

## POLLUTION AND RITUAL IMPURITY IN CICERO'S *DE DOMO SUA*<sup>1</sup>

domo per scelus erepta, per latrocinium occupata, per religionis uim sceleratius etiam aedificata quam euersa, carere sine maxima ignominia rei publicae, meo dedecore ac dolore non possum

The house that has been snatched away by wickedness, acquired by robbery, built upon through a violent form of religion, even more criminally than it was destroyed, cannot be taken from me without the greatest ignominy to the state, and dishonour and pain to myself.<sup>2</sup>

With these words Cicero gives the final summary of his speech arguing for the full return of his house from the clutches of his enemies, and reiterates the core of an argument which has been repeated extensively throughout the *De domo sua*. This paper examines the widespread significance of pollution in this speech and its relevance to the debate over the shrine to Libertas which P. Clodius, Cicero's arch-enemy, had installed on the site of his home during his exile in 58 B.C. Above all, it explores the possibility that while Cicero at first glance appeared to focus excessively on polemic, he deliberately constructed Clodius' behaviour, associates and property as entirely impure. This was a central tactic in his speech and a crucial factor in his attempt to have the dedication of the shrine of Libertas annulled.<sup>3</sup>

Cicero frequently exploits religious pollution and impurity in his speeches, using it against each of his great political opponents – Catiline,<sup>4</sup> Clodius<sup>5</sup> and Antony<sup>6</sup>

<sup>1</sup> I would like to offer sincere thanks to Mark Bradley, John Drinkwater, John Rich and the anonymous *CQ* referee for their invaluable comments and advice. Translations provided throughout are my own.

<sup>2</sup> Cic. *Dom.* 147.

<sup>3</sup> A comprehensive examination of pollution in Roman society is still lacking, but an initial assessment of some of the key terms appears in G. Thome, 'Crime and punishment, guilt and expiation: Roman thought and vocabulary', *Acta Classica* 35 (1992), 73–98, who highlights the importance of *scelus* in interpreting religious pollution, with various 'polluting' actions (*polluere*, *inquinare*, *uiolare*, *contaminare*) resulting in infection with *scelus*. A. Wallace-Hadrill, 'The golden age and sin in Augustan ideology', *P&P* 95 (1982), 19–36, at 24–9 also highlights the importance of *scelus* in Roman religion as 'an offence that incurs the wrath of the gods, and is liable to bring down retribution unless set right or "expiated" by the requisite ceremony (*piaculum*)'. The emphasis on expiation is telling, as is Cicero's use of the term against his enemies – in the *De domo sua* he uses the term to describe Clodius, his actions and his associates no fewer than fifty-three times.

<sup>4</sup> Cic. *Cat.* 2.1. *Quirites, L. Catilinam, furem audacia, scelus anhelantem, pestem patriae nefarie molientem, uobis atque huic urbi ferro flammaque minitantem ex urbe uel eiecimus uel emisimus uel ipsum egredientem uerbis persecuti sumus.* ('We have ejected Lucius Catilina ... mad with recklessness, breathing wickedness, impiously plotting the destruction of our country ...').

<sup>5</sup> Cic. *Har. resp.* 5. *non denique in me sceleratior fuit quam in ipsos deos immortales: etenim illos eo scelere uiolauit, quo nemo antea.* ('In fact, his wickedness was not worse against me than against the immortal gods: indeed, he violated them more wickedly than anyone before'). See also *ibid.* 35 and 53.

<sup>6</sup> Cic. *Phil.* 2.86. (on Antony's infamous performance at the festival of Lupercalia): *o praeclaram illam eloquentiam tuam, cum es nudus contionatus. quid hoc turpius, quid foedius quid supplicis*

– at pivotal moments in his political career.<sup>7</sup> Cicero's general ideas concerning purity obviously reflected wider Roman culture, but his speeches suggest that he could focus these for specific ends. Thus he refers metaphorically to Catiline and his actions as a 'plague' (*pestis*) on several occasions during the first *Catilinarian* oration. Such language marked Catiline out as dangerous, and the increasing support for his cause as the spreading of a disease within the Roman state.<sup>8</sup>

Those who acted against the Republic's best interests went against the wishes of the gods, whom Cicero always claimed to support. Such offences against the divine order brought about imbalance, both of which could result in *scelus*. In the *De domo sua*, Cicero was able to call upon every aspect of Clodius' personal and public life to surround him with an aura of *scelus*, contrasting his actions with his own *pietas* and respect for traditional authority. Comparisons with Catiline, reports of Clodius' intrusion on religious ceremonies, allegations of incest and even questions concerning the purity of Clodius' statue of Liberty will each be shown to have contributed to this rhetorical image. Cicero accumulated the power of this *scelus*, and then targeted it against the shrine of Libertas and its dedication.

### THE RETURN FROM EXILE

Following his return on 5 August 57 B.C., Cicero's property was restored to him, and those buildings that had been destroyed were rebuilt at public expense.<sup>9</sup> Nevertheless, the shrine to Libertas could not be so easily removed. To do so might incur the enmity of the goddess.<sup>10</sup> This presented a serious problem, since forcing Cicero to live next to a monument to his disgrace was both humiliating and implied that he had not been entirely acquitted of the original charges against him.<sup>11</sup> Cicero had to argue before the college of pontiffs for a reversal of the dedication – a plea with little direct precedent.<sup>12</sup>

Cicero delivered the *De domo sua* on the 29 September 57 B.C. He subsequently revealed in a letter to Atticus that he felt that his passion and personal investment

*omnibus dignius?* ('O how noble was that eloquence of yours when, naked, you addressed the crowd. What is more shameful, more disgusting, more deserving of every form of punishment?').

<sup>7</sup> G. Achard, *Pratique rhétorique et idéologie politique dans les discours «optimates» de Cicéron* (Leiden, 1981), 116–30, 519–20 considers a number of parallels in the language with which Cicero dealt with these three particular individuals. The themes of impiety, along with labels such as *nefarius* are examined, although Archard focuses primarily on their political, rather than religious, contexts.

<sup>8</sup> For a similar examination of pollution within Tacitus, see A.J. Woodman, 'Mutiny and madness: Tacitus *Annales* 1.16–49', *Arethusa* 39 (2006), 303–29, esp. 318–23. In this case, it is rebellion against military authority which is represented in terms of disease and contamination, the soldiers' actions resulting in *scelus* which threatens to spread if left unchecked.

<sup>9</sup> Cic. *Att.* 4.1.8.

<sup>10</sup> E.M. Orlin, *Temple, Religion and Politics in the Roman Empire* (Leiden, 1997), 166; A. Watson, *The Law of Property in the Late Roman Republic* (Oxford, 1968), 21–2. When several prodigies were reported the following year, Clodius was quick to blame the 'violation' of the shrine as a root cause of divine anger.

<sup>11</sup> On the events and symbolism surrounding Cicero's Palatine house, as well as its location on the Palatine, see E. Burriss, 'Cicero and the religion of his day', *CJ* 21.7 (1926), 524–32; W. Allen, 'Cicero's house and *Libertas*', *TAPhA* 75 (1944), 1–9; S. Hales, 'At home with Cicero', *G&R* 47.1 (2000), 44–55.

<sup>12</sup> That is, dedication of private land for sacred use; Cic. *Dom.* 127–8; W.J. Tatum, 'The *Lex Papiria de Dedicationibus*', *CPh* 88 (1993), 319–28, at 320.

in the issue gave greater force to his rhetoric.<sup>13</sup> Stroh has observed, however, that 'posterity has not always followed Cicero's self-assessment without hesitation', and that the consensus is that Cicero was excessive 'in spiteful polemics against his enemies and unscrupulous glorification of himself, or, at any rate, that he went a great deal further than he needed to in order to win the case'. Stroh justifies Cicero's evident satisfaction by restating the seemingly impossible legal predicament in which he found himself with regard to his house, and proposing that Cicero's extensive asides created a smokescreen of emotional pleading, thanks to which he was able to win over his audience.<sup>14</sup>

Ultimately the legal argument used by Cicero, and accepted by the pontiffs, was based on a legal technicality requiring anyone performing a public consecration to have been authorized to do so by a plebiscite. Without such a vote the dedication was invalid.<sup>15</sup> Also, members of the college were typically expected to be present. For this ritual, Clodius had enlisted his brother-in-law L. Pinarius Natta, whom Cicero described as the youngest and least experienced of the pontiffs.<sup>16</sup> Though he does not argue that the young man proceeded incorrectly, he suggests that someone with so little experience might, potentially, have made mistakes. A flimsy argument to be sure, but it illustrates the direction of Cicero's overall attack – he needed to show that the ritual had been in some way damaged, or incorrectly (or improperly) performed. This tactic is later illustrated concerning Clodius himself, where he is described speaking *praeposteris uerbis* ('with distorted words').<sup>17</sup> Therefore his attacks on Clodius' personal purity each contributed to the erosion of the ritual's *religio*.

