Antichthon 49 (2015) 94-109
doi:10.1017/ann.2015.5

Caesar's *Pro Bithynis* and the Sack of Heraclea Pontica

ABSTRACT

Caesar's speech *Pro Bithynis* is usually considered to be an expression of the positive relationships between Caesar and the Kingdom of Bithynia. The context in which the speech was delivered is, however, unclear.

By means of a lexical analysis of the two extant fragments of the *Pro Bithynis*, this paper aims at providing a new interpretation of the speech and its historical background. Caesar probably delivered the speech not immediately after King Nicomedes's death – as commonly accepted – but after the Roman siege of Heraclea Pontica, when the proconsul M. Aurelius Cotta, Caesar's *propinquus*, was accused of having sacked the city.

As had already happened in Macedonia (thanks to Dolabella's prosecution) and in Greece (Caesar represented some Greeks in a process against C. Antonius around 79 BC), the Bithynian affair represented a further occasion for Caesar to win over friends and allies among foreign communities.

I

In his *De figuris sententiarum et elocutionis liber*, Iulius Rufinianus reproduces two excerpts from speeches by Cicero and Caesar, and a verse from Vergil's *Third Eclogue* as examples of ἀπόφασις and αἰτιολογία:

> ἀπόφασις sive αἰτιολογία, venustum schema ubi, quasi alio interrogante nobis ipsis respondemus et rationem reddimus. Cicero pro Tullio: si qui furem occiderit, iniuria occiderit. Quam ob rem? quia ius constitutum nullum est. Quid si se telo defenderit? non iniuria. Quid ita? quia constitutum est. Caesar pro Bithynis: Quid ergo? syngraphae non sunt, sed res aliena est.[1]
>
> Apophasis or aitiologia is a cunning figure of speech where, as if someone was asking us a question, we reply to ourselves and offer a justification. So Cicero in his speech on behalf M. Tullius: 'If someone murders a thief, he slays him unlawfully. Why? Because there is no law which permits it. And what if he defended himself with a weapon? Then he did not slay him unlawfully. Why so? Because there is a law that allows it' . . . And Caesar in the speech on behalf the Bithynians: 'And what then? Promissory notes do not exist, but a debt does exist.'[2]

[1] Iulius Rufinianus, *De figuris sententiarum et elocutionis liber*, 8; Cic. *Tul*. 52; Caes. *Bith*. fr. 12 Malcovati; Verg. *Ecl*. 3.21, edn Halm (1863) 40. For the fragment of Caesar's, see Malcovati (1953) 395.

[2] Here Iulius Rufinianus is referring to two rhetorical figures, ἀπόφασις and αἰτιολογία, which were usually adopted in ancient oratory to enliven the speech and to capture the audience's attention. Both figures aimed at stressing arguments which could make the

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While the first example that Iulius Rufinianus provides is taken from Cicero's *Pro Tullio*,[3] the second example comes from an almost completely lost speech from Caesar, the *Pro Bithynis*. The speech is believed to have been delivered in late 75 or 74 BC, after the death of Nicomedes,[4] possibly in a prosecution *repetundarum*.[5] This would not have been the first occasion on which Caesar acted as a *patronus* in a trial *de repetundis*, as in 77-76 BC he had already prosecuted Cn. Cornelius Dolabella, the former governor of Macedonia, for provincial maladministration.[6]

The speech for the Bithynians is generally considered to be an expression of a good relationship between Caesar and King Nicomedes of Bithynia, which had started in 80 BC when Caesar was sent to Bithynia to accept a fleet for M. Thermus (Suet. *Iul*. 2.1).[7] Both the alleged sexual relationship between Caesar and King Nicomedes (Suet. *Iul*. 2) and the kidnapping of Caesar by a band of pirates (Vell. 2.41-43; Suet. *Iul*. 4.1-2; Plut. *Caes*. 13) have been interpreted as the possible causes that could have led Caesar to defend the Bithynians, perhaps against M. Iunius Iuncus, who served as the governor of the province of Asia during the period in which Bithynia was annexed.[8] However, none of these

speech successful. *Apophasis* is the rejection of the several reasons for which a thing should or should not be done; *aetiology* is a pattern of reasoning by which one provides a cause for a statement or claim. On these rhetorical figures, see Lausberg (1960) 381, who lists them under the heading *subiectio*. *Subiectio* – a Latin term for *antypophora* – is a mock dialogue with questions and answers to make the speech less monotonous. Ancient sources already acknowledged the function of *subiectio*: *Her*. 4.23.33; Quint. *Inst*. 9.2.15.

[3] The *Pro Tullio* was delivered between 72 and 71 BC. Cicero acted as *patronus* for M. Tullius against P. Fabius in a case of contended land ownership, which probably involved the offence of *damnun datum vi hominibus armatis*. On this speech, see recently Russo (2014).

[4] Nicomedes's death is normally dated to 74 BC, as suggested by Eutr. 6.6.1. The date of 75/74 BC is commonly accepted (see below for specific references). According to Vitucci (1953) 118, the speech would have been delivered not earlier than 63 BC, as in another fragment of the speech (Gell. *NA* 5.13.6: *C. Caesaris, pontificis maximi, qui in oratione, quam pro Bithynis habuit, hoc principio usus est*) Caesar is mentioned as *pontifex maximus*. However, as correctly emphasised by Dahlmann (1938) 346, Aulus Gellius's reference cannot be considered as a dating element: 'Auf den Hinweis des Gellius auf Caesars Stellung als pontifex maximus wird man bei einer zeitlichen Bestimmung der Rede schon deswegen nichts geben, weil Gellius damit keine chronologische Bestimmung sondern nur eine Berufung auf die durch diese Stellung gewahrleistete Autorität Caesars in den abgehandelten Fragen geben will. Wir wissen endlich noch von einem weiteren Eintreten Caesars für die Sache.'

[5] Dahlmann (1938) 341-6.

