. 50. Cicero was well able to deliver his De Haruspicum Responsis in either late April or early May. His presence in the senate is not negated by Q.Fr. 2.6.4 where he says that his trip through southern Italy would last till May 7. When he learnt of the senate's decision to discuss consecrated sites, of Clodius' contio, and of the attempted attack on his house, he would have cut his journey short and returned to Rome to defend his property.

XLVIII) When Did Marcus Cato Return
to Rome from Cyprus?

D.C. 39.22.1; Plut. Cato 40; Cic. 34. Cato's presence in the senate shows that the debate between Clodius and Cicero took place after his return from Cyprus. The time of his return can be approximately determined. According to Plutarch, Cato was absent when the senate discussed the allotment of money to Caesar in 56; he was still busy with affairs on Cyprus. Plut. Caes. 21. Caesar was only given the money for his troops shortly before Cicero delivered the De Provinciis Consularibus in late May or early June. A. 4.5.1-3; Balb. 61; Fam. 1.7.10; Prov. Cons. 28; S. B. A., II, 185, 233-4. Cato, therefore, could only have returned after the allotment of money to Caesar. However, he probably returned before the delivery of the De Provinciis Consularibus. On his return he vigorously defended Clodius' claims about his tribunate to the point that he estranged Cicero. Plut. Cato 40; Cic. 34; cf. D.C. 39.22.1.who says that while Clodius and Cicero were contending over the issue of the tablets, Cato came on the scene and restored the balance. On this basis Cato is almost certainly the man whom Cicero singles out in Prov. Cons. 45: "Nam summi civitatis viri, quorum ego consilio rem publicam conservavi et quorum auctoritate illam coniunctionem Caesaris defugi, Iulius leges et ceteras illo consule rogatas iure latas negant; idem illam proscriptionem capitis mei contra salutem rei publicae, sed

salvis auspiciis rogatam esse dicebant. Itaque vir summa auctoritate, summa eloquentia dixit graviter casum illum meum funus esse rei publicae, sed funus iustum et indictum." For a similar description of Cato, see A. 1.14.5: "hic tibi rostra Cato advolat, commulcium Pisoni consuli mirificum facit, si id est commulcium, vox plena gravitatis, plena auctoritatis, plena denique salutis." and Mil. 58: "Dixit enim hic idem, qui omnia semper constanter et fortiter, M. Cato, et dixit in turbulentia contione, quae tamen huius auctoritate placata est..." Cato, therefore, probably returned to Rome in late May or early June, before Cicero spoke on the consular provinces.

XLIX) Gaius Claudius Pulcher

Little is known about the career of Gaius Claudius Pulcher. He was probably the brother whom Cicero refers to as a legate of Caesar in 58. Sest. 41. It would not have been Appius who was then busy with his canvass for the praetorship of 57. Gaius is next heard of as praetor in 56 when he helped his younger brother Publius to recover the tribunician tablets from Cicero. D.C. 39.21.1-2. Afterwards, he served as governor of Asia from 55 to 53. M.R.R., II, 547. Two members of his proconsular staff are known: C. Curio, who probably served as his quaestor, and Pituanus. A. 4.15.2; M.R.R., II, 224, 230. In 54 he intended to stand for the consulship, but his command of Asia was prolonged. Asc. p. 25; Scaur. 33-5. On his return to Rome in 52 he was prosecuted de repetundis and convicted. However, he went into exile before a litis aestimatio. Later, his son Appius minor laid charges against one Servilius on the ground that he was in possession of money embezzled by Gaius in his province. Servilius had apparently been given the money to arrange a collusive prosecution. Instead he kept the money for himself. Gaius remained in exile until 43 when Antony granted Appius minor's request that his father be recalled. Fam. 8.8.1-2; 11.21.1; S. B. A., II, 207; Fam. I, 398-400. C. Claudius had two sons, both named Appius. Asc. pp. 34, 38, 54. The younger was adopted by his uncle Appius. S. B., A., II, 154.

Gaius does not seem to have held any religious offices: Cicero in Scaur. 34 mentions that he stood for the pontificate and the priesthood of Mars, but he does not say that he was elected. Cf. Scaur. 33-5.

L) Clodius' Real Estate

A. 1.13.6; Fam. 5.6.2. For Clodius' recently acquired opulent mansion on the Palatine, see Asc. pp. 26-7, 32; Scaur. 45. Clodius' real estate holdings were considerable. He owned estates in Transalpine Gaul and Etruria. Mil. 26, 50, 74, 87, 98. Besides his newly acquired house, he may have retained possession of his other house on the Palatine and of the former mansion of Marcus Seius which he had purchased in 58. Dom. 115, 129; Har. 30. He also had a sizeable Alban villa which was maintained by his villicus Halicor. Asc. p. 35; Mil. 51, 53, 85. Meanwhile, in Mil. 74-5 Cicero alleges that Clodius had been attempting to extend his real estate holdings: "eum denique, cui iam nulla lex erät, nullum civile ius, nulli possessionum termini, qui non calumnia litium, non iniustis vindiciis ac sacramentis alienos fundos, sed castris, exercitu, signis inferendis petebat; qui non solum Etruscos - eos enim penitus contempserat, - sed hunc P. Varium, fortissimum atque optimum civem, iudicem nostrum, pellere possessionibus armis castrisque conatus est, qui cum architectis et decempedis villas multorum hortosque peragrabat, qui Ianiculo et Alpibus spem possessionum terminarat suarum, qui cum ab equite Romano splendido et forti, M. Paconio, non impetrasset, ut sibi insulam in lacu Prilio venderet, repente lintribus in eam insulam materiem, calcem, caementa, harenam convexit dominoque trans ripam

inspectante non dubitavit exstruere aedificium in alieno; qui huic T. Furfanio, cui viro! di immortales! - quid enim ego de muliercula Scantia, quid de adolescente P. Apinio dicam? quorum utrique mortem est minitatus, nisi sibi hortorum possessione cessissent; - sed ausum esse Furfanio dicere, si sibi pecuniam, quantam poposcerat, non dedisset, mortuum se in domum eius inlaturum, qua invidia huic esset tali viro conflagrandum; qui Appium fratrem, hominem mihi coniunctum fidissima gratia, absentem de possessione fundi deiecit; qui parietem sic per vestibulum sororis instituit ducere, sic agere fundamenta, ut sororem non modo vestibulo privaret, sed omni aditu et limine." Cf. also Mil. 87. There must have been some truth to these allegations. Otherwise, Cicero would not have named names. He was probably exaggerating irregularities in Clodius' real estate transactions.

LI) Pompey, Gabinus and the
Restoration of Ptolemy

Gabinus had restored Ptolemy in early 55. Afterwards, in 55 and 54, Pompey went to great trouble to protect him from retaliatory measures. In 55 Cicero sought to have the Sibylline books read in order to discover the punishment prescribed for the man who had violated the Sibyl's interdiction against the use of armed force to restore the Egyptian king. The consuls Pompey and Crassus did not allow the books to be searched. According to Dio, Crassus initially attacked Gabinus, but later changed his tune. Cicero described the volte face in a letter to Lentulus Spinther. The main reason for Crassus' change of stance was the bribe which, according to Dio, Gabinus had sent to him. In 54 Pompey continued to protect Gabinus: when it was again proposed that the Sibyl's verses be read, he strenuously but unsuccessfully sought to prevent it. Then, after Gabinus' return he did his utmost to secure his acquittal when legal proceedings were launched against him. Besides amicitia, Pompey had another reason for assisting Gabinus over the issue of Ptolemy's restoration; he was the one who had instigated Gabinus to restore the king. A. 4.18.1-2; Fam. 1.9.20; Q.Fr. 3.3.3; 3.4.1, 3; D.C. 39.56-63.

LII) When in 54 Did Pompey Reveal the Pact Between
Appius and the Consular Candidates?

The date is arrived at in the following manner. In A. 4.17 of October 1, 54, Cicero informs Atticus of the events which had occurred at Rome since the writing of A. 4.15 on July 27. A. 4.17.1. He mentions in A. 4.17.4 that Scaurus had been acquitted. Asconius says that Scaurus was acquitted on September 2. Asc. p. 18. Before the reference to Scaurus' acquittal, Cicero had discussed the events preceding it. The events which preceded September 2, the date of Scaurus' acquittal, were the following. At the instigation of Pompey, Memmius revealed the pact between the consuls and the two consular candidates. Afterwards, the senate reacted to the extensive bribery being employed by all the consular candidates with a decree which enacted that they submit to a silent process, a "tacitum iudicium". A. 4.17.3; see S. B. A., II, 215, for a discussion of this type of trial. The jurors refused to sit on these trials and appealed to the tribunes. The senate then delayed the elections and had the consuls promulgate a bill authorizing the special court procedure. When the bill received its rogatio, the tribune Terentius vetoed it. The senate then dropped the matter and declared that the elections should be held as soon as possible. A. 4.17.2-3. In this sequence of events occurring before September 2 there was the promulgatio and the rogatio of the consular bill on the special court pro-

cedure. The last day for the rogatio of the bill was the dies comitialis nearest September 2, the terminus ante quem for the events described. The dies comitialis in question was August 29. At the latest the bill, given a trinundinum of seventeen days, was promulgated on August 13. Therefore, the revelation of the pact, which preceded the promulgatio of the bill, was made before August 13. Several events had taken place between the exposure of the pact and the promulgatio of the bill on the special court procedure: the senate issued its decree on the "tacitum iudicium"; the jurors refused to accept the extra work load and appealed to the tribunes; the senate then had the consuls promulgate the bill. Judging conservatively, these events would have taken up to three days. On this basis the terminus ante quem for the exposure of the pact would be August 9. However, a number of days may perhaps also have elapsed between the revelation of the pact and the senate's action on the bribery by the consular candidates. The pact, therefore, was exposed before August 9.

LIII) Appius, Scaurus and the Pacuvii Claudii.

P. Valerius Triarius headed the prosecution with L. Valerius and the brothers Q. and M. Pacuvius Claudius as subscriptores. The presence of the Pacuvii Claudii shows that Appius had a hand in the actual prosecution. Asc. pp. 18-9, 29. According to Gruen, their cognomen, Claudius, indicates that they were Appius' clientes. Gruen, L.G.R.R., p. 333. On this basis, however, the Pacuvii could have been the clientes of any branch of the gens Claudia. They would not have to be affiliated with the gens Claudia Pulchra. Livy, however, furnishes evidence which very directly links the Pacuvii with the Claudii Pulchri. Appius Claudius Pulcher, the consul of 212, had given a daughter in marriage to Pacuvius Calavius a noble and a magistrate at Capua. The Pacuvii Claudii at Scaurus' trial, therefore, would have been clients and very distant relations to Appius. Since he played a major role in Scaurus' prosecution, they were probably acting at his request. Livy 23, 2-4.

LIV) Gruen and the Prosecution of Scaurus

Asc. pp. 18-9, 28. Scaurus was defended by no less than six attorneys and a large number of prominent character witnesses appeared on his behalf. Clodius was one of Scaurus' defence attorneys. Asc. p. 25. His reasons for defending Scaurus are obscure. Cicero only refers briefly to Clodius' defence in the Pro Scauro where he seemingly takes him to task for having said nasty things about his elder brother: "De quo plura iam non dicam: quamquam ea, quae dixi, non secus dixi, quam si eius frater essem, non is, qui et est et qui multa dixit, sed is, qui ego esse in meum consuevi." Scaur. 36-7. From this tantalizingly brief reference it may perhaps be conjectured that Clodius was defending Scaurus in part because he was at odds with his brother. His defence may have also resulted from ties with Scaurus for which there is no evidence. Gruen thinks that Clodius may have defended Scaurus at the behest of Pompey with whom he had reconciled in April of 56. Gruen, L.G.R.R., pp. 334-5. Pompey and Clodius, however, had broken off the reconciliation by October 24, 54. Q.Fr. 2.4.2, 6. It may have also been broken off by the time of Scaurus' trial. See pp. 272-274. Gruen also attempts to give the reasons why Scaurus had such a mixed bag of defenders at his trial. He thinks that Scaurus' associations and character only accounted partially for the widespread support among the nobilitas. In his view the diffe-

rent factions of the nobilitas had gotten behind Scaurus in order to prevent the use of judicial proceedings to eliminate a consular candidate from the political scene: if Scaurus were eliminated in such a way, a precedent would be established which could later be used against other members of the nobilitas when they sought election. Gruen, L.G.R.R., pp 334-5. However, would not the senate have perhaps been enacting an even graver precedent when it sought to pass a law whereby all consular candidates were to undergo a "tacitum iudicium"? or Did, not an equally dangerous precedent exist whereby successful candidates for the consulship could be tried de ambitu? P. Cornelius Sulla and P. Autronius, the consuls designate for 65, could well testify to the latter procedure. Gruen plays down this point but plays up the point made about eliminating a consular candidate by the means used to undermine Scaurus. It is all very confusing and fuzzy. Moreover, there is the fact that by late September or early October 54, all the consular candidates were being prosecuted for bribery. Would this too not form a dangerous precedent which could later be used against rival consular candidates? A. 4.17.5; Q.Fr. 3.2.3.

LV) Gabinius' First Visit to the Senate in 54 B.C.

In Q.Fr. 3.2.2 Cicero tells Quintus: "(1) Cum Gabinius quacumque veniebat triumphum se postulare dixisset subitoque bonus imperator noctu in urbem hostium plenam invassisset, in senatum se non committebat. (2) Interim ipso decimo die, quo eum oportebat hostium numerum et militum renuntiare, inrepsit summa infrequentia." There are two hypotheses which can be set forth on the timing of the senatorial meeting referred to by Cicero. One factor belongs to both hypotheses. Gabinius entered the city on the night of September 27; therefore, his visit to the senate took place after that date. Q.Fr. 3.1.24. Consequently, the word "interim" which introduces the second sentence refers to some time after that date. According to the first hypothesis, October 8 would be the date of the senatorial meeting and Gabinius' visit. In the second sentence Cicero says that Gabinius came to the senate. Through the clause "quo... renuntiare" he would be giving the reason for his attendance: he came to the senate because he was duty bound ("oportebat") to report to it in person ("ipsum") the number of Roman and enemy dead on the tenth day ("decimo die"). The tenth day ("decimo die") would be the tenth day after his entry into the city which had been referred to in the previous sentence. Thus, Gabinius entered the city on September 27 and ten days later, on October 8, made the required report in person to the senate.

According to the second hypothesis, September 29 is the date for the senatorial meeting. If it is assumed that "oportebat" has the meaning "should have" and "ipsum" does not necessarily indicate Gabinius' presence in the senate, then the second sentence would simply signify that the date of Gabinius' appearance in the senate coincided with the date on which he would have had to report the number of Roman and enemy slain. The renuntiatio in question would have been a reference to the oath which those seeking a triumph had to make before the quaestor of the treasury as to the validity of their despatches to the senate in which they enumerated the number of Roman and enemy casualties; the tribunes M. Cato and Marius had passed a law to that effect in 62. Val. Max. 2.8.1. Cicero, therefore, would be saying that Gabinius came into the senate on the day on which he would have reported to the quaestors of the treasury, had he still intended to celebrate a triumph. In this instance the tenth day ("decimo die") would be the tenth day after Gabinius' return to Rome; it would have been on that day that he should have appeared before the quaestors to make a statement. On this basis the date for the senatorial meeting would be September 29, ten days after Gabinius' arrival on the nineteenth. Q. Fr. 3.1.15; 3.2.1-2. September 29 is a more appropriate date than October 8, because it fits more aptly into the following chronological framework. In his previous letter to Quintus, Cicero had apprised him of proceedings up to and

including September 28 when Gabinus had been given such a heated reception by the people that he was unable to appear in the court of C. Alfius. Q.Fr. 3.1.24. It would make sense, therefore, for Cicero to tell Quintus in this letter (3.2) what had happened to Gabinus immediately after September 28. Besides this, there is the fact that at the senatorial meeting Appius accused Gabinus of maiestas and gave the names of his witnesses. Q.Fr. 3.2.3. His action would have carried more clout if Gabinus had not yet been indicted for maiestas. Gabinus had not been indicted on September 28 due to the demonstration of popular discontent with him. Presumably, Alfius had delayed the date to September 29 or later. Q.Fr. 3.1.24. If Appius had made his threat to prosecute on September 29, it would have carried more weight: he could then, like the other hopefuls put forth his name as prosecutor at the next session of Alfius' court. Q.Fr. 3.1.15; cf. S.B. Fam. I, 415, for our ignorance of trial procedures. In the manuscripts, there is a variant reading for "hostium": "hostiarum". Watt, Epistulae, III, p. 89. With "hostiarum" instead of "hostium" the second sentence would signify that Gabinus went into the senate on the tenth day, the day on which he should have reported the number of his own troops and sacrificial victims. Presumably, the troops and victims had to do with the triumph just mentioned in the previous sentence. Why else would Cicero be writing about them? The second sentence would then signify that Gabinus

came into the senate on the tenth day, the day on which he should have reported the number of troops and victims necessary for his triumph, had he still been intent on celebrating it. However, any hopes which he had had of a triumph were now only suppositary, ^{ional} since he had crossed the pomerium. In this instance, as in the case discussed above, the tenth day would be the tenth day after Gabinius' arrival on the outskirts of Rome on September 19: September 29. Q. Fr. 3.1.15.

LVI) Appius, the Augur

Brut. 267; Fam. 2.13.2; 3.2.2; 3.4.2; 3.8.9; 3.9.3; 3.10.10; 15.4.13; S. B. Fam., I, 363. Appius was an augur by 63; in that year he performed the auguratio salutis, the unpropitious results of which led him to announce to the consul Cicero that civil strife was in the offing; the Catilinarian crisis followed a few months later. He was well qualified to write a thesis on augury: according to Cicero, he was thoroughly versed in its ritual and discipline. His interest in augury was more than an intellectual pursuit; he was a stern practitioner of the ritual and discipline of augury and believed that it could reveal the future. In De Divinatione Cicero tells Quintus that Appius was ridiculed by his colleagues in the augural college for his superstitious belief in it: "Cui quidem auguri vehementer assentior; solus enim multorum annorum memoria non decantandi auguri, sed divinandi tenuit disciplinam. Quem irridebant collegae tui eumque tum Pisidam, tum Soranum augurem esse dicebant; quibus nulla videbatur in auguriis aut praesensio aut scientia veritatis futurae; sapienter aiebant ad opinionem imperitorum esse fictas religiones." Div. 1.105; see also Div. 1.29; 2.75; Leg. 2.32.3; Tac. Ann. 12.23. Appius' superstitious streak was not limited to augury. In Div. 1.132 Cicero puts the following words into Quintus' mouth: "Nunc illa testabor, non me sortilegos neque eos,

qui quaestus causa hariolentur, ne psychomantia quidem, quibus Appius, amicus tuus, uti solebat, agnoscere." See also Tusc. Disp. 1.35 on this question. Given this superstitious streak, it is not surprising that as consul Appius vowed a propylon to Demeter at Eleusis. He had perhaps been initiated into the mysteries while he was in Greece in 61. Schol. Bob. 91.1-3; M.R.R., II, 221. The propylon was completed by his son and nephew after his death in 48. Nor is it surprising that shortly before his death in Euboea he visited the temple of Apollo at Delphi to receive an oracle on the outcome of the conflict between Caesar and Pompey. Luc. 5.68-240; Val. Max. 1.8. 10.

LVII) Atticus and the Pulchri.

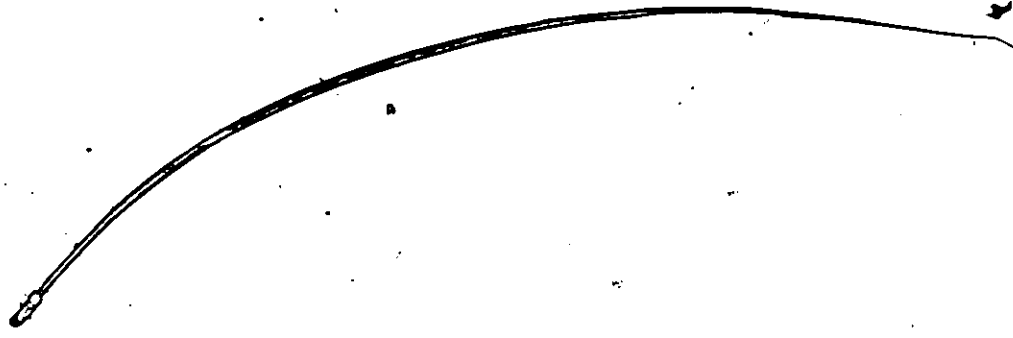
Q.Pr. 2.11.2-3. Atticus was seemingly on good terms with the three Claudii and with some of their female relations. In the incident cited above, Atticus' relations with Appius were such that the latter could ask him to intercede with Cicero on his behalf. Meanwhile, in 59 Atticus had had good relations with Publius and Clodia Metelli: these relations had allowed him to provide Cicero with useful political intelligence. A. 2.9.1; see pp. 78-80. Atticus was also on good terms with Fulvia: in 44-43, when Antony was declared a public enemy, he came to Fulvia's assistance with interest free loans and by appearing in court with her. Nep. Att. 25.9. There is also an indication of Atticus' good relations with C. Claudius. In 54 Atticus went on a business trip to Asia which was then under the command of C. Claudius. Presumably, Atticus would have timed his trip while a friendly governor was in power. A. 4.15.2. From this it can be seen that Atticus had amicitiae which, like an octopus' tentacles, spread out and clutched in many directions. Clearly, he did not put all of his eggs into one basket. It is little wonder that he was one of the few rich Romans who died of natural causes in the thirties.

LVIII) Freedmen in the Tribal Assembly

From the time of Appius Claudiús Caecus the allocation of freedmen into the tribes had been subject to much political activity. While he was censor from 312 to 308, Appius used his powers to redistribute the freedmen among all the tribes in order to enlarge his clientela and to increase his influence over the voting process. The reform did not last. The next censors, Q. Fabius and P. Decius, cast the freedmen into the four urban tribes. In 168 the censor Tiberius Sempronius Gracchus attempted to deprive the freedmen of all voting power. However, his colleague, Appius Claudius Pulcher, opposed him. They reached a compromise whereby the freedmen would be cast into one urban tribe chosen by lot: the Esquiline was chosen. At some later but unknown time, the freedmen were again redistributed into the four urban tribes. Another attempt to put them in all the tribes occurred in 84 under Carbo. Sulla must have quashed the measure because the tribune Manilius in 67 made an unsuccessful attempt at giving the freedmen the right to vote in the same tribe as their patron. Asc. pp. 45, 52, 64-5; De Orat. 1.9.38; D.C. 36.42.1-3; Diod. Sic. 20.36.3; Dion. Hal. 4.22.4; Livy 9.46.1-4; 45.15.1-5; Livy Per. 20, 84.

LIX) Who Was Right? Cicero or Asconius?

Asconius thought that Cicero might be referring to the battle between the operae of Milo and Hypsaeus on the Via Sacra: "Quo die periculum hoc adierit, ut Clodius eum ad Regiam paene confecerit, nusquam inveni; non tamen adducor ut putem Ciceronem mentitum, praesertim cum adiciat ut scitis. Sed videtur mihi loqui de eo die quo consulibus Domitio et Messala qui praecesserant eum annum cum haec oratio dicta est inter candidatorum Hypsaei et Milonis manus in via Sacra pugnatum est, multique ex Milonianis ex improviso ceciderunt. De cuius diei periculo suo ut putem eum facit et locus pugnae - nam in Sacra via traditur commissa, in qua est Regia - et quod adsidue simul erant cum candidatis suffragatores, Milonis Cicero, Hypsaei Clodius." Asc. p. 48. Asconius' interpretation is somewhat far-fetched. Had Cicero wanted to mention the incident concerning Milo and Hypsaeus, then he certainly would have said so; there is no need for the circumlocution inferred by Asconius. Asconius would have been far better off to take Cicero at his word and to admit his ignorance, rather than try to squeeze Cicero's information into the framework of his own knowledge.



LX) The Marriage, Children and Character of Fulvia

Asc. p. 32. Fulvia along with her mother also used her tears to good effect at Milo's trial in April: "Ultimae testimonium dixerunt Sempronia, Tuditani filia, socrus P. Clodi, et uxor Fulvia, et fletu suo magnopere eos qui assistebant commoverunt." Asc. p. 40. She may have played as important a role in Clodius' political life as she later did in that of Antony. There are two references which can be taken as pointing in that direction. Cicero said that Fulvia usually accompanied Clodius while Valerius Maximus maintained that Clodius usually stashed his sword under Fulvia's dress. Mil. 28; Val. Max. 3.5.3; cf. Par. Stoi. 5.36. Fulvia bore Clodius two children: a girl, who was later briefly engaged to Octavian, and a son who, according to Valerius Maximus, died of indigestion after gluttonously devouring a sow's udder. Asc. p. 35; A. 14.13; 14.13a; 14.13b; 14.14; Plut. Ant. 20; Suet. Aug. 62; for P. Clodius P. f. and his political career, see M.R.R., II, 548. After Clodius' death, Fulvia went on to marry C. Curio minor and after his death, Antony. Phil. 2.11^A; Plut. Ant. 10. She had at least ~~two~~ children by Antony: Antyllus and Iullus. App. BCiv. 5.3.19; D.C. 51.6.1; 51.15.7; 54.26.2; Plut. Ant. 71, 81, 87. The sources, in referring to her as Antony's wife, exemplify her as a domineering, self seeking, arrogant, harsh, hard-hearted, rabble rousing, energetic woman. She died in Si-

cyon where she had fled after she and Lucius Antonius had unsuccessfully attempted to raise a rebellion against Octavian. App. BCiv. 3.51; 4.29; 4.32; Phil. 2.20; Flor. 2.16.5.1-2; Nep. Att. 9.2.4; Plut. Ant. 10, 30; Suet. Rhet. 5; cf. A. 14.12.1; Phil. 3.95; 6.4.