The question of purity is, in this case, tied to that of ritual validity. If Cicero knew the legal weakness of his argument, he could also attempt to sway the pontiffs against Clodius by constructing an image of him as impious and religiously unclean, and thus incapable of correctly performing a *consecratio* because of his own moral and physical shortcomings.<sup>18</sup> This allowed Cicero to exploit the stand-

<sup>13</sup> Cic. Att. 4.2.2 ... *tum profecto dolor et <rei> magnitudo uim quondam nobis dicendi dedit*; D. Stockton, *Cicero: A Political Biography* (Oxford, 1971), 196–7. In this case, *uis* should not be taken to indicate violence of the sort discussed in the *Pro Milone*, but rather as rhetorical power, elevated by Cicero's circumstances.

<sup>14</sup> W. Stroh, 'De domo sua: legal problem and structure' in J. Powell and J. Paterson (edd.), *Cicero the Advocate* (Oxford, 2004), 313–70, at 313–4; T.N. Mitchell, *Cicero: The Senior Statesman* (New Haven, 1991), 117–120; B. Berg, 'Cicero's Palatine home and Clodius' shrine of Liberty: alternative emblems of the Republic in Cicero's *De domo sua*', in C. Deroux (ed.), *Studies in Latin Literature and Roman History* 8 (Brussels, 1997), 122–43, at 135; A. Lisdorf, 'The conflict over Cicero's house: an analysis of the ritual element in *De domo sua*', *Numen* 52 (2005), 445–64, at 460; A.W. Lintott, *Cicero as Evidence: A Historian's Companion* (Oxford, 2008), 185–9.

<sup>15</sup> On the pontiffs' ruling, and actions taking in conjunction with the Senate, see Cic. Att. 4.2.3–4.

<sup>16</sup> Cic. Dom. 117–19, 139; L.R. Taylor, 'Caesar's colleagues in the Pontifical college', *AJPh* 63 (1942), 385–412, at 391, 394.

<sup>17</sup> Cic. Dom. 140; R.J. Goar, *Cicero and the State Religion* (Amsterdam, 1972), 51–2.

<sup>18</sup> On religious *contagium* see H. Wagenvoort, *Roman Dynamism: Studies in Ancient Roman Thought, Language and Custom* (Oxford, 1947), 128–86, esp. 132. A.M. Riggsby, 'The *post reditum* speeches' in J.M. May (ed.), *Brill's Companion to Cicero: Oratory and Rhetoric* (Leiden, 2002), 159–95, at 164 hints that Cicero's arguments 'have less to do with the law than with ... Clodius' supposed impiety'. Lisdorf (n. 14), 455–6 claims that Cicero's remarks concerning Clodius and morality are 'superfluous', opposing Goar (n. 17), 51–5, as part of a flawed attempt to examine the ritual processes within the *De domo sua*. Goar's focus, however, dwells primarily

ard character attacks, so typical in rhetoric, for a central, practical purpose. Each damaging anecdote or allegation served to chip away at the validity of Clodius and his actions, which are revealed to be cruel and hateful. Moreover, by focussing on the issue of religious impurity Cicero carefully avoided having to discuss the deeper details of pontifical law which might offend his presumably well-informed audience, as well as weaken his argument with regard to Clodius' religious laxity and curiosity.<sup>19</sup>

Although many factors point to the legality of Clodius' dedication, we must not underestimate the Roman political-religious ability to adapt to circumstances when necessity dictated.<sup>20</sup> The pontiffs, as politicians themselves, would fully recognize the need to placate Cicero, and to understand his argument about Clodius' hypocritical manipulation of ritual. But they would also need tact in their decision; both parties had a claim to the moral high ground, and had a degree of *dignitas* to protect (it would not do to accept, officially, that Clodius' personal impiety and impurity were what invalidated the dedication). Similarly, Cicero had to ensure the pontiffs' political goodwill, which he achieved through a lengthy introduction focussing upon aristocratic values, in order to progress favourably with his case in the field of religion. This also enabled him to answer some of the charges levelled by Clodius in his own speech.<sup>21</sup> Religious pollution, therefore, may be said to have played a pivotal role in ensuring a favourable outcome for Cicero. The issue of the plebiscite might be the pretext employed by the pontiffs in the end, but his carefully constructed attack on Clodius with regard to ritual and religion can be seen as deeply damaging in the context of a hearing before the Pontifical College.<sup>22</sup> However anachronistic such concepts may have been, nevertheless, Cicero made good use of 'their recognised validity ... for driving home his point in a more atmospheric and suggestive than logically argumentative way'.<sup>23</sup> Cicero used a number of approaches to cover the greatest amount of material, and his parallels to Catiline offered a striking image of danger and impiety for his audience.

### CATILINE'S SUCCESSOR

In the *Catilinarian* orations Cicero talks of Catiline's desire to wage impious war (*bellum nefarium*) against the city.<sup>24</sup> Clodius, too, is accused of waging a *nefarium*

on the issue of morality in Roman religion without considering the consequence of impurity as a damaging factor in the ritual dedication. Similarly, Berg (n. 14), 136.

<sup>19</sup> J. Linderski, 'The *Libri Reconditi*', *HSPH* 89 (1985), 207–34, at 209–10, 216 discusses Cicero's respect for hidden religious traditions as a contrast to Clodius' *curiosi oculi*, by which he violated the religious traditions of the Bona Dea.

<sup>20</sup> Stroth (n. 14), 323–32 offers a thorough discussion of Cicero's legal position and the predicaments this presented.

<sup>21</sup> Cic. *Dom.* 3–31; Stockton (n. 13), 196; W.K. Lacey, 'Clodius and Cicero: a question of *dignitas*', *Antichthon* 8 (1974), 85–92. W.J. Tatum, *The Patrician Tribune* (London, 1999), 190–1 adds that without detailed knowledge of Clodius' own speech, we cannot 'share more fully in Cicero's admiration for the *De Domo*'.

<sup>22</sup> Tatum (n. 12), 321: 'The Papirian law provided ... an opportunity – not an obligation – to invalidate Clodius' consecration.'

<sup>23</sup> Thome (n. 3), 85.

<sup>24</sup> Cic. *Cat.* 1.25, 1.33, 2.15, 3.3; A.R. Dyck (ed.), *Cicero: Catilinarians* (Cambridge, 2008), 110–11, 122.

*bellum*, not only against Cicero, but against the very fabric of his home (*columnae ac postes*), an action which he states exceeded even the machinations of Catiline and his followers in cruelty.<sup>25</sup> It is clear that links to Catiline's band could be politically damaging and following Cicero's careful formulation of the conspirators as *scelesti*, he was able to imply similar wickedness in Clodius, who is openly labelled in the *De domo sua* as *felix Catilina*, his successor in the eyes of all nefarious men.<sup>26</sup> The unspeakable nature of the crime (*nefas*) gives an illuminating indication of Cicero's values concerning the use of violence and underhand methods against the Republic, whilst further emphasizing impurity, owing to the significant link, in terms of 'pollution', between *nefas* and *scelus*. Cicero proceeds to lay the blame for the torching of his Palatine property at the feet of Clodius and the consuls of 58 B.C., Piso and Gabinius,<sup>27</sup> describing Gabinius as the *deliciae Catilinae* ('minion of Catiline').<sup>28</sup> These men had won Cicero's hatred for their part in passively allowing the laws leading to his exile to go forward, and they were targeted especially in the first two *post reditum* speeches, given before the Senate and the people respectively, where they were described as *impii nefariiue consules*.<sup>29</sup> This animosity continued, and Cicero was later to state that their names should be torn out of both record and memory, in keeping with the label of *nefas*.<sup>30</sup>

In recalling the removal of Catiline before the Senate, Cicero referred to the removal of a pestilence (*pestis*) brought about by all good men,<sup>31</sup> and Cicero's use of impurity in referring to Catiline's forces is well established.<sup>32</sup> By the time of the *post reditum* speeches, however, Clodius, too has achieved this status in Cicero's view, and in the *De domo sua* is directly labelled as *rei publicae pestis*, in a manner which suggests Clodius not only to be impure himself, but also a pestilential and corrupting influence against all good things within the Republic, as with their attempts to stain (*maculare*) the name of Marcus Cato.<sup>33</sup> All instances of *pestis* in the *De domo sua* refer to Clodius, Piso and Gabinius, or to Catiline. Since a parallel to Catiline appears intended for each of the men concerned, both by this choice of phrase and the more direct revelation of *felix Catilina* in the

<sup>25</sup> Cic. *Dom.* 60. See Berg (n. 14), 122–43 on the symbolism of the Roman house in religion.