[6] Gell. *NA* 4.16.8; Val. Max. 8.9.3. Canfora (2006) 7.

[7] Dahlmann (1938). Ancient sources stress the relationship between Caesar and the kingdom of Nicomedes. For instance, according to Suetonius (*Iul*. 49), Caesar, in a speech that he delivered on behalf of Nicomedes's daughter (Nysa), enumerated the *beneficia* from the Bithynian king that Caesar had enjoyed. Other sources on this issue: *vir. ill*. 78; Polyaen. *Strat*. 8.23.1; Val. Max. 6.9.15; Fenest. fr. 30 Peter (1906). In general, the relationship between Caesar and the kingdom of Bithynia is interpreted from the point of view of Caesar as nothing but a 'step in the young noble's efforts to prepare himself for a political career in Rome': Osgood (2008) 691.

[8] M. Iunius Iuncus is possibly mentioned in another fragment of the speech (Gell. *NA* 5.13.6, but see below) and perhaps in Velleius Paterculus as the first governor of Asia

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references explains the exact meaning of Iulius Rufinianus's fragment of the *Pro Bithynis*.[9] In particular, one crucial fact has been regularly ignored, although it could shed light on the meaning of Caesar's speech: in his *Pro Bithynis*, Caesar appears to have used technical financial expressions such as *syngraphae* and *res aliena*. Can this language provide us with some hints for better understanding the oration in depth? Certainly, the adoption of such specific terms suggests that the speech must have been delivered in a trial that directly involved the Bithynians as plaintiffs. Starting from a study of Iulius Rufinianus's excerpt, this article aims at providing a new analysis and interpretation of Caesar's *Pro Bithynis* and of its historical context.

II

The first term that needs further analysis is *syngraphae*. *Syngrapha* is a transliteration of the Greek term συγγραφή and designates a written agreement between two individuals, in the Roman world mostly between two *peregrini* or between a Roman citizen and an alien. Even if the term sometimes simply indicates a type of contract, text evidence suggests that *syngraphae* could also refer to monetary instruments adopted for lending and borrowing (Cic. *Att*. 6.1.15). *Syngraphae* frequently appear as forms of credit between Romans (especially, but not exclusively, *negotiatores*) and foreign individuals (including kings) or communities. For instance, by means of a *syngrapha* Deiotarus paid Antonius for Roman recognition of his claim to kingship (*Phil*. 2.95); Brogitarus became king thanks to a loan from P. Clodius Pulcher (*Har. Res*. 29); M. Scaptius, *negotiator* and Brutus's agent, made a loan by means of a *syngrapha* to the community of Salamis on Cyprus (*Att*. 5.21.10; 6.27).[10]

All these passages imply that Caesar's fragment was part of a speech referring to some financial relationship between Rome, King Nicomedes and other groups of clients in Bithynia whose affairs appear to be linked to Nicomedes. This hypothesis is supported by the second extant fragment from the *Pro Bithynis* (Gell, *NA* 5.13.6):[11]

> *vel pro hospitio regis Nicomedis vel pro horum necessitate quorum res agitur, refugere hoc munus, M. Iunce, non potui. nam neque hominum morte memoria deleri debet quin a proximis retineatur neque clientes sine summa infamia deseri possunt, quibus etiam a propinquis nostris opem ferre instituimus.*

and Bithynia (Vell. 2.41-43). On M. Iunius Iuncus, see Ward (1977) 26-36 and below. For Caesar's and Nicomedes's affair, Osgood (2008) 687-91; for Caesar's kidnapping, Osgood (2010) 319-36. For Caesar and the pirates, see in general Günther (1999) and Osgood (2008 and 2010).

[9] Although Dahlmann (1938) dwells on Caesar's *Pro Bithynis* in detail, he especially focuses on Aulus Gellius's fragment of the speech rather than on Iulius Rufinianus's quotation. Accordingly, the specific meaning of the latter has not been analysed in depth.

[10] For this usage of the term *syngrapha*, see Hollander (2007) 172.

[11] Ed. Marache (1978).

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> Marcus Iuncus, in view of both my guest-friendship with King Nicomedes and my ties with those whose affairs are under examination, I could not run away from this duty. For neither ought the memory of men be obliterated by death to the extent that it is not retained by their friends, nor can clients be forsaken without the greatest disgrace when it is our custom to render assistance to them even through our kinfolk.

In this fragment Caesar stresses both the existence of bonds of *hospitium* between himself and Nicomedes and the relationship of *clientela* with the men 'whose business is at issue'. The interpretation which views this fragment as proof of the bond of *hospitium* between Caesar and other people living in Bithynia neither tells the whole story nor explains the nature of the *clientela* mentioned by Caesar.[12] It is certain that Caesar must have begun to form his Bithynian *clientela* at the time of his arrival in Bithynia. That these clients were Bithynian, and not Roman, is clearly shown by the last sentence of the passage in which Caesar claims to prefer them to his *propinqui*.[13] But why did Caesar feel obligated to defend the Bithynians? And above all, what was the subject of the trial in which the speech was delivered?

A possible answer to these questions is provided by the continuation of Iulius Rufinianus's excerpt, which indicates a contraposition of the concepts of *syngraphae* and *res aliena*. Like *syngraphae*, *res aliena* is also a technical expression. However, their meanings are completely opposite: whereas *syngraphae* designates something that someone does not own properly, *res aliena* recurs widely in Roman juridical texts to indicate someone else's property. The juxtaposition of these two concepts is not accidental, but rather reveals the true nature of the trial in which Caesar was involved as *patronus* of the Bithynians. In light of these considerations and since the *Pro Bithynis* was probably delivered in a trial *de repetundis*, we could hypothesize that Caesar aimed to show that the item in question had not been borrowed by the plaintiffs, but had already belonged to them. Accordingly, someone had already stolen – or was going to steal – something from the Bithynians by claiming that it was subject to a contract of *syngraphae*.

