

CATILINA AND THE EXECUTION OF M. MARIUS GRATIDIANUS

For Martin Frederiksen*

The ancient tradition is strong that the execution of M. Marius Gratidianus during the Sullan proscriptions was carried out by L. Sergius Catilina. The earliest evidence comes from several passages in Cicero's speech *in toga candida*,¹ delivered just before the consular elections in 64 and designed to rake up as much prejudice as possible against his two main rival candidates, Catilina and C. Antonius (Hybrida). While in none of the passages does Cicero specifically mention the executioner or the victim, it is Asconius commenting on the passages (which are preserved for us as lemmata in his commentary on the speech) who reveals that Catilina was the executioner and Marius Gratidianus the victim. We do not have a great deal of the speech *in toga candida* left (and we are indebted to Asconius for what we do have of it); if we did have the whole speech, it is clear that we would have been given the name by Cicero himself.

The Ciceronian version (if that term may be used for convenience) is that the head of Gratidianus was cut off by Catilina, carried in his hands through the city from the Janiculum to the temple of Apollo, and delivered to Sulla still full of life and breath. This version is followed by Plutarch (*Sull.* 32.2). A variation can be found, as early as Sallust (and so for convenience it may be called the Sallustian version – not that the two versions are necessarily to be regarded as mutually exclusive). There is a fragment of the *historiae* which says that Gratidianus died after his arms and legs had been broken and his eyes gouged out, so that he expired as it were through each and every limb.² There is nothing about his head being cut off and carried about, nor is there any mention of Catilina as the executioner. While the details of the torture and mutilation become progressively more gory, this version is followed by Livy (*per.* 88), Valerius Maximus (9.2.1), Lucan (2.173–93),³ and Florus (2.9.26 = 3.21.26).

As time passed, elements of both versions began to combine. The *commentariolum petitionis* (§10) has the victim subjected to all kinds of torture before the head was cut off and carried through the city – all the work of one of Cicero's competitors for the consulship.⁴ Seneca (*de ira* 3.18.1–2) is a good example of an account which

* This paper is dedicated to the memory of Martin Frederiksen, a fellow Australian, who was my tutor in Worcester College when I was a D.Phil. candidate. It was he who first suggested to me the idea that Catilina may not have been the murderer of Gratidianus. I should also like to thank Associate Professor P. McGushin and Dr T. J. Cadoux for reading the draft of this paper and for giving me the benefit of their criticism; it should not be taken that they agree with the conclusions drawn here.

¹ The relevant passages are frs. 2, 9, 10 and 16 in the second edition of I. Puccioni, *M. Tulli Ciceronis Orationum Deperditarum Fragmenta* (Milan, 1972), hereafter abbreviated as P. They equal Ascon. 83.26–84.1, 90.3–5, 87.16–18, and 89.25–7. Passages of Asconius are given according to page and line number of the edition of A. C. Clark (Oxford, 1907).

² Sall. *hist.* 1.44 M: 'ut in M. Mario, cui fracta prius crura brachiaque et oculi effossi, scilicet ut per singulos artus expiraret'.

³ Lucan's account has a list of the most gruesome tortures and mutilations.

⁴ The combining of elements need not necessarily have come later, if the *comm. pet.* is to be regarded as an authentic document and dated to the time of Cicero's candidature for the consulship: see below, n. 11. The *comm. pet.* adds a new detail, that Gratidianus was beaten with cudgels as he was driven through the city.

combines both the Ciceronian and the Sallustian versions: Catilina is named as the executioner, acting on the orders of Sulla, and death comes to the victim after the breaking of his legs, the gouging out of his eyes, and the cutting out of his tongue.⁵ This combination of details is followed by two later writers, Firmicus Maternus (*math.* 1.7.31) and Orosius (*hist.* 5.21.7–8), though their concentration is on the gruesome and spectacular tortures which accompanied the execution.⁶ Clearly the story developed with the passing of time, and new details were invented to be added to the tradition.

Valerius Maximus is the earliest writer we have to give us a further element in the story: he says that Gratidianus was dragged to the tomb of the Lutatian family before the gaze of the crowd and put to death there.⁷ That element appears also in Lucan (who writes of a bloody atonement made to the ghost of Catulus),⁸ in Seneca (*ante bustum Quinti Catuli*), in Florus (*apud Catuli sepulcrum*), and in Orosius (*ad Lutatiorum sepulcrum*). It is not easy to tell whether this detail derives from the earliest accounts of Cicero and Sallust (and therefore whether the Ciceronian and the Sallustian versions are mutually exclusive), or whether it is a later addition. It is true that most of the writers who preserve the detail that the execution took place near the tomb of the Lutatii are later and for the most part follow what has been for convenience called the Sallustian version. Unfortunately we have only one small fragment of Sallust's *historiae* dealing with this incident;⁹ it may well be that, if we had the whole of his account of it, the detail about the location might appear, along with other details which we know of at the moment only from the Ciceronian version. The full account of Sallust, if we had it, may even have included the name of Catilina as the murderer.