<sup>26</sup> Cic. *Red. pop.* 13 and *Dom.* 72. For detailed consideration of Clodius and Catiline, see A.W. Lintott, 'P. Clodius Pulcher: *Felix Catilina*?', *G&R* 14 (1967), 157–69, esp. 163, 169; T. Loposzko and H. Kowalski, 'Catilina und Clodius: Analogien und Differenzen', *Klio* 72 (1990), 199–210.

<sup>27</sup> They had been induced to allow Clodius' tribunate to proceed unhindered by his passing of a bill allotting them lucrative provincial commands in Cilicia and Macedonia. Cicero shows equal hatred of them, comparing Piso to Clodius' pet dog, and to a foul prodigy in the same manner as Catiline and Clodius themselves; Cic. *Pis.* 23, 31 (*immanissimum ac foedissimum monstrum*).

<sup>28</sup> Cic. *Dom.* 62; *Red. sen.* 10. Similarly in *Sest.* 12.28 Gabinius delivers a speech like a 'victorious Catiline'. With *deliciae*, a sexual relation appears to be implied.

<sup>29</sup> Cic. *Red. sen.* 18; *Sest.* 24.53. Cicero states they were given gold, provinces, legions and *imperium* for their complicity.

<sup>30</sup> Cic. *Sest.* 14.33.

<sup>31</sup> Cic. *Red. sen.* 17.

<sup>32</sup> For example Cic. *Cat.* 1.23; 2.11, 15; 3.27. The instances are too numerable to list here comprehensively. On the antithesis of Cicero and Catiline, see W.W. Batsford, 'Cicero's construction of consular *ethos* in the first *Catilinarian*', *TAPhA* 124 (1994), 211–66.

<sup>33</sup> Cic. *Dom.* 5; *Sest.* 28.60.

case of Clodius personally, it is unsurprising that no one else receives this label.<sup>34</sup> Considering the setting, Cicero may have felt justified with such comparisons, which would encourage animosity amongst senators who had recently experienced the turbulence of Clodius' tribunate. In light of this recurring comparison, the question of whether or not they would accept the religious actions of a second Catiline becomes more pertinent, particularly considering Clodius' willingness to resort frequently to mob violence to achieve his political aims.<sup>35</sup> Soon after in the *Pro Sestio*, Cicero was to describe the rallying of troops by Clodius as the reformation of Catiline's forces under a new leader. As with Catiline and his associates, Cicero labelled them as enemies (*hostes*), harming the Republic like a disease from within.<sup>36</sup>

These were detrimental allegations for Clodius, but it was still merely a suggestion of similarity which might arouse fear, but would not guarantee the return of Cicero's property. Cicero could cut far deeper by speaking of, and constantly referring back to, Clodius' greatest religious indiscretion – his interference at the festival of Bona Dea. This serious incident became one of the most damaging arguments against any religious action made on Clodius' part. Similarly, it allowed Cicero to dwell on the various forms of pollution which surrounded his opponent as a result of the sacrilege, thus damaging the validity of the consecration of the shrine to Libertas and further humiliating Clodius before the pontiffs.

### BONA DEA

Cicero first mentions the subject of Clodius and the Bona Dea festival in a letter to Atticus on the first of January, 61 B.C. His feelings were uncertain, his first report suggesting a degree of public concern which, whatever his personal feelings at the time, he would use to great advantage later on.<sup>37</sup> The sacrifice was being conducted *pro populo*, at the house of C. Iulius Caesar, by the Vestals and a number of prominent Roman matrons. The presence of men was prohibited, and Clodius was found disguised in female clothing, only narrowly evading capture. The Vestals repeated the sacrifice and Caesar divorced his wife Pompeia, the alleged target of Clodius' passion.<sup>38</sup>

<sup>34</sup> Cic. *Dom.* 2, 5, 14, 24, 26, 72, 85, 99, 144. P. MacKendrick, *The Speeches of Cicero: Context, Law, Rhetoric* (London, 1995), 169; R.A. Kaster (ed.), *Cicero: Speech on Behalf of Publius Sestius* (Oxford, 2006), 218.

<sup>35</sup> This accusation did not end with the *De domo sua*, but would be used against Clodius for the rest of his life. Cic. *Red. sen.* 6, 7, 19; *Red. pop.* 13, 14; *Dom.* 63; *Att.* 4.3.3; *Har. resp.* 22; *Mil.* 37. On Clodius' use of mob violence and support from the urban *plebs*, see Lintott (n. 26), 169.

<sup>36</sup> Cic. *Sest.* 17.39, 19.42. References to the force as an *exercitus* (39.85 and 41.88) further underline this message.

<sup>37</sup> J.P.V.D. Balsdon, 'Fabula Clodiana', *Historia* 15 (1966), 65–73; P. Moreau, *Clodiana religio: un procès politique en 61 av. J.-C.* (Paris, 1982); D. Epstein, 'Cicero's testimony at the Bona Dea trial', *CPh* 81.3 (1986), 229–35; W.J. Tatum, 'Cicero and the Bona Dea scandal', *CPh* 85.3 (1990), 202–8, at 207–8; Tatum (n. 21), 64–5. Tatum places particular significance on Clodius as a public figure in inciting Cicero's disapproval, but also considers the potential humour of the situation for Cicero, Atticus and the rest of the political elite.

<sup>38</sup> Cic. *Att.* 1.12.3; *Har. resp.* 37–8, 44; Vell. Pat. 2.45.1; Plut. *Cic.* 28; Dio Cass. 37.45.1–2; A.J. Woodman, *Velleius Paterculus: The Caesarian and Augustan Narrative* (Cambridge, 1983), 65–7.



Clodius was subsequently charged with sacrilege (*de incesto*), the Vestals and pontiffs declaring that the intrusion had been *nefas*.<sup>39</sup> Cicero alleges that Clodius' eventual acquittal was the result of bribery financed by Crassus. In a letter to Atticus, Cicero claimed to have bitterly attacked Clodius in the Senate, comparing his behaviour and actions to those of the Catilinarian conspirators, stating that *bis absolutum esse Lentulum, bis Catilinam, hunc tertium iam esse a iudicibus in rem publicam immissum* ('Lentulus had twice been acquitted, as had Catiline – now a third man has been thrown against the State by a jury').<sup>40</sup> Paramount in Cicero's mind appeared to be the political ramifications rather than the religious dangers from these proceedings, while in the *De domo sua* the primary aim was, of course, the return of his house.<sup>41</sup> To this end, the scandal was revisited to underline the hypocrisy of Clodius' feigned piety. It must be remembered that in the sphere of religion Clodius had been condemned by the judgement of his act as *nefas*. Most importantly, it had been the pontiffs whose ruling had been both ignored and purchased over by bribery in the legal trial.<sup>42</sup>

This significance of the alleged *nefas* that had taken place in the house of the Pontifex Maximus has frequently been underestimated in examining the context of the *De domo sua*.<sup>43</sup> Although Caesar was preoccupied in Gaul at the time, it must not be forgotten that Cicero was speaking about an embarrassing event in the life of the college's current leader. It served as a potential injury to the pontiffs' *auctoritas*, helping Cicero's cause at least in principle.<sup>44</sup> More importantly, it also allowed him to ask the question of whether a man whose *nefas* had robbed the house of the Pontifex Maximus of its *religio* could truly be capable of conferring

<sup>39</sup> Cic. *Att.* 1.13; Dio Cass. 37.46.1. Epstein (n. 37), 231; E.S. Gruen, *The Last Generation of the Roman Republic* (Berkeley, 1995), 248.

<sup>40</sup> Cic. *Att.* 1.16; H.H. Brouwer, *Bona Dea: The Sources and a Description of the Cult* (Leiden, 1989), 144–149.

<sup>41</sup> J.H.W.G. Liebeschuetz, *Continuity and Change in Roman Religion* (Oxford, 1979), 31; Lintott (n. 26), 157–60.

<sup>42</sup> D. Mulroy, 'The early career of P. Clodius Pulcher: a re-examination of the charges of mutiny and sacrilege', *TAPhA* 118 (1988), 155–78 attempts to portray the Bona Dea festival as a Bacchanal-like revel, where men might have been permitted, in order to explain Clodius' presence in female attire. It is difficult to accept this, given that the scandal of the Bacchanalia in 186 B.C. (Livy 39.8–18, esp. 15–16) came about partly because of pollution and indecency felt to have been brought about by mixed-sex revelling. If men had been permitted at the Bona Dea, it seems improbable that Caesar, whose house was chosen for the ritual, and who had recently been elected Pontifex Maximus (the religious ward of the presiding Vestals), should have been absent from the prestigious honour of a sacrifice *pro populo* within his own house. Tatum (n. 37), 208 similarly shows reservations about Mulroy's theory. On the suppression of the cult of Bacchus, see J.-M. Pailler, *Bacchanalia: La Répression de 186 av. J.-C. à Rome et en Italie* (Rome, 1988), 195–245. Also A. Scafuro, 'Livy's comic narrative in the Bacchanalia', *Helios* 16 (1989) 119–42; R. Turcan, *Cults of the Roman Empire*, tr. A. Nevill (Oxford, 1996), 291–325, esp. 300–7; M. Beard, J. North and S. Price, *Religions of Rome*, 2 vols. (Cambridge, 1998), 1.91–6; J.-M. Pailler, 'Les Bacchanales, dix ans après', *Pallas* 48 (1998), 67–86; J. Briscoe, *A Commentary on Livy: Books 38–40* (Oxford, 2008), 230–91.