LXI) The Attacks on the House of M. Lepidus

There seems to have been two attacks on Lepidus' house on the nineteenth. In his introduction to his commentary on the Pro Milone, Asconius says that the Clodiana multitudo attacked the houses of Milo and the interrex Lepidus on the day of Clodius' cremation: the nineteenth. Asc. p. 33. Meanwhile, in his commentary he refers to the siege which the factiones of Hypsæus and Scipio inflicted on Lepidus' house, when, as first interrex, he refused to hold the consular comitia, on the grounds that only the second interrex could do so. He says that the siege started on the first day of Lepidus' term as interrex. However, he refers to the date of Lepidus' first day in seemingly ambiguous terms: "Post biduum medium quam Clodius occisus erat interrex primus proditus est M. Aemilius Lepidus. Non fuit autem moris ab eo qui primus interrex proditus erat comitia haberi. Sed Scipionis et Hypsæi factiones, quia recens invidia Milonis erat, cum contra ius postularent ut interrex ad comitia consulum creandorum descenderet, idque ipse non faceret, domum eius per omnes interregni dies - fuerunt autem ex more quinque - obsederunt. Deinde omni vi ianua expugnata et imagines ~~maiorum~~ deiecerunt et lectulum adversum uxoris eius Cornelia, cuius castitas pro exemplo habita est, fregerunt, itemque telas quae ex vetere more in atrio texebantur diruerunt. Post quae supervenit Milonis manus et ipsa postulans

comitia; cuius adventus fuit saluti Lepido: in se enim ipsae conversae sunt factiones inimicae, atque ita oppugnatio domus interregis omissa est." Asc. p. 43. In his introduction, Asconius had said that Lepidus was interrex on the day of Clodius' cremation, the nineteenth. Given this fact and the fact that Clodius died on the eighteenth, the phrase "Post biduum... Lepidus" can only mean that Lepidus was appointed interrex in the second half of the two day period following Clodius' death, that is to say on the nineteenth. This information tallies with Dio Cassius when he says that Lepidus was appointed interrex on the afternoon of Clodius' cremation day. D.C. 40. 49.4. Therefore, the initiation of the siege on Lepidus' house by the factiones of Hypsaeus and Scipio, and the attack by the Clodiana multitudo took place on the same day: the nineteenth. When the senate later passed a decree, and Pompey, a law, condemning the "oppugnationem aedium M. Lepidi" and other violent incidents, both of the attacks mentioned above would have been included. Mil. 13; cf. Schol. Bob. 116.1-13 who sidesteps the philological entanglements in Asconius' passage by using the term "post biduo".

LXII) Scaptius and Cicero

Scaptius later sought a prefecture from Cicero himself. The latter refused: on principle, he did not give such posts to business men in his province. While Cicero stayed at Tarsus from c. December 25 to January 5, he granted an interview to both the Salaminians and Scaptius. Scaptius pointed out that although the loan had been negotiated at Rome in defiance of the lex Gabinia, which forbade such transactions, nevertheless, there was a senatus consultum which permitted the loan and ordered the terms of the bond be upheld. Cicero refused to honour the clause demanding a four per cent monthly interest rate: his provincial edict only permitted a one per cent rate of interest per month. Scaptius impudently refused the one hundred and six talents which the Salaminians offered and which had been calculated at the Ciceronian rate of interest; he hoped to exact the full amount under Cicero's successor. A. 5.21. 10-13; 6.1.5-7; 6.2.7-9; 6.3.5; S. B. A. III; 237, 313.

LXIII) The Wealth and Real Estate of Appius

Any money which Appius saved would solidify an already sound financial position. At the death of Appius pater in 76, the finances of his children were at a low ebb. Appius as the eldest was even compelled to give one of his sisters in marriage to Lucullus without a dowry. Appius' affiliation with Lucullus improved his financial position. Lucullus helped him out financially and later appointed him as a legate on his proconsular staff in the East. As legate Appius would have received a share of the booty from Lucullus' campaigns against Mithridates and Tigranes. Varro R.R. 3.16.1; see pp. 3, 528, n. 7. He was sufficiently well off by 61 that he was in Greece collecting statues and arts objects for his prospective aedileship of 57. Dom. 111-12; Sest. 77-8; Schol. Bob. 91.1-3. Cicero says that when he changed his plans and stood instead for the praetorship of 57, he set aside the funds which he had intended to use for the aedileship. Later, in 56, Appius may have profited from his propraeitorial command of Sardinia. Plut. Caes. 21. However, he would not have been as rapacious as was his successor Scaurus; otherwise, the Sardinians would not have appealed to him for help in 54 when Scaurus was tried de repetundis. Scaur. 33-5. Appius also had considerable real estate holdings. At Rome, he owned horti which were probably adjacent to his villa on the edge of the Campus Martius. Both the villa

and the horti were endowed with Appius' extensive art collection. Dom. 111-2; Fam. 3.1.3; 8.14.4; Varro R.R. 3.2.5; 3.7.1. Appius also owned at least one fundus. It is mentioned in the Pro Milone where Cicero portrays Clodius as taking it over during Appius' absence in Cilicia. Perhaps it was Clodius "castra" in Etruria to which Cicero refers several times in the speech. Mil. 26, 50, 74-5, 87, 98. Appius' ownership of a country estate would explain why Varro chose him as one of the speakers in his De Re Rustica. In that treatise Appius is pictured as an expert on hare warrens and aviaries. Varro R.R. 3.5.9; 3.12.1; cf. 3.13.2. Perhaps Appius also owned real estate in Greece. Shortly before his death he had shown his zeal to obtain an estate at Chalcis in Euboea. Perhaps that same zeal had prompted him to acquire other Greek land holdings. He would have had such an opportunity when he made a trip to Greece in 61. It may have been on such holdings that he stationed the slaves which his brother Clodius had sent him at the time of the Bona Dea trial. Luc. 5.226-37; Schol. Bob. 90.35-91.3

PREFACE

1 Of the three brothers Clodius is the only one whose year of birth can be ascertained. Since his proper year for the praetorship was 53, he was born in 93. Mil. 24. If Appius and Gaius held their praetorships at the minimum age allowed for that office, then they were born ca. 97 and 96. McDermott, "Sisters," 40-3, 47. For the marriage of Appius pater and Caecilia, see Wiseman, "Celer and Nepos," 180-82.

2 App. BCiv. 2.14; D.C. 36.14.4; Plut. Pomp. 46.

3 App. Concerning the Kings 1.12; Dion. Hal. 5.40.2-5; Gell. 13.23.8-9; Livy 2.16.3; 4.3.14; 4.15.5; 10.8.6; Plut. Publ. 21-2; Suet. Tib. 1-3; Vergil Aeneid 7.696-8.

4 Dion. Hal. 10.9.1-17.1; 10.30.2-5; Livy 3.17.1; 3.36-7; 3.57.8; 4.48; 6.39-40; 9.34.1-15; R.E. "Claudius" 2665.

5 Livy 9.46.1-13; Plut. Publ. 7; Suet. Claud. 24; Val. Max. 8.13.5.

6 Livy 45.15.37.

7 App. BCiv. 1.13; Leg. Agr. 2.31; Livy Per. 58; Plut. Tib. Gracch. 4, 9, 13; Val. Max. 7.2.6; Vell. Pat. 2.2.3.

8 App. BCiv. 1.12.103; M.R.R. II, 11; II, 82; R.E. "Claudius" 2665.

9 M.R.R. II, 547-8.

CHAPTER I

1 Cael. 33-5; Red. Sen. 37; Gell. 10.6.2; Schol. Bob. 89.31-90.8; M.R.R., II., 547-8.

2 Asc. p. 91; Brut. 236; Cat. 3.9; Plut. Cato 19; Sall. Cat. 15.1.

3 Plut. Luc. 34; M.R.R., II, 140; see pp. 425-6.

4 Har. 42; D.C. 36.14.1; 37.46.2; Plut. Luc. 34.

5 He could not have picked a better audience: the Valerians had mutinied twice before. Originally they had been sent to the East under the consul L. Valerius Flaccus in 86. The same year his legate C. Flavius Fimbria incited the Valerians to mutiny at Byzantium by making an issue of Flaccus' stinginess towards them. The Valerians killed Flaccus and Fimbria then assumed command. The Valerians mutinied again in 85: after the sack of Ilium they abandoned Fimbria and went over to Sulla. Fimbria then committed suicide. App. BCiv. 1.75; Mith. 12.51-2; 59-60; D.C. 31.104 v I 13; Livy Per. 82-3; Plut. Luc. 7; Sull. 12, 25; Vell. Pat. 2.14.1.

6 D.C. 36.16; Plut. Luc. 30-3.

7 Plut. Luc. 14, 19, 35. The Valerians' behaviour indicated that their share of the spoils was incommensurate with services rendered; not that they had received none. Compared to Pompey, Lucullus was stingy. After the capture of Tigranes' capital, Tigranocerta, Lucullus gave each soldier 800 drachmae. Pompey, on the other hand, at the close of his campaigns in the East distributed 1500 drachmae per soldier. App. Mith. 12.116; Plut. Luc. 24, 29.

8 D.C. 36.43.1-2; Plut. Luc. 33-5; 37.

9 App. Mith. 13.90; Leg. Man. 24-5; D.C. 36.14-6, 42-6; 37.20; Livy Per. 98, 100; Plut. Luc. 33-5; Pomp. 30-31, 42; Vell. Pat. 3.33.1.

10 D.C. 36.15; 17.

11 The evidence for the actual ransoming of Clodius comes from Cicero in his speech De Aere Alieno Milonis. There he refers to Clodius' acquittal by the jurors in the Bona Dea trial: "Iterum a piratis redemptum; quo enim nomine appellem eos qui te pretio...accepto liberaverunt?" Appian, meanwhile, only mentions the two talents which Ptolemy contributed to Clodius' ransom; he does not say if Clodius was ransomed. According to Dio Cassius, Ptolemy did not ransom Clodius; the pirates released him out of fear of Pompey who was then clearing the seas of piracy. Finally, there is Strabo's account: Ptolemy gave two talents for the release of Clodius, but the pirates were so put off with such a small sum that they sent it back and released Clodius without ransom. App. BCiv. 2.23; Har. 42; D.C. 36.17.3; 38.30.5; Schol. Bob. 173.16-9; Strabo 14.6.6.

12 Leg. Man. 34-5; Plut. Pomp. 28, 30.

13 D.C. 36.17.

14 In 83 Tigranes conquered the Syrians and their king Antiochus Pius. He then placed Madagates in charge of Syria. Fourteen years later, in 69, Madagates and his occupying army left Syria: Tigranes needed additional troops to cope with the Romans after he had refused to surrender his defeated father-in-law Mithridates. Madagates' departure left a power vacuum in Syria which Antiochus Asiaticus, the son of Antiochus Pius, filled when he entered Syria later in 69. He filled the political vacuum, but he did not have the necessary military strength to fend off encroachment by the Arabs. App. Syr. 11. 48-9, 51, 68, 70; Mith. 105-6; D.C. Xiphil. 37 7a/p.6, 26, 27, Dind. 37.5a; 37.15.1; Diod. Sic. 40.1a, 1b

15 Cf. Rawson, "Eastern Clientelae," 219-39.

16 Plut. Luc. 19, 21,

17 D.C. 36.17.3.

18 Philip was the son of Philip and the grandson of Antiochus Grypus. Antiochus Grypus was the uncle of Antiochus Pius, the father of Antiochus Asiaticus. Philip II and Asiaticus, therefore, were cousins. App. Syr. 69; Diod. Sic. 40.1a, 1b.

19 See below, n. 24.

20 Diod. Sic. 40.1a, 1b.

21 This was nothing out of the ordinary. M. Porcius Cato, for instance, had king Ariobarzanes of Cappadocia for a client. Fam. 15.4.14.

22 Downey, "Rex at Antioch," 144-51.

23 Fam. 1.1.1-3; 1.2.1-2; 1.4.2; 1.5a.3; 1.5b.1; 1.7.2-5; 15.3.1; 15.4.3-4, 6; 15.5.1.

24 This shows that Philip II definitely came to the throne in 68. Downey in his article gives no firm reasons for placing Philip on the throne in 68. The visit of Marcius in 67 seems to be his main reason for doing so. Downey, "Rex at Antioch," 145-6.

25 A. 1.16.10. According to Dio Cassius 39.7.2 Appius celebrated funeral games in 57 on behalf of a certain Marcus. The praenomen is probably the result of a scribal error: originally there would have been the nomen Marcius.

26 Har. 42.

27 A. 1.1.1.

28 A. 1.2.1.

29 I take "summa voluntate" as an ablative of causation which modifies the verb "habemus". The "summa voluntate" would only cover the choice of the jury; it would not be an ablative of attendant circumstance covering the whole court case.

- 30 Asc. pp. 86-7.
- 31 Asc. pp. 66; 85-7; A. 1.1.1; 1.2.1; 1.16.2; Har. 42; Pis. 23; Sull. 81-2.
- 32 See App. I, pp. 409-10.
- 33 Har. 42.
- 34 Mur. 42, 89. Cicero's defence of Murena's activities is supported by the lack of any prosecution of Murena de repetundis.
- 35 For the case involving the provincial governor Flaccus and his ward Valeria, see Flacc. 84-5.
- 36 There is no evidence for Clodius being in Gaul before 64. However, the evidence concerning his early career is sketchy. Consequently, it is possible that he already had interests in Gaul and that he expanded these when he accompanied Murena to Gaul.
- 37 Mur. 10, 46-8, 58, 62, 77, 89; Plut. Cato 21; Sall. Cat. 42.3. The trial was held in late November or early December. Cicero, In Catilinam I-IV, Pro Murena, Pro Sulla, Pro Flacco, tr. and comm. by C. Macdonald, (London: Heinemann, 1977), p. 183.
- 38 Har. 42.
- 39 See App. II, pp. 411-2.
- 40 Asc. pp. 52-3; Har. 43; Schol. Bob. 86.6-6; 87.1-2.
- 41 App. Sic. 7; A. 1.12.3; 1.16.10; 2.1.5; 2.7.4; Har. 8, 12; 37-8; Mil. 72; Pis. 75; Leg. 2.14.36; Sest. 116; D.C. 37.35.1; 37.45.1; Juv. 6.314-328; 9.115-7; Livy Per. 102; Macro. Sat. 1.12.21; Plut. Caes. 9; Cic. 19-20, 28; Mor. 268 d-e; Schol. Bob. 85.10-12; 88.31-89.2; ~~Val. Max. 8.15.92.~~
- 42 See App. III, p. 413.

43 Plut. Caes. 9; Cic. 28; Schol. Bob. 85.12-6; Suet. Iul. 6.

44 A. 1.12.3; 1.13.1, 3.

45 A. 1.13.3.

46 A. 1.13.3; D.C. 37.46.1; Plut. Caes. 9.

47 Asc. p 91; Brut. 236; Cat. 3.9; Sall. Cat. 15.1; 35.1; Plut. Cato 19; Crass. 1; Mor. 89e; Oros. 6.31. Fabia and Licinia were probably still Vestals in 61. In 58 Terentia sought refuge in the temple of Vesta. The reason for this was probably that her sister Fabia was offering her sanctuary in the temple. As for Licinia, she is probably the Vestal to whom Cicero refers in the Pro Murena as "propinqua et necessaria" of L. Licinius Murena. The Pro Murena was delivered in late 63. It is probable that little more than a year later Licinia was still serving out her thirty-year term as a Vestal. Fam. 14. 2.2; Mur. 73.

48 This list is based on the findings of Lily Ross Taylor in her article "Caesar's Colleagues," 385-412. In her article she determined the probable membership of the Pontifical College from 74-3 to 44. Of the pontiffs I have listed there were none in 61 who had an official reason for not being in Rome when the vote on the Bona Dea matter was taken. However, there are problems of a different nature associated with at least four of the pontiffs: Mam. Aemilius Lepidus Livianus, Silanus, Sextus (Quintilius Varus) and Lentulus Spinther. In the sources a Sextus is listed as a pontiff, but there is a lacuna after the praenomen. Lily Ross Taylor has very tentatively identified this pontiff as a Quintilius Varus. 402. With Livianus and Silanus it is a different problem. Livianus was a pontiff, but he was last heard of in 70. His death might explain the lack of information. Taylor can only posit that he died before 60. 401.

403, 411. With Silanus it is the same issue. He is not heard of after his consulship in 62. There is a greater likelihood for him rather than Livianus being alive in 61. 391. His position was probably filled in 60 by either Crassus or Curio pater. 399-400. Therefore, he would have died sometime after the pontifical elections of July 61. These elections were very probably held each year between the consular and praetorian elections, which were held in July, when it was necessary to fill a vacancy. 397-8. Meanwhile, the exact year of Spinther's election to the Pontifical College is in some doubt. There are three possible years for his election: 62, 60, 59. 399-400, 412.

49 Fannius and Lentulus played key roles in Clodius' trial: they were prosecutors. A. 2.24.3; Schol. Bob. 85.16; 89. 26.

50 Spinther was a juror at the Bona Dea trial. According to Dio Cassius 39.6.2, he bore a grudge against Clodius. This grudge caused him to vote against Clodius at the trial and later it was responsible for his hostile behaviour towards Clodius in 58-7.

51 Catulus showed his disposition after Clodius had been acquitted. He asked one of the jurors if he and the other jurors had demanded a guard in order to safeguard their bribes. A. 1.16.5; D.C. 37.46.2-3; Plut. Cic. 29.

52 Messalla, one of the consuls, played a prominent role in getting Clodius to trial. He and M. Porcius Cato were two of the key figures behind the anti-Clodian proceedings. A. 1. 13.3; 1.14.2, 5, 6.

53 For Caesar, see pp. 49-51.

54 Silanus was married to the step-sister of Cato. The relationship probably led him to support Cato's campaign against Clodius. A. 1.13.3; 1.14.5; Plut. Cato 21.

55 M. Terentius Varro Lucullus was the brother of L. Lucullus. Lucius was one of Clodius' main antagonists throughout the Bona Dea affair. Since the brothers were very close, Marcus would have supported Lucius' anti-Clodian activities. A. 1.14.5; Plut. Cic. 29; Luc. 1, 43.

56 Har. 2.

57 Asc. pp. 45, 53; A. 1.13.3; 1.14.1-2; Schol. Bob. 85. 12-6; 115.21-7. There is no direct reference to the inclusion of Clodius in the bill or to the penalty for conviction. However, Cicero speaks of the bill, when he mentions that the tribune Fufius had asked Pompey for his opinion about it: "Quaesivit ex eo placeretne ei iudices a praetore legi, quo consilio idem praetor uteretur. id autem erat de Clodiana religione ab senatu constitutum." A. 1.14.1-2 From the reference "de Clodiana religione" it can be inferred that Clodius was named in the bill. More importantly, there is the tribunician bill of Q. Fufius Calenus which later replaced the consular one. Fufius' bill was a privilegium aimed at Clodius which stipulated exile as the sentence for a guilty verdict. A. 1.16.9; Par. Stoi. 4.31. It only differed from the consular bill on the make up of the jury: Fufius' bill allowed for a relectio of jurors; the consular bill did not. A. 1.16.2.

58 A. 1.13.3; 1.14.5-6; Plut. Mor. 511 d-e. Political considerations also played a part in Piso's behaviour: he was a popularis. A. 1.13.2; 1.14.6. The overreaction to Clodius' escapade may have also prompted him to come to Clodius' defence. M. Pupius Piso had been one of Cicero's fellow pupils at Athens. In 73 he had successfully defended the Vestals. Later, from 67 to 62, he served as legatus under Pompey in the East. Then, in 61, with the backing of Pompey, he was elected consul. His cursus honorum had been delayed by service under Pompey; he was now almost fifty years old. Asc. p.15; Brut. 230, 236, 240; Fin. 4.26.73; D.C. 37.44.3; 37.46.1; S. B. A., I, 303.

59 Cato was probably not pushing the bill out of any personal animus. His Stoicism, his overblown and unrealistic sense of duty to the res publica and his serious-minded political views probably account for his stand. A. 2.1.8; Mur. 61-6; 82-3; 78; Plut. Cato 2. Unlike Cicero, Cato would not find the Bona Dea scandal a humorous tidbit of gossip. To a man of his make-up the intrusion upon a national sacrifice was an offence to be treated with the utmost severity. In 73, for instance, he had reacted very sternly to Clodius' attack on the Vestals. He had given Clodius^{such} a verbal browbeating that he compelled the latter to leave town. Plut. Cato 21. His reaction to the considerably more shocking violation of the Bona Dea sacrifice would have been all the more severe.

60 A. 1.13.3

61 Cicero in a letter of February 13 relates that since the writing of his last letter on January 25, the consular bill had been brought before the Comitia Tributa. In this period only January 26 to 29 were dies comitiales. A. 1.13.3; 1.14.5, 7. These data allow us to determine which dates were possible for the promulgation of the bill. A period of seventeen days had to elapse between the promulgatio and the rogatio of a bill. If the bill had been put to the vote on January 29, then it had to be promulgated on January 13 or earlier; if it had been put to the vote on January 28, then it was promulgated on January 12 or earlier; if it had been put to the vote on January 27, then it was promulgated on January 11 or earlier; if it had been put to the vote on January 26, then it was promulgated on January 10 or earlier. For the trinundinum, the amount of time between the promulgatio and rogatio of a bill, see p. 464.

62 A. 1.14.5. This was not the first time such disruptions had occurred. The political enemies of Tiberius Gracchus and C. Appuleius Saturninus had used similar tactics to stop their tribunician bills from being put to the vote. Plut. Ti. Gracc. 11; Rhet. ad Her. 1.12.21.

63 A. 1.14.5

64 A. 1.14.4-6. Q. Fufius Calenus was tr. pl. for 61. He may have remained on good terms with Clodius till the time of the latter's death in 52. Asc. p. 45. In 59 Fufius was praetor. At that time, he was allied with Caesar. As praetor, he brought in the law whereby juries voted by orders. After serving under Caesar in the Civil War he reached the consulship in 47. Following Caesar's assassination, he became a leading partisan of Antony. He died while commanding one of Antony's armies. App. BCiv. 5.51; A. 2.18.1; 9.5.1; 14.8; Phil. 8.11-2, 15-7, 19; 10.2-3. D.C. 38.8.1; 42.13.3; 46.1.1-3.

65 Lucullus (cos. 74) had more than sufficient cause to be anti-Clodian. Through his mutinous behaviour at Nisibis, Clodius had contributed substantially to Lucullus' supersession by Pompey in the command of the Mithridatic war. See pp. 3-5.

66 Hortensius (cos. 67), Cicero tells us, hated Clodius: "...sed ductus odio properavit remdeducere in iudicium, cum illum plumbeo gladio iugulatum iri tamen diceret." A. 1.16.2. Perhaps Clodius had somehow offended his optimate sensibilities through his early political career. However, Cicero says that Hortensius was blinded by hate: this suggests a more personal cause.

67 C. Calpurnius Piso (cos. 67) was a militant optimate. He would have opposed Clodius on political principles. Sall. Cat. 49.2; cf. A. 1.17.11.

68 Messalla had taken a very hard line against Clodius from the start: "Messalla vehementer adhuc agit et severe." A. 1.13.3.

69 See p. 537, n. 57.

70 - In a letter of that date Cicero informs Atticus that his brother had been assigned the propraetorian province of Asia. The sortitio for the propraetorian provinces, therefore, had taken place. The senate had decided that the sortitio would be put off until the bill dealing with the Bona Dea had been put to the vote. A. 1.13.5; 1.15.1-2.

71 See App. IV, p. 414.

72 See App. V, pp. 415-7.

73 See App. VI, pp. 418-9.

74 See App. VII, pp. 420-1.

75 Asc. p. 49; A. 1.16.2, 4, 9-11; Dom. 80; Mil 46; Plut. Cic. 29; Schol. Bob. 85.27-32; 89.26-8; 90.31-91.7; Suet. Iul. 74; Quint. Or. 4.2.88.

76 Cicero and other ancient writers posit adultery as Clodius' motive; none offer a shred of proof to back up the claim. App. BCiv. 2.14; Sic. 7; Har. 43; Mil 72; Leg. 2.14.36; D.C. 37.45.1; Livy Per. 103; Plut. Caes. 9; Cic. 28-9; Mor. 206; Schol. Bob. 90.31.

77 Suet. Iul. 74.

78 D.C. 37.45.1; 37.46.2; Plut. Caes. 10; Cic. 29; Mor. 206 a; Suet. Iul. 74.

79 Schol. Bob. 90.31-91.5. The Schol. Bob. have Hibera. Stangl has emended it to Habra on the basis of Plut. Caes. 10 and Cic. 28.

80 Plutarch assumes that Clodius did just that. However, he then has to explain why he did it. Aurelia has to be brought into the picture; she would have been aware of Pompeia's affair with Clodius and therefore would have kept a constant eye on her in order to prevent her from meeting with Clodius. This is supposedly why Clodius had to adopt such an innovative method of joining Pompeia. Plut. Caes. 9-10.

81 Either the wife or the mother of the magistrate, in whose house the ceremony was held, made the sacrifice. Plut. Cic. 19. In 62 Pompeia was in charge of the sacrifice. Plut. Caes. 8-9. Balsdon has Aurelia in charge of the proceedings. He argues that Aurelia was the mistress of the house and therefore in charge of the sacrifice. His argument for making Aurelia the mistress of the house is based on Suet. Iul. 13 and Schol. Bob. 89.26 ff. However, he does not take Plut. Caes. 8-9 into consideration. Balsdon, "Fabula Clodiana," 66.

82 Plut. Cic. 20-1.

83 See p. 13

84 M.R.R., I, 214.

85 See App. VIII, pp. 422-3.

86 Dom. 110; Har. 37.

87 In Dom. 3 Cicero says that he will deal with Clodius' speech point by point. Since Cicero was speaking to the pontifices, Clodius' speech must have also been delivered to them.

88 Cicero obviously did not speak on the same day as Clodius. In order to rebut Clodius' speech, he needed at least a few days to prepare his own speech; he did not reply on the spur of the moment. Clodius, therefore, spoke a few days before Cicero did on September 29, 57. A. 4.2.2. Therefore, there were two separate hearings before the pontiffs, one for Clodius and one for Cicero. This situation explains the two meetings mentioned in Har. 12: "At vero meam domum P. Lentulus consul et pontifex, P. Servilius, M. Lucullus, Q. Metellus, M. Glabrio, M. Messalla, L. Lentulus flamen Martialis, P. Galba, Q. Metellus Scipio, C. Fannius, M. Lepidus, L. Claudius rex sacrorum, M. Scaurus, M. Crassus, C. Curio, Sex. Caesar flamen Quirinalis, Q. Cornelius, P. Albinovanus, Q. Terentius, pontifices minores, causa cognita, duobus locis dicta, maxima frequentia amplissimorum ac sapientissimorum civium astante, omni religione una mente omnes liberaverunt."

- 89 A. 4.1.7; 4.2.2-3; Dom. 2-3, 104-5, 110-2; Har. 12.
- 90 For private family religious rites, see Dion. Hal. 1.7.45; 2.21.2; 2.65.1; Livy 1.13.12.
- 91 Ovid Fasti 5.147-58.
- 92 Cael. 34; Har. 27; Livy 29.14.11-4; 36.36.2-7; Ovid Fasti 4.290-349; 5.147-58; Tac. Ann. 4.64; Val. Max. 1.8.11.
- 93 A. 1.18.3; Livy 5.54.17; 22.62.8-9; 36.36.5-6; Livy Per. 1.
- 94 Macrob. Sat. 1.12.25; Plut. Mor. 268 d-e.
- 95 Mil. 73; D.C. 37.46.2; Plut. Caes. 10; Cic. 29; Schol. Bob. 91.4-7.
96. Har. 43; Schol. Bob. 89.13; 89.17-90.8.
- 97 Har. 44; Sest. 116; Juv. 6.337; Plut. Caes. 10; Cic 28.
- 98 A. 1.14.5; 1.16.11.
- 99 Schol. Bob. 89.17.
- 100 App. Sic. 7; Plut. Caes. 10; Cic. 28; see p. 530.
- 101 Plut. Caes. 10; Cic. 28.
- 102 Ovid Fasti 6.649-710.
- 103 Livy 9.30.5-10; Ovid Fasti 6.660-70; Plut. Mor. 277f; Val. Max. 2.5.4; cf. Dom. 123; Leg. Agrar. 2.34.93.
- 104 Cf. Gellius 1.11.7.
- 105 Juv. 3.89-90; 6.314-28.
- 106 Juv. 6.337-45.
- 107 Juv. 2.82-90.
- 108 Green, Juvenal, the Sixteen Satires, p. 78.
- 109 Valerius mentions the headdress of the tragicines on the

days when they celebrated the lesser Quinquatrus: "Tibicinum quoque collegium solet in foro vulgi oculos in se convertere, cum inter publicas privatasque serias actiones personis tecto capite variaque veste velatum concentus edit." Val. Max.

