

# Trials in the Late Roman Republic,

149 BC to 50 BC

Records of criminal and civil trials offer scholars a wealth of information about legal practices and principles, social history, and the conventions of rhetoric. For Roman historians court records as we know them today do not exist. To fill that gap Michael C. Alexander has tabulated, as exhaustively as possible, the scattered information available about the 391 known trials, criminal and civil, dating from the last century of the Roman Republic (149 BC to 50 BC).

For each case Alexander provides as many pieces of legal data as are available, including wherever possible the date of the trial, the charge, the verdict, and the names of all involved: defendant, defense speaker, prosecutor or plaintiff, presiding magistrate, jurors, and witnesses. The entry for each trial also contains citations of relevant ancient sources and modern scholarship. Footnotes make the reader aware of any dubious or controversial points which relate to the formal aspects of the trial. Also included are a general index of names, plus separate indexes by role, and an index of procedures.

For Roman historians and scholars in the fields of Roman law and Latin rhetoric, this volume is an invaluable reference work for the study of the judicial system of ancient Rome in the last one hundred years of the Republic.

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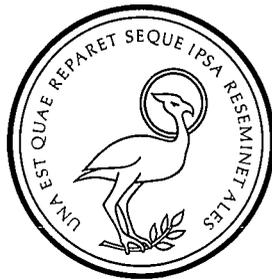
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**Trials in the  
Late Roman Republic,  
149 BC to 50 BC**



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Finally, I wish to acknowledge my debt to the late Professor G.V. Sumner of the University of Toronto, to whose memory this book is dedicated. My dissertation, written under his supervision, contains an appendix covering trials from the years 81 to 50 BC. As I have worked on this project in the years following, I have realized how much I owe to him.



## INTRODUCTION

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In this work I have attempted to tabulate, as exhaustively as possible, the known legal facts pertaining to the 391 trials and possible trials, criminal and civil, which date from the last century of the Roman Republic, and about which some information has survived. The purpose of this work is to convey the sort of information which we might expect to find in court records, although, of course, it is not in reality such a documentary source, and should not be treated as one. I hope that this designedly austere recitation of the facts which we know about the Late Republic will prove to be of use to scholars working in Roman political history, legal history, and rhetoric.

The model which I have followed, *mutatis mutandis*, is Broughton's *Magistrates of the Roman Republic*. Like *MRR*, this work takes a general body of previously known information and, by compressing it into a standardized format, seeks to make it easier for other scholars to use. Whether this work accomplishes that goal as successfully as Broughton's has done, and whether the subject matter here is of as encompassing an interest and importance as that which *MRR* covers, are different questions entirely. But if this book provides to some extent the kind of help which *MRR* has provided to scholars, I will be well satisfied.

The following types of data are recorded for each trial when it is available, although in virtually all cases some of these categories are not represented because of a lack of information:

- 1 date
- 2 charge or claim: procedure (offense[s])
- 3 defendant
- 4 advocate(s): speaker(s) for the defendant and/or the plaintiff (includes *procurator* and *cognitor*)
- 5 prosecutor(s) or plaintiff(s)

- 6 presiding magistrate (includes praetor, urban praetor, peregrine praetor, aedile, *iudex quaestionis*, *quaesitor*, and *duumvir perduellionis*)
- 7 jurors (includes advisory council and *arbiter*)
- 8 witnesses (includes informer, character witness, *advocatus*, *laudator*, *supplicator*, and *delator*)
- 9 party (parties) to a civil suit, where it is not known who is the defendant and who the plaintiff
- 10 other individuals directly involved in the trial, or miscellaneous information (see below)
- 11 verdict

Wherever one or more of these items is absent, the implication is that information on that item (or those items) is not available. In the text, individuals are listed by *praenomen*, *nomen*, and *cognomen*, and by the identifying number from the *Real-Encyclopädie*, e.g., M. Tullius Cicero (29). (In the indexes, to allow computer-driven alphabetization, the order *nomen*, *praenomen*, and *cognomen* is used, e.g., Tullius [29], M. Cicero.)

In the case of senators, I have followed the standard practice of listing the year in which they held the consulate (and also the year they held the censorship, if that office was reached). If a senator did not reach the consulate, I list the highest political office that senator attained. This information helps identify the individual, and also, because of the nature of the Roman political system, provides the reader with some idea of the political stature of any senator at the time of the trial.

In addition, any office relevant to the trial, or held during the year of the trial, is listed. The date when an office was held is given, unless the office was held during the year of the trial. *Equites Romani* are also identified as such. For Italians the city of origin is listed. After this information the reader will find citations of ancient sources, first the directly relevant sources, and second (following the suggestion 'see also'), sources which provide indirectly relevant material. In some cases further bibliographic references are then given to scholarly works not mentioned in the footnotes, and finally, in most cases, there are footnotes on difficult and disputed details. Following the text there is a bibliography of works cited, and indexes of all individuals and legal procedures. Trials which took place outside Rome (such as before a provincial governor) and trials falling under military or religious jurisdictions are not included. I have made an exception for the three trials of the Vestals *apud pontifices* (cases #38, #39, and #40), since

they provide necessary background for the following four trials (cases #41, #42, #43, and #44). I have also included case #167, also *apud pontifices*, as possibly relevant background to case #236, and the two companion cases to #167, cases #168 and #169.

As much as possible, I have used English words to designate the roles which the participants have in the trials (defendant, prosecutor, etc.). However, there may be many readers, especially those whose first language is not English, who will feel more at home with the Latin terms which these English words approximate, and so I include a list of the translations which I have chosen:

advisory council: *concilium*  
 advocate: *patronus*  
 character witness: *advocatus*  
 defendant: *reus*  
 informer: *index*  
 juror: *iudex*  
 legate: *legatus*  
 plaintiff: *petitor*  
 prosecutor: *accusator*  
 witness: *testis*

I have not translated the following Latin terms: *arbiter*, *cognitor*, *duumvir perduellionis*, *laudator*, *procurator*, *quaesitor*, and *triumvir capitalis*. The term 'party' has been used when we know that an individual was involved in a trial, criminal or civil, either as a plaintiff or prosecutor, or as a defendant, but we do not know which of those roles he played.

The rubrics of 'charge' (for criminal matters) and 'claim' (for civil matters) call for special comment. I have divided this material into two sections, first the *procedural* aspect of the case, and then (inside parentheses) the *substantive* aspect of the case. For criminal cases, the procedural aspect is usually defined by the statute under which the trial was held. Thus, for example, the entry 'charge: *lex Acilia de repetundis* (misconduct as gov. Macedonia 115)' should be understood to mean 'charge was laid against the defendant under the provisions of the *lex Acilia de repetundis*, for alleged misconduct as governor of Macedonia in 115 BC.' If there is reason to believe that a legal sanction against a certain type of crime existed, but we do not know the name of its specific statute, the procedural aspect is listed generically, e.g., *ambitus*. Thus, the entry 'charge: *ambitus* (campaign for consulate of 115)' should be understood to mean 'charge was laid against the defendant under some provision against *ambitus*, for alleged viola-

tions committed in a campaign for the consulate of 115.'

If the name of the statute is known, the charge is indexed under *Procedures*, both by the name of that statute (e.g., *lex Cornelia de repetundis*) and generically, according to the type of legislation (e.g., *repetundae*). Obviously, if the name of the statute is not known, then the charge is only indexed generically. I have used generic indexing even where we do know the name of the statute for the benefit of readers who wish to study a particular type of crime.

I should add that, if I were to follow the view which I expressed in Alexander (1982) in its most extreme form, I would not have included, in the case of trials before *quaestiones perpetuae*, the substantive allegations, for I argued that they may not have been formally defined and thus would not be relevant to this work. Considering that my view is not necessarily applicable to all *quaestiones*, however, and considering that my view can hardly be described as a *communis opinio*, I have included under 'charge' the substantive allegations in this reference work, since they are generally thought to have been formally defined. In the case of *iudicia populi*, I have indicated that the trial took place before a *iudicium populi*, along with any other procedural fact of which we know, and then put the substantive allegations in parentheses. Thus, for example, 'charge: *iudicium populi*, for *perduellio* (treasonous dealings with Gauls)' should be understood to mean 'charge was laid against the defendant before a *iudicium populi* on *perduellio*, for having allegedly committed treasonous dealings with the Gauls.' For civil cases, I have described the claim first procedurally, and then substantively. Thus, for example, 'claim: *actio furti* (theft of vase)' should be understood to mean 'claim was laid against the defendant under the *actio furti*, for having allegedly stolen a vase.'

For some trials, I include a category of 'other' to include material which pertains to the formal aspects of the trial, but which does not appear regularly enough to justify its own rubric.

The work begins with trials in 149 BC and ends with trials in 50 BC. The reason for the latter date is fairly obvious; Caesar's crossing of the Rubicon, and the ensuing civil war, marked the end of normal functioning of Republican institutions, even if they had already begun to break down in the 50s. The beginning date of 149 BC is a somewhat less obvious choice. It is the year in which a *lex Calpurnia* established the first *quaestio perpetua*, or standing criminal court, an institution which expanded over the next seventy years, until it constituted the dominant element in Roman criminal jurisdiction. Admittedly, the date 149 has little importance for civil law, but since most of the trials

listed here are criminal, it seemed appropriate to use this date as the beginning of the period which the book covers.

The footnotes are designed to make the reader aware of any dubious or controversial points which relate to the formal aspects of the trial. In those instances where I have an original contribution to put forward, I have expressed it as concisely as possible, but normally I simply cite publications of other scholars (or occasionally my own) as the places to find discussion of these points, and summarize the views very briefly. I also cite publications which are relevant either to the trial as a whole or to aspects of it at the bottom of the listing for that trial. For the sake of brevity, however, I do not repeat there a citation to an article or book which I have already cited in the notes. Therefore, the reader should consider that both the citations in the notes and those at the bottom of the listing comprise the list of publications relevant to the formal aspects of these trials.

The trials are listed in chronological order with trials of unknown or very indefinite date listed at the end. Cases #1 to #351 are listed chronologically; cases #352 to #391 are of indefinite date. Because of the Roman system of annual magistracies, it is usually possible to date a trial to a particular year. Since extortion trials figure quite prominently in this period, readers should be aware that they are often dated to the year after the defendant held provincial office. This is a reasonable surmise, but, if there is no other information dating the trial, not a known fact. It is often very difficult to date a trial to a particular day or month. Trials consisted of several stages, and some trials lasted longer than others. For example, the *nominis delatio* for trial A might occur before that of trial B, but the actual hearing of trial A might end after that of trial B; in this case, it would be difficult to say whether trial A preceded or followed trial B. One might suggest using one stage in each trial, say the *nominis delatio*, as the criterion by which the trials are to be chronologically ordered, but this procedure would not be practical, in view of the fact that for one trial we may know something about the date of one stage, and for another trial the date of another stage. Therefore, the order of trials is often based on limited evidence for dating, and should be viewed as giving merely a relative indication of the chronological order of trials within any given year.

I have not included what I consider to be inherently speculative matter. By 'inherently speculative' I do not mean questions which are speculative because relevant facts which would have decided the questions no longer survive. Rather, I mean questions which would

have been speculative even at the time of the trial, such as possible political forces behind a prosecution or the political consequences of a verdict, no matter how plausible or well-founded such speculation may be. Since I have excluded inherently speculative matters from the presentation of information about the trials, it makes sense not to cite modern publications which deal solely with those matters. I should therefore emphasize that this book does not attempt to cite all the bibliography on any given trial, but includes only those works which pertain to the formal and legal aspects of the trial. The exclusion of other works should not be seen as a reflection on their value, but as dictated by considerations of relevance.

There is nonetheless one piece of information which is often a matter of speculation now, and probably was at the time of the trial, which I have included in this list under the 'other' category, and that is allegations of bribery. I did so for two reasons. First, such information is not *inherently* speculative, since it involves a question of fact, such as the sale of a juror's vote, even if such an act is usually hard to detect. Second, it does pertain to the legal aspects of the trial, for bribery could lead to hearings and judgments of *praevaricatio* or *calumnia*.

Some readers will doubtless be surprised to see these trials divorced from the political context in which they are usually discussed. The reason is not that I reject out of hand any connection between law and politics, especially in view of the fact that in most of these trials the defendant and many other participants were politicians. Rather, I believe that in the absence of extant court records, such as the sort most scholars of legal history have at their disposal, Roman historians can profit from this distillation of what we actually know about each trial. This work serves as a basis for further research in legal or political history. In order to exclude any bias which our preconceptions might impart to the study of late Republican legal history, I have not highlighted or distinguished those trials which political histories of the Late Republic generally view as crucial.

The use of '?' within the entries calls for comment. Because of the limits and gaps in our sources, there are many pieces of information in this volume which represent guesses, however educated and plausible these guesses may be. For these data, I have set a '?' immediately to the right of the relevant word, phrase, or number. In case #62, for example, the date 104, the charge and procedure, and the date of the prosecutor's tribunate, are all in question, and this uncertainty is indicated by question marks. Further information should be sought either in notes, when they accompany the particular piece of information, or,

especially in the case of prosopographical information, in standard reference works such as *MRR* or Sumner's *Orators*.

I would like to make one other point about the purpose of this book. Its focus is on the trials of the period, not on the individuals who participated in them; in this respect, it is different from *Magistrates of the Roman Republic*, which obviously focuses on individual careers. Although I do record the highest magistracy acquired, in order to identify senators and help place them in terms of their careers, the book is not meant to be a prosopographical analysis of those individuals who happen to participate in trials. But a considerable amount of prosopographical information is included in the text and footnotes, and if there is doubt about a magistracy, I so indicate with a question mark in the text and/or footnote. In the case of a consulate, there is usually no doubt, and the entry is simple, e.g., 'M. Tullius Cicero (29) cos. 63.' But especially when a senator reaches only a lower-level magistracy, there may be some dispute about what magistracy was held, or when it was held, or who held it. In many cases, this dispute is relevant to an aspect of the trial itself. For example, the identity of the praetor in case #173 is relevant to the date of the trial. In many other cases, however, the highest office held by an individual may have no bearing on the trial. For example, the date when T. Albucius was praetor has no bearing on when he prosecuted Q. Mucius Scaevola in case #32. Nevertheless, if there is a question about the highest office held by an individual, I provide at least minimal references to the prosopographical sources, so that the reader does not take as given what is in fact open to question. I hope that prosopographical information of this type will not distract the reader from the information which is relevant to the trials.

There are several standard works which are so fundamental to this project that it would have been otiose to refer to them at each point where I have consulted them, or where the reader might want to consult them. These are the many prosopographical articles in the *Real-Encyclopädie*, especially those written by F. Münzer, and T.R.S. Broughton's *Magistrates of the Roman Republic*, a work which, as I have mentioned, served as a model and inspiration to me in writing this volume. Also to be mentioned in this regard are G.V. Sumner's *The Orators in Cicero's Brutus: Prosopography and Chronology*, Drumann/Groebe's still useful *Geschichte Roms*, and, for *equites Romani*, the second volume of C. Nicolet's *L'Ordre équestre à l'époque républicaine*. Most of all, in spite of the apolitical nature of this work, my debt to the publications of Erich S. Gruen, especially to his two books *Roman Politics*

and the Criminal Courts, 149-50 B.C. and *The Last Generation of the Roman Republic* will be obvious to all scholars in the field. One additional point is that, in citations of articles from the *Real-Encyclopädie*, I cite the date of publication of the RE volume.

This work does not attempt to cite all *fragmenta* of forensic orations. For those individuals who made forensic speeches, a citation is made, next to their name, either to Malcovati's *Oratorum Romanorum Fragmenta*, or, for Cicero, to Crawford's *M. Tullius Cicero, the Lost and Unpublished Orations*; further consultation can be made to Schoell's or Puccioni's collections of Cicero's *fragmenta*.

Although a version of this manuscript was originally submitted in the fall of 1984, I have had the opportunity to make several revisions. The current version incorporates all publications available to me as of June 1988. Unfortunately, it has not been possible for me to consult D.R. Shackleton Bailey's new *Onomasticon*.

Readers will likely find errors and omissions in this book. As it is possible that I will be able to publish revisions at some point, I would be very grateful if suggestions for changes could be sent to me at the following address:

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## ABBREVIATIONS

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For Latin sources the *OLD* abbreviations have been used; for Greek sources the *OCD* (2nd ed.) abbreviations have been used. 'C' stands for 'condemnation,' 'A' for 'acquittal,' 'NL' for '*non liquet*,' 'nom. del.' for *nominis delator* and 'subscr.' for *subscriptor*. The following abbreviations have been used for modern works; complete bibliographic citations of these works, as well as of other works referred to in this book, can be found in the Works Cited.

Badian, <i>Studies</i>	E. Badian, <i>Studies in Greek and Roman History</i>
Cichorius, <i>Untersuch. Lucil.</i>	C. Cichorius, <i>Untersuchungen zu Lucilius</i>
Crawford, <i>Orations</i>	J. Crawford, <i>M. Tullius Cicero: The Lost and Unpublished Orations</i>
Crawford, <i>RRC</i>	M.H. Crawford, <i>Roman Republican Coinage</i>
D.-G.	Drumann <i>Geschichte Roms</i> <sup>2</sup> , rev. Groebe
Douglas, <i>Brutus</i>	Cicero, <i>Brutus</i> , ed. A.E. Douglas
Frier, <i>RRJ</i>	Bruce W. Frier, <i>The Rise of the Roman Jurists: Studies in Cicero's pro Caecina</i>
FTP	Niccolini, <i>I fasti dei tribuni della plebe</i>
Gabba, <i>Appian</i>	Appian, <i>Bellorum Civilium Liber Primus</i> , ed. E. Gabba
Gabba, <i>RR</i>	E. Gabba, <i>Republican Rome, the Army, and the Allies</i>
Gruen, <i>LGRR</i>	E.S. Gruen, <i>The Last Generation of the Roman Republic</i>
Gruen, <i>RPCC</i>	E.S. Gruen, <i>Roman Politics and the Criminal Courts, 149-78 B.C.</i>
Magie, <i>RRAM</i>	D. Magie, <i>Roman Rule in Asia Minor</i>

xviii Abbreviations

Marshall, <i>Asconius</i>	Bruce A. Marshall, <i>A Historical Commentary on Asconius</i>
Mommsen, <i>StR.</i>	Th. Mommsen, <i>Römisches Staatsrecht</i>
Mommsen, <i>Strafr.</i>	Th. Mommsen, <i>Römisches Strafrecht</i>
MRR	T. Robert S. Broughton, <i>The Magistrates of the Roman Republic</i>
MRR Suppl.	T. Robert S. Broughton, <i>The Magistrates of the Roman Republic</i> , Vol. 3, Supplement
Nicolet, <i>Ordre équestre</i>	C. Nicolet, <i>L'Ordre équestre à l'époque républicaine</i>
ORF	<i>Oratorum Romanorum Fragmenta liberae rei publicae</i> <sup>4</sup> , ed. H. Malcovati
RE	<i>Paulys Real-Encyclopädie der classischen Altertumswissenschaft</i>
RP	R. Syme, <i>Roman Papers</i>
Sch.	R.G. Schettler, 'Cicero's Oratorical Career' (unpublished U. of Pennsylvania dissertation) 1961
Shackleton Bailey, <i>CLA</i>	<i>Cicero's Letters to Atticus</i> , ed. D.R. Shackleton Bailey
Shackleton Bailey, <i>CLF</i>	<i>Cicero, Epistulae ad Familiares</i> , ed. D.R. Shackleton Bailey
Shackleton Bailey, <i>CQF</i>	<i>Cicero, Epistulae ad Quintum fratrem et M. Brutum</i> , ed. D.R. Shackleton Bailey
Shackleton Bailey, <i>Studies</i>	D.R. Shackleton Bailey, <i>Two Studies in Roman Nomenclature</i>
Sumner, <i>Orators</i>	G.V. Sumner, <i>The Orators in Cicero's Brutus: Prosopography and Chronology</i>
Wilkins, <i>De Oratore</i>	Cicero, <i>De oratore libri tres</i> , ed. A.S. Wilkins

# Trials in the Late Roman Republic



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# The Trials

1

date: 149<sup>1</sup>

charge: *quaestio extraordinaria* (proposed)<sup>2</sup> (misconduct as gov. Lusitania 150)

defendant: Ser. Sulpicius Galba (58) cos. 144 spoke *pro se* (ORF 19.II, III)

advocate: Q. Fulvius Nobilior (95) cos. 153, cens. 136

prosecutors:

L. Cornelius Cethegus (91)

M. Porcius Cato (9) cos. 195, cens. 184 (ORF 8.LI)

L. Scribonius Libo (18) tr. pl. 149 (*promulgator*)

outcome: proposal defeated

Cic. *Div. Caec.* 66; *Mur.* 59; *de Orat.* 1.40, 227-28; 2.263; *Brut.* 80, 89; *Att.* 12.5b; *Liv.* 39.40.12; *Per.* 49; *Per. Oxy.* 49; *Quint. Inst.* 2.15.8; *Plut. Cat. Mai.* 15.5; *Tac. Ann.* 3.66; *App. Hisp.* 60; *Fro. Aur.* 1. p. 172 (56N); *Gel.* 1.12.17, 13.25.15; see also *V. Max.* 8.1. abs. 2; [Asc.] 203St; *Vir. Ill.* 47.7  
Ferguson (1921); see also Buckland (1937); Richardson (1987) 2 n. 12

1 On the date see Cic. *Att.* 12.5b.

2 See Douglas, *Brutus* p. 77.

2

date: 145

charge: *iudicium populi*, for *perduellio*<sup>1</sup> (failure as commander in Farther Spain)

## 4 The Trials

defendant: C. Plautius (9) pr. 146  
outcome: C, exile

Diod. Sic. 33.2; see also Liv. *Per.* 52; App. *Hisp.* 64

- 1 So Bauman (1967) 22. However, the phrase used by Diodorus (*epi tōi tetapeinōkenai tēn archēn*) is a translation of *maiestatem minuere*.

3

date: uncertain<sup>1</sup>  
charge: *iudicium populi*  
defendant: C. Laelius Sapiens (3) cos. 140, spoke *pro se* (ORF 20.II)  
outcome: A?

Fest. 198.5, 210.5, 416.21L; see also Cic. *Tusc.* 5.54

- 1 Fraccaro (1912) 349-50 argues that the fragments preserved are more likely to refer to the warfare of the defendant's praetorship (145) than to the tranquillity of his consulate. Therefore, a date of 144 would be likely. Note, however, that a comitial trial for extortion would be somewhat odd (though not impossible) when a *quaestio* for the crime had already been established. Perhaps, as Fraccaro notes, the trial pertained to his unsuccessful candidature in 142 for the consulate of 141. See Gruen, *RPCC* 56 n. 54.

4

date: by 142  
charge: uncertain (matricide)  
defendant: an unnamed female  
praetor: M. Popillius Laenas (22) pr. by 142, cos. 139  
outcome: neither C nor A

V. Max. 8.1. ambust. 1

## 5 The Trials

5

date: 141

charge: *quaestio extraordinaria* (money accepted as bribe when praetor, judging cases *inter sicarios*)<sup>1</sup>

defendant: L. Hostilius Tubulus (26) pr. 142

outcome: self-exile before trial, suicide when recalled

Cic. *Att.* 12.5b; *Scaur.* frag. k; *Fin.* 2.54, 4.77, 5.62; *N.D.* 1.63 = Lucil. 1312M, 3.74; *Asc.* 23C; *Gel.* 2.7.20

Mommsen, *Strafr.* 71 n. 1, 197 n. 2; 203 n. 1; 633 n. 4; Münzer (1912) 167-68; (*Hermes* 1920) 427f.; Richardson (1987) 11

- 1 The charge was to be investigated by a *quaestio extraordinaria* under consul Cn. Servilius Caepio (46), according to a plebiscite passed by P. Mucius Scaevola (17) cos. 133 as tr. pl.

6

date: early 140

charge: *iudicium populi* (for irregularities in performing *lustrum* as cens. 142)

defendant: P. Cornelius Scipio Aemilianus (335) cos. 147, 134, cens. 142, spoke *pro se* (*ORF* 21.V)

prosecutor: Ti. Claudius Asellus (63) tr. pl.

outcome: almost certainly A

other: Scipio delivered at least five orations against Claudius Asellus.

Cic. *de Orat.* 2.258?;<sup>1</sup> 2.268; *Gel.* 2.20.6; 3.4.1; 4.17.1 = Lucil. 394M, 6.11.9; *Fest.* 360.29-32L?

Fraccaro (1912) 376-82; Scullard (1960) 69; Astin (1967) 127, 175-77, 256

- 1 See Astin (1967) 256 #22 on whether the interchange between Scipio and Asellus recorded in *de Orat.* 2.258 should be attributed to this trial, or to a *recognitio equitum*, in which Scipio as censor attempted to have Asellus deprived of his horse.

## 6 The Trials

7

date: 140

charge: *lex* (Calpurnia?) *de repetundis* (misconduct as gov. Macedonia)

defendant: D. Iunius Silanus Manlianus (161) pr. 141<sup>1</sup>

outcome: trial halted by investigation conducted by defendant's father,<sup>2</sup> who found his son guilty; suicide by son<sup>3</sup>

Cic. *Fin.* 1.24; Liv. *Per.* 54; *Per. Oxy.* 54; V. Max. 5.8.3

Richardson (1987) 9, 11

- 1 Morgan (1974) 195-98 argues that his praetorship and governorship must have occurred in 142 in order for the Macedonian envoys to have gathered evidence and appeared in Rome by early 140.
- 2 The defendant's father referred to here is his natural father, T. Manlius Torquatus (83) cos. 165, who had emancipated him.
- 3 The trial might have continued after the suicide (see *lex Acilia* line 29); if we can judge by this later law, a continuation of the trial would appear to be necessary if the injured parties were to receive monetary compensation.

8

date: 138?<sup>1</sup>

charge: *lex* (Calpurnia?) *de repetundis* (misconduct as consul and proconsul in Hither Spain)<sup>2</sup>

defendant: Q. Pompeius (12) cos. 141, cens. 131 (*ORF* 30.II)<sup>3</sup>

witnesses:

L. Caecilius Metellus Calvus (83) cos. 142

Q. Caecilius Metellus Macedonicus (94) cos. 143, cens. 131

Cn. Servilius Caepio (46) cos. 141

Q. Servilius Caepio (48) cos. 140

outcome: A

Cic. *Font.* 23, V. Max. 8.5.1

Cichorius, *Untersuch. Lucil.* 139 n. 1

- 1 Gruen, *RPCC* 37 n. 65 suggests a date of 139 on the basis of App. *Hisp.* 79. However, allowance must be made for Q. Servilius Caepio to return from Lusitania to Rome to testify, probably in 138. See Münzer *RE* 2 (1923) 1783,

## 7 The Trials

Morgan (1974) 197 n. 63.

2 See Richardson (1987) 11-12.

3 There is no evidence that he spoke *pro se* (so ORF p. 140), other than that he was a good orator (Cic. *Brut.* 96).

## 9

date: 138<sup>1</sup>

charge: *lex* (Calpurnia?) *de repetundis*<sup>2</sup> (*gravissima crimina*)

defendant: L. Aurelius Cotta (98) cos. 144<sup>3</sup>

advocate: Q. Caecilius Metellus Macedonicus (94) cos. 143, cens. 131 (ORF 18.I)

prosecutor: P. Cornelius Scipio Aemilianus (335) cos. 147, 134, cens. 142 (ORF 21.VI)

outcome: A, after eighth *actio*

other: bribery of jurors by defendant widely suspected

Cic. *Div. Caec.* 69; *Font.* 38; *Mur.* 58; *Brut.* 81; *Liv. Per. Oxy.* 55; *V. Max.* 8.1. abs. 11; *App. BCiv.* 1.22; *Tac. Ann.* 3.66

1 *Liv. Per. Oxy.* 55 gives a date of 138. However, Cicero (*Div. Caec.* 69) wrongly claims that the trial took place after Scipio Aemilianus had twice been consul, and in the *Pro Murena* (58) makes the same claim, and also the claim that Scipio had destroyed Numantia (therefore after 133). See Kornemann (1904) 104-6, Badian, *Studies* 105-6 and n. 4, and Richardson (1987) 12. Crawford, *RRC* 1.72 is wrong to use this error as an example of Cicero's inability to provide accurate historical information; the error only shows that, in his speeches, Cicero takes liberties with the facts.

2 *V. Max.* 8.1. abs. 11 mistakenly puts the trial *apud populum*.

3 On the identity of the defendant as L. Aurelius Cotta (98) rather than L. Aurelius Cotta (99) cos. 119, see Gruen, *RPCC* 297.

## 10

date: 138

charge: (murders of *noti homines* in forest of Sila)

defendants: slaves and free workers of *publicani*<sup>1</sup>

advocates:

at first C. Laelius Sapiens (3) cos. 140 (ORF 20.III)

## 8 The Trials

thereafter Ser. Sulpicius Galba (58) cos. 144 (ORF 19.IV)

*quaesitores*:

P. Cornelius Scipio Nasica Serapio (354) cos. 138

D. Iunius Brutus (57) cos. 138

outcome: A

Cic. *Brut.* 85-88

Fraccaro (1912) 351-56; Münzer (*Hermes* 1920) 429

- 1 The slaves and free workers were associated with a company described as *societatis eius, quae picarias de P. Cornelio L. Mummio censoribus redemisset*.

## 11

date: 138

charge: *iudicium populi*<sup>1</sup>

defendants:

C. Matienus (3)

others

prosecutor: tr. pl.

outcome: C, flogged and sold into slavery for one sesterce

Liv. *Per.* 55; *Per. Oxy.* 55; Fron. *Str.* 4.1.20

- 1 Mommsen, *Strafr.* 43 n. 2, 561 believes that this trial constitutes an appeal to the tribunes against consular *coercitio*.

## 12

date: 136?<sup>1</sup>

charge: *iudicium populi* (military failure as proconsul in Spain in 137)

defendant: M. Aemilius Lepidus Porcina (83) cos. 137

prosecutor: unknown, but certainly not L. Cassius Longinus Ravilla (72) cos. 127, cens. 125<sup>2</sup>

outcome: C, fine

V. Max. 8.1. damn. 7; App. *Hisp.* 83; Oros. 5.5.13; see also Liv. *Per.* 56

- 1 See *MRR* 1.488 n. 4.

## 9 The Trials

- 2 *Pace V. Max. 8.1. damn. 7*, who confuses this trial with a censorial proceeding which resulted in a *nota* placed against the name of Lepidus in 125 by Cassius during the latter's censorship (Vell. 2.10.1).

### 13

trial only threatened

date: 133

claim: *sponsio*<sup>1</sup>

party: T. Annius Luscus (63, 64)<sup>2</sup> cos. 153 (*ORF* 17.1)

opposing party: Ti. Sempronius Gracchus (54) tr. pl. 133

outcome: challenge not taken up, no trial

Plut. *Ti. Gracch.* 14.4-5; see also Liv. *Per.* 58

1 On this procedure see Crook (1976), especially 133; Lintott (*ZPE* 1976) 212.

2 See Fraccaro (1914) 144; Badian *Studies* 248; *MRR* Suppl. 16.

### 14

date: 133

defendant: T. Annius Luscus (63, 64) cos. 153

prosecutor: Ti. Sempronius Gracchus (54) tr. pl. 133

outcome: dropped<sup>1</sup>

Liv. *Per.* 58; Plut. *Ti. Gracch.* 14.5

Fraccaro (1914) 144

1 Apparently, Gracchus was planning to initiate a four-part tribunician prosecution in a *iudicium populi*, perhaps for having summoned a tr. pl. into court (see case #13).

### 15

date: 132

charge: *quaestio extraordinaria* (for *parricidium*: killing of father? or for association with Ti. Gracchus)

defendant: C. Villius (2)

## 10 The Trials

*quaesitores:*

P. Popillius Laenas (28) cos.

P. Rupilius (5) cos.

juror?:<sup>1</sup> C. Laelius Sapiens (3) cos. 140

outcome: C, execution (by *culleus* as if for *parricidium*?)<sup>2</sup>

Plut. *Ti. Gracch.* 20.3; cf. Cic. *Amic.* 37; V. Max. 4.7.1

1 Cic. *Amic.* 37, *quod aderam Laenati et Rupilio consulibus in consilio...*

2 See Mommsen, *Strafr.* 922; Brecht (1938) 247-48, n. 62.

## 16

date: 132

charge: *quaestio extraordinaria* (for association with Ti. Gracchus?)

defendants:

Diophanes (4)

many others (approx. 200)

*quaesitores:*

P. Popillius Laenas (28) cos.

P. Rupilius (5) cos.

juror?:<sup>1</sup> C. Laelius Sapiens (3) cos. 140

outcome: C, execution

Plut. *Ti. Gracch.* 20.3; Oros. 5.9.3; cf. Cic. *Amic.* 37; V. Max. 4.7.1

1 See #15, n. 1.

## 17

date: 132

charge: *quaestio extraordinaria* (association with Ti. Gracchus?)

defendant: C. Blossius (1) of Cumae

*quaesitores:*

P. Popillius Laenas (28) cos.

P. Rupilius (5) cos.

juror?:<sup>1</sup> C. Laelius Sapiens (3) cos. 140

outcome: fled, probably before trial

## 11 The Trials

Cic. *Amic.* 37; V. Max. 4.7.1; Plut. *Ti. Gracch.* 20.3-4

1 See #15, n. 1.

18

date: 132

charge: senatorial *quaestio*<sup>1</sup> (homicide of Ti. Gracchus)

defendant: P. Cornelius Scipio Nasica Serapio (354) cos. 138 (ORF 38.III [addenda A.2])

prosecutor: M. Fulvius Flaccus (58) pr. by 128

outcome: trial ended when defendant sent on *libera legatio*

other: P. Mucius Scaevola (17) cos. 133 rejected as juror

Cic. *de Orat.* 2.285; Plut. *Ti. Gracch.* 21.2; see also V. Max. 5.3.2e

Magie, *RRAM* 2.1033, n. 1

1 When the prosecutor was objecting to Scaevola as juror, he was addressing senators. Gruen, *RPCC* 63 correctly interprets *iudicem ferre* in a legal sense, *pace* Wilkins, *de Oratore* ad loc.; cf. Cic. *de Orat.* 2.263, *Q. Rosc.* 45.

19

date: between 132 and 127

charge: *quaestio extraordinaria* (the same *quaestio* as for cases #15, #16, #17?) (for association with Ti. Gracchus?)

defendant: Vettius (2) Sabinus<sup>1</sup>

advocate: C. Sempronius Gracchus (47) tr. pl. 123, 122 (ORF 48.I)

Plut. *C. Gracch.* 1.3

1 He is referred to in Quint. *Inst.* 1.5.56 = Lucil. 1322M. So Cichorius, *Untersuch. Lucil.* 349.

20

date: 131

## 12 The Trials

charge: appeal to *iudicium populi* concerning fine imposed on defendant as *flamen Martialis* by *pontifex maximus* P. Licinius Crassus Dives Mucianus (72) cos.

defendant: L. Valerius Flaccus (175) cos. 131, *flamen Martialis* 154—

outcome: remission of fine

Cic. *Phil.* 11.18

### 21

trial unlikely<sup>1</sup>

charge: *lex Sempronia ne de capite civium Romanorum iniussu populi iudicaretur* (123 BC)

defendant: P. Rupilius (5) cos. 132, the 'defendant,' had probably died by 130 BC

Vell. 2.7.4

- 1 The trial probably never occurred. Velleius is the only source which claims that Rupilius along with Popillius (see case #25) was tried under this law. See Münzer *RE* 1A (1914) 1230.

### 22

date: 127 or 126?<sup>1</sup> 121?<sup>2</sup>

claim: civil suit (mismanagement of ward's affairs)

advocate for defendant: Cn. Octavius (18) cos. 128

advocate for plaintiff: M. Plautius Hypsaeus (21) cos. 125

praetor: M. Licinius Crassus (Agelastus) (57)

juror: P. Mucius Scaevola (17) cos. 133

Cic. *de Orat.* 1.166-67

- 1 The argument in favor of this date is that only Octavius (not Plautius) is referred to as *consularis*. See Münzer, *RE* 13 (1926) 269, *RE* 17 (1937) 1814. However, Wilkins, *de Oratore* (p. 159) may be right that Cicero probably described Octavius as *consularis* to contrast his legal ineptitude with his high rank.

## 13 The Trials

- 2 Wilkins, *de Oratore* (see n. 1, above) argues that Cicero's account implies that Q. Mucius Scaevola (21) cos. 117 was away at the time, and therefore the trial must have occurred in 121 when he was governor of Asia.

23

date: 125 or 124<sup>1</sup>

charge: *lex* (Iunia?) *de repetundis?*, or *quaestio extraordinaria*<sup>2</sup> (receipt of bribes from Mithridates)

defendant: M'. Aquillius (10) cos. 129

prosecutors:

P. Cornelius Lentulus (202) cos. suff., princeps sen. 162 (nom. del.)

C. Rutilius Rufus (33) (subscr.)

outcome: A

Cic. *Div. Caec.* 69; *Font.* 38; *App. Mith.* 57; *BCiv.* 1.22; [Asc.] 204St  
Richardson (1987) 12

- 1 On date see Badian (*Foreign Clientelae* 1958) 183 n. 9. Aquillius returned to Rome to celebrate a triumph on Nov. 11, 126. See Gruen, *RPCC* 77 n. 164, Morgan (1974) 197 n. 63. Cicero's description of Lentulus (*Div. Caec.* 69) as *is qui princeps senatus fuit* may merely serve to identify which P. Cornelius Lentulus prosecuted the defendant, rather than to state that he was *princeps senatus* at the time when he was prosecutor.
- 2 See Jones (1972) 54.

24

date: 124

charge: *iudicium populi*, for *perduellio?* (involvement in revolt of Fre-gellae)<sup>1</sup>

defendant: C. Sempronius Gracchus (47) tr. pl. 123, 122, spoke *pro se?* (*ORF* 48.VI)

outcome: A

Plut. *C. Gracch.* 3.1; *Vir. Ill.* 65.2  
Fraccaro (1913) 87-88

## 14 The Trials

- 1 This was not a formal trial, according to Badian, *Foreign Clientelae* (1958) 180 n. 3.

25

date: 123

charge: perhaps a *quaestio extraordinaria*?<sup>1</sup> (involvement in tribunal aimed against supporters of Ti. Gracchus; see also cases #15, #16, and #17)

defendant: P. Popillius Laenas (28) cos. 132

prosecutor: C. Sempronius Gracchus (47) tr. pl. 123, 122

outcome: voluntary exile, at Nuceria (possibly before the trial)

Cic. *Clu.* 95; *Red. Sen.* 37; *Red. Pop.* 6; *Dom.* 82, 87; *Balb.* 28; *Brut.* 128; *Vell.* 2.7.4; *Plut. C. Gracch.* 4.2; *Gel.* 11.13.1; *Schol. Bob.* 111St; *Fest.* 220, 1L

- 1 Possibly the trial was held under the *lex de provocazione*. See Siber (1936) 10-11; Miners (1958) 242; Ewins (1960) 97; Kunkel (1962) 28 n. 89; Weinrib (1970) 431; Stockton (1979) 119.

26

date: 121?, shortly after death of C. Gracchus

claim: *actio rei uxoriae* (failure on the part of Licinia, wife of C. Gracchus, to get *res dotales* returned)

plaintiff: Licinia (180)

other: P. Mucius Scaevola (17) cos. 133 gave a *sententia* as jurisconsult for Licinia

*Plut. C. Gracch.* 17.5; *Javol. dig.* 24.3.66 pr.  
Daube (1965); Waldstein (1972); Bauman (1978) 238-43

27

date: 120

charge: *lex Sempronia ne de capite civium Romanorum iniussu populi iudicaretur*,<sup>1</sup> tribunician prosecution (murder of C. Gracchus and followers)

## 15 The Trials

defendant: L. Opimius (4) cos. 121

advocate: C. Papirius Carbo (33) cos. 120 (ORF 35.II)

prosecutor: P. Decius Subolo (9) tr. pl. 120, pr. 115 (ORF 36.I)<sup>2</sup>

outcome: A

other: M. Antonius (28) cos. 99, cens. 97 was present.

Cic. *Sest.* 140; *de Orat.* 2.106, 132, 165, 169, 170; *Part.* 106; *Brut.* 128; *Liv. Per.* 61

- 1 The charge was *quod indemnatos cives in carcerem coniecisset* (*Liv. Per.* 61), or *in carcere necasset*, or *in carcerem coniectos necasset* (Mommsen, *StR.* 2.111 n. 2).
- 2 See Fraccaro (1912) 444-45; Badian (*JRS* 1956) 92. Badian (*JRS* 1956) 91 suggests that the form 'Subulo' for the *cognomen* may also be possible. *Livy Per.* 61 incorrectly gives the *praenomen* as 'Quintus.'