<sup>43</sup> R.G. Nisbet (ed.), *M. Tulli Ciceronis: De Domo Sua ad Pontifices Oratio* (Oxford, 1939), MacKendrick (n. 34) and Stroh (n. 14) all see no significance in the topic in this context. J.O. Lenaghan, *A Commentary on Cicero's Oratio De Haruspicio Responso* (The Hague, 1969), 61–2 and Brouwer (n. 40), 268–9 show greater awareness, arguing that Cicero draws attention to this to highlight the sanctity of the rite and by extension 'the baseness of Clodius' act', but still make no mention of the context of the *De domo sua*.

<sup>44</sup> Stroh (n. 14), 349 points to a similar affront to the pontiffs' power: Caesar's failure to consult them over Clodius' adoption into a *plebeian* family.

sanctity upon the house of a private citizen (*Publiusne Clodius, qui ex pontificis maximi domo religionem eripuit, is in meam intulit?*).<sup>45</sup>

The damage to *religio* appears as part of the *scelus* resulting from Clodius' intrusion, and points to the wider issue of religious authority and sanctity within public religion and religious space. The threat to the traditional religious customs attached to the Roman household (discussed below) may also be significant. Following this question, Cicero contrasts Clodius with his pious ancestors, speaking of Clodius as *istius, qui non solum aspectu, sed etiam incesto flagitio et stupro caerimonias polluit* ('that man, who polluted sacred rites not only by viewing them, but also by twisted depravity and lust').<sup>46</sup> This should counter Mulroy's suggestion that men might be permitted at the public ritual, since viewing the ceremony is presented as a despicable crime, but one which Clodius deliberately polluted still further by his attempts at a sexual liaison during the proceedings.<sup>47</sup> The validity of the accusation of sex within the ritual is uncertain; Cicero's obvious aim to heighten the case of impiety and pollution against Clodius is less doubtful.<sup>48</sup> Cicero contrasts Clodius with his ancestor Appius Claudius Caecus, who reached the respected position of censor before losing his sight in his final years, and asks how such events can occur when his unworthy descendent lives on unpunished.<sup>49</sup>

Cicero also appears to treat the subject of the Bona Dea scandal with at least a degree of humour, combining irony and the issue of Clodius' purity. At the start of his main attack on Clodius' violation of the Bona Dea, he describes the feelings of misgiving some may feel about the return of his property as being stirred up by the farcical dedication of this *castissimus sacerdos*.<sup>50</sup> The ironic description of Clodius as *castus* is interesting in itself with regard to Cicero's use of impurity to discredit him, but this phrase may go further. Nisbet highlights Cicero's earlier, private, description of Clodius as *iste sacerdos bonae Deae* ('that priest of Bona Dea'),<sup>51</sup> which is in turn linked to his reference to Clodius' brother App. Claudius Pulcher, as a man not far removed from this 'pious priest of Liberty' (*religiosus Libertatis sacerdos*).<sup>52</sup>

The use of impurity, even with humour, illustrates the flexibility of Cicero's tactic while once again underscoring the hypocrisy of Clodius' actions to the pontiffs. There was no harm in poking fun at the incident; the initial danger caused to the rite by Clodius' intrusion had been expiated immediately by the presiding Vestals, who had repeated the ceremony. Religious danger therefore might be seen

<sup>45</sup> Cic. *Dom.* 104.

<sup>46</sup> *Dom.* 105. For comparable Greek taboos on sex within the ritual setting see R. Parker, *Miasma* (Oxford, 1983), 74–103, esp. 81–5.

<sup>47</sup> Mulroy (n. 42), 155–78; Cic. *Mil.* 87. *polluerat stupro sanctissimas religiones* leaves little doubt as to the link between ritual violation and religious pollution. See also Cic. *Leg.* 2.36–7 for the inexpiable nature of deliberately committed sacrilege.

<sup>48</sup> It serves to confirm a taboo both on male presence at the Bona Dea, at least in the festival *pro populo*, as well as the wider taboo on sexual contact within religious space. Had either of these arguments been untrue, it is certain the pontiffs would be best placed to reject them as false. It may be, however, that the issue of sex was augmented in this case because the ceremony was attended by the Vestals, whose sanctity might have been damaged by the act; Cic. *Har. resp.* 8; Vell. Pat. 2.45.1.

<sup>49</sup> Cic. *Dom.* 105.

<sup>50</sup> *Dom.* 103. Also *Sest.* 20.66; Kaster (n. 34), 112.

<sup>51</sup> Cic. *Att.* 2.4.2.

<sup>52</sup> Cic. *Dom.* 111; Nisbet (n. 43), 156. See also Cic. *Har. resp.* 9 (... *dixit domum meam, a religiosissimo sacerdote, P. Clodio, consecratam*); *Sest.* 17.39 (*sacerdos stuprorum*).



to surround only Clodius (around whom the danger still lingered), since his deliberate actions appeared to be inexpiable, and Cicero certainly attempted to stress this polluted aura with regard to Clodius' later religious actions.

### LIBERTAS, MINERVA AND THE PENATES

When Cicero came to examine the nature of the deity Clodius had installed, he asked his audience what kind of goddess would possibly be found in company with such a sacrilegious man – his answer, *at quae dea est? Bonam esse oportet, quoniam quidem est abs te dedicata* ('a "Good" goddess surely, since she was dedicated by you!').<sup>53</sup> Thus, even when examining Libertas, Cicero brought his audience back to Bona Dea, linking Clodius' sacrilege with his subsequent dedication. When the argument turns towards the shrine and image of Libertas installed on the site, Cicero is no less careful to undermine even the ritual purity of the goddess through her manipulation by Clodius, for what is portrayed as a cruel and unnecessary action. Just as sexual impurity had played an important role in Cicero's narrative of the Bona Dea scandal, so it did again in his portrayal of Clodius' Libertas.<sup>54</sup> Though the subject of the physical statue is dealt with relatively briefly, the layers of impurity are expertly drawn together, and the wider significance of the image opens new doors of antithesis for Cicero to explore.

He begins this enquiry by asking where this Libertas was found, and 'reveals' that the piece had been a marble statue of a prostitute (*meretrix*) from Tanagra, removed from a tomb by Clodius' brother Appius for display in the entertainments he put on as aedile.<sup>55</sup> Later this was given to P. Clodius, in Cicero's words, to signify the 'liberty' of both himself and his followers, and not the liberty of the State. This is quickly made to appear as a deep insult to Libertas as Cicero asks *hanc deam quisquam uiolare audeat, imaginem meretricis, ornamentum sepulcri, a fure sublatam, a sacrilego collocatam? Haec me domo mea pellet?* ('Who would dare to violate this goddess – the likeness of a prostitute, the ornament of a tomb, stolen by a thief and set up by a sacrilegious man? Will such a goddess drive me from my house?').<sup>56</sup> In this manner every aspect of the image's dedication becomes potentially offensive to religion, and her removal becomes less a sacrilegious act, and more a pious restoration of the goddess' dignity.

<sup>53</sup> Cic. *Dom.* 110; Nisbet (n. 43), 162; J. Toutain, 'Sur une image romaine de la Liberté', *Bulletin archéologique du Comité des travaux historiques et scientifiques* (1950), 183–7, at 185–7. A similar play on words appears in Cic. *Dom.* 109 with the description of Clodius' *pulchra Libertas*.

<sup>54</sup> On the political/religious symbolism of Liberty see M.S. Francisco and P.P. Francisco, 'Concordia y Libertas como polos de referencia religiosa en la lucha política de la república tardía', *Gerión* 18 (2000), 261–92, at 261–9 for the struggle noted in the *De domo sua*. Similarly J. Hellegouarc'h, *Le Vocabulaire latin des relations et des partis politiques sous la République* (Paris, 1963), 542–58; P. Brunt, *The Fall of the Roman Republic* (Oxford, 1988), 281–351, esp. 334.