- 4.5.4. The headdress may well correspond to the headdress, the calautica, worn by Clodius at the Bona Dea sacrifice. Schol. Bob. describe the headdress: "Κοσμοῦν γένος, quo feminae capita velabant, hoc nomine ferebatur." 89.18.

110 Ovid Fasti 6.649-710; Val. Max. 4.5.4; see pp. 13-3.

111 A. 1.16.3-6, 8-11; 1.18.3; Har. 38; Mil. 87; D.C. 37.46.2-3; Plut. Caes. 10; Cic. 29; Schol. Bob. 90.17-91-11. The votes of four jurors are known. Cicero tells Atticus that Talmia, Plautus and Spongia voted for acquittal. A. 1.16.6. Shackleton Bailey gives good pointers to their identities: A., I, 318. L. Lentulus Spinther voted for condemnation. D.C. 39.6.2.

112 See A. 1.16.5 where Cicero after the trial says that there were few boni on the jury following the relectio; D.C. 37.46.2; Plut. Caes. 9; Cic. 28.

113 Cf. A. 1.16.3.

114 A. 1.12.3.

115 See p. 51.

116 A. 1.16.5.

117 Garry Pinard, Clodius' Tribune, M.A. thesis, U. of O., p. 11, n. 24.

118 Appian, Dio Cassius and Plutarch do not definitely posit bribery. App. BCiv. 2.15; Dio Cass. 37.46.2-3; Plut. Caes. 10; Cic. 29. Valerius Maximus only refers to the method of bribery as it is described in A. 1.16.5. Val. Max. 9.1.17. Cicero only refers to Clodius as the originator of the bribery. See p. 546 n. 145.

119 S. B. A., I, 316-7.

120 Cicero may have written about another encomiast in the letter which in A. 1.15.2 he promises to send Atticus via Quintus who was setting off for his propraetorian province. He may have also mentioned another encomiast in another lost letter, where he described Pompey's first public speech after his return from the East. A. 1.14.1.

121 Shackleton Bailey points out that Curio was in his sixties. A., I, 311.

122 A. 1.16.10; Schol. Bob. 89.3-7.

123 A. 1.16.1, 5.

124 Schol. Bob. 85.19.

125 Asc. p. 91; Brut. 236; Cat. 3.9; Oros. 3.6; Plut. Crass. 1; Mor. 89e; Sall. Cat. 35.1.

126 Schol. Bob. give two opinions on the cost of the bribery per juror: 300,000 sesterces and 400,000. 86.28-31; 91.25-7.

127 Flacc. 31, 43, 100.

128 Flacc. 32.

129 See n. 134.

130 A. 1.14.5; 1.15.1-2.

131 A. 1.14.1-2; Plut. Pomp. 43.

132 A. 1.17.9, 11.

133 Cf. p. 41.

134 App. BCiv. 2.9; Plut. Crass. 14; Luc. 42; Suet. Iul. 19. Crassus' disposition towards Pompey is revealed in one of Cicero's letters where he describes the senatorial proceedings of one day in January 61. The session took place sometime before the rogatio of the consular bill on the Bona Dea matter in late January. In response to Messalla's queries concerning the sena-

torial decree, which dealt with the Bona Dea incident, Pompey only related that he was in favour of all senatorial decrees. Afterwards, Crassus delivered a speech in which he eulogized Cicero's consulship in the same encomiastic terms which Cicero used to describe it. If there was anything that irritated Pompey, it would certainly be this. We need only remember the cool response which Cicero had received from Pompey in the previous year after he had sent him a somewhat arrogant letter in which he described at length his consular activities. A. 1.14.1-4; Planc. 85; Sull. 67; Schol. Bob. 167. 20-30.

135 Cicero was mainly responsible for implicating Crassus in the Catilinarian conspiracy. For this reason Crassus had made the point of being absent on December 5, 63, when the fate of the Catilinarian conspirators was decided by the senate. Cat. 4.10; Plut. Cic. 15; Crass. 15; Sall. Cat. 48.

136 Brut. 283-4; Fam. 15.21.4; Opt. Gen. Orat. 4.11; cf. Brut. 280.

137 Calvus' father, C. Licinius Macer did not bear the cognomen Calvus. Since Calvus had that cognomen, he was probably bald. The adoption by Calvus of the cognomen was also in keeping with family tradition; his predecessor C. Licinius Calvus (cos. 361) also carried it. Brut. 238, 280, 283-4; Livy 7.9. 1-6; Val. Max. 9.12.7; cf. Livy 4.7.12; 4.20.8; 4.23.1-2; 5. 12.9; 9.9.11; 9.38.16; 9.46.3.

138 Wiseman, Cinna, p. 151.

139 Catullus 53.

140 There is no difficulty in this as nanus comes from the Greek. Gell. 19.13.2-5; cf. 16.7.10. This is not the only instance of transliteration by Cicero. He refers to one of Clodius' sisters as Porcia in A. 2.9.1, as Porcia in A. 2.12.2 and

and 2.14.1, and as Boopiv in A. 2.22.5. Then in A. 2.23.3 it is transliterated into the Latin epithet Boopidis. For Cicero's use of a Greek word with ex and de, cf. Wiseman Cinna p. 131, n. 24.

141 For similar derivatives, see A. 1.16.10: "Marianas"; A. 1.13.6: "orationem Metellinam"; A. 1.13.6: "Autronianam domum".

142 Varro says that there is no strict rule in the usage of such derivatives. Varro L.L. 9.71.

143 He was 21 at this time. Pliny N.H. 7.165.

144 Rowland, "Crassus, Clodius and Curio," 220, n. 16.

145 A. 1.16.10; Har. 36; Pis. 95; Schol. Bob. 86.28-87.10; 87.14-19; 88.1-14; 90.9-30; 91.16-27.

146 A. 1.4.2; Plut. Cic. 9; Val. Max. 9.12.7.

147 Sall. Oratio Macri tr. pl. ad Plebem.

148 Q.Fr. 3.5.4; for a further instance of how Cicero reacted to an adverse verdict, see A. 4.15.4.

149 A. 1.16.5.

150 A. 1.16.11. Cicero admits that it had caused him harm, for he goes on to say that there were now factors offsetting the negative effect of the verdict on his popularity.

151 Sall. 48; Plut. Cic. 26; Mor. 204f; 541f.

152 A. 1.16.1-10.

153 A. 1.16.8.

154 A. 1.16.5; D.C.

155 A. 1.18.2-3, 8; Schol. 85-9.

156 Cf. A. 1.16.4, 13; S. B. A., I, 316, 324-5.

- 157 A. 1.16.1.
- 158 A. 1.16.11.
- 159 A. 1.16.5.
- 160 A. 1.16.10.
- 161 A. 1.16.5.
- 162 Schol. Bob. 90.17.-9.
- 163 See p. 40.
- 164 See pp. 39-40.
- 165 Schol. Bob. 91.8-11.
- 166 A. 1.16.11.
- 167 A. 1.16.10.
- 168 A. 1.13.3: "postea rem ex senatus consulto ad virgines atque pontifices relatum idque ab iis nefas esse decretum; deinde ex senatus consulto consules rogationem promulgasse; uxori Caesarem nuntium remisisse. Plut. Caes. 8; Cic. 29; Suet. Iul. 74. There is another factor unrelated to Clodius which would have played a role in Caesar's divorce: his wife of six years had not yet produced any children. Plut. Caes. Suet. Iul. 74.
- 169 A. 1.13.5-6; see pp. 115-71 581, n. 28.
- 170 See p. 20.
- 171 A. 1.14.5; 1.15.1-2; M.R.R. II, 180.
- 172 App. BCiv. 2.14; A. 1.16.4-5; Dio Cass. 37.45.1-2; Plut. Caes. 6-8; Mor. 206a; Schol. Bob. 85.17; Suet. Iul. 11.
- 173 See App. IX, pp. 424-6.
- 174 Pompey later sought to have these acta approved by the senate. However, he was successfully opposed by Cato, L. Lucullus and Metellus Celer. App. BCiv. 2.9; D.C. 37.49.1-50.6; Plut. Cato 31; Luc. 42; Pomp. 46.

175 Piso had probably got Fufius to question Pompey at the contio with the expectation that his former commander would back his pro-Clodian stance. Pompey's response, therefore, came as a shock. However, the effects wore off. By July, 61, Piso had taken on the task of bribing the tribes for Pompey who sought to get Afranius elected as consul for 60. A. 1.14.6; 1.16.12.

176 A. 1.12.3.

177 Cf. Plut. Luc. 35.

178 Schol. Bob. 86.1-5, 14, 17, 21-2; 87.23-7; D.C. 37.51.1.

CHAPTER II

1. Sull. 41-2; Plut. Cic. 29; Schol. Bob. 86.7.
2. A. 1.12.3. Both Atticus and Cicero enjoyed scandal: "sumus enim ambo belle curiosi." A. 6.1.25; see also Fam. 8.7.2 which shows that Caelius was well aware of Cicero's liking for scandal. Cf Wiseman, Cinna, p. 138 who has a different view of Cicero's initial reaction to the Bona Dea scandal.
3. A. 1.13.3.
4. A. 1.14.5.
5. A. 1.16.1-2. From 63 to 58 Cicero's anti-Catilinarian activities were the main theme which his political inimici used to create popular resentment against him. In his speeches In Catilinam IV; Pro Murena, Pro Sulla, Pro Flacco, Cicero constantly dwells upon his consular activities against the Catilinarians. As he tells us in Dom. 93, he had to do it in order to dispell the charges of his inimici.
6. A. 1.14.5.
7. See App. X, pp. 427-8.
8. A. 1.16.1-2; 1.18.2.
9. Here Cicero seems to have been pulling the wool over his own eyes. He had been one of the first to laugh at the "fabula Clodiana". A. 1.12.3; 1.18.2.
10. Cf. Wiseman, Cinna, p. 139, who considers Cicero's role as the defender of the auctoritas senatus as the primary cause of his attacks on Clodius.
11. A. 1.14.3-4; Cat. 3.26; 4.2; 4.21; Fam. 5.2.7; Flacc. 102; Sull. 31, 67, 83, 85.
12. Sull. 44-50.

13 See App. XI, pp. 429-30.

14 Schol. Bob. 86.1-5; 87.23-9.

15 A. 1.16.8.

16 A. 1.16.6-7.

17 Cicero said that he had harassed and denounced the paid off jurors: "insectandis vero exagitandisque nummariis iudicibus." A. 1.16.8. This implied that he denounced the jurors by publicly pointing out their corruption. Cf. A. 1.16.11 for Cicero's unpopularity.

18 Cicero says that he had snatched away the outspokenness of the sympathizers: "Happenaⁿ vⁿ eripui." A. 1.16.8.

19 See App. XII, p. 431.

20 Schol. Bob. 86.1-6.

21 A. 1.16.10; Schol. Bob. 90.9-10, 17-9; 91.8.

22 A. 1.16.7-8.

23 Piso's amicitia with Clodius and his political support of him were two reasons for this action. The fact that Cicero was personally ill-disposed to him was another factor; the ill feeling probably resulted from the fact that Piso had not chosen his old amicus Cicero as the first to speak in the senate. A. 1.13.2-3; 1.14.6; 1.18.3.

24 In A. 1.16.9 Cicero says: "bis absolutum esse Lentulum, bis Catilinam, hunc tertium iam esse a iudicibus in rem publicam immissum. Erras, Clodi. non te iudices urbi sed carceri reservarunt neque te retinere in civitate sed exsilio privare voluerunt." He had used similar invective against Catiline after his acquittal de repetundis in 65: "O miser qui non sentias illo iudicio te non absolutum verum ad aliquod severius iudicium ac maius supplicium reservatum!" Asc. p. 87.



- 25 Schol. Bob. 89.8 - 90.8.
- 26 Schol. Bob. 86.23-31; 87.4-10, 14-9; 88.1-12; 90.9-30; 91.9-11. 16-27.
- 27 Schol. Bob. 91.5-7.
- 28 A. 1.16.9; Schol.-Bob. 86.1-5, 17-20; 87.23-9.
- 29 A. 1.16.10.
- 30 Quint. Or. 3.72; Schol. Bob. 85.21-7; McDermott, "Curio pater and Cicero," 398-400, 405-11.
- 31 A. 1.16.8, 10-1; Balsdon, "Fabula Clodiana," 74.
- 32 Leg. 3.3.9; Dion. Hal. 6.89.2-3; 10.32.1; 10.35.4; Plut. Fab. Max. 9; Cor. 17.
- 33 App. BCiv. 2.38.
- 34 App. BCiv. 2.29; Leg. 3.9.20; QFr. 2.1.1; Dion. Hal. 10.31; Livy 3.31.1; 10.13.1.
- 35 A. 2.1.8; Leg. 3.9.20; Vat. 21; D.C. 37.50.1; 38.6.6; Dion. Hal 9.48.1; 11.46.1-3; Gell. 6.19.6; 13.12.4; Plut. Cor. 18; Crass. 16; Marc. 4.
- 36 Dion. Hal. 7.17.5; 10.49.6; 10.50.1; Gell. 6.19.1-2.
- 37 Dom. 124; D.C. 38.30.3; Dion. Hal. 6.89.2-3; 7.17.5; 10.42.2-4.
- 38 Diod. Sic. 12.25.1; Dion. Hal. 6.87.3; 9.39.1-2; Plut. Cor. 7; Marc. 2.
- 39 App. BCiv. 1.22; 1.22; 1.37; Asc. pp. 71-2; Nat. Deo. 1.106; D.C. 36.30.1-2; Diod. Sic. 35.7.1; 37.10.3; Dion. Hal. 9.1.3-4; 10.31.49; Flor. 2.2.14.5; Gell. 6.19.6; Plut. Cato 20; Tib. Gracc. 12; Polyb. 6.16; Vell. Pat. 2.2.6.
- 40 Brut. 103; Har. 43; D.C. 24.83.1-3; Flor. 2.2.14; Plut. Tib. Gracc. 5-7; Vell. Pat. 2.2.1

41 Har. 43; Flor. 2.3.15; Plut. G. Gracc. 2-4.

42 Har. 43; Sest. 39; Diod. Sic. 36.12.

43 Plut. G. Gracc. 4.

44 App. BCiv. 1.28. Sest. 101.

45 A. 1.12.3; cf. De Or. 2.6.1.249.

46 In doing this, Clodius would not betray family tradition. Some of his ancestors had been contemptuous of the plebs and of the tribunes in particular. For instance, Gaius Claudius had heartily approved the proposition that the number of tribunes be doubled from five to ten on the ground that their stupidity would thereby be doubled. Dion. Hal. 10.30.2-5. Others, however, had been somewhat popularis. Appius Claudius Caecus in his censorship had distributed freedmen through the tribes and had thus acquired a great number of clients. Livy 9.46.1--5; Plut. Publ. 7; Val. Max. 8.13.5. The censor C. Claudius showed the same popularis tendencies in 179. He prevented his colleague Tiberius Gracchus from removing the freedmen from the tribes altogether. He persuaded him to let the freedmen be enrolled in the four urban tribes. Sen. 37; Livy 45.15.3-7.

47 A. 2.7.2.

48 A. 1.16.8; Schol. Bob. 86.32-87.3.

49 App. Mith. 105-6, 118; Syr. 49, 51; A. 1.16.12; D.C. 37.44.3; Plut. Pomp. 39. For the years 62-61 Syria was governed by the propraetor Marcus Philippus. Piso, had he been given Syria, would have taken over command in 60. When he failed to receive the province, Lentulus Marcellinus, a propraetor, was sent out; he governed for the period 60/59.

50 A. 2.1.5.

51 Although the Claudii Marcelli were the traditional patrons of Sicily, nevertheless, the Claudii Pulchri had also ac-

quired a significant clientela in the province since the third century. They were the patrons of at least two Sicilian communities: Messana and Halaesa. Rawson, "Eastern Clientelae," 223-4.

52 S. B. A., I, 346-7.

53 Pinard, "Clodius' Bid for the Tribunate in 60 B.C.," 58-65.

54 A. 2.1.5.

55 A. 1.16.9; 1.19.7; 1.20.2; 2.1.4, 6.

56 A. 2.1.5.

57 A. 2.7.2; 2.9.1; 2.12.1-2; 2.21.4; 7.7.6; 8.3.3; Dom. 34, 42, 77; Har. 38, 44-5, 57; Prov. Cons. 45; Rep. 3.9.1; Sest. 16; D.C. 38.12; Plut. Cato 33; Quint. Or. 2.4.35; for other examples of adoption, see App. BCiv. 3.14; 3.94.

58 Antonius had been proconsul of Macedonia since 62. He had ventured into Thrace, but lost several standards in his campaigns against the Bastarnae. He was prosecuted de repetundis by M. Caelius Rufus and Q. Fabius Maximus before the praetor Cn. Lentulus Clodianus. Vat. 27-8; D.C. 38.10; 51.26.6; Livy Per. 103; Plut. Cic. 11-2; Quint. Or. 4.2.123; Schol. Bob. 149.8-15. For the less than friendly disposition of Pompey and Caesar towards Antonius see A. 1.12.1 and Asc. p. 84 respectively. For the use of factio, see Seager, "Factio," 53.

59 A. 2.2.3; 2.3.3-4; 2.4.2; Dom. 34; Pis. 79; Prov. Cons. 44; D.C. 38.10; Schol. Bob. 86.1-5; 87.23-9; Suet. Iul. 20.

60 A. 2.4.4; 2.6.1; 2.13.2; 2.16.3; 2.17.2-3; 2.18.3; 2.19.2; 2.22.2; 2.23.3; for Cicero's oratorical skills, see Brut. 324 and De Or. 37.129.

61 App. BCiv. 2.10-13; D.C. 38.1-7; Plut. Caes. 14; Cato 31-2; Pomp. 47-8; Schol. Bob. 87.23-9.

62 A. 2.7.3; see also A. 2.4.2; 2.7.2; 2.9.1.

63 A. 2.7.3; for Clodius and Lucullus, see pp. 3-4; cf. Appian's Appianus, Fam. 3.7.5; Clodius may have also broken off from the factio because it refused to give him the augurate left vacant by the death of Metellus Celer in early 59. A. 2.5.2-3; 2.7.3; Vat. 19-20.

64 Plut. Cic. 6.

65 A. 2.7.3; 2.12.1-2; for the date of this letter, see S. B. A., I, 375. The grounds on which Caesar denied his proposal of the lex curiata are unknown. Cicero claimed that the law was illegal because Caesar carried it three hours after his speech when it was necessary for a trinundinum to pass before he did so. Dom. 41.

66 A. 2.9.1; 2.10.2; 2.19.4; 2.21.6; 2.22.1-2; 2.23.3; 2.24.4-5; Sest. 15.

67 See App. XIII, pp. 432-4.

68 ~~A. 2.23.3~~; 2.24.5; QFr. 1.2.16.

69 A. 2.4.2; 2.5.1-2; 2.18.3; 2.19.3-5; Leg. 3.39; Pis. 79; Prov. Cons. 41, 95; QFr. 12.1.16.

70 Cicero does not say why the legatio was "munitior". It would not protect him from prosecution. For instance, in 54 Messius who had been given a legatio on Caesar's proconsular staff was recalled to face charges under the lex Licinia de sodaliciis. A. 4.15.9; for the charge, see S. B. A., II, 211. Perhaps, Cicero was only referring to the military protection resulting from the legatio.

71 A. 2.2.2; 2.5.2; 2.7.2-3; 2.9.3.

72 A. 2.18.3; 2.19.1, 4-5; 2.20.2; 2.21.6; 2.22.1-5; 2.24.4-5; Flacc. 96-7; QFr. 1.5.16.

73 A. 2.5.3; 2.9.1, 3; 2.12.2; 2.14.1; 2.15.1-2; 2.19.5; 2.20.2; 2.20.5; 2.21.6; 2.22.1; 4-5; 2.23.3; 2.24.1, 5; 2.25.2

74 A. 2.16.1-2; Vat. 14-5, 35-6; M.R.R., II, 187-8, 190.

75 A. 2.19.2-3; 2.21.3-5; for other instances of the faction's unpopularity, see A. 2.9.2; 2.13.2; 2.14.1; 2.17.2; 2.18.1-2; 2.19.2; 2.20.1, 4; 2.21.1-3; 5; 2.22.6; QFr. 1.5.15.

76 A. 2.8.1; 2.9.1; 2.18.1; 2.19.1-3; 2.22.1.

77 Val. Max. 4.2.5; 8.6.1.

78 The list which Broughton gives of the Pupii Pisones and the Calpurnii Pisones does not contain any other Lucius Piso who would have been open to prosecution de repetundis by Clodius in the period during which the latter was politically active. M.R.R., II, 541-2, 610.

79 M.R.R., II, 193-4.

80 See p. 245.

81 M.R.R., II, 179.

82 A. 2.17.1; see p. 129.

83 See pp. 418-9.

84 M.R.R., II, 183, 207.

85 A. 4.3.3.

86 M.R.R., II, 194; Vat. 25.

87 Cf. pp. 18-9.

88 A. 2.24.2; Vat. 25; for the Vettius affair, see A. 2.24.1-4.

89 A. 2.22.1.

90 Cicero had displayed a similar attitude in April: "etenim, quantum coniectura auguramur, si erit nebulo iste cum his dynastis in gratia, non modo de 'cynico consulari' sed ne de istis quidem 'piscinarum Tritonibus' poterit se iactare. non enim poterimus ulla esse invidia spoliati opibus et illa senatoria potentia. sin autem ab iis dissentiet, erit absurdum in nos invehi." A. 2.9.1.

91 For the time of the tribune's entry into office, see Dion. Hal. 6.89.2; Livy 39.52.4-5. Clodius was the first patrician to transfer to plebeian status and then to be elected tribune. On one occasion, two patricians had been tribunes, but it was the result of cooptation: this occurred in 448-7 when, despite the lex sacrata, Spurius Tarpeius and Aulus Aterninus, two ex-consuls, were coopted into the tribunician college to bring its membership up to the required number of ten. Ten years after Clodius' experience, Publius Cornelius Dolabella was elected to the tribunate after rejecting his patrician status. D.C. 42.29.1-2; Livy 2.33.1; 3.65.1-3; Plut. Ant. 9.

92 A. 2.21.3.

93 For a thorough discussion of modern viewpoints on Clodius' activities in 59, see Garry W. Pinard, Clodius' Tribunate, M.A. thesis, University of Ottawa, 1976, p. 34, n. 92.

CHAPTER III

- 1 See App. XIV. pp. 435-6.
- 2 Asc. pp. 7-8; Pis. 8-9; D.C. 38.13.1-6.
- 3 See App. XV, pp. 437-9.
- 4 See App. XVI, 440-43.
- 5 For the comparative legal validity of senatus consulta and leges, see Dion. Hal. 7.41.1-2.
- 6 See App. XVI, pp. 440-43.
- 7 Asc. pp. 7-8; Pis. 8.
- 8 After the senatorial ban on the ludi compitalicii, the magistri vici did not cease to exist: in 61 a tribune had allowed them to celebrate the ludi compitalicii, but they were prevented from doing so by the consul designate Metellus Celer. Asc. p. 7. However, the magistri very probably continued after the senatus consultum of 64 to celebrate the other festivities associated with the Compitalia. Cicero in December 60 was looking forward to his walks with Atticus on the Compitalia: "Sed haec ambulationibus Compitaliciis reservemus." A. 2.3.4; see also 2.2.3. As Shackleton Bailey notes, feriis should understood as going with "Compitaliciis". S. B. A., I, 358. There was no fixed date for the Compitalia. In 59 and 58 it fell on the Kalends; in 67 and 60 it took place near the end of December; in 50 it was held on January 2. Asc. p. 7; A. 2.3.4; 7. 7; Pis. 8; D.C. 36.42.2-3.
- 9 Gellius 10.24.3 gives the formula by which the praetor announced the date of the Compitalia: "Satis autem erit perpetuae veterum consuetudinis demonstrandae gratia verba sollemnia praetoris ponere, quibus more maiorum ferias concipere solet quae appellantur Compitalia. Ea verba haec sunt: 'Dienonī populo Romano Quiritibus Compitalia erunt; quando concepta fu-

erint nefas.' The fact that the "populo Romano Quiritibus" are asked to celebrate the Compitalia indicates that free born would have also partaken of the festivities.

10 In the countryside the vilicus was responsible for the sacrifice. Cato R.R. 5.3.

11 D.C. 60.19.5; Dion. Hal. 4.14.3-4; Plut. Mor. 14.353.

12 See pp. 95-6.

13 Dom. 5, 13, 54, 129; Pis. 11; Planc. 87; Red. Sen. 33; Red. Quir. 11; Rep. 3.11.25; Sest. 34, 45.

14 See App. XVII, pp. 444-6.

15 See App. XVIII, pp. 447-8.

16 Plut. Cic. 30.

17 See App. XIX, p 449.

18 See pp. 88, 99.

19 In recruiting among the poorer classes, Clodius would have been acting on the same principle as did Marius: that the poorest man was the most useful to one aspiring to power because he had nothing to lose. Gell. 16.10.9-16; Sall. Jug. 3.6.2.

20 Har. 27-8.

21 Slaves were not prevented from taking employment outside the master's house in order to acquire extra money for their peculium. Dion. Hal. relates that in his era; the late republic, slaves were resorting to a variety of base means to obtain the money for the purchase of their freedom; service under Clodius would have been one of these means. Dion. Hal 4. 24.3-8.

22 Treggiari, Freedmen, p. 88.

23 Clodius would have also had some influence over those

collegia which he had reestablished through his law; the members of these collegia would probably support the politician responsible for the restoration of their clubs. Clodius had probably guaranteed himself this support by forming amicitiae with the magistri collegiorum. When the lex de collegiis had been passed, Cicero had thought it a useful measure; perhaps, like Clodius, he thought that he could secure blocks of votes through the amicitiae of the magistri. In 64, at any rate, his brother Quintus believed that the friendship of such men would help him to bolster his auctoritas. A. 3.15.4; Comm. Pet. 30, 32.