The above-mentioned examples of *syngraphae* as a form of lending and borrowing money between Roman *negotiatores* and foreign kings would appear to be particularly relevant to the case of Nicomedes. Not only did he obtain the throne of Nicomedia thanks to Rome's assistance, but he also borrowed money for this purpose from Roman *negotiatores*. An excerpt from Appian makes it clear that Nicomedes owed money to certain Romans: in 88 BC, Nicomedes borrowed large amounts from Roman *negotiatores* in Bithynia (App. *Mithr*. 11-12). That the Roman

[12] For the relationship between *hospitium* and *clientela*, see Badian (1958) 154-67. Osgood (2008) 691 suggests that in the fragment the concepts of *clientela* and *hospitium* overlap. However, in Caesar's words the distinction between the relationship of *hospitium* with Nicomedes and the *clientela* with other Bithynians seems evident.

[13] *Propinqui* is usually translated as 'kinfolk', meaning Romans, but, as we will see, it is possible to propose a more fitting definition.

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creditors who lent the money to Nicomedes aimed at recovering it as quickly as possible is shown by the continuation of Appian's narration of the Mithridatic War. According to Appian, the Romans pushed the Bithynian king to declare war on Mithridates in order to recover their investment (App. *Mithr*. 11-16); accordingly, Mithridates blamed the Romans for having induced Nicomedes to declare war merely on the basis of their avidity (App. *Mithr*. 56).[14] On the one hand, this episode confirms the existence of financial relationships between the Bithynian kingdom and Roman *negotiatores* which could be implied in the trial where the *Pro Bithynis* was delivered;[15] on the other hand, it stresses the importance of a theme – Roman greed – which significantly recurs in the history of Roman-Bithynian relationships. Indeed, already in 104 BC Nicomedes had complained to the Roman Senate that many of his subjects had been sold as slaves by Roman *negotiatores*; as a result, he could not supply the soldiers requested by Rome (Diod. Sic. 36.31).[16]

Roman greed also arose on the occasion of Nicomedes's death and the subsequent Roman inheritance of the kingdom of Bithynia (App. *Mithr*. 71). In addition to the short reference by Festus (320 L. s.v. *rutrum*) about Pompeius Bithynicus for having seemingly sacked Nicomedes's palace after the king's death, it is remarkable that accusations of corruption, bribery and avidity frequently recur during the period of organization of Bithynia as a Roman province. A passage from Cassius Dio sheds light on the situation of the former kingdom of Bithynia during the first stages of Roman control (36.40)[17]:

> τό τε σύμπαν οὕτως ἐπιμελὲς τοῖς Ῥωμαίοις κατὰ τὸν χρόνον ἐκεῖνον τὸ μηδὲν δωροδοκεῖσθαι ἐγένετο ὥστε πρὸς τῷ τοὺς ἐλεγχομένους κολάζειν καὶ τοὺς κατηγοροῦντας αὐτῶν ἐτίμων. τοῦ γοῦν Κόττου τοῦ Μάρκου τὸν μὲν ταμίαν Πούπλιον Ὄππιον ἐπί τε δώροις καὶ ἐπὶ ὑποψίᾳ ἐπιβουλῆς ἀποπέμψαντος, αὐτοῦ δὲ πολλὰ ἐκ τῆς Βιθυνίας χρηματισαμένου, Γάιον Κάρβονα τὸν κατηγορήσαντα αὐτοῦ τιμαῖς ὑπατικαῖς καίπερ δεδημαρχηκότα μόνον, ἐσέμνυναν. καὶ οὗτος μὲν τῆς τε Βιθυνίας καὶ αὐτὸς ὕστερον ἄρξας, καὶ ματριώτερον οὐδὲν τοῦ Κόττου πλημμελήσας, ἀντικατηγορήθη ὑπό τοῦ υἱέος αὐτοῦ καὶ ἀνθεάλω.
>
> In fine the Romans were so concerned at that time with preventing bribery that in addition to punishing those convicted, they even honoured the accusers. For instance, after Marcus Cotta had dismissed the quaestor

[14] On the presence of Italian and Roman *negotiatores* in Bithynia, see esp. Fernoux (2004) 113-17 and 117-22 for the Bithynians' behaviour in the Mithridatic Wars.

[15] The existence of specific financial Roman interests in Bithynia is also shown by Cicero (*fam*. 13.9).

[16] It has also been supposed that Nicomedes's protest was nothing but an excuse not to provide the Romans with the military forces he had to supply. On this hypothesis, see Perelli (1958) 155.

[17] Ed. Cary (1914). See also Mithridates's letter to Arsaces (quoted in Sall. *Hist*. 4.69): *Asia ab ipsis obsessa est. postremo Bithyniam Nicomede mortuo diripuere, quom filius Nysa, quam reginam appellaverat, genitus haud dubie esset.* On this issue, see Badian (1972) 87-9; Fernoux (2004) 115.

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> Publius Oppius because of bribery and suspicion of conspiracy although Cotta himself had made great profit out of Bithynia, they elevated Gaius Carbo, his accuser, to consular honours, although he had served only as a tribune. But when Carbo himself later became governor of Bithynia and erred no less than Cotta, he was in turn accused by Cotta's son and convicted.