Where did Sallust get his information about the incident? It is not likely that Cicero's speech *in toga candida* with its tendentious purpose was used as a major source for the history of the 80s, nor is it likely that the contemporary historians of the period, Sulla himself and the pro-Sullan Sisenna, would have written unflatteringly of the activities of Sullan supporters during the proscriptions, as is argued below (pp. 131–2). The historian L. Lucceius, who undertook the prosecution of Catilina for murders during the Sullan period soon after Cicero delivered the *in toga candida*, may have been influential in formulating the story that Catilina murdered Gratidianus (see below, p. 132); a version of his prosecution speech was published and still available in

⁵ Seneca's phrase 'paulatim et per singulos artus laceravit' is even a verbal echo of Sallust.

⁶ Firmicus Maternus wrongly associates his account of the execution with the younger Marius (cf. App. B.C. 1.65), when it is clear that the details he gives relate to the death of Gratidianus. Orosius adds two new elements: the victim was dragged out of a goat-shed, and his head was sent to Praeneste (the latter possibly a confusion derived from Lucan's account, which, after dealing with the death of Gratidianus, goes on to describe what happened to the heads of those captured with the younger Marius at Praeneste).

⁷ Val. Max. 9.2.1: 'quem per ora vulgi ad sepulcrum Lutatae gentis pertractum, non prius vita privavit quam oculus infelicis erueret et singulas corporis partes confringeret'. I can find no evidence for the location of the tomb of the Lutatii; cf. below, n. 12.

⁸ Luc. 2.173–6: '... quid sanguine manes/placatos Catuli referam? cum victima tristes/inferias Marius forsan nolentibus umbris/pendit inexploto non fanda piacula busto...'. A. W. Lintott, *Violence in Republican Rome* (Oxford, 1968), 40, makes the suggestion that the slaughter of a Marius by the tomb of the Lutatii might be a survival of the practice of making human sacrifice to the dead. The theme of just revenge (most noticeable in Luc. 2.173–6) could have been drawn from the fact that Gratidianus, as tribune in 87, launched the prosecution of Catulus, who anticipated the inevitable verdict by committing suicide (references and discussion in E. S. Gruen, *Roman Politics and the Criminal Courts, 149–78 B.C.* [Cambridge, Mass., 1968], 232–4).

⁹ In the *Catilina* Sallust makes no mention of Catilina's involvement in Sullan atrocities, except in the most general terms (e.g. 5.2, 14.1–4, 15.3–5, 16.3).

the mid-1st century A.D. (Ascon. 92.1–2). Lucceius' speech obviously attempted to blacken Catilina, and Sallust, whose *Catilina* took every opportunity to blacken the revolutionary, would have found that Lucceius' version suited his purpose and could well have incorporated it in his *historiae*.

There is no indication in Cicero's speech *in toga candida* that the execution of Gratidianus took place at the tomb of Catulus: he says only that the head was cut off, carried from the Janiculum to the temple of Apollo and presented to Sulla (fr. 9 P = Ascon. 90.3–5). There is mention that the deed took place before the gaze of a crowd (fr. 10 and 16 P = Ascon. 87.16–18 and 89.25–7). Again we are hampered because we do not have the whole of Cicero's speech, only the fragments recorded by Asconius. We have to rely on the commentator for filling out the details we can glean from the bits of Cicero he preserves: Asconius tells us not much more than the name of the victim, and the name of the executioner (though the latter point could easily have been worked out from what we know of the whole thrust of the speech, even if we had not had Asconius' comment). It is possible, of course, that Asconius, writing probably about the time of the emperor Nero,¹⁰ would have been able to fill out the Ciceronian version in the light of the later developments in the story which have already been discussed above. At any rate, he does not give the detail that the deed took place at the tomb of Catulus. Perhaps if we did have the whole of Cicero's speech, more of the details which we now find only in the later versions might have emerged. Asconius does say that this particular crime of Catilina's was frequently mentioned throughout the speech (84.9–10).

One complication in all of this is the controversy over the date of composition of the *comm. pet.*¹¹ It does say that the execution of Gratidianus took place at a tomb (*ad bustum*), without saying whose tomb it was.¹² In view of other sources which say that the location was the tomb of the Lutatii, the *comm. pet.* ought to be taken to

¹⁰ For the date of Asconius' composition of his commentaries, see J. N. Madvig, *De Q. Asconii Pediani... commentarii disputatio critica* (Copenhagen, 1828), 4–5; Schanz–Hosius, *Geschichte der römischen Literatur*⁴ ii.732; H. W. Benario, *Historia* 22 (1973), 65.