24 See App. XX, p. 450.

25 Brunt, Manpower, pp. 104-5; 701-3.

26 See App. XX, p. 450.

27 Dion. Hal. 7.58.2; 7.59.1.

28 Har. 57; Mil. 73; Sest. 95; Par. Stoi. 4.31; cf. Dom. 80-1 for fraudulent voting.

29 Har. 60; Sest. 109.

30 For the lex de capite civis Romani, see A. 3.15.5.

31 Dom. 54, 89; see App. BCiv. 5.3.18 where the shopowners closed the shops because of famine and chased the magistrates from their places of business; see also Livy 4.32.9 where a dictator closed the shops when he summoned an assembly.

32 Dom. 13-4, 53; Pis. 23; Sest. 34, 99.

33 Har. 39; Fam. 1.9.15; Sest. 84, 99.

34 Asc. pp. 46-8; Har. 39; Sest. 85, 95.

35 Asc. p. 47.

36 A. 1.13.3; 1.14.5.

37 See App. XXI, p. 451.

38 See App. XXII, p. 452.

39 Cicero says that he packed the Comitia with his operae to ensure that his bills passed. Dom. 5, 53, 110; Har. 39; Par. Stoi. 4.30; Pis. 23; Alanc. 71.

40 Dom. 5, 110; Har. 27, 8; Par. Stoi. 4.30; Pis. 11, 23; Red. Sen. 32; Sest. 34, 85.

41 Mil. 37; D.C. 38.16.4-5.

42 A. 4.3.3.

43 Asc. pp. 46-7.

44 Sest. 85, 88.

45 Sest. 81-3

46 Dom. 13-4.

47 Pis. 27-8.

48 Sest. 75.

49 Asc. p. 47.

50 Sest. 76.

51 Sest. 76.

52 D.C. 36.16.4-5.

53 Asc. p. 47; Mil. 37. Papirius could not testify to the violence he had suffered at the hands of Clodius' operae; they had killed him.

54 A. 4.1.6; Dom. 5, 13-4; Sest. 84; QFr. 2.1.3; D.C. 39.29.

55 Sest. 34, 106.

56 QFr. 2.3.2.

57 QFr. 2.2.3.

58 QFr. 2.3.2-4.

59 Dom. 14.

60 The ancient sources make it very clear that this was the beginning of the civil disturbances which led to the Civil War between Pompey and Caesar. App. BCiv. 1.121; Rep. 3.9.20; Vell. Pat. 2.3.1.

61 App. BCiv. 1.14-7; Flor. 2.2.14.5; Plut. Ti. Gracc. 18-20; Vell. Pat. 2.3.1-2; cf. Rhet. ad Her. 4.67-8.

62 App. BCiv. 1.23-6; Livy Per. 61; Plut. G. Gracc. 14-7; Vell. Pat. 2.6.1-5; cf. Rhet. ad Her. 4.67-8.

63 App. BCiv. 1.28-32; Brut. 224; Plut. Comparison of Ly-sander and Sulla; Val. Max. 9.6.2.

64 Dom. 13.

65 M.R.R. II, 22.

66 App. BCiv. 1.68-9, 74.

67 Plut. Mar. 43.

68 App. BCiv. 1.100; Asc. p. 75.

69 App. BCiv. 1.26, 65; D.C. 37.33.2; Plut. Sull. 8; Sall. Cat. 50. Catiline had refused to use slaves in his army.

70 Pis. 23.

71 Asc. p. 50.

72 Par. Stoi. 4.27; Sest. 42.

73 Mur. 51; Plut. Cic. 14.

74 Sall. Cat. 50.

75 Dom. 72.

76 There is no concrete evidence suggesting that the number of recipients was in any way limited. However, Suetonius in-

forms us that in 45 Caesar reduced the number of those registered in the program from 320,000 to 150,000; in doing this he may have been applying criteria for enrollment in the program which had been laid down in the lex Clodia frumentaria. Caesar, according to Suetonius, also put a stop to the growth of the plebs frumentaria by having the praetors only enroll replacements for those who had died. Previously there had been meetings in which new recipients were added to the wheat distribution program; Clodius' lex frumentaria had probably originated these meetings in order that plebeians could be enrolled into the program as they became eligible. Suet. Iul 41.

77 Asc. 8; Sest. 55; Schol. Bob. 135.6-9.

78 Sall. Oratio Macri Tr. Pl. Ad Plebem 19; Eadian, Imperialism, p. 36; Brunt, Manpower, pp. 281-2.

79 Cicero did not necessarily exaggerate the powers given to Cloelius by Clodius' law. Compared to the powers which the tribune Messius had wanted to give Pompey over the grain supply in September 57, those of Cloelius were moderate. A. 4. 3.7.

80 A. 1.16.11; Off. 2.72; Flor. 2.1.13.7; Plut. Cato 26; Mor. 818 d.

81 Clodius' measure would have put another severe strain on the treasury which was not in the best of conditions owing to the loss of customs revenue brought about by the praetor Metellus Nepos in 60; the expenses incurred by Caesar's legislative program; the loss of revenue resulting from the leasing of the Campanian lands. A. 2.16.1-2; 2.18.1; Agrar. 1.20-1; 2.81; Har. 2; Q.Fr. 2.6.1; Dio Cass. 37.51.3; Fam. 1.9.1-10; QFr. 2.1.1; 2.7.1

82 At this point the remission of the 6 1/3 asses per modius would have cost 121,530,000 asses per year = 320,000 x 5 modii x 6 1/3 asses x 12 months.

- 83 Brunt, Manpower, pp. 107, 378.
- 84 D.C. 39.24.1.
- 85 D.C. 39.24.2.
- 86 App. BCiv. 2.120.
- 87 Off. 2.54-7; Varro R.R. 3.6.6.
- 88 Mur. 67-73; Plut. Cic. 10.
- 89 Varro R.R. 3.2.15.
- 90 Livy 7.22.2; 41.28.11.
- 91 Diod. Sic. 4.21.27; Plut. Luc. 37; Sull. 35.
- 92 Dion. Hal. 4.24.5; 9.25.1; Plut. Caes. 5; Sall. Cat. 37.7-8.

93 Sallust points out this effect of the grain distribution in a general manner: Sall. Cat. 38.

94 See App. XXIII, pp. 453-4.

95 Most of the plebs was crowded into the flats of the insulae. For these flats, which did not provide suitable living quarters, the plebeians paid rents which could be economically ruinous. Despite the high rents the landlords often did not bother to put up the money necessary for the upkeep of the insulae. As a result of this and their poor construction, tenement houses often collapsed. Fire, floods and earthquakes also took their toll of the poorly built tenement houses. Brunt, "The Roman Mob," 12-2, 16; Gruen, L.G.R.R., p. 364. Yavetz, "Living Conditions," 167-74, 178-9.

96 Dion. Hal. 7.1.3-4; 7.1.6; 7.12.3; 7.13.3; 7.20.1-2; 7.21.2; 7.37.2; 6.90.2; 10.54.1-2; Livy 2.9.6; 2.34.3; 2.34.7-9; 2.52.1; 4.52.1-7; 6.20.15; 10.11.9; 30.26.5-6; 30.38.5; 30.50.1; 31.4.6; 33.42.8; 38.35.5.

97 Dion. Hal. 12.1.1; 12.1.11; 12.21.9; Livy 4.13.1-2; 4.14.6.

98 Dion. Hal. 8.70.5; Livy 2.41.2-12.

99 Livy 2.34-5; Plut. Cor. 16-20.

100 App. BCiv. 1.21; Asc. pp. 8-9; Brut. 222; Off. 2.72; Sest. 103; Flor. 2.1.7; Livy Per. 60; Plut. G. Gracc. 5; Schol. Bob. 132.24-9; Vell. Pat. 2.6.3.

101 Brut. 222; Off. 2.72; M.R.R., II, 471.

102 Florus 2.4.16.1; Rhet. ad Her. 1.21; 2.17; M.R.R., II, 578. ~~A~~

103 App. BCiv. 1.35; Flor. 2.5.5.6-8; Liv. Per. 71; Vell. Pat. 2.13.2-3; M.R.R., II, 21.

104 Sall. Oratio Lepidi Cos. Ad Populum Romanum 11.

105 Sall. Hist. 3.48.19; Oratio C. Cottae; Badian, Imperialism, pp. 35-7, 76.

106 Off. 2.58; M.R.R., II, 102.

107 Sall. Oratio Macri Tr. Pl. Ad Plebem 11-27.

108 Plut. Caes. 8-9; Cato 26; Mor. 818d.

109 A. 2.19.3.

110 Despite the use of this terminology there were definitely two laws: the lex Aelia and the lex Fufia. However, it is impossible to distinguish the provisions of one of these laws from those of the other. Cf. A. 2.9.1; 4.16.5; Har. 58; Pis. 10; Prov. Cons. 46; Red. Sen. 11; Sest. 114; Vat. 5, 23.

111 See App. XXIV, pp. 455-7.

112 Obnuntiatio involved the process whereby a magistrate announced that he would observe the heavens (spectio, de caelo servare) for omens (auspicia impetrativa). The announce-

ment (nuntiatio) of unfavourable omens constituted obnuntiatio. The main feature of obnuntiatio was that it prevented other magistrates from transacting electoral or legislative business with the people. Moreover, the mere announcement that one would exercise the right of spectio was sufficient to bring this about because the outcome was obnuntiatio. Asc. 8; A. 4.3.3-4; Phil. 2.81-2; Prov. Cons. 45-6; Vat. 14-8; D.C. 38.13.3-5; Don. ad Ter. Ad. 547.

113 Asc. pp. 8, 58; A. 1.16.13; Har. 58; Pis. 9-10; Prov. Cons. 46; Red. Sen. 11; Sest. 33, 56; Vat. 18; D.C. 38.13.3-5; Livy 3. 35; Schol. Bob. 148.1-14.

114 In the expression "ne quis legi intercederet", Cicero is not referring to tribunician intercessio. As W. F. McDonald explains, the expression is simply a rhetorical amplification of the word obnuntiare. The phrase would signify "ne quis obnuntiando legi intercederet". McDonald, "The Lex Aelia Fufia," 178; for a similar interpretation, see Butler and Cary, Prov. Cons., p. 79.

115 Sest. 33.

116 Vat. 18.

117 Red. Sen. 11.

118 See App. XXV, pp. 458-61.

119 Sest. 33.

120 Sest. 79-83.

121 Sest. 78-9.

122 Sest. 129.

123 A. 2.16.2; Dom. 39-40; Har. 48; Prov. Cons. 45-6; Vat. 15-7; Schol. Bob. 135.15-23; 161.31-162.2; cf. D.C. 38.6.1-6; Suet. Iul. 20.

124 Asconius' comment on Pis. 9 is of some value. He states: "alteram ne quid per eos dies quibus cum populo agi liceret de caelo servaret; propter quam rogationem ait legem Aeliam Fufiam, propugnacula et muros tranquillitatis atque otii ever-sa est." Asc. p. 8. Here Asconius simply says that Clodius' law prohibited spectio and obnuntiatio throughout those days when it was permitted to deal with the people. The phrase "agi liceret de caelo servaret" would apply to both legislative and electoral assemblies.

125 A. 4.3.4.

126 A. 4.3.4.

127 Vat. 5-6; Suet. Iul. 20.

128 Dom. 39-40; Har. 48-9.

129 Sest. 81-3.

130 A. 4.3.4.

131 Prov. Cons. 46; Sest. 33, 56.

132 See previous footnote.

133 Prov. Cons. 45-6.

134 Fam. 1.4.1; QFr. 2.12.3; Sest. 74; cf. Livy 3.16.6.

135 A. 1.16.13; 4.3.4; QFr. 2.5.2; Macrobian Sat. 1.16.6; Schol. Bob. 148.6-14; Michels, Calendar, pp. 34-5; cf. Livy 5.19.1; 42.35.3.

136 For differing interpretations concerning the effects which Clodius' law had on the lex Aelia Fufia see Garry W. Pinard, Clodius' Tribunate, M.A. thesis, University of Ottawa, 1976, p. 45, n. 27.

137 A. 1.16.13; Sest. 56; D.C. 36.39.1-2; Livy 11.35.2; Schol. Bob. 148.9-14.

138 A. 4.17.3.

139 Fam. 1.4.2; 2.2.4; S. B. Fam. I, 299.

140 See App. XXVI, pp. 462-3.

141 Asc. p. 8; Har. 58; Pis. 9-10; Prov. Cons. 46; Sest. 55; Dio Cass. 38.13.2; Schol. Rob. 132.20-23.

142 The censors of 70, Lentulus Clodianus and Gellius Poplicola had expelled 64 members from the senate. M.R.R., 126-7. The arbitrariness of the censorship is clearly indicated by Cicero in the Pro Cluentio: 119-20; 124, 126, 129, 131; see also D.C. 40.57; Vell. Pat. 1.10.6. Not all censors had acted arbitrarily. P. Africanus, for instance, had not stigmatised a knight whom he knew to be guilty of wrongdoing; instead he had offered to give evidence against the wrongdoer should he be brought to trial. Cluent. 134. Besides this, the censors of 214, had conducted trials for those alleged to have deserted after Cannae. Livy 24.18.1-4.

143 Appius had been praetor in 89. M.R.R., II, 33. Afterwards, he had been left in charge of a legion by Sulla, probably in the capacity of a propraeitor. However, he was stripped of his command and sent into exile in 87 when he refused to answer a charge laid against him by a tribune. It was this incident which probably caused the censor Philippus to pass him over in the senatorial list. Dom. 83-4; M.R.R., II, 48; Nisbet, De Domo, p. 83. The censorial nota did not compel him to re-start the cursus: he was elected consul in 79: the fact that he was a partisan of an all powerful Sulla would have caused the stigma to be overlooked. M.R.R., II, 82.

144 Cluent. 122-3; Livy 29.37.9-11.

145 A. 4.16.8; M.R.R., II, 215; S. B. A., II, 206.

146 Val. Max. 6.2.8-9. The fact that Mancina accused Libo

before the censors shows that the incident occurred in the censorship of Messalla and Isauricus: that procedure had been initiated by Clodius in 58 and the censorship of Messalla and Isauricus provided the only occasion for it to be put into effect; the lex Clodia was abolished in 52 by the consul Scipio. D.C. 40.57.1. S. M. Treggiari places Mancina's prosecution of Libo in the censorship of Clodianus and Gellius; Cicero, however, in Cluent. 131 states that no trials were held under those censors, for they had used their powers of stigmatisation in an arbitrary manner. Treggiari, Freedmen, p. 232.

147 App. BCiv. 5.52; Fam. 1.1.3.

148 App. BCiv. 2.25; D.C. 40.57.1; Plut. Pomp. 55.

CHAPTER IV

- 1 D.C. 38.14.5; Vell. at. 2.45.1; cf. App. BCiv. 2.15; see App. XXVII, p. 464.
- 2 Cat. 4.10; Leg. 3.3.6; 3.4.11; Rab. Perd. 10, 12; Rep. 2.31.54; Verr. Act. Sec. 2.5.163-9; Dion. Hal. 5.19.4, 6; 5.70.2; Plut. Publ. 11.
- 3 Rab. Perd. 34; Sall. Cat. 24.
- 4 App. BCiv. 1.15-6; Cat. 1.4; Phil 8.14; Livy Per. 61; Plut. G. Gracc. 14, 17-8.
- 5 App. BCiv. 1.31; Cat. 1.4; Phil. 8.15.
- 6 App. BCiv. 1.60; Rhet. ad Her. 1.15.25.
- 7 App. BCiv. 1.70, 73; Brut. 168; Nep. Att. 2.4; Flor. 2.9.21.9; Livy Per. 76.
- 8 App. BCiv. 1.73.
- 9 Flor. 2.11.23.6-7; Sall. Oratio C. Cottae Ad Populum Romanum 1-14.
- 10 De Or. 2.106, 132, 134-5, 170, 176; Part. Or. 30.106; cf. Wirszubski, Libertas, pp. 58-61.
- 11 Pis. 4; Rab. Perd. 2.5, 10-5, 17-8; 20, 22-3, 25, 34; D.C. 37.26-8; Livy 1.16.5-6; cf. Gruen L.G.R.R., pp. 277-9.
- 12 D.C. 38.14.4-5.
- 13 Cat. 1.3-4; 3.14; 4.4-6; Flacc. 102; Sull. 33, 70; D.C. 37.31.1; Sall. Cat. 29, 47, 50, 52, 55.
- 14 Cat. 4.7, 9-11; Dio Cass. 37.36.1; 38.17.1; Flor. 2.12.1.10-1; Sall. Cat. 51. 17, 21, 24, 40-1; Plut. Caes. 7.
- 15 D.C. 37.38.1; Sall. Cat. 37.5; Plut. Caes. 7; Cato 26; Mgr. 818 d.

16 Plut. Cic. 21-3; D.C. 37.42-3, however, states that Pompey was to be recalled to deal with Catiline and his forces.

17 Asc. p. 56; Dom. 94; Fam. 5.1; 5.2.2, 4, 6-8; Sest. 11-2, 62; D.C. 37.42.1; 37.43.1-3; Plut. Cato 26-7; Cic. 21-3; Mor. 204 f; 541 f; Quint. Or. 9.3.42, 50; Sall. Cat. 55; Schol. Bob. pp. 143-5.

18 Pinard, "Clodius' Bid for the Tribune in 60 B.C.," pp. 58-64.

19 D.C. 37.42.1; 37.43.1-3; 38.14.4-5.

20 D.C. 38.14.4-5.

21 Flacc. 96-7.

22 A. 3.1; Dom. 23-4, 55, 124-5; Har. 58; Pis. 37, 60; Red. Sen. 18; Sest. 25, 33, 55, 66.; Vat. 35-6.

23 Dom. 98-9; Pis. 21, 23; Red. Sen. 16-8; Sest. 25, 53-4.

24 App. BCiv. 1.56; Val. Max. 9.7.1; Vell. Pat. 2.18.5

25 Leg. Man. 17, 52, 55, 57-8; D.C. 36.23.4-24.5; Livy Per. 99; Vell. Pat. 2.31.1-4.

26 App. Mith. 97; D.C. 36.42.3; Livy Per. 100; Vell. Pat. 2.33.1-2.

27 D.C. 38.8.5; Plut. Caes. 14; M.R.R., II, 190.

28 Previously Syria had been a praetorian province. App. BCiv. 5.10; Mith. 106; Syr. 48-51.

29 App. Syr. 48-51, 70; Planc. 99; D.C. 37.15.1

30 Planc. 19, 28, 99; Schol. Bob. 153.2-9.

31 Asc. pp. 6-7; Pis. 9, 11, 23; Red. Sen. 11; Sest. 33; 34; Vat. 18.

32 Asc. p. 8; Pis. 12-3, 18, 78; Red. Quir 21; Red. Sen. 13; 17, 38; Sest. 28, 54; D.C. 38.15.6; 38.16.5.

- 33 Cat. 4.15, 25; Phil. 11.16; Sest. 28; Sall. Cat. 41.4.
- 34 App. BCiv. 3.50-4.
- 35 Dom. 55; Pis. 14; Red. Sen. 10, 13, 17; Sest. 18, 28, 33; D.C. 38.9.1; 38.16.5; Plut. Caes. 14; Cato 33; Cic. 31; Pomp. 48.
- 36 Dom. 62; Red. Sen. 10.
- 37 Dom. 55; Sest. 25-6.
- 38 Pis. 77-8.
- 39 The senate's decision to go into mourning was an exceptional move. Cicero says that it was unheard of. However, it was not the first nor the last time in which the senate wore mourning garb as a sign of its deep dissatisfaction.. See D.C. 37.40.4; 37.43.1; 39.39.2-4; Diod. Sic. 36.15.2-3; Plut. Caes. 30; Ti. Gracc. 10.
- 40 Dom. 113; Pis. 17; Planc. 87; Red. Quir. 8; Red. Sen. 12, 16, 31; Sest. 25-6, 32; D.C. 38.16.4.
- 41 Red. Sen. 12; D.C. 36.16.2-4; Plut. Crass. 12.
- 42 Dion. Hal. 5.73.1.
- 43 According to Cicero, other knights suffered the same fate. However, he does not name names. Red. Sen. 32; Sest. 29.
- 44 A. 12.22; 12.29; 13.45.1-3; 14.14.1; Fam. 12.29; Pis. 23, 64; QFr. 2.3.7; Sest. 27, 29-30, 52; D.C. 38.16.4.
- 45 QFr. 2.12.2-3.
- 46 Dom. 54, 75; Sest. 42, 106, 112.
- 47 Cat. 2.14-5; 3.27. 29; 4.10-1, 20.
- 48 See p. 128.
- 49 Cat. 1.12; Pis. 4; Rab. Perd. 10-13; 15, 17-8, 28; Leg. Agrar. 2.15-8, 24, 33-4, 71, 75, 101; cf. Verr. 2.5.163-9.

- 50 Flacc. 94-106; Sull. 35, 40, 70, 75-6.
- 51 A. 1.9.10; 1.20.6; 2.1.2-3; Dom. 92-3, 96; Flacc. 94-7; 107; Pis. 72, 75; Sull. 33, 67, 85-7; Dio Cass. 38.12.4-5; Sall. In M. Tullium Ciceronem Oratio 2.6; 3.5; 3.6; 4.7; Plut. Mor. 540 f; Quint. Or. 2.1.17; 2.1.24.
- 52 A. 1.16.11; 2.3.4.
- 53 A. 1.14.5; 1.16.1, 10-1.
- 54 A. 1.16.11; 1.17.10; 1.18.1; 1.19.6-8; 1.20.2; 1.21.7.
- 55 Dom. 54, 110; Mil. 37; Pis. 23; Sest. 27; D.C. 38.16.2-5; Plut. Crass. 13.
- 56 App. BCiv. 2.15; A. 3.15.5; D.C. 38.16.2; Plut. Cic. 30.
- 57 Dom. 5, 89, 113; Har. 58; Red. Sen. 23; Sest. 84; Plut. Cic. 31.
- 58 Har. 47; Planc. 86.
- 59 See App. XXIX, p. 465.
- 60 A. 1.19.6; 1.20.3; 2.1.6; 2.3.3-4; 2.4.2; 2.5.1; Prov. Cons. 40-43.
- 61 Or. 129; Red. Quir. 8, 20; Quint. Or. 2.167; Vell. Pat. 2.26.2.
- 62 A. 2.14.1; 2.16.12; 2.17.1; 2.18.1-2; D.C. 38.4-8; Gell. 4.10.7; Plut. Caes. 13-4; Cato 31; Pomp. 47.
- 63 A. 4.8a.2; Fam. 1.9.7; 7.2.2; Har. 47; Pis. 78-80; Planc. 43, 86; Red. Sen. 32; Sest. 39, 41, 52, 112; D.C. 39.10.3; Plut. Caes. 14; Crass. 13; Vell. Pat. 2.45.3.
- 64 Red. Sen. 13; Sest. 33; D.C. 38.17.1-2; Plut. Cic. 30.
- 65 Cat. 4.7-11; D.C. 37.26-8; 37.38.1; Plut. Caes. 8; Cato 26-7; Cic. 21-3; Sall. Cat. 51.17, 21, 24-36, 40, 50; cf. Fam. 9.14.

66 . Pis. 79; Sest. 40-1; Vat. 16; Suet. Iul. 23, 73; Schol. Bob. 146.16-22.

67 Pis. 77-8; Sest. 41.

68 A. 3.15.4; 10.4.3; Fam. 1.9.13; Plut. Cic. 31; Pomp. 49.

69 A. 1.18.4; 1.19.4; 2.1.6; D.C. 37.50.1.

70 A. 2.20.1; 2.21.4; 2.24.1-4.

71 A. 7.3.4; 7.6; 10.8.9; 10.4.3; Dom. 30; D.C. 38.16.1; Plut. Caes. 14; Cato 31; Cic. 31; Pomp. 47.

72 A. 2.19.2; 2.21.3; 2.23.2; Phil. 2.10.23; for Cicero's previous attempts to win over Pompey to his pro-senatorial views, see A. 1.20.2; 2.1.6-7.

73 Dom. 27-8, 55; Pis. 76; Sest. 40-1, 67, 75, 133, 135; Vat. 33-4; see App. XXIX, pp. 466-7.

74 A negative point may be made about Crassus' "role" in Cicero's exile. The evidence from Cicero shows that Crassus would not have had any motive for desiring his exile other than the protection of the factio's interests. The evidence for Crassus' relations with Cicero before the exile is scanty. Although they were at times open enemies, Cicero claims that immediately before his exile, he and Crassus were on non-antagonistic terms. In January 61 Crassus had praised Cicero's consulship to the skies and in 59 he had joined forces with Pompey in attempting to prevent Clodius from taking harmful action against Cicero in his tribunate. A. 2.4.2; 2.22.5; Sest. 39; see pp. 432-4.

75 A. 3.15.5; Pis. 21; Sest. 53.

76 Dom. 5, 38, 42-7, 49, 56-8, 62, 68, 77, 86, 91, 93, 95-6, 99, 127, 133, 144-5; Mil. 36; Pis. 19-20, 23-4, 78; Planc. 89; Red. Sen. 33; Red. Quir. 13; Rep. 3.11.25.

77 A. 3.15.5.

78 Planc. ~~71-2~~, 74-5, 86-90, 95.

79 A. 3.7.2; 3.8.4; 3.9.2; 3.10.2-3, 8; 3.13.2; 3.14.1; 3.15.2; 3.19.3; 4.3.5; 4.6.3; Dom. 30; Fam. 1.9.13-4; 14.1.2; Red. Quir. 13, 21; QFr. 1.3.8; 1.4.1; D.C. 38.17.5; Plut. Cato 35.

80 A. 3.15.4; Quint. Or. 12.1.6; cf. Dom. 97-8.

81 QFr. 1.4.4; see also App. BCiv. 2.15; A. 3.15.4; Dom. 8; QFr. 1.3.5; 1.4.2.

82 App. BCiv. 2.16; Dom. 85; Pis. 34; Sest. 128; D.C. 38.17.5.

83 Dom. 44, 92-4; Fam. 5, 6.2-3; 14.3.2; Red. Quir. 21; Red. Sen. 33; Sest. 73, 145; D.C. 38.17.5-6.

84 A. 3.15.5; D.C. 38.17.6.

85 Asc. p. 10; A. 4.1.3; Dom. 48, 60, 62, 113, 124, 143, 146; Fam. 14.2.3; Har. 3, 58; Sest. 53-4, 93, 145; D.C. 38.17.6.

86 It was customary to destroy the house of the citizen who had been deemed an enemy of the res publica. The procedure had been adopted against the houses of Cassius, Manlius, Vitruvius, Pleminius and Sulla. App. BCiv. 1.77-9; Mith. 51; Dom. 1-2; Diod. Sic. 27.4.6-7; Dion. Hal. 12.4.6; Livy 2.41.11; 4.15.4-5; 8.20.28; Quint. Or. 3.7.20; Val. Max. 6.3.1 a, b, c.

