

CATILINA: COURT CASES AND CONSULAR CANDIDATURE

It is well known that the future conspirator, L. Sergius Catilina, was charged in 64, along with a number of others, before a court *inter sicarios* with offences committed during the Sullan terror of the late 80's.¹ The general view, following Suet. *Iul.* 11.1, is that C. Iulius Caesar served as *iudex quaestionis* or *quaesitor* in these trials.² Catilina was also a candidate for the consulship in that year, and thought to be backed by Crassus and Caesar. Two questions are raised by this case. The first is: when was Catilina charged? If it was before the elections, it is clear that an impending charge did not prevent a man from standing for office. And that conclusion is relevant to the reason for the rejection of Catilina's *professio* at an earlier attempt to stand at the consular elections in 66, when another court case was pending. The second question is: did Caesar engineer Catilina's acquittal? This is usually taken to be the case, with the implication that Caesar was helping to clear the way for Catilina's candidature for the consulship.³

There are three important pieces of evidence for our knowledge of

¹ For a list of Catilina's victims, see [Q. Cic.] *Comm. Pet.* 9-10, and Ascon. 84. 6-7 C. For a prosopographical analysis of the equestrian victims, see C. Nicolet, Les noms des chevaliers victimes de Catilina dans le *Commentariolum Petitionis*, in *Mélanges d'histoire ancienne offerts à William Seston* (Paris 1974) 381-95.

² Suet. *Iul.* 11.1: ... *atque in exercenda de sicariis quaestione eos quoque sicariorum numero habuit*, ... Ex-aediles, as Caesar was in 64, were often chosen as *quaesitores*, especially when there was a shortage of praetors: A.H.J. Greenidge, *The Legal Procedure of Cicero's Time* (London 1901) 432; H.E. Butler and M. Cary (eds.), *Suetoni Divus Iulius* (Oxford 1927) n. *ad. loc.*; A.H.M. Jones, *The Criminal Courts of the Roman Republic and Principate* (Oxford 1972) 58-9. For a list of known ex-aediles who served as court presidents, see *ibid.* 128 nn. 86 and 87. On Caesar's appointment, see M. Gelzer, *Caesar: Politician and Statesman* (Oxford 1968) 42 n. 7.

³ E.g. E.G. Hardy, The Catilinarian Conspiracy in its Context: a Re-study of the Evidence, *JRS* 7 (1917) 173; M. Cary, Rome in the Absence of Pompey, *CAH* 9 (1951) 489 ("Caesar ... postponed the hearing until after the polling and eventually secured Catilina's acquittal."). Gelzer, *op. cit.* (n. 2) 42, comments that "powerful influences were brought to bear to keep Catilina alive politically" but does not name them. Cf. E. Mani, *Lucio Sergio Catilina* (Palermo 1969) 60-1.

Catilina's trial in 64, two fragments of Cicero's speech *in toga candida*, and Asconius' comment on the second, but there is a conflict of timing between Cicero and Asconius. It is worth putting the three passages down, so as to examine them more easily:

Cic. *in tog. cand.* (in Ascon. 90. 16–18 C. = fr. 17 P.):
quid tu potes in defensione tua dicere quod illi <dixerint?>
at illi multa>dixerunt quae tibi dicere non licebit.

Ibid. (in Ascon. 90. 20–24 C. = fr. 18 P.): *denique illi*
negare potuerunt et negaverunt: tu tibi ne infitiandi
quidem impudentiae locum reliquisti. qua re praeclara
dicentur iudicia tulisse si, qui infitiantem Luscium con-
demnarunt, Catilinam absolverint confitentem.

Ascon. 91. 5–13 C. (after comments on the condemna-
 tions of L. Luscium and L. Bellienus, Catilina's uncle,
 and on the execution of Q. Lucretius Ofella on Sulla's
 orders): *his ergo negat ignotum esse, cum et imperitos se*
homines esse et, si quem etiam interfecissent, imperatori
ac dictatori paruisse dicerent, ac negare quoque
<possent>: Catilinam vero infitari non posse. huius
autem criminis periculum quod obicit Cicero paucos post
menses Catilina subiit. post effecta enim comitia con-
sularia et Catilinae repulsam fecit eum reum inter sicarios
L. Luceius paratus eruditusque, qui postea consulatum
quoque petiit.