¹¹ On the state of the question, with bibliography to 1972, see D. Ferey and E. Deniaux, *ANRW* 1, 3 (1973), 241–3 and 248–56. One line of argument occasionally used by modern scholars to test the authenticity of the document is to compare the passages of Cicero's *in toga candida* with *comm. pet.* 10 on the death of Gratidianus. R. Y. Tyrrell and L. C. Purser, *The Correspondence of Cicero*³ i. 124 and 159, argue that with regard to the death of Gratidianus 'Cicero availed himself of the phraseology of this part of his brother's letter': 'inspectante populo' is used in both, and for them 'quod caput etiam tum plenum animae et spiritus...manibus ipse suis detulit' is taken from 'vivo spiranti collum gladio sua dextera secuerit...caput sua manu tulit'. The correspondences are discussed by D. Nardo, *Il 'Commentariolum Petitionis', La propaganda elettorale nella 'Ars' di Quinto Cicerone* (Padua, 1970), 36–9, with the conclusion that they help to prove the authenticity of the document. R. G. M. Nisbet, *JRS* 51 (1961), 86–7, arguing that the borrowings might have been made in the other direction, says that the lack of identification of the *bustum* by the author of the *comm. pet.* shows that the author, writing later, jumped to the conclusion that the *bustum* was meant for Gratidianus himself, failing to understand Cicero's oblique references to it (which he conjectures Cicero may have made). J. P. V. D. Balsdon, *CQ* n.s. 13 (1963), 249–50, countering Nisbet's argument, says that if the *comm. pet.* were a contemporary document there would have been no need for the author to identify the *bustum* since it would be well known, and hence there is no need to assume a lack of identification. It is possible, of course, that by 64 (the date at which the *comm. pet.* would have been written if it were a genuine letter of Cicero's brother), the two versions had already become combined (for it was after all nearly twenty years since the event had taken place).

¹² Tyrrell and Purser, op. cit. (n. 11), i. 159, commenting on *comm. pet.* 10, take *bustum* to refer to the bustum Basili on the via Appia near the city, which is described by Ascon. 50.7–9 as a place notorious for violence and robbery ('locus latrociniis perinfamis'), though they note the other sources which locate the murder at the tomb of Catulus. Their identification is rejected by Nisbet, art. cit. (n. 11), 86.

refer to the same locality. If that pamphlet is a document genuinely contemporary with Cicero's candidature for the consulship, it would indicate that the detail about the deed taking place at the tomb of the Lutatii was in the story right from the start, and that the Ciceronian and Sallustian versions were not mutually exclusive.

If the detail about the execution taking place at the tomb of the Lutatii was there from the beginning, why did Cicero not mention it? If he had, Asconius would almost certainly have commented on it, since it would have been the sort of topographical detail on which he would have felt a need to comment.¹³ The execution of Gratidianus at the tomb of Catulus is seen in the tradition as a just revenge; if Catilina carried it out, it would have earned him the gratitude of Catulus' son,¹⁴ the consul of 78 and at the time of the delivery of the *in toga candida* probably the most prominent member of the senatorial aristocracy. The link between the younger Q. Lutatius Catulus and Catilina went back to at least 73, when Catulus defended him at the trial of the Vestal Virgins;¹⁵ at his trial for extortion in 65 (just the year before he and Cicero were candidates for the consulship), he was acquitted partly through the help of influential consulars,¹⁶ among whom may well have been Catulus. In the letter recorded in Sall. *Cat.* 35.1–6 as being written to Catulus by Catilina on his hasty departure from Rome in November 63, Catilina acknowledges his gratitude to Catulus for his help in times of crisis.¹⁷ In a speech delivered in the Senate and aimed at discrediting his two major competitors, it may not have been tactically prudent for Cicero to mention a favour done by one of them for a most influential senator, and that may explain why Cicero did not mention the detail about the execution of Gratidianus taking place at the tomb of Catulus (if indeed that detail was part of the story from the start).

There were family links between the Tullii Cicerones, the Gratidii and the Marii, leading families in the local aristocracy from Arpinum. Cicero's grandfather had married a Gratidia, and her brother, M. Gratidius, had married a sister of C. Marius.¹⁸ A son born of this latter marriage was the man who later became known as M. Marius Gratidianus; hence he was doubly related to the great general, C. Marius, being a nephew by birth and a nephew by adoption, since he was subsequently adopted by Marius' brother. These family connections made Cicero a relative of Gratidianus.

There is some slight evidence that Catilina too was related to the Gratidii by marriage, since the Berne Scholiast, commenting on Luc. 2.173, makes Gratidianus the brother of Catilina's wife at the time of his execution.¹⁹ There are accounts of

¹³ Cf. his other topographical explanations at 27.1–5, 48.12–13, 50.7–9, 90.6–14.