## 28

trial uncertain<sup>1</sup>

date: 120

defendant: P. Cornelius Lentulus (202) cos. suff. 162, princeps sen.

outcome: threat of trial avoided by *libera legatio*

V. Max. 5.3.2f

- 1 Münzer *RE* 4 (1900) 1375 believes that this case might be a doublet of case #18, and of the fate of P. Scipio Nasica Serapio; *contra* Gruen, *RPCC* 106.

## 29

date: ca 119?

charge: *lex* (Acilia?) *de repetundis* (misconduct as promag.?)

defendant: (M'.?)<sup>1</sup> Valerius Messalla (248) pr. and promag.? ca 120, in Asia?

prosecutor: Q. Caecilius Metellus Numidicus (97) cos. 109, cens. 102 (ORF 58.IV)

Gel. 15.14.1-3

## 16 The Trials

- 1 Syme suggests this *praenomen*. See *Historia* 1955, 70-71 = *RP* 1.290-91 and *JRS*, 1955, 158 = *RP* 1.265-66. Reynolds (1982) 67-68 is also relevant to the stemma of the Valerii Messallae, specifically to the son of this man. See also Münzer *RE* 8A (1955) 125 and *MRR* Suppl. 213. Syme notes, on the basis of *OGIS* 460, an apparent hereditary connection between the province of Asia and the Valerii Messallae, that is, the family traditionally looked after Asian interests.

30

date: 119

charge: lex Acilia de repetundis?<sup>1</sup>

defendant: C.<sup>2</sup> Papirius Carbo (33) cos. 120

prosecutor: L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF* 66.I)

praetor: Q. Fabius Maximus Eburnus (111)<sup>3</sup> cos. 116, cens. 108

outcome: C, suicide

Cic. 2 *Ver.* 3.3; *de Orat.* 1.40, 121, 154; 2.170; 3.74; *Brut.* 103, 159; *Fam.* 9.21.3; *V. Max.* 3.7.6, 6.5.6; *Tac. Dial.* 34.7

Münzer (1912) 169

- 1 Fraccaro (1912) 445-48 makes this suggestion, since there were *iudices* and it was not a *quaestio extraordinaria*, or *inter sicarios*. *Maiestas* has also been suggested (see Mommsen [1888-94] 2.126). The identity of the law under which this trial was held depends upon the number of *quaestiones* existing at this time; see Kunkel *RE* 24 (1963) 737-40 s.v. 'quaestio.' The fact that a slave of Carbo brought Crassus a *scrinium* full of material damaging to the defendant (*V. Max.* 6.5.6) suggests a crime in which records would be crucial, such as extortion.

- 2 *V. Max.* 6.2.3 and 6.5.6 have 'Cn.'

- 3 So *MRR* 1.526, *contra* Gruen, *RPCC* 108 n. 9.

31

date: 119?

charge: either lex Acilia de repetundis or lex Sempronia *ne quis iudicio circumveniatur*<sup>1</sup>

defendant: P. Decius (9) Subolo tr. pl. 120, pr. 115

outcome: A

Cic. *de Orat.* 2.135; *Part.* 104

- 1 Badian (*JRS* 1956) 92-93 argues that Decius was charged with extortion, in a trial separate from that of Opimius (case #27), with the charge being that he had taken money to conduct the prosecution of Opimius. Gruen, *RPCC* 110 counters with the observation that, whereas the receipt of money *ob accusandum vel non accusandum* did constitute a violation of the *lex Iulia de repetundis*, there is no evidence that the same sort of provision existed under the *lex Acilia*. (Of course, our text of the statute is fragmentary.) He suggests that this may have been a comitial trial under the *lex Sempronia ne quis iudicio circumveniat*, possibly the same as the *lex Sempronia ne de capite civium Romanorum iniussu populi iudicetur*.

32

date: 119<sup>1</sup>

charge: *lex Acilia de repetundis* (misconduct as gov. Asia, 119; homicide accusations also made)

defendant: Q. Mucius Scaevola (21) cos. 117 (*ORF* 50.I) spoke *pro se*

prosecutor: T. Albucius (2) pr. 107? 105?<sup>2</sup>

witnesses:

Aemilius (not in *RE*)

Albius (2) q. 120 or L. Atilius Nomentanus?<sup>3</sup> (44) leg. or pref. Asia 120?

other: account books of Albius (2) q. 120? perhaps used as evidence

outcome: A

*Lucil.* II 55-94M; Cic. *de Orat.* 2.281; *Brut.* 102; *Orat.* 149; *Fin.* 1.9

1 See Cichorius, *Untersuch. Lucil.* 88-89.

2 See Gruen (1964) 104; Badian (*Klio* 1984) 306-9; *MRR* Suppl. 14, 166.

3 See Crawford, *RRC* 1.261, #225.

33

trial uncertain<sup>1</sup>

date: 117?

defendant: Q. Marcius Rex (91) cos. 118

advocate?: M. Antonius (28) cos. 99, cens. 97

## 18 The Trials

Cic. *de Orat.* 2.125

1 Quite possibly this case did not come to trial. Cf. case #64, n. 1.

34

date: 116

charge: *ambitus* (in campaign for consulate)

defendant: M. Aemilius Scaurus (140) cos. 115, cens. 109 (ORF 43.I)

prosecutor: P. Rutilius Rufus (34) cos. 105 (ORF 44.I)

outcome: A

Cic. *Brut.* 113; see also *de Orat.* 2.280

35

date: 116

charge: *ambitus* (in campaign for consulate)

defendant: P. Rutilius Rufus (34) cos. 105

prosecutor: M. Aemilius Scaurus (140) cos. 115, cens. 109 (ORF 43.I)

present for defendant: C. Canius (a, *RE Supp.* 1, p. 274) e.R.

outcome: A

Cic. *de Orat.* 2.280; *Brut.* 113; see also *Tac. Ann.* 3.66.2<sup>1</sup>

1 Badian, *Studies* 106-7 claims that Mam. Scaurus (cos. AD 21) did not cite this case when he prosecuted C. Iunius Silanus for *maiestas* in AD 22; see *Tac. Ann.* 3.66.2. See case #94, n. 2.

36

date: 116, after elections for praetor

charge: *ambitus* (help alleged to have been provided by friend of Cassius Sabaco [85] sen. held against defendant)

defendant: C. Marius (14, *RE Supp.* 6) pr. 115, cos. 107, 104-100, 86

witness: C. Herennius (5)<sup>1</sup>

outcome: A on tie vote

## 19 The Trials

V. Max. 6.9.14; Plut. *Mar.* 5

- 1 Herennius claimed that Marius had been his client, and that therefore he could not be required to bear witness against Marius. Although Herennius would have been a hostile witness, Marius claimed that his own holding of an aedileship had severed the patron/client bond, and that Herennius should be permitted to testify. See Mommsen, *StR.* 3.69 n. 2, 78; Mommsen, *Strafr.* 402 n. 2; T.F. Carney (1959) 232-34.

37

date: after 115<sup>1</sup>

charge: *lex Acilia de repetundis*

defendant: M. Aemilius Scaurus (140) cos. 115, cens. 109 (*ORF* 43.II)  
(spoke *pro se*)

prosecutor: M. Iunius Brutus (50) (*ORF* 56.I) e.R.?

outcome: A

*Cic. Font.* 38; *Fron. Str.* 4.3.13; *Char.* 164.10; 272.3

Bloch (1909) 26-27, 35

- 1 We know that the case occurred after the triumph of Scaurus in 115 (*Char.* 272.3), if Scaurus is referring to his own triumph. Klebs *RE* 1 (1893) 586 and Münzer *RE* 10 (1917) 972 entertain the possibility that this Brutus, along with Caepio, prosecuted Scaurus in 92 (see case #96). According to this view we would then place in close proximity the two cases in which we know that Brutus took part (#96 and #98). For the possibility that the charge in this trial involved misconduct by Scaurus while holding a praetorian command before 116, see Marshall (*AJP* 1977) 417-19; Marshall, *Asconius* 125. However, the apparent mention of Scaurus' triumph tells against Marshall's view that Scaurus was prosecuted in 117 or 116. On the other hand, it is possible that Scaurus referred to the triumph celebrated in 122 by L. Aurelius Orestes (180) cos. 126, under whom Scaurus served in some capacity (*Auct. Vir. Ill.* 72.3). See also *MRR* Suppl. 10.

38

date: 114, condemned on XV Kal. Ian.

charge: *incestum, apud pontifices*

defendant: Aemilia (153)

informer: slave (perhaps named Manius [not in RE]) of T. Betucius  
Barrus (Betitius 1) e.R.<sup>1</sup>

outcome: C

Fenestella 21 fr. 11 Peter = Macr. 1.10.5; Liv. *Per.* 63; Asc. 45-46C; Plut. *Quaest. Rom.* 83; Dio 26, fr. 87; Porphyrius ad Hor. S. 1.6.30; Obsequens 37; Oros. 5.15.22

- 1 See Porphyrius. His *nomen* is variously given as Betucius, Betutius, and Veturius. He is possibly related to, or even identical to, the prosecutor in case #88. See Sumner, *Orators* 102, Marshall, *Asconius* 197. Gruen, *RPCC* 130 implies that Barrus, who was Aemilia's lover, was also instrumental in bringing information against the Vestals. But, as J.I. McDougall has pointed out to me, Dio says that Manius, slave of Barrus, was angry at his master for not giving him his freedom, and therefore could not have been acting at his master's instigation.

### 39

date: 114, acquitted XIII Kal. Ian.

charge: *incestum, apud pontifices*

defendant: Licinia (181)

informer: slave (perhaps named Manius [not in RE]) of T. Betucius  
Barrus (Betitius 1) e.R.<sup>1</sup>

outcome: A

Fenestella 21 fr. 11 Peter = Macr. 1.10.6; Liv. *Per.* 63; Asc. 45-46C; Plut. *Quaest. Rom.* 83; Dio 26, fr. 87; Obsequens 37; Oros. 5.15.22

- 1 See case #38, n. 1.

### 40

date: Dec. 114<sup>1</sup>

charge: *incestum, apud pontifices*

defendant: Marcia (114)

informer: slave (perhaps named Manius [not in RE]) of T. Betucius  
Barrus (Betitius 1) e.R.<sup>2</sup>

## 21 The Trials

outcome: A

Liv. *Per.* 63; Asc. 45-46C; Plut. *Quaest. Rom.* 83; Dio 26, fr. 87; Obsequens 37; Oros. 5.15.22; Crawford, *RRC* no. 413, 428<sup>3</sup>

- 1 The date is incorrectly given as 115 by Münzer *RE* 14 (1930) 1601.
- 2 See case #38, n. 1.
- 3 Crawford believes that this coin is relevant, as does Taylor (1966) 35-36 on no. 413; *contra* Nicolet (1959) 206-7.

41

date: 113

charge: *quaestio extraordinaria* (on scandal of Vestal Virgins)

defendant: Licinia (181)

advocate: L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF* 66.III)

*quaesitor*: L. Cassius Longinus Ravilla (72) cos. 127,<sup>1</sup> cens. 125

outcome: C

Cic. *Brut.* 160; *N.D.* 3.74; Liv. *Per.* 63; V. Max. 3.7.9, 6.8.1; Asc. 46C; Plut. *Quaest. Rom.* 83; Dio 26 fr. 87; Crawford, *RRC* 413, 428<sup>2</sup>

- 1 V. Max. (3.7.9) calls him 'praetor.' Gruen (*RhM* 1968) 59-61 maintains that Valerius Maximus is using anachronistic post-Sullan terminology for a presiding magistrate, and on this basis refutes an interpretation (given by Carney [1962] 303-4) of this trial which relies on this misinformation.
- 2 See case #40, n. 3.

42

date: 113<sup>1</sup>

charge: *quaestio extraordinaria* (on scandal of Vestal Virgins)

defendant: Marcia (114)

*quaesitor*: L. Cassius Longinus Ravilla (72) cos. 127,<sup>2</sup> cens. 125

outcome: C

Cic. *Brut.* 160; *N.D.* 3.74; Liv. *Per.* 63; V. Max. 3.7.9, 6.8.1; Asc. 46C; Plut. *Quaest. Rom.* 83; Dio 26 fr. 87; Crawford, *RRC* 413, 428<sup>3</sup>

## 22 The Trials

- 1 The date is given incorrectly as 114 by Münzer *RE* 14 (1930) 1601.
- 2 See case #41, n. 1.
- 3 See case #40, n. 3.

### 43

date: 113

charge: *quaestio extraordinaria* (on scandal of Vestal Virgins)<sup>1</sup>

defendant: M. Antonius (28) cos. 99, cens. 97 (spoke *pro se*)

*quaesitor*: L. Cassius Longinus Ravilla (72) cos. 127,<sup>2</sup> cens. 125

witness: slave of defendant

outcome: A

Cic. *N.D.* 3.74; V. Max. 3.7.9, 6.8.1; Crawford, *RRC* 413, 428<sup>3</sup>

- 1 Antonius could have claimed a privilege granted by the *lex Memmia*, which forbade the presiding magistrate of a *quaestio* from entering the name of someone absent *rei publicae causa* as a defendant. But he waived this right. See Weinrib (1968) 37-38.
- 2 See case #41, n. 1.
- 3 See case #40, n. 3.

### 44

date: 113?

charge: *quaestio extraordinaria* (on scandal of Vestal Virgins)

defendant?: Ser. Fulvius Flaccus (64) cos. 135<sup>1</sup>

advocate: C. Scribonius Curio (9) pr. 121? (*ORF* 47.I)

outcome: A

*ad Her.* 2.33; Cic. *inv.* 1.80; *Brut.* 122, 124; *N.D.* 3.74; Schol. Bob. 85St

- 1 We know that the defendant was a Ser. Fulvius. Ser. Fulvius Flaccus is considered a possible identification by Münzer *RE* 7 (1910) 248. Gruen, *RPCC* 130 n. 141 thinks that he was probably too old (in his sixties) to be a likely suspect in a case of this sort.

45

date: 113

charge: *lex Acilia de repetundis* (misconduct as gov. Macedonia)<sup>1</sup>

defendant: C. Porcius Cato (5) cos. 114

outcome: C, exile, *litis aestimatio* of only 8,000 sesterces<sup>2</sup>

Cic. 2 *Ver.* 3.184, 4.22; Vell. 2.8.1

- 1 Sherwin-White (1952) 44–45 satisfactorily refutes the contention of Henderson (1951) 85 that this case is the same as #55.
- 2 Velleius gives a figure of 4,000 sesterces; Cicero, 8,000. Possibly, the damages were calculated at the former figure, and then the amount paid by the defendant was double that amount. See *lex Acilia*, line 59. But manuscript error is a possibility; see D.-G. 5.162 n. 11.

46

date: 113? after defendant's return from Sicily

charge: *lex Acilia de repetundis*?<sup>1</sup> (misconduct as gov. Sicily)

defendant: M. Papirius Carbo (39) pr. 114?<sup>2</sup> governor in Sicily

prosecutor: P. (Valerius?)<sup>3</sup> Flaccus (183)

outcome: C

Cic. *Fam.* 9.21.3

- 1 Since the defendant is described as *fur*, a charge *de repetundis* is possible.
- 2 The fact that he was *monetalis* in 122 (Crawford, *RRC* no. 276) perhaps indicates the date of his praetorship; see Sumner, *Orators* 59.
- 3 The prosecutor was not a Fulvius: Kroll, *RE* 18 pt. 3 (1949) 1031, Shackleton Bailey, *CLF* 2.329; *contra* Gruen, *RPCC* 132 n. 153.

47

date: 112?

charge: *perduellio*?<sup>1</sup> (defeat fighting Cimbri)

defendant: Cn. Papirius Carbo (37) cos. 113

prosecutor: M. Antonius (28) cos. 99, cens. 97

outcome: A?<sup>2</sup>

Cic. *Fam.* 9.21.3; *Apul. Apol.* 66

- 1 Malcovati (1955) 217-18 suggests *perduellio*, pointing to the case of C. Papius Carbo (#30) as a parallel.
- 2 The phrase *sutorio atramento absolutus* has given rise to debate. Malcovati (1955) suggests that the defendant committed suicide by drinking copper sulphate. Note that, at least under the *lex Acilia*, line 2, death did not produce automatic acquittal (see Venturini [1980] 161-63). Shackleton Bailey, *CLF* 2.330 suggests that the phrase may have been a proverbial one to signify a corrupt acquittal. Perhaps there was a way in which *sutorium atramentum*, which could be produced in different shades (Plin. *Nat.* 34.123-27), was used to mark the jurors' ballots.

48

date: 114? or 111? 110?<sup>1</sup>

charge: *lex Acilia de repetundis* (misconduct either as praetor, consul, or proconsul)

defendant: L. Calpurnius Piso Caesoninus (88) pr. by 115, cos. 112

advocates:

? M. Aemilius Scaurus (140) cos. 115, cens. 109<sup>2</sup>

L. Licinius Crassus (55) q. by 109,<sup>3</sup> cos. 95, cens. 92

prosecutor: C. Claudius Pulcher (302) cos. 92<sup>4</sup>

witnesses:

? Aquillius Gallus sen.<sup>5</sup>

(M. Sergius?) Silus (42) q. 116 or 115<sup>6</sup>

outcome: A?

Cic. *de Orat.* 2.265; 2.285; V. Max. 8.1. abs. 6?

Gruen (*Athenaeum* 1971) 55-56

- 1 The date is presumably either the year after the defendant's praetorship or after his consulship, and by his death in 107. See *MRR* Suppl. 47.
- 2 See Fraccaro *Opuscula* 2.139.
- 3 He was quaestor probably in 111 or 110. See Sumner, *Orators* 96-97, *MRR* Suppl. 118.
- 4 Syme (1956) 133-34 (= *RP* 1.303) connects an anecdote in V. Max. with this trial, emending L. Claudius Pulcher to C. Claudius Pulcher. See also case #378.

## 25 The Trials

- 5 Badian (1961) 495-96 suggests that he was probably an Aquillius Gallus, and almost certainly a senator.
- 6 On the date of his quaestorship, see Crawford, *RRC* no. 286; *MRR* 2.13 has q. 94. See *MRR* Suppl. 193.

49

date: 111

charge: *iudicium populi*, for *perduellio*?<sup>1</sup>

prosecutor: C. Memmius (5) tr. pl., pr. between 107 and 102<sup>2</sup>

witness?: Iugurtha (1)

outcome: veto by C. Baebius (10) tr. pl.

Sal. *Jug.* 31.25-34

- 1 Gruen, *RPCC* 141 maintains that this was a *iudicium populi* on a charge of *perduellio*.
- 2 See Sumner, *Orators* 85-86.

50

date: 110

charge: *apud praetorem peregrinum* or *apud triumvirum capitalem*<sup>1</sup> (for murder of Massiva)

defendant: Bomilcar (5)

outcome: none (defendant smuggled away)

Sal. *Jug.* 35.6-9; App. *Nom. fr.* 1

Paul (1984) 107

- 1 Kunkel (1962) 49 n. 186 and Gruen, *RPCC* 141 n. 26 suggest that the *praetor peregrinus* probably presided over the trial.

51

date: 111? or 106?<sup>1</sup>

charge: *lex Acilia de repetundis* (misconduct as promag. 111? or as procos. Numidia 108-106)

defendant: Q. Caecilius Metellus Numidicus (97) pr. by 112, cos. 109, cens. 102 (spoke *pro se*, ORF 58.I)

iudices: *equites*

outcome: A

other: Jurors, who were of equestrian rank, refused to inspect defendant's records.

Cic. *Att.* 1.16.4; *Balb.* 11; V. Max. 2.10.1

- 1 Gruen, *RPCC* 133 argues for the year after the defendant's praetorship (when, according to Gruen, the defendant may have been governor [see 2 *Ver.* 3.209]). Carney (1962) 308 and Badian, *Imperialism* (1968) 103 n. 19 argue for 107 or 106. The controversy revolves around two issues: 1) does Valerius Maximus' statement *quid plus tribuit consuli* imply that the defendant was consul or that he was not consul ('to him as consul' or 'to a consul'); and 2) does this prosecution and outcome accord with the friendly reception given to the defendant in 107, as reported by Sallust *Jug.* 88.1? The act of prosecution was unfriendly, but the jurors' conduct was very friendly. See *MRR* 1.539 n. 3, and *MRR* Suppl. 40. As stated in the latter, if the trial occurred after the defendant's consular command, it must have been after his triumph in 106 and before the passage of the *lex Servilia Caepionis* in 106.

52

date: 109

charge: *quaestio extraordinaria* (under *lex Mamilia*) (treason with Jugurtha)

defendant: C. Sulpicius Galba (51) *sacerdos*<sup>1</sup> by 109

*quaesitores*: three, one of whom was M. (Aurelius?)<sup>2</sup> Scaurus (215) cos. suff. 108

jurors: *Gracchani* (i.e., probably equestrian) jurors

outcome: C

Cic. *Brut.* 127-28; *Sal. Jug.* 40

- 1 *Brut.* 128 identifies the defendant as *sacerdos*. It is highly unlikely that he is the augur condemned for extortion mentioned in *ad Her.* 1.20, if that augur is indeed a historical figure; see Münzer *RE* 4A (1931) 755, *MRR* 1.547, and case #72.

2 Sallust *Jug.* 40.4 (cf. 28.5) makes it clear that he believes that M. Aemilius Scaurus (140), *cos.* 115, was a *quaesitor* in this court. But he also appeared as an *advocatus* for Bestia (case #54, *de Orat.* 2.283). Four solutions have been formulated to avoid the apparently anomalous situation where the same man appears as *quaesitor* and *advocatus*:

a) Bloch (1909) 68. There were three separate courts. Scaurus must have appeared at a court presided over by another *quaesitor*.

b) Fraccaro (1911) 174 = *Opuscula* 2.129 n. 10. There was one court, presided over by each *quaesitor* in succession.

c) Wilkins, *de Oratore* 374. Scaurus appeared at a different trial of Bestia.

d) Sumner (1976). Sallust has confused M. Aemilius Scaurus with M. Aurelius Scaurus; the latter served as *quaesitor*. See *MRR*, Suppl. 10.

It should be noted that the Roman courts were not as punctilious about a separation of judicial roles as their modern counterparts are. A modern judge cannot appear as an attorney at a trial presided over by another judge. But Cicero, while serving as the praetor in the extortion court in 66, appeared as advocate on behalf of Cluentius in the homicide court (case #198).

53

date: 109

charge: *quaestio extraordinaria* (under *lex Mamilia*) (treason with Jugurtha)

defendant: L. Opimius (4) *cos.* 121

*quaesitores*: M. (Aurelius?) Scaurus (215) *cos. suff.* 108, and two others<sup>1</sup>

jurors: *Gracchani* (i.e., probably equestrian) jurors

outcome: C, exile, at Dyrrachium?<sup>2</sup>

*Cic. Sest.* 140; *Pis.* 95; *Planc.* 69, 70; *Brut.* 128; *Vell.* 2.7.3; *Asc.* 17C; *Plut. C. Gracch.* 18.1; see also *Cic. N.D.* 3.74; *Sal. Jug.* 40.1

1 See case #52, n. 2.

2 The defendant was buried there (*Sest.* 140).

54

date: 109

charge: *quaestio extraordinaria* (under *lex Mamilia*) (treason with Jugurtha)

defendant: L. Calpurnius Bestia (23) cos. 111

prosecutor: C. Memmius (5) pr. between 107 and 102<sup>1</sup>

*quaesitores*: M. (Aurelius?) Scaurus (215) cos. suff. 108, and two others<sup>2</sup>

jurors: *Gracchani* (i.e., probably equestrian) jurors

*advocatus*: M. Aemilius Scaurus (140) cos. 115, cens. 109

outcome: C?

Cic. *de Orat.* 2.283; *Brut.* 128; *Sal. Jug.* 40.5

1 See case #49, n. 2.

2 For a reference, see case #52, n. 2.

55

date: 109

charge: *quaestio extraordinaria* (under *lex Mamilia*)<sup>1</sup> (treason with Jugurtha)

defendant: C. Porcius Cato (5) cos. 114

*quaesitores*: M. (Aurelius?) Scaurus (215) cos. suff. 108, and two others<sup>2</sup>

jurors: *Gracchani* (i.e., probably equestrian) jurors

outcome: C, exile at Tarraco

Cic. *Balb.* 28; *Brut.* 128

1 See case #45, n. 1.

2 See case #52, n. 2.

56

date: 109

charge: *quaestio extraordinaria* (under *lex Mamilia*) (treason with Jugurtha)

defendant: Sp. Postumius Albinus (45) cos. 110, procos. Africa and Numidia 109

*quaesitores*: M. (Aurelius?) Scaurus (215) cos. suff. 108, and two others<sup>1</sup>

jurors: *Gracchani* (i.e., probably equestrian) jurors

outcome: C

Cic. *Brut.* 128

1 See case #52, n. 2.

57

trial uncertain<sup>1</sup>

date: 109

charge: *quaestio extraordinaria* (under *lex Mamilia*) (treason with Jugurtha)

defendant: (A.?) Postumius Albinus (32) pr. by 111?<sup>2</sup> leg. 110 (? = A. Postumius Albinus [33] cos. 99)

*quaesitores*: M. (Aurelius?) Scaurus (215) cos. suff. 108, and two others<sup>3</sup>

jurors: *Gracchani* (i.e., probably equestrian) jurors

outcome: A?

*Sal. Jug.* 36.3, 37-39, 44.4; *Liv. Per.* 64; *Flor. Epit.* 1.36.9; *Eutrop.* 4.26.3; *Oros.* 5.15.6

1 We do not know that this trial took place. Münzer *RE* 22 (1953) 908-9 assumes that Postumius (32) must have stood trial because of his overwhelming guilt. If Postumius (32) = Postumius (33), then his continued career constitutes evidence for acquittal, if the trial did take place. See *MRR Suppl.* 173.

2 See Sumner, *Orators* 84.

3 See case #52, n. 2.

58

date: 109

charge: *ambitus*<sup>1</sup>

defendant: (L. or Q.?) Hortensius (2) cos. des.?<sup>2</sup> 108

outcome: C

*Fast. Cap.* (Degrassi) p. 73; *Chronogr.* of 354<sup>3</sup>

Bloch (1909) 79-80; D.-G. 3.77; Cichorius, *Untersuch. Lucil.* 351; de Franciscis (1950) 129-30; *MRR* 1.548; *MRR Add. and Corr.* 2.645

- 1 Sumner (1976) 75 suggests as a possibility prosecution before the *quaestio Mamilia*. In that case, for *quaesitores*, see other trials before this *quaestio*.
- 2 Since a magistrate in office could not be prosecuted, it seems likely that he was convicted before taking office. See Atkinson (1960) 462 n. 108; Swan (1966) 239-40; and Weinrib (1971) 145 n. 1.
- 3 646 A.U.C. The name is listed as 'Kotensio.'

59

date: 107? 106?<sup>1</sup>

charge: *iudicium populi*, for *perduellio*<sup>2</sup> (disgraceful treaty with Tigurini)

defendant: C. Popillius Laenas (19) leg. 107

prosecutor: C. Coelius Caldus (12) tr. pl., cos. 94<sup>3</sup>

outcome: C, exile at Nuceria (later restored)

*ad Her.* 1.25, 4.34; *Cic. Inv.* 2.72-73; *Balb.* 28; *Leg.* 3.36; *Oros.* 5.15.24

- 1 The year depends on the date of the prosecutor's tribunate, which in turn depends on how quickly the trial could have taken place after the defeat of L. Cassius Longinus (62) cos. 107. See *FTP* 187.
- 2 Cicero's statement (*Leg.* 3.36) that the trial was for *perduellio* should be preferred to the statement (*ad Her.*) that *maiestas* was the charge. Last's attempt (*CAH* 9 [1932] 159) to square the evidence by positing an acquittal for *perduellio* and then a later trial under the *lex Appuleia de maiestate* is unnecessary; see Gruen, *RPCC* 151 n. 79, and Bauman (1967) 38.
- 3 He introduced the *lex tabellaria* for secret ballot in such trials.

60

date: 106<sup>1</sup>

charge: *lex Acilia de repetundis*?

defendant: C. Memmius (5) pr. between 107 and 102<sup>2</sup> (spoke *pro se*)

witness: M. Aemilius Scaurus (140) cos. 115, cens. 109

outcome: A

*Cic. Font.* 24; *V. Max.* 8.5.2

Passerini (1934) 133 n. 4; D'Arms (1972) 84; Gabba *RR* 227 n. 89

## 31 The Trials

- 1 Sumner, *Orators* 86 points out that, whereas Cicero (*Font.* 26) says that the jurors in case #61 were *equites*, he fails to say this about this trial. Therefore, he argues, this trial might date from the brief period (106-104? 101? 100?) when, under Caepio's *lex Servilia*, *equites* were excluded from the extortion courts. But V. Max. 8.5.2 says that the two defendants were both tried *eadem lege*, and if he does not merely mean that both were tried for extortion, his statement would imply that the two trials took place when *equites* staffed the extortion courts, either before 106 or after the passage of Glaucia's *lex Servilia* (104? 101? 100?). Since M. Gratidius, the prosecutor in the trial of Fimbria (case #61), died in 102 (see MRR 1.569, MRR Suppl. 92), the earlier date and a trial under the *lex Acilia* are the more likely choices. Memmius' actions as praetor in 107 (a possible date for his praetorship) and Fimbria's actions as praetor by that date could have provided the grounds for an extortion trial. However, a date of 104 or 103 for Glaucia's *lex Servilia* would allow for these two trials to have been held under that law. See Nicolet, *Ordre équestre* 1.541.
- 2 For a reference, see case #49, n. 2.

61

date: 106?<sup>1</sup>

charge: *lex Acilia de repetundis*?

defendant: C. Flavius Fimbria (87) cos. 104

prosecutor: M. Gratidius (2) e.R.

witness: M. Aemilius Scaurus (140) cos. 115, cens. 109

jurors: *equites*

outcome: A

Cic. *Font.* 24, 26; *Brut.* 168; V. Max. 8.5.2

- 1 See case #60, n. 1.

62

date: 104?<sup>1</sup>

charge: *iudicium populi*?<sup>2</sup> (abuse of power *ius vitae ac necis*? or for killing of son, who was suspected of either immorality or parricide)

defendant: Q. Fabius Maximus Eburnus (111) cos. 116, cens. 108

prosecutor: Cn. Pompeius Strabo (45) tr. pl. 104?<sup>3</sup> cos. 89

outcome: C, exile at Nuceria

Cic. *Balb.* 28; V. Max. 6.1.5; [Quint.] *Decl.* 3.17; Oros. 5.16.8  
Rowland (1968) 213-14

- 1 Shortly after the battle of Arausio. See Gruen (1964) 102 n. 14.
- 2 Mommsen, *Strafr.* 614 n. 1, followed by Jones (1972) 5, assumes that the phrase *diem dicere* is used by Orosius (5.16.8) in a technical sense for a trial before the *comitia*. But Kunkel (1962) 47 n. 179 argues that a technical sense should not be pressed; *contra* Badian (*Klio* 1984) 308 n. 66. Cloud (1971) 40 argues that the trial took place *inter sicarios*. To date his tribunate, Badian uses the argument that for this case, Pompeius prosecuted while tr. pl.
- 3 On the date, see Badian (*Klio* 1984) 306-9, *MRR* Suppl. 166.

63

date: 104? after Dec. 10?<sup>1</sup>

charge: *iudicium populi* (illegal war poorly conducted by defendant against Cimbri, injury to Aegritomarus)<sup>2</sup>

defendant: M. Iunius Silanus (169) cos. 109

prosecutor: Cn. Domitius Ahenobarbus (21) tr. pl. 104? 103? cos. 96, cens. 92 (*ORF* 69.II)

outcome: A, by large majority (only tribes Sergia and Quirina voted to condemn)<sup>3</sup>

Cic. *Div. Caec.* 67; 2 *Ver.* 2.118; *Corn. fr.* 2.7; Asc. 80-81C

- 1 Sumner, *Orators* 98-99 maintains that the date given by Velleius (2.12.5) for the tribunate of Domitius, 103, can be squared with Asconius' (80-81C) date of 104 for the trial by postulating a trial at the end of 104, after Domitius had become tr. pl., but while Marius and Fimbria were still consuls. See Marshall, *Asconius* 277-78, *MRR* Suppl. 82.
- 2 Aegritomarus is not listed in *RE*. The name could be Aegritomarius. The injury may have been a cause for the prosecution, rather than grounds for the charge. Also, there is some question whether Cicero and Asconius are referring to the same trial. See Marshall (*AJP* 1977) 419-23.
- 3 Marshall (*LCM* 1977) tentatively suggests the possibility that the prosecutor issued a 'rigged' voting tablet. See also Gruen (1964) 108-10.

64

date: 103

charge: *iudicium populi* (defeat at Arausio under the command of defendant and Caepio [see case #66])

defendant: Cn. Mallius Maximus (13) cos. 105

advocate?: M. Antonius (28) cos. 99, cens. 97 (ORF 65.III)<sup>1</sup>prosecutor: uncertain<sup>2</sup>

outcome: C, exile

Cic. *de Orat.* 2.125; Liv. *Per.* 67; Gran. Licin. 13 Flemisch .

- 1 The evidence that M. Antonius served as *patronus* in this trial is the phrase *Cn. Manli, Q. (Marci) Regis commiseratio* (*de Orat.* 2.125, so interpreted by Münzer, *RE* 14 [1928] 912; see also Münzer [1920] 388). But Meyer's view (1842) 290, which is followed by Wilkins in his note *ad loc.*, is preferable, that the phrase may have formed part of Antonius' defense of Norbanus (see case #86), in order to arouse pity for Mallius' two sons lost at Arausio and anger against Caepio, the prosecutor in that case, whose father was also in command along with Mallius. Note that Mallius' loss of his two sons (*Oros.* 5.16.2) was a standard *exemplum* illustrating the theme of the father bereft of his sons.
- 2 Badian, *Studies* 35 claims that Saturninus prosecuted this defendant. But the evidence (Gran. Licin. 13 Flemisch) shows only that Saturninus passed the bill establishing the *quaestio* before which Mallius and Caepio were prosecuted; the prosecutor of Caepio (case #66) was someone else, i.e., Norbanus, and the prosecutor of Mallius could also have been someone else.

65

trial uncertain

date: 103

charge: *quaestio extraordinaria, peculatus?* (on theft of *aurum Tolosanum*)

defendants: Q. Servilius Caepio (49) cos. 106 and others

outcome: A? C?<sup>1</sup>Cic. *N.D.* 3.74; Liv. *Per.* 67; *vir. ill.* 73.5; Dio 27 fr. 90; *Oros.* 5.15  
MRR 1.566 n. 8

## 34 The Trials

1 According to Lengle (1931), Caepio was either acquitted or assessed a pecuniary penalty.

66

date: 103, after case #65

charge: *iudicium populi*? (over defeat at Arausio, defendant as procos.

105 shared command with Mallius, see case #64)<sup>1</sup>

defendant: Q. Servilius Caepio (49) cos. 106 spoke *pro se* (ORF 62.I)

prosecutor: C. Norbanus (5) tr. pl. 103,<sup>2</sup> cos. 83

outcome: C, confiscation of goods, retraction of *imperium*, threat of execution?, exile at Smyrna<sup>3</sup>

other: tr.pl. L. Aurelius Cotta (100) pr. ca. 95 and tr. pl. T. Didius (5) cos. 98 driven off from veto

*ad Her.* 1.24; *Cic. Balb.* 28; *Brut.* 135; *Liv. Per.* 67; *Strab.* 4.1.13; *V. Max.* 4.7.3, 6.9.13; *Gran. Licin.* 13 Flemisch

1 See Lengle (1931).

2 On the date of the prosecutor's tribunate and of the trial, see MRR 1.565-66, n. 7.

3 *V. Max.* (6.9.13) claims that the defendant was executed at some time, but contradicts himself at 4.7.3; *contra* *Cic. Balb.* 28, *Strabo* 4.1.13, *V. Max.* 4.7.3. See Münzer (1912) 170-71.

67

date: ca 103<sup>1</sup>

charge: *lex Servilia* (Caepionis?) de repetundis (misconduct as gov. Sardinia)

defendant: T. Albucius (2) pr. 107? 105?<sup>2</sup>

prosecutor: C. Iulius Caesar Strabo Vopiscus (135) aed. cur. 90

witnesses: Sardinians

outcome: C, exile at Athens<sup>3</sup>

other: Cn. Pompeius Strabo (45) q. ca. 106,<sup>4</sup> cos. 89 was rejected as prosecutor.

*Cic. Div. Caec.* 63; *Pis.* 92; *Scaur.* 40; *Off.* 2.50; *Tusc.* 5.108; *Suet. Jul.* 55.2; see also *Apul. Apol.* 66.4; [Asc.] 203St

- 1 See Sumner, *Orators* 77-78, 104; also Rowland (1968) 213-14.
- 2 For references that discuss the date of his praetorship, see case #32, n. 2. For the three errors which Apuleius (*Apol.* 66.4) makes, see Apuleius, *Apolo-  
logia*, ed. Butler and Owen (1914) 131.
- 3 Carney (1958) 243 suggests the outcome was merely a censorial *nota* on the basis of Cic. *Prov.* 15; this suggestion is refuted by Gruen (1964) 101 n. 11.
- 4 Thompson (1969) suggests that Caepio's *lex Servilia* made *praevaricatio* easier; therefore, there were three attempts by ex-quaestors to prosecute the governor under whom they had served (this case, #70, #91).

68

date: 103?<sup>1</sup>charge: *iudicium populi* (for failure to perform properly duties as priest  
[augur?])<sup>2</sup>

defendant: M. Aemilius Scaurus (140) cos. 115, cens. 109

prosecutor: Cn. Domitius Ahenobarbus (21) tr. pl. 104? 103? cos. 96,  
cens. 92 (ORF 69.I)<sup>3</sup>outcome: A (32 tribes by a narrow margin for acquittal, 3 for condem-  
nation)Cic. *Scaur.* fr. c; *Deiot.* 31; V. Max. 6.5.5; Asc. 21C; Plut. *De capienda ex  
inimicis utilitate* 91D; Dio 27 fr. 92; see also Suet. *Nero* 2.1

Gruen (1964) 107-8

- 1 See case #63, n. 1.
- 2 Sumner, *Orators* 99, following Badian (1968) 29, argues that the priesthood of Scaurus was the augurate; *contra* MRR 1.562 n. 7. Sumner's view is developed by Keaveney (1982) 152-53. See Marshall, *Asconius* 129-32, MRR Suppl. 11-12.
- 3 Plutarch incorrectly says that Scaurus prosecuted Domitius.

69

date: 102?

charge: *lex Servilia* (Caepionis?) *de repetundis*?<sup>1</sup> *peculatus*? (miscon-  
duct during command in Sicily against slaves in 103)

defendant: L. Licinius Lucullus (103) pr. 104

prosecutor: (M.?) Servilius (12) augur<sup>2</sup>

outcome: C<sup>3</sup>

other: Q. Caecilius Metellus Numidicus (97) cos. 109, cens. 102  
refused to be *laudator* of defendant.

Cic. 2 *Ver.* 4.147; *Prov.* 22; *Ac.* 2.1; *Off.* 2.50; Diod. Sic. 36.8.5, 36.9.1-2;  
Plut. *Luc.* 1; Quint. *Inst.* 12.7.4; *Vir.* Ill. 62.4

- 1 Plutarch uses the term *klopē*, *Luc.* 1. See Badian (*PBSR* 1984) 62 n. 26. Gruen, *RPCC* 177 suggests *peculatus*.
- 2 There is no agreement as to whether Servilius the augur is the same person as C. Servilius pr. 102. Münzer, *RE* 2A (1923) 1762-63, *ORF* p. 308 n. 1, and *MRR* 1.573 n. 6 lean to identification. Klein (1878) 56, van Ooteghem (1959) 14-15 n. 4, and Gruen, *RPCC* 177 n. 94 argue against identification.  
Van Ooteghem argues: a) Diodorus does not mention that Servilius had prosecuted Lucullus, though to do so would have been relevant in the context; b) Plutarch does not say that the prosecutor succeeded the convicted defendant as governor, as would have been natural, had this been the case, and thus Servilius should be identified as augur to distinguish him from the praetor; c) Servilius the augur was acquitted (*of maiestas?* see Plut. *Luc.* 1), but Servilius the praetor was condemned for some sort of malfeasance. In my opinion, while there may not be the discrepancy in the charges which van Ooteghem claims, there is a discrepancy in the verdicts. See Badian (*Klio* 1984) 302, (*PBSR* 1984) 59; and d) Servilius the augur is C. Servilius Vatia (91) according to Mommsen (1860) 535-36, followed by Gruen, *RPCC* 178. Münzer *RE* 2A (1923) 1812 holds that the praetor of 102 was his son. For a stemma of the Servilii, see Crawford *RRC* 1.270, modified by Badian (*PBSR* 1984). By means of complex argument (59-62), Badian proposes that one M. Servilius Augur was the first cousin of C. Servilius, praetor in Sicily in 102.
- 3 The argument that the defendant went into exile at Heraclea (D.-G. 4.214 n. 4) is based on *Arch.* 8 and on an emended reading of *Arch.* 6. But these two passages (as emended) mention the activities only of the defendant's son M. Lucullus.