Asconius clearly says that Catilina was not brought to trial on the charge laid by L. Luceius until a few months after the delivery of Cicero's speech *in toga candida*,⁴ which was made in the Senate only a

⁴ The attempt of W.C. McDermott, *De Luceiis*, *Hermes* 97 (1969) 233–46, to distinguish the respected historian Luceius from the friend of Pompeius who stood at the consular elections with Caesar in 60, because he cannot believe that the honourable scholar could be identical to the unscrupulous consular candidate, denies the explicit identification by Asconius here. For criticism of McDermott's view, see E.S. Gruen, *The Last Generation of the Roman Republic* (Berkeley 1974) 141 n. 88.

few days before the consular elections in 64 (Ascon. 83. 11–12 C.), the occasion being an attack on the vetoing of a bribery law by the tribune Q. Mucius Orestinus. The second fragment of Cicero, however, on which Asconius is commenting, implies that Catilina had already been charged and all that was to come was the actual trial (unless the statement is wishful thinking on Cicero's part that Catilina would be hauled up before the court which had recently condemned other Sullan assassins). The fragment before that, especially *potes in defensione tua dicere*, also implies that Catilina was going to have to defend himself and therefore that he had already been charged. It is reasonable to assume that as the special court *inter sicarios* had already begun hearing cases before the elections (e.g. Luscius and Bellienus), Catilina's case had been put on the list. It would be consistent with the statements of Cicero and the comments of Asconius to suggest that Catilina was charged before the consular elections but that the case was not actually heard until after the elections. If that interpretation is right, Catilina had been charged but obviously was not prevented by that from standing at the elections. It follows then that a person facing a charge was not necessarily excluded from standing at an election.

Parallels can be found in the prosecution of Clodius by Milo in 57, and the prosecution of M. Aemilius Scaurus for provincial extortion in 54.⁵ Clodius presented himself as a candidate for the aedilician elections in 57, which Milo tried to prevent by bringing a charge against him; Scaurus nominated himself as a candidate for the consular elections in 54 as soon as he returned from a provincial governorship in Sardinia, and his accusers quickly brought a charge of provincial extortion to try and block his candidature. In Clodius' case the issue was complicated by the inability to hold elections in that year, and in Scaurus' case the accusers tried to hurry the trial on by giving up the thirty days allotted to them to collect evidence, since the elections were close at hand

⁵ Clodius: Cic. *Att.* 4.3.3–5; *Q.f.* 2.1.2–3; Dio 39.7.3–4. Scaurus: Cic. *Att.* 4.15.9; Ascon. 18–19 C. For further details of Scaurus' case, see E.J. Weinrib, *The Prosecution of Magistrates-Designate*, *Phoenix* 25 (1971) 149, and Gruen, *op. cit.* (n. 4) 331–7, who remarks on the parallelism between this case and that of Catilina for extortion — the attempt to block a candidate and the extent of consular support for the defendant.

(Scaurus had returned on 28th June, 54).⁶ But in both cases it is clear that the two men were not prevented from standing for office because a charge had been laid against them. According to John,⁷ the two cases show that the candidature of a person under a charge could be rejected on legal grounds only if the jury had been constituted to hear the case. The cases examined so far show that a person under a charge was not prevented from standing at an election.⁸

If it is the case that a person under a charge was not prevented from standing as a candidate, one must question a common explanation given for the rejection of Catilina's candidature at the consular elections in 66. Catilina had returned to Rome in that year following a propraetorship in Africa to stand at the elections for the consulships of 65.⁹ His candidature was rejected by the consul L. Volcacius Tullus; the reason given by Sallust, and followed by some modern authors, is that he had been accused of extortion by the natives of his province and was not allowed to stand because he had been placed under a charge. Sallust adds the further reason that Catilina was not allowed to stand because he had not made his *professio* within the required period (*intra legitimos*

⁶ Of course it could be argued that Scaurus' case is different in that the elections were postponed until the middle of 53, and by that time Scaurus had been acquitted (on 2nd September, 54: Ascon. 18.3 C.), so that he was not facing a charge when the elections were held. But it could not have been known when *professiones* were being made that delays to the elections were to occur. Cf. the reasons given by the prosecutors for pressing on with the case (Ascon. 19.10–15 C.; Gruen, *op. cit.* [n. 4] 333).

⁷ C. John, Sallustius über Catilinas Candidatur im Jahr 688, *Rhein. Mus.* 31 (1876) 426–7; cf. Hardy, *op. cit.* (n. 3) 157.

⁸ T. Mommsen, *Staatsrecht* I³ 503 n. 1.

