

THE *PRO CAELIO* AND COMEDY

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1. INTRODUCTION

THE *PRO CAELIO* HAS BEEN extremely well served by scholarship. It is the subject of a distinguished commentary,¹ and a succession of painstaking and often brilliant studies have been devoted both to the structure of Cicero's speech and to the relationship of the trial to contemporary affairs in Rome and Alexandria.² It is therefore the more striking that the particular issue to be addressed in this paper—the importance of the comic genre as a structuring principle in the speech—received no sustained analysis until Katherine Geffcken's 1973 monograph, *Comedy in the Pro Caelio*.³ This work has, however, been much praised by subsequent students of the speech,⁴ and its seminal importance is apparent from a number of further studies of Ciceronian orations.⁵

My aim in proposing a fresh approach to this issue is neither to demolish Geffcken's overall thesis nor even to waste too much time observing those areas of her work where the account of comedy fails entirely to carry conviction.⁶ In some places there will indeed be a very clear convergence in approach; in others systematic consideration will be given to matters that Geffcken addresses in a more disparate or allusive manner.⁷ A more serious divergence must, however, be observed with regard to the fundamental function of comedy within the speech. To Geffcken, Cicero identifies himself with the wiles and verbal ingenuity of the comic hero as defined by Cedric Whitman and by Erich Segal, and the jury become complicit in his successful bid to talk his young associate Caelius out of a distinctly tricky

1. Austin 1960. Less detailed than Austin but still extremely informative is Cavarzere 1987.

2. Norden 1960, 133–64; Heinze 1925; Reitzenstein 1925; Drexler 1944; Classen 1973; Stroh 1975, 243–90; Wiseman 1985, 54–91; Narducci 1989, 189–225.

3. The matter is touched on very briefly in Reitzenstein 1925, 28; Michel 1960, 285. There is nothing on comedy per se in the study of humor in the *Pro Caelio* in Saint-Denis 1965, 129–44. Among more recent studies of the relationship between the *Pro Caelio* and the stage should be noted Salzman 1982; Arcellaschi 1997; and Hollis 1998.

4. See, e.g., Stroh 1975, pp. 280–81 and n. 123; Gotoff 1986, p. 125, n. 16; May 1988, p. 106, n. 53; Narducci 1989, p. 198, n. 22, with some reservations; Vasaly 1993, p. 179, n. 36; Gaffney 1994–95, 426.

5. Hughes 1997; Sussman 1998.

6. Geffcken 1973, 37–38, on Clodia as *miles gloriosa*, and 47–54, on verbs of perception, are perhaps the least convincing aspects of a very fine study.

7. Other passages still—most notably the collapse into mime at Cic. *Cael.* 61–69—are not discussed here for the simple reason that I have nothing to add to what Geffcken and others have already put so well.

situation.⁸ The approach advanced here depends rather more on Cicero's ability to make the jury study what he claims are the central issues in the case as if they were watching a comedy, and to appeal to their deep understanding of the rules of the genre. For Greek and Roman New Comedy has rules, and, however much room it may give to, however much pleasure it may take in, the representation of unruly behavior, there are fundamental generic controls over what a character may do, with whom he may do it, and for how long. It is Clodia's undoing that she has failed to appreciate the implications of these rules.⁹

The sense that the relationship between the *Pro Caelio* and comedy can be described in a significantly different way from that hitherto advanced is therefore one motivating factor behind the composition of this paper. Alongside this must be placed another, which will come to particular prominence in the closing sections of my investigation. Here the issue is not so much what role comedy takes in the *Pro Caelio* as what it might mean for our understanding of rhetorical practice to state that comedy takes such a role. What, in particular, is the relationship between comic morality and the *locus* as a unit of rhetorical argumentation, and what is the evidence for its historical development at Rome? This paper traces the matter as far back as it can go, and draws some potentially surprising conclusions regarding the cultural level of Plautine Rome.

2. DEFINING THE ISSUE

Much of what is at issue in the *Pro Caelio* is encapsulated in the *exordium* to the speech.¹⁰ The case is here introduced through the eyes of a visitor to Rome unacquainted with the legal institutions of the city and baffled as to why the court should be sitting on a public holiday. Should the legal basis of this procedure be explained to him, he would have no complaints. Should the actual substance of the case itself be set out, he would feel quite differently. For there is good reason why the law should allow for timely action against seditious individuals whose actions threaten the very stability of the state. This, however, is something else: the prosecution of a distinguished youth (*adulescens*) by the son of the man he himself has brought to trial and is now bringing again, but beneath this also an assault engineered by a prostitute (*meretriciis opibus*). Confronted with this situation, the visitor would judge that the prosecutor, L. Sempronius Atratinus, was worthy of pardon; that the woman's lust should be restrained; that the jury were hard pressed to have to deal with such matters when they should be at leisure.

Two essential and closely interrelated aspects of this opening may be observed. First, Cicero must make the jury regard the matters at issue as too

8. See esp. Geffcken 1973, 7, citing Whitman 1964, 30, and Segal 1967, 53–69.

9. In tracing the lineaments of Cicero's gleefully malicious construction of Clodia, it will be well to recall that this is very much a construction. For the rather different figure emerging from Cicero's correspondence, see Skinner 1983.

10. Cic. *Cael.* 1–2. My observations here owe much to the excellent analyses of Heinze (1925, 203–4); Geffcken (1973, 11–14); and Loutsch (1994, 327–48).

insignificant to justify prosecution under the special terms of the *lex Plautia de vi*;¹¹ the fact that this claim is put into the mouth of a helpful bystander offering guidance to a bemused tourist lends it a spurious objectivity;¹² its resumption at the start of the peroration suggests that its demonstration has been the key aim of the narrative and argumentative portions of the speech.¹³ Second, Cicero must offer an alternative interpretation of the events at issue. His approach to this problem is to take a complex prosecution case, one that implicates the defendant in the troubles of contemporary Alexandria and the massacre of an embassy sent to the senate in order to frustrate the return of the exiled Ptolemy Auletes II, and redefine it as little more than a society squabble.¹⁴ That the chief prosecutor is the son of the man Caelius himself has indicted offers an obvious subjective basis for his involvement, and the *exordium* makes much of this; later on in the speech, Cicero will exploit an indiscretion on the part of the man he paints as the most effective of the prosecution speakers in order to suggest that he too is motivated by the desire to rescue a friend.¹⁵ So much for Atratinus and Balbus. Yet they in turn, Cicero suggests, are merely the front for the forces of a courtesan (*meretriciis opibus*), and it is to these that the most strenuous resistance must be offered. Cicero expresses himself in deliberately allusive terms, but the presence on the prosecution benches of one P. Clodius, and the prospect of an appearance as witness for the prosecution by Clodia Metelli, sister of Cicero's great enemy P. Clodius Pulcher, presumably allows some inference to be drawn as to how he means to proceed.¹⁶

Cicero founds his defense on a strategy of trivialization, on the bid to make the jury believe that what is at issue is rather less than his opponents have made out. The obvious term from rhetorical theory to describe this must be *meiosis*.¹⁷ And it is in these terms that the *exordium*'s definition of two of the leading participants in the case in terms of the roles that they will play makes most striking sense. For the youth (*adulescens*) and the prostitute (*meretrix*) are both stock types familiar from the comic stage, and their characteristic modes of interaction were known to all. Comedy, moreover, is the dramatic form par excellence where things habitually turn out to be less than they seem and where the damage done through youthful exuberance is accommodated without any lasting harm to the family or to society at large.

11. For the legal relationship between the *lex Plautia de vi* and the *lex Lutatia de vi* to which Cicero refers at Cic. *Cael.* 70, see Loutsch 1994, p. 330, n. 14.

12. Loutsch 1994, 341.

13. Cic. *Cael.* 70.

14. For the Alexandrian and Roman background to the case, see esp. Wiseman 1985, 54–62.

15. For Balbus' indiscretion, see Cic. *Cael.* 56: *quin etiam L. Herennium dicere audistis verbo se molestum non futurum fuisse Caelio, nisi iterum eadem de re suo familiari absoluto nomen hic detulisset.*

16. For the identity of P. Clodius, see Austin 1960, 155–56.

17. Anon. *Rhet.* 1.393.11 Spengel-Hammer: μείωσις δὲ λόγος μείον ποιῶν φαίνεσθαι τὸ πρᾶγμα. Quint. *Inst.* 4.2.70, 4.3.15, 8.4.28 (cf. *TLL* 5.2.1983.48–58) use terms such as *mitigatio*, *minutio*, and *extenuatio*, but what is at issue in these cases is that the defendant admits to the crime with which he is charged but attempts to make the offense seem much less significant than the prosecution would make out. Cicero's trivialization of the whole trial still permits him to protest that Caelius is innocent as charged.

If, therefore, Cicero can induce the jury to interpret the central events of the case as if they were drawn from a Roman comedy, he may also lead them to the same moral evaluation that they would have reached when faced with the plot of the comedies performed contemporaneously at the Ludi Megalenses, had they but been allowed the freedom to attend.¹⁸ Cicero's audience will not therefore lose sight of laws and rules, but the most important law will be the *lex operis*, the law prescribed by the form.

Inasmuch as the key to this paper is to excavate both the dramatic situation that Cicero creates and the generic laws that he can expect the jury to apply, the obvious next step in this argument might simply be to launch into the speech and to identify the figures on the page with their counterparts in the works of Plautus and Terence. What must warn against this are two crucial factors: first, Caelius and Clodia appear before the jury in flesh and blood, and any inconcinnity between the roles assigned to them and the figures that they present in court will be the more strongly felt for that;¹⁹ second, for all that the roles that Cicero makes them play are familiar components of New Comedy, that is scarcely all that they are, and other more or less cognate modes of thought will have much to suggest. The ensuing remarks are designed to address both these challenges.

3. *ADULESCENS* AND *MERETRIX*

The term *meretrix* and the cognate adjective *meretricius* are applied to Clodia at §§1, 37, 48, 49 (tris), 50, and 57. The best translation of the term might be offered by "courtesan," because it is the role of the grand and independent Greek *horizontale* of New Comedy to which I will argue that Cicero's fashioning of Clodia most closely corresponds, but it is well known that Latin lacks the range of terms with which Greek distinguishes, for instance, the common prostitute working the street or enslaved to a pimp (*porne*) from the socially and economically independent courtesan operating from her own home (*hetaira*). If the term *meretrix* is the most common way of describing the courtesan, the same term can also be deployed in order to describe the much less exalted variety of prostitute as well.²⁰ There are, moreover, good reasons quite independent of comedy why Cicero might wish to redefine Clodia as a *meretrix*. The most general sense, that it is desirable that youthful

18. Geffcken (1973, 11–14) and Wiseman (1985, 77–78) rather assume that the jury would sooner be away at the games. This, however, may understate the potential excitement of the case. What is important is that Cicero reminds them of what they might otherwise be doing and introduces the concept of the *ludi* and, by extension, the comic. This is a strategy of suggestion.

19. The trial is nowhere better brought to life than in Wiseman 1985.

20. See Adams 1983, esp. 321–27. He does not, however, note the importance of the epithet *nobilis* in rendering the grand courtesan. This emerges clearly in the manifestly oxymoronic *scortum nobile*, e.g., at Livy 39.9.5 (*scortum nobile*), cf. M. Porcius Cato *ORF*³ frag. 69 = Livy 39.42.8 (*nobile scortum* for Philippos Poenus); Val. Max. 4.3 ext. 3 (*nobile Athenis scortum* for Phryne). For mid-Republican parallels for this term, cf. Ter. *Haut.* 227 (*meast potens procax magnifica sumptuosa nobilis*), *Hec.* 797 on the *nobilitatem* of Bacchis, and the claim of Donatus ad loc. that *nobilis* is the characteristic term used to describe either *meretrix* or *gladiator*; Lucil. frag. 263 M = Non. p. 557 L (*Phryne nobilis illa*).

sexual energies should be expended on professionals rather than in adultery, appears uncontested in conventional Roman morality;²¹ to admit only one entanglement, and this with a *meretrix*, is therefore an effective counter to the insinuations of the prosecution.²² More specifically, it will be apparent to all that Clodia Metelli is in no technical sense a *meretrix*. Rather, she is the child of one of the most distinguished aristocratic families in Rome and the widow of Q. Metellus Celer, consul of 60 B.C.E. To confess to or even, as Wilfried Stroh would have it, invent this affair, is therefore a calculated risk on the part of the defense, and depends on the assumption that the revelation will do far more damage to the reputation of Clodia than it does to that of Caelius.²³ In particular, to call Clodia a *meretrix* is to associate her with a group technically forbidden to give evidence in court; to suggest that Caelius has been the lover of a widow does not technically expose him to legal censure, but such a statement would be far more damaging to his reputation were that widow not also understood to live like a courtesan.²⁴ Where perhaps the artificiality of this role shows through most clearly is in the conflict between Clodia's considerable independent means and the necessary professionalism of the *meretrix*.²⁵ At §36, for instance, P. Clodius Pulcher is made to suggest that his sister, a noblewoman, tries to bind to her with gifts the son of a tight-fisted father;²⁶ at §52, when querying the claim that Clodia lent Caelius gold, Cicero cannot resist asking whether she really dared to despoil of its ornaments her statue of Venus, the despoiler of others.²⁷ R. G. Austin (ad loc.) points to a parallel in Martial where the proud courtesan is the despoiler of her lovers, but the obligation to plunder and despoil is already acknowledged by the worldly old Syra of the *He-*

21. For the appeal to traditional morality, see Cic. *Cael.* 48, cf. Plaut. *Curc.* 33–38; schol. at Hor. *Sat.* 1.2.31. For this motif in Greek comedy, see Eub. frag. 67 K-A = Ath. 568F–569A, frag. 82 K-A = Ath. 568 E-F; Men. frag. 508.6–8 K-A = [Lucian] *Amor.* 43; Philem. frag. 3 K-A = Ath. 569D–F praising the institution of public prostitution by Solon; Xenarch. frag. 4 K-A = Ath. 569A–D. Useful discussion in Lejay 1911, 33–34.

22. See Cic. *Cael.* 35: *accusatores quidem libidines, amores, adulteria, Baias, actas, convivia, comisationes, cantus, symphonias, navigia iactant, idemque significant nihil se te invita dicere*; 38: *si vidua libere, proterva petulanter, dives effuse, libidinosa meretricio more viveret, adulterum ego putarem, si quis hanc paulo liberior salutasset*; 49: *si quae non nupta mulier . . . sese in meretricia vita conlocarit . . . cum hac si qui adulescens forte fuerit, utrum hic tibi, L. Herenni, adulter an amator . . . videatur?* The analysis of the relationship between §38 and §49 in Norden 1960, 146–47, remains instructive even if the inferences drawn from it are contested.