<sup>55</sup> Cic. *Dom.* 111. This is represented as part of a wider series of 'removals' by Appius, described as carrying off works of art throughout Greece. Berg (n. 14), 138 casts doubt on the validity of the accusation concerning the tomb, but admits the power of such an image, linking death and religion.

<sup>56</sup> Cic. *Dom.* 112.

Because the sculpture is of a foreign prostitute Cicero may mean to imply a degree of sexual impurity, perhaps in keeping with the *stuprum* of her dedicator,<sup>57</sup> but greatest emphasis must lie with the serious disrespect Clodius appears to show for his so-called Liberty, profaning her sacred image by bringing it into even minor contact with the human, sexual world, and using the image of a low-born trade to depict a goddess of prized virtue.<sup>58</sup> This sacrilege is made worse by the revelation that the image was not only of a prostitute, but that even this was stolen and, crucially, from a tomb.<sup>59</sup> The accusation of theft directed at Appius Claudius may be no more than exaggeration on Cicero's part, although it does invite comparison with his earlier prosecution of Verres (70 B.C.), who also stole statues and images from the most sacred sanctuaries (... *etiam delubra omnia sanctissimis religionibus consecrata depeculatus*).<sup>60</sup> Prospective aediles in the late Republic were expected to hold lavish displays for public entertainment, and treasures and wonders were collected from across the empire to contribute to the public spectacles.<sup>61</sup> The use of a sculpture from a tomb, however, might have more serious implications in terms of the purity of its dedication, as Cicero clearly emphasizes that the image was stolen from a *sepulcrum*.<sup>62</sup> Thus an object that was acceptable and appropriate for a graveyard, a religious space naturally connected to the underworld, became unthinkable within the context of a dedication to a divinity not typically associated with death. Cicero does not dwell on the issue, but dismisses the image as polluted by sex, death and sacrilege,<sup>63</sup> damaging the dedication, while also damaging Clodius' reputation through his use of such an inappropriate image for what Cicero believed to be a totally inappropriate cause.

This close series of attacks represents Clodius' Libertas as totally hypocritical – a perversion of her true nature. Yet as is the case with the *Catilinarian* speeches, one of Cicero's most powerful rhetorical tactics is the creation of antithesis,<sup>64</sup> and Clodius' Libertas represents only one half of this constructed image. On the other side of this battle, there stand two key images of Cicero's personal religion, that of his Minerva, and those of his household's *penates*.

<sup>57</sup> Cic. *Sest.* 20 uses both *lustrum* and *stuprum* in referring to Clodius' numerous indiscretions. See Cic. *Cael.* 44; *Phil.* 2.6; Plaut. *Asin.* 867; Liv. 23.45.3; Lucr. 4.1136. For a full discussion of *stuprum* and sexual impurity see E. Fantham, 'Stuprum: public attitudes and penalties for sexual offences in Republican Rome', *Echos du Monde Classique: Classical Views* 35 (1991), 267–91.

<sup>58</sup> For repetition of this attack, see Cic. *Har. resp.* 33.

<sup>59</sup> Cic. *Leg.* 2.22 directly condemns those who have stolen from sacred precincts. While this primarily referred to temples, tombs also had a long-lasting tradition of inviolability; Gai. *Inst.* 2.1–10.

<sup>60</sup> Cic. *Verr.* 1.5.14; Nisbet (n. 43), 164–5 is astonished by the use of '*fur*' to describe Appius Claudius, curiously ascribing the choice of words to Cicero's apparently uncontrollable hatred, despite their later reconciliation. No direct mention is given to the sacrilege indicated by the act, however, and the focus remains solidly on Clodius' misuse of the statue as the centrepiece of his consecration.

<sup>61</sup> Cic. *Fam.* 8.8–9; Plut. *Cic.* 36.6; C. Epplert, 'The capture of animals by the Roman military', *G&R* 49 (2001) 210–22, at 210. Cicero received pleas from his friend Caelius to send panthers from his province of Cilicia for a public display. In this instance, Cicero was unable to oblige.

<sup>62</sup> Cic. *Dom.* 111–12.

<sup>63</sup> The description of the sculpture's 'theft' from its rightful place creates a dual image of sacrilege, since the item was stolen from within the precincts of 'religious space', and dedicated by Clodius' already 'impure' hands.

<sup>64</sup> MacKendrick (n. 34), 72–3, 106–7.

The significance of Minerva in Cicero's actions is revealed by Plutarch, who states that before leaving the city to go into exile, Cicero took his private image of Minerva to the Capitol where he dedicated it as 'guardian of Rome',<sup>65</sup> to protect the Republic in his absence, an act that offers potential insight into Cicero's view of the gods' public roles and duties in the maintaining the stability of the state. In the *De domo sua* Cicero acknowledges the goddess as *adiutrix consiliorum meorum* ('helper of my counsels')<sup>66</sup> and defends himself against Clodius' mocking suggestion that he thinks Minerva to be his sister and himself to be like Jupiter.<sup>67</sup> The underlying symbolism of Cicero's Minerva connects him to the well-being of the State. By this action Minerva became the antithesis of Clodius' Libertas, and in the *De legibus* Cicero mentions the dedication of his *custos urbis* ('guardian of the city') in immediate reply to the description of Clodius' *templum Licentiae* ('shrine to Licence'). The term *templum* is never used in the *De domo sua* with reference to Clodius' dedication, further emphasizing Cicero's refusal to accept its legitimacy; hence in the *De legibus* it only appears with reference to *Licentiae*, clearly illustrating Cicero's view of its dedicator.<sup>68</sup> Once again Cicero may be seen to be defining his own political and religious position both by his own actions and those he creates for his enemies. While Cicero's Minerva might be used as a religious opposite to Clodius' Libertas, he could make an even deeper appeal to his audience – one that built upon his initial refusal to accept the legitimacy of the dedication.

The home of a Roman was more than the building itself. The deeply embedded rituals of the household gods played a significant role, both physically and in the minds of Roman citizens, and Cicero makes one of his most powerful, and personally invested pleas based on this feeling:

quid est sanctius, quid omni religione munitius quam domus unius cuiusque ciuium? hic arae sunt, hic foci, hic di penates, hic sacra, religiones, caerimoniae continentur: hoc perfugium est ita sanctum omnibus, ut inde abripi neminem fas sit.

What is more sacred, more protected by every form of religious sanction, than the home of each and every citizen? Here his altars, hearths, and *penates*, his rites, religion and ceremonies are preserved. It is a refuge so sacred to all men that it is not right for anyone to be torn from it.<sup>69</sup>

Through this plea, Cicero exposed Clodius' attempts to undermine the most sacred traditions under the guise of religion. Just as he had done with Catiline, he worked to isolate Clodius and his followers entirely from 'decent society' and *mos maiorum*.

<sup>65</sup> Plut. *Cic.* 31; *Cic. Leg.* 2.42; Dio Cass. 38.17.

<sup>66</sup> *Cic. Dom.* 144.

<sup>67</sup> *Dom.* 92. Cicero's cutting reply was that he was not so ignorant as to think Minerva is Jupiter's sister, but even if he did, that he may at least claim virginity for his sister, whereas Clodius has not permitted Clodia such a luxury – '*tu sororem tuam uirginem esse non sisti*'.

<sup>68</sup> *Cic. Leg.* 2.42; Allen (n. 11), 8; Stroh (n. 14), 320. A.R. Dyck, *A Commentary on Cicero, De Legibus* (Ann Arbor, 2004), 364–5; MacKendrick (n. 34) 174–5 notes that 86% of antitheses 'pit, in one way or another, virtuous men ... against evil Clodians'. For consideration of Cicero's Minerva and the wider household cult, see J. Bodel, 'Cicero's Minerva, Penates, and the mother of the Lares: an outline of Roman domestic religion' in J. Bodel and S. Olyan (edd.), *Household and Family Religion in Antiquity* (Oxford, 2008), 248–75, at 248–55.

<sup>69</sup> *Cic. Dom.* 109; U. Heibges, 'Cicero, a hypocrite in religion?', *AJPh* 90 (1969), 304–12, at 307; Berg (n. 14), 139; Hales (n. 11), 54–5.