¹⁴ P. McGushin, *C. Sallustius Crispus, Bellum Catilinae: a Commentary* (Leiden, 1977), 195 (on Sall. *Cat.* 34.3) conjectures that the relationship between Catilina and Catulus may have started from this incident.

¹⁵ Discussion of this trial, with references, can be found in Gruen, *Athenaeum* 49 (1971), 59–62, and *The Last Generation of the Roman Republic* (Berkeley and Los Angeles, 1974), 42 and 271. Oros. 6.3.1 reports that Q. Catulus assisted Catilina to gain acquittal.

¹⁶ L. Manlius Torquatus (cos. 65) spoke in his defence, and Cic. *Sull.* 81 says that other *consulares* supported him.

¹⁷ Note 35.1: '...grata mihi magnis in meis periculis', where *periculis* may well refer to the trials he faced.

¹⁸ See the stemma in T. F. Carney, *A Biography of C. Marius* (Proceedings of the African Classical Associations, Suppl. No. 1, 1961), 77, and cf. C. Nicolet, *REL* 45 (1967), 276–7 and 290.

¹⁹ For the full passage, see below p. 132. The marriage is accepted by, e.g., M. Gelzer, *RE* 2A (1923), 1695, s.v. 'Sergius' no. 23; R. Syme, *Sallust* (Berkeley and Los Angeles, 1964), 85–6; Nicolet, art. cit. (n. 18), 290–1 (repeated in *Mélanges d'histoire ancienne offerts à William Seston* [Paris, 1974], 388); A. Kaplan, *Catilina* (New York, 1968), 27; E. Manni, *Lucio Sergio Catilina*² (Palermo, 1969), 205 n. 1; T. P. Wiseman, *New Men in the Roman Senate 139 B.C.–14 A.D.* (Oxford, 1971), 240.

Catilina's atrocities which state that he murdered a brother or a brother-in-law: *comm. pet.* 9 says that with his own hands Catilina murdered the husband of his sister and gives his name as Q. Caecilius,²⁰ and Plutarch says that he killed an ἀδελφός, persuaded Sulla to put his name on the proscription list to justify the murder retrospectively, and in return for the favour killed Gratidianus.²¹ In both of these accounts, the murder of the relative is a separate act, and the writers move on to list the death of Gratidianus as another atrocity committed by Catilina. It is possible that the Berne Scholiast in recording a version of the death of Gratidianus which he says that others put forward has confused the two separate executions and run them together, making Gratidianus the brother-in-law killed by Catilina.

Other than the comment of the Berne Scholiast that Catilina was married to a Gratidia, we have evidence for only two marriages of his – one to an unnamed woman and the other to Aurelia Orestilla.²² Syme, tentatively accepting the evidence of the Berne Scholiast, conjectures that Catilina had three wives – first Gratidia, quickly put away when a Marian connection became an embarrassment,²³ then the unnamed woman, and third Aurelia Orestilla. There are, however, arguments (admittedly from silence) against Catilina's ever having been married to Gratidia. It would be remarkable if Catilina's murder of *two* brothers-in-law (Caecilius and Gratidianus) did not provoke some comment in the sources. And is it likely that Cicero never mentioned, or had to explain away, a family connection with Catilina (which he would have had if Catilina had been married to Gratidia, since Cicero's own family was connected with the Gratidii)?

A larger question raises itself in regard to the execution of Gratidianus – was the deed actually carried out by Catilina? The question was asked a hundred years ago by Beesly, who answered it in the negative.²⁴ He argued that the story of Catilina's murder of Gratidianus was made up by Cicero: in support of his argument he pointed out that Catilina was not put on trial for it until eighteen years after the event (and then he was acquitted anyway) and that the Marian party subsequently followed Catilina, when Gratidianus (the man he was supposed to have murdered) was a close relative of C. Marius. The tradition that Catilina did do it is strong, of course, starting from the Ciceronian period, but it did get considerably more grim with the passing of time, and the way in which the sources built up the picture of Catilina's depravities may be an example of a process of increasing denigration which is discernible in other

²⁰ Cf. Ascon. 84.5–6, which also lists Q. Caecilius as one of Catilina's victims, along with M. Volumnius and L. Tanusius. For a discussion of these and other equestrian victims, see Nicolet, *op. cit.* (n. 19), 388 ff.

²¹ *Sull.* 32.2, *Cic.* 10.2. It is likely that the accounts in the *comm. pet.* and Plutarch are referring to the same event since *frater*, which presumably Plutarch saw in his source and translated as ἀδελφός, can mean 'brother' and 'brother-in-law'.