70

date: 101?<sup>1</sup>

charge: lex Servilia (Glaucia?) de repetundis? (misconduct as gov. Sicily)

defendant: C. Servilius (11, cf. 12)<sup>2</sup> pr. 102?

other: L. (Sempronius?) Pit(h)io? L. (Veturius?) Philo?<sup>3</sup> (Veturius 21)  
 q. 102? rejected as prosecutor.  
 outcome: C, exile

Cic. *Div. Caec.* 63; [Asc.] 203St; Diod. Sic. 36.9.1

- 1 Gruen, *RPCC* 178 n. 104 and Sumner, *Orators* 80 are probably wrong to interpret the word *propiora* in [Asc.] 203St in a chronological sense. Therefore, that passage does not tell us anything about the chronological relationship between this case, case #67, and case #91. The scholiast is pointing out that Cicero in *Div. Caec.* saves his closest (qualitative, not chronological) parallel for last. On this point see Sumner, *Orators* 82. Sumner, *Orators* 80-81 notes that the last securely identifiable L. Philo is the cos. of 206, and that the trial should perhaps be much earlier. But that *nomen* may be irrelevant. See below, n. 3. On the other hand, the existence of the *divinatio* to select the prosecutor points to an extortion law after the lex Acilia, probably the lex Servilia of Caepio according to Serrao (1956) 500.
- 2 See case #69, n. 3.
- 3 See Badian (*Klio* 1984) 291-96. Preserving the manuscript reading, Badian suggests that this individual is the son or grandson of L. Sempronius Pitio (74) *monetalis* 148. Previously, the rejected prosecutor had been named as L. Veturius Philo, with the *nomen* 'Veturius' supplied on the basis of the *cognomen* 'Philo,' which is itself a doubtful emendation.

71

date: after case #69<sup>1</sup>

defendant: (M.?) Servilius (12) augur<sup>2</sup>

prosecutors:

L. Licinius Lucullus (104) cos. 74 (*ORF* 90.I)

M. Terentius Varro Lucullus (Licinius 109) (*ORF* 91.I)<sup>3</sup> cos. 73

outcome: A<sup>4</sup>

other: This case is perhaps the same as case #72.<sup>5</sup>

Cic. *Prov.* 22; *Ac.* 2.1; *Off.* 2.50; *Quint. Inst.* 12.7.4; [Asc.] 222St; see also *Cic. Arch.* 6<sup>6</sup>

1 Badian (*Klio* 1984) 304 suggests a date of 91.

2 On his identity see case #69, n. 2.

3 [Asc.] 222St has the Luculli prosecuting L. Cotta.

## 38 The Trials

- 4 See case #72, n. 3, for the possibility of condemnation.
- 5 Cicero's rhetorical question (*Prov. 22*), *quae fuerunt inimicitiae in civitate graviores quam Lucullorum atque Servilii?* implies that only one Servilius was involved in a feud with the Luculli. This might seem to be an argument for identifying the two Servilii. But since there is no direct evidence that the Luculli were involved in the prosecution of Servilius the praetor (case #70), this passage does not help us decide whether Servilius the augur is the same man as Servilius the praetor.
- 6 'L. Lucullo' has been emended to 'M. Lucullo.' See D.-G. 4.214 n. 4.

### 72

trial uncertain<sup>1</sup>

date: by 81<sup>2</sup>

charge: lex Servilia? (Glaucia?) de repetundis

defendant: augur

outcome: C

other: = ? case #71.<sup>3</sup>

*ad Her.* 1.20

Marx (1894) 108

- 1 It is possible that this case is merely a fictional, schoolbook example of a legal problem, since the author does not mention specific names.
- 2 The *terminus ante quem* would be the latest possible date of composition of *ad Her.*
- 3 It is tempting to connect this case with case #71. However, the outcome is different. On the other hand, if case #71 = case #72, then perhaps Plutarch is wrong to record that Servilius the augur was acquitted.

### 73

date: after 104,<sup>1</sup> before 91

claim: *sponsio* (*ni vir bonus esset*)

party: M. Lutatius Pinthia (21) e.R.

juror: C. Flavius Fimbria (87) cos. 104

outcome: juror refused to adjudicate

Cic. *Off.* 3.77; V. Max. 7.2.4

## 39 The Trials

- 1 V. Max. refers to the juror as *consularis*. But if he does so only to distinguish him from the C. Flavius Fimbria active in the 80s, then the term *consularis* does not provide a *terminus post quem*.

74

date: 101

charge: *quaestio extraordinaria*? (violation of immunity of envoys)

defendant: L. Appuleius Saturninus (29) tr. pl. 103, 100, tr. pl. des. for 99<sup>1</sup>

jurors: senators

outcome: A

Diod. Sic. 36.15

- 1 See MRR Suppl. 21-22.

75

date: 101

charge: *iudicium populi*? for parricide (killing of mother)

defendant: Publicius Malleolus (17)

outcome: C, execution by being thrown into sea in leather sack

*ad Her.* 1.23; *Liv. Per.* 68; *Oros.* 5.16.23

Cloud (1971) 44

76

date: 100

claim: civil suit (for retention of dowry: *retentio propter mores*)<sup>1</sup>

defendant: C. Titinius (8) of Minturnae

plaintiff: Fannia (21)

juror: C. Marius (14, *RE Supp.* 6) cos. 107, 104-100, 86

outcome: Fannia allowed to recover all but a token amount (one sest-  
erce) from her ex-husband

V. Max. 8.2.3; *Plut. Mar.* 38.3-5

## 40 The Trials

1 See Wolff (1934) 318; Watson (1967) 68-69; Gardner (1986) 90.

77

trial uncertain<sup>1</sup>

date: 100?

charge: *iudicium populi* for *perduellio*? lex Appuleia de maiestate?

defendant: Q. Caecilius Metellus Numidicus (97) cos. 109, cens. 102

prosecutor: L. Appuleius Saturninus (29) tr. pl. 103, 100, tr. pl. des. for 99<sup>2</sup>

outcome: exile to Rhodes, Tralles

Cic. *Clu.* 95; *Dom.* 82, 87; *Sest.* 37, 101; *Pis.* 20; *Planc.* 89; *Leg.* 3.26; *Liv. Per.* 69; *Vell.* 2.15.4; *V. Max.* 3.8.4; *Amp.* 18.14; *Plut. Cat. Min.* 32.3; *Mar.* 29.4-8; *Dio* 38.7.1; *Vir. Ill.* 62.2, 73.8; *Schol. Bob.* 168, 174St; *Flor. Epit.* 2.4.3, 2.5.3; *Oros.* 5.17.4

- 1 The legal details of this trial are not at all clear; in fact, it is not at all clear that a trial actually took place, or was even threatened. Metellus refused to swear the oath required by Saturninus' agrarian law; the penalty for this failure was expulsion from the Senate and a fine of 20 talents (= ca HS 480,000; see Gabba, *Appian* p. 104 on c. 29). This penalty, while high, would not have bankrupted Numidicus. Two sources (*Liv. Per.* 69 and *Oros.* 5.17.4) imply that a trial at least began, by using the phrase *diem dicere*. Gabba (1951) 21-23 suggests that Saturninus prosecuted Numidicus under the lex Appuleia de maiestate. Brecht (1938) 297-301 and Gruen (*Latomus* 1965) suggest a *perduellio* trial before the *comitia*. Crifò (1961) 275-88 suggests that no trial occurred. It seems clear that the *aquae et ignis interdictio* could not be a penalty, but merely confirmed the exile of Numidicus, which, the sources agree, was voluntary. Perhaps it was voluntary in the sense that Numidicus could have paid the fine, but refused. Alternatively, perhaps Saturninus persuaded the people to pass the interdiction, which the *Periochae* and Orosius perceived as a trial.
- 2 For references to a third election to the tribunate, see case #74, n. 1.

78

date: 99, perhaps late in the year<sup>1</sup>

charge: *iudicium populi*?<sup>2</sup>

## 41 The Trials

defendant?: L. Valerius Flaccus (178) cur. aed. 99? 98?, cos. suff. 86<sup>3</sup>  
prosecutor: C. Appuleius Decianus (21) tr. pl. 99? 98?  
outcome: A<sup>4</sup>

Cic. *Flac.* 77; Schol. Bob. 95, 105St

- 1 Münzer *RE* 8A (1955) 26 accepts the suggestion of Seidel (1908) 46 that the prosecution might have taken place between Dec. 10 and Dec. 31, 99, when Flaccus was still aedile, but Appuleius was already tribune.
- 2 See Gruen (*Historia* 1966) 37 n. 31.
- 3 See Sumner, *Orators* 81.
- 4 If the defendant was the future consul of 86, then his advancement is evidence for acquittal. See Gruen (*Historia* 1966) 37 n. 28.

79

date: 99 or 98<sup>1</sup>

charge: *iudicium populi* (acts as tribune)

defendant: P. Furius (22) tr. pl. 100 or 99

prosecutors:

C. Appuleius Decianus (21) tr. pl. 99 or 98<sup>2</sup>

C. Canuleius (3) tr. pl. 99?<sup>3</sup>

outcome: killed by mob before verdict was delivered<sup>4</sup>

Cic. *Rab. Perd.* 24-25; V. Max. 8.1 damn. 2; App. *BCiv.* 1.33; Dio 28 fr. 95.3

- 1 The trial took place the year after Furius was tribune, and the year when Appuleius was tribune. See *FTP* 204, *MRR* 2.2, 2.4, Seager (1967), and Tyrrell (1978) 124-25 for the later date; see also Gabba, *Appian* 1.33 p. 114, Gruen (*Historia* 1966) 35, Badian (*Chiron* 1984) 133, and *MRR* Suppl. 22 for the earlier date.
- 2 It is disputed whether there was only one prosecution by one man, in which case Canuleius would be a confusion on Appian's part for Appuleius (so *FTP* 209), one prosecution by two men (so Gruen [*Historia* 1966] 35), or two separate prosecutions with the first ending in acquittal (so Münzer *RE* 7 [1910] 317, *MRR* 2.6 n. 5, and Badian *Chiron* [1984] 130-33).
- 3 See *MRR* Suppl. 21-23.
- 4 V. Max. (8.1. damn. 2) says that the defendant was not condemned; whereas Appian (*BCiv.* 1.33) says that he was killed by a mob while under indictment.

ment. If the same trial is in question, the evidence can be squared by assuming that the mob acted during the course of the trial before the conclusion was reached. Note that Dio says that the defendant was killed in the assembly.

80

date: 98?

charge: *lex Appuleia de maiestate*?<sup>1</sup>

defendant: Sex. Titius (23) tr. pl. 99

jurors: *equites*

witness: M. Antonius (28) cos. 99, cens. 97 (*ORF* 65.IV)

outcome: C, exile

*Cic. Rab. Perd.* 24-25; *de Orat.* 2.48, 2.253, 2.265; V. Max. 8.1. damn. 3

- 1 Gruen (*Historia* 1966) 38 n. 36 suggests a *maiestas* trial for seditious conduct, although V. Max. claims that the trial took place in a *contio* (i.e. a tribunician prosecution *apud populum*). Cicero, however, clearly states that the defendant was condemned by *equites* (i.e. as *iudices*), and therefore before a *quaestio*.

81

date: 98 or 97<sup>1</sup>

charge: uncertain<sup>2</sup>

defendant: C. Appuleius Decianus (21) tr. pl. 99 or 98

outcome: C, exile to Pontus

*Cic. Rab. Perd.* 24; *Flac.* 5, fr. 3, 77; V. Max. 8.1. damn. 2; *Schol. Bob.* 95, 105St

- 1 The date is the year after the defendant's tribunate.
- 2 Gruen (*Historia* 1966) 38 suggests a *maiestas* trial for seditious behavior as tribune.

## 43 The Trials

82

date: after 98<sup>1</sup>

defendant: Q. Caecilius Metellus Nepos (95) cos. 98 (possibly spoke *pro se*)<sup>2</sup>

prosecutor: C. Scribonius Curio (10) cos. 76, cens. 61 (ORF 86.I)<sup>3</sup>

outcome: C?

Asc. 63C; Apul. *Apol.* 66; see also Cic. *Brut.* 206

- 1 If condemnation was the outcome, a date after the defendant's consulate is dictated. Gruen (*Historia* 1966) 42 n. 61 suggests the early 90s because the prosecutor (born ca 124/3, according to Sumner, *Orators* 110) was young at the time (Apul. *Apol.* 66). But the other *exempla* in this error-ridden passage allow for Curio to be as old as 31 (the age of Antonius when he prosecuted Carbo); thus, the year could have been 93, and perhaps later.
- 2 This may be the Metellus for whom L. Aelius Stilo composed a speech (ORF 74.I), and this trial may be the occasion when the speech was delivered (Cic. *Brut.* 206). Asconius' testimony shows that Butler and Owen (comm. on Apuleius *Apol.* 131) cannot be correct in suggesting that Q. Caecilius Metellus Celer (85) was tribune in 90.
- 3 See MRR Suppl. 186.

83

date: second half of 97, or 96<sup>1</sup>

charge: *ambitus* (for misconduct as candidate for censor)

defendant: M. Antonius (28) cos. 99, cens. 97<sup>2</sup>

prosecutor: M. Duronius (3) tr. pl. by 97

witness: C. Coelius Caldus (12) cos. 94

outcome: A, or dropped

Cic. *de Orat.* 2.257, 2.274; see also V. Max. 2.9.5

- 1 The trial took place after the censors had expelled the prosecutor from the Senate. Münzer RE 5 (1905) 1862 claims that the trial took place during the defendant's censorship. Gruen (*Historia* 1966) 41 n. 58 suggests a trial during Antonius' campaign for the censorship. But Cicero (*de Orat.* 2.274) claims that Antonius was censor when prosecuted, and perhaps it was possible to prosecute a censor, whose status was different from that of other

## 44 The Trials

magistrates; see Shackleton Bailey (1970) 163.

- 2 Perhaps the alleged failure of one Antonius to keep accurate records (2 *Ver.* 1.60) can be connected with this trial.

### 84

date: 97?<sup>1</sup>

charge: *lex Servilia* (Glaucia) *de repetundis*<sup>2</sup>

defendant: M'. Aquillius (11) *cos.* 101, *procos.* Sicily 100-99

advocate: M. Antonius (28) *cos.* 99, *cens.* 97 (*ORF* 65.V)

character witness: C. Marius (14, *RE Supp.* 6) *cos.* VI 100, VII 86

prosecutor: L. Fufius (5) *tr.* pl. 91 or 90?<sup>3</sup> (*ORF* 75.I)

outcome: A

*Cic.* 2 *Ver.* 5.3; *Flac.* 98; *de Orat.* 2.124, 188, 194-96; *Off.* 2.50; *Brut.* 222; *Liv. Per.* 70; *Quint. Inst.* 2.15.7; *Apul. Apol.* 66

- 1 *Liv. Per.* 70 gives 98, but see Badian *Studies* 45-46, Gruen (*Historia* 1966) 39.
- 2 *Liv. Per.* 70; *MRR* 2.2 gives *peculatus*.
- 3 See Sumner (1963) 350 n. 57. Apuleius gives the name as C. Furius.

### 85

date: 96?

advocate: P. Sulpicius Rufus (92) *tr.* pl. 88

*Cic. de Orat.* 2.88<sup>1</sup>

- 1 Münzer *RE* 4A (1931) 844 suggests a possible connection between this passage and case #88. But Gabba (1953) 264 n. 4 argues that the trial of Caepio could not be the *causa parvula* to which Cicero here refers. A civil case, similar to #126, in which Cicero spoke for Quinctius, is more likely at the start of Sulpicius' forensic career.

### 86

date: not before 96<sup>1</sup>

charge: *lex Appuleia de maiestate* (seditious conduct as *tr.* pl. 103)

defendant: C. Norbanus (5) cos. 83<sup>2</sup>  
 advocate: M. Antonius (28) cos. 99, cens. 97 (ORF 65.VI)  
 prosecutor: P. Sulpicius Rufus (92) tr. pl. 88 (ORF 76.II)  
 witness: M. Aemilius Scaurus (140) cos. 115, cens. 109  
 outcome: A

Cic. *de Orat.* 2.89, 107, 124, 164, 167, 197-204; *Off.* 2.49; *Part.* 104; *V. Max.* 8.5.2; *Apul. Apol.* 66

- 1 Antonius (cens. 97) was an ex-censor (*de Orat.* 2.198).
- 2 See Gruen (CP 1966), Badian *Studies* 49-50, 84-86, and *MRR* Suppl. 149.

87

date: by 91<sup>1</sup>  
 defendant: M. (Claudius?) Marcellus (226) pr. at an uncertain date<sup>2</sup>  
 witness: L. Licinius Crassus (55) cos. 95, cens. 92 (ORF 66.XV) (against  
 defendant)  
 outcome: A

Cic. *Font.* 24; *V. Max.* 8.5.3

- 1 Badian, *Studies* 44, 53 suggests a date around 95, and a charge of extortion. There is, in fact, no direct evidence about date or charge other than 91 as the year of Crassus' death. See Münzer *RE* 3 (1899) 2760, Gruen (*Historia* 1966) 51, Sumner, *Orators* 91.
- 2 On the question of the relationship of this individual to M. Claudius Marcellus (227) aed. cur. 91, see Badian, *Studies*, 53, Sumner, *Orators* 91, and *MRR* Suppl. 55.

88

date: 95  
 charge: lex Appuleia de maiestate (misconduct as q. 100)  
 defendant: Q. Servilius Caepio (50) pr. 91? (ORF 85.IV) 90<sup>1</sup>  
 advocates:  
 L. Licinius Crassus (55) cos. 95, cens. 92 (ORF 66.VI)  
 ? P. Sulpicius Rufus (92) tr. pl. 88? (ORF 76.I?)<sup>2</sup>

prosecutor: T. (Betutius?) Barrus (Betitius 1), (perhaps e.R.) (ORF 84.I)<sup>3</sup>

*ad Her.* 1.21, 2.17; *Cic. Brut.* 162; see also *ad Her.* 4.35; *Sal. Hist.* 1.62M; *Cic. de Orat.* 2.88; *Brut.* 169

- 1 Gruen (*JRS* 1965) 63 n. 48, (*Historia* 1966) 45 maintains that this trial was the occasion for which L. Aelius Stilo composed a speech for Caepio (ORF 74.II), and Caepio delivered the speech *pro se*; contra Münzer (1920) 301, Douglas *Brutus* 130, who maintain that Aelius' speech must have been written for a prosecution of Caepio under the *lex Varia* (see case #106).
- 2 It is doubtful whether this is the *causa parvula* (*de Orat.* 2.88) in which Sulpicius spoke (see case #85).
- 3 Gabba (1953) 271 (see also 264 n. 4) connects this prosecutor with this case on political grounds; Badian (*Studies* 66 n. 85) denies that there is any evidence that this case was politically important. Sumner, *Orators* 102 distinguishes Betucius from the *eques* who was a witness in the Vestal scandal (cases #38, #39, #40).

89

date: 95

charge: *quaestio extraordinaria* (challenge to citizenship under *lex Licinia Mucia*)

defendant: T. Matrinius (3) of Spoletium e.R.<sup>1</sup>

advocate: C. Marius (14, *RE Supp.* 6) cos. 107, 104-100, 86<sup>2</sup>

prosecutor: L. Antistius (12) (ORF 77.I)

outcome: A

*Cic. Balb.* 48-49

1 See Nicolet, *Ordre équestre* 2.950.

2 Brunt (1965) 106 is wrong to conclude from *Balb.* 49 that Crassus defended Matrinius; see Badian (*Historia* 1969) 491.

90

date: 95

charge: *lex Servilia (Glaucia) de repetundis*?<sup>1</sup> (misconduct as praetor [in Africa?] by 96) (*ORF* 70 frags. 15, 16, [17]?)  
 defendant: L. Marcius Philippus (75) cos. 91, cens. 86  
 prosecutor: Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.I)  
 juror: L. Aurifex (1) e.R.  
 witness?: Q. Lutatius Catulus (7) cos. 102  
 outcome: A?<sup>2</sup>

*Cic. de Orat.* 2.220, 245, 249; 3.228-29; *Quint. Inst.* 6.3.81

- 1 On the basis of jokes reported in the *de Oratore*, especially 2.220 (cf. *Quint. Inst.* 6.3.81), Münzer *RE* 14 (1930) 1563 claims that this was an extortion case. See also Gruen (*Historia* 1966) 49-50.
- 2 Since the defendant went on to hold the consulate, he was probably acquitted.

## 91

date: shortly after 95?<sup>1</sup>  
 charge: *lex Servilia (Glaucia) de repetundis* (provincial malfeasance after governorship of Asia in 95? 94?)  
 defendant: L. Valerius Flaccus (178) pr. 96? 95?, cos. suff. 86  
 outcome: A<sup>2</sup>  
 other: M. Aurelius Scaurus (cf. 215)<sup>3</sup> q. ca 95? 94? former quaestor of defendant, rejected as prosecutor.

*Cic. Div. Caec.* 63; 2 *Ver.* 1.85; [Asc.] 203St

- 1 Sumner, *Orators* 80-82, following Münzer, *RE* 8A (1955) 26-27, argues that, rather than create an otherwise unknown Scaurus q. ca. 103, we should set the case in the late 90s, and record the man who later became cos. suff. as the defendant. The fact that Scaurus' quaestorship is described by Cicero in 70 as *nuper* (2 *Ver.* 1.85), he argues, is not an insurmountable obstacle to this view (cf. *Off.* 2.58). Sumner's view, now accepted by Badian (*Klio* 1984) 298-99, is the most economical. See *MRR* Suppl. 32, 212. Previously, it had been thought that the three cases mentioned together in *Cic. Div. Caec.* 63 (this one, and cases #67 and #70) must have all occurred in the last years of the second century BC; see Badian *Studies* 86-87.
- 2 The defendant's later election to consulate would indicate acquittal.
- 3 Son of M. Aurelius Scaurus (215) cos. suff. 108.

92

date: 95? 93? 91?<sup>1</sup>charge: *lex Servilia (Glaucia) de repetundis*<sup>2</sup> (misconduct as gov. Cilicia)

defendant: L. Cornelius Sulla (392) gov. Cilicia 96-95? 94? 92?, cos. 88, 80

prosecutor: C. Marcius Censorinus (43) leg. 82 (*ORF* 82.I)

outcome: charges dropped

Plut. *Sull.* 5; Firm. Mat. 1.7.28

- 1 The trial presumably followed the defendant's command in Cilicia. This Badian (*Studies* 169-170) has dated to 96-95, and given this date, the trial would have occurred in late 95 or in 94. Keaveney (1980) 149-57 defends Badian's dating, though for somewhat different reasons. Sumner (*Athenaeum* 1978) dates Sulla's praetorship to 95 and his Cilician command to 94. He argues that Sulla must have run in 99 for the praetorship of 98, and having been defeated, ran in the same year for the aedileship of 98, which he held. Sherwin-White (*CQ* 1977, *JRS* 1977, 72) argues that Sulla restored Ariobarzanes of Cappadocia in the late nineties. See *MRR* Suppl. 74.
- 2 *MRR* 2.18 refers to the acceptance of bribes. But Gruen (*Historia* 1966) 51 n. 116 correctly points out that the force of Sallust's words contained in Firm. Mat. 1.7.28, *spoliatae provinciae crimen*, means that extortion was the charge.

93

date: 94? 93?<sup>1</sup>claim: *hereditatis petitio, apud centumviros* (inheritance)<sup>2</sup>

party: M'. Curius (5)

opposing party: M. Coponius (5)

advocate for Curius: L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF* 66.VII)advocate for Coponius: Q. Mucius Scaevola (22) cos. 95 (*ORF* 67.I)

outcome: in favor of Curius

Cic. *Inv.* 2.122; *Caec.* 53, 69; *de Orat.* 1.180, 238, 242; 2.24, 140-41, 221; *Brut.* 144-46, 195, 256; *Top.* 44; Quint. *Inst.* 7.6.9-10Watson (1974) 129-31; Tellegen (1983) 296-98; Frier, *RRJ* 135-36

- 1 Judging by *Brut.* 145, both advocates were consulars, but Crassus was not yet a censor. If Badian (*Athenaeum* 1956) 104-12 is right that Scaevola was procos. Asia in 94 rather than 97, then 94 would probably be impossible. See *MRR* Suppl. 145-46 for sources and summary of the chronological problem.
- 2 The issue was whether Curius, the residuary heir, could receive an inheritance, given that the precise legal conditions for so doing had not been met; the testator's son had not actually died, for the testator had had no son. See Wilkins, *de Oratore* 11-12, Vaughn (1984).

94

date: 92

charge: *lex Servilia* (Glaucia) *de repetundis* (misconduct as legate to Asia)<sup>1</sup>

defendant: P. Rutilius Rufus (34) cos. 105 (*ORF* 44.III) spoke *pro se*  
advocates:

Q. Mucius Scaevola (22) cos. 95 (*ORF* 67.II)

C. Aurelius Cotta (96) cos. 75 (*ORF* 80.I)

prosecutor: Apicius (1)<sup>2</sup>

outcome: C, exile to Asia (Mytilene and Smyrna),<sup>3</sup> loss of property

Posidonius in Athen. 4.66, 168DE = *FGrH* 2A.27, 233; *Cic. Font.* 38; *Balb.* 28; *Pis.* 95; *Rab. Post.* 27; *de Orat.* 1.229-30; *Brut.* 85, 115; *N.D.* 3.80, 86; *Diod. Sic.* 37.5.1; *Liv. Per.* 70; *Vell.* 2.13.2; *V. Max.* 2.10.5, 6.4.4; *Sen. Ben.* 5.17.2, 6.37.2; *Ep.* 24.4; *Quint. Inst.* 11.1.13; *Tac. Ann.* 4.43; *Dio* 28, fr. 97; [*Asc.*] 202St; *Flor. Epit.* 2.5.3; *Oros.* 5.17.12-13; see also *Tac. Ann.* 3.66.2

Pais (1918) 46-49

- 1 Ps.-Asconius incorrectly refers to the defendant as quaestor, 202St. Badian's argument (*Studies* 101 n. 94) for a late date (94-93) both for his legateship and for the proconsulship of Q. Mucius Scaevola has been challenged by Marshall (1976), who argues for an earlier date, 97. See also Sumner (*GRBS* 1978) 147-48, Marshall, *Asconius* 110-12.
- 2 The prosecutor was not M. Aemilius Scaurus (140) cos. 115, cens. 109, contrary to what his great-grandson claimed (*Tac. Ann.* 3.66.2); see Badian *Studies* 108.
- 3 *V. Max.* 6.4.4 notes that the defendant refused to return to Rome *ne quid*

*adversus leges faceret.* Dio says that he was under compulsion to leave Rome.

95

date: 92

charge: perhaps *ambitus*<sup>1</sup>

defendant: L. Marcius Philippus (75) cos. 91, cens. 86

prosecutor: Q. Servilius Caepio (50) pr. 91?

Flor. *Epit.* 2.5.5

- 1 Note, however, that Florus goes on to make the incorrect statement that Caepio accused Scaurus of *ambitus*; see case #96.

96

date: late 92 or early 91<sup>1</sup>

charge: lex Servilia (Glaucia) de repetundis<sup>2</sup>

defendant: M. Aemilius Scaurus (140) cos. 115, cens. 109 (*ORF* 43.II?, III)

prosecutors:

Q. Servilius Caepio (50) pr. 91?

Cn. Cornelius Dolabella (135) pr. 81

? M. Iunius Brutus (50)<sup>3</sup>

outcome: A (or none)<sup>4</sup>

other: two *actiones*<sup>5</sup>

Cic. *Font.* 38; *Scaur.* fr. d; Plin. *Nat.* 36.116; Asc. 21C; Fron. *Str.* 4.3.13; Flor. *Epit.* 2.5.5

- 1 The trial occurred just before, or during the early part of, the tribunate of M. Livius Drusus.
- 2 The charge did not stem, contrary to general belief (Badian [*Athenaeum* 1956] 117-22, and others), from the defendant's actions as legate to Asia; the phrase *legatio Asiatica* refers to Rutilius and to his service as assistant to Scaevola (Asc. 21C). See Alexander (1981) and *MRR* Suppl. 11. The accusation made *pro rostris* that he had received a bribe from Mithridates (V. Max. 3.7.8) may be irrelevant here. The charge was not *ambitus*, contrary to

the statement of Florus (*Epit.* 2.5.5). See Sumner, *Orators* 117.

- 3 Brutus may have prosecuted Scaurus in a separate extortion case (see case #37). The passage from Frontinus probably refers to the discipline displayed by Scaurus' troops when he was consul in 115. For that reason Bloch (1909) 26-27 and Gruen, *RPCC* 125 place that prosecution in 114. But this passage could also have served as part of Scaurus' defense in the late 90s, and in that case Brutus would have served as *subscriptor* with Caepio. See Klebs *RE* 1 (1893) 586, Gelzer *RE* 10 (1917) 972.
- 4 Scaurus went on to be politically active in this year, and was later accused under the *lex Varia* (see case #100).
- 5 These were either in this case or in case #37; see Char. 186.30.

97

date: late 92 or early 91<sup>1</sup>

charge: *lex Servilia* (Glaucia) de repetundis, not *ambitus*<sup>2</sup>

defendant: Q. Servilius Caepio (50) pr. 91? (*ORF* 85.II)<sup>3</sup>

prosecutor: M. Aemilius Scaurus (140) cos. 115, cens. 109 (*ORF* 43.III)

outcome: A (or none)

other: two *actiones*?<sup>4</sup>

Cic. *Scaur.* fr. d; Asc. 21C

- 1 See case #96, n. 1. By requesting a shorter period for an *inquisitio*, Scaurus managed to have the trial of Caepio occur before his own, even though Caepio brought his case first. See n. 3 below.
- 2 Münzer (1920) 300 suggests an *ambitus* charge. Sumner, *Orators* 117 points out that this must be an extortion trial, since Scaurus launched the prosecution in order to delay case #96, in which he was the defendant on an extortion charge; therefore, this case and case #96 must involve the same type of charge.
- 3 There is no evidence to show that Caepio spoke *pro se*, *pace* *ORF* p. 295. Malcovati perhaps relies on the phrase *causam dicere*, which, however, merely means 'to be a defendant' (cf. Cic. *S. Rosc.* 13, where *causam dicere* is used of a defendant who almost certainly does not speak in his own defense).
- 4 Gruen (*Historia* 1966) 56 n. 149 concludes, on the basis of a quotation recorded in Char. 186.30, that the case went into the second (and final) *actio*, and that therefore a verdict was reached; this verdict would have been an acquittal, since Caepio saw service in the Social War. This recon-

struction is quite possible, but the quotation of Charisius may also come from the prosecution of Scaurus by Caepio (case #96), if Scaurus was going to speak *pro se* on that occasion. In that case, that trial could have come to a verdict, even if this trial (of Caepio) had been dropped by Scaurus. But, on the other hand, Scaurus was evidently trying to delay the trial in which he was the defendant, and would be unlikely to drop his prosecution. Gruen is right to attack Bloch's belief (1909) 30 that the trial of Scaurus must have been postponed till Caepio died in battle. See Marshall, *Asconius* 136.

98

date: after 101? and before 91<sup>1</sup>

charge: *quaestio*

defendant: Cn. (Munatius?) Plancus or Plancius (Plancius 2) e.R.

advocate: L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF* 66.XII)

prosecutor: M. Iunius Brutus (50)

jurors: *equites*

outcome: A<sup>2</sup>

Cic. *Clu.* 140-41; *de Orat.* 2.220, 223-26; Quint. *Inst.* 6.3.44; Plin. *Nat.* 36.7

- 1 Gruen (*Historia* 1966) 59-60 argues against definitely placing the trial in the late 90s.
- 2 On the basis of *de Orat.* 2.225, *refutatum esse Brutum*, it is clear that the defendant was acquitted.

99

date: 91 (late summer)<sup>1</sup>

claim: civil suit (repayment of debt)

urban praetor: Q. Pompeius Rufus (39) cos. 88

on advisory council: L. Licinius Crassus (55) cos. 95, cens. 92

Cic. *de Orat.* 1.168

- 1 The date is inferred from the phrase *in his paucis diebus*, before the death of Crassus, Sept. 20, 91.

100

date: 90

charge: *lex Varia* (aid to rebellious allies)<sup>1</sup>defendant: M. Aemilius Scaurus (140) cos. 115, cens. 109 (spoke *pro se*)

prosecutors:

Q. Varius Severus Hibrida of Sucro (7) tr. pl. 90

Q. Servilius Caepio (50) pr. 91?, promag. 90 (ORF 85.III)

outcome: dropped?<sup>2</sup>

Cic. *Sest.* 101; *Scaur.* fr. e; V. Max. 3.7.8; Asc. 22C; Quint. *Inst.* 5.12.10; *Vir.* III. 72.11

- 1 The legal problem raised by this trial is whether it took place before a *quaestio* staffed by jurors, or as a tribunician prosecution *apud populum*. The latter explanation is suggested by the following passages:
  - a) Asc. 22C says that Q. Varius tr. pl. summoned Scaurus. The language appears too formal to allow for the hypothesis of Gruen (*JRS* 1965) 63 that Varius was using a *contio* to whip up feeling against Scaurus.
  - b) V. Max. 3.7.8 says that the trial took place *pro rostris*, and Scaurus addressed his audience as *Quirites*. V. Max. connects the trial with a charge of having accepted a bribe from Mithridates. A connection between a trial under the *lex Varia* and such a trial is easy to believe (see Fraccaro *Opuscula* 2.142).
  - c) *Vir.* III. 72.11 says that the trial occurred *apud populum*.  
The most economical explanation of this evidence is that trials under the *lex Varia* were *apud populum* until the passage of the *lex Plautia* (see case #109, n. 3). It is possible that Caepio merely served as *subscriptor*. See Pais (1918) 156-64. But Appian (*BCiv.* 1.37) implies that Mummius (see case #102) was convicted by *equites*, that is, before a *quaestio*. It is also possible that there were two trials, one *apud populum*, and then one before a *quaestio* (Fraccaro *Opuscula* 2.140-44). Note that this possibility does not raise the question of double jeopardy, because it is clear that no verdict was reached in the trial *apud populum* (Gruen [*JRS* 1965] 62). If there was a separate trial before a *quaestio*, acquittal is likely to have been the verdict.
- 2 On the outcome, see Gruen (*JRS* 1965) 63.

101

date: 90

charge: *lex Varia*defendant: Q. Pompeius Rufus (39) *cos.* 88 (spoke *pro se*)<sup>1</sup> (ORF 83.I).witness: L. Marcius Philippus (75) *cos.* 91, *cens.* 86, against defendant<sup>2</sup>outcome: A<sup>3</sup>Cic. *Brut.* 206, 304

1 The speech may have been written by L. Aelius Stilo (144) (ORF 74.IV).

2 Gruen (*JRS* 1965) 65 n. 84 is correct to refute the suggestion of van Ooteghem (1961) 134 that Philippus spoke for the defense.

3 Acquittal is suggested by the defendant's future election to the consulate.

102

date: 90

defendant: L. Memmius (13) *monetalis* 109 or 108jurors: *equites*witness: L. Marcius Philippus (75) *cos.* 91, *cens.* 86, against defendant (ORF 70.III)outcome: C? exile to Delos?<sup>1</sup>Sis. *Hist.* 3, fr. 44 Peter (Nonius 393L); Cic. *Brut.* 304 (see also 136); App. *BCiv.* 1.37

1 The sources for this trial raise two related problems: 1) when did the tribunate of L. Memmius occur (if he did hold that office)? 2) is the 'Mummius the conqueror' whom Appian mentions the same as this Memmius? If Memmius had been *tr. pl.* in 90, as the position of the statement in Book III of Sisenna's *Histories* implies, he could not have been prosecuted till 89. Yet Appian seems to place the trial in 90, and therefore Memmius would have had to be tried and *acquitted* in 90 to hold office in 89. Therefore, he would not be the same as Mummius, who, Appian writes, was *convicted*, and went into exile. However, according to Biedl (1930), followed by Wiseman (*CQ* 1967) 164-65, and Frassinetti (1972) 90 n. 70, the relevant passage from Nonius should be read so as to apply *tr. pl.* to C. Scribonius Curio (10) *cos.* 76, who was indeed *tr. pl.* in 90. Thus, Memmius could have been tried in 90, as Appian states, and one does not need to resort to

Gruen's suggestion (*JRS* 1965, p. 67), attacked by Wiseman, that Memmius had been tr. pl. in 91 while advising Drusus. It is very difficult to decide whether Appian's 'Mummius' was this Memmius. Biedl accepts identification, but Münzer (*RE* 15 [1931] 621), Gabba, *Appian* p. 125 and Badian (*Historia* 1969) 469 n. 65 argue for retaining the manuscript reading in Appian. Badian points out that there were Mummii in the first century BC. It may well be, then, that we are dealing with two trials here: one of Memmius, of which we do not know the verdict, and another of Mummius, which ended in conviction. See *MRR* Suppl. 142.

103

trial only threatened

date: 90

charge: lex Varia

defendant: C. Scribonius Curio (10) tr. pl., cos. 76, cens. 61<sup>1</sup>

outcome: no trial

Sis. *Hist.* 3, fr. 44 Peter (Nonius 393L); cf. Asc. 74C

1 See case #82, n. 3.

104

date: 90

charge: lex Varia

defendant: L. Calpurnius Bestia (23) cos. 111

outcome: went into exile after trial began

App. *BCiv.* 1.37Gruen (*JRS* 1965) 64-65

105

date: 90

charge: lex Varia

defendant: C. Aurelius Cotta (96) cos. 75 (spoke *pro se*)<sup>1</sup> (*ORF* 80.II)

outcome: C, exile before vote of jurors taken

Cic. *de Orat.* 3.11; *Brut.* 205, 207, 303, 305; App. *BCiv.* 1.37  
Gruen (*JRS* 1965) 64

1 The speech was written by L. Aelius Stilo (144) (*ORF* 74.III).

106

trial uncertain<sup>1</sup>

date: 90

charge: *lex Varia*

defendant: Q. Servilius Caepio (50) pr. 91?, promag. 90 (spoke *pro se*)<sup>2</sup>

prosecutor: T. (Betutius?) Barrus (Betitius 1) (perhaps e.R.)

Cic. *Brut.* 169, 206

1 Gruen (*JRS* 1965) 63 argues that this trial did not occur, since Servilius was killed in battle in 90.

2 The speech was written by L. Aelius Stilo (144).

107

date: 90? 89?<sup>1</sup>

charge: *ambitus*

defendant: P. Sextius (9) pr. des.<sup>2</sup>

prosecutor: T. Iunius (32) tr. pl. between ca 95 and ca 85<sup>3</sup>

outcome: C

Cic. *Brut.* 180

1 Münzer, *RE* 10 (1917) 965 and Gruen, *RPCC* 300 tentatively suggest a date of 90 for the trial.

2 See Sumner, *Orators* 77, 109, and *MRR* Suppl. 111, 198-99.

3 See Sumner, *Orators* 109. He notes that Cicero's language does not necessarily imply that T. Iunius had already been tribune when he was prosecutor.

108

date: 90? 89?

charge: lex Varia

defendant: M. Antonius (28) cos. 99, cens. 97, leg.? 90, leg. 87 (spoke *pro se*) (ORF 65.X)outcome: A?<sup>1</sup>Cic. *Brut.* 304; *Tusc.* 2.57

Seager (1967)

- 1 Klebs (*RE* 1 [1894] 2591) and Gruen (*JRS* 1965) 68 interpret *aberat* (*Brut.* 304) to mean that Antonius had been acquitted, and perhaps was serving in the Social War, as he did later in 87 (*Gran. Licin.* 19). Badian (*Historia* 1969) 457-58 argues that we know too little about the trial to determine the outcome. See *MRR* Suppl. 19.