⁹ It is not clear whether Catilina tried to stand at the normal elections or at the supplementary election held after the conviction for bribery of the two men successful at the normal elections. After describing the conviction and disqualification of these two men, Sallust goes on to say (*Cat.* 18.2–3) that 'a little later' (*post paulo*) Catilina was prevented from standing. This could be taken to mean that he put himself forward at the supplementary election: so, e.g., A. Garzetti, M. Licinio Crasso: l'Uomo e il Politico, *Athenaeum* 20 (1942) 24–5; G.V. Sumner, The Consular Elections of 66 B.C., *Phoenix* 19 (1965) 226. The argument of M. Mello, Sallustio e le elezioni consolari del 66 a. C., *Parola del Passato* 18 (1963) 37–9, that the phrase used by Cicero and Asconius (*professus petere consulatum*) indicates candidature at a normal election, is a little thin; the procedure at both elections would presumably have been the same, and the phrase cannot be used to show that Catilina stood at the normal elections.

dies).¹⁰ Asconius too seems to accept as the reason for the rejection of Catilina's candidature the fact that he had been charged with extortion, if the phrase he uses, *quaerebatur repetundarum*, means that he had formally been charged.¹¹ It may mean no more than informal complaints,¹² but if Asconius does intend it to mean that Catilina had formally been charged with extortion, then he would be guilty of a contradiction, for elsewhere he says that Catilina was not charged with extortion till 65.¹³

Whether Asconius is guilty of a contradiction or not, Sallust is wrong in saying that Catilina was charged with extortion in 66 and so prevented from standing at the consular elections, for we know from Cicero that the trial did not take place until 65, as Cicero tells us about the middle of that year that he was thinking of defending Catilina.¹⁴ Tyrrell's solution was to postulate two trials — one for extortion in 66 immediately after Catilina's return from Africa (which was used as the reason for the rejection of his candidature) and another in 65 on a charge of misappropriating public money, fitting the evidence for a trial

¹⁰ Sall. *Cat.* 18.3: *post paulo Catilina pecuniarum repetundarum reus prohibitus erat consulatum petere, quod intra legitimos dies profiteri nequiverat*. This reason is accepted by D.C. Earl, *Appian B.C.* I, 14 and 'professio', *Historia* 14 (1965) 328; E.S. Staveley, *Greek and Roman Voting and Elections* (London 1972) 210 with n. 408; Gruen, *op. cit.* (n. 4) 417.

¹¹ Ascon. 89.7-12 C.: *paulo ante diximus Catilinam, cum de provincia Africa decederet petiturus consulatum et legati Afri questi de eo in senatu graviter essent, supervenisse professus deinde est Catilina petere se consulatum. L. Volcacius Tullus consul consilium publicum habuit an rationem Catilinae habere deberet, si peteret consulatum: nam quaerebatur repetundarum. Catilina ob eam causam destitit a petitione*.

¹² Cf. Ascon. 84.4-5 C. (*legati Afri in senatu iam tum absente illo questi sunt*) and 89.7-8 C. (*legati Afri questi de eo in senatu graviter <essent>*).

¹³ Ascon. 85.10-13 C.: *ante annum quam haec dicerentur [i.e. 65] Catilina, cum redisset ex Africa Torquato et Cotta coss., accusatus est repetundarum a P. Clodio adolescente*. Cf. 66.8-10 C.

¹⁴ Cic. *Att.* 1.1.1, 1.2.1; cf. *Cael.* 10. He thought of defending Catilina because he had the jury he wanted and co-operation from the prosecutor, P. Clodius; on the extent of Clodius' collusion, see E.J. Phillips, Cicero, ad Atticum I. 2, *Philologus* 114 (1970) 291-4, and Gruen, *Some Criminal Trials of the Late Republic: Political and Prosopographical Problems*, *Athenaeum* 49 (1971) 59-62. Cicero's comment on the jury shows that it cannot have been constituted until about the middle of 65 and, if John is right (see above, n. 7), Catilina could not have been prevented in 66 from standing at the consular elections but at most can only have had a charge pending against him.

in that year.¹⁵ This runs counter to the evidence of Asconius who says that the trial instituted by Clodius in 65 was for extortion, and the only evidence we have from Cicero is for one trial, instituted by Clodius and in 65. We might further argue that a trial for extortion would not take place immediately after an accused person's return, as it might take some time for the natives to induce some Roman citizen to undertake the prosecution and for the evidence to be collected.