23. I cannot accept the assumption of Norden (1960, 162), Classen (1973, p. 76, n. 74, 82), and Narducci (1989, 201–2), that the prosecution were bound to acknowledge a sexual liaison between Caelius and Clodia. For a more plausible view, see Heinze 1925, 246–47; Drexler 1944, 25; Wiseman 1985, p. 74 and nn. 107–8; Craig 1993, p. 109, n. 10. Stroh (1975, 270–72) sets out to demonstrate, not only that the prosecution never mentioned the affair, but also that it was either Cicero's personal invention or that he revealed something of which the majority of the jury could have no prior knowledge.

24. Note esp. Cic. *Cael.* 38: *vidua*, cf. 49 *non nupta mulier*. For the legal status of sexual relations with a widow, see Heinze 1925, 247.

25. Heinze 1925, 247.

26. Cic. *Cael.* 36: *vis nobilis mulier illum filium familias patre parco ac tenaci habere tuis copiis devinctum*.

27. Cic. *Cael.* 52: *tunc aurum ex armario tuo promere ausa es, tunc Venerem illam tuam spoliare ornamentis, spoliatricem ceterorum . . . ?*

cyrā.²⁸ The one thing that Clodia's personal situation permits her not to do is forced onto her by her new generic denomination.

The definition of Caelius as *adulescens* raises similar problems. The evidence of the elder Pliny would suggest that he was indeed twenty-six years old at the time of the trial, and this is defended by both Richard Heinze and Austin.²⁹ Yet the credibility of this view was challenged by Carl Nipperdey, who argued on the basis of Caelius' tribunate in 52 B.C.E. for a birthdate of 85, and the modern consensus follows the view of H. Wegehaupt that the defendant's subsequent *cursus honorum* implies birth in 88 or at latest 87.³⁰ The simple computation of an individual's years is, I would suggest, a quite inadequate measure for the appropriateness of a term that has as much to do with how one relates to others as son, husband, father; but it is at least worth noting that, be he twenty-six or thirty-two, the simple fact of his age cannot be invoked in order to deny that Caelius is an *adulescens*.³¹ The Varroian definition of the ages of man suggests that *adulescentia* lasts from the ages of fifteen to thirty and that thenceforth one is a *iuvēnis* until one is forty-five;³² this, however, conflicts with the linguistic evidence suggesting that *adulescens* and *iuvēnis* are synonyms both in Ciceronian usage and in all Classical Latin,³³ and with the presence in Cicero of *adulescentes* already well into their thirties.³⁴

Caelius then may quite properly, at least according to one conventional measurement, be called an *adulescens*. This, however, will scarcely suffice to explain why Cicero should seek to define him as such from the beginning of the speech and then continue insistently to do so throughout what follows, or why he should devote so much of the speech to reflections on the appropriate attitude to the more riotous forms of adolescent conduct.³⁵ Rather, what is at issue is the range of presuppositions regarding the life of

28. Mart. 4.29.5: *sic spoliaticrem commendat fastus amicam, / ianua nec iuvenem semper aperta tenet*, cf. Ter. *Hec.* 63–65: *ergo propterea te sedulo / et moneo et hortor ne quouisquam misereat, / quin spoliēs mutiles lacerēs quemque nacta sis*. For the necessary materialism of the courtesan, see Men. frag. 811 K-A = Stob. 4.22⁸.160: οὐδέποθ' ἐταῖρα τοῦ καλῶς πεφρόντικεν, / ἥ τὸ κακῶς πρὸς ὁδὸν εἰῶθεν ποιεῖν.

29. Plin. *HN* 7.165; Heinze 1925, p. 194, n. 3; Austin 1960, app. 1.

30. Nipperdey 1864, esp. 289, cf. Wegehaupt 1878, 5. For modern views, see esp. Sumner 1971, 247–48, and 1973, 146–47; Malitz 1975, 111; Cavarzere 1985, 31–35; Wiseman 1985, p. 62 and n. 41; Narducci 1989, 200.

31. It is important to note here that, while Cic. *Cael.* 50, *Phil.* 2.26, *Planc.* 52, *Vatin.* 16, and *Verr.* 1.97 speak of *homo adulescens*, and Cic. *Sen.* 37, *Red. pop.* 6, 20, *Rosc. Am.* 64, and *Verr.* 5.16, 21 of *filius adulescens*, neither Cicero nor any classical Latin writer refers to *vir adulescens*. For instances of *vir* and *adulescens* clearly contrasted in Cicero, see *Cael.* 73, *Fin.* 2.55, *Deiot.* 32, *Mur.* 73. It is pertinent in this context to consider the emphasis in the *Pro Caelio* on the defendant as one yet to realize himself and still subject to the power of his father: these are the relational considerations that render him still an *adulescens*.

32. Varro frag. 367 GRF = Censorinus *DN* 14.2. See also Isid. *Etym.* 11.2.1–8 for a similar stratification which, however, places adolescence between fourteen and twenty-eight.

33. Axelsson 1948 is authoritative on this point.

34. Powell at Cic. *Sen.* 39.

35. The terms *adulescens*, *adulescentulus*, *adulescentia* are employed with regard to Caelius at Cic. *Cael.* 1, 3, 5, 6, 10, 15, 18, 33, 36, 38, 39 bis, 49 [*si qui adulescens*], 50 [*adulescentem hominem* playfully unspecific], 70, 75, 78, 79, 80. Note also the stress on the *aetas* of Caelius at Cic. *Cael.* 5, 9 bis, 10, 11, 18, cf. 28, 30, 72 [*cuius prima aetas*], 75 [*in hoc flexu quasi aetatis*], 76. For more general reflections on what can legitimately be expected of an *adulescens* or *adulescentia*, see Cic. *Cael.* 28, 30, 41, 42 bis, 43 tris, 69, 73, 76. For general reflections on *aetas* as youth, see Cic. *Cael.* 41, 42 bis, 43, 76.

the *adulescens* to which Cicero can appeal should the jury be persuaded either that Caelius was an *adulescens* at the time at which any particular offense was committed or that he remains one at the time of the trial. He is thus both objectively and conceptually an *adulescens*.

The obligation to demonstrate that Caelius both was and is an *adulescens* can lead to some somewhat forced formulations, and the impression given is that adolescence in the *Pro Caelio* is as long and as short as Cicero requires it to be. An obvious instance of such elasticity is the first of Cicero's two accounts of the past life of the defendant.³⁶ As evidence for the long duration of Roman adolescence may be cited the fact that a passage replete with references to the youth of Caelius also refers twice to another participant in the case as an *adulescens*: L. Sempronius Atratinus.³⁷ The implication is that prosecutor and defendant should be judged according to the same age-based criteria when the former is in fact just seventeen and the latter very likely as old as thirty-two.³⁸ Elsewhere, by contrast, the same stage in life is necessarily made out to be a good deal briefer. Consider, for instance, §10 and the reply to the suggestion that Caelius was an associate of Catiline. Cicero begins his account in a striking manner: "For you know that, when this man was an *adulescens*, Catiline contested the consulship with me" (*hoc enim adulescente scitis consulatum mecum petisse Catilinam*). Austin (ad loc.) notes the looseness of the connective *enim*, but it might be no less appropriate to comment on the ablative absolute *hoc . . . adulescente*. The obvious explanation for this phrase is by reference back to §9 and the account of the education furnished to Caelius by Cicero and Crassus subsequent to his adoption of the *toga virilis*, for Cicero will go on to state that, in this particular consular campaign, Caelius never left his side or went over to the opposition even though many other virtuous youths did just that.³⁹ This, however, will not entirely suffice, for the compartmentalization of time implied in *hoc . . . adulescente* strongly suggests a point of reference not only backwards to time before but also forwards to time after, and the explanation is not hard to find. For Cicero cannot escape the fact that the very next year saw Caelius active in the support of Catiline's second consular campaign, and the only way in which he can get around this is suddenly to present a markedly contracted version of the period of probation prior to emergence as a man.⁴⁰ His response to this embarrassment is to ask quite how long he was meant to play pedagogue to his charge.⁴¹ Caelius had already spent so

36. Cic. *Cael.* 6–18; cf. 72–77.

37. Cic. *Cael.* 7, 15. See also 2, 7, and 8 for references to the *aetas* of Atratinus.

38. Cic. *Cael.* 2 does, however, refer to the *pueritia* of Atratinus, and this is one claim that could never be made for Caelius. For the fatherly, indeed patronizing, attitude of Cicero to Atratinus, see Quint. *Inst.* 11.1.68 and the remarks of May (1994–95, 435). For the age of Atratinus at the time of the trial, see L. Sempronius Atratinus *ORF* frag. 1 = Euseb. *Chron.* a. 1996.

39. Cic. *Cael.* 10: *ad quem si accessit aut si a me discessit unquam—quamquam multi boni adulescentes illi homini nequam atque improbo studuerunt—tum existimetur Caelius Catilinae nimium familiaris fuisse . . . nunquam ad illum accessit, a me nunquam recessit.*

40. Cic. *Cael.* 11–12.

41. For the *custos* as guardian of a young man's behavior, see Plaut. *Merc.* 90–92; Ter. *Phorm.* 287–88; Cic. *Rep.* 4.3; Hor. *Ars P.* 161.

many years in the forum and could look after himself; in Cicero's day, you went through but one year's probation and were then a man amongst men (*vir inter viros*).⁴² It will be apparent that Caelius is an *adulescens* when it suits Cicero for him to be so and not when it does not.⁴³ This should concentrate our attention even more closely on what beyond mere years can define an *adulescens* and how these associations are deployed in the case.

As with the category of *meretrix*, that of *adulescens* has associations beyond the strictly comic, and it will be worth considering these first. In particular, there are various moments in the *Pro Caelio* where Cicero's principal point of reference seems to be a distinctly Aristotelian ethology. *Rhetoric* 2.12, in which Aristotle describes the *ethos* typical of the young man (*neos*), appears to inform various aspects of the characterization of Caelius. Cicero's careful deployment and repetition of certain chosen terms is a special characteristic of the speech. Central amongst these is the denial of vicious appetite (*libido*) in Caelius and its recurrent attribution to Clodia.⁴⁴ It is, however, incompatible with a defensive strategy that turns on the admission of an affair with an older woman, and implausible in the light of the very public effect that Caelius' behavior makes, for Cicero simply to paint his client as a man free from appetite.⁴⁵ Rather, he seeks out an alternative concept to associate first with Caelius, next with his time of life in general, one that will speak for the physical desires of the young but also for their ambition and desire for recognition. This he finds in *cupiditas*.⁴⁶ Austin offers repeated consideration of the sense to be attributed to *cupiditas* in this speech, but not to its overwhelming association with the young.⁴⁷ Yet it is perhaps this aspect that offers the best explanation if we consider the opening to Aristotle's description of the *ethos* of the young:⁴⁸

οἱ μὲν οὖν νέοι τὰ ἥθη εἰσὶν ἐπιθυμητικοί, καὶ οἷοι ποιεῖν ἃ ἂν ἐπιθυμήσωσι. καὶ τῶν περὶ τοῦ σώματος ἐπιθυμιῶν μάλιστα ἀκολουθητικοί εἰσι τῇ περὶ τὰ ἀφροδίσια καὶ ἀκρατεῖς ταύτης, εὐμετάβολοι δὲ καὶ ἀνίσκοροι πρὸς τὰς ἐπιθυμίας, καὶ σφόδρα μὲν ἐπιθυμοῦσι ταχέως δὲ παύονται· ὁξεῖται γὰρ αἱ βουλήσεις καὶ οὐ μεγάλοι, ὥσπερ αἱ τῶν καμνόντων δίψαι καὶ πεῖναι.

The young then are characteristically desirous and tend to do whatever they desire. And of physical desires they are particularly subservient to that which concerns sex and unable

42. For the firm differentiation between *vir* and *adulescens*, see n. 31 above.

43. For the schema here implied and its clear distinction between youth and manhood, cf. Men. frag. 494 K-A = [Hdn.] *Philet.* 107: παῖς γέγον', ἔφηβος, μενράκιον, ἀνὴρ, γέρων; Xen. *Symp.* 4.17: παῖς . . . καὶ μενράκιον καὶ ἀνὴρ καὶ πρεσβύτες; Catull. 63.63: *ego mulier, ego adulescens, ego ephebus, ego puer*; Ov. *Met.* 10.552–53: *nuper erat genitus, modo formosissimus infans, / iam iuvenis, iam vir, iam se formosior ipso est*; Hor. *Ars P.* 161: *imberbus iuvenis*, cf. 166: *aetas animusque virilis*. Cicero has good reason only here to address the issue in such terms.

44. For *libido* and its cognates associated with Clodia, see Cic. *Cael.* 1, 2, 34, 35, 38, 47, 49, 78. For the prosecution's accusations of *libido* against Caelius, see Cic. *Cael.* 25, 35. Geffcken (1973, p. 46, n. 1) interprets *explere libidinem* at Cic. *Cael.* 49 as referring to the *libido* of Caelius, but Austin (ad loc.) must be right to argue that it is actually that of Clodia herself.

45. For the public display of Caelius, see esp. Cic. *Cael.* 77.

46. For *cupidus* and *cupiditas* applied to Caelius, see Cic. *Cael.* 16, 74, cf. 38, 45. For the *cupiditas* of youth defended, see 28, 42 bis, 43, 49, 76. For *cupiditas* in a hostile sense, see Cic. *Cael.* 22 on the prosecution's hired witnesses.

47. Austin at Cic. *Cael.* 1 (*libidinem*) and additional note at Cic. *Cael.* 16 (*cupiditas*).

48. Arist. *Rh.* 1389a3–9.

to control this. But they are quick to change and easily satiated in their desires, and they desire strongly but desist swiftly. For their wishes are sharp and not great, like the thirst and the hunger of the exhausted.

The young are therefore instinctively desirous but their desires are as brief as they are acute. This notion is, I would suggest, entirely consonant with Cicero's doctrine throughout the *Pro Caelio*, that the *cupiditas* of youth should find its release, for this is a phase and will not last long.⁴⁹ This, of course, is also part of Cicero's grand *captatio benevolentiae* for his client, even if the orator insistently plays the game of suggesting that Caelius himself has no need of such indulgence.⁵⁰ Yet the ability of *cupiditas* to translate Aristotelian ethology is not limited to this one form of desire. Consider, for instance, the following passage of the *Rhetoric* and Aristotle's insistence on the yearning of the young for recognition and for victory:⁵¹

καὶ ἥτους εἰσι τοῦ θυμοῦ· διὰ γὰρ φιλοτιμίαν οὐκ ἀνέχονται ὀλιγορούμενοι, ἀλλ' ἀγανακτοῦσιν ἂν οἶωνται ἀδικεῖσθαι. καὶ φιλότιμοι μὲν εἰσιν, μᾶλλον δὲ φιλόνοικοι (ὕπεροχῆς γὰρ ἐπιθυμεῖ ἡ νεότης, ἡ δὲ νίκη ὑπεροχὴ τίς).