109

date: 89<sup>1</sup>charge: lex Varia<sup>2</sup>

defendant: Q. Varius Severus Hibrida (7) tr. pl. 90

jurors: 15 from each tribe<sup>3</sup>outcome: C, exile<sup>4</sup>Cic. *Brut.* 305; *N.D.* 3.81; *V. Max.* 8.6.4

- 1 On the basis of the pluperfect *excesserat* (*Brut.* 305), Badian (*Historia* 1969) 461 argues for a trial early in the year.
- 2 Münzer (*Adelsparteien* 1920) 301 believes that the defendant's doubtful citizenship constituted the basis for prosecution; Gruen (*JRS* 1965) 69 argues that passage of the lex Varia in the face of tribunician intercession was the reason. But, as Badian (1969) 461-62 has ingeniously noted, a prosecution on that basis would involve the claim that the lex Varia was defective, and therefore all trials held under it would be defective.
- 3 Gruen (*JRS* 1965) 69 argues that Varius was tried before the passage of the lex Plautia, because his trial occurred before that of Cn. Pompeius Strabo (cos. 89, case #110), who could have been tried only in 88. But Badian (*Historia* 1969) 466, 474-75 justifiably notes the incongruity involved in positing a condemnation of Varius by the *equites*. He solves the problem by 1) posit-

ing passage of the *lex Plautia* (establishing juries drawn from the tribes [Asc. 79C]) early in 89 (i.e., before the trial of Varius) and 2) changing Pompeius to Pomponius Strabo (tr. pl. 90), who could have been tried early in 89. See case #110. According to this suggestion, even if Appian (*BCiv.* 1.37) is right that Varius was tightly allied with the equestrian order, the *equites* on the juries could have been outvoted by the other members of the jury, now chosen from the entire citizenry.

- 4 The defendant was not executed. Badian (1969) 463 is right to maintain that the phrase *domesticis laqueis constrictum* (V. Max. 8.6.4) is metaphorical.

## 110

date: 89

charge: *lex Varia*

defendant: Cn. Pomponius (3) tr. pl. 90<sup>1</sup>

Asc. 79C

- 1 The manuscript reading is Pompeius, i.e., Cn. Pompeius Strabo (45), cos. 90. Badian (1969) 474 convincingly points out the difficulties involved in this reading. See Marshall, *Asconius* 273-74, *MRR* Suppl. 166, and case #109, n. 3.

## 111

date: early 80s?<sup>1</sup>

charge: *lex Aquilia* (*de damno iniuria dato?*)<sup>2</sup>

defendant: L. Sabellius (1)<sup>3</sup>

prosecutor: L. Caesulenus (1)

Cic. *Brut.* 131

- 1 Cicero heard this case being argued when the plaintiff was already an old man. Sumner, *Orators* 77 suggests a date in the early 80's, pointing to *Brut.* 303-4, where Cicero describes his entrance into the forum at that time.
- 2 The manuscript reading is vexed at this point, making it difficult to identify the law under which this trial was held. Mommsen *Strafr.* 826 n. 4 argues that the case must have been held under a different *lex Aquilia*, since Cicero speaks of the plaintiff seeking a *multa*, whereas the *lex Aquilia*

de damno iniuria dato did not prescribe a *multa*. On the other hand, it did prescribe monetary damages, so perhaps Cicero, writing loosely, could have used the phrase *multam petere* of a case under this law. It was a very well-known statute, with which Cicero could have expected his readers to be familiar; this was probably not true of any other *lex Aquilia*.

- 3 Badian (1967) 227 suggests 'L. Saleuius' as a possibility, and argues (*Studies* 247) against 'Saufeius.'

## 112

date: before 87

charge: uncertain, described as *gravissimum crimen*

defendant: Sextilius (1), = ? P. Sextilius (12)<sup>1</sup> pr. 92?, promag. by 90-87?<sup>2</sup>

advocate: C. Iulius Caesar Strabo Vopiscus (135) aed. cur. 90

outcome: A

V. Max. 5.3.3

- 1 Carney (1962) 324 identifies the two; the identification is refuted by Gruen, *RPCC* 299.  
2 So Badian in *Studies* 71-72 and (1965) 113; see *MRR* Suppl. 198.

## 113

date: early 87

charge: *iudicium populi* (perhaps the illegal execution of P. Sulpicius Rufus without trial)<sup>1</sup>

defendant: L. Cornelius Sulla (392) cos. 88, 80

prosecutor: M. Vergilius (4) tr. pl. 87<sup>2</sup>

outcome: none, Sulla went east

Cic. *Brut.* 179; Plut. *Sull.* 10.4; see also *ad Her.* 1.25

- 1 See Bennett (1923) 7, Weinrib (1968) 42, and also Gundel *RE* 8A (1955) 1019.  
2 Plutarch (*Sull.* 10.4) has 'Verginius'; Badian (*Studies* 85 and 100 n. 87) considers this reading plausible.

114

date: 87

charge: *iudicium populi*

defendant: Ap. Claudius Pulcher (296) promag. 87, cos. 79

prosecutor: unnamed *tribunus plebis* 87

outcome: C in absence, exile

Cic. *Dom.* 83

Bennett (1923) 29; *FTP* 236; Weinrib (1968) 43 n. 45

115

date: late 87

charge: *iudicium populi*, for *perduellio*?

defendant: Q. Lutatius Catulus (7) cos. 102

prosecutor: M. Marius Gratidianus (42) tr. pl. 87 or 86, pr. 85? and 82?<sup>1</sup>

outcome: suicide<sup>2</sup>

Cic. *de Orat.* 3.9; *Brut.* 307; *Tusc.* 5.56; *N.D.* 3.80; Diod. 39.4.2; Vell. 2.22.4; V. Max. 9.12.4; Plut. *Mar.* 44.5; App. *BCiv.* 1.74; Flor. *Epit.* 2.9.15; Schol. Bern. on Lucan 2.173; Schol. Bob. 176St; August. *C.D.* 3.27  
Brecht (1938) 301

1 On these dates of the prosecutor's career, see Sumner, *Orators* 118-19, and *MRR* Suppl. 140-41.

2 On the suicides of this period, see Weinrib (1968) 43, n. 45.

116

date: late 87

charge uncertain<sup>1</sup>

defendant: L. Cornelius Merula (272) cos. suff. 87

outcome: suicide<sup>2</sup>

*Fast. Cap.* Degrassi, p. 75; V. Max. 9.12.5; Vell. 2.22.2; Tac. *Ann.* 3.58; App. *BCiv.* 1.74; Flor. *Epit.* 2.9.16; Dio 31, fr. 102.11a?; August. *C.D.* 3.27

## 61 The Trials

Brecht (1938) 301

- 1 Bennett (1923) 27 suggests that Cinna's removal from the consulate was illegal, and that Merula may have been put on trial for having replaced him illegally.
- 2 See case #115, n. 2.

117

date: 86

charge: *iudicium populi*

defendants:

Sex. Lucilius (15) tr. pl. 87

two other former tribunes

prosecutor: P. Popillius Laenas (27) tr. pl.

outcome: C; Lucilius thrown from Tarpeian rock, the other two suffered *aquae et ignis interdictio*

Vell. 2.24.2; Plut. *Mar.* 45.1; see also Dio 31 fr. 102.12

FTP 235-36; Weinrib (1968) 43 n. 45

118

trials uncertain<sup>1</sup>

prosecutor: C. Marius (15) cos. 82

outcome: one tr. pl. decapitated, another tr. pl. thrown from Tarpeian rock, two praetors deprived of fire and water

Dio 31 fr. 102.12

- 1 The relationship between these trials, if they were indeed trials, and case #117 is difficult to determine from Dio's account.

119

date: 86

charge: *iudicium populi*<sup>1</sup>

defendant: Q. Mucius Scaevola (22) cos. 95

prosecutor: C. Flavius Fimbria (88) q.? 86, leg. 86-85  
 outcome: dropped by prosecutor

Cic. *S. Rosc.* 33; *V. Max.* 9.11.2

- 1 Strabo (13.1.27) says that the prosecutor was quaestor. For the theory of quaestorian prosecution see Weinrib (1968) 43 n. 45; Lintott (1971) 696-98. Bauman (1974) 251 n. 34 argues that Weinrib is wrong to suggest that Fimbria could have been a *quaestor parricidii*.

## 120

date: 86? 85?<sup>1</sup>

claim: civil procedure relating to inheritance?<sup>2</sup>

defendant: Cn. Pompeius Magnus (31) cos. 70, 55, 52

advocates:

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.III)

L. Marcius Philippus (75) cos. 91, cens. 86 (*ORF* 70.IV)<sup>3</sup>

Cn. Papirius Carbo (38) cos. 85, 84, 82

aedile or *iudex quaestionis*: P. Antistius (18) aed. 86?, *iudex quaestionis*  
 85

outcome: A

Cic. *Brut.* 230; *V. Max.* 5.3.5, 6.2.8; *Sen. Con.* 7.2.6; *Plut. Pomp.* 4.1-3  
 Gelzer *KS* 2.125-26

- 1 See Sumner, *Orators* 111. P. Antistius was ex-aedile in 82 (*Vell.* 2.26.2). Having been tribune in 88, he is likely to have been aedile in 86. If he presided over the court as *iudex quaestionis*, rather than as aedile, the likely date for the trial would be 85, in spite of Plutarch's statement that the trial took place immediately upon the death of Pompey's father (87). But in these troubled and abnormal years, a trial presided over by an aedile should not be ruled out; the year 86 therefore remains a possibility.
- 2 See Shatzman (1972) 194-95. The case seems to have been a civil one, not a criminal case involving *peculatus*, an issue which would not pertain to the general's use of booty, and which would probably not involve a general's son; *contra* Bona (1960) 163-64. Griffin (*CQ* 1973) 111 n. 1, taking this as a *peculatus* trial, accepts 86 as a *terminus ante quem* for the *quaestio de peculatu* (see also Kunkel *RE* 24 [1963] 739 'quaestio') because *iudices* gave a binding decision, and because of the presence of a *iudex quaestionis*.

- 3 It is not certain that Philippus did speak in this case; unfortunately, the correct reading in *Brut.* 230 is obscure. If *Antonio* and *Philippo* are parallel in that sentence, then the sentence cannot mean that Philippus spoke for Pompey in this case, since M. Antonius, having died in 87, could not have appeared in this case. Münzer, *RE* 14 (1930) 1565 admits the possibility that Philippus' speech on behalf of Pompey (*Plut. Pomp.* 2.2) might have occurred at a later date. However, Cicero's comment that Hortensius was *princeps* in that case makes more sense if another speaker is mentioned in the same passage. The phrase *cum Philippo sene* (if that should be read) must be construed in the sense of 'accompaniment,' and so Philippus must have appeared in this case.

## 121

date: 83

claim: civil suit for *missio in possessionem*

defendant: P. Quinctius (16)

advocate: M. Iunius Brutus (52) tr. pl.

*procurator*: Sex. Alfenus (1) e.R.

plaintiff: Sex. Naevius (6)

praetor: P.? Burrenus? (1)<sup>1</sup>

outcome: granted

Cic. *Quinct.* 22-29

- 1 The *praenomen* and *nomen* are uncertain. On the name see Shackleton Bailey, *Studies* 19 and CQF 192-93, MacAdam and Munday (1983), and *MRR* Suppl. 35.

## 122

date: 83 or after

charge: *incendium* (burning of *tabularium*, probably the *tabularium* on the Capitolium in 83)

defendant: Q. Sosius (3) of Picenum, e.R.

outcome: C

Cic. *N.D.* 3.74

123

date: 83 or after?

charge: *peculatus*? (destruction of *tabularium* by fire?)<sup>1</sup>

defendant: C. Curtius (5) e.R.

outcome: A

Cic. *Rab. Perd.* 8; see also *Rab. Post.* 3-4, 45, *N.D.* 3.74

- 1 Mommson, *Strafr.* 767 n. 1 suggests that there might possibly be a connection between this case and case #122.

124

threat

date: 80s? by 81

charge: *lex Cornelia de sicariis et veneficis*? (murder of M. Aurius [5])<sup>1</sup>

prosecutor: A. Aurius Melinus (2)

outcome: none, *accusator* proscribed

Cic. *Clu.* 24, 25

- 1 Presumably the prosecution would eventually have been made under this charge, if it had taken place, although this law had not yet been passed at the time when a prosecution was being threatened.

125

date: fifteen<sup>1</sup> years before case #166

claim: *lex Aquilia (de damno iniuria dato)*; for murder of slave Panurgus, who was owned jointly by the plaintiff and *cognitor*)

defendant: Q. Flavius (22) of Tarquinii

plaintiff: Q. Roscius Gallus (16) e.R.

*cognitor*: C. Fannius Chaerea (17)

outcome: defendant gave up farm worth 100,000 sesterces

Cic. *Q. Rosc.* 32, 38, 53-55

Frier, *RRJ* 66

- 1 See *Q. Rosc.* 37. The number of years is emended by some editors from fifteen to four.

126

date: spring of 81<sup>1</sup>

claim: *sponsio* (dispute over partnership)

defendant: Sex. Naevius (6)

advocate (of defendant): Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.IV)

character witness (for defendant): L. Marcius Philippus (75) cos. 91, cens. 86

plaintiff: P. Quinctius (16)

advocate (of plaintiff): M. Tullius Cicero (29) cos. 63 (Sch. 1)

judge: C. Aquillius Gallus (23) pr. 66

jurors (on advisory council):

M. Claudius Marcellus (226) pr. uncertain date, = ? M. Claudius Marcellus (227) aed. cur. 91<sup>2</sup>

L. Lucilius Balbus (19) = ? L. Lucilius (8) pr. 91?<sup>3</sup>

P. Quinctilius Varus (2)<sup>4</sup>

witness: L. Albius (6)

outcome: against plaintiff<sup>5</sup>

other: M. Iunius (23), perhaps the same as M. Iunius Brutus (52) tr. pl. 83, withdrew as advocate for the plaintiff.

*Cic. Quinct.*; Gel. 15.28.3 (Fenestella #17 Peter, Asc. xv-xvi KS); Tac. *Dial.* 37.6; see also Quint. *Inst.* 12.6.4

Greenidge LP App. II.1

- 1 For the date 81 see Gell. 15.28.3, Kinsey (1967), Shatzman (1968) 345-47, Hinard (1975) 94, and Badian *FC* 297, who argue against 80, the date suggested by Carcopino (1931). The dispute between Quinctius and Naevius dated back to September 83 (see case #121). In 81 the praetor Cn. Cornelius Dolabella (135) had ruled that the *sponsio* should occur.
- 2 See case #87, n. 2.
- 3 He was gov. Asia 90 and beginning 89. See Sumner (*GRBS* 1978) 149-50, *MRR* Suppl. 128.
- 4 Cicero's praise of Varus does not demonstrate that Varus was a senator, *pace* Sumner (*CP* 1978) 161; see *MRR* Suppl. 177.
- 5 See Kinsey's comment in his edition of Cicero's *pro Quinctio*, p. 5.

127

date: 81  
 claim: civil suit  
 defendant: C. Volcacijs (Volcatus 3)  
 urban praetor: Cn. Cornelius Dolabella (135)  
 outcome: against *reus*

Cic. *Corn.* (Asc. 74C)

128

date: after 86?,<sup>1</sup> before case #129  
 charge: under lex Cornelia? de sicariis et veneficis  
*iudex quaestionis*: M. Fannius (15) pr. 80

Cic. *S. Rosc.* 11

1 The year 86 is the date of the plebeian aedileship of Fannius. See *MRR* Suppl. 90.

129

date: late 81-early 80<sup>1</sup>  
 charge: lex Cornelia de sicariis et veneficis (*parricidium*, murder of father Sex. Roscius [6])<sup>2</sup>  
 defendant: Sex. Roscius (7)  
 advocate: M. Tullius Cicero (29) cos. 63 (Sch. 2)  
 prosecutors:  
     C. Erucius (2) (*ORF* 79.I)  
     T. Roscius Magnus (18)  
 praetor: M. Fannius (15)  
 witnesses:  
     T. Roscius Capito (12)  
     T. Roscius Magnus (18)  
 outcome: A?<sup>3</sup>

Cic. *S. Rosc.*; *Off.* 2.51; *Brut.* 312; *Orat.* 107; *Quint. Inst.* 12.6.4; *Plut. Cic.* 3.2-4; *Gel.* 15.28; *Vir. Ill.* 81.2; *Schol. Gronov.* D 301-316St

Cloud (1971)

- 1 On the date, see Kinsey (1967) 64-67.
- 2 On the status of the father, see Sedgwick (1934), Kinsey (1966) and (1981), and Stroh (1975).
- 3 Despite the possibility of acquittal, Kinsey (1985) shows that Erucius had a real case to present against the defendant.

130

trial uncertain

date: 80?

charge: *lex Cornelia de peculatu*<sup>1</sup> (misconduct as q. 81)

defendant: P. Cornelius Lentulus Sura (240) cos. 71

outcome: A

Cic. *Att.* 1.16.9; Plut. *Cic.* 17.2-3

- 1 But Plutarch says that the trial (if indeed it was a trial) took place in the Senate.

131

date: 79<sup>1</sup>

charge: *lex Cornelia de repetundis* (misconduct as gov. Sicily, 80)

defendant: M. Aemilius Lepidus (72) cos. 78

prosecutors:

Q. Caecilius Metellus Celer (86) cos. 60 (*ORF* 199.I)

Q. Caecilius Metellus Nepos (96) cos. 57 (*ORF* 120.I)

outcome: dropped, after *legibus interrogari*<sup>2</sup>

2 *Ver.* 3.212; [Asc.] 187St, 259St; see also Cic. 2 *Ver.* 2.8

- 1 This date is more probable than 80, when the defendant was still pro-magistrate, *pace* Münzer *RE* 3 (1897) 1209, s.v. 'Caecilius (86).'
- 2 The *legibus interrogari* procedure gave the defendant an opportunity to plead 'guilty' or 'not guilty' before the presiding magistrate, who decided whether the case would go to trial. See [Asc.] 207St, Berger *RE* 9 (1916) 1728-9.

132

= ? case #133

date: 79 or 78<sup>1</sup>claim: *legis actio sacramento (causa liberalis, free status of defendant)*<sup>2</sup>

defendant: Arretina mulier

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 1)

prosecutor: C. Aurelius Cotta (96) cos. 75 (ORF 80.III)

jurors: *decemviri*outcome: for defendant in second *actio*Cic. *Caec.* 97; see also *Dom.* 79

- 1 Harris (1971) 274-76 suggests these two dates as possibilities, arguing that *Sulla vivo* implies that Sulla was alive but not in office. See also Dunn (1902).
- 2 On the legal issue see Desserteaux (1907), Frier, *RRJ* 99-100.

133

= ? case #132

date: 79?

claim: *iudicium privatum*<sup>1</sup>

defendant: Titinia (26)

advocates:

? C. Aurelius Cotta (96) cos. 75<sup>2</sup>M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 2)

prosecutors:

Ser. Naevius (5)

C. Scribonius Curio (10) cos. 76, cens. 61<sup>3</sup> (ORF 86.VI)Cic. *Brut.* 217; *Orat.* 129

- 1 The fact that the prosecutors claimed that the defendant had cast a spell on them which made them forget their speech does not show that this was the substance of the charge against her. See Crawford, *Orations* 35-36.
- 2 The form *Cottae* in *Brut.* 217 is probably genitive, i.e. 'Titinia (the wife) of Cotta;' thus Cotta probably appeared as *patronus*. See Douglas, *Brutus* p. 158.
- 3 For a reference, see case #82, n. 3.

134

date: 78

claim: civil suit for *bonorum possessio*

defendant: Cn. Cornelius (23)

plaintiff: Q. Caecilius Metellus Pius Scipio Nasica (99) cos. 52

urban and peregrine praetor: L. Cornelius Sisenna (374)

outcome: for plaintiff

Asc. 74C

Lintott (1977)

135

date: 78

charge: *lex Cornelia de repetundis* (misconduct as gov. Cilicia, 80-79)

defendant: Cn. Cornelius Dolabella (135) pr. 81

prosecutor: M. Aemilius Scaurus (141) pr. 56 (ORF 139.I)

witness: C. Verres (1) pr. 74

outcome: C, *litis aestimatio* of HS 3,000,000

other: the advocate was *not* Q. Hortensius Hortalus (13) cos. 69, *pace* [Asc.] 194;<sup>1</sup> (ORF 92.V).

Cic. 1 *Ver.* 11; 2 *Ver.* 1.41-42, 63, 72, 77, 95-100; 2 *Ver.* 2.109; 2 *Ver.* 3.177; *Scaur.* 45; Asc. 26, 74C; *Juv.* 8.105; [Asc.] 194, 206, 208, 234, 242St; *Schol. Gronov.* B 325, 329, 333St

1 See [Asc.] 234St; Münzer *RE* 8 (1913) 2472; D.-G. 2.485-86; Gruen (*AJP* 1966) 347 n. 52; Twyman (1972) 855-56.

136

date: before 77 or 76

claim: *lex testamentaria*

defendant: L. (Alenus?)(not in *RE*)

outcome: C?

Cic. *N.D.* 3.74

137

date: 77?<sup>1</sup>

charge: homicide (murder of Asuvius [1])

defendant: Avillius (2)

judge (*triumvir capitalis*): Q. Manlius (34)<sup>2</sup>

*delatores: liberti Asuvi et non nulli amici*

outcome: confession, case dropped in exchange for defendant's testimony against Oppianicus

Cic. *Clu.* 36-38

1 Sometime before 74, i.e., the date of case #149

2 Shackleton Bailey, *Studies* 50 argues that the *triumvir* is not the same as the tr. pl. 69.

138

date: 77?<sup>1</sup>

charge: homicide (murder of Asuvius [1])

defendant: Staius Albius<sup>2</sup> Oppianicus (10) e.R.?

judge (*triumvir capitalis*): Q. Manlius (34)<sup>3</sup>

*delator*: Avillius (2)

outcome: A or dismissal

other: Cicero claims bribery by defendant.

Cic. *Clu.* 36-39

1 The trial occurred sometime before 74, i.e., the date of case #149.

2 Nicolet *Ordre équestre* 2.756 n. 1 gives the name as Abbius.

3 See case #137, n. 2.

139

date: 77

charge: lex Cornelia de repetundis? (misconduct as gov. Hither Spain 78)

defendant: Q. Calidius (5) pr. 79

prosecutor: Q. (Lollius? [14]) e.R.<sup>1</sup>

## 71 The Trials

outcome: C

other: suspicion of bribery of jurors by prosecution

Cic. 1 *Ver.* 38; 2 *Ver.* 3.63; [Asc.] 219St

- 1 Cicero gives the prosecutor's name as Lollius; ps.-Asconius as Gallus. Münzer *RE* 13 (1927) 1388 argues that [Asc.] 219St has confused this prosecutor with the prosecutor of his son M. Calidius (see case #330).

### 140

date: 77<sup>1</sup>

charge: *lex Cornelia de repetundis* (misconduct as gov. Macedonia 80-77)

defendant: Cn. Cornelius Dolabella (134) cos. 81 (spoke *pro se*, *ORF* 94.I)

advocates:

C. Aurelius Cotta (96) cos. 75 (*ORF* 80.V)

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.VII)

prosecutor: C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44

witnesses: from Greek cities

other: trial consisted of *divinatio* and two *actiones*.

outcome: A

Cic. *Brut.* 317; Vell. 2.43.3; V. Max. 8.9.3; Quint. *Inst.* 12.6.1, 12.7.3-4; Asc. 26C; Plut. *Caes.* 4.1; Tac. *Dial.* 34.7; Gel. 4.16.8; Suet. *Jul.* 4, 49, 55; [Asc.] 194, 234St; *Vir. Ill.* 78.2

Taylor (1941) 119; Gruen (*AJP* 1966) 387-89

- 1 Tac. *Dial.* 34.7 mistakenly puts this trial in Caesar's twenty-first year, i.e., 79; see Sumner, *Orators* 149.

### 141

date: 76

claim: probably a civil suit (actions committed as prefect in Greece by 84)<sup>1</sup>

defendant: C. Antonius (19) cos. 63

plaintiffs: *Graeci*

advocate (of plaintiffs): C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44  
(*ORF* 121.II)

peregrine praetor: M. Terentius Varro Lucullus (Licinius 109) cos. 73  
outcome: defendant lost case, some goods sold, appeal made to trib-  
unes

Cic. *Tog. Cand.* fr. 2; Q. Cic.? *Com. Pet.* 8; Asc. 84, 87C; Quint. *Inst.*  
12.6.1, 12.7.3, 4; Plut. *Caes.* 4.1; Juv. 8.105

Mommsen, *Strafr.* 711 n. 5, 722 n. 3; Taylor (1941) 119

1 Buckland (1937) 43 argues that the defendant did not possess *imperium* at  
the time of the acts of which the Greeks complained.

## 142

date: 76

claim: civil suit

defendant: Safinius Atella (1) (or his *pupillus*?)

advocate: C. Aelius Paetus Staienus<sup>1</sup> (Staienus [1]) q. 77

other: suspicion that Staienus used bribery

Cic. *Clu.* 68, 99

1 On the name, see Shackleton Bailey, *Studies* 101.

## 143

trial only threatened

date: 75

defendant: C. Verres (1) pr. 74

outcome: dropped

other: suspicion that prosecutor had been bribed

Cic. 2 *Ver.* 1.101, 4.45

Shackleton Bailey (1970) 164

## 73 The Trials

### 144

date: 75

charge: *lex Cornelia de repetundis* (misconduct as gov. Asia, or leg. Asia 82)<sup>1</sup>

defendant: Terentius Varro (see 82) pr. 78?, promag. 77? = ? A. Terentius Varro (82) leg. in Asia 84?-82

advocate: Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.VIII)

praetor: L. Turius (2), or L. Furius (18)<sup>2</sup>

outcome: postponement<sup>3</sup>

Cic. *Brut.* 237; [Asc.] 193, 218St; see also Cic. *Att.* 1.1.2; Hor. *S.* 2.1.49; [Acro] ad loc.

1 On the magistracy involved and its date, see Magie, *RRAM* 2.1125 n. 42, and *MRR* 2.91, 97.

2 On the name see *MRR* Suppl. 209-10.

3 See case #158, n. 1.

### 145

date: before 74

claim: *actio liberalis*? (Roman citizenship of Martiales of Larinum)

for citizenship: Staius Albius<sup>1</sup> Oppianicus (10) e.R.

against citizenship: A. Cluentius Habitus (4) e.R.

outcome: perhaps in favor of citizenship<sup>2</sup>

Cic. *Clu.* 43-44

1 See case #138, n. 2.

2 Cicero's failure to mention the outcome may indicate that his client Cluentius was unsuccessful.

### 146

date: before 74 (the date of Cotta's command)

defendant: M. Canuleius (10)

advocates:

C. Aurelius Cotta (96) cos. 75 (*ORF* 80.IV)

Q. Hortensius Hortalus (13) cos. 69 (ORF 92.VI)

Cic. *Brut.* 317

147

date: 74

charge: lex Cornelia de sicariis et veneficis (attempt to poison Cluentius)

defendant: Scamander (3) *libertus*

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 4)

prosecutors:

P. Cannutius (2) (subscr.) (ORF 114.II)

A. Cluentius Habitus (4) e.R. (nom. del.)

*iudex quaestionis*: C. Iunius (15) aed. 75

juror: C. Aelius Paetus Staienus (Staienus [1]) q. 77<sup>1</sup>

witnesses:

M. Baebius (18) sen.

P. Quinctilius Varus (2)<sup>2</sup>

other: one *actio*

outcome: C; all jurors voted C except Staienus, who voted A.

Cic. *Clu.* 46-56, 105; Quint. *Inst.* 11.1.74

1 For a reference, see case #142, n. 1.

2 See case #126, n. 4.

148

date: 74

charge: lex Cornelia de sicariis et veneficis (attempt to poison Cluentius)

defendant: C. Fabricius (2) of Alatrium

advocates:

C. Caepasius (1) q. before 70 (ORF 115.I)

L. Caepasius (1) q. before 70 (ORF 116.I)

prosecutors:

P. Cannutius (2) (subscr.) (ORF 114.II)

A. Cluentius Habitus (4) e.R. (nom. del.)

*iudex quaestionis*: C. Iunius (15) aed. 75

jurors: all the same as in case #147

outcome: C, unanimous vote

Cic. *Clu.* 56-61, 86, 105, 189; Quint. *Inst.* 6.3.39-40

149

*iudicium Iunianum*

date: 74

charge: lex Cornelia de sicariis et veneficis (poison attempts)

defendant: Staius Albius<sup>1</sup> Oppianicus (10) e.R.

advocate: L. Quinctius (12) tr. pl. 74, pr. 68 (ORF 107.I)

prosecutors:

P. Cannutius (2) (subscr.) (ORF 114.II)

A. Cluentius Habitus (4) e.R. (nom. del.)

*iudex quaestionis*: C. Iunius (15) aed. 75?<sup>2</sup>

jurors (thirty-two in all):

C. Aelius Paetus Staienus (Staienus [1]) q. 77 (voted C)<sup>3</sup>

M'. Aquillius (not in *RE*) sen.

? M. Atilius Bulbus (34) sen. (voted C)<sup>4</sup>

M. Caesonius (1) pr. by 66

L. Cassius Longinus (13)<sup>5</sup> pr. 66 (voted NL)

C. Caudinus (not in *RE*)<sup>6</sup> sen. (voted NL)

L. Caulius Mergus (not in *RE*) sen. (voted NL)

Q. Considius (7) sen. (voted NL)

Cn. Egnatius (8)<sup>7</sup> sen. (voted C)

C. Fiducianus Falcula (1, see also *RE* 17 [1937] 1443) sen. (voted C)

Ti. Gutta (1) sen. (voted C)

Cn. Heiulius? (Heius 3)<sup>8</sup> sen. (voted NL)

? C. Herennius (7)<sup>9</sup> sen. (voted C)

M. Minucius Basilus (39) sen. (voted C)

L. Octavius Balbus (45), = ? P. Octavius Balbus (46)<sup>10</sup> sen. (voted NL)

? C. Popillius (3) sen. (voted C)<sup>11</sup>

P. Popillius (10) sen. (voted C)

P. Saturius (1) sen. (voted NL)

P. Septimius Scaevola (51) sen. (voted C)

outcome: C<sup>12</sup>

Cic. 1 *Ver.* 29, 39; 2 *Ver.* 1.157; 2 *Ver.* 2.31, 79; *Caec.* 28, 29; *Clu.* 66-77, 105; *Quint. Inst.* 4.5.11; [Asc.] 206, 216, 219, 255, 263St; *Schol. Gronov.* B 339St; *Schol. Pers.* 2.19; see also Cic. *Brut.* 241, 244, 251

- 1 See case #138, n. 2.
- 2 He was condemned to pay a fine for failure to observe formalities correctly. See case #153.
- 3 On the name, see case #142, n. 1.
- 4 Cic. 1 *Ver.* 39 says that M. Atilius, C. Herennius, and C. Popillius had accepted bribes as jurors. See Syme (*Historia* 4 [1955] 63 = *RP* 2.564) and Shackleton Bailey, *Studies* 44. This could have been the trial. Staienus is surely the juror, mentioned at the end of this sentence, described as accepting bribes from both the prosecutor and defense.
- 5 See Shackleton Bailey, *Studies* 24, *MRR* Suppl. 50.
- 6 C. Caudinus was not a Cornelius Lentulus. See Wiseman (1971) 223, Gruen, *LGRR* 202 n. 155, Shackleton Bailey, *Studies* 25, *MRR* Suppl. 53.
- 7 See Syme (*Historia* 1955) 61 = *RP* 1.280-81, Shackleton Bailey, *Studies* 36.
- 8 The form 'Heiulius' is a suggestion made in Shackleton Bailey, *Studies* 43.
- 9 See n. 4 above.
- 10 These two names probably refer to one person with the *praenomen* Lucius. See Wiseman (1964) 124, Gruen, *LGRR* 202 n. 155, Shackleton Bailey, *Studies* 56, *MRR* Suppl. 151. This suggestion was originally put forward by Münzer in *RE* 17 (1937) 1828.
- 11 See n. 4 above.
- 12 One more vote for acquittal would have prevented condemnation (Cic. *Caec.* 29).

150

date: 74<sup>1</sup>

claim: civil suit

advocate: C. Aelius Paetus Staienus (Staienus [1])<sup>2</sup> q. 77

Cic. *Clu.* 74

- 1 This case was simultaneous with case #149.
- 2 For a reference, see case #142, n. 1.

151

date: 74

claim: civil suit (inheritance)<sup>1</sup>

praetor: C. Verres (1)

2 *Ver.* 1.107-13, 118

- 1 The goods of P. Annius Asellus (31) had been granted to the reversionary heir, instead of to the deceased's daughter, Annia (102), by the retroactive application of the *lex Voconia*.

152

date: 74

claim: civil suit (inheritance)<sup>1</sup>

praetor: C. Verres (1)

2 *Ver.* 1.115-17

- 1 The goods of deceased Minucius (not in *RE*) were to go to a man who claimed to be heir, rather than to the *gens Minucia*.

153

date: 74, end of year, before Dec. 10

charge: *iudicium populi* (failure to take oath or illegal seating of juror during tenure as *iudex quaestionis*)

defendant: C. Iunius (15) aed. 75

advocates:

M. Pupius Piso Frugi (Calpurnianus)(10) cos. 61

or L. Calpurnius Piso Frugi (98)? pr. 74

prosecutor: L. Quinctius (12) tr. pl. 74, pr. 68 (*ORF* 107.III)

outcome: C, *multa*

Cic. 1 *Ver.* 29; 2 *Ver.* 1.157-58; Cic. *Clu.* 89-96, 103, 108, 119, 139; [Asc.] 216St; Schol. Gronov. C 351St

154

date: 74, before Dec. 10

charge: *iudicium populi*, for *multa*

defendant: C. Fidiculanus Falcula (1, see also RE 17 [1937] 443) sen.

prosecutor: L. Quinctius (12) tr. pl. 74, pr. 68 (ORF 107.IV)

outcome: uncertain<sup>1</sup>

Cic. *Caec.* 29; *Clu.* 103, 108

1 The defendant was tried again in 73. See case #170.

155

date: around 74

charge: uncertain (misconduct as juror?)

defendant: M. Caesonius (1) pr. by 66

outcome: A

[Asc.] 216St; see also Cic. 1 *Ver.* 29

156

date: 74

claim: civil suit (over succession)

defendant: M. Octavius Ligus (69) sen.

advocate: L. Gellius Publicola (17) cos. 72, cens. 70 (ORF 101.II)

*procurator*: L. (Octavius) Ligus (68) sen.?

plaintiff: Sulpicia (109)

urban praetor: C. Verres (1)

Cic. 2 *Ver.* 1.125-27, 133; 2 *Ver.* 2.119

157

date: 74

charge: lex Cornelia de tribunis plebis (*intercessio* contrary to this law)

defendant: Q. Opimius (11) tr. pl. 75

prosecutors?:<sup>1</sup>

Q. Hortensius Hortalus (13) cos. 69

Q. Lutatius Catulus (8) cos. 78, cens. 65

C. Scribonius Curio (10) cos. 76, cens. 61<sup>2</sup>

urban praetor: C. Verres (1)

outcome: C, loss of civic status, property sold

Cic. 2 *Ver.* 1.155-57; [Asc.] 255St; Schol. Gronov. B 341

- 1 Cicero says that a few men (identified by ps.-Asconius as the above three) brought about the ruin of Opimius. Whether they did so as prosecutors themselves is open to question.
- 2 The participation of C. Scribonius Curio in this trial is particularly problematic, since he is thought to have been gov. Macedonia 75-73.

158

date: 74<sup>1</sup>

charge: lex Cornelia de repetundis? (misconduct as gov. Asia 77 to early 75?)

defendant: (A.?) Terentius Varro (82) pr. 78?

advocate: Q. Hortensius Hortalus (13) cos. 69 (ORF 92.VIII)

prosecutor: Ap. Claudius Pulcher (297) cos. 54, cens. 50 (ORF 130.I)

praetor: P. Cornelius Lentulus Sura (240) cos. 71

outcome: A, with many charges of corruption (bribery, improperly colored voting tablets)<sup>2</sup>

Cic. *Div. Caec.* 24; 1 *Ver.* 17, 35, 40; *Clu.* 130; [Asc.] 193, 218St; Schol. Gronov. B 336St, C 349St; [Acro] on Hor. S. 2.1.49

- 1 The trial occurred after the *iudicium Iunianum*. See Magie, *RRAM* 2.1125, n. 42. See case #144, and also see Münzer *RE* 2.5 (1934) 679 for the suggestion that there were two hearings in 76 and 75.
- 2 For the argument that each juror received three voting tablets, one of which was improperly colored, see Vince (1893).

159

date: between 74 and 70

charge: lex Cornelia de maiestate (mutiny as q. 77 against Mam. Aemilius Lepidus [80] cos. 67)

defendant: C. Aelius Paetus Staienus (Staienus [1]) q. 77<sup>1</sup>

prosecutors:

P. Cominius (11) e.R. (ORF 143.I)

C. (or L.?) Cominius (4 = ? 8)<sup>2</sup> e.R. (ORF 144.I)witnesses: *legati, praefecti*, tr. mil. of Mam. Aemilius Lepidus (80) cos. 67

outcome: C

Cic. 2 *Ver.* 2.79; *Clu.* 99, 100; *Brut.* 241; [Asc.] 216St1 On the name, see Shackleton Bailey, *Studies* 101.2 See Münzer *RE* 4 (1900) 607-8.

160

date: between 74?<sup>1</sup> and 70

charge: lex Cornelia de maiestate (tampering with legion in Illyria)

defendant: M. Atilius Bulbus (34) sen.

witnesses: many

outcome: C

Cic. 1 *Ver.* 39; 2 *Ver.* 2.79; *Clu.* 71, 72, 75, 97

1 See case #162 n. 1.

161

date: between 74 and 70

charge: lex Cornelia de ambitu

defendant: Ti. Gutta (1) sen.

prosecutors: people condemned for electoral bribery (*ambitus condemnati*)

outcome: C

## 81 The Trials

Cic. *Clu.* 98, 103, 127; Quint. *Inst.* 5.10.108; [Asc.] 216St

### 162

date: between 74<sup>1</sup> and 70

charge: lex Cornelia de peculatu (receiving bribe *ob rem iudicandam* as juror in 74[?])

defendant: C. Herennius = ? C. Herennius (7) tr. pl. 88? 80?<sup>2</sup>

outcome: C

Cic. 1 *Ver.* 39; Plut. *Pomp.* 18; see also Sal. *Hist.* 2.98.6M

- 1 The trial possibly occurred before this date. Shackleton Bailey apparently now holds the view (described in *MRR* Suppl. 101) that in 1 *Ver.* 39 the cases of C. Herennius (this case), C. Popillius (#175), and M. Atilius Bulbus (#160) are to be separated from the juror (clearly Staienus) who accepted bribes from both sides when Verres was praetor (74 B.C.). Therefore trials #160, #162, and #175 do not have to be dated to 74 B.C.
- 2 Münzer *RE* 8 (1912) 663 identifies him with the legate who served under Sertorius, and died in battle in 76 or 75. Syme (*Historia* 1955) 63 = *RP* 1.282 distinguishes them.

### 163

date: 74, or shortly after

claim: civil suit (possibly *condictio*?, i.e., a claim of obligation to give or do something)

defendant: C. Mustius (2) e.R.