Sallust's additional reason that Catilina had not made his *professio* within the legal period needs closer examination. It is assumed that the procedure for the presentation of candidature would have been the same for both the ordinary and the supplementary elections held in 66,¹⁶ and the following discussion will not solve the question of which election Catilina stood at (cf. above, n. 9). There has been much discussion about the requirements of *professio*, and about Sallust's phrase *intra legitimos dies* in particular. There would seem to be reasonable agreement that at this time *professio* was obligatory,¹⁷ that it had to be made within a specified period,¹⁸ but that it was not required in person until 63 (while presence at the actual election had been required since the second century).¹⁹ Now, Asconius talks about Catilina's presentation of himself

¹⁵ *The Correspondence of Cicero*² (London 1885) 1.147. This runs counter to Cicero's later statements (*Att.* 1.16.9; *Pis.* 95) that Catilina was acquitted twice, i.e. at the extortion trial in 65 and at the trial *inter sicarios* in 64.

¹⁶ D.L. Stockton, *Cicero: a Political Biography* (Oxford 1971) 74 n. 19, while accepting that Catilina stood at the supplementary election, argues for a difference in procedure: a nice legal point was involved, on which the presiding magistrate took advice and concluded that "not having given due notice of candidature for the first election Catilina could not now be admitted to the second." An argument against this interpretation of procedure is that in 51 Curio was able to put in a nomination at the supplementary tribunician elections, though he had not been a candidate at the normal elections (*Cael. in Cic. fam.* 8.4.2).

¹⁷ Mommsen, *Staatsrecht* I³ 501-4; Earl, *op. cit.* (n. 10) 329-30; cf. J. Linderski, Constitutional Aspects of the Consular Elections in 59 B.C., *Historia* 14 (1965) 439, and Staveley, *op. cit.* (n. 10) 146-8.

¹⁸ Generally taken to have been the *trinum nundinum* between the announcement of the elections and the day of the elections: Earl, *op. cit.* (n. 10) 329; cf. Staveley, *op. cit.* (n. 10) 147, who argues for a comparatively short *legitimum tempus*.

¹⁹ There is much debate on this. Mommsen's view (*Staatsrecht* I³ 503 n. 3) is that the obligation of *professio* in person was introduced between January 63 and July 60 (based on *Cic. leg. ag.* 2.24 and the accounts of Caesar's consular candidature in 60); he has been followed by, among others, Earl, *op. cit.* (n. 10) 328-9; Linderski, *Mélanges offerts à*

as a candidate to the presiding magistrate and Tullus' consideration of that nomination as if procedure were being followed in the normal way. If that were the case, Sallust's phrase *intra legitimos dies* makes no sense, for Asconius' account suggests that Catilina observed all the requirements for making a *professio*. It is true that a man could persist with candidature though his nomination had not been accepted, or that a man who was legally disqualified from standing or who had not even been nominated could in fact receive a majority of votes in an election, but it is also true that the presiding magistrate, by virtue of his *imperium*, could declare that he would not return a candidate after he had expressed an intention to stand or refuse to put a candidate's name to the vote at an election or take no notice of votes cast in favour of a particular person when announcing the results of an election.²⁰ In view of the presiding magistrate's powers and of the requirements of *professio* mentioned above, there would have been little point in Catilina's nominating himself as a candidate outside the required period, for he would have realised that he would have had no chance of success. Hence Asconius' account suggesting that he made his *professio* in the proper way seems preferable, and Sallust's additional reason should be rejected; it was perhaps inserted by the author in view of later laws connected with electoral procedure, such as the *lex Pompeia* of 52 and Caesar's candidature for a second consulship *in absentia* (matters which would have been more strikingly familiar to Sallust as an active politician in that later period).

If Catilina had been formally accused at the time that he announced his intention to stand at the elections in 66, and if a person facing a

Kazimierz Michalowski (Warsaw 1966) 523–5; Staveley, *op. cit.* (n. 10) 147; Gelzer, *op. cit.* (n. 2) 64. The evidence for compulsory attendance at election is from Plut. *Mar.* 12 (Marius' election in absence to the consulship of 102). The opposing view, that *professio* in person was required from earlier than the time of Marius, has been put forward by A.E. Astin, 'Professio' in the Abortive Election in 184 B.C., *Historia* 11 (1962) 252–5, and J.P.V.D. Balsdon, Roman History 65–50 B.C.: Five Problems, *JRS* 52 (1962) 141 (accepted by Stockton, *Quis iustus induit arma?*, *Historia* 24 [1975] 250). Linderski, *loc. cit.* esp. 524–5, criticises Balsdon's view on the grounds that he has confused *professio* with election-presence as the latter was the only requirement. Cf. Earl's criticism (*loc. cit.* 331 n. 28) of Astin's view that compulsory *professio* existed early in the second century.