87 Q. Fr. 1.4.4.

88 The bill was promulgated shortly before March 22: Cicero who was either in Arpinum or Formiae received a copy of it about that time. A. 3.1; S. B. A., II, 228.

89 Dom. 75, 95; D.C. 38.16.1; 38.17.4. The interdict involved exile and the loss of ordo and civitas: A. 3.5; 3.10.2; 3.23.2; Dom. 45, 50, 82; Sest. 65; Rhet. ad Her. 2.28.48.

90 S. B. A., II, 140-1.

91 A. 3.4; see D.C. 38.17.7 and Plut. Cic. 32 for 500 miles. The emended bill came into Cicero's hands on or about April 3, 58. S. B. A., II, 230-2. Since the bill reached him at Vibo, it would have been emended in late March. Given a trinundinum of seventeen days, it would have received its rogatio some time in mid April.

92 A. 3.4; Dom. 43, 47, 52, 82-3.

93 Cicero refers to the penalties in the Pro Plancio when he describes how M. Laenius Flaccus harboured him before he set off from Brundisium: "In hortos me M. Laenii Flacci contuli, cui cum omnis metus, publicatio bonorum, exsilium, mors proponeretur, haec perpeti, si acciderent, maluit quam custodiam mei capitis dimittere." Planc. 97; see also Dom. 51; Fam. 14.4.2; D.C. 38.17.1.

94 A. 3.10.2; 3.15.6; Dom. 45; Fam. 14.1.3; 14.4.2, 4; Sest. 65. In Fam. 14.2.2 Cicero states that Terentia was taken from the temple of Vesta and was led before the tribunes at the Tabula Valeria. As Shackleton Bailey notes, Clodius or some other hostile tribune was probably responsible. S. B. Fam., I, 287-8. Perhaps, in accordance with the terms of the lex de exilio Ciceronis, she was being compelled to hand over whatever property of Cicero was still in her possession. This seems likely because Cicero after mentioning the incident, goes on to discuss the condition of his property and his financial position. For general references to Terentia's treatment at the hands of Clodius, see Cael. 49; Dom. 59; Mil. 87; Sest. 145.

95 A. 3.15.6; 3.23.2-3; Dom. 6, 9; Pis. 4, 8; Sest. 69.

96 App. BCiv. 1.31; Dom. 82, 87; Pis. 20; Red. Quir. 6, 9, 11; Flor. 2.4.6.1; Livy Per. 69; Plut. Mar. 29; Vell. Pat. 1.19.1; 2.15.3-4; cf. D.C. 31.103.22; Dion. Hal. 3.53.1; 4.11.3; Livy 25.3.12-9; Vell. Pat. 2.24.2.

97 A. 3.15.5; Dom. 33, 43, 68, 73, 77-80, 82; Leg. 3.11; Pis. 30; Sest. 65, 73; cf. Dion. Hal 5.19; Gell. 10.20.3.

98 See p. 575, n. 91.

99 Dom. 53, 79-80.

100 A. 3.7.3; Fam. 14.4.3.

101 Planc. 95, 99; Plut. Cic 32; Schol. Bob. 153.2-10.

102 Dom. 70; Pis. 26, 29-30; Red. Quir. 11; Red. Sen. 4, 8; Sest. 68-9.

103 Dom. 108, 115-6; Plut. Cic 33.

104 Fam. 14.4.3.

105 The porticus Catuli had been erected by Q. Lutatius Catulus in order to commemorate his part in the victory over the Cimbri. It stood on the site of the former house of Q. Flaccus. His house had been razed after he had been killed with the other Gracchans in 121. Dom. 102, 114; Val. Max. 6.3.1.

106 A. 4.2.4-5; Dom. 102-3, 110, 114-6, 121; Har. 33, 39, 58; Sest. 95; D.C. 39.11.1; Plut. Cic. 33. Walter Allen, agreeing with R. G. Nisbet, remarks that Cicero never calls the structure cella or sacellum or templum Libertatis and that the only time it is referred to as a temple is in Leg. 2.42 where it is termed a templum Licentiae. The word which Cicero most often uses to depict it is monumentum. Allen, "Cicero's House," 4; Nisbet, De Domo, p. 207.

107 Natta was the son of Murena and the brother of Clodius' wife. He died in 56. A. 4.8a.3; Dom. 118, 134-5; 139; Mur. 73. Clodius could count on Natta's help: he had helped to secure his election as pontiff shortly beforehand. Dom. 118.

108 In September 57, Clodius defended the dedicatio of Cicero's site by claiming that his lex de exsilio Ciceronis con-

tained a clause which empowered him to erect and to dedicate constructions on it. He further claimed that the dedicatio covered the whole site. Dom. 50-1, 106; Har. 9. Cicero, on the other hand, maintained that a separate law was required for a dedicatio of any building, land or altar. He further argued that in any case Clodius' dedicatio only affected the tenth part of his site which had been used for the construction. Dom. 12, 78, 115-6, 140.

109 Dom. 48, 103, 105, 108, 117-21, 127, 134-5, 138-41; Har. 9.

110 Dom. 115-6; Har. 30-1. Cicero later alleged that Clodius had poisoned Seius in order that he might buy his house. Dom. 127.

111 Dom. 50-1, 116-7; see p. 576, n.108.

112 Dom. 115-6.

113 Nisbet, De Domo, p. 108.

114 Dom. 81.

115 Its significance would have been as self explanatory as the temple of Libertas which the senate voted for after the death of Sejanus or the cap of liberty which one of the conspirators had put on the end of his spear after the assassination of Caesar. App. BCiv. 2.119; D.C. 58.12.4. For another instance of the senate voting a temple of Libertas, see D.C. 43.44.1 where it voted that such a temple be erected to honour Caesar.

116 A. 1.16.10; Fam. 7.24.1; see p. 124.

117 Dom. 81.

118 See Garry W. Pinard, Clodius' Tribune, M.A. thesis, University of Ottawa, 1976, p. 82, n. 69, for a thorough discussion of the modern authors' views on Clodius' role in Cicero's exile.

CHAPTER V

1. The inclusion of the clause on the exiles made Clodius' law technically illegal under the terms of the lex Caecilia Didia which prohibited omnibus laws. In Dom. 52-3, Cicero shows that Clodius' justification for including clauses on Cyprus and the Byzantines in the same law is that he entrusted the execution of both measures to Cato. Cf. Badian, "Cato and the Annexation and Early Administration of Cyprus," 116; Oost, "Cato and the Annexation of Cyprus," 109, n. 11.

2 Dom. 20; Sest. 62.

3 A. 3.15.2; Fam. 15.4.2; Har. 58; Sest. 60-3; Plut. Ca-
to 34-5.

4 S. B. A. II, 228.

5 Badian points out that Cicero and the best of the later sources show that Cato's job on Cyprus did not involve its organisation into a province. The only two sources which indicate that Cyprus was to be organised into a province by Cato are Livy Per. 104 and App. BCiv. 2.23. Badian discounts both of these sources. (Badian, "Cato and the Annexation and Early Administration of Cyprus," 112-3) Strabo, however, gives a tantalizingly brief reference to Cyprus in which he seemingly says that the island of Cyprus was organised into a province from the time of Cato. However, he adds that the province was praetorian. (Strabo 14.6.6) The only problem with his account is that Cyprus after its annexation was joined to Cilicia and governed by an ex-consul. Fam. 1.7.4.

6 See. App. XXX, pp. 468-71.

7 A. 2.16.2; Dom. 51-2; Sest. 57-9; Vat. 29; Suet. Iul.
54.

8 App. Mith. 121.

9 App. BCiv. 2.23; D.C. 38.30.5; Schol. Bob. 133. 1-6; Strabo 14.6.6.

10 The abolition of the customs dues by the praetor Metellus Nepos in 60 and the expenses incurred by the agrarian schemes of the factio had already placed a severe strain on the treasury. Clodius' measures only placed a heavier burden on it. Cicero pointed to the sad state of the treasury in April 56 when he wrote to Quintus that the lack of money had caused a near riotous meeting of the senate. QFr. 2.6.1. A decline in the amount provided by provincial taxation also weakened the treasury. In Har. 60 where Cicero lists the ills afflicting the state, he says, "Aerarium nullum est: vectigalibus non fruuntur qui redemerunt." His statement is corroborated by the one-third reduction granted the Asian tax farmers in 59. M.R.R., II, 188. Moreover, Cicero in a letter written from Cilicia told Atticus that some areas of his province were more than five years in tax arrears. App. Mith. 95; A. 2.16.1; 6.2.5; Leg. Agrar. 21; D.C. 37.51.3.

11 In adopting this measure, Clodius followed the precedent which the senate had established in 75-4. The senate had then sent the quaestor Cornelius Lentulus Marcellinus to reorganize the finances of the province of Cyrene in order to obtain the funds required to relieve a famine at Rome which was causing widespread unrest among the people. It is this money which enabled the consuls of 73 to pass the lex Terentia Cassia which allowed for the purchase of wheat from Sicily and its distribution at a reasonable price at the rate of five modii per man. Badian, Roman Imperialism, pp. 35-7, 76.

12 Dom. 129; Har. 27, 59. E. Rawson thinks that Clodius may have also restored the Byzantines to extend the hereditary Claudian clientelae in the Greek speaking East. Rawson, "Eastern Clientelae," 219, 235-7. It is doubtful that Clodius ever

had this in mind. In restoring the Byzantine exiles, he was interfering in the internal affairs of a civitas libera. Sest. 56, 84. Moreover, through his law which gave ~~Piso~~ Macedonia, he had placed Byzantium under Piso's proconsular jurisdiction. Prov. Cong. 75. These measures very probably alienated the establishment of the Byzantines from Clodius. His only clients in Byzantium might be the reinstated exiles. However, even that was doubtful; they had paid for his favours. Dom. 129; Har. 59. If they were grateful to anyone, it would be to Cato who reconciled them with the other citizens of Byzantium. Plut. Cato, 34.

13 D.C. 39.12.1; Strabo 14.6.6; 17.1.5-6.

14 Badian, "Cato and the Annexation and Early Administration of Cyprus," 108-10.

15 Although Clodius' law empowered Cato to wage war on Ptolemy, it seemingly did not provide him with any forces. Cato later claimed that he had annexed Cyprus without infantry or cavalry. Clodius had probably included the clause to terrify Ptolemy into submitting to the annexation of his kingdom. Dom. 20; Plut. Cato 34-5; cf. D.C. 39.22.2.

16 Dom. 20-2, 52-3; Sest. 59-62, 89; D.C. 38.30.5; Plut. Cato 34; Cic. 34; Pomp. 48. According to Vell. Pat. 2.45.4, Cato was assisted by a quaestor. Plutarch, meanwhile, mentions two assistants were appointed to help Cato: one was a thief and the other, a client of Clodius. However, in describing Cato's activities on Cyprus Plutarch makes no further references to the two assistants. As Badian points out, Plutarch's story of the two scribae smacks of rhetorical romance. Badian, "Cato and the Annexation and Early Administration of Cyprus," 109, n. 11, 112-3. Velleius' account, therefore, is the more probable one.

- 17 Plut. Cato 13; see p. 2.
- 18 A. 1.13.3; 1.14.5.
- 19 App. BCiv. 2.1.6-7; Fam. 15.4.11; Sest. 12, 62 ; D.C. 37.43.1-3; Plut. Caes. 7-8; Cato 20-1, 26-7, 30; Cic. 20-3; Mor. 818 d.
- 20 Plut. Caes. 7-8; Cato 26-9.
- 21 A. 1.17.9; 1.18.7; D.C. 38.7.4; cf. A. 2.21.1.
- 22 App. BCiv. 2.12; Sest. 63; D.C. 38.3.1-3; Gell. 4.10.8; Plut. Caes. 14; Cato 32-3; Val. Max. 2.10.7.
- 23 Har. 58.
- 24 Plut. Cato 27-9; cf. D.C. 37.43.1-4.
- 25 Plut. Cato 31; Pinard, "Clodius' Bid for the Tribune in 60 B.C.," 60.
- 26 A. 1.14.5; 2.19.3; Plut. Caes. 7-8; Cato 26; Mor. 818 d.
- 27 A. 1.14.5; Mil. 58; Mur. 58-60; Plut. Cato 18, 44,
- 28 Dom. 20. Caesar knew what he was saying. He was well able to testify to Cato's ability to thwart the plans of an ambitious politician: in 63 Cato's speech on the fate of the conspirators had prompted the senate to reject the solution proposed by Caesar (Sall. Cat. 53); in 62 Cato undermined his efforts to use the execution of the Catilinarians as a means of inciting the plebs against the senate (Plut. Caes. 7-8; Cato 26; Mor. 818 d); in 60 Cato compelled him to forego his triumph by having the senate refuse his request to stand for the consulship in absentia (App. BCiv. 2.28; D.C. 37.59.2-3; Plut. Caes. 13); in 59 Cato was one of the last to swear the oath of obedience to his first land law (App. BCiv. 2.12; D.C. 38.7.13; Plut. Cato 32.3); moreover, as noted above, he opposed the law so vehemently that Caesar ordered his arrest.

29 Plut. Cato 16-8; Mor. 487 c; 534 c; 808 e; cf. D.C. 37.57.3; Sall. Cat. 54. Clodius probably shared Cato's interest in the integrity of the treasury clerks. He passed a law prohibiting treasury clerks from becoming involved in business. Other than this there is no information about the law. However, it can be surmised that the law prevented the clerks from taking advantage of their sensitive positions in their business dealings; the law, therefore, would prevent any conflict of interest. Judging from the experiences which Cato had with the clerks, Clodius' measure would have been a needed reform. Plut, Cato 16-8; Suet. Dom.; for another instance of the corruption of treasury clerks, see Livy 30.39.7-8; for the allotment of duties to the clerks, see Cat. 4.45; for the power which the clerks exercised over the magistrates, see Leg. 3.20.48; Plut. Cato 16.

30 A. 1.17.9; 1.18.7; 2.1.8; Off. 3.22.88.

31 Dom. 22; Sest. 60; Plut. Cato 34.

32 Dom. 21-2; Sest. 60.

33 Dom. 21; Sest. 62-3.

34 A. 2.1.8.

35 A. 1.17.9; 1.18.7; 2.1.8; Off. 3.22.88.

36 Plut. Caes. 13; Cato 31.

37 Sest. 61; Plut. Cato 31; D.C. 38.7.1-3.

38 D.C. 40.55.1-2; Plut. Cato 48; Pomp. 55; Val. Max. 6.2.5.

39 A. 3.15.2; Plut. Cato 35.

40 Dom. 21; Sest. 62-3.

41 A. 2.1.10; Fam. 15.4.2, 5, 15; 15.5.1; Plut. Cato 12, 15, 19.

42 D.C. 39.22.1; Flor. 1.44.9; Plut. Brut. 33; Cato 34-8,
45, 58; Strabo 14.6.6; Val. Max. 4.11.4; Vell. Pat. 2.45.4.

CHAPTER VI

1 App. Mith. 6; Syr. 32; Har. 27-9, 58; Sest. 56. 84; Strabo 12.5.1-3; O.C.D. 319, 453-4.

2 Har. 28; Strabo 12.5.1-3.

3 See p. 584, n. 6.

4 Dom. 129; Har. 27-9; Sest. 56. In his speeches, Cicero alleges that Clodius was only partially paid by Brogitarus and the Byzantines exiles in 58 and that he received syngraphae for the balance owing to him. If there were only the speeches as testimony for these allegations, they could easily be discounted as malicious inventions. However, in a letter of February 55 to his brother, Cicero says that Clodius was asking for a legatio to Byzantium or to Brogitarus, or, preferably to both. He adds that there was plenty of money in it for Clodius. QFr. 2.8.2. Clodius was able to put the part of the money, which he immediately received, to good use: he financed his gangs with it. Har. 27.

5 Plut. Cic. 33; Pomp. 48.

6 App. Mith. 114; Syr. 50; A. 2.9.1; Har. 29; Vat. 29; D.C. 39.7.5; Strabo 12.3.1; 12.5.2; Vell. Pat. 2.40.3; O.C.D., 319, 454.

7 Har. 28-9; Sest. 56, 66, 89; Strabo 12.5.1-3; O.C.D. 319, 453-4.

8 In a letter dispatched on May 29 Cicero shows that he is aware of Tigranes' release. The letter is a reply to letters which Atticus had dispatched on May 14 and 15. Atticus had no doubt informed him of Tigranes' release. It had probably taken place in the first part of May, for Cicero in response to Atticus' information, indicates that Pompey had not yet done anything to retaliate against Clodius. A. 3.8.2-4.

9 App. BCiv. 2.16; Mith. 104-5; 117-8; Syr. 49; Asc. p. 47; Dom. 66; Mil. 18, 37, 49, 105; D.C. 36.51.1; 36.52.3-4; 38.30; Plut. Cic. 31; Mor. 805 c; Pomp. 33, 45, 47-8; Schol. Bob. 118.20-119.3; for the ultimate fate of Tigranes, see App. Mith. 105, 118, where Appian says that Pompey eventually had him put to death.

10 See App. XXXI, p. 472.

11 Dom. 25, 27-9, 66. 123-6; Har. 58; D.C. 38.30; Plut. Crass. 7; Pomp. 23, 48; for the consecration of goods by tribunes, see Dion. Hal. 6.89.1-3; 7.17.95; 10.42.3; Livy 2.41.10; 3.55.6-8; 3.58.9; 43.16.7-10; Nisbet, De Domo, pp. 209-12.

12 Asconius describes the manner in which the dagger fell to the ground, "...dicitur servo P. Clodi sica excidisse," Asc. p. 46. Presumably the dagger was hidden under the tunic and fastened to the leg; it accidentally or not too accidentally became unfastened and fell to the ground. For swords under male and female robes, see Asc. p. 36; Mil. 66; Val. Max. 3.5.3.

13 Novius was no friend of Clodius. In answering Damio's appeal, he was merely fulfilling his tribunician duty: "Obsessus est etiam a liberto Clodi Damione, ut ex Actis eius anni cognovi, in quibus XV Kal. Sept. L. Novius tribunus plebis, collega Clodi, cum Damio adversum L. Flavium praetorem appelleret tribunos et tribuni de appellatione cognoscerent, ita sententiam dixit: 'Et si ab hoc apparitore P. Clodi vulneratus sum, et hominibus armatis praesidiis dispositis a re publica remotus Cn. Pompeius obsessusque est, cum appeller, non utar eius exemplo quem vitupero et iudicium tollam,' et reliqua de intercessione." Asc. pp. 46-7.

14 Asc. p. 46; Dom. 67, 110, 129; Har. 48-8; 58; Mil. 19, 37, 49, 73; Par. Stoi. 4.31; Pis. 16; Sest. 66-9; 84, Red. Sen. 4; Plut. Pomp. 48.

15 Val. Max. 6, 2.8-9; cf. Har. 49, 67. These "crimes" may have been the reason for which M. Lollius, one of Clodius' henchmen, had demanded Pompey for summary execution in 58. Dom. 11, 13.

16 A. 2.9.1; 2.19.4; 2.20.1-2; 2.21.6; 2.22.2; 2.23.2; 2.24.5; Sest. 15.

17 App. BCiv. 2.12; A. 1.17.4; 1.18.7; 2.1.8; 2.16.1; 2.18.2; 6.8.5; Sest. 63; D.C. 38.3.1-2; 38.6.1; 38.7.4; Gell. 4.10.7-8; Flor. 2.4.16.2; Plut. Caes. 13-4; Cato 31-2; Pomp. 47; Val. Max. 2.10.7; Vell. Pat. 2.44.4-5.

18 Har. 48, 50-2.

19 Dom. 34, 39-40, 42; Har. 48-52; Prov. Cons. 45; Vat. 15.

20 Dom. 23; Nisbet, De Domo, pp. 87-8.

21 Dom. 23; Pis. 37; M.R.R., II, 188; Nisbet, In Pisonem, pp. 98-9.

22 In A. 3.18.1, which was written ca. Septemebre 10, 58, Cicero states: "Expectationem nobis non parvam attuleras cum scripseras Varronem tibi pro amicitia confirmasse causam nostram Pompeium certe suscepturum et, simul a Caesare ei litterae quas exspectaret remissae essent, actorem etiam daturum... etiam illud scripseras, eundem 'secundum comitia' dixisse. This is a reference to Atticus' letter mentioned in A. 3.14.1 which was written on July 21 where Cicero says, "Ex tuis litteris plenus sum expectatione de Pompeio, quidnam de nobis velit aut ostendat. comitia enim credo esse habita, quibus absolutis scribis illi placuisse agi de nobis." Since this letter was dispatched on July 21 and was probably in reply to a letter received on the previous day, it is likely that Atticus sent off his letter not later than July 7, for it took at least 14 days for a letter to make its way from Rome to Thessalonica. A. 3.14.2; see p. 584, n. 8. This signifies that Pompey was

disposed to take up Cicero's cause with Caesar's approval at some time in early July. Cf. Sest. 67-8 where Cicero attempts to insinuate that Pompey opposed Clodius on his behalf by June 1, 58.

23 A. 3.14.1; 3.13.1; 3.15.1; 3.18.1; Dom. 40; Mar. 48-9; Sest. 71. For other interpretations of Clodius' attacks on Caesar's legislation, see Lintott, Violence, p. 192; Marsh, "The Policy of Clodius from 58-56 B.C.," 31-3; Pocock, "P. Clodius and the Acts of Caesar," 60-1; "A Note on the Policy of Clodius," 182-3.

CHAPTER VII

1 See App. XXXII, pp. 473-5.

2 A. 3.13.1; Dom. 70-1; Pis. 20, 30; Red. Quir. 11; Red. Sen. 3-4, 24. Sest. 68-9.

3 Curio the Elder espoused Cicero's cause despite the circulation of a speech which the latter had written against him, but had not delivered. Cicero had probably written the speech during the Bona Dea affair when he had been at odds with Clodius and his attorney Curio. Clodius probably came across it among his confiscated belongings and had it circulated to create a rift between him and Curio the Elder. A. 3.12.2; 3.15.3; 3.20.2; cf. McDermott, "Curio 'pater' and Cicero," 381-411.

4 A. 3.15.3, 6; 3.20.2.

5 A. 3.12.1; 3.13.1; 3.14.1, 2; M.R.R., II, 199-200; see pp. 116-7.

6 Three other factors would have contributed to his election. Firstly, as praetor in 60 he abolished the custom dues in Italy. Secondly, in 59 he stood forth as an opponent of the unpopular factio. Thirdly, he was a Metellus. A. 2.12.1; 2.16.1; QFr. 1.1.33; D.C. 37.51.3-4.

7 Dom. 70; Red. Sen. 24.

8 A. 3.23.1; Dom. 70; Red. Sen. 4; Sest. 70. Of the eight tribunes, four are known: L. Ninnius Quadratus, L. Novius, L. Antistius and Q. Terentius Culleo. M.R.R., II, 193-4. Earlier in the year Culleo spoke with Atticus about having the lex de exsilio Ciceronis annulled on the ground that it was a privilegium. A. 3.15.5. There is no evidence to suggest that he attempted to carry out his plan. However, he did attempt unsuccessfully to persuade Pompey to sever his links with Caesar and reconcile with the senate by having Cicero recalled; Pompey refused. Plut. Pomp. 49.

9 A. 3.23.1, 5.

10 A. ³2.23.3.

11 A. 3.23.2-4; Red. Sen. 29; cf. Fam. 14.3.2.

12 The decree was probably made in late November. Cicero speaks of it in A. 3.24 of December 10. In that letter he was responding to letters from Atticus and others which informed him of the development. Their letters would have been sent approximately 13 days beforehand, the time which it would take a letter to reach Cicero in Dyrrhachium. The senatorial decree would have been made shortly before the despatch of the letters. A. 3.22.2-3; 3.23.1, 5; 3.24.1-2; Fam. 5.4.2; Red. Sen. 37; Sest. 68; S. B. A.; II, 161.

13 See App. XXXIII, p. 476.

14 Dom. 71; Fam. 1.9.9, 14; Pis. 26, 29, 80; Prov. Cons. 43; Red. Quir. 10; Red. Sen. 3; Sest. 71; D.C. 39.10; Plut. Cic. 33.

15 Nothing definite can be said about Crassus' disposition towards Cicero's recall. In A. 3.23.5 Cicero only gives a tantalizingly vague reference to Crassus disposition: "Tertia est epistula prid. Id. Nov. data, in qua exponis prudenter et diligenter quae sint quae rem distinere videantur, de Crasso, de Pompeio, de ceteris." However, in Fam. 14.2.2 to Terentia he expressed his fears that Crassus would oppose his recall: In novis tribunis plebis intellego spem te habere. Id erit firmum, si Pompei voluntas erit; sed Crassum tamen metuo." cf A. 3.15.2-3. Yet Crassus probably did not oppose the recall of Cicero: Plutarch is able to say that Cicero was reconciled with him on his return. Plut. Cic 33; Crass. 13. This tallies with Dio's statement that Crassus shared some interest in Cicero's return when it appeared inevitable. D.C. 38.17.1.

16 See App. XXXIV, pp. 477-8.

17 See App. XXXV, pp. 479-80.

18 QFr. 1.4.3.

19 Dom. 68; Pis. 34; Sest. 65, 73.

20 Dom. 69; Red. Sen. 5; Sest. 72-4.

21 Red. Quir. 11-2; Sest. 74-5.

22 Sest 77; see also Mil. 87; Red. Quir. 14; Red. Sen. 6, 22; Sest. 75-8; cf. Par. Stoi. 4.30; for the Roman custom of dumping unwanted corpses into the Tiber, see App. BCiv. 1.16, 88; 5.6-8; Dion. Hal. 10.52; Livy 3.32.1-4; Per. 58.

23 According to Dio Cassius 39.7.1, Appius intended to use the gladiators for the celebration of funerary games in honour of Marcius Rex. See pp. 8, 533, n. 25. Cicero, however, gives a different reason for Appius' acquisition of the gladiators; he acquired them earlier to provide entertainment during his prospective aedileship of 57. When he decided to abandon the aedileship and stand for the praetorship of 57, he was left with gladiators which his younger brother put to good political use. Dom. 111-2; Sest. 78, 85.

24 Sest. 78.

25 Red. Sen. 6-7: "Quo quidem mense quid inter me et meos inimicos interesset existimare potuistis. Ego meam salutem deserui, ne propter me civium vulneribus res publica cruentaretur: illi meum reditum non populi Romani suffragiis, sed flumine sanguinis intercludendum putaverunt. Itaque postea nihil vos civibus, nihil sociis, nihil regibus respondistis: nihil iudices sententiis, nihil populus suffragiis, nihil hic ordo auctoritate declaravit: mutum forum, elinguem curiam, tacitam et fractam civitatem videbatis. Quo quidem tempore cum is excessisset, qui caedi et flammae vobis auctoribus restiterat,

cum ferro et facibus homines tota urbe volitantes, magistratum tecta impugnata, deorum templa inflammata, summi viri et clarissimi consulis fasces fractos, fortissimi atque optimi tribuni plebis sanctissimum corpus non tactum ac violatum manu, sed vulneratum ferro confectumque vidistis. Qua strage non nulli permoti magistratus, partim metu mortis, partim desperatione rei publicae, paululum a mea causa recesserunt: reliqui fuerunt quos neque terror nec vis nec spes nec metus nec promissa nec minae nec tela nec faces a vestra auctoritate, a populi Romani dignitate, a mea salute depellerent." The whole passage has been quoted because it figures prominently in the following discussion.