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 5)

outcome: A

Cic. 2 *Ver.* 1.135-39; [Asc.] 252St

D.-G. 5.271 n. 2

### 164

date: three years before case #166

claim: *compromissum*? (claim of HS 50,000)

defendant: Q. Roscius Gallus (16) e.R.

plaintiff: C. Fannius Chaerea (17)

arbiter: C. Calpurnius Piso (63) cos. 67<sup>1</sup>

outcome: defendant to pay HS 100,000 to plaintiff, but the latter to pay half of any damages received by him from Flavius (see case #165)

Cic. *Q. Rosc.* 12, 13, 37, 38

1 See case #166, n. 1.

### 165

date: three years before case #166

claim: civil suit (*condictio? restipulatio?*)

defendant: Q. Flavius of Tarquinii (22)

plaintiff: C. Fannius Chaerea (17)

juror: C. Cluvius (3) e.R.

outcome: HS 100,000 paid to Fannius

Cic. *Q. Rosc.* 42, 45

### 166

date: between 76 and 68<sup>1</sup>

claim: civil suit (*condictio certae pecuniae*)<sup>2</sup> for HS 50,000

defendant: Q. Roscius Gallus (16) e.R.

advocate of defendant: M. Tullius Cicero (29) cos. 63 (Sch. 3)

plaintiff: C. Fannius Chaerea (17)

advocate of plaintiff: P. Saturius (1) (ORF 106.I)

juror: C. Calpurnius Piso (63) cos. 67

witnesses:

C. Fannius Chaerea (17)

C. Luscius Ocrea (2) sen.

C. Manilius (10), or T. Manlius (16) sen.<sup>3</sup>

M. Perperna (5) cos. 92, cens. 86

Cic. *Q. Rosc.*; see also Macr. 3.14.13

Baron (1880); Axer (*Philologus* 1977), (*Eos* 1977); Stroh (1975) 104-56

- 1 There are essentially three passages which help establish the date of this trial: *Q. Rosc.* 33, 37, and 44. According to the first, the defendant had bought the farm at a time of great economic uncertainty; these *rei publicae calamitates* could presumably fit any year between the Social War of 91 and Sulla's victory of 81. Since, according to the second passage, these events happened fifteen years before the trial, the two passages together yield a date between 76 and 66. Furthermore, the fact that Cicero speaks of *mea adulescentia* in the third passage may establish 66, the year of his praetorship, as a *terminus ante quem*. We can rule out 75, Cicero's year in Sicily. C. Piso was consul in 67 and praetor probably in 72. See Frier (1983) 224-25, and *MRR* Suppl. 46. Presumably Piso could not have served in the year of his praetorship, either as *iudex* in this trial, or as *arbiter* in case #164 three years earlier.
- 2 See Greenidge *LP* App. II.2.
- 3 See Sumner, *Orators* 131.

167

date: 73<sup>1</sup>charge: *apud pontifices*, for *incestum* (sexual relations with L. Sergius Catilina [23] pr. 68)<sup>2</sup>

defendant(s): Fabia (172) Vestal Virgin (and others?)

advocates:

Q. Lutatius Catulus (8) cos. 78, pont. by 73, cens. 65

M. Pupius Piso Frugi (Calpurnianus) (10) pr. 72?, cos. 61 (*ORF* 104.I)prosecutor?:<sup>3</sup> P. Clodius Pulcher (48) aed. cur. 56

outcome: A

Cic. *Catil.* 3.9; *Brut.* 236; *Sal. Cat.* 15.1; Q. Cic.? *Com. Pet.* 10; *Asc.* 91C; *Plut. Cat. Min.* 19.3; *Schol. Gron.* 287St; *Oros.* 6.3.1

- 1 See *MRR* 2.107-8.
- 2 Only Orosius provides evidence that Catiline himself was prosecuted (see Shackleton Bailey, *CLA* 1.319).
- 3 Moreau (1982) 233-39 attributes the Plutarch passage to Clodius' abuse of Fabia before a *contio* in 61 after case #236, rather than to a formal prosecution by Clodius in 73. If this interpretation is correct, it undermines the analysis of Epstein (1986) 232-3 on this trial.

168

date: 73?<sup>1</sup>

charge: *apud pontifices*, for *incestum* (sexual relations with M. Licinius Crassus [68] cos. 70, 55, cens. 65)

defendant: Licinia (185) Vestal Virgin

advocate: M. Pupius Piso Frugi (Calpurnianus) (10) pr. 72?, cos. 61 (ORF 104.I)

prosecutor: Plautius (or Plotius?) (4), = ? Plautius (3) tr. pl. 70?<sup>2</sup>

outcome: A

Cic. *Catil.* 3.9; Plut. *Crass.* 1.2; see also *comp. Nicias Crass.* 1.2

1 The date is probably the same as the one for case #169.

2 See Taylor (1941) 121 n. 32; MRR 2.130 n. 4.

169

date: 73?<sup>1</sup>

charge: *apud pontifices*, for *incestum*

defendant: M. Licinius Crassus (68) pr. 73?<sup>2</sup> cos. 70, 55, cens. 65

outcome: A<sup>3</sup>

Plut. *Crass.* 1.2; *de capienda ex inimicis utilitate* 6; see also *comp. Nicias Crass.* 1.2

1 The date is probably the same as the one for case #168.

2 See MRR Suppl. 120.

3 Plutarch's language in *Crassus* (*hupo tōn dikastōn apheithē*) implies a verdict, *pace* Shackleton Bailey, *CLA* 1.319.

170

date: 73

charge: *lex Cornelia de repetundis* (improper conduct as juror in case #149)

defendant: C. Fidiculanus Falcula (1) sen.

outcome: A, in first *actio*

Cic. 1 *Ver.* 39; *Caec.* 29; *Clu.* 103, 104, 108, 112, 114; [Asc.] 219St; Schol. Gronov. B 339St

171

date: 73?<sup>1</sup>

charge: *iudicium populi* (*de locis religiosis ac de lucis violatis*)<sup>2</sup>

defendant: C. Rabirius (5) sen.

prosecutor: C. Licinius Macer (112) tr. pl. 73, pr. by 68 (*ORF* 110.II)

outcome: A

Cic. *Rab. Perd.* 7

- 1 One cannot assume that Macer was tr. pl. when he conducted this prosecution (Vonder Mühl *RE* 1A [1914] 24). If not, then the trial may perhaps not have been a *iudicium populi*. But if he was tr. pl. at this time, then a tribunician prosecution is very plausible.
- 2 The defendant was charged with violating sacred places and groves.

172

date: 72

charge: *lex Cornelia de repetundis* (misconduct in Apulia?)<sup>1</sup>

defendant: P. Septimius Scaevola (51) sen.

praetor: Q. Hortensius Hortalus (13) cos. 69

witnesses: Apulians

outcome: C

other: In *litis aestimatio*, high damages were assessed against defendant because of bribes allegedly accepted by him in *iudicium Iunianum* (case #149).

Cic. 1 *Ver.* 38; *Clu.* 115-16

- 1 Venturini (1979) 84 points out that the appearance of Apulians (by this time Roman citizens) in an extortion case suggests that Roman citizens could be the victims under the *lex Cornelia de repetundis*.

173

date: 71?<sup>1</sup>claim: civil suit, *apud recuperatores, damnum datum vi hominibus armatis*  
(land dispute)<sup>2</sup>

defendant: P. Fabius (28)

advocate (for defendant): L. Quinctius (12) tr. pl. 74, pr. 68 (*ORF*  
107.V)

plaintiff: M. Tullius (12)

advocate: M. Tullius Cicero (29) cos. 63 (*Crawford, Orations 7*)praetor: ? L. Caecilius Metellus (74) pr. 71, cos. 68<sup>3</sup>outcome: uncertain<sup>4</sup>other: two *actiones*Cic. *Tul.*; Tac. *Dial.* 20.1

Greenidge (1901) App. II.3

- 1 The date 71 is more likely than 72 because Thurii was held by Spartacus in 72 (App. *BCiv.* 1.117); see *Tul.* 14, 19. However, L. Quinctius was a legate of Crassus in 71 (Fron. *Str.* 2.5.23; Plut. *Crass.* 11.4). See Frier (1983) 225, Frier, *RRJ* 52 n. 39.
- 2 See Frier, *RRJ* 79-80.
- 3 Another possible alternative for the presiding praetor is Q. Caecilius Metellus (Creticus) (87) pr. 73? cos. 69; see Balzarini (1968) 323 n. 2, and Frier (1983) 224-25.
- 4 Münzer *RE* (1939) 804 describes Cicero's speech as 'probably successful.' But in fact we have no definite information on the outcome.

174

date: before 70, after 76?<sup>1</sup>charge: lex Cornelia de repetundis (misconduct as gov. Achaea  
87-80?)defendant: P. Gabinius (13) pr. 89?<sup>2</sup>

prosecutor:

L. Calpurnius Piso Caesoninus (90) cos. 58, cens. 50

or L. Calpurnius Piso Frugi (98) pr. 74<sup>3</sup>

outcome: C

other: Q. Caecilius Niger (101) q. 73 defeated in *divinatio*<sup>4</sup>

## 87 The Trials

Cic. *Div. Caec.* 64; *Arch.* 9; Fenestella fr. 18 Peter = Lactant. *Div. Inst.* 1.6.14

D.-G. 3.58

- 1 In 70, Cicero stated that this trial occurred *nuper*, which provides a vague *terminus ante quem*. A man named Gabinius was *quindecimvir sacris faciundis*, and therefore presumably free of condemnation, in 76 according to Lactantius.
- 2 The date of 89 is argued by Keaveney and Madden (1983) and accepted by *MRR Suppl.* 98, against the view of Badian, *Studies* 75-80, that 88 was the year of his praetorship.
- 3 Münzer *RE* 3 (1899) 1395 and Gruen (1968) 162 favor Frugi; Badian *Studies* 82 favors Caesoninus.
- 4 Marshall (*Philologus* 1977) 84 reasons that this case cannot be case #181, because the *divinatio* in this case occurred before the *divinatio* in the trial of Verres, whereas the *divinatio* in case #181 occurred after the trial of Verres.

175

date: by 70<sup>1</sup>

charge: lex Cornelia de peculatu

defendant: C. Popillius (3) sen.

outcome: C

Cic. 1 *Ver.* 39

- 1 On the date see case #162 n. 1.

176

trial perhaps only threatened

date: 70

charge: lex Cornelia de repetundis (misconduct as gov. Sicily 73-71)

defendant: C. Verres (1) pr. 74

prosecutor: Q. Lollius (14) e.R.

outcome: dropped, Lollius killed on way to Sicily<sup>1</sup>

Cic. 2 *Ver.* 3.61-63

- 1 Cicero claims that Lollius was killed on Verres' orders, because Lollius was about to prosecute Verres. Because neither of these assertions is provable, it is uncertain whether Lollius did intend to prosecute Verres.

177

date: ca Jan.-ca Oct. 70<sup>1</sup>

charge: *lex Cornelia de repetundis* (misconduct as gov. Sicily 73-71)

defendant: C. Verres (1) pr. 74

advocates:

Q. Caecilius Metellus Pius Scipio Nasica (99) cos. 52

L. Cornelius Sisenna (374) pr. 78 (*ORF* 89.I)

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.IX)<sup>2</sup>

prosecutor: M. Tullius Cicero (29) cos. 63 (Sch. 6-11, 123) (nom. del.)

praetor: M'. Acilius Glabrio (38) cos. 67, cens. 64?<sup>3</sup>

jurors:

M. Caecilius Metellus (78) pr. 69

M. Caesonius (1) pr. by 66

L. Cassius Longinus (13) pr. 66<sup>4</sup>

C. Claudius Marcellus (214) pr. 80

Q. Cornificius (7) pr. by 66

M. Crepereius (1) tr. mil. 69

Q. Lutatius Catulus (8) cos. 78, cens. 65

Q. Manlius (34) tr. pl. 69

L.<sup>5</sup> Octavius Balbus (45)

P. Servilius Vatia Isauricus (93) cos. 79, cens. 55

P. Sulpicius (15) q. 69<sup>6</sup>

Q. Titinius (17) sen.

Cn. Tremellius Scrofa (5) tr. mil. 69, pr. by early 50s<sup>7</sup>

jurors rejected by defense:

C. Cassius (Longinus?) (58) cos. 73

P. Cervius (1) leg. Sicily 72?<sup>8</sup>

Q. Considius (7) sen.

Q. Iunius (30) sen.

Sex. Peducaeus (5) pr. 77

P. Sulpicius Galba (55) pr. 66<sup>9</sup>

jurors rejected by prosecution: M. Lucretius (9) sen.,<sup>10</sup> and others<sup>11</sup>

witnesses (in first *actio*):

Apollodoros Pyragros (not in *RE*)

L. Caecilius (Dio?) (not in *RE*)

- Q. Caecilius Dio (52)  
 Charidemos of Chios (not in *RE*)  
 M. Cottius (not in *RE*)  
 P. Cottius (not in *RE*)  
 Diodoros of Melita (29)  
 L. Domitius (not in *RE*)  
 Cn. Fannius (11) e.R.  
 L. Flavius (16) e.R.  
 L. Fufius Calenus (8)  
 C. Heius of Messana (2)  
 Herakleios of Syracuse (4)  
 Q. Luceius of Regium (9)  
 T. Manlius (41) = ? T. Manilius (16)  
 C. Matrinius (1) e.R.  
 Q. Minucius (26) e.R.  
 M. Modius (6)  
 Nikasio of Henna (1)  
 Numenius of Henna (3)  
 C. Numitorius (2) e.R.  
 L. (Octavius) Ligus (68) sen.?  
 M. Octavius Ligus (69) sen.  
 Sex. Pompeius Chlorus (27)  
 Cn. Pompeius Theodorus (46)  
 Posides Macro of Solus (not in *RE*)  
 Cn. Sertius (1) e.R.  
 Q. Tadius (2)  
 M. Terentius Varro Lucullus (Licinius 109) cos. 73 procos. Macedonia and Thrace 72-71  
 P. Tettius (3)  
 Theodoros of Henna (not in *RE*)  
 P. Titius (19) e.R.?  
 Q. Varius (5)
- witnesses (to be heard in second *actio*):
- Andron of Centuripa (not in *RE*)  
 Cn. Cornelius Lentulus Clodianus (216) cos. 72, cens. 70  
 Poleas of Messana (not in *RE*)  
 P. Vettius Chilo (10) e.R.
- witnesses summoned but absent:
- Epikrates of Bidis (not in *RE*)  
 Herakleios of Syracuse (3)

legates: from Aetna, Agyrium, Catina, Centuripa, Halaesa, Herbita, Melita, Panhormus

outcome: C, after *actio prima*<sup>12</sup> 3,000,000 HS assessed at *litis aestimatio*

other: Q. Caecilius Niger (101), q. Sicily 73, was defeated in *divinatio*.

He was supported by L. Appuleius (30) pr. 59,<sup>13</sup> and (A.?) Allienus (1) pr. 49,<sup>14</sup> as *subscriptores*.

Cicero was granted 110 days to collect evidence.

Cic. *Div. Caec.; Ver.*; Plut. *Cic.* 7.3-8.1; Quint. *Inst.* 4.1.20, 4.2.113-14, 6.3.98, 7.4.33 and 36, 10.1.23; Juv. 8.106; [Asc.] 184-264St; Schol. Clun. 273St; Schol. Gronov. ABC 324-351St

- 1 On the date, see Marinone (1950) 8-14.
- 2 Alexander (1976) defends the belief of Quintilian (10.1.22-23) that Hortensius delivered a speech in the first *actio* in defense of his client; *contra* Brunt (1980) 280 n. 44, Venturini (1980) 170.
- 3 See MRR Suppl. 2.
- 4 For references, see case #149, n. 4.
- 5 His *praenomen* is not 'P.' See case #149, n. 9.
- 6 See Box (1942) 72, Gabba (1976) 60-61, and MRR Suppl. 200.
- 7 See MRR Suppl. 208.
- 8 See Marinone (1965-66) 238-46; MRR Suppl. 43, 53.
- 9 His curule aedileship in 69 and candidacy for consulate of 63 fix his praetorship to 66.
- 10 M. Lucretius was probably rejected by Cicero. Ps.-Asconius (229St) surmises, probably correctly, that Cicero would not have attacked Lucretius as he does (2 *Ver.* 1.18, admittedly in a fictitious speech), if Lucretius were still a juror in the case. So Münzer *RE* 13(1927) 1657; *contra* McDermott (1977) 69.
- 11 Cicero rejected some jurors (1 *Ver.* 16; 2 *Ver.* 1.18), but, *pace* McDermott (1977) 65 n. 4, we cannot be sure that he rejected the same number as the defense (i.e., six).
- 12 Verres remained in Rome during the late summer (2 *Ver.* 4.33; see Marinone [1950] 8-14, Alexander [1976] 51-52), but was condemned when he failed to appear at the second *actio*.
- 13 See Shackleton Bailey, *Studies* 14, MRR Suppl. 23.
- 14 See Shackleton Bailey, *Studies* 8.

178

threatened

date: 70

charge: *lex Cornelia de peculatu* (money taken as q. 84, and as gov.

Sicily 73-71)

defendant: C. Verres (1) pr. 74

prosecutor: M. Tullius Cicero (29) cos. 63

Cic. 2 *Ver.* 1.11

179

trial only threatened

date: 70

charge: *lex Cornelia de maiestate* (military mismanagement as gov.

Sicily 73-71)

defendant: C. Verres (1) pr. 74

prosecutor: M. Tullius (29) Cicero cos. 63

Cic. 2 *Ver.* 1.12, 5.79

180

trial only threatened

date: 70

charge: *iudicium populi*

defendant: C. Verres (1) pr. 74

prosecutor: M. Tullius Cicero (29) cos. 63

Cic. 2 *Ver.* 1.13-14; 2 *Ver.* 5.173, 179

181

date: 70<sup>1</sup>

charge: *lex Cornelia de repetundis* (misconduct as gov. Macedonia,  
including Achaëa)

defendant:

L. Hostilius (13) Dasianus? tr. pl. 68?

or Oppius? (4)

or Piso

or C. Scribonius Curio (10) cos. 76, cens. 61,<sup>2</sup> procos. Macedonia 75-72

prosecutors:

Q. Caecilius Metellus Nepos? (96) cos. 57

? Oppius (4)

Rupilius (2)

outcome: dropped<sup>3</sup>

other: The prosecutor was given 108 days to collect evidence, but he never went to the province.

Cic. 1 *Ver.* 6, 9; 2 *Ver.* 1.30; *Sal. Hist.* 4.55M; [Asc.] 207St, 232St; *Schol. Gronov.* B 331St

- 1 See case #182, and #174 n. 4. This prosecution was designed to precede, and thereby delay, the prosecution of Verres (#177).
- 2 For a reference, see case #82, n. 3.
- 3 Griffin (1973) 213 n. 165 argues that there is nothing to indicate that the case was not pursued to acquittal, but it is quite possible that the prosecutor, having failed to delay the trial of Verres (case #177), dropped the case.

## 182

= ? case #181<sup>1</sup>

date: 70?

charge: *lex Cornelia de repetundis* (misconduct as gov. perhaps for Macedonia, including Achaëa 75-72)

defendant: C. Scribonius Curio (10) cos. 76, cens. 61<sup>2</sup>

prosecutor: Q. Caecilius Metellus Nepos (96) cos. 57

outcome: dropped by mutual agreement

Asc. 62-64; [Asc.] 207, 232St; *Schol. Gron.* B 331St

- 1 Münzer *RE* 2A (1921) 864-65, Gelzer (1969) 38 n. 27, and Marshall (*Philologus* 1977) suggest that this is case #181, by which the prosecution of Verres was to be delayed. Marshall correctly argues that McDermott (1972) 384-85 is wrong to believe that the case mentioned in 1 *Ver.* 6 cannot be this case because that case involved *calumnia*. He also attacks the objection of Zielin-

ski (1894) 256-57 n. 13 that Cicero's anonymous description of Curio here does not harmonize with his deferential description of him in 1 *Ver.* 18. Marshall believes that Cicero takes pains to minimize Curio's responsibility in the delaying tactic. In any case, Curio might have been quite an unwilling defendant, even if the prosecution was not intended to result in a conviction, and therefore Curio might have borne no responsibility in the affair.

2 For a reference, see case #82, n. 3.

**183**

date: 70?

claim: *causa liberalis* (see case #182)

outcome: dropped by mutual agreement between Q. Caecilius Metellus Nepos (96) cos. 57, who claimed a citizen as his slave, and C. Scribonius Curio (10) cos. 76, cens. 61,<sup>1</sup> who furnished an *assertor libertatis* for this citizen.

Asc. 62-64C

1 See case #82, n. 3.

**184**

date: 70, *post legem tribuniciam* (*de tribunicia potestate?* *lex Plotia de vi*)

defendant: *senator tenuissimus*

outcome: C

Cic. 1 *Ver.* 46; [Asc.] 221St

**185**

date: between 70 and 66

charge: *lex Cornelia de ambitu* (misconduct in campaign for tribunate?)

defendant:

P. Popillius (10) sen.

or C. Popillius (4) tr. pl. 68? = ? C. Popillius (5) tr. mil. 72? 71?<sup>1</sup>

*laudator*: Cn. Cornelius Lentulus Clodianus (216) cos. 72, cens. 70<sup>2</sup>  
 outcome: C

Cic. *Clu.* 98, 131, 132; Quint. *Inst.* 5.10.108; see also CIL 1<sup>2</sup>.2.744

- 1 See MRR Suppl. 168 (cf. 105), and case #175. Note that the *codices* at *Clu.* 131 give his *praenomen* as L.
- 2 See Shackleton Bailey, *Studies* 112.

186

date: 69?<sup>1</sup>

charge: lex Cornelia de repetundis (misconduct as q. 84, as gov. Gaul 75-73 or 74-72)<sup>2</sup>

defendant: M. Fonteius (12) pr. 76? 75?

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 10)

prosecutors:

M. Fabius (26) (subscr.)

M. Plaetorius Cestianus (16)<sup>3</sup> pr. 64? (nom. del.)

witnesses:

Indutiomarus (1)

Cn. Pompeius Magnus (31) cos. 70, 55, 52

*laudatores*:

Cn. Pompeius Magnus (31) cos. 70, 55, 52

people of Narbo, Massilia

outcome: uncertain whether A or C<sup>4</sup>

other: two *actiones*

Cic. *Font.*; *Att.* 1.6.1; Sal. *Hist.* 3.46M; Quint. *Inst.* 6.3.51

- 1 The trial must have occurred after the lex Aurelia of 70 was passed, since *equites*, as well as senators, were in court (*Font.* 36).
- 2 On the offenses charged, see Jouanique (1960); Alexander (1982) 158. On the years, see Badian (1966) 911-12, and MRR Suppl. 93.
- 3 See Shackleton Bailey, *Studies* 123.
- 4 The fact that Fonteius (if that name is the correct reading) bought a house in Naples (from Cicero?) may suggest that he was acquitted, either because he had the money for the purchase, and/or because he was rewarding Cicero for a successful defense. But it could also imply exile from Rome due to condemnation.

187

date: 69<sup>1</sup>charge: *lex Cornelia de peculatu?* (theft of supplies, mutiny)

defendant: P. Oppius (17) q. 74

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 69, 70)

jurors: partly *equites*outcome: uncertain<sup>2</sup>

Sal. *Hist.* 3.59M; Quint. *Inst.* 5.10.69, 5.13.17, 20-21, and 30, 6.5.10, 11.1.67; Dio 36.40.3-4; [Asc.] 236St

Ward (1968) 805

- 1 The trial occurred after the passage of the *lex Aurelia*, and before the trial of M. Aurelius Cotta (case #192). See D.-G. 5.367-68; Gruen (*AJP* 1971) 14 n. 61.
- 2 Oppius' disappearance from the political scene might suggest a condemnation, but we know nothing more which might indicate the outcome (see Münzer *RE* 18 [1939] 740).

188

date: 69 or 68?<sup>1</sup>

defendant: Manilius Crispus (23) = ? C. Manilius (10) tr. pl. 66

advocate?: Cn. Pompeius Magnus (31) cos. 70, 55, 52

prosecutor: Cn. Calpurnius Piso (69) q. 65-64

V. Max. 6.2.4

- 1 See Gruen (*CSCA* 1968) 160-62.

189

date: 69?<sup>1</sup>claim: *sponsio, unde vi hominibus coactis armatisve* (dispute over land)

defendant: Sex. Aebutius (9)

advocate (for defendant): C. Calpurnius Piso (63) cos. 67 (ORF 108.I)

plaintiff: A. Caecina (6) of Volaterra (e.R.)

advocate (for plaintiff): M. Tullius Cicero (29) aed. pl. 69 (Sch. 13)

urban praetor: P. Cornelius Dolabella (140) pr. 69 or 68<sup>2</sup>

jurors: *recuperatores*

jurisconsult (for defendant): ? Ser. Sulpicius Rufus (95) cos. 51<sup>3</sup>

jurisconsult (for plaintiff): C. Aquillius Gallus (23) pr. 66

witnesses:

A. Atilius (10)

L. Atilius (17)

L. Caelius (8)

P. Caesennius (3)

Sex. Clodius Phormio (43)

C. Fidiculanus Falcula (1) sen. in 74

P. Memmius (17)

P. Rutilius (10)

A. Terentius (17)

P. Vetilius (2)

other: three *actiones* (two *non liquet* votes)

outcome: in favor of the plaintiff?<sup>4</sup>

Cic. *Caec.*; *Orat.* 102; Quint. *Inst.* 6.3.56; see also Cic. *Fam.* 6.6.3; 6.9.1; 13.66.1

D.-G. 5.360; Greenidge LP App. II.4; Harris (1971) 276-84

1 The date 68 is also possible. See MRR 2.132, 2.142 n. 9. Nicosia (1965) 149-52 incorrectly argues for a date by 71; see also Frier (1983) 222-27 and RRJ 45-46; and MRR Suppl. 65.

2 The dating of this case depends on the dating of Dolabella's praetorship. See n. 1.

3 This name is the suggestion of Frier (RRJ 153-55) for the identity of the jurisconsult mentioned at *Caec.* 79. He also considers as possibilities P. Orbius (3) pr. 65 and A. Cascellius (4) q. before 73.

4 See Frier, RRJ 231-32.

## 190

date: 68

charge: lex Cornelia de ambitu (misconduct in campaign for consulate)

defendant: C. Calpurnius Piso (63) cos. 67  
outcome: aborted by bribery

Sal. *Hist.* 4.81M; Dio 36.38.3  
Shackleton Bailey (1970) 164

**191**

date: before 67 (death of Sisenna)  
defendant: C. Hirtilius (Hirtuleius 2)  
advocate: L. Cornelius Sisenna (374) pr. 78 (ORF 89.II)  
prosecutor: C. Rusius (1)

Cic. *Brut.* 259-60

**192**

date: 67 or after  
charge: lex Cornelia *de peculatu*<sup>1</sup> or lex Cornelia *de repetundis*<sup>2</sup> (misconduct as gov. Bithynia-Pontus 73-70)  
defendant: M. Aurelius Cotta (107) cos. 74  
prosecutor: C. Papirius Carbo (35) pr. 62  
outcome: C  
other: Carbo received consular insignia as a reward<sup>3</sup>

V. Max. 5.4.4; Memnon 39.3-4 in *FGrH* 3B 367; Dio 36.40.3-4

1 See Klebs *RE* 2.(1896) 2489.

2 Borzsák *RE* 18 (1939) 1112.

3 Taylor (1949) 114 uses this piece of information in her analysis of *praemia*. Note, however, that this reward was granted not on the basis of a clause in a law, but after some debate, perhaps on the decision of the Senate or consuls. See Alexander (1985) 25.

**193**

date: 67?<sup>1</sup>  
charge: uncertain<sup>2</sup>

defendant: D. Matrinius (2)

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 11)

jurors:

C. Flaminius (4) aed. cur. 68 or 67

M. Iunius (25) pr. 67?

M. Plaetorius Cestianus (16)<sup>3</sup> pr. 64?

Q. Publicius (13) pr. 67?<sup>4</sup>

Cic. *Clu.* 126

1 See D.-G. 5.357 n. 7; *MRR* 2.150 n. 3; Crawford, *Orations* p. 59.

2 Mommsen (*StR.* 1.339 n. 5) claims that this is a *Disciplinarprozess*.

3 For a reference, see case #186, n. 3.

4 Frier (1983) 228 expresses doubt that he was praetor in this year.

## 194

date: before 66

claim: *actio furti*

defendants: *servi* of A. Cluentius Habitus (4) e.R.

plaintiff: Ennius<sup>1</sup>

Cic. *Clu.* 163

1 See *RE* 5 (1905) 2588.

## 195

date: 66, completed before July

charge: *lex Cornelia de repetundis* (misconduct as promagistrate 67?)

defendant: C. Licinius Macer (112) pr. by 68

praetor: M. Tullius Cicero (29) cos. 63<sup>1</sup>

outcome: C, suicide

Cic. *Att.* 1.4.2; V. Max. 9.12.7; Plut. *Cic.* 9.1-2

1 See Crawford, *Orations* App. II.1.

196

date: 66

charge: lex Cornelia de peculatu (*de pecuniis residuis*)<sup>1</sup> (money taken by father, L. Cornelius Sulla Felix (392) cos. 88, 80, from treasury)

defendant: Faustus Cornelius Sulla (377) q. 54

prosecutor: tr. pl. 66

praetor: C. Orchivius (l)

outcome: jurors refused case<sup>2</sup>

Cic. *Clu.* 94; *Mur.* 42; Asc. 73C

1 See Bona (1960) 161-63; Gruen (*Athenaeum* 1971) 56-57.

2 It is rather surprising to read in Cic. *Clu.* 94 that it was the jurors who refused the case: *illi iudices statuerunt iniqua condicione reum causam dicere....* According to Mommsen, *Strafr.* 372 n. 2, this particular prosecutor was rejected in a *divinatio*.

197

date: 66

claim: *actio furti*

defendant: A. Cluentius Habitus (4) e.R.

prosecutor: Ennius<sup>1</sup>

outcome: undecided at time of case #198

Cic. *Clu.* 163

1 For a reference, see case #194, n. 1.

198

date: 66

charge: lex Cornelia de sicariis et veneficis ('judicial murder'<sup>1</sup> and/or poison attempts)

defendant: A. Cluentius Habitus (4) e.R.

advocate: M. Tullius Cicero (29) pr. 66, cos. 63 (Sch. 15)

prosecutors:

Statius Albius<sup>2</sup> Oppianicus (8) e.R. (nom. del.)

T. Attius<sup>3</sup> (Accius 1a *RE* Supp. I) of Pisaurum e.R. (*ORF* 145.I)  
juror: P. Volumnius (6) sen.?

witnesses:

L. Plaetorius (Cestianus?) (14) q. 71<sup>4</sup>

Cn. Tudicius (1) sen.

*laudatores*:

Cn. Tudicius (1) sen.

people of Bovianum, Ferentum, Luceria, Marrucia, Samnium, Teanum

outcome: A

Cic. *Clu.*; *Brut.* 271; Quint. *Inst.* 2.17.21, 4.5.11, 11.1.61-63 and 74; Tryph. *Dig.* 48.19.39; see also Plin. *Ep.* 1.20.8

Humbert (1938); Hoenigswald (1962); van Ooteghem (1969); Classen (1972); Kumaniecki (1970)

1 Pugliese (1970) argues that this did not constitute a formal charge; Stroh (1975) 228-42, that it did. See also Alexander (1982) 162-63.

2 See case #138, n. 2.

3 See Shackleton Bailey, *Studies*.

4 See Hersh and Walker (1984), Table 2.

## 199

date: 66, same time as case #198

charge: lex Calpurnia de ambitu

praetor: C. Aquillius Gallus (23)

Cic. *Clu.* 147

## 200

date: 66

charge: lex Calpurnia de ambitu (campaign for consulate of 65)

defendant: P. Autronius Paetus (7) cos. des. 65

prosecutor: L. Aurelius Cotta (102) cos. 65, cens. 64

praetor: C. Aquillius Gallus (23)

outcome: C

Cic. *Sul.* 15; Sal. *Cat.* 18.2; Liv. *Per.* 101; Asc. 75, 88C; Suet. *Jul.* 9; Dio 36.44.3, 37.25.3

201

date: 66

charge: lex Calpurnia de ambitu (campaign for consulate of 65)

defendant: P. Cornelius Sulla (386) cos. des. 65

prosecutors:

L. Manlius Torquatus (79) cos. 65 (nom. del.)<sup>1</sup>

L. Manlius Torquatus (80) pr. 50 or 49 (subscr.)<sup>2</sup>

outcome: C

Cic. *Sul.* 15, 49, 50, 90; *Fin.* 2.62; Sal. *Cat.* 18.2; Liv. *Per.* 101; Asc. 75, 88C; Suet. *Jul.* 9; Dio 36.44.3, 37.25.3

1 Badian *Studies* 248, McDermott (1969) 242 n. 2, and Marshall, *Asconius* 262 accept the traditional view that Asconius has made an error, confusing the Torquati, father and son. However, Cicero's words do not necessarily conflict with the testimony of Asconius. Asconius says that L. Torquatus (the father) and L. Cotta had condemned (*damnarant*) their rivals in the consular elections in 66 for 65. Cicero in the *pro Sulla* refers to the attack from both Torquati, father and son, against P. Sulla. The phrase *insignia honoris ad te* (viz. the younger Torquatus) *delata sunt* (50) could refer to the consular *insignia* which, because of the prosecution and the second election, made their way to the family of the Torquati, rather than to *praemia* gained by a successful prosecution led by the younger Torquatus. Therefore, there is nothing in the Ciceronian passages which positively contradicts the apparent belief of Asconius that the father was the chief prosecutor. The son would have then been the *subscriptor*. See Mello (1963) 51 n. 59; Alexander (1985) 26-27 and n. 20. Münzer, in his articles on each Torquatus (79, 80: *RE* 14 [1928] 1201 and 1203), has the elder Torquatus as the principal accuser of Paetus (see case #200), and Cotta as the principal accuser of Sulla, the latter with help from the younger Torquatus as *subscriptor*. He is followed by Gray (1979) 64.

2 See Shackleton Bailey, *CLA* 4.342-43, and *MRR* Suppl. 136.

202

date: 66? (by 63)

charge: lex Calpurnia de ambitu

defendant: L. Vargunteius (3) sen.

advocate: Q. Hortensius Hortalus (13) cos. 69 (ORF 92.XIII)

praetor: C. Aquillius Gallus (23)

outcome: C?, expulsion from Senate<sup>1</sup>Cic. *Sul.* 6; see also *Catil.* 1.9; *Sal. Cat.* 28.1

- 1 According to Linderski (1963), Vargunteius was expelled from the Senate and then made an *eques*; *contra* Nicolet, *Ordre équestre* 2.1060-61.

203

date: 66

charge: lex Cornelia de maiestate (conduct as tr. pl. in assemblies)

defendant: C. Cornelius (18) tr. pl. 67

prosecutors:

P. Cominius (11) e.R. (nom. del.)

C. (or L.?)<sup>1</sup> Cominius (4, = ? 8) of Spoletium (subscr.)praetor: L. (or P.?)<sup>2</sup> Cassius Longinus (64)

outcome: praetor failed to appear for case; mob violence against the Cominii forced them to drop case, giving rise to suspicions that they had been bribed to do so.

Cic. *Brut.* 271; Asc. 59-60C; Quint. *Inst.* 5.13.25  
Griffin (1973)

- 1 Asc. 59.18C has 'C.'; Cic. *Clu.* 100 has 'L.' See Badian, *Studies* 248, Marshall, *Asconius* 222.  
2 Asc. 82.7C has 'L.'; Asc. 59.17C has 'P.' Cf. Q. Cic.? *Comm. Pet.* 7, Crawford, *RCC* 1.403 (#386). See Sumner, *Orators* 49; Marshall, *Asconius* 64.

204

date: 66

charge: *lex Cornelia de peculatu? iudicium populi?* (misconduct as q. or leg. 83)

defendant: M. Terentius Varro Lucullus (Licinius 109) cos. 73

prosecutor: C. Memmius (8) tr. pl. 66 or 65<sup>1</sup> pr. 58 (ORF 125.I)

outcome: A

Plut. *Luc.* 37.1; see also *Sul.* 27.7

Gruen (*Athenaeum* 1971) 57-58; Jones (1972) 5

1 See Sumner, *Orators* 134.

205

date: last days of 66

charge: *lex Cornelia de repetundis (quo ea pecunia pervenerit?)*<sup>1</sup>

defendant: C. Manilius (Crispus?) (10) tr. pl. 66

praetor: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 13)

outcome: incomplete

Q. Cic.? *Com. Pet.* 51; Asc. 60C; Plut. *Cic.* 9.4-6; Dio 36.44.1-2

D.-G. 5.400 n. 8; Ward (1970); Phillips (1970); Fantham (1975) 439-40 n. 34; Marshall (*CP* 1977)

1 Ramsey suggests that this trial took place under the procedure *quo ea pecunia pervenerit*, which allowed extorted funds which were in the hands of a party other than the defendant to be recovered. His reconstruction provides the most economical explanation of the evidence. This kind of procedure implies that this trial was subsidiary to a full-scale extortion trial, which, however, we cannot identify. See Ramsey (1980) 329 n. 27.

206

date: 66?<sup>1</sup>

charge: *lex Cornelia de peculatu* or *lex Cornelia de repetundis* (misappropriation of booty as procos. 73-63)

defendant: L. Licinius Lucullus (104) cos. 74

prosecutor: C. Memmius (8) tr. pl. 66 or 65<sup>2</sup>

outcome: dropped

Plut. *Cat. Min.* 29.3; *Luc.* 37.1-3; *Serv.* 1.161, 4.261

Gruen (*Athenaeum* 1971) 58; Shatzman (1972); Shatzman (1975) 379

1 The trial took place at least before the defendant's triumph in 63.

2 See Sumner, *Orators* 134.

207

date: 66 or 65

defendant: C. Fundanius (1) tr. pl. 68?

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 73)

outcome: A

Q. Cic.? *Com. Pet.* 19; *Quint. Inst.* 1.4.14

208

date: summer of 65

claim: civil suit (*res dolo malo mancipio acceptae*)<sup>1</sup>

defendant: (A.?) Caninius Satyrus (15)

plaintiffs:

Q. Caecilius (23) e.R.

Q. Caecilius Metellus Pius Scipio Nasica (99) cos. 52

L. Licinius Lucullus (104) cos. 74

L. Pontius (10)

*Cic. Att.* 1.1.3-4

1 The case involved fraud allegedly perpetrated on creditors.

209

date: 65

charge: *lex Cornelia de maiestate* (illegal actions as tr. pl. 67)

defendant: C. Cornelius (18) tr. pl. 67

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 76-77)

prosecutors:

C. (or L.?) Cominius (4, = ? 8)<sup>1</sup> of Spoletium (subscr.) (ORF 143/144.II)

P. Cominius of Spoletium (11) (nom. del.) (ORF 143/144.II)

praetor: Q. Gallius (6)

witnesses:

Mam.<sup>2</sup> Aemilius Lepidus Livianus (80) cos. 77, princeps sen.? 70, cens.? 64<sup>3</sup>

Q. Caecilius Metellus Pius (98) cos. 80

Q. Hortensius Hortalus (13) cos. 69 (ORF 92.XII)

Q. Lutatius Catulus (8) cos. 78, cens. 65 (ORF 96.V)

P. Servilius Globulus (66) tr. pl. 67

M. Terentius Varro Lucullus (Licinius 109) cos. 73<sup>4</sup> (ORF 91.II)

outcome: A, by a wide margin

other: two *actiones*, four days of defense

Cic. *Orat.* 225; V. Max. 8.5.4; Asc. 57-81C; Quint. *Inst.* 5.13.18, 6.5.10, 8.3.3, 10.5.13; Plin. *Ep.* 1.20.8; see also Cic. *Brut.* 271

Kumaniecki (1970)

1 See Münzer *RE* 4 (1900) 607-8; and Marshall, *Asconius* 64, 222.

2 On the *praenomen*, see Sumner (1964), not refuted by Griffin (1973) 213. See also Shackleton Bailey, *CLA* 102, Syme (1970) 141, and *MRR* Suppl. 8.

3 See *MRR* Suppl. 8-9.

4 V. Max. 8.5.4 incorrectly adds L. Licinius Lucullus as witness; see Gelzer *RE* 7A (1939) 860.

## 210

date: 65

charge: lex Cornelia de maiestate (actions as tr. pl. 66)

defendant: C. Manilius (Crispus?) (10) tr. pl. 66

advocate?: M. Tullius Cicero (29) cos. 63 (Sch. 75)<sup>1</sup>

prosecutor: Cn. Minucius (13)

praetor: C. Attius Celsus (not in *RE*)<sup>2</sup>

outcome: C

Cic. *Corn. fr.* 10, 12; Asc. 60, 66C; Plut. *Cic.* 9.6; Schol. Bob. 119St; Schol. Gronov. 322St

Marshall (*CP* 1977)

- 1 In spite of Nonius' citation (700L) of a speech by Cicero *pro Manilio*, Ramsey (*Phoenix* 1980) 332-36 argues that it should be regarded as a speech delivered before a *contio* ('*de Manilio*'), and that, therefore, Cicero probably did not speak at the trial of Manilius. See also Phillips (1970) 606.
- 2 See Ward (1970) 549 n. 15, Marshall, *Asconius* 234, and *MRR* Suppl. 28-29.