²⁰ Earl, *op. cit.* (n. 10) 329–30 and 331 n. 28; Staveley, *op. cit.* (n. 10) 148 with n. 266, and 210.

charge was legally barred from candidature, then it is not clear why Tullus found it necessary to consult his *consilium* before rejecting Catilina as a candidate, for the legal situation would have been perfectly clear.²¹ If, on the other hand, a person facing a charge was not legally barred from nominating as a candidate (as the trials of Catilina in 64, Clodius in 57, and Scaurus in 54 seem to show), or if Catilina had not formally been charged at the time of the elections in 66 (as has been argued above), it is easy to see why special action on the part of the consul was necessary to reject his candidature. That action was simply that Tullus, the consul presiding over the elections, exercised his prerogative of not accepting Catilina's *professio*, the quite legitimate exercise of consular *imperium*.²² There had been a recent case of the rejection of a candidate, when C. Calpurnius Piso rejected M. Lollius Palicanus' candidature at the consular elections of the previous year.²³ In both cases, party political reasons can be suspected: Piso, a vehement *inimicus* of Pompeius, was trying to prevent a Pompeian candidate from standing (as tribune in 71, Palicanus had strongly supported Pompeius' platform for his consulship in 70),²⁴ while Catilina was suspected of having been put up by Crassus, and there were some leading conservative senators who would not like to see Crassus' candidate successful. Tullus' action was taken after consulting some of the

²¹ I owe this argument to Professor J. Linderski. The line of argument has been put forward earlier by Hardy, *op. cit.* (n. 3) 157–8.

²² On the exercise of this prerogative by the consul at elections, see Earl, *op. cit.* (n. 10) 331. Staveley, *op. cit.* (n. 10) 210 with n. 408, says this power could only be invoked on strictly legal grounds: he bases this claim on the example of Tullus in 66, rejecting Catilina's candidature because he was facing a charge, but it has been argued that Catilina was not formally charged till 65. Further, the rejection of Palicanus' candidature in the preceding year (see next note) does not seem to have been based on any legal grounds, but resulted simply from the exercise of the consul's *imperium*; the argument advanced by Piso that he was not a fit person to hold the office because of his character (Val. Max. 3.8.3) is hardly a legal reason for rejecting his candidature.

²³ Val. Max. 3.8.3; cf. Cic. *Att.* 1.1.1.

²⁴ On Piso's anti-Pompeian attitude, see Gruen, Pompey and the Pisones, *CSCA* 1 (1968) 157–9, and L. Hayne, The Politics of M'. Glabrio, *Cos. 67, Class. Phil.* 69 (1974) 280.

senators,²⁵ and it is likely that optimate senators opposed to Crassus formed at least part of his *consilium*. In these consultations mention was no doubt made of Catilina's activities in his governorship and the possibility of an impeachment, and these were probably put forward as superficial reasons for coming to the decision not to accept his candidature (that may explain how involvement in a trial came to be part of the account of the reasons for the rejection of his candidature). Cicero stresses in a fragment of his speech *in toga candida* (quoted above, n. 25) that Tullus used his prerogative as electoral officer to reject Catilina's *professio* after seeking advice; it is Asconius, in commenting on this fragment, and Sallust, who say that it was rejected because Catilina was under a charge. In doing so, the former may be contradicting himself (as mentioned above), and the latter has been shown to be wrong.

To turn to the second question: did Caesar engineer Catilina's acquittal on the charge *inter sicarios* in 64? Both Seager and Gruen have recently called into question the commonly held view that he did.²⁶ A more basic question has to be answered first: was Caesar the court president, or the prosecutor? And was he therefore in a position to procure Catilina's acquittal, by the exercise of favour (if the former), or by collusion (if the latter), like Clodius in Catilina's trial for extortion in 65 (see above, n.14)? Suetonius (*Iul.* 11.1) says quite clearly that Caesar exercised the presidency of the *quaestio de sicariis*, but other evidence suggests only that he was an *accusator* in a number of the trials against Sullan creatures. Cicero says that Sulla's cruelty was requited many years later by Caesar; Dio says that Caesar was most instrumental in bringing about the trial and punishment of those who had committed murder during the Sullan proscriptions; and the Scholia Gronoviana says

²⁵ Cic. *in tog. cand.* in Ascon. 89.1–5 C. (=fr. 16 P.): *te vero, Catilina, consulatum sperare aut cogitare non prodigium atque portentum est? a quibus enim petis? a principibus civitatis? qui tibi, cum L. Volcacio cos. in consilio fuissent, ne petendi quidem potestatem esse voluerunt.* Asconius uses the phrase *consilium publicum* in his comment on this passage (quoted above, n. 11). Cf. H. Frisch, *The First Catilinarian Conspiracy: a Study in Historical Conjecture*, *C. & M.* 9 (1947) 12–3.