And they are subject to their spirit; for their desire for honor will not allow them to endure scorn, but they are distressed if they believe that they are being wronged. And they desire honor, but even more victory (for youth yearns for superiority, and victory is superiority).

Where Aristotle speaks of the φιλοτιμία of the young, Cicero refers to the *cupiditas gloriae* of Caelius;⁵² where Aristotle finds the young subject to φιλονικία, Cicero puts down his client's undue zeal for prosecution to *cupiditate vincendi*.⁵³ If the impression that Caelius gives is one of persistent excess, this too is entirely consonant with Aristotelian doctrine and will not last into age.⁵⁴

4. CAELIUS AND THE VICINITAS MERETRICIA

It emerges from §§17–18 that the prosecution have made much of the fact that, subsequent to his successful prosecution of C. Antonius Hybrida in 59 B.C.E., Caelius left his father's home and moved to a new house on the Palatine. His landlord was none other than P. Clodius Pulcher and the rent was not cheap. The prosecution evidently accused Caelius of excessive ex-

49. For *cupidus* as a Latin translation of ἐπιθυμητικός, see also the very Aristotelian ethology at Hor. *Ars P.* 165 with Brink ad loc.

50. Cic. *Cael.* 30, 45.

51. Arist. *Rh.* 1389a10–13.

52. Cic. *Cael.* 74. For *cupiditas gloriae*, see also Cic. *Leg. agr.* 2.91, *Sest.* 134, *Verr.* 3.48, and esp. *Pis.* 82, where, as here, it is associated with the ambitions of the young as expressed through the undertaking of a prosecution. For a similar defense of youthful ambition, see Lys. 16.20–21.

53. Cic. *Cael.* 76.

54. Cic. *Cael.* 76–77: *etenim semper magno ingenio adulescentes refrenandi potius a gloria quam incitandi fuerunt; amputanda plura sunt illi aetati, si quidem efflorescit ingeni laudibus, quam inserenda. qua re, si cui nimium effervisse videtur huius vel in suscipiendis vel in gerendis inimicitii vis, ferocitas, pertinacia . . . iam aetas omnia, iam res, iam dies mitigarit*, cf. Arist. *Rh.* 1389b2–8: καὶ ἅπαντα ἐπὶ τὸ μᾶλλον καὶ σφοδρότερον ἁμαρτάνουσι, παρὰ τὸ Χιλόνειον (πάντα γὰρ ἄγαν πράττουσιν· φιλοῦσι γὰρ ἄγαν καὶ μισοῦσιν ἄγαν καὶ τᾶλλα πάντα ὁμοίως), καὶ εἰδέναι ἅπαντα οἶονται καὶ δυσχυρίζονται (τοῦτο γὰρ αἰτίον ἐστὶν καὶ τοῦ πάντα ἄγαν), καὶ τὰ ἀδικήματα ἀδικοῦσιν εἰς ὕβριν, οὐ κακουργίαν.

penditure and implied that the departure from the family home demonstrated a want of devotion to the father.⁵⁵ Cicero's immediate response to this is that Caelius moved house in order to be nearer the forum and thus capitalize on his recent professional success; the decision was taken not only with his father's permission but indeed with his encouragement.⁵⁶ It is helpful that Caelius senior should be present in court to support his beleaguered son.⁵⁷

So much for the prosecution case and Cicero's immediate response. More significant by far—and here the participants begin to conform to much more specifically theatrical modes—is the company in which Caelius now finds himself. For it is at §18 that this most overtly dramatic speech makes its first nod to the stage, and, in doing so, it takes its inspiration from the words of the speakers who have gone before. Fortunatianus records that Atratinus had used his prosecution speech to dub the gold-hungry Caelius a “pretty-boy Jason” (*pulchellus Iason*);⁵⁸ Caelius retorted by dubbing his opponent “Pelias in ringlets” (*Pelia cincinnatus*).⁵⁹ Cicero now reminds the jury of the contribution of M. Crassus to this cycle of mythic allusion and banter and his quotation of the first line of Ennius' *Medea* (*utinam ne in nemore Pelio*). Crassus had invoked the speech of the nurse in order to comment on the calamitous arrival of Ptolemy Auletes in Rome; Cicero caps this by quoting the eighth and ninth lines of the same speech (*nam numquam era errans . . . Medea animo aegro, amore saevo saucia*), but now in a very different context.⁶⁰ For Cicero's point is that the truly disastrous move is precisely that of Caelius to his new lodgings, and the reason why it is so damaging is that it is here that he encounters the Palatine Medea (*Palatinam Medeam*). No explicit identification of this figure is yet offered, but a clear hint is thrown out in the suggestion that this Medea is sick of mind and wounded with a savage love. Caelius, it is implied, has allowed himself to play Jason to a modern-day Medea, and what is now being acted out in court is the vengeance of the rejected Medea against her former consort.

What makes the court so different from the tragic stage is that the jury are not conditioned to horrified passivity in the manner of the theatrical audience. Their *Medea* will only reach realization should they vote to convict the defendant. Cicero, meanwhile, offers an alternative generic structure for them to follow. And the key to this structure lies in the orator's construction of Caelius and Clodia as neighbors.⁶¹ For Clodia becomes the explicit target of the orator's assault at §§30–50, and it is finally at §37, when the Caecilian stern father is made to ask Caelius, “Why did you take yourself off into that

55. For excessive expenditure and Cicero's pat answer to the assertion that Caelius has run up debts, see Cic. *Cael.* 17 and the comments of Stroh (1975, 255); for the accusation of insufficient filial devotion and its likely relation to the move to the Palatine, see Cic. *Cael.* 3, 18, and Heinze 1925, 206–7; Classen 1973, 69.

56. Cic. *Cael.* 18.

57. Cic. *Cael.* 4–5, 79–80.

58. L. Sempronius Atratinus *ORF* frag. 7 = Fortunatianus p. 124 Halm.

59. M. Caelius Rufus *ORF* frag. 37 = Quint. *Inst.* 1.5.61.

60. Cic. *Cael.* 18.

61. For this concept expressed through the terms *vicinus* and *vicinitas*, see Cic. *Cael.* 36, 37, 38, 47, 75.

prostitute neighborhood?” (*cur te in istam vicinitatem meretriciam contulisti?*), that the §1 allusion to the forces of a prostitute as the driving force behind the prosecution is finally unpacked. Caelius is thus an *adulescens* and Clodia a *meretrix*, and their entanglement derives from the fact that they live as neighbors to one another. And it is in this basic structure that the tragedy threatened at §18 melts away and what is revealed instead is one of the classic scenarios of New Comedy.⁶²

At §36 Cicero exchanges the mask of the censorious and rustic Ap. Claudius Caecus for the decidedly more urbane and morally indulgent figure of P. Clodius Pulcher.⁶³ The latter has his own diagnosis of the problem, and it is one which it will be worth considering in some detail:

eum putato tecum loqui: “quid tumultuaris, soror? quid insanis?”

quid clamorem exorsa verbis parvam rem magnam facis?

vicinum adulescentulum aspexisti; candor huius te et proceritas, voltus oculique pepulerunt; saepius videre voluisti; fuisti non numquam in isdem hortis; vis nobilis mulier illum filium familias patre parco ac tenaci habere tuis copiis devinctum. non potes; calcitrat, respuit, repellit, non putat tua dona esse tanti. confer te alio. habes hortos ad Tiberim ac diligenter eo loco paratos quo omnis iuventus natandi causa venit; hinc licet condiciones cotidie legas; cur huic qui te spernit molesta es?”

Imagine that he is speaking with you: “Why do you rage, sister? Why do you act like a madwoman?”

Why do you start to shout and make a mountain out of a molehill?

You set eyes on the young lad next door; his beauty and vigor, his face and eyes bowled you over; you wanted to see him more often; on occasion you were in the same gardens as him; an aristocratic woman, you wish to use your wealth to keep bound to you that son of a thrifty and tight-fisted father. You can’t; he kicks you away, rejects you, drives you off, he does not think that your gifts are worth that much. Take yourself off somewhere else. You have gardens by the Tiber that you were careful to buy just where all the young men come for a swim; you can fix up liaisons there every day. Why cause this one who spurns you trouble?”

There is much of import in this passage, but it may be noted from the start that its basic tone is that suggested by the comic trochaic septenarius that Clodius is made to quote; the implication of the line, that a mountain is being made out of a molehill, recalls the strategy of *meiosis* that Cicero employs in §1, and helps deflate the tragic passions of §18 and, by implication, of the prosecution in general. This is just not worth getting worked up about.

62. Geffcken (1973, 31–33 and 43) has many fine remarks on the theme of the *domus* in the speech and on Clodia’s house as a form of stage set, but does not argue for the structure that I identify. For the idea of an implicit stage set, see also Arcellasci 1997, 80–81, 87.

63. Cic. *Cael.* 36: *sin autem urbanus me agere mavis, sic agam tecum. removebo illum senem durum ac paene agrestem; ex his igitur sumam aliquem ac potissimum minimum fratrem qui est in isto genere urbanissimus; qui te amat plurimum, qui propter nescio quam, credo, timiditatem et nocturnos quosdam inanis metus tecum semper pusio cum maiore sorore cubitabat.* The conflict between rustic restraint and conservatism and urban luxury and modernity that this passage implies is, of course, typical of New Comedy.

To Clodius the trouble all began when his sister set eyes on the handsome young man next door and found herself falling for him. Now Clodius is much too loving a brother actually to call his sister a *meretrix*—that can be left for the stern Caecilian father who is next up on stage in §37—and no self-respecting *meretrix* would ever be foolish enough actually to fall in love, but there is still a clear comic scenario here being played out.⁶⁴ This perhaps may best be illustrated by a fragment of the Greek comedian Antiphanes in which the prostitute, for whom the neighboring youth falls, turns out actually to be a citizen and to have a heart of gold:⁶⁵

οὗτος δ' ὃν λέγω
 ἐν γειτόνων αὐτῷ κατοικούσης τινός
 ἰδὼν ἑταίρας εἰς ἔρωτ' ἀφίκετο,
 ἀστῆς, ἐρήμου δ' ἐπιτρόπου καὶ συγγενῶν,
 ἧθός τι χρυσοῦν πρὸς ἀρετὴν κεκτημένης,
 ὄντως ἑταίρας· αἱ μὲν ἄλλαι τοῦνομα
 βλάπτουσι τοῖς τρόποις γὰρ ὄντως ὃν καλόν.

This man I'm talking about saw a certain *hetaira* living in the house next door and fell in love with her, a citizen, but with no guardian or kin, possessed of a golden and virtuous disposition, truly a *hetaira*; for the rest spoil a name which is truly fair by the way they carry on.

The scenario that Antiphanes suggests is scarcely unique in ancient comedy, though the prostitute lovers are not always so virtuous. For in both Greek and Roman comedy the stage setting conventionally represents a city street, most often one in Athens, with side exits leading to a combination of forum, port, and country, while at the back stand two or three domestic houses through the front door of which characters will enter or leave the stage. Six of the twenty extant plays of Plautus—*Asinaria*, *Bacchides*, *Menaechmi*, *Poenulus*, *Pseudolus*, *Truculentus*—represent either independent courtesans or prostitutes under the sway of pimps who live next door to their lovers, and the same is true of the *Andria*, *Eunuchus*, and *Hecyra* of Terence.⁶⁶ To the extent that Clodia is the mistress of her own house, and therefore morally responsible for all the shady dealings therein, she is most closely to be associated with the figure of the independent courtesan: the Bacchis sisters in the *Bacchides*, Phronesium in the *Truculentus*, Thais in the *Eunuchus*, or Bacchis in the *Hecyra*. What, however, does the genre prescribe for such a figure and where precisely does Clodia go wrong? The *prosopopoeia* of Clodius will offer some important clues in this matter but it is appropriate first to locate these within a broader generic picture.

64. For the folly of a *meretrix* falling in love, see Plaut. *Cist.* 94–97: *SEL. quid opust verbis? consuetudine / coepi amare contra ego illum, et ille me. LEN. o mea Selenium, / adsimulare amare oportet. nam si ames extempulo / melius illi multo, quem ames, consulas quam rei tuae.*

65. Antiph. frag. 210 K-A = Ath. 572A. Men. *Kith.* 99–101 suggests a similar motif, but 92–97 makes clear that Moschion actually fell for the girl when he sailed to Ephesus and saw her there.

66. See Plaut. *Asin.* 52–53, *Bacch.* 205–6, *Men.* 173–76, 790, *Poen.* 152–55, 1093, *Pseud.* 526, 896, *Truc.* 246; Ter. *An.* 69–72, 104–5, *Eun.* 359, *Hec.* 97–98, 719–20.

5. PLUTARCH, MENANDER, AND THE LIFE OF THE COURTESAN

Potentially one of the most revealing accounts of the comic construction of the relationship between the prostitute or courtesan and her young lover is to be found in Plutarch's discussion of the entertainment appropriate for men who are at dinner and about to return home to their wives.⁶⁷ What particularly recommends Menandrian comedy is its soothing effect on the passions and the morally improving aspect of its attitude to the erotic. Of particular importance for the issues to be addressed in this paper is the following passage from *Moralia* 712C–D:

ἔχει δὲ καὶ τὰ ἐρωτικά παρ' αὐτῷ καιρὸν πεπωκόσιν ἀνθρώποις, καὶ ἀναπαυομένοις μετὰ μικρὸν ἀπιοῦσι παρὰ τὰς ἑαυτῶν γυναῖκας· οὔτε <γάρ> παιδὸς ἔρως ἄρρενός ἐστιν ἐν τοσούτοις δράμασιν, αἱ τε φθοραὶ τῶν παρθένων εἰς γάμον ἐπεικῶς καταστρέφουσι· τὰ δὲ πρὸς τὰς εταίρας, ἂν μὲν ὧσιν ἰταμαὶ καὶ θρασεῖαι, διακόπτεται σωφρονισμοῖς τισιν ἢ μετανοαῖς τῶν νέων, ταῖς δὲ χρησταῖς καὶ ἀντερώσαις ἢ πατήρ τις ἀνευρίσκεται γνήσιος ἢ χρόνος τις ἐπιμετρεῖται τῷ ἐρωτι, συμπεριφορὰν αἰδοῦς ἔχων φιλόφρων. ταῦτα δ' ἀνθρώποις ἄλλο μὲν τι πράττουσιν ἴσως οὐδεμιᾶς σπουδῆς ἄξιά ἐστιν· ἐν δὲ τῷ πίνειν οὐ θαυμάσαιμι ἄν, εἰ τὸ τερπνὸν αὐτῶν καὶ γλαφυρὸν ἅμα καὶ πλάσιν τινα καὶ κατακόσμησιν ἐπιφέρει, συννεξομοιοῦσαν τὰ ἦθη τοῖς ἐπεικέσι καὶ φιλανθρώποις.