Anyone who joined Clodius in the pillaging of his property becomes *sceleratissimus* for their violation of these ancestral values.<sup>70</sup> Cicero had made it clear from the outset of the speech that these were matters of direct concern for the Pontifical college, arguing that in their decisions were entrusted *omnis rei publicae dignitas, omnium civium salus, uita, libertas, arae, foci, di penates, bona, fortunae, domicilia* ('the dignity of the state, the safety of all her citizens, their lives, and their liberty, their altars, hearths, and household gods, their goods, fortunes and homes').<sup>71</sup> According to Cicero, it was the duty of the college to protect his house and its *religio*, while the calculated inclusion of *libertas* in the list of their cares indicated that both lay outside the jurisdiction of one such as Clodius. Later he asked the pontiffs directly *ius igitur statuetis esse unius cuiusque uestrum sedes, aras, focos, deos penates subiectos esse libidini tribuniciae?* ('Will you judge it lawful for all your homes, altars, hearths and household gods to be exposed to the lusts of a tribune?').<sup>72</sup>

In the seizure of Cicero's property, therefore, Clodius is shown to have offended ancestral tradition once again, as well as the sanctity attached to a citizen's home. This 'Liberty' is not his to offer and she cannot drive away Cicero's *penates*. Because of the sanctity accorded to such spirits, as well as the actions of those who joined Clodius in pillaging the site, it is sacrilege to have even made such an attempt.<sup>73</sup> Indeed, in Cicero's view, Clodius' Liberty is only one part of the overarching *scelus* surrounding the confiscation of his house. As a result, Cicero has twisted the political issue again into the sphere of religion, despite promising early on to avoid such discussions out of respect for the pontiffs' authority,<sup>74</sup> and Clodius' actions move from theft and arson to religious desecration. The restoration of Cicero's house is presented as avoiding divine offence (to his *penates*), rather than invoking it through the removal of Libertas. Cicero's religion is the older, more venerable form, in keeping with those values the pontiffs are charged with upholding. Of course the political events of recent decades played an important part in Cicero's attempts to unnerv his listeners, and though he used the violation and subsequent pollution of religious custom as the basis for his attacks, he was still careful to draw parallels between Clodius' actions, and the proscriptions imposed during the dictatorship of Sulla, citing such punishments as the hallmark of any tyrannical action.<sup>75</sup> Nevertheless, in making his appeal Cicero repeatedly cites the preservation of altars, hearths and household gods as the most pressing business of the pontiffs, making their decision more religiously pressing, and Clodius' actions more religiously offensive.

By recalling the events of the Bona Dea scandal, and through his pleas for the support of his own household religion, Cicero shows Clodius to have damaged the sanctity of the houses of both an ex-consul and the Pontifex Maximus (Caesar), as well as endangering the wider community through disturbing the Vestals' sacrifice

<sup>70</sup> Cic. *Dom.* 108. This referred to the looting and burning of Cicero's Palatine house which immediately followed his departure.

<sup>71</sup> *Dom.* 1.

<sup>72</sup> *Dom.* 106. Again sexual imagery is used with *libido*, reminding the audience of Clodius' colourful private life.

<sup>73</sup> Bodel (n. 68), 251.

<sup>74</sup> Cic. *Dom.* 32–3; Nisbet (n. 43), 94–6.

<sup>75</sup> Cic. *Dom.* 43–4; *Dom.* 79 sees Cicero arguing that Clodius had outdone Sulla for cruelty and unlawfulness by attempting to deprive an ex-consul of citizenship through the force of armed thugs. See also MacKendrick (n. 34), 157.

for the people. However, Cicero did not just represent Clodius as a threat to the households of others; he also discussed the damage he had done to his own family, along with his wider social ties. Once again the themes of pollution and the threat of contamination were key rhetorical weapons used in depicting Clodius' further subversion of traditional Roman values. As a member of the Claudii and therefore a member of the patrician elite, Clodius was required to undergo adoption into a plebeian family to make his election to the office of tribune possible. In relating these details, Cicero chose to focus on Clodius' abandoning of his family's *sacra gentilitia*. Clodius is, of course, so impure in Cicero's eyes, that he damages the strength of his original family *sacra* through his withdrawal, as well as contaminating the family he now joins, all of which is shown to be contrary to the natural order and utterly irreligious. He asserts: *ita perturbatis sacris, contaminatis gentibus et quam deseruisti et quam polluisti, iure Quiritium legitimo tutelarum et hereditatium relicto, factus es eius filius contra fas, cuius per aetatem pater esse potuisti* ('therefore, by the subversion of rites and the contamination of families, both that which you abandoned and that which you polluted, and having ignored the established laws of Roman guardianship and inheritance, you have, contrary to natural law, become the son of a man young enough to be your own son').<sup>76</sup> Again we are left in no doubt that 'pollution' and 'contamination' (*contaminare*), as well as deviation from established ritual were key issues in Cicero's discussion of Clodius' dedication, and his attempts to sway the decision of the pontiffs.

This picture is subsequently augmented by Cicero for rhetorical effect, when he asks what would happen if all patricians became plebeian for political purposes: *ita populus Romanus breui tempore neque regem sacrorum neque flamines nec Salios habebit nec ex parte dimidia reliquos sacerdotes* ('Soon the Roman people will have neither King of Sacred Rites, nor *flamines*, nor *Salii* – they will lose half their priests').<sup>77</sup> Cicero's hyperbolic line of attack remains the same – Clodius damages the religious stability of the State through his every action, whether to others deliberately, or to his own family through his mere presence. Each of Clodius' actions in public life is shown to be impious, their effects threatening. Their danger to the community as a whole is therefore best illustrated by Cicero in terms of contagion, as we have seen with *pestis* being applied nine times to Clodius, his actions and his immediate associates involved in his exile and the confiscation of his property.<sup>78</sup> Even the downfall of Cicero, brought about by Clodius, is referred to as a 'destruction' (*pestis*) of a good element within the state, indicating the dangerous influence of Clodius' tribunate, which might threaten the pontiffs themselves at any time.<sup>79</sup>

#### DE INCESTO

Allegations of impurity concerning Clodius' private life also appear prominently in the *De domo sua*, almost equalling his public disgraces with regard to the Bona Dea and the public dedication of Libertas (when he brought these various impurities

<sup>76</sup> Cic. *Dom.* 35.

<sup>77</sup> *Dom.* 38.

<sup>78</sup> *Dom.* 2, 5, 14, 24, 26 (twice), 72, 85, 99.

<sup>79</sup> MacKendrick (n. 34), 168–9; Cic. *Dom.* 26.

into the boundaries of religious ritual). Slanders of this sort appear commonplace in Latin rhetoric, and as Stroh has noted, excess of it forms the basis of much modern criticism of the speech.<sup>80</sup> Sexual innuendo and open ridicule are attached to Clodius and all those associated with him. It is through the implied element of *contagio* that these attacks are intended to affect the consecration of the shrine of Libertas.

The most obvious and well-known accusation of Clodius' sexual impurity concerned his incestuous relationship with his sister Clodia. Though such allegations could be aimed at any prominent public figure (Cicero included),<sup>81</sup> there appears to be a greater degree of certainty concerning P. Clodius. Kaster notes that 'for all the savage things C. says about his enemies, he makes this charge about no one else'.<sup>82</sup> The sheer frequency of Cicero's allegations about Clodius' incestuous relationship must indicate such rumours to have been known amongst many in the senatorial class, and he would later reveal that L. Lucullus had been confident enough to swear on oath that an investigation had confirmed Clodius' guilt (it must be noted, however, that Lucullus was a known enemy of Clodius, and husband of Clodius' youngest sister, Clodia Luculli).<sup>83</sup> In the *De domo sua* the allegation is most clearly levelled in chapter 92, with the statement '*tu sororem tuam uirginem esse non sisti*' ('you have not allowed your sister to be a virgin'), and shows the charge was already known amongst the pontiffs. In examining the *De haruspicum responso*, Lenaghan recalls Clodius' trial *de incesto* following the Bona Dea scandal, and notes that while this might be used to refer to the presence of the Vestals at the ceremony, it cleverly called to mind all existing gossip concerning Clodius' relations with his sisters while simultaneously enhancing Cicero's portrayal of Clodius as *nefas*.<sup>84</sup> Similar tactics in the accounts of sexual impurity are present in the *De domo sua*. So when Cicero describes Clodius as a man who polluted (*polluit*) religious ceremonies by *incesto flagitio et stupro* ('twisted depravity and lust'), he reminds his audience of every form of sexual impurity attributed to Clodius in the past, further augmenting the seriousness of his crimes and suggesting contamination of his own acts of religion.<sup>85</sup> Similar references see Clodius conducting the dedication *praeposteris uerbis, omnibus obscaenis* ('with distorted words and with every form of indecency'),<sup>86</sup> the implications of impurity, particularly sexual, are again pushed into the audience's imagination.

Butrica has argued that Cicero's earliest insults and Catullus' poem 79 concerning 'Lesbius' involved potential puns on Clodius' *cognomen* of Pulcher. This was intended to portray a more general form of sexual impurity by labelling him as

<sup>80</sup> Stroh (n. 14), 314–16.

<sup>81</sup> Cicero himself appears to have been accused of committing incest with his daughter Tullia; [Sall.] *Cic.* 2.1–2; Dio Cass. 46.18.6.

<sup>82</sup> Kaster (n. 34), 411.