Three different people were thus accused of some kind of corruption or bribery during their appointments in Bithynia. The accusations moved against the *quaestor* P. Oppius are not completely clear as sources provide us with different details concerning the trial that was pursued by M. Aurelius Cotta against his *quaestor*. While Quintilian mentions the crime of bribery and corruption (*Inst*. 5.13.1), Cassius Dio refers also to one of conspiracy against M. Aurelius Cotta (36.40.3-4).[18] This trial was particularly famous as on this occasion Cicero, who acted as *patronus* of P. Oppius, wrote his *Pro Oppio*.[19] As to the date of the trial, it should have taken place either at some point between 74 and 70 BC – the period in which M. Aurelius Cotta acted as proconsul in Bithynia – or shortly thereafter.[20] There is no reason to date the suit to 67 BC solely on the basis of Cassius Dio's passage: it is true that Cassius Dio assigns the affair to the year 67 BC, but in chapters 40-41 he simply condenses episodes of different chronology that are quoted starting in chapter 38 as examples of prosecution for bribery. Therefore, even though 67 BC remains a possible date for P. Oppius's trial, there is no compelling reason to place it exactly in that year.[21]

According to Cassius Dio, also M. Aurelius Cotta was guilty of corruption: he was accused by C. Papirius Carbo of making great profit out of Bithynia.[22] More details on this accusation are provided by Memnon of Heraclea (39):[23]

> ὁ δὲ δὴ Κόττας ὡς εἰς τὴν Ῥώμην ἀφίκετο, τιμῆς παρὰ τῆς συγκλήτου τυγχάνει Ποντικὸς αὐτοκράτωρ καλεῖσθαι, ὅτι ἕλοι τὴν Ἡράκλειαν. διαβολῆς δὲ εἰς τὴν Ῥώμην ἀφικνουμένης, ὡς οἰκείων κερδῶν ἕνεκα τηλικαύτην πόλιν ἐξαφανίσειε, μῖσός τε δημόσιον ἐλάμβανε, καὶ ὁ περὶ αὐτὸν τοσοῦτος πλοῦτος φθόνον ἀνεκίνει. Διὸ καὶ πολλὰ τῶν λαφύρων εἰς τὸ τῶν Ῥωμαίων εἰσεκόμιζε ταμιεῖον, τὸν ἐπὶ τῷ πλούτῳ φθόνον ἐκκρούων, εἰ καὶ μηδὲν αὐτοὺς πραοτέρους ἀπειργάζετο, ἀπὸ πολλῶν ὀλίγα νέμειν ὑπολαμβάνοντας. ἐψηφίσαντο δὲ αὐτίκα

[18] Other sources on P. Oppius' affair: Sall. *Hist*. 3.59-60; Quint. *Inst*. 5.13.7, 6.5.10, 11.1.6; Amm. 30.8.7.

[19] Crawford (1994) 23-32.

[20] Dahlmann (1938) 341 proposes 72/71 BC; Gelzer (1960) 25-6 follows Dahlmann, but does not quote Iulius Rufinianus's excerpt.

[21] Furthermore, the *Pro Oppio* is commonly believed to have been delivered in 69/68 BC: Gruen (1971) 14; Crawford (1994) 23. For the chronological aspect of Cassius Dio's excerpt, see especially Ryan (1994) 185-6.

[22] As to the accusations against M. Aurelius Cotta, according to Alexander (1990) 97, the consul was prosecuted for violation of the *lex Cornelia de peculatu* or the *lex Cornelia de repetundis*. According to Gruen (1968) 223, he was accused on the basis of the *lex Varia de maiestate*.

[23] Ed. Henry (1965).

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καὶ τοὺς αἰχμαλώτους τῆς Ἡρακλείας ἀφίεσθαι. Θρασυμήδης δὲ τῶν ἐξ Ἡρακλείας εἷς κατηγόρησεν ἐπ' ἐκκλησίας τοῦ Κόττα . . . ἀπῳκτίζετο δὲ τόν τε τῆς πόλεως ἐμπρησμόν καὶ ὅσα τὸ πῦρ ἀφανίσοι, ὅπως τε τὰ ἀγάλματα Κόττας καθῄρει καὶ λείαν ἐποιεῖτο τούς τε ναοὺς κατέσπα, καὶ ὅσα ἄλλα δι'ὠμότητος ἐλθὼν ἐπεπράγει, τόν τε χρυσὸν καὶ τὸν ἄργυρον τῆς πόλεως ἀναγράφων ἀναρίθμητον καὶ τὴν ἄλλην τῆς Ἡρακλείας ἣν ἐσφετερίσατο εὐδαιμονίαν. τοιαῦτα τοῦ Θρασυμήδους μετ' οἰμωγῆς καὶ δακρύων διεληλυθότος, καὶ τῶν ἡγεμόνων ἐπικλασθέντων τῷ πάθει (καὶ γὰρ παρῆλθε καὶ τὸ τῶν αἰχμαλώτων πλῆθος, ἄνδρες ὁμοῦ καὶ γυναῖκες μετὰ τέκνων, ἐν πενθίμοις ἐσθήσεσι θαλλοὺς ἱκεσίους μετ' ὀλοφυρμῶν προτείνοντες), ἀντιπαρελθὼν ὁ Κόττας βραχέα τῇ πατρίῳ διελέχθη γλώττῃ, εἶτα ἐκαθέσθη. καὶ Κάρβων ἀναστὰς ''Ημεῖς, ὦ Κόττα,' φησί, 'πόλιν ἑλεῖν ἀλλ' οὐχὶ καθελεῖν ἐπετρέψαμεν.' μετ' αὐτὸν δὲ καὶ ἄλλοι ὁμοίως Κόττταν ᾐτιάσαντο. πολλοῖς μὲν οὖν ἄξιος ὁ Κόττας ἐδόκει φυγῆς· μετριάσαντες δ' ὅμως ἀπεψηφίσαντο τὴν πλατύσημον αὐτοῦ. Ἡρακλεώταις δὲ τήν τε χώραν καὶ τὴν θάλασσαν καὶ τοὺς λιμένας ἀποκατέστησαν, καὶ μηδένα δουλεύειν ψῆφον ἔθεντο.