And the erotic aspect in his work is timely for men who have been at drink but are soon to stop and return to their wives. For in all his plays there is no love for boys, and the rapes of maidens end appropriately in marriage; relationships with courtesans, should the women be bold and shameless, are severed when the young men gain wisdom or change their minds; for those who are good and return love for love either a legitimate father is found or a certain period of time is measured out for the affair that permits a humane indulgence of the young man's sense of shame. To men engaged in another activity these things are perhaps unworthy of any attention; but when they are at drink it would not surprise me if their smooth and pleasing aspect does not induce a shaping and arranging effect that likens their characters to the reasonable and the humane.

This passage has received much attention in recent years, in particular from scholars intrigued to test whether its account is borne out either by Menander or by his Roman adapters.⁶⁸ Its value for this investigation will, by contrast, derive as much from the general as from the specific; for it is the impulse to create global rules for comedy that generates our sense of a genre, and the appeal to comedy in the *Pro Caelio* reveals Cicero's own bid to think about the form in as generic and schematic a way as Plutarch himself.

Where this passage is most obviously informative for the speech of Clodius is in its emphasis on the inevitable closure that hangs over any relationship between the courtesan or prostitute and her lover. The exception to this that Plutarch allows is that of the virtuous prostitute finally recognized as of citizen status and therefore allowed to marry the hero. The noble Clodia is, of course, of precisely such status, but it is a rather different busi-

67. Men. test. 104 K–A = Plut. *Mor.* 711F and 712B–D.

68. Anderson 1984 concludes that this passage is broadly accurate for Menander but not for what the author regards as the far less sentimental Plautus and Terence. Gilula 1987 points out that we have only about 8 percent of Menander's work and therefore questions the validity of Anderson's working hypothesis. Brown 1990 offers an informative survey of the matter as a whole.

ness to live like a prostitute when you know that you are not just a citizen but actually the scion of a noble dynasty, and to do so when life offers no better prospect and all the evidence suggests that you are a stranger in the community where you live.⁶⁹ Where closure comes, therefore, it takes one of two forms. If the courtesan is virtuous and loves her lover in return, but is not subject to the happy discovery of a citizen father, a certain degree of time is granted to the relationship, which “permits a humane indulgence of the young man’s sense of shame.” The second half of this sentence is notoriously difficult to translate and I do not claim to have got it precisely right.⁷⁰ What can more confidently be asserted is the sense of φιλόανθρωπον as “humane” and the significance of the notion that it is appropriate to grant an extra period of time in which the young man can become accustomed to the end of the affair.⁷¹ For both these notions may be paralleled at Terence *Hecyra* 550–56 in the defense mounted by Phidippus of his son-in-law Pamphilus, who has been accused of visiting his former lover Bacchis even after marriage:

PH. audisti ex aliquo fortasse qui vidisse eum diceret
 exeuntem aut intro euntem ad amicam. quid tum postea?
 si modeste ac raro haec fecit, nonne ea dissimulare nos
 magis humanumst quam dare operam id scire qui nos oderit?
 nam si posset ab ea sese derепente avellere
 quicum tot consuesset annos, non eum hominem ducere
 nec virum satis firmum genatae.

PH. Perhaps you heard it from someone who said that he had seen him coming out or going in to his girlfriend. So what? If he did these things modestly and intermittently, is it not more humane for us to pretend not to have noticed than go out of our way to let him know and that way make him hate us? For if he could abruptly tear himself away from a woman whose lover he had been for so many years, I would not consider him a sufficiently reliable husband for our daughter.

It is a commonplace in Menandrian comedy to represent a given unfortunate event as part of the run of human experience and therefore to be borne (ἀνθρώπινον);⁷² this same notion is also common in Plautus and Terence and is rendered in Latin with the adjective *humanum*.⁷³ Rather more unusual,

69. The comic figure to whom Clodia most closely corresponds is that of the independent courtesan operating out of her own private home. This figure in comedy is typically a Samian resident in Athens and in no sense acceptable as a bride. For evidence, see Ter. *Eun.* 107, 147–49, 868–71. For Samian women as migrants and courtesans, see Don. at Ter. *Eun.* 107, cf. Diph. *Thes.* frag. 49 K-A = Ath. 451B–C.

70. Russell (in Russell and Winterbottom 1972, 533) offers “or some extra time is allowed for their affair, which brings a humane relationship of respect”; Anderson (1984, 124) cites the Loeb translation of E. L. Minar Jr.: “and good . . . girls who give love for love either find again a father with legitimate status or get a further dispensation of time for their romance—an accommodation of conscience that is but charitable”; Gilula (1987, 513) tries “or some additional time of modest and humane relationship is allotted to the love affair.” The problem in all cases is the sense of συμπεριφορὰν and the force of the genitive αἰδοῦς. My assumption that the αἰδώς at issue is that of the son is based on parallels such as Ter. *Ad.* 57–58: *pudore et liberalitate liberos / retinere satius esse credo quam metu*; An. 262–63: *tum patris pudor, qui me tam leni passus est animo usque adhuc / quae meo cumque animo libitumst facere*; *Hec.* 120–22: *sed postquam acrius / pater instat, fecit animi ut incertus foret / pudorin anne amori obsequeretur magis*.

71. For the historical development and semantic range of this concept in Classical Greek, see Tromp De Ruiter 1931, esp. 295–300 and 305–6 for Plutarch.

72. See, e.g., Men. *Asp.* 166, 260; *Pk.* 137; *Sam.* 22; frag. 874 K-A.

73. Plaut. *Merc.* 319: *humanum amarest*; *Truc.* 218; Ter. *Ad.* 471, 687.

but clearly emerging in Terence, is the employment of *humanum* to mean “humane.”⁷⁴ This, however, is its sense in this passage, and it corresponds perfectly to the sense of φιλόανθρωπον in Plutarch’s account: Phidippus here insists on behaving precisely as Plutarch states that the genre should make him behave—he grants time for the former affair to play itself out—and he does so in adherence to the same doctrine of “humanity” that Plutarch takes such behavior to encapsulate.⁷⁵ Cicero, in turn, will phrase his own doctrine of the indulgence of youth in similar terms, and will argue that a given period of time (*aliquid temporis*) should be given to young men for pleasure and play.⁷⁶ This position is clearly meant to stand in contrast to the uncharacteristic fall from *humanitas* represented by the moral strictures of Herennius, and lays the ground for the final account of the affair and the orator’s appeal to the humanity of the jury.⁷⁷

So much for the virtuous prostitute. For her bold and shameless counterpart, things are more direct: the relationship is simply severed (διακόπτεται) when the young lover either acquires wisdom or changes his mind. The first point to note, therefore, is that the type to which Plutarch here refers has a clear point of reference in Menander; for the adjective bold (ἰταμή) is twice used of the courtesan lovers of the *Dis exapaton*,⁷⁸ while the eponymous heroine of the *Thais* is described as shameless (θρασεῖα).⁷⁹ In Latin comedy, meanwhile, the term that perhaps most closely expresses both these attributes is *procax*, and Terence applies this to the grand courtesans of both the *Self-Tormentor* and the *Hecyra*.⁸⁰ It is therefore of some considerable interest that *Pro Caelio* 49 should suggest that Clodia’s behavior is that of a reckless and bold courtesan (*proterva meretrix procaxque*), or that §55 should suggest that her testimony is that of a rash, bold, angry woman (*temeraria, procax, irata mulier*). Cicero seems to have a fairly clear type in mind.

To Plutarch, the young lover is bound to leave his mistress, be she virtuous or bold; the difference is only between a protracted and humane parting or the violence of an abrupt severance. That it should be the destiny of the bold courtesan to suffer the latter fate may again be paralleled in the *Pro Caelio*, for Clodius at §36 describes the rejection of his sister on the part of

74. For the sense of *humanum* in this passage, see Carney 1963 ad loc. and cf. Ter. *An.* 113, 236. For evidence suggesting that this coinage is not original to Terence, see Plaut. *Merc.* 320: *humanum autem ignoscere*, *Most.* 814: *atque esse existimo humani ingeni*. Of the various instances of φιλόανθρωπον in Menander, the closest to this sense is the speculatively attributed Pap. Didot 1.41.

75. Cf. Ter. *Haut.* 99 for Menedemus’ repentance at having reacted *non humanitus* to the love affair of his son and note the interpretation of the passage at Diomedes 1:406 Keil. For *humanitas* equated with φιλόανθρωπία, see also Gell. *NA* 13.17; Pohlenz 1934, 139; Griffin 1976, 166 discussing Cic. *Off.* 2.18.

76. Cic. *Cael.* 42.

77. Cic. *Cael.* 25: *qui in reliqua vita mitis esset et in hac suavitate humanitatis qua prope iam delectantur omnes versari pericunde soleret*, cf. 75: *nihil enim occultabo fretus humanitate ac sapientia vestra*. For the quality of *humanitas* attributed to various participants in the case, see also Cic. *Cael.* 2, 24, 54, cf. 26. For Cicero’s appeal to the humanity of the jury, see also Cic. *Mur.* 65: *sed tamen est laus aliqua humanitatis*. See also Vasaly 1993, 182–84. For similar appeals to the φιλόανθρωπία of the jury in Greek oratory, see Dem. 13.17, cf. 21.148.

78. Men. *Dis exap.* 21, 101.

79. Men. *Tha.* frag. 163.2 K-A = Plut. *Mor.* 19A.

80. Ter. *Haut.* 227, *Hec.* 159. For *procax* glossed as ἰταμός and θρασύς, see *TLL* 10.2 fasc. 10.1490.73 and 1492.18.

Caelius in distinctly unfriendly terms (*calcitrat, respuit, repellit, non putat tua dona esse tanti*). The problem for Clodia is that she seems signally unprepared for the fate that her generic role has assigned her. A classic example of the *meretrix procax* is the Bacchis of the *Self-Tormentor*, and she has clearly anticipated the fate that awaits her at the end of the play when Clitipho abandons their relationship in favor of the marriage that his father now decrees. This is how she explains her situation and her actions to the virtuous Antiphila, whose marriage to Clinia will follow hard on the revelation of her paternity:⁸¹

BA. nam expedit bonas esse vobis; nos, quibuscum est res, non sinunt:
quippe forma impulsus nostra nos amatores colunt;
haec ubi immutata⁸² est, illi suum animum alio conferunt:
nisi si prospectum interea aliquid est, desertae vivimus.

BA. For it is in your interest to be good; the men we deal with don't allow us to. You see, lovers devote themselves to us because they are attracted by our beauty; when that has turned, they take their minds off somewhere else. If we haven't engaged in some forward planning in the meantime, we live abandoned.

Bacchis knows enough of her own genre to prepare for the moment when a lover takes his mind off somewhere else (*suum animum alio conferunt*);⁸³ Clodia, by contrast, is so taken aback by rejection, and so unable to accept what has happened, that her young brother actually has to tell her to take herself off somewhere else (*confer te alio*).

6. CAELIUS AS *ADULESCENS*—STRATEGIES OF FORGIVENESS

Cicero's strategy throughout the *Pro Caelio* is to close the case for the defense with a sustained assault on those parts of the prosecution case that depend on the testimony of Clodia, and to suggest that this testimony is unreliable because it is the vengeful fiction of an abandoned lover.⁸⁴ The repeated challenge to Clodia is therefore either to deny the relationship, and thereby render wholly implausible her giving Caelius the money in the first place, or to confess the affair and lose all moral credibility in the eyes of the jury.⁸⁵ To call her a *meretrix* first and foremost underscores the assault on her testimony by placing her in a category of individual banned from appearing as witnesses in court. Yet this is not all. For the designation also makes her conform to a specific comic stock role and is therefore essential to Cicero's

81. Ter. *Haut.* 388–91.

82. *imminuta* A.

83. For the phrasing of v. 390 (*suum animum alio conferunt*), cf. Ter. *Eun.* 449–50 and Gnatho's explanation to Thraso of the anxieties of Thais lest he should take his lucrative custom elsewhere: *metuit semper quem ipsa nunc capit / fructum nequando iratus tu alio conferas*.

84. See esp. Cic. *Cael.* 31: *horum duorum criminum video auctorem, video fontem, video certum nomen et caput. auro opus fuit; sumpsit a Clodia, sumpsit sine teste, habuit quamdiu voluit. maximum video signum cuiusdam egregiae familiaritatis. necare eandem voluit; quaesivit venenum, sollicitavit servos, potionem paravit, locum constituit, clam attulit. magnum rursus odium video cum crudelissimo discidio exstitisse*.

85. Cic. *Cael.* 35, 50. For superficially devastating dilemma as a feature of the *Pro Caelio*, see Craig 1993, 104–21. For an account of how the prosecution might plausibly have presented Clodia's testimony, see Wiseman 1985, 73–74.

narratio of the background to the case, a *narratio* that effectively transforms the central relationship into a familiar scenario from the Roman comic stage. To this way of telling the story, the decision to prosecute Caelius is the product of Clodia's failure to come to terms with the inevitable implications of the generic role that she has chosen to play.

What remains to be examined in this paper is the characterization of Caelius as an *adulescens* and the intriguing overlap between the strategies for forgiveness devised by comedy and by rhetoric when confronted with the problem of a wayward youth. Of central importance therefore will be *Pro Caelio* 25–30 and 39–43, passages that have exercised scholars since the pioneering intervention of Eduard Norden and the genetic theory that he developed on the basis of this and of a number of other examples of repetition in the speech.⁸⁶ The case to be advanced, however, considers these passages in rather different terms.

If *Pro Caelio* 25 and 27 are to be believed, then much the most effective contribution to the prosecution case was made by L. Herennius Balbus.⁸⁷ Norden did indeed take these statements at face value, and argued that various striking repetitions in Cicero's mode of expression and train of thought, as well as certain apparent inadequacies in the structure of the speech, should be interpreted as evidence of the orator's last-minute revision of the original sketch of his speech in order to counter the impact of his opponent's words.⁸⁸ Heinze challenged the conclusions of Norden but not his working hypothesis, and introduced an alternative theory according to which all of §§39–50 was added to the speech only at the point of publication.⁸⁹ Subsequent scholarship has argued far more strongly for the unity of the speech,⁹⁰ and doubt has been cast on whether Herennius really was as effective as Cicero makes out.⁹¹

The skeptical position advocated by Harold Gotoff in regard to Cicero's account of his opponent's speech must in essence be correct. Yet there is one aspect of Cicero's account that may suggest precisely what it was about Herennius' approach that made it ripe to be countered. For we are told two very different stories about the style of the address: at one time it was subtle and insidious, at another bombastic and censorious;⁹² at one time it addressed itself to the specific misdemeanors of Caelius, at another it denounced the

86. Norden 1960. Norden's other doublets are Cic. *Cael.* 30, cf. 51 and 38, cf. 48–49.

87. Cic. *Cael.* 25: *animadverti enim, iudices, audiri a vobis meum familiarem, L. Herennium, perattente . . . ignoscebam vobis attente audientibus, propterea quod egomet tam triste illud, tam asperum genus orationis horrebam*, cf. 27: *deliciarum obiurgatio fuit longa, etiam lenior, plusque disputationis habuit quam atrocitatis, quo etiam audita est attentius*.