<sup>83</sup> *Cic. Mil.* 73. Also *Har. resp.* 39, 59; *Sest.* 7.16, 17.39; *Cael.* 32, 34, 36, 78; Catull. 79. For examination of the allegations see W.C. McDermott, 'The sisters of P. Clodius', *Phoenix* 24.1 (1970), 39–47, esp. 43–4; Tatum (n. 21), 42, 73–4, 90; Kaster (n. 34), 409–11.

<sup>84</sup> Lenaghan (n. 43), 61. See also MacKendrick (n. 34), 158–9.

<sup>85</sup> *Cic. Dom.* 105 (*istius, qui non solum aspectu, sed etiam incesto flagitio et stupro caerimonias polluit* ...).

<sup>86</sup> *Dom.* 140. The wide-ranging implications of *obscaenus*, suggesting sexually impure, foul, polluted or inauspicious, neatly illustrates the general portrayal of impurity at which Cicero was aiming.



*scortum*,<sup>87</sup> which, though offensive, did not cross the boundary of incest.<sup>88</sup> Such a tactic may be in keeping with the descriptions of Clodius' companion, Sex. Cloelius' 'oral impurity' (an impurity which he is alleged to have contracted from Clodius' polluted sister), and the sexual innuendo with which Cicero surrounds Clodius' household.<sup>89</sup> This hinges, however, on the charge of incest appearing after the Bona Dea trial in 61 B.C., and not during it, as is suggested elsewhere.<sup>90</sup> The issue is uncertain, but Cicero's direct allegations in the context of the *De domo sua* illustrate that the rumours must have been well known by 57 B.C. Again the nature of Cicero's audience had important bearing on his line of attack, since he claimed the values of the pontiffs were being hypocritically represented by a man who had never shown respect for religion before.<sup>91</sup>

The illegality of incest aside, sexual deviancy could be frowned upon by the austere, but tolerated at the expense of some personal prestige. When this impurity entered the confines of sacred space, however, the danger of contamination was presented by Cicero as far greater. In the case of the Bona Dea, it could mean the deliberate pollution of the ritual, or, equally serious, the damaging of the Vestal Virgins' sanctity.<sup>92</sup> In the case of Clodius' *consecratio*, by his involvement both with the ceremony and with the presiding *pontifex*, he damaged the sanctity of the dedication. When describing the scene of the dedication and the inexperience of Clodius' relative, the *pontifex* Natta, Cicero was careful to connect the pontiff with the impurity and *scelus* of Clodius and his sister, as well as rhetorically forcing isolation on them as he had done on Catiline.<sup>93</sup>

### VIS AND TEMPLA

Clodius' disrespect for religious space and ritual did not end with sexual impurity. Cicero could, in fact, call upon a more widely known aspect of his political activity to illustrate his disregard for decency toward religious custom, his use of mob violence as a political tool – a tactic which appears to have occasionally spilled over into the boundaries of religion.<sup>94</sup> An important factor in this argument was

<sup>87</sup> *Dom.* 49.

<sup>88</sup> Catull. 79; J.L. Butrica, 'Clodius the Pulcher in Catullus and Cicero', *CQ* 52 (2002), 507–16; E. Leach, 'Gendering Clodius', *CW* 94 (2001), 335–59 examines Cicero's recurring tactic of effeminizing Clodius to damage his social status.

<sup>89</sup> Cic. *Dom.* 25–6; D.R. Shackleton-Bailey, 'Sex. Clodius–Sex. Cloelius', *CQ* 10 (1960), 41–2; Kaster (n. 34), 374–5, 411. Administrative duties have been snatched *ore impurissimo Sex. Clodii*... The curious blood link to Sextus Cloelius implied in *Dom.* 25 (*socio tui sanguinis*) may have strengthened the idea of 'contagion'. The theme is continued in *Cael.* 78 (*hominem sine re, sine fide, sine spe, sine sede, sine fortunis, ore, lingua, manu, uita omni inquinatum*).

<sup>90</sup> M. Skinner, 'Pretty Lesbians', *TAPhA* 112 (1982), 197–208, at 202–4; W.J. Tatum, 'Catullus 79: personal invective or political discourse?', *PLLS* 7 (1993), 31–45.

<sup>91</sup> Cic. *Dom.* 1–2. Such an argument was repeated a year later before the Senate concerning the reported prodigies; Cic. *Har. resp.* 5.9.

<sup>92</sup> The presence of the Vestals may explain why Clodius was tried *de incesto*. Though threatened by the presence of sexual impurity, the Vestals were not otherwise involved in his crime, making judgement uncertain. On charges of *incestum* against Vestals, see T.J. Cornell, 'Some observations on the *crimen incesti*', in J. Scheid (ed.), *Le délit religieux dans la cité antique* (Paris, 1981), 26–37.

<sup>93</sup> Cic. *Dom.* 135 portrays Natta as falling victim to the *scelus* of those around him.

<sup>94</sup> On Clodius' calculated use of violence, see Lintott (n. 26), 157–69.

Clodius' alleged use of the temple of Castor, situated in the forum, as a rallying point for the orchestration of his forces. Though in the speech the temple is only twice named directly in relation to Clodius, the implications constructed by Cicero were none the less damaging.<sup>95</sup> In discussing the use of violence to push through an agenda Cicero reveals that Clodius used the temple of Castor as a base in which he could plot, and store weapons, adding that the steps of the temple had been torn up, allowing Clodius to continue his lawlessness in safety.<sup>96</sup> This was later referred to when Cicero stated that Clodius had denied people the freedom to enter this temple, thus further mocking the idea of Clodius being the champion of liberty in Rome.<sup>97</sup>

The following year, in 56 B.C., the temple was still clearly accessible in some manner, since Cicero recalls the tribune Sestius' attempt to announce unfavourable omens, which was interrupted when he was attacked by Clodius' gang and left for dead. He barely survived, and Cicero bitterly accused Clodius not only of violating the sanctity of a presiding tribune, but also of being the orchestrator of violence, when 'a tribune of the *plebs* stained (*cruentaui*) a temple with his own blood'.<sup>98</sup> Cicero carefully repeats that the act took place within a *templum* as well as describing in quick succession the scene, the cause, and the magistracy as *sanctissimus*. Cicero asks his audience what would have happened had a tribune been murdered at that time, his sanctity violated *a nefariis pestibus in deorum hominumque conspectu ... sanctissimo in templo, sanctissima in causa, sanctissimo in magistratu* ('by nefarious pests, in the sight of gods and men, in a most sacred temple, in the most sacred of duties, while serving in the most sacred of magistracies').<sup>99</sup> As Kaster has noted, the steps in question are unlikely to have been the primary stairs into the temple, but 'temporary wooden steps regularly placed at the tribunal's front to facilitate assemblies and voting'.<sup>100</sup> This is probable as the permanent steps at the front of the temple were likely to have contained the public altar of the god. It would be unthinkable for Clodius to have obstructed religious procedure by their removal without incurring numerous mentions in Cicero's attacks. The removal of the gangways, however, makes sense within the context of the trial for *uis*, and political upheaval. Cicero, however, twists this scenario to create a potential occurrence of sacrilege, through the nefarious use of a temple for profane and deceitful purposes.

The wider context of these comments is vital to our understanding of their true rhetorical power. The early 50s B.C. saw some of the bitterest scenes of mob violence in the run-up to the civil wars, with senators at times being openly attacked in the streets.<sup>101</sup> In the *De domo sua* Cicero played on senatorial fears, particularly with his descriptions of reprobates and slaves being involved, further emphasiz-

<sup>95</sup> Cic. *Dom.* 54, 110; Cic. *Sest.* 15.34–5 also refers to this incident, both directly and by the statement that there were 'arms in the temples' (*arma essent in templis*); Kaster (n. 34), 200–1.

<sup>96</sup> Cic. *Dom.* 54 (*cum arma in aedem Castoris comportabas, nihil aliud nisi uti ne quid per uim agi posset machinabare*). See also *Sest.* 39.85.

<sup>97</sup> Cic. *Dom.* 110; Nisbet (n. 43), 162–3.

<sup>98</sup> Cic. *Sest.* 80.

<sup>99</sup> *Sest.* 83, 85.

<sup>100</sup> Kaster (n. 34), 200.