## 211

date: 65

defendant: C. Orchivius (1) pr. 66

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 15)

outcome: A

Q. Cic.? *Com. Pet.* 19

## 212

date: second half of 65<sup>1</sup>

charge: *lex Cornelia de repetundis* (misconduct as gov. Africa 67-66)

defendant: L. Sergius Catilina (23) pr. 68

advocate: uncertain, but *not* M. Tullius Cicero (29) cos. 63<sup>2</sup>

prosecutor: P. Clodius Pulcher (48) aed. cur. 56

character witness: L. Manlius Torquatus (79) cos. 65 (*ORF* 109.I)

witnesses: Africans

*laudatores: consulares*

outcome: A (senators for C, *equites* and *tribuni aerarii* for A)

other: *praevaricatio*<sup>3</sup>

Cic. *Att.* 1.1.1, 1.2.1; *Catil.* 1.18; *Sul.* 81; *Cael.* 10, 14; *Har.* 42; *Pis.* 23; Q. Cic.? *Com. Pet.* 10; *Asc.* 9, 85, 89, 92

- 1 A jury was constituted shortly before July 17. It is possible that the prosecution of Catiline had already begun in 66; however, a separate trial in that year seems unlikely. See John (1876) 417-18; Mello (1963) 37; d'Ippolito (1965) 43; Sumner (1965) 227-28.
- 2 See *Asc.* 85C; *contra* Fenestella fr. 20 Peter.
- 3 Cicero's statement (*Att.* 1.2.1), written when he was considering defending Clodius in this trial, that the prosecutor was cooperative (*summa accusatoris voluntate*) has been taken to suggest that the prosecutor was working with

the defense to secure an acquittal. Gruen (*Athenaeum* 1971) 59-62, however, argues that Clodius did not commit *praevaricatio*.

## 213

date: before 64

claim: *actio furti*

defendant: Q. Mucius (Scaevola?)<sup>1</sup> Orestinus (12) tr. pl. 64

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 16)

plaintiff: L. Fufius Calenus (8)

outcome: dropped by mutual agreement

Cic. *Tog. Cand.* 6, 13; Asc. 86C

1 For 'Scaevola,' see Shackleton Bailey, *Studies* 122-23.

## 214

date: 64<sup>1</sup>

charge: lex Calpurnia de ambitu (campaign for the praetorship of 65)

defendant: Q. Gallius (6) pr. 65

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 74)

prosecutor: M. Calidius (4) pr. 57<sup>2</sup> (ORF140.I)

outcome: A?

Cic. *Brut.* 277-78; Q. Cic.? *Com. Pet.* 19; V. Max. 8.10.3; Asc. 88C; Quint. *Inst.* 11.3.155

1 Asconius gives 64 as the date of the trial. Others (D.-C. 5.398-99 and Vonder Mühl *RE* 7 [1910] 672) suggest 66, on the ground that the year of his campaign is more likely to be the year of the trial. This is not necessarily the case, and, if it is not, then the defendant's praetorship in 65 cannot serve as evidence for an acquittal. See Balsdon (1963) 248-49, Gruen, *LGRR* 270 n. 33, and Ramsey (*Historia* 1980). Ramsey argues that the author of the *Com. Pet.* may have linked this trial to three earlier trials (cases #207, #209, and #211) because he is thinking of the date when Cicero agreed to take the case, not the date of the trial.

2 Douglas (1966) 301-2 disputes this date; refuted by Sumner, *Orators* 147.

215

date: 64<sup>1</sup>charge: lex Cornelia de sicariis et veneficis (murder of Q. Lucretius Afella [25])<sup>2</sup>defendant: L. Bellienus (5) pr. 105<sup>3</sup>*iudex quaestionis*:<sup>4</sup> C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44

outcome: C

Asc. 91C; Suet. *Jul.* 11; App. *BCiv.* 1.101; Dio 37.10.2

- 1 The trial occurred before consular elections, about the same time as case #216.
- 2 Heraeus (1934) suggests the reading 'Afella' over 'Ofella'; his reading is accepted by Badian (1967) 227-28.
- 3 On the name, see Shackleton Bailey, *CLF* 1.489, and *MRR* Suppl. 34.
- 4 Gruen, *LGRR* 76 n. 124 argues that Caesar was *accusator* rather than *iudex quaestionis*.

216

date: 64<sup>1</sup>

charge: lex Cornelia de sicariis et veneficis (three murders of people proscribed under Sulla)

defendant: L. Luscius (1) centurio

*iudex quaestionis*:<sup>2</sup> C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44

outcome: C

Asc. 90-91C; Suet. *Jul.* 11; Dio 37.10.2

- 1 The trial occurred before consular elections, about same time as case #215.
- 2 See case #215, n. 4.

217

date: 64, acquitted after consular elections

charge: lex Cornelia de sicariis et veneficis (murder of those proscribed under Sulla)<sup>1</sup>

defendant: L. Sergius Catilina (23) pr. 68

prosecutor: L. Luceius (6) perhaps pr., date uncertain<sup>2</sup>  
*iudex quaestionis*:<sup>3</sup> C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44  
*laudatores*: *consulares*  
 outcome: A

Cic. *Att.* 1.16.9; *Sul.* 81; *Pis.* 95; Asc. 91-92C; Suet. *Jul.* 11; Dio 37.10.3  
 Marshall (*SCI* 1976/77)

- 1 Marshall (*CQ* 1985) argues that the murder of M. Marius Gratidianus (42) may have been one of the charges against the defendant. He also maintains that the charge was false.
- 2 According to McDermott (1969), this was the son of Quintus (Q.f.), to be distinguished from the consular candidate in 60, the son of Marcus (M.f.) (*pace* Asconius). Dio 36.41.1-2 perhaps does not furnish evidence for his praetorship. See David and Dondin (1980), and *MRR* Suppl. 127-28.
- 3 See case #215, n. 4.

## 218

date: 64 or 63<sup>1</sup>  
 defendant: Q. Curius (7) q. by 71 (and II?)<sup>2</sup> = ? L. Turius (2) pr. 75<sup>3</sup>  
 outcome: C

Asc. 93C

- 1 The trial occurred after Cicero delivered *In Toga Candida* in 64 BC.
- 2 Marshall (*AC* 1978 and *Asconius* 316-17) maintains that Q. Curius regained status by holding the quaestorship a second time.
- 3 See Syme *CP* (1955) 134, and *MRR* Suppl. 209-10.

## 219

date: before 63  
 defendant: P. Cornelius Lentulus Sura (240) cos. 71  
 other: charges of bribery  
 outcome: A by two votes

Cic. *Att.* 1.16.9; Plut. *Cic.* 17.3

220

date: first half of 63

charge: *iudicium populi*, for *perduellio* (rioting in 100 leading to the death of L. Appuleius Saturninus [29] tr. pl. 103, 100, tr. pl. des. for 99)<sup>1</sup>

defendant: C. Rabirius (5) sen.

*duumviri perduellionis*:

C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44

L. Iulius Caesar (143) cos. 64, cens. 61

outcome: conviction, *provocatio*, trial stoppedCic. *Att.* 2.1.3; *Rab. Perd.*; *Pis.* 4; Suet. *Jul.* 12; Dio 37.26-27; see also App. *BCiv.* 1.32; Plut. *Vir.* III. 73.12

Heitland's commentary (1882) on Cicero's speech; Strachan-Davidson (1912) 1.188-204; Ciaceri (1918) 169-95; Lengle (1933); van Ooteghem (1964); Bauman (1969) 9-21; Jones (1972) 40-44; Tyrrell (1973); Tyrrell (1974); Phillips (1974); Tyrrell (1978)

1 For reference, see case #74, n. 1.

221

date: 63, after trial #220

charge: possibly a pecuniary case before people in *comitia tributa* (various offenses)<sup>1</sup>

defendant: C. Rabirius (5) sen.

advocates:

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XIV)M. Tullius Cicero (29) cos. 63 (*Sch.* 20)prosecutor: T. Labienus (6) tr. pl. 63 (*ORF* 133.I), pr. by 59<sup>2</sup>

outcome: aborted by fictitious enemy raid

For sources, bibliography, and further discussion, see case #220.

1 This case, along with #220, constitutes the most difficult legal conundrum of all the trials in this period. Only one possible solution has been presented here, according to which the extant speech of Cicero was delivered at this trial, which was ended by the raising of the flag on the Janiculum. This signified an enemy attack and the suspension of civilian business.

2 See *MRR* Suppl. 116 on his praetorship.

222

trial only threatened

date: 63 (before consular elections, July)

defendant: L. Sergius Catilina (23) pr. by 68

prosecutor: M. Porcius Cato (16) pr. 54

*Cic. Mur.* 51

223

date: after Oct. 21, 63

charge: *lex Plautia de vi*

defendant: L. Sergius Catilina (23) pr. 68

prosecutor: L. Aemilius Lepidus Paullus (81) cos. 50

outcome: incomplete

*Cic. Vat.* 25; *Sal. Cat.* 31.4; *Dio* 37.31.3-32.2; *Schol. Bob.* 149St

224

date: late November 63

charge: *lex Tullia de ambitu* (campaign for consulate of 62)

defendant: L. Licinius Murena (123) cos. 62

advocates:

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XV)

M. Licinius Crassus (68) cos. 70, 55, cens. 65 (*ORF* 102.I)

M. Tullius Cicero (29) cos. 63 (*Sch.* 25)<sup>1</sup>

prosecutors:

M. Porcius Cato (16) pr. 54 (*ORF* 126.IV) (subscr.)

C.<sup>2</sup> Postumius (4, *monetalis* ca 74, candidate for praetorship of 62)  
(subscr.)

Ser. Sulpicius Rufus (95) cos. 51 (nom. del.)

Ser. Sulpicius Rufus (96) (subscr.) sen.?

outcome: A

Cic. *Mur.*; Plut. *Cat. Min.* 21.3-5; Cic. 35.3; Plut. *De capienda ex inimicis utilitate* 91D

Ayers (1953/54); Michel (1972)

- 1 Speech given between Nov. 9 and Dec. 1.
- 2 So Sumner (1971) 254 n. 26 and *Orators* 144.

225

date: by Dec. 63

charge: lex Cornelia de repetundis (misconduct as gov. Cisalp. and Transalp. Gaul 66-65)

defendant: C. Calpurnius Piso (63) cos. 67

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 17)

prosecutor?: C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44

outcome: A

Cic. *Flac.* 98; Sal. *Cat.* 49.2

226

date: 62

charge: lex Plautia de vi (participation in conspiracy)

defendants: followers of Catiline

*quaesitor*:<sup>1</sup> Novius Niger (12) = ? L. Novius (7) tr. pl. 58

informer: L. Vettius (6) e.R.

outcome: C

Suet. *Jul.* 17; Dio 37.41.2-4; see also Cic. *Att.* 2.24.2

- 1 *quaesitor* in Suetonius

227

threatened

date: spring of 62

charge: lex Plautia de vi (participation in conspiracy)

defendant: C. Iulius Caesar (131) pr. 62, cos. 59, 48, 46, 45, 44

*quaesitor*:<sup>1</sup> Novius Niger (12), = ? L. Novius (7) tr. pl. 58  
informer: L. Vettius (6) e.R.  
outcome: aborted; Novius, Vettius put in prison

Suet. *Jul.* 17

1 *quaesitor* in Suetonius

**228**

date: 62, before case #234  
charge: possibly *lex Plautia de vi*  
defendant: C. Cornelius (19) e.R.  
outcome: C?

Cic. *Sul.* 6, 18, 51; *Sal. Cat.* 17, 28.1; see also [Sal.] *Cic.* 3

**229**

date: 62, before case #234  
charge: *lex Plautia de vi* (participation in Catilinarian conspiracy,  
attempted murder of Cicero)  
defendant: P. Autronius Paetus (7) cos. des. 65  
witnesses:  
    M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 24)  
    'many people' (*plerique Sul.* 7)  
    Allobroges  
outcome: C, exile in Greece

Cic. *Sul.* 7, 10, 18, 71; see also *Cic. Att.* 3.2, 3.7.1

**230**

date: 62, before case #234  
charge: *lex Plautia de vi* (participation in Catilinarian conspiracy)  
defendant: P. Cornelius Sulla (385) sen.  
outcome: C

Cic. *Sul.* 6; Cic. *Off.* 2.29; Sal. *Cat.* 17.3

231

date: 62, before case #234

charge: lex Plautia de vi (participation in Catilinarian conspiracy)

defendant: M. Porcius Laeca (18) sen.

outcome: C

Cic. *Catil.* 1.9; *Sul.* 6; Sal. *Cat.* 17.3, 27.3

232

date: 62, before case #234

charge: lex Plautia de vi (participation in Catilinarian conspiracy)

defendant: L. Vargunteius (3) e.R.?<sup>1</sup>

advocate: none

outcome: C?

Cic. *Catil.* 1.9; *Sul.* 6; Sal. *Cat.* 17.3

1 See case #202, n. 1.

233

date: 62, before case #234

defendant: Ser. Cornelius Sulla (389) sen.

outcome: C?

Cic. *Sul.* 6; Sal. *Cat.* 17.3, 47.1

234

date: 62<sup>1</sup>

charge: lex Plautia de vi (participation in two Catilinarian conspiracies, in the [probably fictitious] one of 66 and in that of 63, attempt-

ed massacre at consular elections in 63 for 62, creating disturbance in Farther Spain)

defendant: P. Cornelius Sulla (386) cos. des. 65

advocates:

Q. Hortensius Hortalus (13) cos. 69 (ORF 92.XVI)

M. Tullius Cicero (29) cos. 63 (Sch. 26)

prosecutors:

Cornelius (7) (subscr.)

L. Manlius Torquatus (80) pr. 50 or 49<sup>2</sup> (nom. del.) (ORF 146.I)

present for defense: *coloni* of Pompeii; Pompeiani<sup>3</sup>

outcome: A

other: Cicero said to have profited financially from the defense (Gel. 12.12.2)

Cic. *Sul.*; Schol. Bob. 77-84St; Gel. 1.5.3, 12.12.2

- 1 M. Valerius Messalla Niger (266) cos. 61 is not referred to as consul-designate (*Sul.* 20, 42); therefore, the trial is likely to have taken place before the consular elections.
- 2 For references, see case #201, n. 2.
- 3 *Sul.* 60-61 says that *coloni* and *Pompeiani* were present. They were presumably in the *corona*.

235

date: 62

charge: lex Papia (illegal grant of citizenship)

defendant: A. Licinius Archias (Archias 20)

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 27)

prosecutor: Grattius (1)

(urban?) praetor: Q. Tullius Cicero (31)

witnesses:

M. Terentius Varro Lucullus (Licinius 109) cos. 73

Heraclienses

outcome: A

Cic. *Arch.*; Schol. Bob. 175-179St; see also Cic. *Att.* 1.16.15; *Div.* 1.79

Husband (1913-14, 1914-15); Radin (1913-14, 1914-15); Dillon (1941-42)

236

date: 61, over by May 15

charge: *quaestio extraordinaria* (sacrilege at rites of Bona Dea)<sup>1</sup>

defendant: P. Clodius Pulcher (48) q. 61-60, aed. cur. 56

advocate: C. Scribonius Curio (10) cos. 76, cens. 61<sup>2</sup> (*ORF* 86.IV)

prosecutors:

L. Cornelius Lentulus Crus (218) cos. 49 (nom. del.) (*ORF* 157.I)

Cn. Cornelius Lentulus Marcellinus (228) cos. 56 (subscr.)

L. Cornelius Lentulus Niger (234) pr. by 61 (subscr.)

C. Fannius (9) pr. by 54 or in 50 (subscr.)<sup>3</sup>jurors:<sup>4</sup>

P. Cornelius Lentulus Spinther (238) cos. 57 (voted C)

(Iuventius?) Talna (26) (voted A)

Plautus (2) sen.? (voted A)

Spongia (2) (voted A)<sup>5</sup>

witnesses:

Aurelia (248)

C. Causinius Schola (1) of Interamna, e.R.

Habra? (not in *RE*)<sup>6</sup>

Iulia (546?)

C. Iulius Caesar (131) procos. Farther Spain 61, cos. 59, 48, 46, 45,  
44<sup>7</sup>

L. Licinius Lucullus (104) cos. 74

M. Porcius Cato (16) pr. 54

M. Tullius Cicero (29) cos. 63 (*Crawford, Orations* 27)outcome: A (twenty-five for C, thirty-one for A)<sup>8</sup>

other: suspicion of bribery

*Cic. Att.* 1.12.3, 1.16.1-6, 1.17.8; *Har.* 37; *Pis.* 95; *Mil.* 46, 73, 87; *Liv. Per.* 103; *V. Max.* 4.2.5, 8.5.5, 9.1.7; *Asc.* 49C; *Sen. Ep.* 97.2-10; *Quint. Inst.* 4.2.88; *Suet. Jul.* 74; *App. BCiv.* 2.14; *Plut. Caes.* 10; *Cic.* 29; *Dio* 39.6.2; *Schol. Bob.* 85-91 (*in Clod. et Cur.*)

Lacey (1974)

1 This sacrilege was treated by the Senate as if *de incestu*; see Moreau (1982) 83-89.

2 For references, see case #82, n. 3.

3 See *MRR* 2.222. Sumner, *Orators* 145 points out that his praetorship is not attested, though he admits that he was in some way senior.

- 4 Moreau (1982) 143 shows that they were fifty-six in number, on the basis of Cicero's statement (*in Clod. et Cur. fr.* 29) that only four votes were missing for a guilty verdict.
- 5 Tyrrell and Purser in their commentary on Cicero's Letters (*Correspondence* [1904] 1.214) argue that the names of the three jurors who voted for acquittal are fictitious, added for comical effect; *contra*, Münzer *RE* 21 (1951) 54, Shackleton Bailey, *CLA* 1.318, Moreau (1982) 147-50.
- 6 She was one of several *ancillae* of Pompeia (52) whose evidence was obtained under torture.
- 7 Gelzer (1968) 60 n. 3 argues that Caesar had already left for his province of Farther Spain by the time of the trial, and that his remark about his wife must have been uttered in the Senate, although Suetonius and Plutarch both specify that he was a witness; *contra* Moreau (1982) 199 n. 606.
- 8 So Cic. *Att.* 1.16.5. Plutarch gives the number thirty for votes of acquittal, but Cicero is probably more accurate. See Shackleton Bailey, *CLA* 1.317.

## 237

date: after 61

defendant:

either L. Cornelius Lentulus Crus (218) cos. 49

or Cn. Cornelius Lentulus Marcellinus (228) cos. 56

or L. Cornelius Lentulus Niger (234) pr. by 61

advocate: P. Clodius Pulcher (48) aed. cur. 56

outcome: A?

V. Max. 4.2.5; Schol. Bob. 89St

## 238

date: 60, by early June

charge: *lex Cornelia de ambitu* (misconduct in campaign for *suffect quaestorship* held in 60)<sup>1</sup>

defendant: Q. Caecilius Metellus Pius Scipio Nasica (99) q.? suff. 60, cos. 52

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 34)

prosecutor: M. Favonius (1) pr. 49 (*ORF* 166.II)

outcome: A

Cic. *Att.* 2.1.9

- 1 See Sumner, *Orators* 112, who arrives at a quaestorship by a process of elimination, Crawford, *Orations* p. 115 n. 2, and *MRR* Suppl. 41-42.

239

date: December 60

defendant: M. Valerius Messalla Rufus (268) cos. 53<sup>1</sup>

advocate: Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XVII)

outcome: A

Cic. *Att.* 2.3.1

- 1 See Shackleton Bailey, *CLA* 1.355. Malavolta (1977) 275 suggests that the defendant was M. Valerius Messalla Niger (266) cos. 61, cens. 55, and that he might have been accused for *ambitus* for his activities in the campaign of Afranius for the consulate of 60 (see *Att.* 1.16.12). The lateness of the trial in the year, however, tells against the idea that the trial arose out of a crime committed in 61.

240

date: 59 or before

witnesses:<sup>1</sup>

Archidemus (1)

Parrhasius (2)

Philodorus of Tralles (not in *RE*)

Cic. *Flac.* 53

- 1 The entirety of what we know about this case is limited to Cicero's statement *vidi ego in quodam iudicio nuper Philodorum testem Trallianum, vidi Parrhasium, vidi Archidemum....*

241

date: 59<sup>1</sup>charge: *lex Cornelia de maiestate*,<sup>2</sup> or *lex Plautia de vi*<sup>3</sup> (complicity in

Catilinarian conspiracy? incompetence as gov. Macedonia 62-60?)

defendant: C. Antonius (19) cos. 63, gov. Macedonia 62-60

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 37)

prosecutors:

M. Caelius Rufus (35) pr. 48 (*ORF* 162.I)

either L. Caninius Gallus (3) tr. pl. 56

or L. Caninius Gallus (4) cos. 37<sup>4</sup>Q. Fabius Sanga (143) = ? Fabius Maximus (Sanga?) (108) cos. suff.  
45<sup>5</sup>praetor: Cn. Cornelius Lentulus Clodianus (217)<sup>6</sup>

outcome: C, exile to Cephallenia

*Cic. Flac.* 5, 95; *Dom.* 41; *Vat.* 27; *Cael.* 15, 47, 74, 78; *Att.* 2.2.3; *V. Max.* 4.2.6; *Quint. Inst.* 4.2.123-124, 9.3.58; *Asc.* 87C; *Plut. Cic.* 11-12; *Suet. Jul.* 20.4; *Dio* 38.10.3, 51.26.5; *Obsequens* 61A; *Schol. Bob.* 94, 126St; see also *Cic. Att.* 1.12.1-2; *Fam.* 5.5, 5.6.3; *Strab.* 10.2.13-fin.

- 1 The jury was already being empanelled in December of 60 (*Att.* 2.2.3), and the trial was taking place on the day in mid-April when Clodius received plebeian status (*Att.* 2.12.1; *Dom.* 41). This case precedes case #247.
- 2 There is no evidence against the belief that this *lex Cornelia* was the law under which the case was prosecuted. For possible links to Catiline see *Cic. apud Asc.* 87C, *Plut. Cic.* 11-12, *Schol. Bob.* 94, 126St. But note the Catilinarians' delight at the condemnation (*Flac.* 95), and Antonius' claim to be the victor over Catiline (*Flac.* 5, *Dio* 37.40.2). Military incompetence could apparently also provide grounds for a *maiestas* trial (*Scaev. Dig.* 48.4.4). Quintilian quotes from the speech of Caelius allegations that the defendant participated in drunken debauches while on campaign. See *D.-G.* 5.601-2; Austin 158-59.
- 3 This procedure was often used against Catilinarians (*Cael.* 15). See Heinze (1925) 210 n. 3, *D.-G.* 5.601-2. Extortion is unlikely as T. Vettius Sabinus was probably praetor in the extortion court (see case #247); *contra* *Schol. Bob.* 94St, Gruen (1973) 308-9, Crawford, *Orations* 124 n. 4, 125 n. 8, and *MRR* Suppl. 18, 67.
- 4 The possibility that the younger Caninius was prosecutor was noted by Münzer *RE* 3 (1899) 1477. But the prosecutor must be the man prosecuted by M. Colonius (see case #280).

- 5 Shackleton Bailey, *CLA* 1.348 accepts identification of the two Fabii; *contra*, Münzer *RE* 6 (1909) 1868.
- 6 In Dec. 60 P. Nigidius Figulus (3) pr. 58 was threatening any absent jurors with prosecution (*Cic. Att.* 2.2.3). Since there was a praetor at this trial, it is unnecessary to suppose that Nigidius was a *iudex quaestionis* (*MRR* Suppl. 147 considers this possibility). As Badian (1959) 83 points out, he could have been acting as a private citizen when he made his threat in 60.

242

date: 59, perhaps August  
 charge: lex Plautia de vi (participation in plot against Pompey)  
 defendant: L. Vettius (6) e.R.  
 prosecutor: P. Vatinius (3) tr. pl. 59, cos. 47  
*iudex quaestionis*: P. Licinius Crassus Dives (71) pr. 57  
 outcome: defendant died in prison

*Cic. Att.* 2.24.4; *Vat.* 25, 26; *Suet. Jul.* 20.4; *Plut. Luc.* 42; *App. BCiv.* 2.12; *Dio* 38.9; *Schol. Bob.* 139St

243

date: by 59 (many times)<sup>1</sup>  
 claim: civil suit  
 defendant: L. Valerius Flaccus (179) pr. 63  
 plaintiff: L. Cornelius Balbus (69) *praefectus fabrum* 62, 61-60?, 59, cos. suff. 40

V. Max. 7.8.7

- 1 The defendant is said to have been *compluribus privatis litibus vexatus*.

244

date: 59?, after the defendant's promagistracy  
 charge: lex Cornelia de peculatu? or lex (Cornelia? Iulia?) de repetundis? (malfeasance as gov. Bithynia-Pontus)  
 defendant: C. Papirius Carbo (35) pr. 62, promag. 61-59?

prosecutor: M. Aurelius Cotta (108)  
outcome: C

V. Max. 5.4.4; Dio 36.40.4

245

date: 59, before cases #246 and #247

defendant:

either A. Minucius Thermus (61)<sup>1</sup> = ? (60) pr.? 67? = ? C. Marcius  
Figulus (63) cos. 64

or Q. Minucius Thermus (67) tr. pl. 62, pr. by 58? or 53?<sup>2</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 38)

outcome: A

Cic. *Flac.* 98

- 1 For the conjecture about this other possible identification with A. Minucius Thermus (61), see Shackleton Bailey, *CLA* 1.292, *Studies* 122.
- 2 The date 53 is suggested by Shackleton Bailey, *Studies* 54-55.

246

date: 59, after case #245 and before case #247

defendant:

either A. Minucius Thermus (61) = ? (60) pr. 67 = ? C. Marcius Figulus (63) cos. 64<sup>1</sup>

or Q. Minucius Thermus (67) tr. pl. 62, pr. by 58? or 53?<sup>2</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 39)

outcome: A

Cic. *Flac.* 98

- 1 See case #245, n. 1.
- 2 See case #245, n. 2.

247

date: 59, by Sept.?<sup>1</sup>charge: *lex Cornelia de repetundis*<sup>2</sup> (misconduct as gov. Asia).

defendant: L. Valerius Flaccus (179) pr. 63, gov. Asia 62

advocates:

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XVIII)<sup>3</sup>

M. Tullius Cicero (29) cos. 63 (Sch. 28)

prosecutors:

C. Appuleius Decianus (22) e.R. (subscr.)

Caetra (1),<sup>4</sup> = ? C. Fannius Chaerea (17) (subscr.)L. Cornelius<sup>5</sup> Balbus (69) *praefectus fabrum* 62, 61-60?, 59, cos. suff. 40 (subscr.)

D. Laelius (6) tr. pl. 54 (nom. del.)

Luceius (2) (subscr.)

praetor: T. Vettius Sabinus (14)<sup>6</sup>jurors:<sup>7</sup>

L. Licinius Lucullus (104) cos. 74

L. Peducaeus (2) pref.? 62, e.R. or trib. aer.<sup>8</sup>

Sex. (Peducaeus?) Stloga (Stloga [1])

witnesses:

L. Agrius Publeianus (2) e.R.

Asclepiades (16) of Acmonia

M. Aufidius<sup>9</sup> Lurco (27) sen. = ? (M. Aufidius?) Lurco (25) tr. pl. 61

Q. Caecilius Metellus Creticus (87) cos. 69

M. Caelius (11)

C. Cestius (2) e.R.

Cn. Domitius Calvinus (43) tr. pl. 59, cos. 53, 40

L. Eppius (1) e.R.

Falcidius (1) (not present, but mother there)

Heraclides (34) of Temnos

Hermobius (1) of Temnos

Lysanias (5) of Temnos

Maeandrius (2) of Tralles

Mithridates (36) of Dorylaion

Nicomedes (7) of Temnos

Philippus (29) of Temnos

P. Septimius<sup>10</sup> (12 = 11) q., date uncertain

P. Servilius Vatia Isauricus (93) cos. 79, cens. 55

*vicanus* of Tmolus (*Flac.* 8)

representatives of Achaëa, Athens, Boeotia, Cyme, Dorylaion, Loryma, Massilia, Pergamum, Rhodes, Sparta, Thessalia

outcome: A

other: two *actiones*<sup>11</sup>

Cic. *Flac.*; *Att.* 2.25.1; *Macr.* 2.1.13; *V. Max.* 7.8.7; *Schol. Bob.* 93-108St du Mesnil (1883); Webster (1931)

- 1 This is the possible date of *Att.* 2.25.1. The trial occurred after the condemnation of C. Antonius (case #241), and after the two acquittals of A. Thermus (cases #245, #246); see Webster (1931) 111. On the length of the trial, see Clark (1927) 76.
- 2 The *lex Iulia de repetundis* was apparently not yet in effect (*Flac.* 13).
- 3 See Webster (1931) 109-10.
- 4 See Webster (1931) 56.
- 5 So Münzer *RE* 4 (1900) 1262, *RE* 12 (1924) 411; but D.-G. 5.614 has L. Laelius Balbus.
- 6 See Münzer *RE* 8A (1955) 34; Gundel *RE* 8A (1958) 1853. Gruen (1973) 308 n. 40 holds that he was a *iudex*.
- 7 The jury was composed of twenty-five senators, twenty-five *equites Romani*, twenty-five *tribuni aerarii* (*Flac.* 4).
- 8 See Nicolet, *Ordre équestre* vol. 2, no. 264.
- 9 See Mitchell (1979) on this family, also on Sestullii (not Sextilii). Linderski (1974) 472 and *MRR* Suppl. 29 argue for probable identification of the two Aufidii.
- 10 See Shackleton Bailey, *Studies* 65.
- 11 *Contra* Lezius (1901).

## 248

date: 59, late in the year

charge: *lex Tullia de ambitu* (campaign for the consulate of 58)

defendant: A. Gabinius (11) cos. 58

prosecutor: C. Porcius Cato (6) tr. pl. 56, pr. 55?<sup>1</sup>

outcome: praetor refused to accept case

Cic. *Q. fr.* 1.2.15; *Sest.* 18

1 For references, see case #283, n. 1.

249

date: before Cicero's exile in 58

defendant: L. Calpurnius Bestia (25 = ? 24)<sup>1</sup> aed. pl. ca 59?

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 45)

outcome: A

Cic. *Phil.* 11.11; see also 13.26

Gruen (*Athenaeum* 1971) 69

1 MRR Suppl. 46 favors identification of RE 24 and RE 25.

250

date: after case #249, before Cicero's exile in 58

defendant: L. Calpurnius Bestia (25 = ? 24) aed. pl. ca 59?<sup>1</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 46)

outcome: A

Cic. *Phil.* 11.11; see also 13.26

Gruen (*Athenaeum* 1971) 69

1 See case #249, n. 1.

251

date: after case #250, before Cicero's exile in 58

defendant: L. Calpurnius Bestia (25 = ? 24) aed. pl. ca 59?<sup>1</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 47)

outcome: A

Cic. *Phil.* 11.11; see also 13.26

Gruen (*Athenaeum* 1971) 69

1 See case #249, n. 1.

252

date: after case #251, before Cicero's exile in 58

defendant: L. Calpurnius Bestia (25, = ? 24) aed. pl. ca 59?<sup>1</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 48)

outcome: A

Cic. *Phil.* 11.11; see also 13.26

Gruen (*Athenaeum* 1971) 69

1 See case #249, n. 1.

253

date: 58

defendant: Sex. Propertius (1)

prosecutor: Aelius Ligus (83) tr. pl.

outcome: dropped<sup>1</sup>

Cic. *Dom.* 49

1 A *nominis delatio* did occur, but there was no trial.

254

date: 66? 65? 58?

*iudex quaestionis*: C. Visellius Varro (3) aed. 67? 66? 59?<sup>1</sup>

Cic. *Brut.* 264; see also Vitruvius 2.8.9; Pliny *Nat.* 35.173

1 On his identity see Sumner (*CP* 1978) 163-64. Cicero says that he died while serving as *iudex quaestionis* the year after his aedileship. See Sumner, *Orators* 139, and *MRR* Suppl. 222.

255

date: 58, first half

charge: lex Licinia et Iunia (promotion of laws confirming Pompey's *acta*)<sup>1</sup>

defendant: P. Vatinius (3) leg. 58?, cos. 47

prosecutor: C. Licinius Macer Calvus<sup>2</sup> (113) (*ORF* 165.I)

praetor: C. Memmius (8)

outcome: defendant appealed to tr. pl. P. Clodius Pulcher (48), trial stopped by violence

*Cic. Sest.* 135; *Vat.* 33, 34; *Quint. Inst.* 6.3.60; 12.6.1; *Tac. Dial.* 21.2, 34.7; *Schol. Bob.* 140, 150St  
Greenidge (1901) 517

- 1 Pocock (1926) 169-75 argues that Pompey's acts were ratified by a lex Vatinia.
- 2 The participation of Calvus is disputed by Gruen (*HSCP* 1966) 217-18. See Sumner, *Orators* 149.

## 256

date: perhaps 58, after quaestorship of defendant

charge: lex Licinia et Iunia

defendant: q. for 59 or 58<sup>1</sup> of C. Iulius Caesar (131) cos. 59

outcome: A?

*Suet. Jul.* 23

- 1 Bauman (1967) 93-104 argues that this quaestor was P. Vatinius (3) tr. pl. 59. Gelzer (1968) 97, Badian (*CQ* 1969) 200 n. 5, and Badian (1974) 146-48 argue that the defendant was the former quaestor of 59. See Weinrib (1968) 44-45; Weinrib (1971) 150 n. 10; and Gruen (*Athenaeum* 1971) 62-67.

## 257

date: 58?<sup>1</sup> 56?<sup>2</sup>

charge: *iudicium populi* (defendant's *acta* as consul)

defendant: C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44

prosecutor:

either L. Antistius (13) tr. pl. 58<sup>3</sup>

or L. Antistius Vetus (47) tr. pl. 56,<sup>4</sup> cos. suff. 30

outcome: other tr. pl. stopped trial

Suet. *Jul.* 23

Jones (1972) 5

1 So Gruen (*Athenaeum* 1971) 62-64.

2 So Badian (*CQ* 1969) 200-4, (1974) 148-54, *MRR* Suppl. 17, 18, and, with reservations, Shackleton Bailey, *Studies* 11-12.

3 See n. 1. If a date of 58, then this tr.pl.

4 See n. 2. If a date of 56, then this tr.pl.

258

date: after Sept. 58, before latter part of 57?

defendant: L. Livineius Regulus (2) pr. (uncertain date)

outcome: C

Cic. *Fam.* 13.60; see also *Att.* 3.17.1

259

date: before 57

claim: civil suit

parties: M. Tullius Cicero (29) cos. 63 spoke against M. Cispus (4) tr. pl. 57 and the latter's brother and father

Cic. *Red. Sen.* 21

260

date: 57 or before

charge: lex Cornelia de iniuriis

defendant: L. Sergius (15)

outcome: C

Cic. *Dom.* 13, 14, 21, 89; *CIL* 1<sup>2</sup>.1882

261

date: early 57

charge: lex Plautia de vi (violence against Milo and followers)

defendant: P. Clodius Pulcher (48) aed. cur. 56

prosecutor: T. Annius Milo (67) tr. pl. 57, pr. 55

outcome: trial obstructed by Q. Caecilius Metellus Nepos (96) cos. 57,  
Ap. Claudius Pulcher (297) pr. 57, cos. 54, cens. 50, and by a tr. pl.  
57

*Cic. Red. Sen.* 19; *Sest.* 85, 89; *Mil.* 35, 40; *Att.* 4.3.2 and 5; *Fam.* 5.3.2;  
*Plut. Cic.* 33.3; *Dio* 39.7; see also *Q. fr.* 2.1.2  
Meyer (1922) 109 n. 3

262

date: after Nov. 23, 57

charge: lex Plautia de vi (violence)

defendant: P. Clodius Pulcher (48) aed. cur. 56

prosecutor: T. Annius Milo (67) tr. pl. 57, pr. 55

outcome: dropped because Clodius assumed aedileship

For sources and bibliography, see case #261

263

trial threatened in 58, never took place

date: set for 57

charge: lex Iulia de repetundis (misconduct as gov. Asia 61-58)

defendant: Q. Tullius Cicero (31) pr. 62

prosecutor?: Ap. Claudius Pulcher (298) cos. 38<sup>1</sup>

praetor: Ap. Claudius Pulcher (297) cos. 54, cens. 50

*Cic. Dom.* 59; *Sest.* 68; *Att.* 2.4.2, 2.18.3, 3.8.2-4, 3.9.1, 3.13.2, 3.17.1; *Q. fr.*  
1.3.5, 1.4.2 and 4-5  
Fallu (1970)

1 Marshall, *Asconius* 172.

264

trial threatened, never took place

date: Nov. or Dec. 57

charge: *quaestio extraordinaria* (violence against Cicero)Cic. *Att.* 4.3.3; *Q. fr.* 2.1.2

265

date: before 56, the date of case #276

charge: *lex Tullia de ambitu*

prosecutor: L. Cornelius Balbus (69) cos. suff. 40

outcome: C, as award prosecutor allowed to enter *tribus Clustumina*<sup>1</sup>Cic. *Balb.* 57

1 See Alexander (1985) 23.

266

date: 56<sup>1</sup>charge: *iudicium populi*<sup>2</sup> (misconduct as tr. pl. 57)

defendant: T. Annius Milo (67) pr. 55

advocate?: M. Claudius Marcellus (229) aed. cur.? 56,<sup>3</sup> cos. 51

prosecutor: P. Clodius Pulcher (48) aed. cur.

witness: P. Vatinius (3) cos. 47

character witness: Cn. Pompeius Magnus (31) cos. 70, 55, 52

outcome: dropped

Cic. *Sest.* 95; *Vat.* 40-41; *Fam.* 1.5b.1; *Q. fr.* 2.3.1-2; 2.6.4; Dio 39.18-19; Schol. Bob. 122St

1 Hearings were held on Feb. 2, Feb. 7, Feb. 17, and May 7.

2 Gruen, *LGRR* 298 n. 139 argues that there were three informal *contiones* and then a trial before a *quaestio de vi*. However, Cicero's language (*Q. fr.* 2.3) strongly suggests that this was a *iudicium populi* held according to the procedure described in Cic. *Dom.* 45. See Lintott (1976) 242.3 See Sumner (1971) 251 n. 19 and Crawford, *Orations* 44.

267

date: early in 56, before case #275  
 charge: lex Plautia de vi (murder of Alexandrian ambassador)  
 defendant: P. Asicius (1)  
 advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 43)  
 prosecutor: C. Licinius Macer Calvus (113) (ORF 165.IV)  
 outcome: A  
 other: possibly *praevaricatio*<sup>1</sup>

Cic. *Cael.* 23-24, 51; Tac. *Dial.* 21.2

- 1 The prosecutor of Caelius (case #275) claimed that the acquittal had been due to collusion.

268

date: 56, Cicero's speech on Feb. 11  
 charge: lex Tullia de ambitu (campaign for praetorship of 56 or 55)<sup>1</sup>  
 defendant: L. Calpurnius Bestia (25, = ? 24) aed. pl. ca 59?<sup>2</sup>  
 advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 49)  
 prosecutor: M. Caelius Rufus (35) pr. 48 (ORF 162.II)  
 praetor or *iudex quaestionis*: ? Cn. Domitius Calvinus (43) cos. 53, 40 =  
 ? Domitius (11) iud. quaest. 56?, pr.? 54<sup>3</sup>  
 outcome: A<sup>4</sup>

Cic. *Cael.* 1, 16, 26, 56, 76, 78; *Phil.* 13.26; *Q. fr.* 2.3.6; Plin. *Nat.* 27.4; Tac. *Dial.* 39.5

- 1 See Alexander (1982) 148-49.  
 2 See case #249, n. 1.  
 3 See MRR 2.208, Suppl. 81, Gruen, *LGRR* 166 n. 8, Shackleton Bailey, *CQF* 195.  
 4 So Gruen, *LGRR* 300, 305 correctly; *contra*, Münzer *RE* 3 (1897) 1367.