²² *Cic. Cat.* 1.14; *Sall. Cat.* 15.2, 35.3; *Val. Max.* 9.1.9; *App. B.C.* 2.2. The anonymous wife was removed to make way for Aurelia Orestilla. One wife was supposedly the daughter of Catilina himself by an adulterous liaison with a noble lady; Asconius (91.27–92.3) confesses that he has not yet been able to find the name of this wife or her mother, but the allusion is presumably to Aurelia Orestilla (so Syme, *op. cit.* [n. 19], 85). The date of the marriage to Aurelia Orestilla (and the removal of the anonymous wife) is probably the mid-60s: B. A. Marshall, *RFIC* 105 (1977), 151–4.

²³ Syme, *op. cit.* (n. 19), 85–6. Catilina did not join Sulla until late, 'but then made up in ferocity against the Marians what he lacked in long service' (B. Rawson, *The Politics of Friendship: Pompey and Cicero* [Sydney, 1978], 27; cf. E. Badian, *JRS* 52 [1962], 60 [= *Studies in Greek and Roman History*, 229]).

²⁴ E. S. Beesly, *Catiline, Clodius and Tiberius* (London, 1878), 20–2; Kaplan, *op. cit.* (n. 19), 27. Cf. Nicolet, *op. cit.* (n. 19), 388 (specifically rejecting Beesly and Kaplan).

cases.²⁵ Some of the authors who follow the Sallustian version do not mention that Catilina carried out the execution. It has to be admitted that we do not have all of Sallust's *historiae*, and it may have been mentioned by him; but, since the later writers were mostly summarising, they could easily have left out such a detail.

Some other arguments, again admittedly mostly from silence, can be put forward to support the belief that Catilina did not execute Gratidianus. First, since Gratidianus was a relative of Cicero (even if somewhat distant), could Cicero have thought of defending Catilina at his trial for extortion in 65 with an eye to securing him as a running-mate for the consular elections the next year,²⁶ if in fact Catilina had murdered this relative of his? Even if the relationship was distant enough for Cicero not to be concerned, would the orator from Arpinum, seeking to secure election to the consulship as a *novus homo* (when, in the run-up to the elections, he would need to be conscious of winning the support of as many sections of the community as possible, including the populace), consider defending a man credited with executing a fellow native of Arpinum, who had been so popular that he had been elected to two praetorships and had statues erected to him?²⁷ Indeed, it could well have been that, in the period just before the elections (around the time he delivered the *in toga candida*), Cicero put about the story that Catilina had murdered Gratidianus, in order to secure popular support (in view of the popularity which Gratidianus had enjoyed).²⁸

Second, at the battle of Pistoria early in 62, when the embers of the Catilinarian conspiracy were finally extinguished, Catilina drew up the battle line with himself in command of the centre, behind an eagle-standard which was supposed to have been carried in Marius' army during the campaign against the Cimbri.²⁹ If the use of this standard was an attempt by Catilina to rally former Marian supporters to the cause, would he have had any chance of being able to do that successfully if he had been responsible for the execution of Marius' nephew?

Third, apart from the references in the *in toga candida*, Cicero never mentions the story again, not even in the *First Catilinarian* when he was scratching around for

²⁵ For a discussion of this process, with matrix and general conclusions, in the case of Marius, see Carney, *op. cit.* (n. 18), 1–7.

²⁶ Cic. *Att.* 1.2.1 (despite Cicero's claim in the previous letter that his guilt was as clear as the noonday sun). The case is discussed by D. R. Shackleton Bailey, *Cicero's Letters to Atticus* (Cambridge, 1965), i. 296, and Gruen, *art. cit.* (n. 15), 59–62 (who thinks that the extent of P. Clodius' collusion at the trial has been exaggerated). The trial did not take place until the second half of 65, since from Cicero's letter, written about the middle of July probably, we learn that by then the procedures had only reached the stage of the rejection of jurors.

²⁷ For discussion of the dates of his praetorships, see *MRR* 2.59 n. 9, and G. V. Sumner, *The Orators in Cicero's Brutus: Prosopography and Chronology* (Toronto, 1973), 118–19. His great popularity is explained by the fact that during his first praetorship he anticipated a joint declaration agreed upon by his colleagues and supported by the tribunes, by issuing in his own name alone an edict establishing an office to test and eliminate debased coinage which had been issued under a law of M. Livius Drusus in 91 (Cic. *off.* 3.80–1; Plin. *N.H.* 33.46; M. H. Crawford, *PCPS* 194 [1968], 1–4, and *Roman Republican Coinage* [Cambridge, 1974], ii. 616; I. Shatzman, *Senatorial Wealth and Roman Politics* [Collection Latomus 142, Brussels, 1975], 205–6). The statues, which were pulled down when Sulla entered the city, are mentioned by Plin. *N.H.* 33.132, 34.27.