88. The passages identified as last-minute insertions are §§28, 35, 48–49.

89. Heinze 1925, 239–45.

90. See esp. Reitzenstein 1925; Drexler 1944; Stroh 1975.

91. Gotoff 1986.

92. Cic. *Cael.* 25 states that *verebar ne illa subtiliter ad criminandum inducta oratio ad animos vestros sensim ac leniter accederet*, but later adds that the normally humane Herennius *fuit in hac causa pertristis quidam patruus, censor, magister; obiurgavit M. Caelium, sicut neminem umquam parens; multa de incontinentia intemperantiaque disseruit*. Gotoff (1986, 128–29) notes this disparity but wonders whether the subtlety and persuasive force that Cicero attributes to it is an ironic comment on "a peculiarly ineffectual performance."

younger generation as a whole.⁹³ What then did Cicero have to fear from Herennius, and what precisely is his opponent's fatal mistake? The hypothesis that I would advance is that the prosecutor sought a suitable motive for Caelius' involvement in the violence surrounding the Alexandrian delegation, and found it in the luxurious lifestyle and consequent financial discomfort of the defendant.⁹⁴ To this end he carefully constructed a picture of the defendant's life and suggested to the jury that a man in this situation would be desperate enough to enlist with the potentially lucrative Ptolemy Auletes. The bulk of the speech might be made up of just such subtle argumentation. The fatal error was perhaps to reach for a suitably high-sounding peroration in which Caelius became an example of the ills of his generation as a whole. This might have sounded good at the time, but it was fatally weak and gave Cicero all too much opportunity to represent himself as the humane defender of the harmless pleasures of youth.

Cicero accuses Herennius of adopting the role of an exaggeratedly austere uncle, a censor, a schoolmaster (*pertristis quidam patruus, censor, magister*) and of upbraiding Caelius in a manner worse than any father to his son (*sicut neminem umquam parens*).⁹⁵ Gotoff here suggests an attempt to cast Herennius in a variety of comic roles, and it is quite true that, while the censor is a Roman institution and the stern uncle the stuff of proverb more than of the stage,⁹⁶ the harsh father is a stock element of comedy, and the schoolmaster as enemy of pleasure perfectly exemplified by the interventions of Lydus in the *Bacchides*.⁹⁷ The last, moreover, is a figure who has much to contribute to the understanding of Cicero's response and will be given due consideration later on.

If Herennius did build up a convincingly incriminating account of Caelius' life, Cicero does not dignify it with a detailed rebuttal. His preferred tactic, rather, is to latch onto his opponent's generalizations and to counter them with a few of his own. The crucial passage here is §28:

equidem multos et vidi in hac civitate et audivi, non modo qui primoribus labris gustasset genus hoc vitae et extremis, ut dicitur, digitis attigissent sed qui totam adulescentiam voluptatibus dedidissent, emersisse aliquando et se ad frugem bonam, ut dicitur, recepissem gravisque homines atque inlustris fuisse. datur enim concessu omnium huic aliqui ludus aetati, et ipsa natura profundit adulescentiae cupiditates. quae si ita erumpunt ut nullius vitam labefactent, nullius domum evertant, faciles et tolerabiles haberi solent.

I have indeed seen and heard of many men in this state who did not just taste this type of life with their outer lips or, as they say, touch it with their fingertips, but who dedicated their whole youth to pleasure, yet who emerged in time and, as they say, turned over a new leaf and were men of weight and distinction. For some play is granted to

93. Cic. *Cael.* 27: *si licet, si fas est defendi a me eum qui nullum convivium renuerit, qui in hortis fuerit, qui unguenta sumpserit, qui Baias viderit*, cf. 29: *sed tu mihi videbare ex communi infamia iuventutis aliquam invidiam Caelio velle conflare*.

94. Cf. Vell. Pat. 2.68.1: *quippe peior illi res familiaris quam mens erat*.

95. Cic. *Cael.* 25. For remarks on Herennius as stern father and his relation to the *ferrei* and *vix ferendi* fathers of §37, see May 1994–95, 436–37.

96. For the stern uncle and Roman proverbs, see Otto 1890, 268. See also the discussion of the uncle in Bettini 1986, 27–49.

97. Note esp. Plaut. *Bacch.* 419–48 and Lydus' lament for the lost authority of the *magister*.

this time of life by the common consent of everyone, and nature herself pours forth the desires of youth. And if these break forth in such a way as to threaten no man's life with downfall, to overturn no man's house, then they are generally held to be unproblematic and easy to bear.

Cicero delivers a plea on behalf of all the young, but only, of course, because to do so is to plead on behalf of the very *adulescens* he represents. In a manner entirely typical of this speech, he will double back on himself, deny that these remarks have anything to do with Caelius himself, and assert that all he asks is that his client not be found guilty by association just because of his age; but this is indeed no more than an elaborate feint, and one that allows him to restate the plea all over again.⁹⁸

What follows is the gradual unmasking of the affair with Clodia and the four *prosopopoeiae* that represent the most obviously theatrical, and indeed comic, element in the entire speech. What is of particular interest here, however, is the last and shortest of these, the speech of the lenient father Micio from Terence's *Adelphoe*,⁹⁹ and the role that this plays in the transition to the lengthy exposition at §§39–43, the close similarity of which to §28 in turn provides Norden with the first of his doublets:

leni vero et clementi patre cuius modi ille est:

fores ecfregit, restituentur; discidit
vestem, resarcietur,

Caeli causa est expeditissima. quid enim esset in quo se non facile defenderet? nihil iam in istam mulierem dico; sed, si esset aliqua dissimilis istius quae se omnibus pervolgaret, quae haberet palam decretum semper aliquem, cuius in hortos, domum, Baias iure suo libidines omnium commearent, quae etiam aleret adulescentis et parsimoniam patrum suis sumptibus sustineret; si vidua libere, proterva petulanter, dives effuse, libidinosa meretricio more viveret, adulterum ego putarem si quis hanc paulo liberius salutasset? dicet aliquis: "haec igitur est tua disciplina? sic tu instituis adulescentis? ob hanc causam tibi hunc puerum parens commendavit et tradidit, ut in amore atque in voluptatibus adulescentiam suam conlocaret, et ut hanc tu vitam atque haec studia defenderes?"

Should the father be lenient and clement and of the same stamp as that one who says "he broke down doors, they will be mended; he tore a dress, it will be sewn back together," then the case of Caelius is entirely straightforward. For what would there be in which he might not find it easy to defend himself? I say nothing more against that woman; but, should there be some woman unlike her who prostituted herself with everyone, who always had some fellow openly marked off, into whose gardens, house, and estate at Baiae the lust of everyone might legitimately have right of way, who even supported young men and made up for the parsimony of their fathers out of her own expenses; if this widow lived freely, this wanton shamelessly, this heiress wastefully, this lustful woman in the manner of a whore, should I think the man an adulterer who greeted her a little too freely? Someone will say: "Is this your system of education? Is this how you instruct young men? Is this why his father handed this man over to you and commended

98. Cic. *Cael.* 29–30. For the plea restated through its disavowal, see 30: *erat enim meum deprecari vacationem adulescentiae veniamque petere. non, inquam, audeo; perjugiis nihil utor aetatis, concessa omnibus iura dimitto.*

99. Ter. *Ad.* 120–21.

him to you as a child, that he might dedicate his youth to love affairs and pleasure, and you might defend this life and these pursuits?"

I emphasize this point of transition because there is a persistent tendency in scholarship on the *Pro Caelio* to represent the last of the *prosopopoeiae* as the close to an extended passage of comedy and what follows as something significantly different and distinctly doctrinal in tone.¹⁰⁰ What I would argue instead is that, while §§39–43 no longer involves the explicitly theatrical effect of the orator actually acting a part, it is coherent with what comes before in that its perspective on the world, and in particular that part of the perspective that echoes §28, is one wholly familiar from comedy.¹⁰¹

The most satisfactory approach to this transition is that suggested by Hans Drexler.¹⁰² He observes that the drama from which Cicero draws his lenient father, the *Adelphoe*, turns on the conflict between the system of fatherhood represented by the lenient Micio and that of his more unforgiving brother Demea. Though §38 may laughingly claim that, with such a father, the case of Caelius is entirely straightforward, the imagined questioner who opens §39 reinstates the doubts that are the hallmark of the play. This, I suspect, is true. If Heinze in turn is right to assert that Cicero's audience would have been sufficiently familiar with the *Adelphoe* to supply the memory of Micio's dictum "it is no shame for a young man to chase tarts and drink" (*non est flagitium . . . adulescentulum scortari neque potare*), then what is to stop them recalling that the cheery unconcern with which Micio protests that broken doors can be mended and torn garments darned is adopted in order to counter what he regards as the foolish irascibility of his brother, and masks the serious anxieties that the behavior of his adoptive son provokes?¹⁰³

Micio's anxieties are expressed in his soliloquy at *Adelphoe* 141–54:

nec nil neque omnia haec sunt quae dicit: tamen
non nil molesta haec sunt mihi; sed ostendere
me aegre pati illi nolui. nam itast homo:
quom placo, advorsor sedulo et deterreo;
tamen vix humane patitur; verum si augeam
aut etiam adiutor siem eius iracundiae,
insaniam profecto cum illo. etsi Aeschinus
non nullam in hac re nobis facit iniuriam.
quam hic non amavit meretricem? aut quoi non dedit
aliquid? postremo nuper (credo iam omnium
taedebat) dixit velle uxorem ducere.
sperabam iam defervisse adulescentiam:
gaudebam. ecce autem de integro! nisi, quidquid est,
volo scire atque hominem convenire, si apud forumst.

100. Heinze 1925, 238–39, 244–45; Reitzenstein 1925, 29; Wiseman 1985, 86–87.

101. Narducci (1989, 212) admits that §§39–43 is in no sense original and "non fa che adattare un paradigma dell'evoluzione dei giovani frequentissimo nella commedia," but (213) adds it would be reductive to represent this section as one recasting Caelius' affair as a comedy, and (214) argues that we now witness a change of tone that "contrasta singolarmente con quello scanzonato e da commedia della sezione precedente." What is actually reductive, I suspect, is Narducci's view of comedy.

102. Drexler 1944, 28–29.

103. Heinze (1925, 236) refers to Ter. *Ad.* 101–2.

What he says is neither wholly wrong nor wholly right, but this business is rather vexing for me. Yet I did not wish to show him my distress. For the nature of the man is that the best way to oppose and deter him is to placate him. Even then he can scarcely accept things as a man should. But were I to stoke up or bolster his anger, I would indeed rage with him. Yet Aeschinus does me some wrong in this matter. Which courtesan has he not loved? To which one has he not given something? Finally of late (for I think that he was tired of it all) he said that he wanted to take a wife. I hoped that his youth had ceased its fermentation and was glad. Now, see, it's starting all over again! But I want to find out what exactly is going on and meet the man, if he's in the forum.

Aeschinus, the comic *adulescens*, has loved every courtesan in town and has given every one a gift. He is also, as we learn elsewhere, a dedicated drinker and something of a dandy.¹⁰⁴ His indulgent adoptive father has waited for the ferment of youth to pass, and was greatly relieved when lately his son suggested that he wished to marry. Yet now the indignant Demea reports that Aeschinus has burst into another's house in order to steal away the woman he loves, and all decry the deed; if only he were more like his exemplary younger brother, who leads a sober and thrifty life out in the fields!¹⁰⁵ If the ensuing scene reveals the delicious irony, that Aeschinus has freed the girl not for his own sake but for worthy brother Ctesipho, his high-handed treatment of the pimp Sannio at least suggests the behavior that Micio would sooner relegate to the past.¹⁰⁶ Yet what truly exposes the failure of his methods is the subsequent revelation that Aeschinus has raped the daughter of his neighbor Sostrata, and, for all his promises of marriage, has not yet had the courage to do more than suggest to his father that he wishes soon to take a wife. For Micio, who believes that indulgence will habituate a son to candor, this will be something of a blow.¹⁰⁷ Nor will the famous final scenes of the drama have much for his comfort.¹⁰⁸

The *Adelphoe* is a significant intertext for this portion of the *Pro Caelio* precisely because it forswears the unconditional endorsement of libertinism in favor of a more nuanced account of what is to be tolerated and what is not. This has a significant echo in the claim at §28 that the desires of youth should be tolerated should they not cause another's life to totter or overturn his house. And it is in this same spirit that §§39–43 address the matter. For Cicero begins with the statement that he would regard as divinely blessed one morally strong enough (*hoc robore animi atque hac indole virtutis ac continentiae*) to devote his entire life to virtue and to labor and to take no delight in rest, relaxation, the pursuits of his peers, the games, or the table (*quem non quies, non remissio, non aequalium studia, non ludi, non convivium delectaret*). Such indeed were the Camilli, the Fabricii, and the Curii, who built Rome up from the smallest beginnings and made her as great as she is.¹⁰⁹ Yet such morals have no place in modern customs and are scarcely

104. Ter. *Ad.* 60–63.

105. Ter. *Ad.* 88–95.

106. Ter. *Ad.* 155–298. See also the remarks on this scene in Goldberg 1986, 97–105.

107. Ter. *Ad.* 50–56.

108. For a detailed discussion of the problems of the *Adelphoe* and a survey of critical responses to them, see Leigh 2004, chap. 5.