When Cotta arrived in Rome, he was honoured by the Senate with the title of *Ponticus Imperator* because he had captured Heraclea. But then the accusation reached Rome that he had destroyed the great city merely for his personal gain, and his enormous wealth aroused envy, so that he became an object of public hatred. In an attempt to avoid the jealousy which his wealth provoked, he handed over much of the plunder from the city to the treasury, but this did not mollify the others, who assumed that he was giving up just a little and keeping the greatest part for himself. They immediately voted to release the prisoners from Heraclea. Thrasymedes, one of the Heracleans, accused Cotta in the assembly. . . . He complained about the devastation which the burning of Heraclea had caused, and how Cotta had taken away the statues as booty and had ransacked the temples, and all the other atrocities he had committed after he entered the city. Thrasymedes also described the immense quantity of the city's gold and silver, and the other treasures of Heraclea which Cotta had taken away for himself. The Roman leaders were moved by this speech, which Thrasymedes delivered with wailing and tears while a crowd of captives stood nearby, both men and women with their children dressed in mourning clothes and sorrowfully holding forth olive branches in supplication. In reply, Cotta gave a short speech in his language and then sat down. Carbo stood up and exclaimed, 'Cotta, we instructed you to capture the city, not to destroy it', and afterwards speakers repeatedly censured Cotta in a similar way. Therefore many of them thought that Cotta should be sent into exile; but instead they expelled him from the Senate as a lesser punishment. They restored to the Heracleans their territory on land and sea, and their harbours; they also voted that none of the Heracleans should be enslaved.

Both Cassius Dio and Memnon are referring to the same episode, although the latter provides us with a more detailed picture of the whole affair. However, while in Cassius Dio's version we find a reference to Bithynia, in Memnon's we find a description of what happened in Heraclea Pontica as if the city had always belonged to the kingdom

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of Bithynia even before M. Aurelius Cotta's successful siege (72 BC).[24] This means that in ancient sources the sack of the city by M. Aurelius Cotta was presented as an incident relevant to Bithynia. In reality, M. Aurelius Cotta's siege was not the first instance of a 'sack' of the city by the Romans; indeed, already in the early stages of the Third Mithridatic War, Heraclea was the object of requisitioning because of the support it provided to Mithridates's fleet (Memn. 27):

> τὸ δὲ Μιθριδάτου ναυτικὸν παραπλέον τὴν Ἡράκλειαν, παρ' αὐτῆς οὐκ ἐδέχθη, ἀλλ' ἀγορὰν μὲν αἰτησαμένων παρέσχον. οἷα δὲ εἰκὸς ἐπιμιξίας γενομένης, Ἀρχέλαος ὁ τοῦ ναυτικοῦ στρατηγὸς συνέλαβε Σιλῆνον καὶ Σάτυρον, ἐπιφανεῖς τῆς Ἡρακλείας ἄνδρας, καὶ οὐκ ἀνῆκεν ἕως ἂν ἔπεισε λαβεῖν πέντε τριήρεις συμμαχίδας εἰς τὸν κατὰ τῶν Ῥωμαίων πόλεμον. καὶ ἀπὸ ταύτης τῆς πράξεως (ὅπερ καὶ Ἀρχέλαος ἐμηχανᾶτο) τῆν Ῥωμαίων ἀπέχθειαν ὁ Ἡρακλεώτης δῆμος ἐκτήσατο. Δημοσιωνίας δὲ τῶν Ῥωμαίων ἐν ταῖς ἄλλαις πόλεσι καθιστώντων, καὶ τὴν Ἡράκλειαν διὰ τὴν εἰρημένην αἰτίαν ταύταις ὑπέβαλλον. οἱ δὲ δημοσιῶναι πρὸς τὴν πόλιν ἀφικόμενοι παρὰ τὰ ἔθη τῆς πολιτείας καὶ ἀργύριον ἀπαιτοῦντες τοὺς πολίτας ἐλύπουν, ἀρχήν τινα δουλείας τοῦτο νομίζοντας. οἱ δὲ διαπρεσβεύσασθαι δέον πρὸς τὴν σύγκλητον ὥστε τῆς δημοσιωνίας ἀπολυθῆναι, ἀναπεισθέντες ὑπό τινος θρασυτάτου τῶν ἐν τῇ πόλει, τοὺς τελώνας ἀφανεῖς ἐποίησαν, ὡς καὶ τὸν θάνατον αὐτῶν ἀγνοεῖσθαι.
>
> Mithridates's navy sailed past Heraclea; it was not admitted into the city, but the Heracleans provided supplies when they were asked for them. While the sailors and inhabitants were mingling, as was natural, Archelaus, the commander of the navy, seized Silenus and Satyrus, two distinguished Heracleans, and did not release them until he had persuaded them to provide five triremes to assist in the war against the Romans. . . . Therefore the Romans, who were exacting requisitions from the other cities, demanded contributions from Heraclea as well. When the money-collectors arrived in the city, they disregarded the laws of the state, and their demands for money distressed the citizens, who regarded this as the beginning of slavery. They wanted to send a delegation to the Senate to ask to be released from the requisitions, but they were persuaded by one of the most audacious men in the city to do away with the money-collectors in secret, in such a way that no one would be sure how they had died.

Thus, M. Aurelius Cotta was not the only one guilty of sacking the city; furthermore, it is possible that the two events were connected.[25]

[24] With respect to the content of Memnon's fragment, it is possible that the historian overemphasized both the importance of Heraclea – his homeland – and the devastations to which it was subjected. Nevertheless, M. Aurelius Cotta's responsibility is certain, as his indictment clearly shows.

[25] Alternatively, it is possible to suppose that Memnon referred to M. Aurelius Cotta's sack of the city in describing the first reprisal by the Romans. This hypothesis was proposed by Kallet-Marx (1995) 302, according to whom 'it is impossible to suppose (as Memnon has been understood to say) that the *publicani* swept into Heraclea shortly after Mithridates' fleet had come through and the Romans in Bithynia were in full retreat. It seems fairly clear that Memnon, having mentioned the incident that brought to an end Heraclea's

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In any case, they both offer evidence of the punitive treatment of the city at the hands of the Romans.[26]

As to the chronology of M. Aurelius Cotta's prosecution, Memnon makes it clear that the proconsul was accused of devastating the city on the occasion of his triumphal arrival in Rome, which should be dated to 71/70 BC.[27] This date would thus contrast with Cassius Dio's excerpt, which seemingly places the accusation of C. Papirius Carbo in 67 BC. However, not only is Cassius Dio's passage not useful in dating M. Aurelius Cotta's affair – as the author summarises episodes of differing chronology in a single chapter – but also it would not make sense for C. Papirius Carbo to have chosen to accuse M. Aurelius Cotta three or four years after the incident which was at the centre of the accusation.