²⁸ Cf. fr. 10 P: 'populum vero, cum inspectante populo collum secuit hominis maxime popularis, quanti faceret ostendit'. And fr. 16 P: '[Would you, Catilina, seek to be awarded the consulship] a plebe? cui spectaculum eius modi tua crudelitas praebuit, ut [te] nemo sine gemitu ac recordatione luctus aspicere possit'.

²⁹ Sall. *Cat.* 59.3. It may well have been the same eagle which Cicero mentions at *Cat.* 1.24. Catilina may have secured it either as a personal trophy dating from his service under Sulla (so McGushin, *op. cit.* [n. 14], 284) or through the connection made with the Marii by his marriage to Gratidia (if such a marriage took place).

evidence of Catilina's criminal nature. There are oblique references subsequently (*Att.* 1.16.9 and *Pis.* 95) to two unjust acquittals of Catilina, but they could refer to his involvement in the trial of the Vestal Virgins in 73 and to his trial for extortion in 65;³⁰ even if Cicero did have in mind the trial *de sicariis* in 64, it does not necessarily follow that Cicero thought Catilina had been unjustly acquitted for the murder of Gratidianus – he may have had in mind the other victims whom Catilina was said to have murdered.

In the speech *in toga candida*, Cicero followed the advice given in *comm. pet.* 52 (even if he did not receive that document) to rake up as much prejudice as possible against his two main rival candidates, Catilina and Antonius. He knew at the time that a prosecution was being prepared against Catilina before a court *de sicariis* which had been specially set up to deal with cases of murders carried out by Sullan agents nearly twenty years before.³¹ From the middle 60s on, the climate of popular opinion was such that moves were being made against those who were seen to have profited from the Sullan period,³² though many actions at that time were properly carried out (e.g. the execution of persons on the proscription lists) or were retrospectively justified by legislative enactment.³³ Catilina's trial before this court came up a few months after the delivery of the *in toga candida*;³⁴ the prosecutor was L. Luceius, and he conducted a 'dirty' case, raking up all sorts of scandal.³⁵ Presumably, Catilina was prosecuted

³⁰ For the view that the two acquittals recorded by Cicero refer to the extortion trial in 65 and the murder trial in 64 and that Cicero deliberately omitted the acquittal in the *incestum* trial in 73 in order to spare the feelings of his wife, Terentia, the half-sister of Fabia (the Vestal with whom Catilina was involved: Ascon. 91.14–23; Plut. *Cat. Min.* 19.3; cf. Sall. *Cat.* 15.1 and Plut. *Crass.* 1.2), see H. Wirz, *Catilina's und Cicero's Bewerbung um den Consulat für das Jahr 63* (Zurich, 1864), 38 n. 1, and E. von Stern, *Catilina und die Parteikämpfe in Rom der Jahre 66–3* (Dorpat, 1883), 53. Shackleton Bailey, op. cit. (n. 26) i. 319, argues that Catilina was never brought to trial in 73, so that Cicero must be referring only to the trials in 65 and 64. This whole question is examined in an unpublished paper by T. J. Cadoux.

³¹ For the details, see most recently Marshall, *Scripta Classica Israelica* 3 (1976/7), 135–7.

³² For example, there were moves, beginning in 66 and repeated on a number of occasions, to bring Faustus Sulla to court to make him hand over property appropriated by his father and thought to belong rightfully to the state (Ascon. 73.9–12; cf. Cic. *leg. agr.* 1.12), and during his quaestorship (64?) Cato is said to have tracked down persons who had received rewards from Sulla and made them give up money unjustly acquired (Plut. *Cat. Min.* 17.4).

³³ A *lex Cornelia de proscriptione* formalised the proscriptions and provided that the proscribed might be killed with impunity (Cic. *Rosc. Am.* 125–6; cf. Plut. *Sull.* 31). The *lex Valeria* appointing Sulla as dictator retrospectively justified his actions (Cic. *leg. agr.* 3.5). Other references are collected in G. Rotondi, *Leges Publicae Populi Romani* (Milan, 1912), 348–9. Persons brought before the court *de sicariis* pleaded, therefore, that they had merely acted on the orders of Sulla as *imperator* and *dictator* (cf. Ascon. 91.7–8; '...imperator ac dictatori paruisse dicere').

³⁴ Asconius says that Catilina was not made a *reus* until after he had suffered defeat in the consular elections (91.10–12), and that he underwent the trial on the charge *inter sicarios* a few months after the delivery of the speech. The lemma of Cicero, however, on which Asconius is commenting implies that Catilina had already been charged (unless it is wishful thinking on Cicero's part that Catilina would be hauled up before the court which had recently condemned other Sullan assassins). The lemma before that (90.16–18, especially 'potes in defensione tua dicere') also implies that Catilina was going to have to defend himself and therefore that he had already been charged. It is reasonable to assume that as the special court *inter sicarios* had already begun hearing cases before the elections, Catilina's case had been put on the list. It would be consistent with the statements of Cicero and the comments of Asconius to suggest that Catilina was charged before the consular elections but that the case was not actually heard until after the elections.