269

date: 56, after case #268<sup>1</sup>

charge: *lex Tullia de ambitu* (misconduct in campaign for praetorship of 55)

defendant: L. Calpurnius Bestia (25, = ? 24) aed. pl. ca 59?<sup>2</sup>

prosecutor: M. Caelius Rufus (35) pr. 48 (*ORF* 162.II)

outcome: dropped<sup>3</sup> or C<sup>4</sup>

*Cic. Cael.* 1, 16, 26, 56, 76, 78; *Phil.* 13.26; *Plin. Nat.* 27.4; *Tac. Dial.* 39.5

- 1 This case had begun, but was still pending, when Cicero spoke in case #275. See Gruen, *LGRR* 300 n. 146.
- 2 See case #249, n. 1.
- 3 That the case was dropped is the suggestion of Heinze (1925) 1195 n. 2, on the basis of *Cic. Brut.* 273, which mentions three prosecutions mounted by Caelius (of Antonius, #241; of Bestia, #268; and of Pompeius Rufus, #328). However, Cicero might be counting in a loose fashion the two prosecutions of Bestia as one. See Alexander (1982) 149.
- 4 Cicero's somewhat coy wording in *Phil.* 11.11 seems to imply a conviction. See Gruen (*Athenaeum* 1971) 68; Alexander (1982) 148 n. 23; Crawford, *Orationes* 144-45.

270

date: 56, *postulatio* on Feb. 10

charge: *lex Tullia de ambitu*

defendant: P. Sestius (6) tr. pl. 57, pr. by 54?<sup>1</sup>

prosecutor: (Cn.?) Nerius (Pupinia?) (3) q. 49

witnesses:

C. Cornelius (not in *RE*)

Cn. Cornelius Lentulus Vatia (241) = ? Batiatus (209)<sup>2</sup>

outcome: A?

*Cic. Q. fr.* 2.3.5

- 1 See Badian (*ZPE* 1984) 106.
- 2 See Shackleton Bailey, *Studies* 31-32 and *CQF* 177-78, and Sumner (*CP* 1978) 162-63.

271

date: 56, *postulatio* on Feb. 10, verdict reached on March 14

charge: *lex Plautia de vi* (political violence in 57)

defendant: P. Sestius (6) tr. pl. 57, pr. by 54?<sup>1</sup> (may have spoken *pro se*)<sup>2</sup>

advocates:

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XIX)

M. Licinius Crassus (68) cos. 70, 55, cens. 65 (*ORF* 102.III)

C. Licinius Macer Calvus<sup>3</sup> (113) (*ORF* 165.II)

M. Tullius Cicero (29) cos. 63 (Sch. 33)

character witness: Cn. Pompeius Magnus (31) cos. 70, 55, 52

prosecutors:

P. Albinovanus (1, cf. 3) pont. min. before 69-after 57 (nom. del.)

M. Tullius (13)<sup>4</sup>

T. Claudius (not in *RE*) (subscr.)<sup>5</sup>

praetor: M. Aemilius Scaurus (141)

jurors:

L. Cornelius Lentulus Niger (234) pr. by 61

C. Cosconius (5) pr. 54?<sup>6</sup>

L. Cosconius (not in *RE*)

witnesses:

L. Aemilius Lepidus Paullus (81) aed. cur. 56?, cos. 50

(Cn.?) Gellius (1) e.R.<sup>7</sup>

P. Vatinius (3) cos. 47

*legati* from Capua

outcome: A (unanimous)

Cic. *Sest.*; *Vat.*; *Fam.* 1.9.7; *Q. fr.* 2.3.5, 2.4.1; Quint. *Inst.* 11.1.73; Plut. *Cic.* 26.5; Schol. Bob. 125-144St

1 See case #270, n. 1.

2 Plut. *Cic.* 26.5 tells an anecdote about a trial of a Publius Sestius, represented by Cicero and others, who insisted on speaking for himself.

3 He may have been a witness instead of an advocate. See D.-G. 5.655.

4 He made the original *postulatio* (*Q. fr.* 2.3.5), but Albinovanus was the original *nominis delator*. Tullius either lost out to Albinovanus in the *divinatio*, or was a *subscriptor*; see Shackleton Bailey, *Studies* 7 and *CQF* 177.

5 *Vat.* 3. Münzer *RE* 2A (1923) 1887-88.

6 See Sumner (1971) 251, *MRR* Suppl. 77.

7 For the Gellii, see Wiseman (1974) 119-29, and Evans (1983) 124-26.

272

date: by March 56

defendant: Sevius? = ? Servius Pola (5)<sup>1</sup>outcome: C<sup>2</sup>Cic. *Q. fr.* 2.5.4

- 1 Shackleton Bailey (1955) 35, *Studies* 66, and CQF 182-83, and Gruen, *LGRR* 305 n. 167 maintain that this Sevius was different from Servius Pola, since the latter was active in 54 (see case #282), and could not have been condemned in 56. However, if Shackleton Bailey is right that Sevius was condemned 'for some private offence' (CQF 182-83), it is possible that the penalty was not so severe as to preclude him from political activity.
- 2 See Shackleton Bailey, CQF 183.

273

date: March 56

defendant: Sex. Cloelius (Clodius 12)<sup>1</sup>prosecutor?: T. Annius Milo (67)<sup>2</sup> pr. 55outcome: A (by three votes; senators for A, *tribuni aerarii* for C, *equites* equally divided)Cic. *Q. fr.* 2.5.4; *Cael.* 78

- 1 On the name see Shackleton Bailey, *Studies* 27.
- 2 Cicero in his letter says that Clodius was prosecuted by *imbecilli accusatores*, and holds Milo responsible for the acquittal. It is not absolutely clear that Milo himself prosecuted.

274

trial only threatened?<sup>1</sup>

date: 56, during or after March

charge: *lex Tullia de ambitu* (perhaps for misconduct in campaign for praetorship of 55)

defendant: P. Vatinius (3) pr. 55, cos. 47

prosecutor: C. Licinius Macer Calvus (113) (*ORF* 165.I)

outcome: dropped?

Cic. *Sest.* 133; *Vat.* 10, 37, 39; *Q. fr.* 2.4.1; *Catul.* 53; *Sen. Con.* 7.4.6; *Quint. Inst.* 6.1.13, 6.3.60, 9.2.25; *Tac. Dial.* 21.2; *Macr.* 2.6.1

- 1 Gruen (*HSCP* 1966) 218-19 doubts that the trial actually occurred. It is very difficult to separate this prosecution of Vatinius by Calvus from the two others (cases #255 and #292).

275

date: 56, trial held on April 3 and 4<sup>1</sup>

charge: *lex Plautia de vi*<sup>2</sup> (civil disturbance at Naples, assault on Alexandrians at Puteoli, property damage to Palla [3], murder of Dio [14], receiving gold for the murder of Dio, attack on a senator, plot to murder Clodia)

defendant: M. Caelius Rufus (35) pr. 48 (spoke *pro se*, *ORF* 102.III)

advocates:

M. Licinius Crassus (107) cos. 70, 55, cens. 65 (*ORF* 102.IV)

M. Tullius Cicero (29) cos. 63 (Sch. 34)

prosecutors:

P. Clodius,<sup>3</sup> = ? Pulcher [48] aed.cur. 56 (*ORF* 164.I) (subscr.)

L. Herennius Balbus (18) (*ORF* 163.I) (subscr.)

L. Sempronius Atratinus<sup>4</sup> (26) cos. suff. 34 (nom. del.)

praetor or *iudex quaestionis*: Cn. Domitius (11) iud. quaest. 56?, pr.? 54  
= ? Cn. Domitius Calvinus (43) cos. 53, 40<sup>5</sup>

witnesses:

? C. Coponius (3) pr. 49

? T. Coponius (9)

Q. Fufius Kalenus (10) cos. 47

? familiares Clodiae (66) (*Cael.* 66)

outcome: A

Cic. *Cael.*; *Strab.* 17.1.11; *Quint. Inst.* 4.2.27, 11.1.51 and 68; *Suet. Gram.* 26; *Dio* 39.14.3

Münzer (1909); Heinze (1925); Pacitti (1961); Linderski (1961); Liebs (1967) 126

- 1 The trial was held a few days after the acquittal of Sex. Cloelius, case #273. See Austin ed. and comm. on Cicero *Pro Caelio* App. IV, 151.

- 2 See Austin (n. 1 above) 42; Lintott (1968) 111-12; Stroh (1975) 238, n. 45
- 3 But the identification with the notorious Clodius is unlikely. See Heinze (1925) 196, Austin 155.
- 4 See Austin (n. 1 above) 154-55; Shackleton Bailey, *Studies* 129.
- 5 For references, see case #268, n. 3.

276

date: 56, after early summer<sup>1</sup>

charge: lex Papia (illegal grant of citizenship under lex Gellia Cornelia)<sup>2</sup>

defendant: L. Cornelius Balbus (69) cos. suff. 40

advocates:

M. Licinius Crassus (68) cos. 70, 55, cens. 65 (ORF 102.V)

Cn. Pompeius Magnus (31) cos. 70, 55, 52 (ORF 111.IX)

M. Tullius Cicero (29) cos. 63 (Sch. 37)

prosecutor: someone from Gades who had lost *caput* (civic standing) through *iudicium publicum*

witnesses: *legati* from Gades

outcome: A

Cic. *Balb.*

- 1 This is the date of *de provinciis consularibus*, referred to in *Balb.* 56.
- 2 Brunt (1982) defends the orthodox view that the attack on the citizenship of Balbus was legally unjustified, against the arguments of Braunert (1966) and Angelini (1980) that Balbus ought to have been stripped of his citizenship.

277

date: ca 56<sup>1</sup>

charge: *sacrilegium*?<sup>2</sup>

defendant: C. Sallustius Crispus (10) q. 55?, pr. 46

outcome: A (by a few votes)

[Cic.] *Sal.* 15-16

- 1 The trial occurred just before quaestorship of defendant.
- 2 The case is dubious, since the source is unreliable.

278

date: c. 56?<sup>1</sup>

charge: *sacrilegium*

defendant: P. Nigidius Figulus (3) pr. 58

[Cic.] *Sal.* 14; see also Cic. *Vat.* 14; *Tim.* 1; Apul. *Apol.* 42

- 1 See case #277, n. 2.

279

date: 56? after 57 and before case #293

charge: lex Tullia de ambitu? (campaign for tr. pl. 57?)

defendant: M. Cispus (4) tr. pl. 57

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 57)

outcome: C

Cic. *Planc.* 75-77; Schol. Bob. 165St

280

date: by Sept. 55

defendant: L. Caninius Gallus (3) tr. pl. 56<sup>1</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 58)

prosecutor: M. Colonius (not in *RE*)

outcome: C<sup>2</sup>

Cic. *Fam.* 7.1.4; V. Max. 4.2.6

- 1 V. Max. says that M. Colonius successfully prosecuted a Caninius Gallus; Münzer *RE* 3 (1899) 1477 argues that this Caninius is the son, cos. 37.
- 2 The defendant was in Athens, and perhaps also in exile (*Fam.* 2.8.3). See Gruen, *LGRR* 313 n. 15.

281

date: uncertain<sup>1</sup>

defendant: T. Ampius Balbus (1) pr. 59, procos. Asia 58<sup>2</sup> (spoke *pro se*)<sup>3</sup>

advocates:

Cn. Pompeius Magnus (31) cos. 70, 55, 52 (ORF 111.XI)

M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 59)

Cic. *Leg.* 2.6; Quint. *Inst.* 3.8.50

1 Gruen, *LGRR* 314 gives a date of 55.

2 See Magie, *RRAM* 2.1247; *MRR* Suppl. 15; Crawford, *Orations* 175.

3 The speech was written by Cicero.

282

date: 54, *nominis delatio* on Feb.3 or 4, trial began on Feb. 13

defendant: M. Caelius Rufus (35) pr. 48

prosecutor: Servius Pola (5)

praetor: Cn. Domitius (11) iud. quaest. 56?, pr. 54? = ? Cn. Domitius Calvinus (43) cos. 53, 40<sup>1</sup>

outcome: apparently case not completed

Cic. *Q. fr.* 2.12.2

1 For references, see case #268, n. 3.

283

date: 54, verdict before July

charge: lex Licinia et Iunia (activity as tr. pl. 56)

defendant: C. Porcius Cato (6) tr. pl. 56, pr. 55?<sup>1</sup>

prosecutors:

? C. Asinius Pollio (25)<sup>2</sup> cos. 40 (ORF 174.I)

? C. Licinius Macer Calvus (113)<sup>3</sup>

M. Livius Drusus Claudianus (19) pr. or *iudex* 50<sup>4</sup>

outcome: A

other: *praevaricatio*

Cic. *Att.* 4.16.5, 4.15.4; Sen. *Con.* 7.4.7

- 1 See Linderski (1969) 287-88, MRR Suppl. 170.
- 2 He was a prosecutor, either in this case, or in case #286, or in both. See Marshall, *Asconius* 121.
- 3 Gruen (*HSCP* 1966) 223-24 and Linderski (1969) 296 n. 70 argue that Calvus was the *patronus* of Cato. However, a more natural interpretation of *rei sui* and *accusatori suo* (Sen. *Con.* 7.4.7) makes Calvus an *accusator* along with Pollio—either in this case, or case #286, or in both. See Münzer *RE* 13 (1927) 432; Marshall, *Asconius* 121.
- 4 He may have been *pr.* in 55. See Taylor (1964) 23 n. 30. He may have committed *praevaricatio*; see case #291 The argument for *praevaricatio* is very complicated. See Linderski (1969); Alexander (1977) 128 n. 44.

284

date: 54, verdict reached on July 4

charge: *lex Cornelia de sicariis et veneficis* (murder of *paterfamilias*)

defendant: Procilius (1)<sup>1</sup>

advocate?: Q. Hortensius Hortalus (13) *cos.* 69 (*ORF* 92.XVI)

prosecutor?: P. Clodius Pulcher (48) *aed. cur.* 56 (*ORF* 137.VI)

outcome: C, by a vote of twenty-eight to twenty-two

Cic. *Att.* 4.16.5; 4.15.4

Linderski (1969) 293-95; Shackleton Bailey, *CLA* 2.208; Gruen, *LGRR* 315 n. 25

- 1 There is no evidence that he was *tr. pl.* in 56. See MRR Suppl. 175.

285

date: 54, verdict reached on July 4

charge: *lex Tullia de ambitu*? (misconduct in campaign for praetorship of 55)<sup>1</sup>

defendant: M. Nonius Sufenas (52) *tr. pl.* 56?, *pr.* 55?

outcome: A

Cic. *Att.* 4.15.4; Plin. *Nat.* 37.81; see also Dio 39.27.3

See Linderski (1969) 284-87; also Taylor (1964) 18-22, Shackleton Bailey, *CLA* 3.246, and Crawford, *RRC* 1.445, #421.

1 For arguments relating to the date of his praetorship, see *MRR* Suppl. 148.

286

date: 54, verdict reached on July 4<sup>1</sup>

charge: lex Fufia (activities as tr. pl. 56)

defendant: C. Porcius Cato (6) tr. pl. 56, pr. 55?<sup>2</sup>

advocate: M. Aemilius Scaurus (141) pr. 56 (*ORF* 139.II)

prosecutors:

? C. Asinius Pollio (25)<sup>3</sup> cos. 40 (*ORF* 174.I)

? C. Licinius Macer Calvus (113)<sup>4</sup> (*ORF* 165.III)

outcome: A

other: *praevaricatio*?

*Cic. Att.* 4.16.5, 4.15.4; *Asc.* 18, 19C; *Sen. Con.* 7.4.7

Linderski (1969)

1 See Marshall, *Asconius* 121.

2 For references, see case #283, n. 1.

3 See case #283, n. 2.

4 See case #283, n. 3.

287

date: before cases #288 and #289

defendant: C. Messius (2) aed. (cur.?)<sup>1</sup> 55

outcome: A?

*Sen. Con.* 7.4.8

1 See case #289, n. 2.

288

date: before case #289

defendant: C. Messius (2) aed. (cur.?)<sup>1</sup> 55

outcome: A?

Sen. *Con.* 7.4.8

1 See case #289, n. 2.

289

date: summer 54, in progress on July 27

charge: lex Licinia de sodaliciis (perhaps for misconduct in campaign for aedileship of 55)

defendant: C. Messius (2) aed. (cur.?)<sup>1</sup> 55, leg. 54

advocates:

C. Licinius Macer Calvus<sup>2</sup> (113) (*ORF* 165.VI)M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 61)praetor: P. Servilius Isauricus<sup>3</sup> (67) cos. 48, 41jurors: from *tribus* Maecia, Pomptina, and Velina<sup>4</sup>outcome: uncertain<sup>5</sup>Cic. *Att.* 4.15.9; Sen. *Con.* 7.4.81 See Shackleton Bailey, *CLA* 2.211-12.2 See Gruen (*HSCP* 1966) 222. To be precise, we know that Calvus spoke for Messius in his third trial; conceivably, Cicero's defense could have occurred at one of the two previous trials (see Shackleton Bailey, *CLA* 2.211). The case in which Cicero spoke occurred before a trial of Drusus (*Att.* 4.15.9), either #290 or #291. I am grateful to my colleague J.T. Ramsey for pointing out this sequence to me.

3 By edict he forced the defendant to return to Rome, although the defendant was a legate to Caesar.

4 See Badian (*ZPE* 1984) 104-5.5 See Gruen, *LGRR* 316; Badian (*ZPE* 1984) 106.

290

date: 54 (defendant charged before July 1, rejection of jurors July 3, trial had not yet occurred on July 27)<sup>1</sup>

defendant: M. Livius Drusus Claudianus (19) pr. or iudex 50<sup>2</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 62)

prosecutors:

C. Licinius Macer Calvus (113) (ORF 165.V)

Lucretius (1) = ? Q. Lucretius (12) sen.

outcome: A<sup>3</sup>

Cic. *Att.* 4.16.5; 4.15.9; 4.17.5; *Q. fr.* 2.16.3; Tac. *Dial.* 21.2

- 1 Though case #291 might be the same as this one, this case is probably distinct. Case #291, involving *praevaricatio*, would probably not have employed the rejection of jurors, but would have used the same jurors as in the original trial (see lex Acilia 75 = 82). See Münzer *RE* (1926) 882, Gruen (*HSCP* 1966) 221, and Alexander (1977) 126-28.
- 2 See Taylor (1964) 23. n. 30.
- 3 Cicero (*Att.* 4.17.5, written Oct. 1) describes Drusus as having been acquitted, and probably refers to this case rather than case #291, if the two cases are indeed to be distinguished. Drusus' continued career in public life indicates that he was not convicted of any major crime.

291

date: 54, after case #290; verdict reached by Aug., on the same day as Cicero's defense of Vatinius, case #292)

charge: *praevaricatio* (perhaps as a result of prosecution in case #283)

defendant: M. Livius Drusus Claudianus (19) pr. or iudex 50

outcome: A (by four votes, senators and *equites* for C, *tribuni aerarii* for A)

Cic. *Q. fr.* 2.16.3; see also *Att.* 4.15.9, 4.17.5

292

date: late August 54, defense speech delivered by Cicero occurred on the same day as the verdict was given in case #291

charge: *lex Licinia de sodaliciis* (misconduct in campaign for praetorship of 55)<sup>1</sup>

defendant: P. Vatinius (3) pr. 55, cos. 47

advocate: M. Tullius Cicero (29)<sup>2</sup> cos. 63 (Sch. 100)

prosecutor: C. Licinius Macer Calvus (113) (ORF 165.I)

outcome: A

Cic. *Fam.* 1.9.4 and 19, 5.9.1; Q. fr. 2.16.3; [Sal.] Cic. 7; [Cic.] *Sal.* 12; V. Max. 4.2.4; Quint. *Inst.* 6.1.13, 6.3.60, 11.1.73; Asc. 18C; Schol. Bob. 160St; Hieron. *Contra Ruf.* 3.39

Gruen (HSCP 1966) 219-21

1 See Schol. Bob. 160St. Since Roman laws could have a retroactive force (Weinrib [1970] 430-31), there is no reason to contradict the scholiast's assertion that he was tried under this law, which was passed in 55, even if the alleged violation of the law had occurred before its passage.

2 The contention of Shackleton Bailey, *CLF* (1.309) that Cicero could not have been both the *patronus* and *laudator* of Vatinius is disproved by such a double role in the prosecution of Scaurus (#295) by both Cicero and Hortensius (Asc. 20, 28C).

293

date: 54, end of August or early September

charge: *lex Licinia de sodaliciis* (misconduct in campaign for aedileship of 54)

defendant: Cn. Plancius (4) aed. cur. 55? 54?<sup>1</sup>

advocates:

Q. Hortensius Hortalus<sup>2</sup> (13) cos. 69

M. Tullius Cicero (29) cos. 63 (Sch. 39)

prosecutors:

L. Cassius Longinus (65) tr. pl. 44 (subscr.) (ORF 168.I)

M. Iuventius Laterensis (16) pr. 51 (nom. del.) (ORF 167.I)

praetor:<sup>3</sup> C. Alfius Flavius (7)

jurors: from *tribus* Lemonia, Ufentina, Crustumina

outcome: A

other: *tribus* Maecia rejected as jurors by defendant

Cic. *Planc.*; Q. fr. 3.1.11; Schol. Bob. 152-69St

Jones (1972) 59; Grimal (1975)

- 1 Sumner (1971) 249 n. 12 supports a date of 54; in favor of 55 are Taylor (1964) 23 n. 30 and MRR Suppl. 158.
- 2 See Linderski (PP 1961).
- 3 He was perhaps *quaesitor* instead. See MRR 2.227 n. 3.

294

date: by 54, before case #295  
 charge: lex Iulia de repetundis?  
 defendant: C. Megabocchus (1)  
 witnesses: Sardinians

Cic. *Scaur.* 40

295

date: 54, *postulatio* July 6, trial ended Sept. 2  
 charge: lex Iulia de repetundis (misconduct as gov. Sardinia 55)  
 defendant: M. Aemilius Scaurus (141) pr. 56 (spoke *pro se*, ORF 139.III)

advocates:

- M. Calidius (4) pr. 57 (ORF 140.IV)
- M. Claudius Marcellus (229) cos. 51 (ORF 155.II)
- P. Clodius Pulcher (48) aed. cur. 56 (ORF 137.VII)
- Q. Hortensius Hortalus (13) cos. 69 (ORF 92.XXII)
- M. Tullius Cicero (29) cos. 63 (Sch. 40)
- M. Valerius Messalla Niger (266) cos. 61, cens. 55 (ORF 124.I)

prosecutors:

- L. Marius (20), = ? Marius (4) q. 50 (subscr.)
- M. Pacuvius Claudius<sup>1</sup> (4) (subscr.)
- Q. Pacuvius Claudius<sup>2</sup> (5) (subscr.)
- P. Valerius Triarius (367) (nom. del.) (ORF 148.I)

praetor: M. Porcius Cato (16)

witnesses:

- Aris (not in RE)
- Valerius (10)

character witnesses:<sup>3</sup>

- Q. Caecilius Metellus Nepos (96) cos. 57
- L. Calpurnius Piso Caesoninus (90) cos. 58, cens. 50

Faustus Cornelius Sulla (377) q. 54 (ORF 156.I)

? Cn. Domitius Sincaicus (82)

Q. Hortensius Hortalus (13) cos. 69

L. Marcius Philippus (76) cos. 56

M. Perperna (5) cos. 92, cens. 86

Cn. Pompeius Magnus (31) cos. 70, 55, 52

P. Servilius Vatia Isauricus (93) cos. 79, cens. 55

M. Tullius Cicero (29) cos. 63

L. Volcacius Tullus (8) cos. 66

? *boni viri ex Sardinia*

*supplicatores:*

M'. Acilius Glabrio (39)

L. Aemilius Buca (37) *monetalis* 44

L. Aemilius Lepidus Paullus (81) cos. 50

M. Aemilius Scaurus (141) pr. 56

T. Annius Milo (67) pr. 55

(L.? P.?) Cornelius Lentulus (205)

Faustus Cornelius Sulla (377) q. 54

C. Memmius (9) tr. pl. 54

C. Peducaeus (1) leg. 43

C. Porcius Cato (6) tr. pl. 56?, pr. 55?<sup>4</sup>

M. (Popillius?) Laenas Curtianus (not in *RE*)<sup>5</sup>

outcome: A, four out of twenty-two senators voted C, two out of twenty-three *equites* did so, and two out of twenty-five *tribuni aera-rii* did so.

other: Sixty days were granted for *inquisitio*.

Ten jurors voted that M. and Q. Pacuvius had committed *calumnia*, and three that L. Marius had done so.

Cic. *Scaur.*; Att. 4.16.6, 4.15.9, 4.17.4; Q. *fr.* 2.16.3, 3.1.11 and 16; V. Max. 8.1. abs. 10; Asc. 18-29C; Schol. Amb. 274-76St

1 On the name Claudius (or Calvus?) see Courtney (1961) 151; Gruen, *LGRR* 333 n. 107; Shackleton Bailey (1975) 442; Rawson (1977) 348-49; and Marshall, *Asconius* 123-24.

2 See n. 1.

3 Some were not present.

4 For references, see case #283, n. 1.

5 See Shackleton Bailey, *Studies* 125.

296

date: 54, *postulatio* by Sept. 20; *nominis delatio* Sept. 28; verdict reached on Oct. 23

charge: *lex Cornelia de maiestate* (restoration of Ptolemy contrary to SC)

defendant: A. Gabinius (11) cos. 58

advocate?: M. Calidius<sup>1</sup> (4) pr. 57

prosecutor: L. Cornelius Lentulus (Cruscellio?) (197) pr. 44

praetor: C. Alfius Flavus (7)<sup>2</sup>

jurors:

L. Aelius Lamia (75) pr. 42?

Cn. Domitius Calvinus (43) cos. 53, 40 (voted A)<sup>3</sup>

C. Porcius Cato (6)<sup>4</sup> tr. pl. 56, pr. 55<sup>5</sup>

witness: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 64)

outcome: 32 votes for C, 38 for A

other: *praevaricatio* suspected

Cic. *Att.* 4.18.1; *Q. fr.* 2.12.2, 3.1.15 and 24; 3.2.3, 3.3.3, 3.4.1-3, 3.7.1; *App. BCiv.* 2.24; Dio 39.55.3-5, 62.3; Schol. Bob. 168St

- 1 He tried to speak for Gabinius at some public meeting (*Q. fr.* 3.2.1). Fantham (1975) 433-34 points out that Valerius Maximus (8.1.3) tells of a public disturbance when C. Memmius was accuser, and suggests that, as tr. pl., Memmius led a *iudicium populi* against Gabinius; *contra* D.-G. 3.54 n. 4. Possibly, then, Calidius was *patronus* for Gabinius in at least one trial.
- 2 He was possibly *quaesitor* instead. See *MRR* 2.227 n. 3; Jones (1972) 59, and 128 n. 91.
- 3 For references, see case #268, n. 3.
- 4 See Linderski (1969) 287-88, Shackleton Bailey, *CQF* 215, and *MRR Suppl.* 169-70.
- 5 For references, see case #283, n. 1. There were seventy jurors total, including these three whose names are known.

297

date: 54, verdict reached Oct. 23, within one hour after verdict in case #296

charge: *lex Papia*

defendant: Gabinius Antiochus (14)

outcome: C

Cic. *Att.* 4.18.4  
Fasciato (1947)

298

date: 54, charge laid by Oct. 11

charge: *lex Tullia de ambitu* (misconduct in campaign for consulate of 53)

defendant: C. Memmius (8) pr. 58 (probably spoke *pro se*) (ORF 125.V)

prosecutor: Q. Acutius (not in RE) = ? Q. Curtius (13) or = ? Acutius (3) Rufus<sup>1</sup>

outcome: uncertain<sup>2</sup>

Cic. *Att.* 4.17.3; *Q. fr.* 2.15.4, 2.16.2, 3.1.16, 3.2.3, 3.3.2, 3.6.3

1 Shackleton Bailey makes this suggestion at CQF 213.

2 See case #320, which is possibly a continuation of this case.

299

date: 54, charge laid by Oct. 11

charge: *lex Tullia de ambitu* (misconduct in campaign for consulate of 53)

defendant: M. Valerius Messalla Rufus (268) cos. 53

prosecutor: Q. Pompeius Rufus (41) tr. pl. 52

outcome: uncertain<sup>1</sup>

other: M. Tullius Cicero (29) cos. 63 working on behalf of defendant (as *patronus*)<sup>2</sup>

Cic. *Att.* 4.15.7, 4.17.3 and 5; *Q. fr.* 2.15.4, 2.16.2, 3.1.16, 3.2.3, 3.3.2, 3.6.3

1 See case #329, which is possibly a continuation of this case.

2 See Wiseman (1966) 109; Gruen, *LGRR* 332; Shackleton Bailey, CQF 214; Crawford, *Orations* 63.

300

date: 54, charge laid by Oct. 11

charge: lex Tullia de ambitu (misconduct in campaign for consulate of 53)

defendant: M. Aemilius Scaurus (141) pr. 56

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 66)

prosecutor: P. Valerius Triarius (367)<sup>1</sup>

outcome: incomplete? (cf. case #319)

Cic. *Att.* 4.15.7, 4.17.5, 4.18.3, *Q. fr.* 2.15.4, 3.2.3, 3.6.3; *Off.* 1.138; Quint. *Inst.* 4.1.69; see also App. *BCiv.* 2.24

1 L. Iulius Caesar (144) leg. 49 was considered as a possible prosecutor (see *Att.* 4.17.5).

301

date: 54, charge laid by Oct. 11

charge: lex Tullia de ambitu (misconduct in campaign for 53)

defendant: Cn. Domitius Calvinus (43, cf. 11) cos. 53, 40<sup>1</sup>

prosecutor: C. Memmius (8) pr. 58, or (9) tr. pl. 54<sup>2</sup> (*ORF* 125.IV)

outcome: condemned? in 52?<sup>3</sup>

Cic. *Att.* 4.15.7, 4.17.5, 4.18.3; *Q. fr.* 2.15.4, 2.16.2, 3.1.16, 3.2.3, 3.3.2

1 For references, see case #268, n. 3.

2 See Shackleton Bailey, *CLA* 2.218, and Gruen (1969) 319 n. 2.

3 D.-G. 3.7 n. 11 maintains that there is no evidence that the case was resumed.

302

date: 54, verdict reached before Nov. 2

defendant: M. Fulvius Nobilior (94) e.R.

outcome: C

Cic. *Att.* 4.18.3; see also Sal. *Cat.* 17.4

303

date: 54,<sup>1</sup> *divinatio* on Oct. 12

charge: *lex Iulia de repetundis* (accepting bribes from Ptolemy while gov. Syria 57-54)

defendant: A. Gabinius (11) cos. 58

advocate: M. Tullius Cicero (29) cos. 63<sup>2</sup> (Crawford, *Orations* 65)

prosecutor:<sup>3</sup> C. Memmius (9) tr. pl. 54

praetor: M. Porcius Cato (16)

witnesses: people from Alexandria

outcome: C, exile

other: According to *Q. fr.* 3.2.1, the candidates at the *divinatio* were C. Memmius, Ti. Claudius Nero (254), and C. Antonius (20) pr. 44 and L. Antonius (23) cos. 41.

Cic. *Rab. Post.* 8, 21, 30, 34, 38; *Q. fr.* 3.1.15, 3.2.2; V. Max. 4.2.4, 8.1. abs. 3; Quint. *Inst.* 11.1.73; Plut. *Ant.* 3.2; App. *BCiv.* 2.24; Dio 39.63, 46.8.1; Schol. Bob. 168, 177St

- 1 As to whether the trial could have continued into 53, see Lintott (1974) 67, and Fantham (1975) 439-40 n. 34 and 443.
- 2 Dio 46.8.1 records the charge that Cicero committed *praevaricatio* by pleading the case in such a way that the defendant was condemned.
- 3 According to *Q. fr.* 3.1.15, the expected prosecutors were L. Cornelius Lentulus (Cruscellio?) (197) pr. 44, Ti. Claudius Nero (*cum bonis subscriptoribus*), and Memmius, with L. Ateius Capito (9: q. by 52, pr. date uncertain) as *subscriptor*.

304

date: 54, charge laid by Oct. 11

charge: *lex Tullia de ambitu* (misconduct in campaign for consulate of 58?)<sup>1</sup>

defendant: A. Gabinius (11) cos. 58

prosecutors:

L. Caecilius Rufus (110) pr. 57 (subscr.)

P. Cornelius Sulla (386) (nom. del.) cos. des. 65

P. Cornelius Sulla (387) (subscr.), sen.?<sup>2</sup>

C. Memmius (9) tr. pl. 54 (subscr.)

outcome: dropped after condemnation of defendant in case #303

other: L. Manlius Torquatus (80) pr. 50 or 49 was defeated in the *divinatio*.

Cic. *Att.* 4.18.3; *Q. fr.* 3.2.3, 3.3.2

- 1 The charge possibly arose from alleged misconduct in a campaign much closer to the date of the trial.
- 2 See *MRR* Suppl. 73.

305

date: Dec. 54 to mid-Jan. 53<sup>1</sup>

charge: lex Iulia de repetundis (*quo ea pecunia pervenerit*) (actions as assistant to A. Gabinius (11), gov. Syria 57-54)

defendant: C. Rabirius Postumus (6) e.R. at time of trial, pr., perhaps in 48<sup>2</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 41)

prosecutor: C. Memmius (9) tr. pl. 54

witnesses: representative of people of Alexandria

outcome: uncertain<sup>3</sup>

Cic. *Rab. Post.*; Quint. *Inst.* 3.6.11, 4.2.10

Fascione (1974)

- 1 On the procedure, see case #205, and Fantham (1975) 439-40; Ramsey (*Phoenix* 1980) 330 n. 31
- 2 See *MRR* Suppl. 181.
- 3 The defendant's later career may indicate that he was acquitted. See Von der Mühl, *RE* 1A (1914) 27-28.

306

date: 52, late Feb. or early intercalary month<sup>1</sup>

claim: *actio ad exhibendum* to produce *servi*<sup>2</sup>

defendants:

T. Annius Milo (67) pr. 55

Fausta Cornelia (436)

plaintiffs:

Ap. Claudius Pulcher (298) cos. 38

and Ap. Claudius Pulcher (299) sen.?<sup>3</sup>

P. Valerius Nepos (278)

and P. Valerius Leo (218)

present for defendants:

M. Calidius (4) pr. 57

M. Claudius Marcellus (229) cos. 51

Faustus Cornelius Sulla (377) q. 54

Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XXIII)

M. Porcius Cato (16) pr. 54

M. Tullius Cicero (29) cos. 63

outcome: uncertain

Asc. 34,<sup>4</sup> 41

1 See Ruebel (1979) 239.

2 See Ruebel (n. 1 above) 239 n. 20; Lintott (1974) 71. The action was probably a preliminary to an action against the owners of the slaves.

3 See *MRR* Suppl. 57.

4 See Clark's commentary on the *pro Milone*, 99, and Marshall, *Asconius* 173, for discussion of possible emendation and alternative punctuations: L. Herennius Balbus (18) may have been involved in this case, rather than in case #307.

307

date: 52

claim: *actio ad exhibendum* to produce *servi*<sup>1</sup>

defendants:

P. Clodius Pulcher (48) aed. cur. 56

*comites* of Clodius

plaintiff: L. Herennius Balbus (18) Lupercus 56<sup>2</sup>

Asc. 34C

1 For a reference, see #306, n. 2.

2 See case #306, n. 4.

308

date: 52

claim: *actio ad exhibendum* to produce *servi*<sup>1</sup>

defendants:

P. Plautius Hypsaeus (23) pr. by 55?

Q. Pompeius Rufus (41) tr. pl. 52

plaintiff?: M. Caelius Rufus (35) tr. pl. 52, pr. 48

Asc. 34C

Lintott (1974) 71

1 For a reference on this date, see #306, n. 2.

309

date: 52, Milo charged on March 26, trial on April 4-7/[8]<sup>1</sup>charge: *lex Pompeia de vi* (murder of Clodius)<sup>2</sup>

defendant: T. Annius Milo (67) pr. 55

advocates:

M. Claudius Marcellus (229) cos. 51

M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 72)<sup>3</sup>

prosecutors:

M. Antonius (30) q. 51,<sup>4</sup> cos. 44, 34 (subscr.)

Ap. Claudius Pulcher (298) cos. 38 (nom. del.)

Ap. Claudius Pulcher (299) sen.? (subscr.)<sup>5</sup>

P. Valerius Nepos (278) (subscr.)

*quaesitor*: L. Domitius Ahenobarbus (27) cos. 54jurors:<sup>6</sup>

Q. Petilius (5 or 6)

M. Porcius Cato (16) pr. 54 (voted A)

P. Varius (4)

witnesses:

Q. Arrius (8) pr. before 63 = ? Q. Arrius (7) pr. 73<sup>7</sup>

C. Causinius Schola (1) of Interamna

C. Clodius (7)

Fulvia (113)

M. Porcius Cato (20) pr. 54

Sempronia (102)

residents of Bovillae (Asc. 40C)

*virgines Albanae* (Asc. 40C)<sup>8</sup>

outcome: C, exile to Massilia, and perhaps confiscation;<sup>9</sup> twelve senators, thirteen *equites*, and thirteen *tribuni aerarii* voted C; six senators, four *equites*, and three *tribuni aerarii* voted A.

Cic. *Mil.*; Liv. *Per.* 107; Vell. 2.47.4-5; Asc. 30-56; Quint. *Inst.* 3.6.93, 3.11.15 and 17; 4.1.20; 4.2.25, 4.3.17, 6.3.49, 10.1.23; Plut. *Cic.* 35; App. *BCiv.* 2.21-22, 24; Dio 40.54-55.1; Schol. Bob. 111-125St; Schol. Gronov. D 322-323St; see also Cic. *Att.* 5.8.2-3, 6.4.3, 6.5.1-2

- 1 On the chronology of this trial and related trials, see Ruebel (1979) 245-47.
- 2 On the meeting of Clodius and Milo, see Davies (1969); *contra* Wellesley (1971).
- 3 Cicero alone spoke for the defense (Asc. 414C), but he, Marcellus, and the defendant cross-examined witnesses.
- 4 See *MRR* Suppl. 19-20.
- 5 For a reference, see case #306, n. 3.
- 6 Eighty-one jurors were selected; then the prosecution and defense each rejected five from each order. Fifty-one jurors voted.
- 7 See *MRR* Suppl. 25 for sources and bibliography on whether these two Arrii are in fact the same person.
- 8 On their identity see Marshall, *Asconius* 188-89.
- 9 See Lintott (1974) 76-78, and Marshall, *Asconius* 209.

### 310

date: 52<sup>1</sup>

charge: *lex Pompeia de ambitu* (misconduct in campaign for consulate of 52)

defendant: T. Annius Milo (67) pr. 55

prosecutors:

Ap. Claudius Pulcher (298) cos. 38 (nom. del.)

Ap. Claudius Pulcher (299) sen.?<sup>2</sup> (subscr.)

Domitius (11) pr.? in 54

P. Valerius Leo (218) (subscr.)

*quaesitor*: A. Manlius Torquatus (76)<sup>3</sup> pr. ca 70

outcome: C, *praemium* offered to *nominis delator*<sup>4</sup>

other: C. Ateius Capito<sup>5</sup> (7, = ? C. Ateius [3]) tr. pl. 55 (subscr.), and L. Cornificius (4) sen.?<sup>6</sup> rejected in *divinatio*.

Asc. 38, 39, 54C; Dio 40.53.2  
 Syme (*Historia* 1955) 60 = RP 1.280.

- 1 The charge was laid March 26; *divinatio* took place between March 27 and April 3, and the verdict was reached on April 8 or 9; see Ruebel (1979) 243.
- 2 For a reference, see case #306, n. 1.
- 3 See Mitchell (1966) 26 and Linderski (1972) 195-96 n. 59.
- 4 Ap. Claudius Pulcher (298) was offered a reward for his successful prosecution, but refused it.
- 5 Other conjectures as to the correct reading are C. Cethegus (90), Q. Patulcius (2).
- 6 See Syme (*CP* 1955) 134 and *MRR* Suppl. 76.

### 311

date: 52<sup>1</sup>  
 charge: lex Licinia de sodaliciis (misconduct in campaign for consulate of 52)  
 defendant: T. Annius Milo (67) pr. 55  
 prosecutor: P. Fulvius Neratus (89)  
*quaesitor*: M. Favonius (1) aed. 53 or 52,<sup>2</sup> pr. 49  
 outcome: C, prosecutor received *praemium*

Asc. 38-39, 54C

- 1 The charge was laid on March 26, and the verdict reached on April 11 or 12; see Ruebel (1979) 243, 247.
- 2 See *MRR* 2.240 n. 2, Suppl. 90.