<sup>101</sup> R. Syme, *The Roman Revolution* (Oxford, 1939), 20–5; P. Brunt, 'The Roman mob', *P&P* 35 (1966), 3–27; A.W. Lintott, *Violence in Republican Rome* (Oxford, 1999), esp. 175–203; Cic. *Att.* 4.3.3; *Sest.* 35, 75–7; Plut. *Cic.* 33.4.

ing the links between Clodius' attitudes towards senatorial authority, and those of Catiline. Again, this served to contrast Clodius' followers with Cicero and the *boni*. That Clodius should choose to use a temple as a site from which to organize bloodshed in the forum, further destabilizing the volatile situation of the time, adds further weight to the accusation that Clodius used religion for personal and political purposes just as he had done in the dedication of Cicero's property. Though the risk of divine anger towards such actions is not specifically mentioned, it appears as part of a wider effort to impugn Clodius' regard for religion in general. While Tatum argues that Cicero overstates Clodius' use of the temple of Castor, claiming that it was not transformed, or used as a personal fortress, the removal of the stairs appears to have been a calculated action.<sup>102</sup> Cicero continued to describe this as a base for Clodius' dealings with 'impure' and 'nefarious' colleagues who plotted assassinations against the most prominent men of state even after the restoration of his property. This included the use of a *scelestus* mob, armed with equally polluted weapons, all represented as decidedly out of place, and dangerous, within religious boundaries.<sup>103</sup> Therefore the inclusion of the temple of Castor in Cicero's argument serves as another example of Clodius' disregard for religious authority, further undermining the power of any dedication he might make. Interruption of the Bona Dea rite resulted in *scelus*, and so disturbed the *pax deorum* through deliberate obstruction of religious procedure. The seizure of the temple of Castor caused a similar affront to divine dignity, and if Augustus' subsequent temple restorations represented the expiation of Roman guilt,<sup>104</sup> Clodius' demolition and sacrilegious exploitation of a temple emblemized the very disrespect for the gods which was thought to trouble last years of the Republic.

Throughout Cicero's political speeches we see attempts to contrast his opponents with the best elements of the State, both to blacken their characters and further emphasize his own sense of duty and devotion.<sup>105</sup> This, too, is used to enhance his case against Clodius' dedication through the historical precedents he was able to call upon, where dedications were annulled by the *pontifices*. Naturally there were very few instances in Roman history where a dedication was required to be investigated, but Cicero recalled the actions of a Vestal named Licinia in 123 B.C.: ... *aram et aediculam et pulvinar sub Saxo dedicasset* ('... she dedicated an altar, a small shrine, and a sacred couch under the Rock').<sup>106</sup> However, upon referral to the pontiffs it was decided that the consecration was invalid. Cicero emphasizes the religious authority that accompanied the dedication by recalling the status of the Vestal as *sanctissimo sacerdotio praedita*. Also examined was the case of the censor C. Cassius, who proposed the dedication of a statue of Concord within her own temple, which the pontiffs decided could not be correctly offered without an official plebiscite.<sup>107</sup> These examples allowed Cicero to effectively combat the sanctity of

<sup>102</sup> Tatum (n. 21), 143–4.

<sup>103</sup> Cic. *Har. resp.* 28, 49.

<sup>104</sup> Hor. *Carm.* 3.6.1–4; R.G.M. Nisbet and N. Rudd (edd.), *A Commentary on Horace: Odes Book III* (Oxford, 2004), 97–113, esp. 97–103.

<sup>105</sup> Cic. *Leg.* 2.43 illustrates this sentiment: *uidemus eos, qui nisi odissent patriam, numquam inimici nobis fuissent* ...

<sup>106</sup> Cic. *Dom.* 136. The 'Rock' referred to a niche in the Aventine, connected to Bona Dea; Ov. *Fast.* 5.147–50; J. Frazer, *The Fasti of Ovid*, 5 vols. (London, 1929), 4.16–9. Val. Max. 1.1.8 similarly demonstrates pontifical power in blocking dedications on technical grounds.

<sup>107</sup> Tatum (n. 12), 319–28; Orlin (n. 10), 166–7. For the intended location of the dedication to Concord see Cic. *Dom.* 130–1, 137.

Clodius' consecration, firstly, in the case of Licinia, by proving that it was not unheard of for the pontiffs to decide to remove the sanctity of a site *after* it was offered; secondly, by providing the procedural technicality for the pontiffs to cite in their judgement, and finally by stressing the status of those who had made the offerings. Both the Vestals and the censors were paradigms of Roman *castitas* and *pietas*. Both were chosen for their purity, physical and moral, in which areas Cicero had worked so hard to illustrate Clodius' deficiencies. His actions are contrasted with the honest dedication of a sacred image, within a pre-existing *templum*, as the 'violation of all religion', through his *nefas* dedication which represents his rejoicing over the Republic's turmoil, actions to be expected from the *impius hostis omnium religionum* ('impious enemy of all religion').<sup>108</sup>

#### REASSESSING THE *DE DOMO SUA*

Burriss argued that in the *De domo sua* Roman state religion was put on trial by Cicero, that if religion could now be used for improper purposes, contrary to the best interests of the Republic, the credibility of traditional *religio* would be shattered.<sup>109</sup> Ultimately, of course, the arguments of Cicero and Clodius cannot be viewed simply as good vs. bad, but rather as differing interpretations of political and religious 'right', and Cicero, as ever, argued his interpretation artfully.<sup>110</sup> By the end of the *De domo sua*, Clodius' *Libertas* is simply one in a long list of figures who have fallen victim to his impure and contagious actions. No aspect of his life remains unstained by Cicero's attack: his person, his family, his friends, his actions. Each of these comes together to ensure that no part of his *consecratio* stands unsullied. Just as an augur annulled actions by the recording of ritual imperfections, Cicero attempted, successfully, to demonstrate the vast *scelus* surrounding the ritual concerning his house. Clodius throughout his life has polluted himself physically and religiously, and from him the infection has spread, taking hold of his sister, and through them it corrupted the dignity and religious authority of the presiding pontiff, L. Pinaris Natta.<sup>111</sup> The weak and cruel consuls who permitted the outrage to occur are similarly besmirched. The very image commemorating this attack upon a servant of the Republic is impure and out of place, contaminated in various forms by sex, death and sacrilege, both in its theft from its sepulchre and in its placement in conflict with Cicero's ancestral religion. Clodius has offended the 'Liberty' he claims to champion, along with the *penates* of Cicero's home – which, Cicero argues, shall represent the household gods of every good Roman, should Clodius be permitted to carry out what is essentially a proscription against a private citizen.<sup>112</sup>

Although the *De domo sua* was successful in its context, this has not automatically led to favourable views from modern scholarship. As has been suggested, its subsequent poor reception may partly rest upon the fact that we have very little information about Clodius' own speech, and thus cannot measure the skill with

<sup>108</sup> *Dom.* 139.

<sup>109</sup> Burriss (n. 11), 525; *Cic. Dom.* 1–2.

<sup>110</sup> Goar (n. 17), 48.

<sup>111</sup> *Cic. Dom.* 118.

<sup>112</sup> *Dom.* 106, 43, 79. Cicero describes the subjection of altars, hearths and *penates*, comparing Clodius' confiscation of his property with the proscriptions of Sulla.

which Cicero countered his attacks. The technicality requiring ratification by the people for a dedication to stand may have been a strong enough argument to settle the issue entirely. If this was the case, then perhaps scholars are correct to view the speech as excessive in length and polemic, but then the question remains – why did Cicero do it? It is unacceptable to assume Cicero's emotions simply overtook him in such a crucial speech that otherwise illustrates such well-calculated arguments, which, although lengthy, appear to deal expertly with each and every aspect of Clodius' dedication. Even the technicalities of the ritual have doubt cast upon them, and the use of a single, inexperienced pontiff for a public dedication are used at least to suggest that even if it could be denied that the proceedings had been polluted, they might also be alleged to have been inadvertently flawed. To create this seemingly perfect picture of imperfection it is unsurprising that Cicero had to talk at great length in order to cover so much ground. We cannot know the degree to which the impurity argument affected the pontiffs' decision specifically, but the artful construction he offers suggests that the use of pollution deserves far greater recognition than it has received to date.

The *De domo sua* appears to go further than any surviving piece of Roman rhetoric in using pollution as a key weapon in the question of ritual validity, and as such reveals a great deal about Roman concepts of impurity in matters of religion. At the heart of this was the concept of *scelus*, which could be incurred by various means of moral, physical and religious transgression. In the examples discussed by Cicero, the greatest emphasis was placed upon deliberate action as opposed to accidental ritual flaws. This is where the final inextinguishable offence lay – not that mistakes occurred, but that Clodius deliberately designed and executed them. In assessing key figures of the late Republic, Syme commented that 'the evil and the good are both the fabrication of skilled literary artists. Catilina is the perfect monster ... Clodius inherited his policy and his character'.<sup>113</sup> In the months and years following, Cicero would continue to portray Clodius as the 'plunderer (*praedo*) of all things human and divine',<sup>114</sup> but it was in the *De domo sua* that this carefully crafted image served its most practical and effective purpose.

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<sup>113</sup> Syme (n. 101), 149.

<sup>114</sup> Cic. *Sest.* 27.