³⁵ Such as the story that Catilina seduced an aristocratic lady and subsequently married the daughter born of this adulterous liaison (Ascon. 91.27–92.2). Asconius states that this item was taken from Luceius' prosecution speech. Cf. above, n. 22.

for murders carried out in the disturbances following Sulla's victory (such as those listed at Ascon. 84.5–6); he ought not to have been prosecuted for the execution of Gratidianus (even if he did do it), since he appeared on the proscription lists and that made it 'legitimate', being carried out on Sulla's orders (Sen. *de ira* 3.18.2; Firm. Mat. *math.* 1.7.31).³⁶ But it is likely that Lucceius, in view of the sort of case he conducted, dragged in the execution of Gratidianus and tried to make it out to be a further example of Catilina's nefarious activities. Perhaps Cicero borrowed some of the details from the impending prosecution, as they suited the purpose of his speech. Asconius may give us a clue: he says (84.9–10), 'quod crimen saepius ei tota oratione obicit', where *crimen* may not mean 'crime' so much as the 'charge' which Catilina was facing at that time and which had been laid by Lucceius (and which included not only the execution of Gratidianus but the murder of citizens whose names Asconius gives us, using Cicero's evidence, in the sentence just before the mention of Gratidianus).³⁷

What might have been the source for Cicero's view that Catilina murdered Gratidianus?³⁸ One should perhaps look for it among the writers of contemporary history, rather than the traditional annalists like Q. Claudius Quadrigarius and C. Licinius Macer, whose works were broad in scope and therefore less likely to contain the sort of detail we have about the murder of Gratidianus. It should be remembered that both Cicero and Lucceius were old enough to have remembered the dictatorship of Sulla for themselves,³⁹ and they may not have needed to consult an historical source for information about this period. Of the writers of contemporary history who may have been used as a source, several spring readily to mind. Sulla himself wrote memoirs covering the social and civil war period, which he probably pretended to regard as raw material for history, rather than history proper.⁴⁰ But Sulla's work was a political *apologia*, and in it he was not likely to say that the work of some of his henchmen in carrying out his orders was malicious or improper.⁴¹ Likewise with L. Cornelius Sisenna: a patrician senator who moved in the highest circles, he wrote a history of the social and civil wars. He experienced himself the events in Italy following Sulla's return, presenting the case of those (like Catilina) who joined Sulla late.⁴² His pro-Sullan bias, which was criticised by Sallust (*Iug.* 95.2), would tend to suggest that he would not blacken the actions of Sulla's associates. It was apparently intended that L. Licinius Lucullus, Sulla's friend and executor of his will, should write the history based on the raw material of Sulla's memoirs,⁴³ but he never carried out the task.⁴⁴

³⁶ Liv. *per.* 88, and Val. Max. 9.2.1 make Sulla directly responsible for Gratidianus' death. Cf. Plut. *Sull.* 32.2, *Cic.* 10.2 (n. 21 above).

³⁷ Cf. also Ascon. 91.9–10: 'huius autem criminis periculum quod obicit Cicero paucos post menses Catilina subiit'.

³⁸ In general on the source problems for this period, see H. Strasburger, *Caesars Eintritt in die Geschichte* (Munich, 1938), 24–44; and on the contemporary historians, see Badian, 'The Early Historians', in T. A. Dorey, ed., *Latin Historians* (London, 1966), 18 ff.

³⁹ Cicero was born in 106 and would therefore have been in his middle twenties at the time of the Sullan proscriptions. Lucceius, as praetor in 67, would have to have been born at the latest by 107, and so was probably of much the same age as Cicero.

⁴⁰ Badian, *op. cit.* (n. 38), 25. Plutarch refers to the work as *ὑπομνήματα*, what the Romans called *res gestae* (cf. Caesar's *commentarii*).

⁴¹ Sulla was, however, prepared not to give promotion to those of his henchmen who abused their position: cf. the case of Crassus mentioned in Plut. *Crass.* 6.7.

⁴² Badian, *art. cit.* (n. 23), 48–9 (= *Studies*, 208–9).

⁴³ Fr. 1 P; cf. Plut. *Luc.* 1.3, 4.4.

⁴⁴ In his youth he did write a history of the social war in Greek, choosing that language as the result of the drawing of lots (Plut. *Luc.* 1.5).