²⁶ R. Seager, *The First Catilinarian Conspiracy*, *Historia* 13 (1964) 347 n. 43; Gruen, *op. cit.* (n. 4) 77 n. 124. For the common view, see the authors cited in n. 2.

that Caesar accused and condemned many Sullani.²⁷ Each of these three sources may have oversimplified the situation, for they were writing many years later (even Cicero, whose speech containing the remark was delivered some twenty years after the event); apart from Catilina's case, we know of at least two others (Luscius and Bellienus), both of whom were found guilty, and persons writing some time later could well see those convictions as the work of the court president as much as the prosecutors. If Caesar were not *iudex quaestionis*, but simply an *accusator*, then he can have had nothing at all to do with the acquittal of Catilina, since his prosecution was undertaken by L. Luceius.

It seems hard, however, to avoid the precise and conclusive statement of Suetonius that Caesar was president of the court. If he was president of the court, then he could have used influence to favour Catilina which might have helped his acquittal. There are examples of the influence of court presidents: M'. Acilius Glabrio allowed Cicero to dispense with normal procedure and to launch straight into the examination of witnesses,²⁸ thus preventing the case against Verres dragging on into the holiday period at the end of 70 and so being postponed; the associates of Verres were trying to have the trial postponed to the next year when one of their number, M. Caecilius Metellus, would be in charge of the extortion court;²⁹ Cicero's explanation of his refusal at the end of 66 to grant Manilius the usual postponement when he had been charged with extortion was that this would put the trial into the next year when the court president might not be so favourable, whereas he wanted the case to be heard before himself as *praetor de repetundis*;³⁰ L. Cassius Longinus, praetor in charge of the treason court in 66, did not turn up

²⁷ Cic. Lig. 12: *quae tamen crudelitas* [of Sulla] *ab hoc eodem* [Caesar] *aliquot annis post ... vindicata est*. Dio 37.10.3: ... κατηγορήθησαν ἐπὶ ταῖς σφαγαῖς καὶ ἐκολάσθησαν. τοῦ Καίσαρος τοῦ Ἰουλίου τοῦθ' ὅτι μάλιστα παρασκευάσαντος. Schol. Gronov. 293 St. (on Cic. Lig. 12): *denique aliquot annis post occasum Sullae multos accusavit et damnavit Sullanos*.

²⁸ Cic. Verr. 1.55. For Glabrio's co-operation, see Hayne, *op. cit.* (n. 24) 281.

²⁹ Cic. Verr. 1.21 and 31; cf. Plut. Cic. 7.4.

³⁰ Plut. Cic. 9.5; cf. Dio 36.44.1-2. For further details and discussion of this case, see most recently Gruen, Notes on the 'First Catilinarian Conspiracy', *Class. Phil.* 64 (1969) 22-3; Phillips, Cicero and the Prosecution of C. Manilius, *Latomus* 29 (1970) 595-607; A.M. Ward, Politics in the Trials of Manilius and Cornelius, *TAPA* 101 (1970) 545-54.

on the day nominated for hearing the case of C. Cornelius, and so let the defendant off the hook.³¹

These examples show that it was thought that the court president could exercise favour, and Caesar may well have been able to do so at Catilina's trial in 64 if he were in charge of the court. But even so, there does not seem to have been much point: such favour could not have been designed to clear the way for Catilina's candidature in 64, for it has been shown that the trial did not come up until after the elections in that year. Perhaps it was designed to keep Catilina available as a candidate in 63, but that raises the question whether Caesar and his associates continued to support Catilina in that troubled year, a question which is beyond the scope of this paper.³²

THE UNIVERSITY OF NEW ENGLAND,
AUSTRALIA.

BRUCE MARSHALL

³¹ Ascon. 59. 18–21 C.

³² I am grateful to Professor J. Linderski and Dr. T.J. Cadoux for reading a draft of this paper and giving me the advantage of their criticism and advice. It should not be taken that they agree with all that is said.