109. Cic. *Cael.* 39.

to be found in books;¹¹⁰ the changing times can even be seen in the different schools of Greek philosophy, especially the Epicureans and Peripatetics, and the unforgiving Stoics are almost abandoned in their own schools.¹¹¹ Nature provides so many snares for virtue, so many slippery delights, that it is not just the young but any age that can go wrong;¹¹² should you find a man entirely resistant to the delights of smell, touch, taste, and sound, Cicero and a few others might consider him blessed, but every one else would deem him born under an angry star.¹¹³ What then is the solution?

ergo haec deserta via et inculta atque interclusa iam frondibus et virgultis relinquatur. detur aliqui ludus aetati; sit adulescentia liberior; non omnia voluptatibus denegentur; non semper superet vera illa et derecta ratio; vincat aliquando cupiditas voluptasque rationem, dum modo illa in hoc genere praescriptio moderatioque teneatur. parcat iuventus pudicitiae suae, ne spoliet alienam, ne effundat patrimonium, ne faenore trucidetur, ne incurrat in alterius domum atque familiam, ne probrum castis, labem integris, infamiam bonis inferat, ne quem vi terreat, ne intersit insidiis, scelere careat. postremo cum paruerit voluptatibus, dederit aliquid temporis ad ludum aetatis atque ad inanis hasce adulescentiae cupiditates, revocet se aliquando ad curam rei domesticae, rei forensis rei publicae, ut ea quae ratione antea non perspexerat satietate abiecisset et experiendo contempsisset videatur.

So let this path deserted and untended and now overgrown with branches and bushes be abandoned. Let some play be granted to life; let youth enjoy more freedom; let not everything be denied to pleasure; let not always that true and upright reason win the day; let desire and pleasure sometimes overcome reason, as long as the following rules and moderation are observed in this matter. Let the younger generation respect its chastity, let it not plunder that of another, let it not waste its patrimony, let it not be slaughtered by debt, let it not invade another man's house and family, let it not bring outrage to the chaste, defilement to the pure, infamy to the good, let it terrify no man with violence, let it not participate in deception, let it be free from crime. Finally, when it has obeyed the instincts of pleasure, when it has devoted some time to the play of life and to these harmless desires of youth, let it eventually recall itself to concern for domestic affairs, for the forum, for the state, so that, those things which previously it had not seen through by reason, it may now seem to have cast off and scorned through satiety.

This then is Cicero's prescription, and it is one that he can support with the recollection of many great men who only obtained such distinction when the desires of youth had ceased to ferment (*cum adulescentiae cupiditates defervissent*) and they had gathered strength. Some indeed enjoyed too much freedom (*nimia libertas in adulescentia*), were luxurious, indebted, and positively libidinous, but one wishing to excuse them on grounds of youth

110. I find it hard to take these remarks as seriously as do Vasaly (1993, 186–87); May (1994–95, 438); and especially Narducci (1989, 211–17). Narducci (1989, p. 215, n. 76) attempts to construct the *mos maiorum* out of M. Porcius Cato *ORF* frag. 128, but does not note the profound peculiarity of Cato within the political culture of his own time or even that the fragment is drawn from a speech entitled *De suis virtutibus*. The function of the *mos maiorum* throughout Roman thought is to have been superseded. Cicero's perspective is no more and no less modern than that of Philoxenus at Plaut. *Bacch.* 437: *alii, Lyde, nunc sunt mores*.

111. Cic. *Cael.* 40–41.

112. Cic. *Cael.* 41.

113. Cic. *Cael.* 42.

might note that they were later covered over by their many virtuous deeds (*quae multis postea virtutibus oblecta adolescentiae qui vellet excusatione defenderet*).¹¹⁴

In §§28 and 39–43, therefore, Cicero becomes the defender of youthful pleasure (*voluptas*), play (*ludus*), and desire (*cupiditas*), and deprecates the claims of reason (*ratio*) and severity (*severitas*).¹¹⁵ Yet this defense is far from unconditional, and an essential element of both §§28 and 42 is the manner in which the former briefly, the latter at length, catalogue those actions that will be excluded from the doctrine of indulgence.¹¹⁶ And what is perhaps most striking about these catalogues is that the misdemeanors that they list are not just those that Cicero can claim Caelius did not commit, but also those that make the Terentian Aeschinus so dubious an individual: Caelius did not despoil the chastity of Clodia, he just satiated her lust; Caelius did not burst into the house of another, for Clodia left the doors wide open; Aeschinus, by contrast, has broken open the doors of Sannio, and has robbed the daughter of Sostrata of her chastity. It will not therefore suffice simply to quote the impersonation at §38 and suggest that Cicero chooses to play Micio to the uncle, the censor, the schoolmaster, the harsh father of Herennius. For that part of Micio to which §§28 and 39–43 respond is more exactly the concerned Micio of the soliloquy than the affectedly untroubled figure to whom the orator first refers.

That comedy informs not just the spirit of indulgence but also the necessary restrictions to which it is subjected may be illustrated by reference to other aspects of Cicero's prescription. If the first two of these suggest a particular affinity with the language of Terentian comedy, the more fundamental concept that follows owes rather more to Plautus.¹¹⁷

The first example stems from §28 and Cicero's reference to those famous men whose youths were entirely devoted to pleasure, but who eventually emerged (*emersisse*) and turned over a new leaf. Within the context of the speech, this has its obvious payoff in the statement at §75 that the glorious young career of Caelius was first brought to a halt by his new acquaintance, their unfortunate vicinity to one another, and his own inexperience of pleasure (*notitia nova eius mulieris et infelici vicinitate et insolentia voluptatum*). This, however, was more talk than reality, and, whatever it was, Caelius has emerged, has cast himself forth, and brought himself out (*emersit totumque se eiecit atque extulit*). In much the same terms, the elderly Simo of the *Andria* plots the marriage of a son still entangled in the affairs of youth and

114. Cic. *Cael.* 43.

115. For *ratio*, note esp. the objection to unbending reason in Cic. *Cael.* 42: *vera illa et directa ratio*, cf. 38: *huic tristi ac directo seni*, 41: *directum iter ad laudem . . . qui probaverunt*. For *severitas* cf. Cic. *Cael.* 30, 37, 40, 48, 72, and note how the same quality is attributed to the prosecutor Herennius, the stern father of comedy, and the books that propound the archaic morality. It is characteristic of Cicero's tendency first to plead for indulgence towards the young in general, then to suggest that Caelius requires no such favors, that Cic. *Cael.* 35 can promise to win approval of his life from *vel severissimis disceptatoribus*.

116. Lyne (1980, 2) aptly characterizes this passage as "insistence combined with indulgence."

117. The tendency of Cicero to respond primarily to the language of Terence is a pointer to the reception of the comic poet, not just through theatrical revivals, but also as a central figure within Roman literature education.

trusts that thereafter he will easily emerge from his troubles (*facile ex illis sese emersurum malis*).¹¹⁸

A similar pattern may be identified at §43. Here Cicero talks of those men of the past who showed true distinction when the desires of youth had ceased to ferment (*defervissent*). This too is echoed in the peroration, for §77 will acknowledge the potential offense taken by the jury at the loud and excessive company that Caelius keeps and the clothes that he wears: soon enough all this will have ceased to ferment, and life, experience, and the passage of the days will have made it less harsh (*iam ista deferverint, iam aetas omnia, iam res, iam dies mitigarit*). Now this is indeed a rather more particular metaphor, but it too has a clear parallel in the soliloquy of Micio, and the hope that Aeschinus' talk of marriage had given him, that his youth had ceased to ferment (*defervisse*).¹¹⁹ Nor is this the only instance of just this metaphor in comedy. For the equation of the ages of man with the maturing process in wine is something of a topos in Greek comedy,¹²⁰ and the association of youth with fermentation is already to be found in Alexis.¹²¹

There is therefore good evidence to suggest that Cicero fashions his prescription for the appropriate transition from youth to manhood out of characteristically comic language.¹²² And it is in these terms that I would seek to analyze the similarity earlier identified between Plutarch's statement that, in the comedy of Menander, a certain amount of time (*χρόνος τις*) is granted to affairs with good and loving courtesans, and Cicero's appeal at §42 that a period of time (*aliquid temporis*) should be allowed for the play of life and the harmless desires of youth. For what is at issue in both instances is the construction of youthful passion as a phase, and the assertion of the strict temporal delimitations that must therefore circumscribe it. In what follows I wish to examine how this notion of temporal delimitation relates to Cicero's concept of the play of life (*ludus aetatis*), and how comedy may be said to inform the structures that this implies.

It was earlier suggested that Lydus, the scandalized schoolmaster of the Plautine *Bacchides*, represented the best parallel for Cicero's characterization of Herennius Balbus as a *magister*. It may now be helpful to return to this figure and consider one particular aspect of his presentation: his name. It was long suspected that Plautus altered the names of the characters in

118. Ter. *An.* 560–62.

119. Ter. *Ad.* 152. For *defervere* as a technical term in the fermentation of wine, see *TLL* 5.1.321.83–322.2.

120. Ar. *Vesp.* 1309; Alex. frag. 280 K-A = Ath. 36F, frag. 284 K-A = Ath. 25F–26A; Antiph. frag. 250 K-A = Stob. 4.50^b.47; Eub. frag. 122 K-A = Ath. 25F. For similar metaphors in Cicero and their frequent recurrence in comedy, see Powell at Cic. *Sen.* 65.

121. Alex. frag. 46 K-A = Stob. 4.50^a.5: ὁμοίωτος ἀνθρώπος οἶνωι τὴν φύσιν / τρόπον τιν' ἐστὶ τὸν γὰρ οἶνον τὸν νέον / πολλή' σ' ἀνάγκη καὶ τὸν ἀνδρ' ἀποζέσαι / πρότιστον ἀφυβρίσαι τ', ἀπανθήσαντα δὲ / σκληρὸν γενέσθαι, παρακμάσαντα δ' ὃν λέγω / τούτων ἁπάντων ἀπαρυνθέντα τὴν ἄνω / ταύτην ἄνοιαν ἐπιπολάζουσιν, τότε / πότιμον γενέσθαι καὶ καταστήναι πάλιν / ἥδύν θ' ἅπασα τοῦ πύλοιον διατελεῖν. For Alexis, Terence, and Cicero, see also Fantham 1972, 13.

122. Characteristically but again not exclusively comic. For youthful "fervor" and its mitigation in age, see also Cic. *Sen.* 45; Livy 3.12.7. For *defervere* used for the maturing of youthful exuberance in oratory, see Cic. *Brut.* 316, *De or.* 2.88, *Orat.* 107; Quint. *Inst.* 12.6.4. See also Sen. *Ep.* 68.13, explaining why old age is the right time for philosophy: *haec aetas optime facit ad haec studia: iam desumpavit, iam vitia primo fervore adulescentiae indomita lassavit*.

whichever Greek original he chose to adapt, and this is confirmed by comparison of the *Dis exapaton* papyrus with the text of the *Bacchides*. One character who definitely retains his former name, however, is the schoolmaster. Yet where Lydus in Greek is merely an ethnic implying that the slave is Lydian in origin, in Latin it suggests a whole range of potential puns, the most notable of which is that at *Bacchides* 129, where Pistoclerus reminds his former pedagogue that not every age is made for play/school (*non omnis aetas, Lyde, ludo convenit*).¹²³ What Pistoclerus here suggests is that he is now of an age where he need no longer pay heed to the dictates of a schoolmaster and where it is proper for him to play around.¹²⁴ This will also be the plea of Callidamates when appearing on behalf of Philolaches at the close of the *Mostellaria* (*scis solere illanc aetatem tali ludo ludere*).¹²⁵

That the play of life (*ludus aetatis*) is a characteristically, if not exclusively, comic concept may, I hope, be accepted.¹²⁶ That Cicero should indeed deploy it at §28 against his own stern schoolmaster Herennius makes the parallel with the *Bacchides* almost irresistible.¹²⁷ The key role attributed to it in this speech may further be observed from its double repetition at §42.¹²⁸ Here again, therefore, is a way of thinking about youth that sanctions a certain period of indulgence, but also requires that it should in time come to an end. If Pistoclerus can defend himself now with the claim that not every age is made for play, it is because his age *is*.¹²⁹ In time, however, he will be fitted for a very different life, and it is this that makes the courtesans' seduction of the elderly Philoxenus and Nicobulus so profoundly and hilariously transgressive a close to the drama.

123. For *ludus* as "school," see *TLL* 7.2.1792.20–71. For this line, see also Barsby ad loc. and Schönbeck 1981, p. 19 and nn. 34–35.

124. Cf. Plaut. *Bacch.* 148, where he resists Lydus' attempts to order him around and comments that *iam excessit mi aetas ex magisterio tuo*. The use of a verb of motion to describe movement from one age group to another is paralleled at Plaut. *Merc.* 40: *principio <ut ex> ephebis aetate exii*, cf. Ter. *An.* 51–54, where the liberation from the schoolmaster is also at issue: *nam is postquam excessit ex ephebis, Sosia, <et> / ἡliberius vivendi fuit potestas† (nam antea / qui scire posses aut ingenium noscere, / dum aetas meus magister prohibebant?* The comic texts clearly translate Greek originals describing the youthful roistering attendant on departure from the ephebeia. For verbs of motion denoting entry into or departure from the ephebeia, see Xenophon's account of parallel Persian institutions in the *Cyropaedia*, e.g., at Cyr. 1.2.9: ἀφ' οὗ ἂν ἐκ παίδων ἐξέλθῃσι; 1.2.12: ἐξέρχονται εἰς τοὺς τελείους ἄνδρας; 1.2.15: εἰσέρχονται εἰς τοὺς τελείους; 1.5.1: εἰσῆλθεν εἰς τοὺς ἐφήβους. See also Aeschin. 2.167: ἐκ παίδων μὲν γὰρ ἀπαλλαγείς; Poll. *Onom.* 8.105: καὶ εἰ μὲν τοὺς ἐφήβους εἰσήμεσαν. For Greek terminology applied to Roman institutions, see Cass. Dio 45.2.5: ἐς τοὺς ἐφήβους ἐσιόντος, 45.38.2: ἐκ παίδων προεληλυθότα καὶ . . . ἐς τοὺς ἐφήβους ἐγγεγραμμένον, 48.43.2: ἐς ἐφήβους ἐσῆλθε, 55.10.2: τοὺς τε ἐκ τῶν παίδων ἐξιόντας καὶ ἐς τοὺς ἐφήβους ἐγγραφομένους.

125. Plaut. *Most.* 1158.

126. For the *ludus aetatis* outside comedy, see Catull. 68.15–17: *tempore quo primum vestis mihi tradita pura est, / iucundum cum aetas florida ver ageret, / multa satis lusi*; Hor. *Epist.* 1.14.32–36; Livy 26.50 (for Scipio Africanus rejecting the Spanish princess), cf. 39.15.7 where some regard the Bacchanalia as *concessum ludum*, and 39.10.6, 39.13.14, 39.15.13–14 for stress on nobody over twenty being granted initiation. For useful discussion, see Lejay 1911, 34–35.

127. Note esp. Plaut. *Bacch.* 1076–83 for Philoxenus as indulgent but not unconcerned father, esp. 1079: *scio, fui ego illa aetate et feci illa omnia, sed more modesto*, cf. 1082–83: *ego dare me [ludum] meo gnato institui, ut animo obsequium sumere possit; / aequum esse puto, sed nimis nolo desidia ei dare ludum*.