A contemporary who did have an interest in history was in fact the prosecutor, L. Luceius.⁴⁵ He is known to have completed by 56 a history of the Italian and civil wars (Cic. *fam.* 5.12.1), so it is clear that he had an interest in this period particularly. As argued earlier, the charge had probably already been laid against Catilina at the time Cicero delivered his speech *in toga candida*, and the general lines of the case against him had probably been drawn already.⁴⁶ The famous letter of Cicero to Luceius (*fam.* 5.12) shows that Cicero thought him capable of exaggeration, and the muck-raking in which he indulged in the prosecution of Catilina shows the lengths to which he was prepared to go to blacken the accused. Having remembered the proscription period and (presumably) Catilina's role in it, but wishing to take advantage of the climate of opinion which made it possible now to prosecute persons for Sullan atrocities and needing to overcome the defence which all the accused made at this time that they had simply carried out orders,⁴⁷ Luceius may well have fabricated Catilina's role in the execution of Gratidianus in order to bolster his case. As Cicero and Luceius were personally acquainted, and as some of the details of Luceius' case seem to have been known to Cicero at the time he delivered the speech *in toga candida* (which is our earliest and main source for the claim that Catilina murdered Gratidianus), it is not inconceivable that Cicero got the story (which suited his purposes) from Luceius.

If Catilina did not carry out the execution of Gratidianus, then who did? The Berne Scholiast on Luc. 2.173 provides a hint:

Quintus Catulus partium Sillanarum fuit, vir Claudiae, cum illi a Mario Gratidiano tribuno plebis Cinnano dies dicta esset ut eum cruci fige[ret], voluntaria morte obiit, huius filius permittente Silla Majrjum interfecit.⁴⁸ sunt qui dicant Catilinam iussu Sillae hunc Marium Gratidianum uxoris suae fratrem ad tumulum Catuli occidissee, quasi sic placaret.

This is the only piece of evidence to point to Q. Catulus as the executioner of Gratidianus. While a number of sources assign the deed to Catilina, there is no reason to reject the evidence of the Berne Scholiast, simply because it is the only piece and late. It raises the question of how reliable the Berne Scholiast is. He is clearly aware of two versions, and conscientiously gives us both. The second version most likely derives from Sallust's *historiae*, which became very popular in later periods – and it has already been argued that Sallust's information was derived from a very biased source (i.e. L. Luceius). Where the version which has Catulus as the executioner comes from is impossible to say – a simple confusion between the names Catulus and Catilina could explain its development. It would, however, make sense to have Catulus as the executioner, in view of the theme of just revenge for the murder of his father, which is mentioned in some versions, in conjunction with the detail that the execution of Gratidianus took place before the tomb of the Lutatii.

Why then, it may be asked, did Cicero not accuse Catulus of the murder of

⁴⁵ On the Luceii in general, see W. C. McDermott, *Hermes* 97 (1969), 233–46. His attempt to distinguish the historian from the candidate for the consulship of 59 who contemplated a *coitio* with Caesar is unacceptable: see G. R. Stanton and B. A. Marshall, *Historia* 24 (1975), 216. Even on McDermott's identifications, the historian is not to be distinguished from the prosecutor of Catilina.

⁴⁶ For example, the scandalous charge that Catilina subsequently married the daughter born of an adulterous liaison, made by Luceius (above, n. 35), was already known to Cicero (fr. 20 P = Ascon. 91.24–6).

⁴⁷ See above, nn. 32 and 33.

⁴⁸ The reading for this sentence is found in ms. B; the reading in C is *figerium interfecit*, obviously the result of an omission. For a discussion of the text at this point, see H. Usener, *Rh. Mus.* 19 (1864), 183–4.

Gratidianus in his speech *in toga candida*, and why did he transfer the responsibility to Catilina? The answer would have to be that Catulus was too powerful a figure to be attacked, especially by a *novus homo* in the run-up to the elections,⁴⁹ and when the death of Gratidianus was 'legitimate' anyway. But it could be made to suit Cicero's purpose to cast a slur on his competitor, Catilina, who was a lesser light in the Senate and who could plausibly be made out to have done the deed to an audience having to think back to events nearly twenty years before, especially when they knew that Catilina was an associate of Catulus. They might therefore be persuaded to think that the associate (who otherwise had a reputation for violence) had done the deed, when it was really carried out by his patron.

*University of New England,
Armidale, N.S.W.*

BRUCE MARSHALL

⁴⁹ Cicero had a great respect for Catulus: see *Att.* 1.20.3, and cf. Gruen, *op. cit.* (n. 15), 50–1. Cicero's attack on Catilina might have had implications for his relationship with Catulus (since Catilina had links with Catulus: see above, nn. 15–17), but he may have calculated that it would be less harmful to attack Catilina than to mention Catulus. The pre-eminence of Catulus as a leading optimate in the 60s (for a discussion, see A. M. Ward, *Marcus Crassus and the Late Roman Republic* [Columbia and London, 1977], 15–16) may explain why his name was suppressed as the executioner of Gratidianus. Catulus died in 61 or 60; it would have been about then that the version of Lucceius would be making its impact on the process of vilification of Catilina.