### 312

date: 52, verdict reached on April 11 or 12  
 charge: lex Plautia de vi (murder of Clodius)  
 defendant: T. Annius Milo (67) pr. 55  
 prosecutors:  
     L. Cornificius (4) sen.?<sup>1</sup>  
     Q. Patulcius (2)  
*quaesitor*: L. Fabius (22)  
 outcome: condemned in absence

Asc. 54C

1 For references, see case #310, n. 6.

313

date: 52, on or after ca April 12

charge: *lex Pompeia de vi* (participation in murder of P. Clodius Pulcher [48] aed. cur. 56)

defendant: M. Saufeius (6)

advocates:

M. Caelius Rufus (35) tr. pl. 52, pr. 48 (*ORF* 162.V)

M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 73)

prosecutors:

L. Cassius Longinus (65) tr. pl. 44

L. Fulcinius (3)

C. Valerius (52)

outcome: A, twenty-six for A, twenty-five for C (for C, ten senators, nine *equites*, and six *tribuni aerarii*; for A, eight senators, eight *equites*, and ten *tribuni aerarii*)

Asc. 55C

314

date: 52, on or after ca April 18

charge: *lex Plautia de vi* (participation in murder of Clodius)

defendant: M. Saufeius (6)

advocates:

M. Terentius Varro Gibba (89) tr. pl. 43

M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 74)

prosecutors:

Cn. Aponius (4)

C. Fidius (1)

M. Seius<sup>1</sup> (4) e.R.

*quaesitor*?<sup>2</sup> Considius (2), = either C. Considius Longus (11) pr. by 54 or M. Considius Nonianus (13) propr. 49<sup>3</sup>

outcome: A (thirty-two for A, nineteen for C; *tribuni aerarii* mainly for C)

Asc. 55C

- 1 See Shackleton Bailey, *Studies* 65.
- 2 Mommsen, *StR.* 2<sup>3</sup>.584 argues that the *quaestio de vi* was always presided over by a *quaesitor*, never a praetor; see also Linderski (1972) 195-96, n. 59.
- 3 See *MRR* 2.240 n. 3, Suppl. 61, and Marshall, *Asconius* 210. On M. Considius Nonianus (13), see Shackleton Bailey, *Studies* 109-11.

315

date: 52, after April 22

charge: lex Pompeia de vi (movement of Clodius' body into *curia*)

defendant: Sex. Cloelius (Clodius 12)<sup>1</sup>

advocate: T. Flacconius (1)

prosecutors:

M. Alfidius (Aufidius 9?)<sup>2</sup>

C. Caesennius Philo (11)

outcome: C (46 votes for condemnation; five for acquittal: two senators, three *equites*)

Asc. 55-56C

- 1 See Shackleton Bailey, *Studies* 17.
- 2 He does not have the *cognomen* 'Lurco.' See Wiseman (1965) 334, Linderski (1974) 478-80, and *MRR* Suppl. 14.

316

date: 52?<sup>1</sup>

charge: lex Pompeia de vi?<sup>2</sup>

defendant: P. Cornelius Dolabella (141) cos. suff. 44

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 76)

outcome: A<sup>3</sup>

Cic. *Fam.* 3.10.5; see also *Fam.* 6.11.1; *Phil.* 11.9

- 1 The trial occurred before Cicero's departure for Cilicia in 51. See Gruen *LGRR* 526.

- 2 D.-G. 6.85 n. 9 maintains that the defendant was charged with 'Mord.' But *Phil.* 11.9 is too vague to determine the nature of the charge.
- 3 Crawford, *Orations* 225 points out that the defendant's prosecution of Appius in 50 (case #344) shows that he was acquitted in this trial.

317

date: 52?<sup>1</sup>

charge: perhaps for lex Scantinia<sup>2</sup> (perhaps for pederasty)

defendant: P. Cornelius Dolabella (141) cos. suff. 44

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 109)

outcome: A<sup>3</sup>

Cic. *Fam.* 3.10.5; see also *Fam.* 6.11.1; *Phil.* 11.9

- 1 See Gruen, *LGRR* 526, Crawford, *Orations* p. 225 n. 1.
- 2 D.-G. (6.85 n. 9) maintains that the defendant was charged with pederasty ('Knabenschänderei'). But the evidence is too vague. See case #316, n. 2 on the passage from the *Philippics*.
- 3 See case #316, n. 3.

318

date: 52

defendant: T. Fadius<sup>1</sup> (9) tr. pl. 57<sup>2</sup>

outcome: C, by one vote

Cic. *Fam.* 5.18

- 1 His *cognomen* is probably not 'Gallus'; see Shackleton Bailey (1962) and *Studies* 38, and *MRR* Suppl. 89.
- 2 Shackleton Bailey, *CLF* 1.350 suggests that he became aedile and/or praetor 55-53.

319

date: 52

charge: lex (Pompeia?) de ambitu (campaign for consulate of 53)<sup>1</sup>

defendant: M. Aemilius Scaurus (141) pr. 56  
 advocate: M. Tullius Cicero (29) cos. 63 (Sch. 108)  
 prosecutor: C. Valerius Triarius (365) praef. class. 49-48 = ? P. Valerius Triarius (367)<sup>2</sup>  
 outcome: C

Cic. *Off.* 1.138; Quint. 4.1.69; App. *BCiv.* 2.24; see also Cic. *Att.* 4.17.5; *Q. fr.* 3.2.3; *Brut.* 324

- 1 This case is perhaps a continuation of case #300.
- 2 See Douglas, *Brutus* p. 194 on *Brut.* 265, *MRR Suppl.* 215, and Marshall, *Asconius* 122.

## 320

date: 52  
 charge: lex (Pompeia?) de ambitu (misconduct in campaign for consulate in 53)<sup>1</sup>  
 defendant: C. Memmius (8) pr. 58  
 outcome: C, exile in Athens

Cic. *Fam.* 13.1.1; App. *BCiv.* 2.24

- 1 This case is perhaps a continuation of case #298.

## 321

date: 52, after case #320, before defendant takes office in August  
 charge: lex Pompeia de ambitu (misconduct in campaign for consulate of 52)  
 defendant: Q. Caecilius Metellus Pius Scipio Nasica (99) cos. 52  
 prosecutors: C. Memmius (9)<sup>1</sup> tr. pl. 54 and one other prosecutor  
 outcome: dropped (cf. case #301, n. 2)

V. Max. 9.5.3; Asc. 30C; Plut. *Cat. Min.* 48.4; *Pomp.* 55.4; Tac. *Ann.* 3.28; App. *BCiv.* 2.24; Dio 40.51.3, 40.53.1-2

- 1 He was attempting to be restored to civic status after his condemnation

(see case #320) by successful prosecution; see Mommsen, *Strafr.* 509 n. 4; Alexander (1985) 29.

322

date: 52

charge: *lex Pompeia de ambitu* (misconduct in campaign for consulate of 52)

defendant: P. Plautius Hypsaeus (23) pr. by 55?

outcome: C

V. Max. 9.5.3; Asc. 30C; Plut. *Pomp.* 55.6; App. *BCiv.* 2.24; Dio 40.53.1

323

date: 52 (same time as case #324)

charge: *lex Pompeia (de ambitu?)* (perhaps for misconduct during campaign for praetorship of 55)

defendant: P. Sestius (6) tr. pl. 57, pr. perhaps by 54<sup>1</sup>

advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 75)

outcome: A?<sup>2</sup>

Cic. *Att.* 13.49.1; *Fam.* 7.24.2; App. *BCiv.* 2.24

1 For a reference, see case #270, n. 1.

2 Appian has C for a 'Sextus.' But Sestius went on to serve as governor in 49. See Gruen, *LGRR* 349 n. 186.

324

date: 52, same time as case #323

defendants?: sons of Cn. Octavius (23?)

plaintiff?: Phamea (1)

other: M. Tullius Cicero (29) cos. 63 was to have spoken for Phamea, but failed to do so because of a commitment to speak for Sestius (case #323).

Cic. *Att.* 13.49.1; *Fam.* 7.24.2

325

date: possibly before case #327, certainly just before case #326  
 defendant: Munatius (1), perhaps the same as T. Munatius Plancus  
 Bursa (32) tr. pl. 52<sup>1</sup>  
 advocate: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 78)  
 outcome: A

Plut. *Cic.* 25.1

1 Case #327 is a *terminus ante quem* only if Munatius (1) is the same person as Munatius (32).

326

date: possibly before case #327, just after case #325<sup>1</sup>  
 defendant: Sabinus (1)  
 prosecutor: Munatius (1), perhaps the same as T. Munatius Plancus  
 Bursa (32) tr. pl. 52

Plut. *Cic.* 25.1

1 See case #325, n. 1.

327

date: between Dec. 10, 52 and end of Jan. 51,<sup>1</sup> after case #325  
 charge: lex Pompeia de vi (activities as tr. pl. 52, burning of senate  
 house)  
 defendant: T. Munatius Plancus Bursa (32) tr. pl. 52  
 prosecutor: M. Tullius Cicero (29) cos. 63 (Crawford, *Orations* 79)  
 juror: M. Porcius Cato (16) pr. 54<sup>2</sup>  
 outcome: C, exile to Ravenna  
 other: Cato prevented Cn. Pompeius Magnus (31) cos. 70, 55, 52 from  
 delivering a *laudatio*

*Cic. Fam.* 7.2.2-4, 8.1.4; *Phil.* 6.10, 13.27; *V. Max.* 6.2.5; *Plut. Cato Min.*  
 48.4; *Pomp.* 55.4; *Dio* 40.55

- 1 See Gruen, *LGRR* 346 n. 172, and Shackleton Bailey, *CLF* 1.351. The trial must have occurred after the defendant's tribunate, although *Plut. Pomp.* 55.6 says that it occurred before trial #322.
- 2 He was rejected after the trial had begun.

328

date: by May 51

charge: *lex Pompeia de vi* (activities as tr. pl. 52, burning of senate house)

defendant: Q. Pompeius Rufus (41) tr. pl. 52

prosecutor: M. Caelius Rufus (35) pr. 48 (*ORF* 162.VI)

outcome: C, exile to Bauli

*Cael. apud Cic. Fam.* 8.1.4; *V. Max.* 4.2.7; *Dio* 40.55.1

329

date: by June 51

charge: *lex Pompeia de ambitu* (misconduct in campaign for consulate of 53)<sup>1</sup>

defendant: M. Valerius Messalla Rufus (268) cos. 53

advocate: Q. Hortensius Hortalus (13) cos. 69 (*ORF* 92.XXIV)

outcome: A by three votes (by one vote in each order)

*Cic. Brut.* 328; *Cael. apud Cic. Fam.* 8.2.1, 8.4.1; *Cic. Att.* 5.12.2; *V. Max.* 5.9.2

- 1 This case may be a continuation of case #299.

330

date: 51, just before case #333, charged before Aug. 1, verdict before Sept. 2

charge: *lex Pompeia de ambitu* (misconduct in campaign for consulate of 50)

defendant: M. Calidius (4) pr. 57, spoke *pro se* (*ORF* 140.VI)

prosecutor:

M. Gallius (5) pr. by 45<sup>1</sup>  
or Q. Gallius (7) (Axianus?) pr. 43<sup>2</sup>

outcome: A

Cael. apud Cic. *Fam.* 8.4.1, 8.9.5

1 See Sumner (1971) 366-67 n. 55, and *MRR* Suppl. 98.

2 See Shackleton Bailey, *CLF* 1.390, *Studies* 62; *MRR* Suppl. 98-99.

331

date: by Aug. 1, 51

charge: lex Licinia de sodaliciis (misconduct in campaign for consulate 53)

defendant: M. Valerius Messalla Rufus (268) cos. 53

outcome: C, payment of fine

Cael. apud Cic. *Fam.* 8.2.1, 8.4.1; *Brut.* 328; V. Max. 5.9.2

D.-G. 3.7 n. 11

332

date: by Aug. 1, 51

charge: lex Pompeia de ambitu<sup>1</sup> (misconduct in campaign for tr. pl. 50)

defendant: Servaeus (3) tr. pl. des. for 50 = ? Servius Pola (5)<sup>2</sup>

outcome: C

Cael. apud Cic. *Fam.* 8.4.2

1 So Münzer *RE* 2A (1923) 1754; Shackleton Bailey (1970) 165.

2 Shackleton Bailey, *CLF* 1.390 argues that this is not Servius Pola (5), since the latter went on to prosecute under the lex Scantinia (case #347). Note, however, that it was possible for those convicted of *ambitus* to prosecute others on that charge; the possibility should also be entertained that a man condemned for *ambitus* could conduct a prosecution under another law not relating to *ambitus*.

333

date: mid Sept. 51

charge: lex Pompeia de ambitu (campaign for consulate of 50)

defendant: C. Claudius Marcellus (216) cos. 50

prosecutor: M. Calidius (4) pr. 57

outcome: A

Cic. *Fam.* 8.9.2, 5

Shackleton Bailey (1970) 165

334

date: mid-Sept.to mid-Oct. 51, before case #335

charge: lex Plautia de vi?<sup>1</sup> or lex Cornelia de iniuriis?<sup>2</sup>defendant: C. Sempronius Rufus (79) mag.-des.<sup>3</sup>

prosecutor: M. Tuccius (6) (Galeo?)

outcome: C and exile?<sup>4</sup>Cael. apud Cic. *Fam.* 8.8.1; see also *Att.* 14.14.2

1 See Lintott (1968) 122 n. 2.

2 See Mommsen, *Strafr.* 399 n. 1.

3 That the defendant was mag. des. is a suggestion made by Weinrib (1971) 149 n. 8.

4 Broughton *MRR* 2.465 claims that the defendant was in the Senate by 44; this would suggest that he had been acquitted in this trial. There are two pieces of evidence which are said to support this view. First, according to Porphyry on Hor. *Sat.* 2.2.50, the defendant at some time reached the praetorship, and second, Cic. *Fam.* 12.29.2 refers to a *Sempronianum SC*. However, Badian (*PACA* 1968) 4 n. 18, following Mommsen *StR.* 3.997 and 1012, points out that this sort of phrase cannot necessarily be interpreted for the Republican period as implying that the named individual was author of the SC or presiding magistrate when it was passed. Rather, as Mommsen points out, this sort of phrase could refer to the individual affected by the SC, and therefore, as *CLF* 2.514 notes, could refer to a decree recalling Sempronius from exile. Indeed, Cic. *Att.* 14.14.2 seems to refer to such a recall from exile. A guilty verdict in this trial could have been the cause of exile. The scholiast, then, would have made an error resulting

from the problematic reading of the passage from Horace (on which see Münzer, *RE* 2A [1923] 1436-37).

335

date: mid-Sept. to mid-Oct. 51

charge: *lex Plautia de vi*<sup>1</sup>

defendant: M. Tuccius (6) (Galeo?)

advocate?: M. Caelius Rufus (35) pr. 48 (*ORF* 167.VII), but he may have been a character witness instead.

prosecutor: C. Sempronius Rufus (79) mag.-des.<sup>2</sup>

outcome: A

other: *calumniā* believed by some

Cael. apud Cic. *Fam.* 8.8.1; see also *Att.* 6.2.10

- 1 On the basis of material found in the shipwreck off the island of Planier, D'Arms (1981) 48-55 speculates that the Vestorius mentioned by Caelius Rufus was a partner in a shipping venture with the *accusator* and *reus*, and that their disagreement may have stemmed from a dispute over the share of damages resulting from the shipwreck.
- 2 See case #334, n. 3.

336

date: over by Oct. 51

charge: *lex Iulia de repetundis* (misconduct as gov. Asia, 55-53)

defendant: C. Claudius Pulcher (303) pr. 56

praetor: M. Iuventius Laterensis (16)

outcome: C, *litis aestimatio*, exile

Cic. *Fam.* 8.8.2

Cicero, *Correspondance* ed. Tyrrell and Purser 3.109-12; Shackleton Bailey, *CLF* 1.398-401

337

date: begun by Oct. 51

charge: *lex Iulia de repetundis, quo ea pecunia pervenerit* (possession of funds extorted by C. Claudius Pulcher)<sup>1</sup>  
 defendant: M. Servilius (20) = ? M. Servilius (21) tr. pl. 43<sup>2</sup>  
 advocate: M. Caelius Rufus (35) aed. cur. 50, pr. 48  
 prosecutor: Pausanias (13)  
 praetor: M. Iuventius Laterensis (16)  
 outcome: praetor refused to accept case

Cic. *Fam.* 8.8.2

Cicero, *Correspondance* ed. Tyrrell and Purser 3.109-12; Shackleton Bailey, *CLF* 1.398-401

- 1 See case #336. On the procedure, see case #205.
- 2 Münzer *RE* 2A (1923) 1766 argues that they may be identical, but Douglas, *Brutus* 197 and Sumner, *Orators* 146 show that they cannot be, since the orators listed in the *Brutus* were dead by 46.

### 338

date: *divinatio* by Oct. 51, trial not over at end of #339  
 charge: *lex Iulia de repetundis*  
 defendant: M. Servilius (20) sen.? = ? M. Servilius (21) tr. pl. 43<sup>1</sup>  
 advocate?: M. Caelius Rufus (35) aed. cur. 50, pr. 48  
 prosecutor: Q. Pilius Celer (2)  
 praetor: M. Iuventius Laterensis (16)

Cic. *Fam.* 8.8.2-3; *Att.* 6.3.10

- 1 See case #337, n. 2.

### 339

date: *divinatio* by Oct. 51  
 charge: *lex Iulia de repetundis*, (possibly *quo ea pecunia pervenerit*; regarding funds deposited with the defendant *praevocacionis causa* in case #336)  
 defendant: M. Servilius (20) sen.? = ? M. Servilius (21) tr. pl. 43<sup>1</sup>  
 prosecutor: Ap. Claudius Pulcher (299) sen.?<sup>2</sup>  
 praetor: M. Iuventius Laterensis (16)

jurors: same as in *litis aestimatio* of case #336

outcome: tie vote, A?<sup>3</sup>

Cic. *Fam.* 8.8.3

1 See case #337, n. 2.

2 For a reference, see case #306, n. 3.

3 There was some confusion as to whether the defendant was actually acquitted, or whether there was no decision.

340

date: begun by Oct. 51

charge: *lex Iulia de repetundis*

defendant: Ap. Claudius Pulcher (299) perhaps sen.<sup>1</sup>

prosecutors: Servilii<sup>2</sup>

Cic. *Fam.* 8.8.3

1 For a reference, see case #306, n. 3.

2 The prosecutors were presumably M. Servilius (20) sen.? = ? M. Servilius (21) tr. pl. 43 (see case #337, n. 2), and relatives.

341

date: 51, charge laid by October

charge: *lex Pompeia de vi*

defendant: Ap. Claudius Pulcher (299) sen.?<sup>1</sup>

prosecutor: uncertain<sup>2</sup>

Cael. apud Cic. *Fam.* 8.8.3

1 For a reference, see case #306, n. 3.

2 The prosecutor was probably not Sex. Tettius (4). See Shackleton Bailey, *CLF* 1.401.

342

date: 50, perhaps Feb.?

claim: civil suit

plaintiff: L. Custidius<sup>1</sup> (1, *RE Supp. I*)

urban praetor: C. Titius Rufus (37)

*Cael. apud Cic. Fam.* 13.58

1 The plaintiff's *nomen* may instead have been Cuspidius. See *CLF* 1.479.

343

date: 50, perhaps March?

party: M. Fabius<sup>1</sup> Gallus (Fadius 6)

party: Q. Fabius Gallus (Fadius 8)

advocate?: M. Caelius Rufus (35) aed. cur. 50, pr. 48

peregrine? praetor:<sup>2</sup> M. Curtius Peducaeanus (23)

*Fam.* 2.14, 9.25.3, 13.59

1 See Shackleton Bailey (1962) 195-96 and *CLF* 1.417.

2 See Shackleton Bailey, *CLF* 1.417, 480; *MRR Suppl.* 79.

344

date: 50, prosecuted by Feb., verdict reached close to April 5)

charge: *lex Cornelia de maiestate* (misconduct as gov. Cilicia 53-51?

went to province without *lex curiata*? remained in province too long)<sup>1</sup>

defendant: Ap. Claudius Pulcher (297) cos. 54, cens. 50

prosecutor: P. Cornelius Dolabella (141) cos. suff. 44

outcome: A

*Fam.* 3.11.1-3; *Cael. apud Cic. Fam.* 8.6.1

1 *Auct. Vir. Ill.* 82.4 gives the charge as *repetundae*.

345

date: 50, verdict reached by late May<sup>1</sup>

charge: *lex Pompeia de ambitu* (misconduct in election for office [censorship of 50?])

defendant: Ap. Claudius Pulcher (297) cos. 54, cens. 50

advocates:

Q. Hortensius Hortalus (13) cos. 69 (ORF 92.XXV)

M. Iunius Brutus (53) pr. 44 (ORF 158.III)

prosecutor: P. Cornelius Dolabella (141) cos. suff. 44

outcome: A

Cic. *Fam.* 3.11.2, 3.12.1; *Brut.* 230, 324

- 1 See Sumner, *Orators* 122-23 on the chronology of this trial and of #344, and on the reasons for assigning the defense by Hortensius and Brutus to this trial rather than to the preceding one.

346

date: 50, charge laid by Aug. 8

charge: uncertain<sup>1</sup>

defendant: Cn. Sentius Saturninus (Appuleius 27) q. or leg. 68-67,<sup>2</sup> sen. by 54

prosecutor: Cn. Domitius Ahenobarbus (23) cos. 32

Cael. apud Cic. *Fam.* 8.14.1; see also V. Max. 9.1.8

- 1 Shackleton Bailey, *CLF* 1.431 suggests that the defendant was one of Curio's friends convicted for *vis* in support of M. Antonius (30) cos. 44, 34. See Cic. *Phil.* 2.4.
- 2 The defendant was not an Appuleius; see Syme's two articles (*Historia* 1964) 121-22, 162 = *RP* 2.600-1, 611; Shackleton Bailey, *CLF* 1.431.

347

date: 50, after *ludi Romani* of Sept. 19

charge: *lex Scantinia*

defendant: M. Caelius Rufus (35) aed. cur. 50, pr. 48

prosecutor: Sevius or Servius<sup>1</sup> (Servius 5) Pola  
praetor: M. Livius Drusus Claudianus (19)<sup>2</sup>

Cael. apud Cic. *Fam.* 8.14.4, 8.12.2-3

- 1 On this *nomen*, see Shackleton Bailey, *Studies* 66.
- 2 He may instead have been a juror. The phrase *apud Drusum fieri* (*Fam.* 8.14.4) could refer to either a praetor or a juror, probably the former.

348

date: Sept. 50

charge: lex Scantinia

defendant: Ap. Claudius Pulcher (297) cos. 54, cens.

prosecutor: M. Caelius Rufus (35) aed. cur. 50, pr. 48

praetor: M. Livius Drusus Claudianus (19)<sup>1</sup>

Cael. apud Cic. *Fam.* 8.12.1 and 3, 8.14.4

- 1 See #347, n. 2 above.

349

date: 50

charge: lex Pompeia? de vi

defendants: friends of C. Scribonius Curio (11) tr. pl. 50

Cic. *Phil.* 2.4

350

date: 50

defendant: Sex. Peducaeus (6) pr.? ca 49?

outcome: A

Cael. in Cic. *Fam.* 8.14.1

351

date: Sept. 50

claim: failure of defendant as censor to keep a *sacellum*, which was on his property, open to the public<sup>1</sup>

defendant: Ap. Claudius Pulcher (297) cos. 54, cens.

plaintiff: M. Caelius Rufus (35) aed. cur. 50, pr. 48

Cic. *Fam.* 8.12.3; see also Liv. 40.51.8

1 On the prosecution of censors, see Courtney (1960) 99, Shackleton Bailey (1970) 163, *CLF* 1.435.

### **Trials of Indefinite Date**

352

date: 136?<sup>1</sup>

claim: *actio de iniuriis* (*ne quid infamandi causa fiat*, libel of Accius)

plaintiff?: L. Accius (1)

juror?: P. Mucius Scaevola (17) cos. 133

outcome: C

*ad Her.* 1.24, 2.19

1 See Münzer *RE* 16 (1933) 426, *MRR* 1.488 n. 3.

353

date: late second century

claim: *actio de iniuriis* (*ne quid infamandi causa fiat*, libel of Lucilius)

plaintiff?: C. Lucilius (4)

juror: C. Coelius Caldus (12) cos. 94

outcome: A

*ad Her.* 2.19

354

date: late second century

claim: civil suit (inheritance from a man with two wives)

*Cic. de Orat.* 1.183

355

date: uncertain<sup>1</sup>

charge: *lex Calpurnia* (or *Iunia*) *de repetundis*

defendant: Livius Salinator (30)

outcome: A

*App. BCiv.* 1.22

Richardson (1987) 12

- 1 Appian places the defendant's name between that of Aurelius Cotta (case #9) and M'. Aquillius (case #23). Münzer, *RE* 1A (1920) 1903, takes this arrangement as chronological, thus dating the trial between 138 and 126. But Appian might not be using chronological order; in that case, one could date the trial merely to the years 149-123. See Gabba, *Appian ad loc.*

356

date: after 106? after the enactment of *lex Servilia* (of Glaucia or Caepio)<sup>1</sup>

charge: *lex Servilia* (Glauciae?) *de repetundis*

defendant: C. Cosconius (not in *RE*)<sup>2</sup>

prosecutor: Valerius Valentinus (372)

outcome: A

V. Max. 8.1. abs. 8

Cichorius, *Untersuch. Lucil.* 343-45, Gruen, *RPCC* 302

- 1 The trial might have taken place in the 80s, when C. Cosconius (3) was active in the Social War (*Cic. Leg.* 89; see Münzer, *RE* 4 [1901] 1668). However, the prosecutor can perhaps be linked to legislation ridiculed by the circle of Opimius, who was banished in 109 (case #53). Therefore, a date in

the last years of the second century is likely; see Volkmann *RE* 8A (1955) 236-37.

- 2 See Cosconius (3) pr.? 89, promag. 78-76?, and Münzer *RE* 4 (1901) 1668, and *RE* Supp. 3 (1918) 262.

357

date: sometime within ca 104 to 81

charge: *lex Servilia* (*Glauciae?*) *de repetundis*<sup>1</sup>

defendant: T. Caelius (not in *RE*) sen.?<sup>2</sup>

prosecutor: L. Cossinius (1, = ? 2) of Tibur, pr. 73?<sup>3</sup>

outcome: C, prosecutor received reward of citizenship

*Cic. Balb.* 53; see also 54

- 1 Gruen, *RPCC* 301 points out that *Balb.* 54 implies that the two trials mentioned in *Balb.* 53 occurred under a *lex Servilia*, since it is implied that the *lex Licinia et Mucia* of 95 might have affected part of it. Tibiletti (1953) 74 n. 2 points out that this would most naturally be not the extinct *lex Servilia Caepionis* but the *lex Servilia Glauciae*. But the point is vexed. See Alexander (1977) 64-66, n. 22. For the view that it is the *lex Servilia Caepionis*, see Badian (1954); *contra* Levick (1967). See also Sherwin-White (1972) 96-97, Griffin (*CQ* 1973) 123-26.
- 2 See Badian (1961) 493, who argues from the status of Caelius as a defendant in an extortion suit that he was probably a senator.
- 3 See *MRR* Suppl. 77.

358

date: sometime within ca 104 to 81

charge: *lex Servilia* (*Glauciae?*)<sup>1</sup> *de repetundis*<sup>2</sup>

defendant: C. Papius Masso (59) sen.?<sup>3</sup>

prosecutor: T. Coponius (8) of Tibur

outcome: C, prosecutor received reward of citizenship

*Cic. Balb.* 53, see also 54

Gruen, *RPCC* 301

- 1 See case #60, n. 1.

2 See case #357, n. 1.

3 Broughton *MRR* Suppl. 154 suggests that the prosecutor's admission to citizenship may show that the defendant was a senator. See also Badian (1961) 493.

359

date: by 91

advocate?:<sup>1</sup> L. Marcius Philippus (75) cos. 91, cens. 86 (*ORF* 269, #16)

juror: L. Aurifex (1) e.R.

witness: uncertain<sup>2</sup>

*Cic. de Orat.* 2.245

1 See Nicolet, *Ordre équestre* 2.798.

2 A *pusillus* is mentioned by Cicero as a witness.

360

date: by 91

claim: *apud centumviros* (issue unknown)

party: fratres (Cornelii?) Cossi (110a)

advocate (for Cossi): C. Scribonius Curio (10) cos. 76, cens. 61<sup>1</sup> (*ORF* 86.II)

advocate (against Cossi): M. Antonius (28) cos. 99, cens. 97 (*ORF* 65.VIII)

*Cic. de Orat.* 2.98

Münzer *RE* Supp. 1 (1903) 328

1 For a reference, see case #82, n. 3.

361

date: by 91

claim: civil suit (obstruction of daylight to house purchased by plaintiff)

defendant: M. Buculeius (1)

plaintiff: L. Fufius (5) tr. pl. 91 or 90<sup>1</sup>

Cic. *de Orat.* 1.179  
Roby (1886) 67-75

1 See case #84, n. 3.

362

date: by 91

claim: civil suit (sale of house with undisclosed servitude [easement])

defendant: M. Marius Gratidianus (42) pr. 85?, 82 II ?<sup>1</sup>

advocate (for Marius): M. Antonius (28) cos. 99, cens. 97 (*ORF* 65.IX)

plaintiff: C. Sergius Orata (33)

advocate (for Orata): L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF* 66.X)

Cic. *de Orat.* 1.178; *Off.* 3.67  
Münzer *RE* 2A (1923) 1713-14

1 On defendant's name see Shackleton Bailey, *Studies* 122. On the date of his praetorships, see Sumner, *Orators* 118-19.

363

date: by 91

claim: *apud centumviros* (inheritance by patron from an exile from an allied state)

Cic. *de Orat.* 1.177

364

date: by 91

claim: *apud centumviros* (dispute between plebeian Claudii Marcelli and patrician Claudii from other families over inheritance from a freedman's son)

Cic. *de Orat.* 1.176  
Wilkins, *de Oratore* ad loc.

365

date: by 91  
claim: civil suit (suit over use of public water)  
defendant: C. Sergius Orata (33)  
advocate (for Orata): L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF*  
66.XIII)  
plaintiff: Considius (1)

V. Max. 9.1.1  
Münzer *RE* IIA (1923) 1713

366

date: by 91  
claim: civil suit?  
party: C. Visellius Aculeo (1) e.R.  
advocate (for Aculeo): L. Licinius Crassus (55) cos. 95, cens. 92 (*ORF*  
66.XI)  
party: M. Marius Gratidianus (42) pr. 85? 82 II ?<sup>1</sup>  
advocate (for Marius): L. Aelius Lamia (74)  
juror: M. Perpenna (5) cos. 92, cens. 86

Cic. *de Orat.* 2.262, 269

1 See case #362, n. 1.

367

date: uncertain<sup>1</sup>  
charge: *parricidium* (murder of T. Cloulius *monetalis* 128)  
defendant: T. Cloelius of Tarraco = T. Cloulius (*monetalis* 98, q. ca 95),  
and either is the same as or is the brother of the Cloelius mentioned  
in Plut. *Pomp.* 7.1 (Cloelius 5) e.R.?.  
outcome: A

Cic. *S. Rosc.* 64; *V. Max.* 8.1. abs. 13

- 1 On the defendant's name, see Wiseman (*CR* 1967). See Tuplin (1979) and Cloud (1971) 46; Cloud suggests a date in the early 90s. Cicero places the trial *non ita multis ante annis* in relation to the trial of Roscius (case #129).

368

date: in 80 or in early 70s after case #129 and before Cicero's trip east  
charge: *lex Cornelia de sicariis et veneficis* (murder of C. Varenus and Salaris; wounding of Cn. Varenus)

defendant: L. Varenus (3)

advocate: M. Tullius Cicero (29) cos. 63 (Sch. 60)

prosecutors:

? C. Ancharius Rufus (6) of Fulginium (nom. del.)<sup>1</sup>

C. Erucius (2) e.R.?

outcome: C

Quint. *Inst.* 4.1.74, 4.2.26, 5.10.69, 5.13.28, 6.1.49, 7.1.9 and 12, 7.2.10, 7.2.22, 7.2.36, 9.2.56; Plin. *Ep.* 1.20.7; Prisc. xii (29 595K)

- 1 Cicero attempted to attribute the crimes to the slaves of Ancharius. Klebs, *RE* 1 (1894) 2102 suggests that Ancharius was a prosecutor. However, it would appear from Quintilian's discussion (7.2.10) that Cicero's strategy was taken as an example of transferring blame from the defendant to someone outside the trial, rather than a *retorsio criminis* to a prosecutor.

369

date: perhaps by 83

charge: challenge to citizenship

praetor: L. Cornelius Lentulus (194, cf. 195)

Cic. *Arch.* 9

370

date: long before 67  
 defendant: Attidius (Atidius 2) sen.  
 outcome: C, exile, fled to Mithridates

App. *Mith.* 90

371

date: 80s? 60s?  
 charge: *iudicium populi?* before comitia tributa (attempted purchase  
 of matron's sexual services)  
 defendant: Cn. Sergius Silus (38)<sup>1</sup>  
 prosecutor: Q. Caecilius Metellus Celer (85) tr. pl. 90, aed.? 88?<sup>2</sup>  
 outcome: C, pecuniary penalty

V. Max. 6.1.8

*MRR* 2.41 and 45, n. 5, Gruen, *RPCC* 300-1, Jones (1972) 6, 15

- 1 The defendant is perhaps the same as Cn. Sergius (9).
- 2 The prosecutor was probably functioning in his capacity as aedile (Momm-  
 sen, *StR.* 2.493). Another possible aedile with this name is Q. Caecilius  
 Metellus Celer (86) tr. pl.? 68?. aed. pl. 67?, cos. 60. Sumner, *Orators* 132-33  
 and Broughton *MRR* Suppl. 37 suggest that the earlier Metellus Celer is  
 more likely magistrate.

372

date: between 81 and 43  
 witness?: Octavius (not in *RE*)  
 advocate: M. Tullius Cicero (29)

Plut. *Cic.* 26.4

373

date: between 81 and 43  
advocate: M. Tullius Cicero (29) cos. 63  
witness: P. Consta (1)

Plut. *Cic.* 26.6

374

date: between 81 and 43  
advocate: M. Appius? Oppius? (not in *RE*)  
advocate (opposing): M. Tullius Cicero (29) cos. 63

Plut. *Cic.* 26.7

375

date: between 81 and 43  
charge: *parricidium* (poisoning of father)  
defendant: *adulescens*  
advocate (opposing): M. Tullius Cicero (29) cos. 63

Cic. *Plut.* 26.5

376

date: 70s  
defendant: Cn. Decidius (or Decius?), Samnis (1)  
advocate: C. Iulius Caesar (131) cos. 59, 48, 46, 45, 44 (*ORF* 121.XIII)

Cic. *Clu.* 161; Tac. *Dial.* 21.6

377

date: by 74  
defendant: M. Seius (3) aed. cur. 74

outcome: C

Cic. *Planc.* 12; see also *Plin. Nat.* 15.2

378

date: uncertain

charge: perhaps *de repetundis*<sup>1</sup>

defendant: L. Calpurnius Piso Frugi (98) pr. 74<sup>2</sup> or L. Calpurnius (98?)  
gov. Asia ca 100? ca. 97?<sup>3</sup>

prosecutor: (L.?) Claudius Pulcher (not in *RE*)

outcome: A

V. Max. 8.1. abs. 6

1 Syme (1956) 134 = *RP* 1.303 tentatively refers this case to case #48.

2 See Gruen (*Athenaeum* 1971) 55-56.

3 See Sumner (*GRBS* 1978) 151-53; *MRR* Suppl. 48; and also Syme *Historia* (1955) 58 = *RP* 1.277.

379

date: by 64

charge: capital charge

defendant: L. Sergius Catilina (23) pr. 68

prosecutor: Licinius (not in *RE*)

*Asc.* 93<sup>1</sup>

1 The reading of the Ciceronian lemma is vexed; see Marshall, *Asconius* 316.

380

trial uncertain<sup>1</sup>

date: 60s

charge: capital charge

defendant: A. Gabinius (11) cos. 58

advocate: M. Tullius Cicero (29) cos. 63

Cic. *Red. Pop.* 11

- 1 Gruen, *LGRR* 527 doubts the existence of the trial; see also Guerriero (1936) for doubts on the authenticity of the *Post reditum ad populum*.

381

date: sometime within late 60s to early 50s

charge: lex Plautia de vi<sup>1</sup>

defendant: (C.?) Caesernius (not in *RE*)

outcome: C

Cic. *Cael.* 71

- 1 Austin *Pro Caelio* ad loc. and Lintott (1968) 112 are right that the trial was held under a *vis* law, *pace* Gruen, *LGRR* 286 n. 103. Lintott suggests a date of 62.

382

date: sometime within late 60s to early 50s

charge: lex Plautia de vi<sup>1</sup>

defendant: M. Camurtius (not in *RE*)

outcome: C

Cic. *Cael.* 71

- 1 See case #381, n. 1.

383

defendant: C. Sallustius Crispus (10) pr. 46

[Cic.] *Sal.* 15-16

384

date: sometime between 80 and 50  
defendant: Maesia (10) of Sentinum, spoke *pro se*  
praetor: L. Titius (14)  
outcome: A (in first *actio*) by almost all votes

V. Max. 8.3.1

385

date: during or after 65 and by 56<sup>1</sup>  
charge: lex Papia  
defendant: M. Cassius (not in *RE*)  
prosecutors: Mamertini  
outcome: prosecution ended when verdict favorable to defendant  
obvious

Cic. *Balb.* 52

- 1 I.e. the *terminus post quem* is established by the passage of lex Papia, and the *terminus ante quem* by the date of the *pro Balbo*.

386

date: by 48<sup>1</sup>  
charge? claim?: *parricidium? iudicium privatum?*  
defendant: C. Popillius Laenas (16) tr. mil. 43  
advocate: M. Tullius Cicero (29) cos. 63 (Sch. 118)  
outcome: A

V. Max. 5.3.4; Sen. *Con.* 7.2.8; App. *BCiv.* 4.20; Plut. *Cic.* 48.1; Dio 47.11.1

- 1 The *terminus ante quem* is established by the date of death of Caelius, who urged Cicero to appear (V. Max. 5.3.4).

387

date: between 54 and 44<sup>1</sup>

witness: P. Servilius Vatia Isauricus (93) cos. 79, cens. 55

outcome: C

V. Max. 8.5.6; Dio 45.16.2

1 This was the time span during which Servilius was *censorius*.

388

date: unknown

charge: *quaestio*

defendant: Fulvius Flaccus (50) = ? Cn. Fulvius Flaccus (54) pr. 212

outcome: C

other: Philippus, slave of defendant was tortured eight times.

V. Max. 8.4.3

389

date: unknown

charge: lex Cornelia? de aleatoribus

defendant: Licinius Denticula (or Lenticulus) (80)? sen.?<sup>1</sup>

outcome: C, exile

Cic. *Phil.* 2.56; Dio 45.47.4

1 See Shackleton Bailey, *Studies* 47, *MRR* Suppl. 120.

390

date: unknown

charge: lex Cornelia de sicariis et veneficis (for the murder of C. Flavius [12] e.R. 150 = ? C. Flavius Pusio [158] e.R.)

defendant: Alexander (slave of P. Atinius [not in RE])

outcome: C, crucifixion at hands of *triumvir capitalis* L. Calpurnius (14)

other: defendant tortured six times

V. Max. 8.4.2

391

date: 66?<sup>1</sup>

claim: civil suit (repayment of debt)

defendant: C. Visellius Varro (3) aed. cur. 67, 66, or 59

plaintiff: Otacilia (19), wife of Laterensis, perhaps the mother of M. Iuventius Laterensis (16) pr. 51<sup>2</sup>

praetor: perhaps C. Aquillius Gallus (23) pr. 66<sup>3</sup>

outcome: charge dismissed

V. Max. 8.2.2

Watson (1965) 32-36; Gardner (1986) 73

1 See *MRR* Suppl. 222.

2 See Münzer *RE* 18 pt. 2 (1942) 1866.

3 *Val. Max.* specifically refers to Gallus as a *iudex*. But given his power to dismiss the case, he may have been the magistrate.

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# Indexes

These indexes refer by trial number to the individuals and procedures mentioned in the text. The reader should note that all possibilities are indexed; therefore, where, for example, several individuals have been mentioned as a possible prosecutor, all of them will be listed here, even though we may know that only one of them actually performed that role. The second index is a general index of names; it contains the names listed in the specific indexes that follow, as well as some other names mentioned in the text which do not fall into the categories represented in the other indexes. Names with a questionable *praenomen*, *nomen*, or *cognomen*, which are marked with a question mark in the case entries, are not marked with a question mark in the indexes. Rather, all the possibilities in the names are listed as separate entries for ease of reference. The alphabetizing of names follows the *RE* order of *nomen*, *cognomen*, *praenomen*.

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