The date of 70/69 BC would be more consistent with the date of Cicero's *Pro Oppio* (69 BC): after his return to Rome, M. Aurelius Cotta prosecuted his former quaestor, P. Oppius, who had already been dismissed and sent to Rome between 74 and 70 BC; shortly thereafter, M. Aurelius Cotta himself was accused of a similar crime.[28] In addition, Cicero's *Pro Oppio* itself suggests that the at the time of P. Oppius's trial rumours about M. Aurelius Cotta's misconduct must have been already circulating in Rome, as an excerpt from Quintilian clearly shows (11.1.67)[29]: *itaque Cicero, quamquam erat in Cottam gravissime dicturus neque aliter agi P. Oppi causa poterat, longa tamen praefatione excusavit officii sui necessitatem* ('Consequently Cicero, although he intended to speak against Cotta with the utmost vehemence, and indeed the case of Publius Oppius was such that he could not do otherwise, prefaced his attack by pleading at some length the necessity imposed upon him by his duty to his client'). What did Cicero mean with the adverb *gravissime*? To what exactly did Cicero refer, when apologizing for what he was going to say about M. Aurelius Cotta? In light of Cassius Dio's passage, it seems possible that Cicero is here referring to M. Aurelius Cotta's malpractice during his office in Bithynia, which would soon be stigmatised by C. Papirius Carbo's accusations.

privileged status as free 'ally and friend' of Rome (assistance to Mithridates' fleet in 73, despite alliance with Rome), simply moved forward in time in a short digression that traces the direct consequence of that act after the expulsion of Mithridates from Bithynia, the reduction of Heraclea to tributary status, the arrival of *publicani*, and their murder by the proud Heracleans.'

[26] With respect to Memnon's perspective on Roman rule over Heraclea, see esp. Desideri (2007) 45-9. Memnon (18) mentions a military alliance between Rome and Heraclea, which was ratified by L. Cornelius Scipio and Scipio Africanus. For the relationships between Rome and Heraclea Pontica prior to the outbreak of the Mithridatic Wars, see Mattingly (1983) 241-3, 249-50; Gruen (1984) 735-7; Saprykin (1997) 284-5.

[27] This is the date generally accepted for M. Aurelius Cotta's return to Rome: see Brennan (2000) 404-6.

[28] I.e., after C. Papirius Carbo's tribunate, which should be placed in the same years, as proposed by Ryan (1994) 185. Cf. also Crawford (1994) 23-32.

[29] On this excerpt see esp. Gruen (1971) 15, who argues against a possible political interpretation of Cicero's *Pro Oppio*.

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III

The *Pro Bithyiis*, therefore, could have been delivered at any moment during the early stages of Roman control over Bithynia, possibly in connection with one of the above-mentioned episodes in which the Romans appeared to have made an attempt on Bithynian property. The possible involvement of M. Iunius Iuncus, who is allegedly mentioned in one of the fragments belonging to the *Pro Bithynis*, could provide us with further information as to the historical context of the trial. It has been indeed proposed that M. Iunius Iuncus himself could have been the defendant because of his questionable behaviour in the affair of the pirates who had kidnapped Caesar.[30] However, this last argument is highly speculative as we do not have proof of any accusation of corruption against M. Iunius Iuncus; furthermore, the mention of the governor in Caesar's fragment is the result of a philological emendation of the text where one manuscript's reading is *M. vince* The whole question concerning the name of the governor is particularly complicated as it involves a double emendation of Aulus Gellius's *M. vince* (*NA* 5.13.6) and Velleius Paterculus's *Iunium cum* (2.41-43).[31] Nevertheless, even if we accept that the emendation of Aulus Gellius's passage to *M. Iunce*, it does not mean that M. Iuncus was the defendant in the trial at which the *Pro Bithynis* was delivered; according to Ward, for instance, since Aulus Gellius tells us that the quoted fragment came from the beginning of Caesar's speech (Gell. *NA* 5.13.6), 'it is quite unlikely that Caesar would have addressed Iuncus at this point if that man were the accused. Not only was it Cicero's custom always to address the court at the beginning of his speeches . . . but that was the standard practice among ancient orators in general.'[32] It is thus possible – although this is not the only interpretation – that the speech was delivered before M. Iunius Iuncus as governor of Asia (and not as a defendant) was relieved by M. Aurelius Cotta between 74-73 BC.[33]

On the other hand, Aulus Gellius provides us with another detail that further suggests that M. Iunius Iuncus was not the defendant in the trial. In Aulus Gellius's excerpt, Caesar affirms that *nam neque hominum morte memoria deleri debet quin a proximis retineatur neque*

[30] Osgood (2010).

[31] Meyer (1837) 298 accepts the *lectio M. uince* (other *lectiones M. Unite*, *M. Vincere*) and emends it to *M. Vinice*. Nipperday (1851) 377 first proposed the double emendation of Aulus Gellius's and Velleius Peterculus's texts: he emended Aulus Gellius's *lectio M. uince* to *M. Iunce* and subsequently emended Velleius Paterculus's *Iunium cum* to *Iuncum*. Nipperday's emendation is generally accepted: Hosius (1903) 228; Rolfe (1927) *ad loc*.; Malcovati (1953) fr. 44; Marshall (1968) 206; Ward (1977) 26-7, 34; Marache (1978) 21; Bernardi Perini (1992) 36; Günther (1999) 327.

[32] Ward (1977) 30.

[33] Canfora (2006) 12 also argues that M. Iunius Iuncus was only the magistrate in the trial, not the defendant. See below for the problem of M. Iunius Iuncus's role in the Bithynian affair.