- 26 See App. XXXVI, p.481.
- 27 See App. XXXVII, pp. 482-3.
- 28 Mil. 38; QFr. 2.3.6; Red. Sen. 7, 20, 30; Plut. Cic. 33.
- 29 Sest. 82.
- 30 Red. Sen. 7.
- 31 Red. Quir. 14; Red. Sen. 6-7; Par. Stoi. 4.30.
- 32 A. 3.20.2-3; 3.23.4; Red. Sen. 21.
- 33 Sest. 85.
- 34 Mil. 40; Red. Sen. 19; Sest. 89; Plut. Cic. 33. The tribune Serranus is probably in question here. Rufus at this point may have been temporarily seething over the attempt to make him the scapegoat after Sestius' near demise; later in the year he continued to support Clodius.
- 35 Mil. 38; Sest. 34, 78-86, 90, 127; Red. Sen. 21; D.C. 39.8.1; for Cicero's financial backing of the gangs of Milo and Sestius, see A. 3.23.5; 4.2.7; Sest. 127; S. B. A., II, 173.

36 Har. 6; Mil. 35, 67; Sest. 95, 144; Red. Sen. 12; Vat. 40-1; D.C. 39.8.3.

37 See App. XXXVIII, pp. 484-5.

38 Dom. 73, 85; Pis. 23, 34; Planc. 78; Red. Sen. 24-5; Sest. 116, 120, 128; cf. Nisbet, De Domo, p. 146; Nisbet, In Pisonem, pp. 96-7.

39 Sest. 117.

40 Sest. 117-23.

41 Sest. 117-8.

42 The incident concerning Sestius only took place on those days when it was thought that Cicero's cause would be dealt with: "...cum illis diebus de me actum iri putaretur." Sest. 124. Since the meeting in the temple of Honos et Virtus was the first occasion on which his cause was dealt with by the senate, then the incident concerning Sestius would have taken place shortly beforehand. The incident could not have taken place before any subsequent meetings of the senate on Cicero's recall; the senate had only set up a timetable for those meetings in the temple of Honos et Virtus. See p. 169. Since the timing of those meetings was known, Cicero could not use the words "iri putaretur" to refer to the timing Sestius' appearance in public.

43 Sest. 126; see also Schol. Bob. 138.1-17.

44 Mil. 39; Pis. 34; Prov. Cons. 43; Red. Sen. 29.

45 See pp. 175, 484-5.

46 Sest. 130.

47 Pis. 35; Prov. Cons. 22; Sest. 130; D.C. 39.8.2-3.

48 Dom. 14, 70; Pis. 34-5; Red. Quir. 15-6; Red. Senn. 25-6; Sest. 109, 129-30.

49 Cf. A. 1.13.3; 4.1.6-7.

50 Asc. p 11; Dom. 71, 87; Fam. 1.9.16; Har. 11; Pis. 3, 35; Red. Quir. 19; Sest. 129; Schol. Bob. 122.6-30.

51 Dom. 70; Pis. 35; Prov. Cons. 43; Red. Quir 16-7; Red. Sen. 25-7; Sest. 107, 129-30.

52 Dom. 74-5; Pis. 80; Red. Quir. 16-7; included in the list of public bodies displaying their support of Cicero were the scribae: did Clodius' law, which restricted their involvement in business dealings, have anything to do with their support of his enemy?

53 App. BCiv. 2.26; A. 4.1.4; Dom. 75, 90; Fam. 1.9.19; Pis. 35; Red. Sen. 27-8, 39; Sest 108, 125-7, 132; D.C. 39. 8.2; Plut. Pomp. 49; Vell Pat. 2.45.3.

54 A. 1.19.4; 4.1.4; Red. Sen. 39; Sest. 125; Plut. Cic. 33.

CHAPTER VIII

1 Plut. Cato 14.

2 A. 4.1.4-5; Dom. 76; Pis. 51-2; Sest. 132.

3 A. 4.1.5.

4 Clodius chose a good time for the riot: during the ludi Romani. The celebration of the games provided him with a large concentration of people to work on. In his description of the riot, Cicero points out that the riots had been started at the theatre. A. 4.1.6.

5 Dom. 14.

6 Asconius refers to this riot in his commentary upon Mil. 38: "#38 Potuitne L. Caecili. iustissimi fortissimique praetoris, obpugnata domo? : L. Caecilius Rufus de quo dicitur fuit praetor P. Lentulo Spinthere Q. Metello Nepote coss., quo anno Cicero restitutus est. Is cum faceret ludos Apollinares, ita infima coacta multitudo annonae caritate tumultuata est ut omnes qui in theatro spectandi causa consederant pellerentur." Asc. p. 48. Judging from the modus operandi, the riot was probably caused by Clodius: at the Ludi Megalenses, which he celebrated as aedile in 56, he disrupted theatre goers in the same manner. See pp. 228-30. Moreover, Clodius had good reason to disrupt the performance at the theatre. He had been given a very disconcerting reception at the plays given by the consul Lentulus Spinther: through the disruption of Ludi Apollinares, he obtained a measure of revenge against those who had given him that reception. His incitement to riot also gave him the opportunity to demonstrate his concern over the wheat situation.

7 See App. XXXIX, pp. 486-7.

8 A. 4.1.6; Dom. 5-18; D.C. 39.9.1-2.

9 See App. XL, pp. 488-9.

10 A. 4.1.7; Dom. 10; D.C. 39.9.3; 39.24.1-4; Plut. Pomp. 49-50. Pompey's task was not an easy one. For instance, he encountered difficulty in distributing the free wheat because large numbers of slaves had been freed to benefit from it. He remedied the situation by making a census of the eligible recipients. D.C. 39.24.1-2. Through his fifteen legati and his trips to Sardinia, Sicily and Africa, he managed to obtain a steady supply of wheat to Rome. Plut. Pomp. 49-50. However, in 56 he did not manage to reduce the price of grain: in Har. 32 and QFr. 2.5.1, Cicero notes that the price was still high. In QFr. 2.5.1, he also points out that in April 56, the senate voted Pompey forty million sesterces for the wheat supply. In 55 Pompey was still busy with emergency supplies when a flood of the Tiber ruined much that was in storage. D.C. 39.39.4; 39.63.3.

11 Dom. 25-6.

12 Plut. Pomp. 49.

13 Cicero alleges that the lex Clodia frumentaria itself was responsible for the shortage of wheat and its high price: "Scilicet tu helluoni spurcatissimo, praegustatori libidinum tuarum, homini egentissimo et facinorosissimo, Sex. Cloelio, socio tui sanguinis, qui sua lingua etiam sororem tuam a te abalienavit, omne frumentum privatum et publicum omnes provincias frumentarias, omnes mancipes, omnes horreorum claves lege tua tradidisti. Qua ex lege primum caritas nata est, deinde inopia." Dom. 25. His statement makes sense if it is assumed that the distribution of free wheat instituted by the lex frumentaria increased demand for wheat and brought about a shortage in the wheat supply and thus higher prices for the wheat available on the market. Cf. Dom. 10.

- 14 Dom. 2, 69; Har. 11; see p. 576, n. 108.
- 15 See p. 541, n. 88
- 16 A. 4.2.2.
- 17 Dom. 1-4; see p. 541, n. 88.
- 18 A. 4.1.7; cf. Fam. 1.1.2-3
- 19 Of the 16 pontiffs who judged the case, there were 7 or 8 consulars; it is uncertain whether the Crassus mentioned as a pontiff was Crassus (cos. 70) or his like-named son. M.R.R., II, 205-6.
- 20 A. 4.1.7.
- 21 A. 4.1.7; Dom. 3-4, 6, 18, 25-6, 29, 31.
- 22 Dom. 7, 25, 39-42, 72, 75-6, 83, 85, 92-3, 95, 99, 104, 115, 129.
- 23 Dom. 50-1, 104, 106, 110, 115-7, 127-136; see p. 576, n. 108.
- 24 A. 4.2.3.
- 25 A. 4.2.3.
- 26 Dio Cassius states that the pontiffs awarded the case to Cicero because they agreed with his arguments concerning the validity of Clodius' tribunate: Cicero had maintained that Clodius' tribunician acta, including those concerning his house, were invalid because the skies were being watched when he was transferred to plebeian status by the lex curiata. D. C. 39. 11.1. Cicero himself, however, in De Domo admits that this argument carried little weight with the pontiffs. Dom. 41-2; cf. 34, 39.
- 27 A. 4.2.4; Har. 12-5.
- 28 A. 4.2.5; see also App. BCiv. 2.16; A. 1.16.10; 4.1.3; 4.1.8; 4.2.4-5; 4.3.5-6; 4.5.2; Fam. 1.7.8; 1.9.5; Har. 15-6; Pis. 52; Gell. 12.12.1; Vell. Pat. 2.45.3.

29 Dom. 11, 81; Fam. 1.9.15; Har. 58; see pp. 137-9.

30 A. 4.3.2; Caël. 78; Har. 15; Mil. 87.

31 Cicero refers to these two senatorial actions in De Haruspicum Responsis of 56 where he lists the senatorial decrees on his house: "Primum negotium iisdem magistratibus est datum anno superiore, ut curarent ut sine vi aedificare mihi liceret, quibus in maximis periculis universa res publica commendari solet; deinde cum ille saxis et ignibus et ferro vastitatem meis sedibus intulisset, decrevit senatus eos, qui id fecissent, lege de vi, quae est in eos, qui universam rem publicam oppugnassent, teneri." Har. 15. In A. 4.3.2 where Cicero describes the attack on the site and the subsequent developments he does not mention these senatorial actions. However, there was no reason for him to include them. The purpose of his letter was to give a well informed Atticus his reactions and attitude towards the political developments. Therefore, it was not imperative that he mention the decrees: A. 4.3; cf, 4.1.4; 4.2.1.

32 A. 4.3.2.

33 A. 4.3.3.

34 Dom. 92-3.

35 Red. Quir. 20.

36 A. 4.2.2.

37 A. 4.3.3.

38 A. 4.3.2-3.

39 The reason for the delay in the aedilician elections and the quaestorian election, which followed, is unknown.

40 A. 4.3.3.

41 A. 4.3.3; S. B., A., II, 176.

42 A. 4.3.3-5. There is some question on the immunity from prosecution which the aedileship conferred upon its holder. In 50, for instance, the aedile Caelius was indicted by Servius Pola under the terms of the lex Scantinia. Fam. 8.12.3; S. B., Fam., I, 433-5. Prosecution under the lex Scantinia, however, may have been an exception to the rule. In his aedileship Clodius remained free from prosecution while he had both Milo and Sestius prosecuted under the lex de vi. See pp. 216, 226.

Milo and Sestius would surely have returned the favour had they been able to do so. Moreover, Milo must have sought to prevent Clodius from being elected aedile in order to deprive him of the security which that magistracy would offer him. Finally, there is Dio Cassius who flatly states that the aedileship was a protection against prosecution. D.C. 39.7.2-3.

43 A. 4.3.4.

44 A. 4.3.4-5.

45 A. 4.3.4-5.

46 See p. 200.

47 M.R.R., preface, pp. ix-x.

48 D.C. 39.7.4.

49 For time consuming procedures, see Verr.-1.10.30-6; see Mil. 14 where a senatus consultum was required in order to give special precedence to an indictment; moreover, the jurors themselves would react angrily to any addition to their workload. A. 4.17.3.

50 If the jurors selected by the quaestors only began service under the praetors on January 1, then Milo's course of action would make no sense at all.

51 QFr. 2.1.2.

52 QFr. 2.1.1-3.

53 QFr. 2.1.1.

54 QFr. 2.1.2.

55 Schol. Bob. 166.1-4; cf. Fam. 1.7-2 and Planc. 77 for Racilius' good relations with Cicero.

56 QFr. 2.1.2-3. According to Cicero, the yell was probably intended especially to frighten Q. Sestilius and Milo's friends. QFr. 2.1.1-2. Nothing is known about Sestilius apart from this incident. However, it may be assumed that Cicero mentions him because he was the most noteworthy of Milo's amici.

57 See App. XLI, pp. 490-1.

58 See p. 204.

CHAPTER IX

1 Cicero says that the elections were announced for January 20 and that he foresaw no delays in them. QFr. 2.2.2. The new consuls, who entered office on January 1, would have announced the holding of the elections a trinundinum beforehand. On this basis the trinundinum would be a period of 17 days, not 24 days; at the earliest the consuls could have only announced the e-lections on January 1, 20 days before they took place.

2 Fam. 1.9.15.

3 QFr. 2.1.3; see p. 201

4 Har. 50.

5 Fam. 1.1.3; 1.7.4; D.C. 39.12-4.

6 Fam. 1.1.1-2; 1.2.1; 1.4.2; 1.5b.1; 1.7.4; D.C. 39.15.

7 Fam. 1.5a.2; 1.5b.2; QFr. 2.3.1; cf. Fam. 2.3.1.

8 Cf. A. 4.1.7; 4.9.1; Fam.

9 Fam. 1.1.1-4; 1.2.2-3; 1.4.1-2; 1.5a.3; 1.5b.2; 1.7.1; QFr. 2.2.3; D.C. 39.16.1; Plut. Pomp 49; cf. App. Mith. 114; S. B., Fam., I, 299.

10 Fam. 1.1.1-2, 4; 1.5b.1; D.C. 39.16.

11 Fam. 1.2.1; QFr. 2.2.3; D.C. 39.56.1.

12 Fam. 1.1.3; 1.7.4; D.C. 39.55.1; S. B. Fam. I, 303.

13 Fam. 1.7.3-4.

14 Fam. 1.2.4; 1.4.1, 3; S. B. Fam., I, 299. The bills of Caninius and Cato could have had their rogationes before the aedilician elections on January 20. In Fam. 1.4.1 of January 17, Cicero writes that both tribunes had promised not to put their bills to the vote before the aedilician elections. Cf. S. B. Fam., I, 299. Since the tribunes could give their bills ro-

gationes by January 20, then they were promulgated in either early January or late December. For instance, if their bills were given a rogatio on January 19, then they were promulgated on or before January 2, a trinundinum earlier.

15 Fam. 1.7. Nothing further is known about Cato's bill. Meanwhile, Caninius' bill was so unpopular that it was dropped in March. Fam. 1.5b.1; QFr. 2.5.3.

16 Fam. 1.1.2; 1.4.1-3; 1.7.4-6.

17 QFr. 1.2.15.

18 Cicero may have intimated that Clodius was behind the action against Lentulus when he made the following vague statement in Har. 58: "Quid quae in singulos cives, quos necavit? socios, quos diripuit? imperatores quos prodidit? exercitus, quos temptavit? Quid vero? ea quanta sunt, quae in ipsum se scelera, quae in suos edidit? quis minus umquam pepercit hostium castris quam ille omnibus corporis sui ~~corporis~~ sui partibus?"

19 See p. 181.

20 Fam. 1.7.4-5.

21 See p. 140

22 QFr. 2.1.2.

23 Fam. 1.4.1; S. B., Fam. I, 299. Had he gone ahead with the rogatio of his bill, the elections would have been delayed: under the terms of the lex Aelia Fufia, no business could be transacted with the people in the trinundinum between the announcement and the Holding of the elections. See p. 110.

24 QFr. 2.3.4.

25 See pp. 477-8.

26 D.C. 39.15-6.

27 Har. 26; cf. Fam. 8.4.1 for his probable replacement as quindecemvir after his death.

28 In doing so, he would have acted on his own. Normally, the books were only consulted by order of the senate. Dion. Hal. 4.62.4. In this instance the senate had not given any order; it was Cato who brought the oracle to the senate's attention. D.C. 39.15-6.

29 Har. 26; cf. Har. 9 and 22 where he refers to Clodius as "religiosissimo sacerdote" and as "aedile religioso".

30 Fam. 1.5.a.2; 1.5b.2; QFr. 2.3.1-2; Sest. 144. February 1-4 were dies nefasti; Cato, therefore, would have promulgated his bill on a dies nefastus, not a dies comitialis.

31 QFr. 2.3.4: "sed magna manus ex Piceno et Gallia expectatur, ut etiam Catonis roagationibus de Milone et Lentulo resistamus. See M.R.R., II, 209.

32 See App. XLII, p. 492.

33 QFr. 2.3.1-2.

34 QFr. 2.3.4. Cato did not have sufficient forces to push through the bill on his own. He only had a bodyguard of gladiators which he sold in March 56 when he could no longer afford its upkeep. For the humorous way in which Milo of all people purchased the bodyguard, see QFr. 2.5.3.

35 QFr. 2.5.2.

36 See pp. 195-7.

37 QFr. 2.5.4; D.C. 39.27.3; Livy Per. 105; cf. Fam. 1.2.2 and 1.4.2 for the action which Cicero intended to adopt against the proposed legislation which undermined Lentulus' position.

38 Milo had twice attempted to prosecute Clodius in 57. A. 4.3.4-5; Sest. 89. On Sestius' attempt to prosecute Clodius,

Cicero only says: "...in re publica iura tribunatus atque auspicia defenderet, accusare eum moderate, a quo ipse nefarie accusatur, per senatus auctoritatem non est situs." Sest. 95. Here Cicero is definitely referring to Sestius because he points to his attempted obnuntiatio against Metellus Nepos when he says: "in re publica iura tribunatus atque auspicia defenderet." The "senatus auctoritatem" mentioned by Cicero may have been the edicts which prevented Milo from prosecuting in early 57 or the vote of the senate in early January 56 which allowed Clodius to escape into the safety of the aedileship. On the other hand, it may have been a senatorial action about which nothing is known.

39 Dom. 6; see pp. 179-80.

40 A. 4.3.3.

41 A. 4.3.4.

42 Asc. p. 48; Fam. 1.5b.1; Mil. 67; QFr. 2.3.1-2; D.C. 39.18.1.

43 In QFr. 2.3.1, Cicero refers only to a M. Marcellus. He was probably one of the Marcelli who were consuls in 51-49 and he may have been Clodius' fellow aedile in 56. M.R.R., II, 208, 214. He was probably the same Marcellus who acted as Milo's attorney in 52 when the latter was charged under the lex Pompeia de vi. Asc. p. 40.

44 QFr. 2.3.1.

45 Fam. 1.5b.1; QFr. 2.3.2.

46 Asc. p. 48.

47 QFr. 3.3.2.

48 QFr. 2.3.2.

49 QFr. 2.6.1; D.C. 39.24.4; see p. 595, n. 10.

50 Fam. 1.1.2; 1.2.3.

51 Cicero describes the question and answer period in QFr. 2.3.2: "Ille furens et exsanguis interrogabat suos in clamore ipso quis esset qui plebem fame necaret; respondebant operae 'Pompeius'. Quis Alexandriam ire cuperet; respondebant 'Pompeius'. Quem ire vellent; respondebant 'Crassum' (is aderat tum, Miloni animo non amico)". Cicero may have expurgated some of the more personally insulting questions which Clodius asked about Pompey. According to Plutarch, Clodius also asked such questions as "Who is a licentious imperator?"; "Which man desires a man?"; "Who scratches his head with one finger?". To each question the Clodian operae replied "Pompey". Plut. Pomp. 48; cf. D.C. 39.19. For Pompey's habit of scratching his head with one finger and its rather interesting significance, see Plut. Mor. 800 e.

52 QFr. 2.3.2.

53 QFr. 2.5.3.

54 QFr. 2.3.4.

55 QFr. 2.3.2.

56 QFr. 2.3.3: "A.d. vi Id. Febr. senatus ad Apollinis fuit, ut Pompeius adesset; acta res est graviter a Pompeio; eo die nihil perfectum est."

57 Fam. 1.5b.1.

58 QFr. 2.3.4.

59 QFr. 2.3.2-3.

60 QFr. 2.3.4. At the latest Pompey would have confided to Cicero on February 11. QFr. 2.3 was written on the morning of February 12, before daybreak. QFr. 2.3.6-6

61 QFr. 2.5.3.

62 Cael. 17.

63 QFr. 2.8.2; see p. 584, n. 4.

64 Sest. 78. 84, 95; Schol. Bob. 125-6.

65 Cael. 18, 27.

66 See pp. 309-11 . For Pompey's mental discomfiture resulting from the demonstrations of hostility, see Fam. 1.5b.1-2; QFr. 2.3.3-4.

67 QFr. 2.3.4.

68 Fam. 1.1.3.

69 QFr. 2.3.2-4.

70 Cicero mentions that Clodius' operae were present at the trial on February 6. Since Milo's supporters routed them, the "supporters" would have been the latter's operae. QFr. 2.3.2.

71 QFr. 2.3.3.

72 QFr. 2.3.5.

73 QFr. 2.3.4; cf. Plut. Pomp. 6.

74 See App. XLIII, pp. 493-4.

75 QFr. 2.3.5; Sest. 2, 4, 14, 78, 84, 95; Schol. Bob. 125.

76 Vatinius also assisted the prosecution with the preparation of its case: he gave advice to Albinovanus and he sent Titus Claudius copies of Sestius' speeches. Through this activity and his role as witness, he was probably cooperating with his amicus Clodius who had instigated the court action against Sestius. Previously he assisted Clodius by speaking against Milo at the former's contiones. Clodius had held the contiones to arouse ill will against Milo who was then under indictment. QFr. 2.5.3; Vat. 2-3, 40-41.

77 QFr. 2.4.1; Sest. 133-6; Vat. 2-3, 40-41.

78 Sest. 110-2; Vat. 1-4.

79 QFr. 2.4.1.

80 Cael. 78-9.

81 QFr. 2.5.4. On April 4, while speaking on behalf of Caelius, Cicero said that shortly before Clodia and Clodius had secured the acquittal of Sextus Cloelius. Cloelius, therefore, would have been acquitted in the latter part of March. Cael. 1-2; see QFr. 2.4.6; 2.5.1, where the trial of Cloelius is placed in March.

82 QFr. 2.5.4. For Cicero's attitude to court decisions which did not come as he expected or wanted, see A. 4.15.4; see also A. 1.16.5 for Catulus' reaction to such verdicts.

83 QFr. 2.5.3.

84 Cael. 2, 6, 18, 23, 25-7.

85 Cael. 1, 17, 21, 55. For the relations of the Claudii Pulchri with Caelius, see Cael. 55, 68; QFr. 2.12.1.

86 See App. XLIV, p. 495.

87 Cael. 36-7, 78.

88 According to Cicero, Clodius received supplies from the proconsul Calpurnius for his aedileship. Pis. 89. Cf. A. 5.21.5; Fam. 8.4.5; Plut. Cic. 26, for the requests of panthers which the aediles of 50, Octavius and Caelius, made to Cicero as governor of Cilicia. For possible innovations brought to the theatre by Clodius, see Val. Max. 2.9.6.

89 Har. 22-7.

90 Har. 26.

91 Har. 24.

92 Har. 26.

93 See pp. 281-4.

94 See App. XLV, pp. 496-7.

95 Har. 8-10, 20; D.C. 39.20.1-3.

96 Har. 11, 14, 31,

97 Har. 8-11.

98 D.C. 39.20.3. The event may be referred to in Fam. 1.7.7 where Cicero is replying to a letter of Lentulus Spinther, the proconsul of Cilicia and Cyprus: "Quod mihi de nostro statu, de Milonis familiaritate, de levitate et imbecillitate Clodi gratularis..." Spinther's letter had been partly in response to a previous letter of Cicero in which the latter had announced the betrothal of Tullia which took place on April 6. Fam. 1.7.11; QFr. 2.6.2. Cicero had probably sent that letter in early April, soon after Tullia's engagement, and had also probably used it to report Clodius' attempted attack on his house and Milo's repulse of it.

99 See App. XLVI, pp. 498-9.

100 Cicero speaking in De Haruspicum Responsis mentions this decree as one of the senate's measures to defend his house. Through his references to the consuls, he shows that it was issued in 56: "Primum negotium iisdem magistratibus est datum anno superiore, ut curarent ut sine vi aedificare mihi liceret ... Vobis vero referentibus, o post hominum memoriam fortissimi atque optimi consules, decrevit idem senatus frequentissimus, qui meam domum violasset, contra rem publicam esse facturum." Har. 15. From the beginning of 56 till the delivery of the De Haruspicum Responsis, Clodius' attempted attack was the only known action which could have provoked the decree.

101 A. 4.5.4; cf. A. 4.6.4.

102 Har. 51. The reconciliation did not result from Pompey's meeting with Caesar at Luca; Pompey had only started for Luca on April 11, and Clodius announced his reconciliation at the contio which was probably held shortly before April 14. QFr. 2.6.3; see p. 499. The reconciliation, therefore, took place sometime before Pompey's departure on April 11.

103 Wiseman, Cinna, pp. 159-69.

104 A. 2.12.1.

105 Har. 55.

106 Fam. 1.9.8.

107 Dom. 40; Har. 48-9; see p. 157.

108 A. 2.7.2-3; 2.12.2.

109 Fam. 1.9.20; see p. 254.

110 QFr. 2.5.4. Since Appius could return to Rome, he had not yet gone out to his propraetorian province of Sardinia. Plut. Caes. 21. In February 56, Cicero told Quintus that the legationes and the allotment of the propraetorian expenses had been put off till February 13. QFr. 2.3.1. Presumably, they were delayed further for some unknown^{reason} with the result that Appius was not yet in his province.. Cf. A. 1.13.5; 1.14.5; 1.15.1-2 for a similar delay. The legationes were also delayed: in late April or early May there was a senatorial meeting where the Syrian representative P. Tullio and the tax-farmers of Syria were given a hearing. Har. 1-2. Appius finally became governor of Sardinia by mid-April; it was in that capacity that he visited Caesar at the conference of Luca. Plut. Caes. 21.

111 D.C. 39.23.4.

112 The senate had recalled him in order to reassert its auctoritas; it had not done so out of any personal yearning for Cicero. Vatinius had summed up the situation at Sestius' trial when he said that Cicero had been recalled for reasons of state. Vat. 7.

113 A. 4.2.5, 7; 4.5.2-3; Dom. 40, 42; Fam. 1.7.7; 1.9.10-1; Har. 48-52; QFr. 2.5.4.

114 See App. XLVII, pp. 500-501.

115 Har. 17; see also Har. 7, 26,

116 Clodius' espousal of Tullio's cause may perhaps indicate that the Syrians, represented by Tullio, were probably his clientes. He would have acquired them as clientes during his trip to Syria in 67-6. See pp. 6-8.