128. Cf. Cic. *Cael.* 46 for the claim that Caecilius' zeal for oratorical training in fact left him no time for *ludi*. For the *ludus* motif in the *Pro Caelio*, see also Geffcken 1973, 46–47.

129. Likewise Micio's defense of the indulgence granted to Aeschinus at Ter. *Ad.* 107–10.

Yet there is another sense in which Cicero's appeal to the concept of the *ludus* introduces a specially comic context into the play. In order to explain what this is, it may first be helpful to consider the example of the *Pseudolus* of Plautus. This drama was first performed at the Ludi Megalenses of 191 B.C.E. The characters within the drama also find themselves very close to another festival, the Athenian Dionysia.¹³⁰ The wily slave Pseudolus, meanwhile, is set on a cunning scheme to trick both pimp Ballio and master Simo, and *ludere*,¹³¹ *ludos facere*,¹³² and *ludificare*¹³³ are among the most common terms in Plautus for trickery. A crucial juncture in the drama, therefore, is that at which the good-natured Callipho persuades the grumpy and suspicious Simo to accept the challenge of Pseudolus to a bet over whether or not the slave will pull off his scheme. When Simo finally succumbs to his neighbor's request, he addresses Pseudolus as if he were an aedile, and urges him to proclaim his games/tricks (*indice ludos nunciam, quando lubet*).¹³⁴ Callipho in turn is induced to put off a planned trip to the country because these games/tricks are too good to miss (*lubidost ludos tuos spectare, Pseudole*).¹³⁵

What emerges from the *Pseudolus* is the ability of the term *ludus* to signify play, trickery, and festival all at once, and the poet's tendency to play on these different levels of signification.¹³⁶ The *Pro Caelio* in turn, though it does not activate the association between the *ludus* and trickery, may be said to exploit the relationship between the first and third meanings of the term, that is, between play and festival. For the concept is first introduced at §1, where the orator sympathizes with the jury for their inability to attend the Ludi Megalenses at a time when all other business in the forum is suspended.¹³⁷ This at once draws attention to two spatially separate but temporally identical events—the trial and the games—and prepares the way for the orator to merge the two. That games (*ludi*) are among the conventional pleasures of life is again stressed at §39, and the second account of the *ludus aetatis* follows hard on this.

How then may Cicero be said to be working between the different senses that *ludus* supplies? One is the obvious one that has formed a running theme throughout this study: the jury must be made to regard the case of Caelius with the same forgiving attitude proper to the juvenile misdemeanors acted out on the festive stage. For the second a clue is offered by the *De oratore*. This dialogue is set in the Tusculan villa of L. Crassus, and takes place on the same days as the Ludi Romani.¹³⁸ At the start of the second book, moreover, Crassus is made to meditate on the employment of just such days of leisure and to recall how Scipio Aemilianus and C. Laelius would retreat to

130. Plaut. *Pseud.* 59: *proxima Dionysia*. For *ludus* as "festival/games," see also Plaut. *Cas.* 25, *Cist.* 157, *Men.* 29, *Mil.* 991, *Poen.* 41, *Rud.* 535, *Stich.* 306.

131. Plaut. *Capt.* 877, *Curc.* 326, *Most.* 1080.

132. Plaut. *Amph.* 571, *Bacch.* 1090, 1100, *Epid.* 706, *Pers.* 803.

133. Plaut. *Amph.* 565, 1041, *Cas.* 592, *Epid.* 373, 671, *Pseud.* 1120.

134. Plaut. *Pseud.* 546.

135. Plaut. *Pseud.* 552. For a similar motif, see Plaut. *Cas.* 760, 856, *Pers.* 771; Ter. *Eun.* 1010.

136. For suggestive remarks on polysemous *ludus* in Plautus, see Petrone 1983, 202–9.

137. Another comic motif. See the striking parallel at Plaut. *Cas.* 23–28.

138. Cic. *De or.* 1.24.

the country, become boys again (*repuerascere*), and indulge in every form of play and mental relaxation (*ad omnem animi remissionem ludumque descendere*).¹³⁹ In this passage, therefore, Cicero suggests that holiday, that festival, permits grown men to return to boyhood; in the *Pro Caelio* he looks at the same concept from the opposite direction and suggests that one's youth is the festival day of life. Where adult Romans permit themselves a degree of licence only on those days demarcated in the calendar by terms such as *Ludi Romani* or *Ludi Megalenses*, the experience of youth is that of one extended *ludus*, one long game. To the reader of Horatian lyric this will be a familiar tactic: the linear experience of human life from birth to death mapped onto the cyclical experience of the ever-revolving year, and the irrecoverability of youth once lost contrasted with the annual return of spring.¹⁴⁰ What Horace typically makes of the seasons, Cicero makes of the calendar and its characteristic demarcation of work and play.¹⁴¹

7. RHETORIC AND COMEDY

There is, I recognize, a serious risk inherent in the interpretative strategy adopted hitherto in this study: to speak of Cicero's attempt fundamentally to alter the jury's perspective on a trial *de vi* by redimensioning it as a comedy may leave the impression of a greater formal separation between comedy and rhetoric than can truly be said to have held. For acting and oratory are indeed cognate activities in Greek and Roman culture, and this comes across in many different ways: the grand and passionate style is equated with tragedy;¹⁴² the uninflated and humorous style with comedy;¹⁴³ comic authors study humor in oratory;¹⁴⁴ noted orators write for the stage;¹⁴⁵ the actors Roscius and Aesopus take as strong an interest in the great orators as the orators take in them.¹⁴⁶ This much, at least, is familiar. Likewise the starting point of the remarks that follow, if not, perhaps, the example which is most pertinent to the case.

Austin's introduction to *Pro Caelio* 39–42 suggests that Cicero employs what was familiar under the Empire as the rhetorical *locus de indulgentia*.¹⁴⁷ In support of this claim he cites Juvenal 8.163–69 and Seneca *Controversiae* 2.6.11. The latter may be quoted in full.¹⁴⁸

139. Cic. *De or.* 2.22.

140. Hor. *Carm.* 1.4, 1.9, 4.7.

141. For comparable Horatian sensitivity to the festive calendar, see Nisbet and Hubbard at Hor. *Carm.* 2.3.6.

142. Dem. 18.13, 19.189; Hyp. *Lyc.* 12, *Eux.* 26; Cic. *De or.* 1.228, 2.205, 225; Quint. *Inst.* 6.1.36, 49, 52, 6.2.20.

143. Cic. *De or.* 3.30; Quint. *Inst.* 6.2.20.

144. Cic. *Brut.* 167 for the togate comedian L. Afranius studying C. Titius.

145. Cic. *Brut.* 167, 177 refers to the tragedies of C. Titius and C. Iulius L. f. Caesar. What is striking is that both are deemed masters of the humorous, not the vehement, style in oratory and that this in turn vitiates their efforts for the tragic stage.

146. Cic. *De or.* 1.129–30, 132, 251, 254, 258–59, 2.233, 242, 3.102, 3.221; Val. Max. 8.10.2; Macrobi. *Sat.* 3.14.6; Plut. *Cic.* 5.4, cf. *Dem.* 7.

147. Austin 1960, 102, cf. Narducci 1989, 213.

148. I quote the text as cited by Austin. See, however, the more recent editions of Winterbottom and Håkanson for significant transpositions and textual variants.

concessis aetati voluptatibus utor et iuvenali lege defungor; bona ego aetate coepi; simul primum hoc tirocinium adulescentiae quasi debitum ac sollemne persolvero, revertar ad bonos mores. id facio quod pater meus fecit, cum iuvenis esset.

I engage in the pleasures granted to youth and follow the adolescent rule; I have begun at the right age; as soon as I have completed this due and solemn apprenticeship of youth, I shall revert to good ways. I am doing what my father did when he was a young man.

Michael Winterbottom in turn identifies the same *locus* and refers to a further example in Seneca, to Juvenal, and to *Pro Caelio* 39–43.¹⁴⁹ When, however, the same scholar comes to comment on Quintilian *Minor Declamation* 260.2, in which a young son is indicted by his father for showering resources on other reprobates so excessive that they have been disavowed by their own parents, he identifies this as an instance of the *locus de venia*, and introduces numerous parallels from Quintilian, from other late Latin rhetoricians, from Libanius, and from comedy.¹⁵⁰ These references might, moreover, be supplemented by reference to the *Pro Caelio*, for the declamation at issue is entirely saturated with the language of the speech and not just with its most commonplace expressions.¹⁵¹

What then is a *locus* and where does it come from? In the *De oratore*, the task of describing this aspect of oratory falls to M. Antonius Orator, and his remarks are revealing.¹⁵² For he argues that it is impossible at each instance to evolve arguments specific to one's case, and that the orator must possess a deep resource of preformulated contentions, or ways of addressing commonly recurring issues, which he can then adapt to the individual circumstances at hand.¹⁵³ These will be most effective in an orator who either has experience of affairs or who has taken the time to hear and think about them and thus by study has outstripped his years.¹⁵⁴ Yet, however acute and however learned a man may be, his *loci* will prove ineffectual if he is a stranger to the customs of the state, to the models, the institutes, the mores, and the inclinations of his fellow citizens (*si erit idem in consuetudine civitatis, in exemplis, in institutis, in moribus ac voluntatibus civium suorum hospes*),

149. Winterbottom at Sen. *Controv.* 2.4.10: "nihil" inquit "peccaverat; amat meretricem; solet fieri: adulescens est, expecta, emendabitur, ducet uxorem," 2.6.11.

150. Winterbottom at Quint. *Decl. Min.* 260.2. For the same motif, see also Livy 3.12.8 with Ogilvie ad loc.

151. Quint. *Decl. Min.* 260.1: *adulescens*, 260.2, 260.18: *aetate*, 260.8: *meretricibus*, cf. 260.19: *meretricem*, 260.8: *cupiditates*, cf. 260.32: *cupiditatibus*, 260.18: *severitatem*, 260.19: *concessos adulescentiae lusus*, cf. 260.32: *concessis* . . . *cupiditatibus*, 260.32: *voluptatibus*. For less obvious motifs, see Quint. *Decl. Min.* 260.8: *iuvenis est, non satis roboris, nondum satis iudicii confirmare potuit*, cf. Cic. *Cael.* 7: *robustioribus*, 11: *cum iam sese conrobora-visset ac vir inter viros esset*, 41: *non modo haec aetas sed etiam iam conroboreta*, 43: *firmata iam aetate*, 73: *cum autem paulum iam roboris accessisset aetati*, 76: *quae studia . . . in adulescentia vero tamquam in herbis significant quae virtutis maturitas et quantae fruges industriae sunt futurae . . . amputanda plura sunt ille aetati, si quidem efflorescit ingeni laudibus, quam inserenda*, cf. 79: *firmata iam stirpe virtutis*. See also Quint. *Decl. Min.* 260.18: *labi*, cf. Cic. *Cael.* 41: *prolapsione*; Quint. *Decl. Min.* 260.19: *natura tamen datos*, cf. Cic. *Cael.* 28: *ipsa natura profundit*, 41: *multa enim nobis blandimenta natura ipsa genuit*; Quint. *Decl. Min.* 260.19: *frenos*, cf. Cic. *Cael.* 76: *refrenandi*.

152. Cic. *De or.* 2.130–47.

153. Cic. *De or.* 2.130.

154. Cic. *De or.* 2.131.

and the way to acquire just such an identification is through experience, listening, reading, and study (*usus, auditio, lectio, litterae*).¹⁵⁵

This claim may now be considered with regard to the two *loci* cited above and the scholarship relative to them. In the case of the *locus de indulgentia*, Austin identifies its presence at *Pro Caelio* 39–42 and refers the reader to Seneca; Winterbottom then identifies its presence in Seneca and refers the reader to other passages in the same rhetorical writer and back again to the *Pro Caelio*. The impression given is of a stylized and self-sufficient system of communication.¹⁵⁶ Yet this same *locus de indulgentia* is not just a rhetorical product, for it will be familiar to any Roman juror who recalls those moments in comedy where a father indignant at the misdemeanors of his son is gently reminded of the fact that he was once young and no paragon at that.¹⁵⁷ In this way the rhetorical *locus* is indeed no stranger to the customs, the letters, and the instincts of its potential audience, and the demands of M. Antonius Orator are met. The same may also be said of Winterbottom's discussion of the *locus de venia*: the range of citation extends beyond the rhetorical and, in particular, points to numerous instances from comedy; the *locus* takes root in the culture to which it is addressed.

It will be noted that the discussion of this issue has hitherto presumed the priority of the comic to the rhetorical: the orator must know his own culture and must be able to trawl it for appropriate motifs to be employed in his speech; comic drama is a significant subset of that culture. This, needless to say, is consonant, not just with the relative chronology of both Cicero and M. Antonius Orator on the one hand and the great comic authors on the other, but also with what key sources tell us of the relatively late development of rhetoric at Rome.¹⁵⁸ Yet legislation against professional advocacy was passed at Rome as early as 204 B.C.E., and it may be wondered whether hostility to these specialists in persuasion derived in part from the formal training that they undertook.¹⁵⁹ The example with which I wish to close this paper might suggest the type of exercise that just such a training might involve.

155. Cic. *De or.* 2.131.

156. This impression is scarcely changed by Juv. 8.163–69, which both scholars cite. For the relationship of these lines to rhetorical practice, note esp. Juv. 8.163: *defensor culpa dicet mihi*, cf. De Decker 1912, 65–66.

157. For the role of the mild father more mindful of his and his stern companion's youthful sins, see Eur. *TGF*² frag. 951; Men. *Kith.* 59–60; Apollod. (Caryst. an Gel. inc.) frag. 7 K-A = Stob. 4.50.70; Plaut. *Bacch.* 410, cf. 1076–83, *Epid.* 389–91, cf. 431–34, *Pseud.* 436–42; cf. Ter. *Haut.* 217.

158. Suet. *Rhet.* 1 states that rhetoric came late to Rome and refers to the 161 B.C.E. censorial action against Greek rhetors practicing in the city. On this basis nobody would doubt that the contemporaries of Terence had access to formal rhetorical training, and the studies of Leo (1960, 135–49) and Goldberg (1983) demonstrate that the poet too had enjoyed such a preparation. For the years prior to Pydna, and particularly the Rome of Plautus, see Marx 1894, 133–36; Leo 1913, 31–40 and 112, and 1960, 132–35; Fraenkel 1960, 166; Kemper 2002. The reluctance of Leo (1913, 34–35) to commit himself to the existence of formal rhetoric in Plautine Rome is somewhat contradicted by what he states (112) of the speech of Philolaches at Plaut. *Most.* 84–156. For an important contribution to this issue, and powerful arguments against the scepticism of Fraenkel, see now Perutelli 2000, 20–28.