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clientes sine summa infamia deseri possunt, quibus etiam a propinquis nostris opem ferre instituimus ('For neither ought the memory of men be obliterated by death to the extent that it is not retained by their friends, nor can clients be forsaken without the greatest disgrace when it is our custom to render assistance to them even through our kinfolk'). Who are these *nostri propinqui*? As already mentioned, scholars take it for granted that this term refers to 'Romans', in contrast to *clientes*, clearly Bithynians whose affairs are at the centre of the trial. Does this interpretation tell the whole story? A survey of the use of the term *propinquus* provides us with an alternative and more plausible explanation.

In ancient sources, the term *propinquus* and its combination with *noster* do not indicate a mere kind of superficial relationship, such as belonging to a common civic body, but rather a specific and close bond between two or more people similar to a sort of kinship. Caesar himself shows the semantic closeness between *propinqui* and *consanguinei* in a passage from the *De Bello Gallico* (7.77.8). The same meaning, with few and unimportant diverging nuances, occurs frequently in Cicero's works, where the meaning of *propinquus* and *propinquus noster* ranges from 'friend' to 'very close friend' and 'almost relative'.[34] In all cases, a *propinquus* is not just a friend, but a person with a special connection with someone's family, often a relative.[35]

In the light of these considerations, it seems difficult to accept that in Caesar's fragment the expression *propinquis nostris* simply means 'Romans', since it appears to indicate something more precise and specific than the mere fact of being Roman. Accordingly, the problem is to determine the meaning of this specific term in Caesar's words.

While in the history of the relationship between Caesar and the Bithynians nothing arises that could justify such usage, the trial of M. Aurelius Cotta seems to offer a possible explanation for Caesar's obscure reference. Indeed, M. Aurelius Cotta could be considered to be a relative of Caesar, as he was the half-brother of Caesar's mother, Aurelia Cotta. Therefore, if Caesar had had to defend M. Aurelius Cotta in a trial, he could undoubtedly have called him a *propinquus noster*. Significantly, Suetonius (*Iul.* 1.1) defines L. Aurelius Cotta as a *propinquus* of Caesar. In the present case, the emphatic meaning of the sentence *neque clientes sine summa infamia deseri possunt, quibus etiam a propinquis nostris opem ferre instituimus*

[34] Besides the use of the adjective *propinquus*, which means simply 'near'. For the use of *propinquus* in Cicero's works, see for instance: Quinct. *Inst*. 21.3, 45.3; *Ver*. 2.2.7; *Rosc. Am*. 34.96; *De Or*. 1.170.1, 2.2.2-4; *De Fin*. 8.3.13; *De Off*. 1.17.53, 18.59, 57.4. For *propinquus* as synonym of *affinis* or *agnatus*, see also Sall. *Jug*. 14.15. For *propinqua* as a kinswoman, see Cic. *Mur*. 35. The same meaning also arises in the expression *societas propinquorum*, for which see Cic. *De Off*. 1.54.11. On the concept of *propinquus* and its connection with the issues of *familia* and *gens*, see Raccarelli (1996) 27-57.

[35] On this use, see e.g. Tac. *Ger*. 20.1 (*propinqui* are enumerated among figures such as *avunculi*, *fratres*, etc.); Cic. *De Or*. 2.2.2.

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('nor can clients be forsaken without the greatest disgrace when it is our custom to render assistance to them even through our kinfolk') would have been perceived as even more explicit: Caesar did not hesitate to act as *patronus* of Bithynians, even though the defendant was a relative, or rather a *propinquus* of his. Caesar's benevolence was, therefore, particularly striking: Caesar preferred defending the rights of the Bithynians against the interests of his family rather than allowing M. Aurelius Cotta's crime to go unpunished. This was, especially in the eyes of foreign *clientelae*, a wonderful example of self-promotion as a political leader and *patronus*.[36]

We could hypothesise that M. Aurelius Cotta's devastation of the city could also have damaged specific interests of Bithynians and Romans in that area (cf. the presence of *publicani* in Heraclea before the sack of the city by M. Aurelius Cotta). Alternatively, Caesar might have been referring to the inhabitants of Heraclea *tout court* by calling them 'Bithynians', since Cassius Dio also simply refers to Bithynia in describing the sack of Heraclea. Furthermore, the fact that in the trial against M. Aurelius Cotta the plaintiffs recovered all the possessions which had been confiscated previously is perfectly consistent with the sense of the fragment *quid ergo? syngraphae non sunt, sed res aliena est.* It is not accidental, therefore, that afterwards the Heracleans tried to obtain the status of free city for Heraclea directly from Caesar.[37]

This hypothesis contrasts with the usual dating of the *Pro Bithynis*, which is believed to have been delivered around 74 BC, thus before the possible date of the M. Aurelius Cotta affair. As we have seen, however, there are no compelling reasons to accept 74 BC for the *Pro Bithynis*, both because the mention of M. Iunius Iuncus in Caesar's fragment is the result of modern conjecture and because the reference to M. Iunius Iuncus – if accepted – does not imply that he was still governor of Asia at the time the speech was delivered;[38] as has been proposed, for instance he could have taken part in the trial as a sort of 'expert' in Asian affairs.[39] Therefore, while there are no secure elements that support the traditional interpretation, ancient sources suggest a clear connection between the M. Aurelius Cotta episode and the *Pro Bithynis*: in other words, M. Aurelius Cotta might have been the defendant in the trial in which the *Pro Bithynis* was delivered.

[36] On this issue, the classical study is Badian (1958); see also Eilers (2002).

[37] From Photios's summary of Memnon's work, it is not clear whether or not Caesar accepted the Heracleans' requests. According to Desideri (2007) 58-60, it is more than plausible that Caesar showed benevolence towards the city and granted some kind of special status. On this issue, see Santangelo (2004) 259-60.

[38] For different reasons, Vitucci (1953) 118 also excludes that the speech was delivered in 74 BC. See also Magie (1950) 1201, according to whom the speech could not have been delivered in 74 BC.