117 Har. 1-4.

118 Har. 2.

119 Har. 1-2.

120 Har. 1.

121 Har. 18-63, especially 20-1, 34, 36-7, 40, 55-6.

122 Har. 8-16.

123 A. 4.5.2-3; Har. 11, 14, 31; S. B., A., II, 185-6.

124 The timing is indicated by Cato's presence in the senate: he had returned from Cyprus by late May or early June. See pp. 502-3.

125 D.C. 39.21.1-4; Plut. Cato 40; Cic. 34; Schol. Bob. 171.5-10.

126 D.C. 39.20-1. Cicero may have made his first attempt to remove the tablets before the delivery of the De Haruspi-cum Responsis (probably delivered in late April or early May). On the day before the delivery of the speech, Clodius had cast aspersions on Cicero's citizenship by asking him to what state he belonged. Har. 17. The question may have been a reference to his tribunician tablets which Cicero tried to remove because they commemorated his exile. The incident concerning the ta-

plets may have also been behind the mutual threats of legal action which Clodius and Cicero made against each other on the day before the delivery of the De Haruspicum Responsis. Har. 1-2, 7.

127 See App. XLVIII, pp. 502-3.

128 D.C. 39.23.1-4; Flor. 1.4.49; Plut. Cato 38-9; Val. Max. 4.1.4; 8.15.10. According to Plutarch, Cato refused the praetorship after the senate had voted it to him. Dio, however, says that Cato only opposed the consuls' proposal. His account is preferable to Plutarch's; it makes more sense for Cato to refuse the measure before, rather than after, it had been voted upon. Moreover, Dio refers to other sources which agree with his account.

129 QFr. 2.6.1.

130 Har. 61.

131 Plut. Caes. 21.

132 Flor. 1.44.9; cf. Har. 61.

133 Plut. Cato 46.

134 D.C. 39.23.1-2.

135 Fam. 15.4.15.

136 D.C. 39.23.3; Plut. Cato 38.

137 Dom. 22; D.C. 39.23.4.

138 App. BCiv. 2.7; A. 4.8a.1-2; QFr. 2.7.3; Plut. Cato 41-2; Crass. 15; Pomp. 51-2; Vell. Pat. 2.46; cf. D.C. 39.24.5-6 who states that Pompey and Crassus were seeking the consulship to offset the power of Caesar.

139 D.C. 39.27.3-39.28.1; Livy Per. 105. In doing this Cato was carrying out the threat which he had made earlier in the year: he had threatened to postpone the elections should the consul Marcellinus persist in denying him the opportunity to put his bills to the vote. QFr. 2.5.4.

140 D.C. 39.28-9; Val. Max. 6.2.6.

141 D.C. 39.29.

142 D.C. 39.29.1.

143 Har. 50-1; see pp. 500-1.

144 Cf. O.C.D. pp. 11-1.

145 Judging from the knights' behaviour when Clodius sought to make his way into the senate, they would have followed the senate's lead in boycotting the games. D.C. 39.29.2-3.

146 Har. 24; Mur. 40; D.C. 36.42.1; Livy 34.44.5; 34.54.5; Livy Per. 99; Livy 1.35.8; Plut. Cic 13; Val. Max. 2.4.3; Vell. Pat. 2.32.3.

147 Har. 22-7.

148 D.C. 39.30. Dio is probably in error on the renewed celebration of the Feriae Latinae. According to Cicero, the consul Marcellinus was holding them for a second time in March 56. QFr. 2.5.2.

149 A. 1.1.1; 3.13.1; 3.18.2; 4.15.8.

150 Har. 51-2; Plut. Caes. 21; see n. 153.

151 A. 4.8a.1-2; Plut. Cato 41-2; Crass. 15; Pomp. 52.

152 The legatio libera could be secured by senatus consultum or by law. QFr. 2.8.2.

153 QFr. 2.8.2.

154 Dom. 129; see p. 584, n. 4.

155 See p. 270.

156 Cael. 17.

157 Leg. 3.18.

158 QFr. 2.8.2. The fact that Crassus and not Pompey secured

Clodius' legatio by ensuring Cicero's acquiescence, may indicate that he had been approached by Clodius and was acting on his behalf. On the other hand, however, Pompey may have referred Cicero to Crassus in order to reinforce the reconciliation between the two: if Cicero secured what he wanted from Crassus, he would be in the latter's debt. For the reconciliation, see Fam. 1.9.20.

159 QFr. 2.8.3.

160 It was possible for Clodius to make the voyage without being in too much of a hurry. Had he left in mid-February and returned by late June, he would have had a little over four months to make a round trip to the East. Cf. A. 4.19.1 where Cicero tells Atticus that it had taken 46 days for a swift letter to reach him at Cybistra in the far reaches of his proconsular province of Cilicia.

161 A. 4.11.2.

162 A. 4.11.2, on which see S. B., A., II, 197.

163 Byzantium, a civitas libera, fell under his jurisdiction. See p. 119.

164 M.R.R., II, 218, 224, 229.

165 See App. XLIX, pp 504-5.

166 See pp. 270 ff.

167 Schol. Bob. 169.20-5.

168 Asc. p. 32; Pliny N.H. 36.103.

169 See App. 50, pp. 506-7.

CHAPTER X

1 A. 4.13.1. The magistrates for 55 itself were only elected after Pompey and Crassus took office at the beginning of the year. M.R.R., II, 214. The time required for these elections may have delayed the elections of the magistrates for 54. The consul presiding over the consular elections was Pompey; Crassus had already left for Syria. A. 4.13.1-2.

2 Fam. 3.7.5.

3 Plut. Caes. 21.

4 For the date of the meeting, see S. B., Fam., I, 328.

5 Fam. 5.8.1.

6 S. B. Fam., I, 328. The exactions of Pompey and Crassus proved unpopular in 55; one of the tribunes, Gaius Ateius, had even attempted to prevent Crassus' departure by announcing adverse omens; when that failed, he solemnly cursed Crassus. A. 4.9.1; Plut. Crass. 16; Pomp 52.

7 For other instances of the senate's concern over expenses and recruitment, see A. 5.4.2; Fam. 3.3.1; QFr. 2.6.1; cf. Crawford, R.R.C., II, 695, for the reason behind the senate's concern with the fortunes of the treasury.

8 Fam. 1.9.25.

9 QFr. 2.14.3.

10 M.R.R., II, 221.

11 The legatio may be the one which Appius gave Messius on Caesar's staff. Messius was tribune in 57 and aedile in 55. In A. 4.15.9 of July 54, Cicero says that he was recalled from his legatio to face trial by the edict of the praetor Servilius Isauricus. As Shackleton Bailey points out, Messius would have faced charges under the lex Licinia de sodaliciis; the charge would have resulted from his campaign for the aedileship of 55. A. 4.15.9; M.R.R., II, 202, 216; S. B., A., II, 211-2.

12 Flacc. 102; Pis. 58; Prov. Cons. 32; Vat. 30; Schol. Bob. 149-50; M.R.R., II, 167, 176,

13 Pis. 58.

14 A. 4.18.4; QFr. 3.4.6; D.C. 37.47-8; 39. 65. Although Appius and Scaevola adopted different political positions towards Pomptinus' triumph, they were on good terms with one another: after his tribunate Scaevola served on Appius' proconsular staff in Cilicia. Near the end of his term as governor Appius even intended to leave the province in his hands until the arrival of Cicero. Fam. 3.5.5.

15 A. 5.21.9; Fam. 3.10.3.

16 Cf. A. 4.19.2; 5.21.9; Fam. 3.3.1; 3.10.3; M.R.R., II, 167.

17 See p. 614, n. 16.

18 Fam. 2.13.2; 3.10.2; 3.11.3; the first reference to the marriage comes in 51: Fam. 3.4.2.

19 M.R.R., II, 229. The fact that he served under Appius rather than anyone else would indicate a relationship between the two. On this basis Brutus was married to Appius' daughter by July 53; it was not until then that the magistrates for 53 itself were elected. M.R.R., II, 228. However, it may be conjectured that the marriage took place in 54 while Appius was still in Rome: Appius would have wanted to be present for such a politically important match; it need not be assumed that everyone was as lackadaisical as Cicero in arranging marriages of daughters.

20 QFr. 2.14.3.

21 See p. 262.

22 QFr. 2.11.2-4.

23 Cicero is not specific about the number of tribunes or tribunician bills. He only says: "Sed tamen tribuni plebis de Gabinio se acturos esse dicunt." QFr. 2.12.3. C. Memmius was very probably one of these tribunes: later in the year he prosecuted Gabinius de repetundis and secured his condemnation. M.R.R., II, 218, 223.

24 QFr. 2.12.3.

25 A. 4.15; 4.17; 4.18; 4.19; QFr. 3.1; 3.2; 3.3; 3.4; 3.5; 3.6; 3.7.

26 Cf. QFr. 2.5.2-3 where Cicero enumerates the methods used by the consul Marcellinus in 56 to void the diēs comitiales.

27 See App. LI, p. 508.

28 A. 4.8a.1-2; Plut. Cato 41-2; Crass. 15; Suet. Iul 24; Nero 22.

29 QFr. 2.12.2. Later in the year he also showed his enmity towards Pompey when he unsuccessfully opposed Julia's burial in the Campus Martius. D.C. 39.64; for other instances of his hostile disposition, see M.R.R., II, 221.

30 See App. LII, pp. 509-510.

31 A. 4.17.2; see also A. 4.15.7; QFr. 3.1.6; 3.2.3; 3.3.2.

32 A. 4.17.2. Why would Cicero say that such a scandalous revelation did not harm Appius' reputation? It was probably the type of thing which Appius, with his reputation for effrontery, was expected to do. Cf. Plut. Luc. 21, 23, where Appius is represented as speaking down to Tigranes the king of kings who had not heard a free speech in twenty five years. Cf. also Fam. 3.7.5; 5.10a.2; S. B., A., II, 214; Fam., II, 248.

33 Cf. A. 3.24.1; S. B., A., II, 162.

34 Fam. 1.9.25. In the letter to Lentulus, Cicero goes on to

express the opinion that Appius' move was legal. For a detailed, interesting, complexly circuitous discussion of the manifold ramifications of the enigmatic lex curiata, see S. B. Fam., I, 316.

35 A. 4.18.4; cf. QFr. 3.2.3.

36 A. 4.17.2.

37 A. 4.15.7.

38 A. 4.17.3; cf. A. 4.15.7; QFr. 2.15.4; 2.16.3.

39 A. 4.15.7.

40 QFr. 3.6.3.

41 See App. LIII, p. 511.

42 See App. LIV, pp. 512-3.

43 Scaur. 33-5.

44 Only one patrician could be elected consul: Gaius would have to compete for the position with the other two patricians, Scaurus and Messalla. Asc. pp25-6; A. 4.16.5; Scaur. 35; Schol. Bob. 275; S. B., A., II, 202.

45 Cf. A. 4.15.2.

46 Gruen, L.G.R.R., p. 333.

47 Scaur. 32, 35.

48 Asc. p. 18.

49 Scaur. 36-7; Plut. Caes. 21.

50 See pp. 264, 614, n. 19.

51 It would have taken place some time after QFr. 2.14.3 of June 54, when Appius was at odds with Domitius Ahenobarbus, Cato's brother-in-law, for his friendly relations with Caesar.

52 Dio also ties in these events with a flood that struck Rome in 54. D.C. 39.61-2. Cicero, however, mentions the flood, if indeed it is the same flood referred to by Dio, in a letter to Quintus of late October 54, where he says that it occurred after Gabinius' acquittal de maiestate. QFr. 3.5.8. Dio himself shows that Cicero's flood is not at issue because his flood took place before Gabinius' arrival into Italy.

53 QFr. 3.1.15. For the time required for a leisurely trip to Rome, cf A. 4.1.4-5; S. B., A., II, 166-7.

54 QFr. 2.13.3.

55 A. 4.17; QFr. 2.16; 3.1.

56 QFr. 2.16.1.

57 QFr. 3.1.1.

58 A. 4.17.1-5.

59 Asc. p. 18.

60 The pact would have been made well before the election: it would not have been organised overnight. This would explain why Quintus, who was in Britain, knew of it before August 10, 54. QFr. 3.1.13, 14, 16. See also QFr. 2.15.4 where the pact is depicted as being in operation by July 15.

61 D.C. 39.60.3.

62 D.C. 39.58-9; Plut. Ant. 3.2 gives 10,000 talents as the amount received by Gabinius.

63 D.C. 39.59-60.

64 Fam. 1.9.20.

65 QFr. 3.1.15.

66 QFr. 3.1.24.

67 See App. LV, pp. 514-7.

68 QFr. 2.12.2; 3.2.2.

69 QFr. 3.2.2.

70 QFr. 3.2.3.

71 QFr. 3.2.2-3.

72 Asc. pp. 25-6; Fam. 3.1.1; 3.2.2; 3.4.2; 3.5.3; 3.6.5-6;
The reconciliation is first mentioned in QFr. 2.11.3 of February 54.

73 Div. 1.105; Sull. 40.

74 In a letter to Appius, Cicero mentions that Appius' behaviour towards him resulted from his support of Clodius; not personal enmity. Fam. 3.10.8.

75 See App. LVI, pp. 518-9.

76 Fam. 2.13.2; 3.1.1-2; 3.7.6; 3.8.6; 3.9.1; 3.10.8; 3.13.1.

77 QFr. 2.11.2-3. The honours, which included the right to wear a toga praetexta, had probably been bestowed at the request of Pompey. After defeating him in 64, Pompey became friendly with Antiochus. App. Mith. 106. Later he increased his kingdom by adding Seleucia and part of Mesopotamia to it. Mith. 114. Appius, therefore, may have been acting on Pompey's behalf in the matter or he may have simply been attempting to increase his clientela in the East.

78 See App. LVII, p. 520.

79 QFr. 2.11.2-3.

CHAPTER XI

1 Mil. 14; Schol. Bob. 172, frgm. 16. Only the tribunician elections were held in 54. The other elections were continually delayed by the political disturbances resulting from the large scale bribery of the consular candidates and the tribunician obnuntiationes. A. 4.15.7; 4.17.3-4; 4.19.1; QFr. 1.14.4; 2.16.3; 3.1.16; 3.2.3; 3.3.2; 3.6.4; 3.7.3.

2 See p. 512.

3 A. 4.15.4. In this passage Cicero gives a candid glimpse of Clodius' oratorical skills which he ridicules in his speeches. Here Cicero admits that Clodius moved the jurors with his speech. Through his "sane disertio epilogio" Clodius had probably moved the jury when he referred to the sad fate of Proci- lius' victim: his moving eloquence secured a vote of condemna- tion. For Cicero's attacks on Clodius' speaking abilities, cf. Har. 17; Cael. 27; Scaur. 37.

4 Shackleton Bailey thinks that Procilius was the tribune of 56 who would have been a follower of the dynasts. Since he also places Clodius in that category, Clodius could not have been acting as a prosecutor: it would not do for one follower of the dynasts to prosecute another follower of them. Conse- quently, the text, which reads "criminans" must have origi- nally been "lacrimans". Clodius would have been defending, not prosecuting. S. B., A., II, 208. Gruen, however, has ef- fectively argued against the hypothesis. According to Gruen, there is no reason to assume that Procilius was the tribune of 56 or that he was a follower of the dynasts; therefore, there is no need to make Clodius a defence attorney or to emend "criminans" to "lacrimans". Gruen, L.G.R.R., pp. 315-6, n. 25. It may be added that there is no evidence for presuming that Clodius was anyone's follower at this time.

- 5 QFr. 2.15.2.
- 6 A. 2.1.8; 4.19.2; Fam. 14.3.1; QFr. 3.1.18.
- 7 Har. 50-1.
- 8 QFr. 3.4.2; see 3.4.6 for the date of the letter.
- 9 QFr. 3.1.15.
- 10 Fam. 1.9.19; QFr. 2.16.3; cf. A. 4.16.5; S. B. A., II, 201-2.
- 11 Fam. 1.9.19.
- 12 A. 2.7.2-3; 2.9.1-3; 2.12.1, 2; 2.15.2; 4.3.5.
- 13 See pp. 3-8.
- 14 See pp. 249-50.
- 15 Mil. 21, 54, 79, 84; Schol. Bob. 170, frgm. I; 174, frgm. XXV.
- 16 Plut. Cato 45. Given the-rarity with which Plutarch resorts to this procedure, one is led to conjecture that he had Cato's actual speech at hand, or a version of it; the speech would not be a fabrication which Plutarch puts into Cato's mouth to dramatize his reply to Clodius.
- 17 M.R.R., II, 221-2.
- 18 M.R.R., II, 225.
- 19 Mil. 68; QFr. 2.3.1-2.
- 20 QFr. 3.6.6.
- 21 A. 4.3.5.
- 22 See p. 286.
- 23 App. BCiv. 2.20; Asc. pp. 31, 35; A. 3.8.3; Fam. 1.1.3. Nothing further is heard of Gutta.
- 24 See p. 286.

25 See pp. 281-3.

26 In 58 Clodius had won over Gabinus and Piso by his tribunician laws which gave each a lucrative proconsular command. In 52 he would be able to effect the same thing through the auspices of a friendly tribune and the support provided by his operae. For Clodius' connections with the tribunes of 52, see pp. 300-305.

27 Dion. Hal. 7.59.2-8.

28 A. 4.18.2; 4.19.1; Fam. 8.4.3; QFr. 3.6.6.

29 Schol. Bob. 170, frgm. I, III; 174, frgm. XXV.

30 Cf. Dom. 22 where Caesar in 58 had sent Clodius a letter congratulating him on his oustering of Cato.

31 QFr. 3.1.11. Quintus' letter was posted before August 10, 54; it preceded a letter sent on that date. QFr. 3.1. 8-9, 11, 13. For another instance of Quintus viewing Caesar's mail, see QFr. 3.7.5.

32 QFr. 3.1.17.

33 Mil. 88.

34 Fam. 7.5.3; QFr. 3.1.13; 3.6.4.

35 A. 9.42; 10.48; D.C. 41.36.1-2; Vell. Pat. 2.68; cf. A. 7.8.5.

36 Mil. 87.

37 Asc. p. 52.

38 Schol. Bob. 173, frgm. XVII.

39 Schol. Bob. 173, frgm. XVII.

40 See. App. LVIII, p. 521.

41 Mil. 89.

- 42 Schol. Bob. 173, frgm. XVIII.
- 43 Schol. Bob. 173, fragm. XVIII; cf. Quint. Or. 9.2.54.
- 44 Stangl, Ciceronis Orationum Scholiastae, 173.
- 45 The Pro Milone was delivered to a jury and the De Aere Alieno Milonis, to the senate. Mil. 1; Schol. Bob. 169.
- 46 A. 3.15.6; Gell. 13.16.1; Livy 22.8.13-4; 23.22.9; 38.44.10-1; 45.21.1-8; cf. S. B., A., II, 152.
- 47 See pp. 210-2, 472, 477-8.
- 48 Asc. pp. 50-1.
- 49 Mil. 33.
- 50 Asc. pp. 30, 48; Mil 25, 32.
- 51 Fam. 2.6.3-5; QFr. 3.1.13; 3.7.2.
- 52 Asc. pp. 53-4; Fam. 15.4.12.
- 53 App. BCiv. 4.22; Asc. pp. 33-4, 36, 41, 44; Mil. 12-3, 58-62, 91. Caelius and the six individuals named after him have been included as Milo's supporters on the grounds that they sought to prevent any retaliatory action against him for the murder of Clodius. Such conduct indicates that they had backed him against the factio of Clodius, Hypsaeus and Scipio. The same factor accounts for the inclusion of the "number of other senators" among his backers; Cicero in the senate had said that the majority of the senate approved of Milo's murder of Clodius.
- 54 Fam. 2.6.3.
- 55 Asc. pp. 31, 53; Fam. 2.6.3; Mil. 95.
- 56 QFr. 3.6.5, 6.
- 57 QFr. 3.7.2.
- 58 Fam. 2.6.5.

59 Asc. p. 31; Mil. 41, 96; Schol. Bob. 169; 172, frgm. XIII. The elections of the magistrates of 53 had been delayed until July of that year by the disturbances resulting from the candidates' canvass for office and by the interference of tribunes. Pompey had probably also contributed to the delay in the hope of obtaining a dictatorship; it was only after he relinquished such aspirations that the consular elections were held. App. BCiv. 2.19-20; Fam. 7.11; 8.9.3; QFr. 3.6.4; 3.7.3; D.C.40.45.1; Plut. Pomp. 54.

60 Schol. Bob. 173, frgm. XIII.

61 Mil. 40-1.

62 Schol. Bob. 169; 172. frgm. XIII.

63 - The speech is the now fragmentary De Aere Alieno Milonis. However, the fragments combined with the comments of the Schol. Bob. provide sufficient information for establishing the gist of what Cicero said.

64 Schol. Bob. 170, frgm. I, II; 170-1, frgm. IV; 172, frgm. IX, X; 174. frgm. XXV.

65 Schol. Bob. 173, frgm. XVII, XVIII.

66 Schol. Bob. 172, frgm. XVI.

67 Schol. Bob. 173, frgm. XIX.

68 Schol. Bob. 171, frgm. VI.

69 Schol. Bob. 173, frgm. XX.

70 Schol. Bob. 171, frgm. VIIa, b; 172, frgm. XI.

71 Schol. Bob. 174, frgm. XXII.

72 Schol. Bob. 170, frgm. II.

73 Schol. Bob. 172, frgm. XIV.

74 Schol. Bob. 172, frgm. XV.

75 Schol. Bob. 169-70.

76 Asc. p. 35. Three hundred seems to have been the accepted number for a bodyguard. In 54, Faustus Sulla, the quaestor, had threatened to use that number of armed men to defend himself. Asc. p. 20.

77 Asc. p. 32.

78 Mil.-26; Schol. Bob. 172, frgm. XII.

79 App. BCiv. 2.20; Asc. pp. 30-1; Plut. Cato 44; Pomp. 54; D.C. 40.48.1.

80 Asc. p. 48.

81 Mil. 37.

82 Asc. pp. 31, 40-1.

83 See App. LIX, p. 522.

84 A. 4.3.3.

85 See p. 622, n. 51.

86 Phil. 2.48-9; see also Mil 40-1 for a more dramatic version of the incident.

87 Phil. 2.48.

88 Asc. p. 41.

89 Asc. p. 30; D.C. 40.48.1; Plut. Cato 47.

90 Asc. p. 33; cf p. 35.

91 Mil. 25.

92 Clodius was not a novice when it came to bribing the plebs. Har. 42. The divisoires were usually called to the briber's home. A. 1.16.10; Verr. 1.8.22-3; cf. Or. 2.257; Planc. 38, 48; Verr. 2.4.20.45; Suet. Aug. 3.

93 Cf. Treggiari, "A New Collina," 121-2, for such an interpretation.

94 D.C. 40.46.1-3. The measure was later carried into law by the consul Pompey in 52. D.C. 40.56.1.

95 Asc. pp. 30-1, 42-3; Schol. Bob. 116.1-13.

96 App. BCiv. 2.20; Asc. p. 31; A. 4.3.5; Har. 7.

97 Asc. p. 32. Appian's account of the method of murder differs slightly: Clodius was knifed and it is unknown if he ^{was} were alive or dead when he was taken to the tavern. App. BCiv. 2.21. Cicero, meanwhile, says that Clodius died of a single blow in the initial battle. Mil. 86.

98 Asc. pp. 30-2, 34-5, 41, 53-5; App. BCiv. 2.21; Mil. 86; D.C. 40.48.2; Livy Per. 107; Plut. Cic. 35; Quint. 6.5.10; Vell. Pat. According to the speech, which Milo's enemy Metellus Scipio delivered in the senate about thirty days after Clodius' murder, eleven of Clodius' men had been killed while Milo's men only suffered two casualties. Scipio also alleged that Milo's violent behaviour did not end with Clodius' death. After the affray on the Via Appia, Milo allegedly went to Clodius' Alban villa in search of his son P. Clodius. At the villa he tortured the vilicus ~~Malicor~~ to death and killed two other slaves in an unsuccessful attempt to discover his whereabouts. Asc. pp. 34-5.

99 Mil. 23, 26-31, 39, 45, 53-5.

100 App. BCiv. 2.21; Asc. pp. 31-2, 41; Quint. Or. 6.5.10; Vell. Pat. 2.45.4.

101 Mil. 26; cf. Mil. 52.

102 Asc. pp. 35, 41.

103 Mil. 45-6.

104 App. BCiv. 2.21; Asc. pp. 31-2, 41; Quint. 6.5.10; Vell. Pat. 2.45.4.

105 Causinius Schola was a long time friend of Clodius. In 61, at the Bona Dea trial, he testified that Clodius had visited him at Interamna on the evening of the Bona Dea scandal. See p.

106 Mil. 46-51, 54.

107 See App. LX, pp. 523-4.

108 App. BCiv. 2.21; Asc. pp. 27-8, 32-3, 42, 46; Mil. 12, 33, 86, 91; D.C. 40.49.1-3; Livy Per. 107; Schol. Bob. 115.1-7.

109 App. BCiv. 2.21.

110 Mil. 90.

111 Dio Cassius 40.49.3 points to the orchestrated nature of the proceedings by referring to the well-planned funeral feast which was held at the ninth hour while the senate was still smouldering.

112 Asconius p. 33 calls it "Clodiana multitudo".

113 See App. LXI, pp. 525-6.

114 Asc. p. 33; D.C. 40.49.3-4. Caesar's funeral was marked by many of the same features which characterized Clodius' funeral: the nude lacerated body on the rostra; the speeches made over the body; the angry crowd of the deceased's supporters; the improvised pyre, the public cremation, the attack on the murderers' house. Mark Antony, who was in Rome at the time of Clodius' funeral, obviously then learnt a good lesson in political propaganda which he put to good use upon Caesar's death. App. BCiv. 2.143; A. 14.10.1; 14.14.3; Phil. 2.90; Suet. Iul. 84-5.

115 Gellius 17.18 citing M. Varro's De Pace. The incident had probably occurred in 55, the year which Broughton tentatively assigns to Sallust's quaestorship. According to the In

Sallustium Crispum Oratio 5.15; 7.16, there had been rumours circulating about Sallust's flagrant adulterous behaviour while he was quaestor. An incident such as that described above would have given rise to such a rumour. M.R.R., II, 217,

116 Mil. 27.

117 Mil. 45.

118 Asc. p. 49.

119 App. BCiv. 2.22; Asc. p. 33; Mil. 61, 91; D.C. 40.49.4; 40.50.1-2.

120 Asc. pp. 40-1; Mil 3.

121 Asc. pp. 50-1.

122 Asc. pp. 50-1.

123 Asc. pp. 33-4, 51; Mil. 70-1.

124 Mil. 65.

125 Asc. p. 51.

126 Asc. p. 51,

127 Asc. pp. 51-2.

128 Asc. p. 34.

129 Asc. pp. 36, 50, 52; Mil. 67.

130 Asc. p. 52.

131 A. 2.24.1-4; Vat. 24-6.

132 A. 2.24.3

133 Asc. pp. 46-7, see pp. 153-4.

134 See pp. 130-1.

135 See pp. 224-5.

136 See p. 304.

137 Asc. p. 51.

138 Asc. pp. 37-8, see also 36. Cicero probably refers to Plancus' allegations in the Pro Milone: "Quid? Quae postea sunt in eum congesta quae quemvis etiam mediocrium delictorum conscientia perculissent, ut sustinuit, di immortales! Sustinuit? Immo vero ut contempsit ac pro nihilo putavit, quae neque maximo animo nocens neque innocens nisi fortissimus vir negligere potuisset! Scutorum, gladiatorum, pilorum frenorum etiam multitudo deprehendi posse indicabatur; nullum in urbe vicum, nullum angiportum esse dicebant in quo Miloni conducta non esset domus; arma in villam, Oriculanam devecta Tiberi, domus in clivo Capitolino scutis referta, plena omnia malleolorum ad urbis incendia comparatorum: haec non delata solum, sed paene credita, nec ante repudiata sunt quam quaesita." Mil. 64.