159. For the *lex Cincia*, see Cic. *Sen.* 10; Livy 34.4.9; Tac. *Ann.* 11.5, 13.42, 15.20.

The oldest extant Latin rhetorical manual is the *Rhetorica ad Herennium*, but the historical references that it contains suggest that it was composed no earlier than the 80s B.C.E., and we are therefore still eighty or more years from the death of Terence, and a century from that of Plautus.¹⁶⁰ Other works on the topic were doubtless composed, but the few fragments of Cato the Elder's treatise for his son, and stray references to the slim volume produced by M. Antonius Orator, offer little information as to their contents.¹⁶¹ This is therefore an area of some mystery. One response, however, has been to suggest that the rhetoric taught at Rome in the second century B.C.E. indeed looked very much like what is found in the *Ad Herennium*, and the ensuing argument would suggest that this is correct.¹⁶²

Much of the *Pro Caelio*, for all that Cicero disavows this, turns on an elaborate account of the past life (*vita ante acta*) of his client.¹⁶³ The account is the more complex, first, because Cicero has to make room for claims of an affair with Clodia while yet asserting that his client has otherwise led a largely unexceptionable life; second, because the attempt to limit past misdeeds to one small affair is so profoundly implausible that the orator has to rehearse the standard defenses of adolescence in general while feigning to deny their applicability to his client. What then does the *Ad Herennium* advise when it comes to defending the past life of one's client against the attacks of the prosecution? This is the prescription:¹⁶⁴

defensor primum demonstrabit *vitam integram*, si poterit: id si non poterit, confugiet ad *imprudentiam*, *stultitiam*, *adulescentiam*, *vim*, *persuasionem*; quibus de rebus *** vituperatio eorum, quae extra id crimen erunt, non debeat assignari. sin vehementer hominis turpitudine impediatur et infamia, prius dabit operam, ut *falsos rumores* dissipatos esse dicat de innocente; et utetur loco communi, *rumoribus credi non oportere*. sin nihil eorum fieri potest, utatur extrema defensione: dicat non se de moribus eius apud censores, sed de criminibus adversariorum apud iudices dicere.

The counsel for the defense will first demonstrate, if he can, that the past life of his client is pure; if he cannot, he will resort to imprudence, folly, youth, force, persuasion; concerning which matters *** the vituperation of those matters that are irrelevant to the charge should not be assigned. But if he is seriously impeded by the immorality and infamy of the man, he will first be careful to state that false rumors have been spread about an innocent man; and he will use the commonplace that one should not believe rumors. But if none of these things can be done, let him try the last resort: let him say that he is not discussing morals before the censors but the charge of his opponents before judges.

There are obvious ways in which Cicero's defense of Caelius coheres with parts of this schema, whether it be through the repeated assertion of the

160. For the date of composition, see Calboli 1969, 12–17.

161. For M. Antonius' *libellus*, see Cic. *De or.* 1.94, 1.206, 3.189. For Cato and Antonius as the earliest Latin writers on rhetoric, see Quint. *Inst.* 3.1.19. For Cato and rhetorical theory, see Calboli 1978, 11–34.

162. Leeman 1963, 25.

163. Quint. *Inst.* 4.2.27 is acute on this point.

164. *Rhet. Her.* 2.5. For a very similar schema, see Cic. *Inv.* 2.37, esp. the suggestion that any misdeeds in *ante acta vita* can be attributed to *imprudentiae*, *necessitudini*, *persuasioni*, *adulescentiae* aut *alicui non malitiosae animi affectioni*.

adulescentia of his client, or the assertion that much of his unfortunate dalliance with Clodia was mere rumor.¹⁶⁵ Nor is it hard to parallel any of the suggested procedures in later writers, even the somewhat unusual suggestion that a misdeed be put down to folly (*stultitia*).¹⁶⁶ This, however, is not the point that needs to be made. For much more striking is the evidence that the plea proposed in this passage is one already familiar *before* the *Ad Herennium*, and precisely from the comic stage.¹⁶⁷

At the close of the *Mostellaria*, when father Theopropides has discovered the tricks played on him, and with it the dissipated life of son Philolaches while he has been away at sea, two orators come to plead with him. The first of these is Tranio the wily slave:¹⁶⁸

TH. filium corrupsisse aio te meum.

TR. ausculta modo.

fateor peccavisse,¹⁶⁹ amicum liberasse absente te,

faenore argentum sumpsisse; id esse absumptum praedico.

numquid aliud fecit¹⁷⁰ nisi quod [faciunt] summis gnati generibus?

TH. *hercle mihi tecum cavendum est, nimis qui es orator catus.*

TH. I say that you corrupted my son.

TR. Listen now. I confess that he sinned, that he freed his girlfriend while you were away, that he borrowed money at interest; and I tell you clearly that it has been spent.

What else did he do except what the sons of grand families do?

TH. By god, I'd better be careful with you, for you are too cunning an orator.

The second orator is Callidamates, the friend and fellow roisterer of Philolaches. In an intriguing mixture of Roman domestic and public justice, he appears on behalf of the son too ashamed to meet his father. He confesses to excessive expenditure (*sumptus*), appeals to play (*ludus*) as typical of Philolaches' age (*aetas*), and, entirely in the spirit of the *Ad Herennium*, excuses misdeeds in terms of youth and folly (*stultitiae adulescentiaeque*). Theopropides finds him an entirely convincing orator and grants him his plea.¹⁷¹

CALL. omnium primum sodalem me esse scis gnato tuo.

is adiit me, nam eum prodire pudet in conspectum tuum

propterea quia fecit quae te scire scit. nunc te obsecro,

stultitiae adulescentiaeque eius ignoscas: tuost;

165. For rumor, see Cic. *Cael.* 18: *sive malorum omnium sive potius sermonum*, 38: *in tam maledica civitate*, 75: *qua ex vita vel dicam quo ex sermone*. See also Narducci 1989, p. 200 and n. 26, making the same claim for Cic. *Inv.* 2.37.

166. For *stultitia*, see Ov. *Tr.* 3.6.33–36, *Pont.* 1.7.39–46; Quint. *Decl. Min.* 260.7. The term may translate the Greek *μωρία*, which is used for youthful sexual misdemeanors at Eur. *Ion* 545, cf. *Hipp.* 966–70 with Barrett ad loc. For women damned for what can be condoned in the male, see Eur. *Hipp.* 644, *Andr.* 674, *El.* 1035, *Tro.* 1059. For *adulescentia*, cf. Eur. *TGF*² frag. 149: νεότης μ' ἐπῆρε καὶ θράσος τοῦ νοῦ πλέον.

167. For a similar observation, see Perutelli 2000, 24–25, identifying Plaut. *Most.* 120–25 as an example of the *verba adcommodata* in similes recommended by *Rhet. Her.* 4.61.

168. Plaut. *Most.* 1138–43.

169. peccavisse *cod.*, Lindsay; potavisse *Acidalius, Leo*.

170. feci *cod.* (corr. B²); fecit *Leo, Lindsay, Collart*.

171. Plaut. *Most.* 1153–66.

scis solere illanc *aetatem* tali *ludo ludere*.

quidquid fecit, una nobiscum fecit; nos *deliquimus*.

faenus, sortem sumptumque omnem, qui amica <empta> est, omnia

nos dabimus, nos conferemus, nostro *sumptu*, non tuo.

TH. non potuit venire *orator* magis ad me impetrabilis

quam tu; neque <iam> illi sum iratus neque quicquam suscenseo.

immo me praesente amato bibito, facito quod lubet:

si hoc pudet, fecisse *sumptum*, supplici habeo satis.

CALL. disputet.

CALL. First of all, you know that I am your son's pal. He has approached me, for he is ashamed to come forth and face you because he did those things that he knows that you know about. Now, I beseech you, forgive his folly and youth: he is your son; and you know that that age is apt to play at such games. Whatever he did, he did together with us; we did wrong. The debt, the contributions, the expenditure with which his girlfriend was purchased—we will give it all, we will pay, not at your expense but at ours.

TH. An orator more likely to achieve his end than you could not have come to me; nor am I angry with him any longer nor am I at all incensed. Rather, now that I'm here, let him love, drink, do what he likes: if he is ashamed to have spent so heavily, I have punishment enough.

CALL. He is deeply ashamed.

Nor is this at all an unusual procedure in comedy. In the *Aulularia*, for instance, the *adulescens* Lyconides comes to Euclio to confess to the rape of his daughter. He admits his crime (*fateor peccavisse*), blames a god for it (*deus impulsor mihi fuit*), and states that he has come to beg (*oratum*) forgiveness (*ignoscas*).¹⁷² Euclio, convinced that Lyconides has actually stolen his pot of gold, has no time for speeches (*oratione*) and excuses (*excusare* . . . *excusemus*); the youth appeals for indulgence of his folly (*stultitiam*).¹⁷³ In the *Bacchides*, meanwhile, Chrysalus concocts a letter in which Mnesilochus claims to be ashamed to come to face his father (*pudet prodire me ad te in conspectum, pater*), guilty as he is of having slept with the wife of a foreign soldier.¹⁷⁴ He confesses that he has acted foolishly (*stulte fecisse fateor*), but begs his father not to abandon him if he has done wrong out of folly (*in stultitia si deliqui*), and claims that he was persuaded (*persuasumst*) by his cupidinous mind and uncontrollable eyes.¹⁷⁵ The same appeal is also essayed by Diniarchus in the *Truculentus*. He begs forgiveness (*ignoscas*) for a foolish deed (*insipienter factum*) and refers to Callicles as the praetor trying his case.¹⁷⁶ Finally, in the exquisite role reversal that closes the *Mercator*, the lustful father Demipho confesses his misdeed (*fateor, deliqui profecto*),¹⁷⁷ and is invited to seek forgiveness for his youth (*ora ut ignoscas*

172. Plaut. *Aul.* 735–39.

173. Plaut. *Aul.* 745–53.

174. Plaut. *Bacch.* 1007–9.

175. Plaut. *Bacch.* 1013–16. For persuasion as a legitimate excuse, see Ter. *Ad.* 470–71 and Hegio's attitude to the rape committed by Aeschinus: *persuasit nox amor vinum adulescentia: / humanumst*.

176. Plaut. *Truc.* 827–28, cf. 840. For further references to courtroom procedure, see the remarks of the maid at 836–37. For Callicles' unsympathetic response to the attempt to blame the rape on drink, cf. Phil. frag. 27 K-A = Stob. 3.18.20.

177. Plaut. *Merc.* 983.

delictis tuis atque adulescentiae).¹⁷⁸ His great concern is that his son should not play the angry old man (*ut ne mihi iratus siet*) at his expense.¹⁷⁹ The play closes with a piece of impromptu legislation endorsing the loves of the young provided they observe a due limit: even amidst comic disorder, the instinct to order remains.¹⁸⁰

What is to be made of the evident overlap between the comic plea for forgiveness and the rhetorical *locus de vita ante acta*? The answer, I would suggest, is either a very great deal or very little at all, and what will make the difference is essentially what we are willing to believe about the culture of Plautine Rome. In either case, the crucial factor must be the tendency of the comic texts cited, at the moment in which they so closely parallel the terms of the *locus de vita ante acta* as to suggest that the author of the *Ad Herennium* has drawn on them in phrasing his figure, themselves to refer to oratorical and judicial practice.

The interpretative problem is a familiar one. For just as the works of the Roman comedians are more or less faithful adaptations of a Greek original, so the close similarity between the *Ad Herennium* and the *De inventione* is generally held to indicate mutual derivation from a lost Greek treatise.¹⁸¹ Considered in these terms, the two texts may bear essentially independent witness to the same Greek phenomenon, and the oratorical practice to which the characters of Plautus refer may have next to nothing to do with what contemporary speakers themselves essayed.¹⁸² When, however, the Plautine Diniarchus dubs his prospective father-in-law the praetor in his case, this strikingly Roman identification may make us ponder to what extent the type of plea that he attempts to enter is true not only to fourth-century Attic oratory but also to the already sophisticated Roman rhetoric of the third–second century B.C.E.¹⁸³ Is it, in short, possible that not just the characters of drama but also the speakers operating in the forum were accustomed to rehearse and deliver formal rhetorical *loci* even at this early point in the development of Roman culture? I, for one, am strongly inclined to believe that this is the case.

8. CONCLUSION

The introduction to this paper set out two aims: to consider the role of the comic form in the *Pro Caelio* and then to consider what it might mean to talk of such a role. In answering the first problem, I have appealed to the

178. Plaut. *Merc.* 997.

179. Plaut. *Merc.* 993.

180. Plaut. *Merc.* 1021–22 *neu quisquam posthac prohibeto adulescentem filium / quin amet et scortum ducat, quod bono fiat modo.*

181. The close similarity between Cic. *Inv.* 2.37 and *Rhet. Her.* 2.5 is clearly significant in this context. Other parallels between the texts, however, point to an intermediary source responsible for the attempt to naturalize such figures in Rome by reference to Latin literary culture. Particularly valuable here is the manner in which both *Rhet. Her.* 2.35 and Cic. *Inv.* 1.95 illustrate the same point by reference to Plaut. *Trin.* 23–26. This in turn must modify any claim that the comic and rhetorical texts under discussion represent substantially separate traditions. For an account of the relationship between the two texts and their hypothetical source, see esp. Calboli 1969, 25–29.

182. Kennedy 1972, 31–32.

183. Plaut. *Truc.* 840; cf. Fraenkel 1960, 53: “Il contenuto è manifestamente romano.”

carefully observed generic rules that permit the comedies of Menander, Plautus, and Terence to structure their dramatic worlds and either to enact or to anticipate the resolution of that disorder that it is their essence to represent. To redimension the matters at issue in the trial of Caelius as if they were the plot of a comedy is peculiarly effective for its ability to suggest that this is all rather less significant than the prosecution would have the jury believe, for the compromising central role that the unfortunate Clodia is now obliged to play, and for the implications that the defendant's role as comic *adulescens* has for his inevitable return to sobriety. Had my remarks been restricted to this first problem, the resulting investigation could have been a good deal briefer. Yet one fundamental problem would still have remained. For, when a passage such as *Pro Caelio* 39–42 is as apt to be described as a rhetorical *locus de indulgentia* as it is to be analyzed in terms of the laws of comedy, the obvious task that remains is to investigate the relationship between these two modes. That this is rarely done is perhaps because Roman comedy tends to present itself as no less self-sufficient a system of communication than earlier it was suggested that ancient rhetorical theory might seem. If the evidence presented in the final sections of this argument is of value, it is perhaps in its suggestion that the cultural historian has much to gain from resisting just such lines of demarcation.¹⁸⁴

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