[39] Ward, *Caesar*, 31. However, this does not mean, as suggested by Ward, that the *Pro Bithynis* and the speech on behalf of Nysa (mentioned by Suet. *Iul.* 49) were the same thing. While the latter was probably delivered around 63 BC, the former should be dated to around 69 BC.

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On the other hand, it could be objected that Caesar would not have accused an Aurelius Cotta, especially in the light of both his political and personal relationships with the members of that *gens*. In addition, Caesar was co-opted into the college of pontiffs in replacement of C. Aurelius Cotta in 73 BC (Vell. 2.43.1).[40] However, the hypothesis that M. Aurelius Cotta was the defendant in the trial *Pro Bithynis* and Caesar's co-optation into the college of pontiffs must be considered as two different issues. Indeed, not only was Caesar elected prior to his return to Rome from Asia (and accordingly before the trial occasioning the *Pro Bithynis*), but it is impossible to say, on the basis of the available evidence, whether the Aurelii Cottae played a crucial role in Caesar's appointment as a *pontifex*. Velleius Paterculus simply reports that Caesar was nominated *pontifex* while he was still in Asia and in replacement for L. Aurelius Cotta and does not provide any further detail.[41]

Furthermore, it should be stressed that M. Aurelius Cotta, who was accused by C. Papirius Carbo as well, was eventually sentenced for corruption and maladministration during his appointment as governor in Bithynia. If we consider the sentence as evidence of M. Aurelius Cotta's crime, Caesar could have accused his *propinquus* without compromising his relationships with the *gens* of the defendant.[42] Indeed, either M. Aurelius Cotta had been sentenced before Caesar delivered the *Pro Bithynis*, or his crime was so patent that Caesar could not avoid accusing him: both cases could have made it easy for Caesar to accuse his relative without putting his relationships with the Aurelii Cottae at risk.[43]

[40] Gelzer (1960) 22.

[41] L. Aurelius Cotta's case shows the difficulty of assessing the relationships between Caesar and the Aurelii Cottae. On the one hand, L. Aurelius Cotta interceded with Sulla in favour of Caesar (Suet. *Iul*. 1.3) and attached himself to Caesar (Suet. *Iul*. 79.4); on the other hand, Caesar had him as adversary in the Dolabella case, which did not later prevent L. Aurelius Cotta from becoming a supporter of Caesar. Neither Gelzer (1960) 23 nor Taylor (1942) 402 detect any possible role by C. Aurelius Cotta in Caesar's co-option into the college of pontiffs, which was instead due, according to Taylor (1942) 402-3, to the fact that Caesar belonged to a patrician family and to other political reasons. See also Taylor (1941) 117-20. Taylor (1942a) 8-9 also stresses that Caesar might have had a number of potential political allies – more influential than C. Aurelius Cotta – in the college of the pontiffs who co-opted him.

[42] Significantly, Cicero's *Pro Oppio* suggests that rumors concerning M. Aurelius Cotta's misconduct were already circulating at the time of P. Oppius's trial (Quint. *Inst*. 11.1.67).

[43] For the possible political meaning of the case which involved P. Oppius, the Aurelii Cottae and Pompey, see Gruen (1971) 13-15. See also the case of D. Iunius Silanus Manlianus, who committed suicide after being found guilty by his father, T. Manlius Torquatus, in a trial *de repetundis* (Cic. *Fin*. 1.24; Liv. *Per*. 54; Val. Max. 5.8.3). The father did not take part in the funeral and made an offer of legal advice to the Macedonians, who had accused his son of bribery. On this trial see Alexander (1990) 6. On the conflict between kinship and moral duty, see Cicero's point of view (*Phil*. 5.6): *tu civem sceleratum et perditum Gallorum et Germanorum pecunia, peditatu, equitatu, copiis instrues? nullae istae excusationes sunt: 'meus amicus est.' sit patriae prius. 'meus cognatus'.*

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The reasons which might have led Caesar to defend the Bithynians – or those who had been damaged by M. Aurelius Cotta's misconduct – are evident: as already emphasised in several studies, at that point of his life Caesar still needed a *clientela* as wide as possible – also international – to support his political career. Since he already had good relations with the kingdom of Bithynia at the time of the sack of Heraclea, he probably grasped the occasion to further spread and strengthen his contacts in Asia Minor.[44] Indeed, we can be sure that around the same years and using the same method Caesar was seeking clients in Macedonia (thanks to Dolabella's prosecution) and in Greece (Caesar represented some Greeks in a process against C. Antonius, probably in 79 BC).[45] Therefore, I would suggest dating the *Pro Bithynis* and the corresponding trial to 70/69 BC, in connection with C. Papirius Carbo's accusations against M. Aurelius Cotta (and immediately after P. Oppius' trial).

In light of these considerations, Bithynian affairs would thus have represented a perfect occasion for Caesar to win over friends and allies among foreign communities.[46]

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an potest cognatio propior ulla esse quam patriae, in qua parentes etiam continentur? ('Will you furnish a wicked and desperate citizen with an army of Gauls and Germans, with money and infantry and cavalry and all sorts of resources? All these excuses are no excuse at all: 'He is a friend of mine.' Let him first be a friend of his country. 'He is a relative of mine.' Can any relationship be nearer than that of one's country, in which even one's parents are compromised?'). As Brunt (1965) 12 stresses, according to Cicero 'the fatherland took precedence of all ties of amity or kinship.'

44 On the role of foreign *clientelae* in the development of political careers in Rome, see esp. Badian (1958) 154-67.

45 Plut. *Caes*. 4.1-3; Canfora (2006) 8.

46 As Badian has emphasised, these relationships could result in something more than political support, as they also might lead to tangible benefits, such as monetary loans. In 47 BC, Caesar decided to settle a colony in Heraclea Pontica (Str. 12.3.6). On Caesar's colony in Heraclea Pontica, see Fernoux (2004) 171-3.

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