139 * Asc. pp. 36-7, 43-5, 49-51.

140 App. BCiv. 2.23; Asc. pp. 36, 44; Phil. 2.21-2; D.C. 40.504-5; 40.51.1-2; Livy Per. 107; Plut. Cato 47; Pomp. 54.

141 Asc. p. 36; see also p. 39 for a more detailed account of the court set up; cf. Brut. 2.9.22; Fin. 4.1.

142 Asc. p. 38; Mil. 21-2; D.C. 40.52.2; 40.55.2; Plut. Ca-
to 48.

143 Cf. Asc. pp. 18-20, 28-9, where a very guilty Scaurus was acquitted by these means. The auctoritas of his witnesses and skills of his attorneys overwhelmed the jury. Cf. also p. 10 where Catiline was acquitted in a similar manner.

144 Asc. p. 33; Mil. 21-2.

145 Asc. p. 36.

146 Asconius cites two instances in which Pompey's fear of Milo after the promulgation of the bill is revealed: "Timebat

autem Pompeius Milonem seu timere se simulabat: plerumque non domi suae sed in hortis manebat, idque ipsum in superioribus circa quos etiam magna manus militum excubabat. Senatū quoque semel repente dimiserat Pompeius, quod diceret timere se adventum Milonis. Dein proximo senatu P. Cornificius ferrum Milonem intra tunicam habere ad femur alligatum dixerat; postulaverat ut femur nudaret, et ille sine mora tunicam levarat." p. 36. For other instances of Pompey's fear of Milo, see Mil. 66-7.

147 Asc. pp. 44-5.

148 Asc. pp. 43-5; Fam. 15.4.2; Mil. 12-5.

149 Asc. pp. 35-40, 42, 49-50; Mil. 12, 47-8; Schol. Bob. 117. 1-26. Given a trinundinum of 17 days, the bill, which was promulgated on the twenty-eighth day of the intercalary month, would have had its rogatio on or after March 16. From March 16 till April 4, the first day of Milo's trial under the law, there would be sufficient time for the election of the quaesitores, the choice of jury and the other preliminaries of the trial to take place.

150 For the two Appii, cf. S. B., II, 154.

151 Asc. pp. 38-41, 52-6; Mil. 1-3, 7, 15, 27-9, 31, 41, 46, 51, 71; App. BCiv. 2.23.4; D.C. 40.53.1-2; 40.54.1-4; Plut. Cato 49; Cic. 40; Pomp. 55.

152 Asc. pp. 55-6; Fam. 2.9.3; 7.2.1-4; 8.1.4; Phil. 11.14; 13.27; D.C. 40.55.1-4; Plut. Cato 48; Val. Max. 4.2.7.

153 Asc. p. 31.

154 See p. 287.

155 Fam. 7.2.2; Plancus went into exile at Ravenna where he was given a modest honorarium by Caesar. Later he was recalled and served under Antony near Mutina in 43. There, to

Cicero's extreme delight, he broke a leg. Fam. 9.10.2; 12.18.2; Phil. 6.10; 10.22; 11.14; 13.27; M.R.R., II, 354, The other former tribune Rufus went to Bauli where he eked out a living until his prosecutor Caelius took pity on him. Fam. 2.9.3; 8.1.4; Val. Max. 4.2.7. Meanwhile, Sextus Cloelius was recalled by Antony with Cicero's acquiescence in 44. Fam. 14.13; 14.13a.1-3; 14.13b.1-5; Phil 1.3, 96; 2.7, 10.

CHAPTER XII

1 A. 5.14.1; 5.15.1; M.R.R., II, 229, 242.

2 S. B., A., III, 189.

3 Brutus was only elected quaestor of 53 in July of the same year. He probably set out for Cilicia immediately afterwards. He was back in Rome by the intercalary month of 52. Asc. pp. 34-5; M.R.R., II, 228-9.

4 L. Clodius: Fam. 3.4.1; 3.5.3; 3.6.2; 3.8.5; 3.9.7; cf. S. B., Fam., I, 362; Fabius Vergilianus: Fam. 3.3.1-2; 3.4.1; cf. S. B., A., IV, 342; Scaevola: Fam. 3.5.5.

5 Flaccus: Fam. 3.4.11; 3.33.3; cf. S. B., Fam., I, 362; Octavius: Fam. 3.4.1; cf. S. B., A., III, 234.

6 Servilius: Fam. 3.10.2; 3.11.1; 3.12.4; cf. S. B., Fam., I, 375; Lucilius: Fam. 3.5.1.

7 Phania: Fam. 3.1.1; 3.5.3; 3.6.1; 3.8.5; Cilix: Fam. 3.1.2.

8 Fam. 3.1.1; S. B., Fam., I, 359-60.

9 Fam. 3.13.1; 3.9.2; 8.6.1.

10 A. 5.15.1; 5.18.1; 6.5.3; Fam. 3.3.1-2; 3.6.5; 15.4.2.

11 A. 5.14.1.

12 Fam. 15.4.2.

13 Fam. 3.6.5; see also A. 5.16.4; S. B., A., III, 219.

14 See App. LXII, p. 527.

15 A. 5.21.7, 11.

16 A. 5.21.7.

17 A. 5.15.2; 5.16.2-3; 5.17.6; 6.1.2-3; Fam. 3.8.5. The

sale of taxes probably involved a process whereby the magistrates of communities acquired ready cash by farming out the taxes to the publicani. S. B., A., III, 218.

18 See App. LXIII, pp. 528-9.

19 A. 5.16.2-3.

20 Such deputations would also be helpful to Appius in defending himself against any prosecution de repetundis. S. B., Fam., I, 367.

21 Fam. 3.8.2-5; 3.10.6-7.

22 Fam. 3.7.2-3; 3.9.1; S. B., Fam., I, 376.

23 A. 5.14.1; 5.15.1; Fam. 3.2.1-2; M.R.R., II, 234, 243; S. B., A., III, 189; Fam., I, 361-2.

24 A. 5.9.1; 5.11.4; 5.14.1; 5.18.1; 5.20.2-3; 5.21.2, 9; 6.1.3, 14; 6.2.6; 6.6.3; 7.1.2; 7.2.8; Fam. 2.10.2; 2.17.1, 6; 3.8.10; 8.7.1; 8.10.2; 8.14.4; 9.25.1; 15.1.2-3.

25 A. 5.9.1; Fam. 3.4.1-2; 3.5.1, 3-4; 3.6.1-2, 4, 6; 3.8.5, 7; cf. S. B., Fam., III, 364.

26 Fam. 3.5.5.

27 Fam. 3.5.5.

28 A. 5.16.4; 5.17.6; Fam. 3.6.4-5; 3.8.6; S. B., A. III, 313.

29 Cf. Fam. 3.7.4-5.

30 Fam. 3.7.4-5; S. B., A., III, 225, 313; Fam., I, 370-1.

31 Fam. 3.8.1-8; see Fam. 3.10.6, for Cicero's action on the legates.

32 Fam. 3.7.3. Cicero was probably writing 'shortly after February 11'; he would have only received Appius' letter shortly after the winter solstice on February 1; S. B., Fam., I, 370.

33 Fam. 3.7.2-3.

34 Fam. 3.7.5.

35 Fam. 3.7.4.

36 Fam. 3.7.5.

37 A. 6.1.2.

38 A. 5.91; 5.10.2; 5.11.5; 5.14.2; 5.15.2; 5.16.2-3; 5.17.2, 5; 5.19. 2; 5.20.2-3; 5.21. 5-7, 7, 11; 6.1.23; 6.2.2-4; 6.3.3; 7.3.8; Fam. 3.8.5, 7-8; 8.6.1; 2.13.2.

39 A. 7.1.6.

40 A. 4.18.4

41 Fam. 1.9.25.

42 He certainly arrived by December. While he was on the outskirts of Rome Appius handed Philotimus, Terentia's freedman, a letter for Cicero; Philotimus was well on his way to Cicero by January 1, 50: about January 1, he was in the Chersonese. A. 6.1.19; S. B., Fam., I, 373. Appius' arrival in Rome can be pinpointed in another way. In a letter of October 8 from Mopsuhestia in the eastern part of Cilicia, Cicero wrote Appius that by the time he received the letter he would be at the gates of Rome. Fam. 3.8.1, 10. Forty-six days had been the record for the delivery of a letter from Rome to Cybistra which was also in the eastern part of Cicero's jurisdiction. Therefore, if Cicero's letter encountered few delays, it would make its way to Rome and Appius by early December. A. 5.19.1.

43 Fam. 2.13.2; 3.7.6; 3.8.6; 3.9.1-3; 3.10.8; 3.13.1; cf. Fam. 3.1.1-2.

44 Fam. 3.9.1-4.

45 Fam. 3.13.1-2; 8.11.1-2; S. B., Fam., I, 419.

46 Fam. 3.10.6.

47 Fam. 3.10.10.

48 Fam. 3.9.2; 8.6.1-2; S. B., Fam., I, 414-5.

49 Fam. 1.9.25; 2.13.2; 3.6.3, 6; 3.7.4; 3.10. 2, 11;
3.11.3; 8.6.1-3; S. B., A., III, 225; Fam., I, 370.

50 The marriage is first mentioned in Fam. 3.4.2 which Cicero wrote from Brundisium on June 5, 51. It had probably taken place sometime after Pompey's appointment as sole consul on the twenty-fifth day of the intercalary month in 52. His appointment as sole consul had signalled a rapprochement between himself and Appius' other adfinēs.

51 Appius told Cicero of his acquittal in a letter of April 5, 50. Fam. 3.11.1. In responding to the letter, Cicero shows that Appius probably acted as his own defence counsel: "ego enim a te cum tua promissa per litteras flagitabam, ad urbem te otiosissimum esse arbitrabar. nunc tamen, ut ipse polliceris, pro auguralibus libris orationes tuas confectas omnis expectabo." Fam. 3.11.4. The orationes would have been those which Appius made to defend himself at his trial.

52 Fam. 3.10.11; 3.11.1-2, 5; 3.12.1-2; 3.13.2; S. B. Fam., I, 378. The time of the trial is arrived at in the following manner. In a letter of June, Caelius wrote that Hortensius was at death's door. Meanwhile in the Brutus Cicero writes that Hortensius and Brutus had defended Appius a few days before Hortensius' death. Brut. 230, 324; Fam. 2.13.2; S. B., Fam., I, 424.

53 Fam. 2.13.1-4; 3.10.5; 8.6.1; S. B., Fam., 414.

54 A. 6.6.6; Fam. 2.15.2; 3.11.1; 3.12.1-4.

55 Fam. 8.14.4; As Shackleton Bailey points out, Appius probably issued new regulations in these areas by means of censorial edicts. Fam., I, 432-3; see also A. 6.9.5.

56 D.C. 40.57.1.

57 D.C. 40.63.2-4.

58 Div. 1.29-30; D.C. 4063.4; In Sallustium Crispum Oratio 16; M.R.R., II, 216.

59 Caelius describes the conflict in Fam. 8.12 which he wrote in late September, S. B., Fam., I, 434. It had developed since his previous letter, 8.14, which was written in early August. S. B., Fam., I, 429.

60 QFr. 2.12.2.

61 Fam. 8.6.5; 8.12.1; S. B., Fam., I, 434.

62 Earlier in the year Caelius, despite his friendship with Domitius, had supported Antony's candidacy for the augurate left vacant by the death of Hortensius. When Antony won, the defeated Domitius became Caelius' very bitter enemy. Caelius describes Domitius' loss in Fam. 8.14.1: "numquam tibi oculi doluissent si in repulsa Domiti vultum vidisses. magna illa comitia fuerunt et plane studia ex partium sensu apparuerunt, perpauci necessitudinem secuti officium praestiterunt. itaque mihi est Domitius inimicissimus, ut ne familiarem quidem suum quemquam tam oderit quam me, atque eo magis quod per iniuriam sibi putat ereptum cuius ego auctor fuerim. nunc furit tam gavisos homines suum dolorem unumque m(e Curi) one(m) studiosiorem Antoni. nam Cn. Saturninum adolescentem ipse Cn. Domitius reum fecit sane quam superiore a vita invidiosum; quod iudicium nunc in expectatione est, etiam in bona spe post Sex. Peducaei abso-
lutionem."

63 Fam. 8.12.1.

64 See above, n. 62.

65 Fam. 8.12.1. It would also be a favour to Pompey, because the latter had been at odds with Caelius in the recent

past. When Caelius was tribune in 52 he had complained bitterly about the lex Pompeia de vi: he claimed that it was a privilegium aimed at Milo. Pompey threatened to use the powers which had been entrusted to him by the s. c. u. against Caelius. Asc. p. 36.

66 Fam. 8.12.2-3.

67 Fam. 8.12.3. The date of the charge can be approximated. Caelius says: "insolentissimi homines summis Circensibus ludis meis postulandum me lege Scantinia curant." Fam. 8.12.3. These ludi were the ludi Romani which lasted from September 4 to 19 and which Caelius celebrated in his capacity as aedile. Since Caelius says, "summum Circensibus ludis" the charge was probably laid in the latter stages of the games. S. B. Fam., I, 435.

68 Fam. 8.12.3

69 D.C. 40.63.2-5; 40.64.1-3; M.R.R., II, 249.

70 A. 8.15.3

71 A. 9.1.4. Shackleton Bailey points out that the "inimicitiarum recentium" was a reference to Appius' differences with the Caesarians, Curio, Caelius and Dolabella. Cicero, however, was probably also referring to the many enmities between Appius and those whom he had expelled from the senate and the equestrian order. D.C. 40.63.3-4; S. B., A., IV, 359.

72 A. 7.8.5; 9.14.2; 10.4.8.

73 Luc. 5. 194-6.

74 Luc. 5. 230-6.

75 Brut. 267; Fam. 3.7.5; 3.8.1; 3.9.1; 3.10.9; 3.11.4; cf. Quint. Or. 8.3.35.

CHAPTER XIII

- 1 M.R.R., I, 160, 164-5.
- 2 M.R.R., I, 214.
- 3 Nat. Deo. 2.7; Sen. 37; Gell. 10.6.2; Livy Per. 19; Suet. Tib. 2; Val. Max. 8.1.4. ✓
- 4 App. Han. 56; Har. 27; D.C. 17.57.61;; Livy 29.10.4-8; 29.14.10-15; Ovid. Fasti 4.305-43; Val. Max. 1.8.11; Diod. Sic. 36.32.1 has a Valeria instead of a Claudia.
- 5 M.R.R., I, 471.
- 6 Cael. 34; D.C. 22.74.1; Macrobian. Sat. 3.14.14; Suet. Tib. 2; Oros. 5.4.7; Val. Max. 5.4.6.
- 7 For the sake of convenience, I shall refer to such names as Prima, Secunda, Tertia, as praenomina. As Hans Petersen points out, there was no rigid system for female nomenclature in the late republic or early empire: an appellative could be used as either praenomen or cognomen. Petersen, "Numerical Praenomina," 349-50.)
- 8 McDermott, "Sisters," 39-41.
- 9 Hillard, "Sisters Again," 506-7.
- 10 Asc. pp. 19-20.
- 11 App. Han. 56.
- 12 Hillard, "Sisters Again," 507.
- 13 Petersen makes this point quite clear: he shows rather convincingly that such names resulted from the early times when the Romans named their sons after the month in which they were born. Petersen, "Numerical Praenomina," 350-1.
- 14 Hillard himself points to epigraphical evidence which shows series of sisters designated by Prima, Secunda, Tertia, Quarta, Quinta. However, he adds the rider that this can not be assumed to be day to day practice. Hillard, "Sisters Again," 507-8.

15 Cael. 34; Har. 27; Val. Max. 1.8.11.

16 Plutarch says that Romulus had a daughter and a son, and that the daughter was called Prima because of the order of her birth. The explanation which Plutarch gave may have been his own or that of his source. If it were his own explanation, then it could have been based upon the practice used by the Romans to name their offspring in his own age, A.D. 45-120.
Plut. Rom. 14

17 Kajanto, "Women's Praenomina Reconsidered," 28.

18 Hillard, "Sisters Again," 507.

19 D.C. 40.7.1 has Kuivrou.

20 Plut. Cic. 29. (Loeb translation).

21 McDermott, "Sisters," 40.

22 Hillard, "Sisters Again," 510.

23 McDermott, "Sisters," 42-5.

24 See pp. 383-4 ff.

25 Lucullus would have divorced his wife in 66 upon his return from the East in order to sever ties with his brother-in-law Clodius who had incited his troops to mutiny at Nisibis. Plut. Luc. 38; see pp. 3-5.

26 Wiseman, Cinna, p. 111, n. 35.

27 Hillard, "Sisters Again," 513-4: Hillard uses the word "slight" to qualify his argumentation for making Clodia Metelli the eldest of the sisters.

28 Varro R.R. 3.16.2.

29 Plut. Cic. 29.

30 M.R.R., II, 122, 125, 137, 166, 183.

31 M.R.R., II, 100-1.

- 32 M.R.R., II, 100-1.
- 33 Plut. Cor. 1. The fact that the brother of Celer, Nepos, was a tribune indicates that the family was plebeian. M.R.R., II, 174.
- 34 A. 1.16.10.
- 35 Wiseman, Cinna, p. 113. Dio Cassius 39.7.2 tells us that in early 57 Appius was getting ready to celebrate funeral games in honour of one Marcus. It is reasonable to assume Dio had written the nomen Marcius: the mention of the praenomen Marcus would tell us nothing as to the identity of the person in question.
- 36 A. 2.1.6.
- 37 Cael. 34.
- 38 A. 2.5.2; 2.7.3; Cael. 59-60; Vat. 19.
- 39 A. 2.9.1; Cael. 1, 18, 35-6, 38, 51, 57, 68; Dom. 83; Mil. 75.
- 40 A. 1.18.3; Mil. 73; Plut. Cato 24, 29; Cic. 29; Luc. 21, 34, 38, 43; Mor. 785.a; Varro R.R. 3.16.1-2; Vell. Pat. 2.33.4.
- 41 S. B., A., V, 412-3.
- 42 C.I.L. I, 775; 3.545; Wiseman, Cinna, p. 112.
- 43 Wiseman, Cinna, p. 113.
- 44 Wiseman cites Plut. Cato 24, 34. For the absence of children in the Clodia-Lucullus marriage, see Plut. Luc. 21, 34, 38.
- 45 Fin. 3.27.9; Varro R.R. 2.7
- 46 Plut. Cic. 29; Luc. 1, 43.
- 47 Val. Max. 4.7.4; Vell. Pat. 2.71.2.

- 48 Wiseman, Cinna, pp. 113-4.
- 49 Wiseman, Catullan Questions, pp. 58-9.
- 50 Varro R.R. 3.16.2.
- 51 App. Mith. 116; Plut. Luc. 24, 29.
- 52 Plut. Luc. 21-2.
- 53 Dom. 111-2; Schol. Bob. 91.1-2.
- 54 See pp. 2-8.
- 55 See pp. 409-10.
- 56 See pp. 11-2.
- 57 See p. 584, n. 4.
- 58 Sest. 41.
- 59 A. 4.15.2; Scaur. 35; D.C. 39.21.1-2; M.R.R., II, 218, 224, 229.
- 60 A. 1.18.5, 8; Pinard, "Clodius' bid for the Tribune in 60 B.C.," 58-9.
- 61 Cael. 1-2.
- 62 Cael. 68.
- 63 A. 2.1.5.
- 64 Pliny N.H. 7.158; Val. Max. 8.3.16.
- 65 Wiseman, Catullan Questions, p. 59; Cinna, p. 114.
- 66 Wiseman, Cinna, p. 114.
- 67 Wiseman, Cinna, p. 114; see p. 358.
- 68 See pp. 359-61
- 69 Cael. 36; see p. 530.
- 70 Cael. 1-2.

- 71 See pp. 359-61.
- 72 A. 1.16.9.
- 73 See p. 360.
- 74 See pp. 363-4.
- 75 Rankin, "Clodia II," 503.
- 76 Fam. 5.6.1-2.
- 77 Rankin, "Clodia II," 503
- 78 A. 1.14.5; 1.16.1-4; Fam. 5.5; Sull. 44-50; Plut. Cic. 29; Schol. Bob. 85-6; see pp. 54-4.
- 79 McDermott, "Sisters," 44-6.
- 80 A. 1.16.10.
- 81 Fam. 5.1; 5.2.
- 82 Allen, "Cicero's House," 1-4.
- 83 Plut. Cic. 29.
- 84 McDermott, "Sisters," 44.
- 85 Wiseman, Cinna, pp. 139-46..
- 86 Fam. 5.2.6.
- 87 Plut. Cic. 19-20. (Loeb translation).
- 88 In M. Tullium Ciceronem Oratio 2.3.
- 89 C.I.L., IV, 1969, 2028.
- 90 Quint. Or. 8.6.53.
- 91 Cael. 59-60.
- 92 Cael. 1, 19, 20-1, 32, 68, 70, 75, 78-9.
- 93 Plut. Cic. 29. (Loeb translation)
- 94 Sest. 16.

- 95 Har. 9
- 96 Har. 42.
- 97 Har. 59.
- 98 Fam. 1.9.15.
- 99 For instances of Cicero's sexual invective against Clo-
dius, see Dom. 36, 49; Har. 33; Pis. 9; Planc. 86.
- 100 Sest. 39.
- 101 A. 2.9.1; 2.12.2; 2.14.1; 2.22.5; 2.23.3; Varro R.R.
2.5.5
- 102 S. B., A., I, 369.
- 103 A. 2.23.3.
- 104 S. B., A., I, 398.
- 105 The Pro Caelio was delivered on April 4, 56, while the
Pro Sestio would have been delivered shortly before March 11,
56, the day on which Sestius was acquitted. Cael. 1-2; QFr.
2.4.1.
- 106 A. 2.12.1.
- 107 Asc. pp. 33, 44, 55; Cael. 78; Dom. 25; Pis. 8; for
Cloelius' designation as Athenio, see S. B., A., I, 375.
- 108 A. 2.9.1; 2.12.2; 2.14.1; 2.22.2, 5; 2.23.3.
- 109 QFr. 2.3.2.
- 110 Cael. 31.
- 111 Plut. Cic. 29.
- 112 Mil. 73.
- 113 A. 2.1.5.
- 114 Cael. 50.

115 Cael. 30, 32, 34, 36, 49, 50, 59, 60, 69, 71, 78.

116 Mil. 73; Plut. Cic. 29.

117 See pp. 2-5.

118 For an instance of the prosecution's request for the slaves of the defendant, see Asc. p. 34; at the Bona Dea trial the prosecution did not even ask for the ancillae of Pompeia. Schol. Bob. 91.3-5.

119 Mil. 59-61.

120 Mil. 59.

121 Apuleius, Apology, 10.

122 Plut. Cic. 29.

123 A. 2.1.5.

124 S. B., A., I, 348-9.

125 S. B., A., I, 349.

126 Wiseman thinks that Cicero made the joke because of the reputation which all three sisters would have acquired as a result of the disclosures at the Bona Dea trial. Catullan Questions, p. 54. In my view, Cicero made the joke because of the current rumours which would have been circulating about the relationship of Clodius and Clodia Metelli.

127 Cael. 36.

128 Plut. Cic. 29.

129 Catullus, 37, 40, 77, 79, 82, 91; Cael. 35.

130 Catullus 77, 100.

131 Wiseman, Cinna, p. 106.

132 Wiseman, Cinna, pp. 106-7.

133 Wiseman, Cinna, pp. 107-8.

134 Cael. 71-2.

135 Cael. 70. (Loeb translation).

136. He treats the deed of Camurtius and Caesernius as an earth-shattering blow in order to depict its real insignificance. For instance, he says, "audetis excitare tanti flagitii memoriam non exstinctam illam quidem, sed repressam vetustate?" He also shows the lack of importance of the assault by using the strong language which he usually reserved to depict Clodius' incest with his sisters, "Nempe quod eiusdem mulieris dolorem et iniuriam Vettiano nefario stupro sunt persecuti." In Cael. 71 we can also perceive the sarcasm and cynicism with which Cicero addressed the jury by examining the words which he employs. There, he expresses his astonishment that such a case as the one involving Camurtius and Caesernius would be brought forth by the repetition of "audetis" at the beginning of two successive sentences which are rhetorical questions. As for the words "vetustate", "Vettiano", "Vetti" and "vetus", he uses them to impress the jury with the fact that the case, which the prosecution is talking about, is old news.

137 Cael. 23.-44 61-6.

138 The mention of the money fits neatly into this interpretation. Cicero says, "Ergo ut audiretur Vetti nomen in causa, ut illa vetus aeraria fabula referretur idcirco Camurti et Caeserni est causa renovata?" Here Cicero uses the adjective "vetus" to imply that the money in question was that of Vettius. He is saying that the old story about Vettius' money was brought into court in order that the case of Camurtius and Caesernius might also be brought forth. The point which Cicero would be making is that the money, which Vettius received, was referred to in order that the case of Camurtius and Caesernius, who gave him the money to act as their agent, would also be mentioned. Vettius would not have only been their agent but their paid agent.

139 I also quote part of Cael. 69, because it is pertinent to the ensuing discussion.

140 McDermott, "In Caelianam," 408-9.

141 McDermott, "In Caelianam," 409.

142 Wiseman, Cinna, pp. 171-2.

143 Wiseman, Cinna, pp. 173-5.

144 Wiseman, Cinna, pp. 174-5.

145 For Caelius' use of the verb "cadere" with an explicit sexual connotation, see Fam. 8.12.3; he makes the following remark, after mentioning that he had charged Appius with a homosexual offence under the lex Scantinia: "vix hoc erat Pola elocutus cum ego Appium censorem eadem lege postulavi. quod melius caderet nihil vidi. nam sic a populo et non infimo quoque approbatum ut maiorem Appio dolorem fama quam postulatio attulerit."

146 Cael. 36.

147 Har. 42.

148 Dom. 25.

149 Dom. 36.

150 Dom. 82-3.

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