

LUCILIUS AND ACCIUS

Lucilius 82-3 M. non dico: 'vincat licet, et vagus exulet, erret exlex'.

Nonius p. 10, 15.

This fragment from the second book of Lucilius is generally supposed to represent an utterance of the prosecutor T. Albucius in the burlesque account of the case against Q. Mucius Scaevola Augur on a charge of *repetundae* in his province of Asia, heard in 119¹⁾. The general purport of this fragment is paraphrased by Marx as follows: "orator profitetur se non eum esse qui dicat: licet vincat reus sese pecunias non cepisse, tamen exilio multetur"²⁾. In his note³⁾, he quotes for their similarity of expression and sentiment the words of the curse which Medea invokes upon Jason in the prologue of Seneca's tragedy:

vivat. per urbes erret ignotas egens

exul pavens invisus incerti laris (20-1)

and again, with acknowledgement to Francken, a similar phrase in Cicero *pro Cluentio* 175: cum vagus et exul erraret. To these might be added Ovid *Heroides* 6. 162, in which Hypsipyle, addressing Jason, turns the same curse upon Medea:

erret inops, exspes, caede cruenta sua.

The Ovidian and Senecan passages seem to point to a common source, which is probably to be found in a fragment from the *Medea* of Accius:

exul inter hostis, exspes expers desertus vagus⁴⁾.

1) Marx, vol. i pp. xliif; Cichorius, *Untersuchungen zu Lucilius*, p. 238.

2) The trial would have been held under the *Lex Acilia* of 123 or 122, which, so far as can be gathered from the Naples inscription, does not mention exile but restitution (either simple or double, according as to whether the malversation took place before or after the passing of the law) as the penalty in cases of *repetundae* (Bruns, *FJR*¹, p. 68). However, it is clear from Albucius' own case that exile was a possible sanction for such offences. Following his praetorship in Sardinia he was prosecuted for extortion in 103 by C. Julius Caesar, whom the Sardinians had selected as their *patronus*, and, on conviction, died in exile at Athens (Cic., *Div. in. Caec.* 63, *de Off.* ii. 50, *Tusc. disp.* v. 108).

3) vol. ii p. 38.

4) Ribbeck, *TRF*³ fr. 415 (*Medea* x); Nonius 12, 8.

Some such words⁵⁾, apparently, came almost to form an indispensable part of subsequent Roman versions of the Medea-Jason legend, and even, or so it would appear from the passage of the *Pro Cluentio* quoted above, to have joined the number of those stock sayings, applicable to a particular situation, which even in a garbled form still clearly proclaim their original. The probability that this is such a case is heightened when it is recalled that there the words are used in connexion with the sufferings of the elder Oppianicus, a convicted and outlawed felon⁶⁾.

The general drift of the Lucilian fragment is sufficiently clear in itself to suggest that here in the case of Albucius v. Scaevola we have another and earlier courtroom allusion to Medea suggested by mention of the penalty of exile, and the play made with the *ex-* compounds (*exulet, exlex*) may well indicate a deliberate echo of that passage of the *Medea* of Accius in which this fragment originally stood, making due allowance for the fact that the similarity is to some extent obscured by the change from the trochaics of Accius to the hexameter of Lucilius, and, inevitably, by the truncated nature of both quotations.

It is notorious that Accius was a poet who frequently drew upon himself the strictures of Lucilius, and it can well be imagined that, if the satirist is in fact here alluding to this odd morsel of Accius with its heavy incrustation of words beginning in *ex-*, he is not doing so with approval⁷⁾. But it is possible too that there is another reason, other than literary fastidiousness, that prompted Lucilius thus to quote or to parody Accius in a case against a member of the *gens Mucia*. We are told by the Auctor ad Herennium⁸⁾ that "C. Caelius iudex absolvit iniuriarum eum qui Lucilium poetam in scaena nominatim laeserat, P. Mucius eum qui L. Accium poetam nominaverat condemnavit"; in other words, that in similar cases of slander this Caelius failed to give Lucilius redress, while P. Mucius [Scaevola] found for Accius, a circumstance hardly calculated to endear either Accius

5) Cf. Apoll. Rhod. iv. 385: ἐκ δέ σε πάτρης ἀδίκ' ἔμαλ' σ' ἐλάσειαν Ἐρωίδες.

6) Cf. *Clu.* 170: adeone erat stultus ut illam, quam tum ille vivebat, vitam esse arbitraretur, damnati, exsulis, deserti ab omnibus, quem nemo recipere tecto, nemo adire, nemo adloqui, nemo aspicere vellet?

7) For a similar specimen of Accius' style, cf. Ribbeck, *TRF*³ fr. 592 (*Phoenissae* vii) "egredere exi efer te, elimina urbe", and note thereon: "haec Ciceroni in *Cat.* i. 5 in mente fuisse putat Langius Vind. p. 34." Cf. also W. Beare, *The Roman Stage*, p. 111.

8) ii. 19 (cf. i. 24).

or P. Mucius Scaevola or indeed his family to the satirist, who doubtless was convinced of the justice of his own case. If it could be shown that both these slander actions preceded the composition of Lucilius' account of the impeachment of Q. Mucius Scaevola Augur in 119, it would be pleasant to speculate that Lucilius has worked into this satire a spiteful reminder of his grievance that a Scaevola had accorded to Accius the justice which was withheld in his own case. The traditional identification of Caelius with C. Caelius Calvus, the consul of 94, would make such a supposition quite untenable. Cichorius, however, has shown clearly⁹⁾ that grave doubt must be attached to this identification for several reasons of which the most important are the banishment of the *ars ludicra* from the City by the censors of 115, L. Caecilius Metellus and Cn. Domitius Ahenobarbus¹⁰⁾; the fact that it is unlikely that Caelius Calvus would have been acting as *index* so long before his consulship; and, finally, that to give the statement of the Auctor ad Herennium its full point it is necessary to suppose that the *index* in the Lucilius action possessed an eminence as a jurist in some way comparable with that of P. Mucius Scaevola who figures in the Accius case. He, therefore, working within the years 130-115, confidently identifies Caelius with the historian L. Caelius Antipater, a jurist of standing, described by Cicero as *iuris valde peritus*¹¹⁾, as the only Caelius within this period likely to fit the circumstances. The case in which Accius successfully sued before P. Mucius Scaevola presents less difficulty and may be dated to the year 136, the year of Scaevola's praetorship¹²⁾. If, then, we accept Cichorius' reasoning, the suggestion that Lucilius' case ante-dates the composition of the second book of Satires comes well within the bounds of possibility, and nothing forbids us to entertain the idea that Lucilius in representing T. Albucius as quoting Accius in the prosecution of Q. Mucius Scaevola Augur was prompted by a rankling sense of grievance against Quintus' kinsman Publius for granting to Accius the remedy at law which, in similar circumstances, had been denied to him.

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9) *op. cit.* pp. 59f.

10) Cassiod. *Chr.*; cf. Broughton *MRR* vol. i pp. 531f.

11) *Brut.* 102.

12) Broughton *MRR* vol. i p. 486 and p. 488 n. 3.