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CN. DOMITIUS AND SAMOS: A NEW EXTORTION TRIAL (IGR 4,968)

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It is well known that cities in the provinces frequently honoured prominent Romans with whom they had contact. Greek cities called them by honorific titles such as 'benefactor' (εὐεργέτης), 'founder' (κτίστης) and 'saviour' (σωτήρ). One title which the Greeks borrowed from the Romans, and which they used to honour only their Roman benefactors, is *πάτρων*. This paper will examine an inscription in which a Roman patron of Samos is mentioned, IGR 4,968:<sup>1</sup>

ὁ δῆμος ὁ Καμίων Γναίων Δομέτιον | Γναίου υἱόν, τοῦ δοθέντος ὑπὸ τῆς |  
 συγκλήτου πάτρωνος τῷ δήμῳ, | ὑπὲρ τε τῶν κατὰ τὸ ἱερόν τῆς || Ἀρτέμιδος |  
 τῆς Ταυροπόλου, ἀρετῆς ἔνεκεν | τῆς εἰς ἑαυτὸν, Ἦρηι. | Φιλότεχνος Ἡρώιδου  
 ἐποίη.

Patrocinium of cities had an important role in the political and social history of Rome,<sup>2</sup> and this inscription has usually been understood as providing an example of this institution. For this inscription, scholars have discussed not only the identities of the patron and his son,<sup>3</sup> but also the nature of patronage of cities,<sup>4</sup> the cult-site of Artemis Tauropolus,<sup>5</sup> and even senatorial policy towards Greek cities in the mid-second century B.C.<sup>6</sup> However, an important aspect of this inscription has been overlooked, namely that it reveals a previously unnoticed extortion trial.

According to the inscription the elder Domitius was given as patron by the senate (τοῦ δοθέντος ὑπὸ τῆς συγκλήτου πάτρωνος). This phrase is unique in epigraphical honours for patrons. Over 1200 patroni of cities are attested in Greek and Latin inscriptions of all

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<sup>1</sup> Originally published by A.Kirchhoff, *Monatsber. Akad. Ber.* 1859,753 no.2. For a photo of the remaining fragment, J.Marcadé, *Recueil des signatures de sculpteurs Grecs*, Paris 1953-7, 2.87.

<sup>2</sup> E.g., M.Gelzer, *The Roman Nobility*, trans. R.Seager, Oxford 1969,86-101; L.Harmand, *Le patronat sur les collectivités publiques des origines au Bas-Empire*, Paris 1957; E.Badian, *Foreign Clientelae*, Oxford 1958; E.Gruen, *The Hellenistic World and the Coming of Rome*, Berkeley and Los Angeles 1984,158-200; J.Touloumakos, "Zum römischen Gemeindepatronat im griechischen Osten." *Hermes* 116,1988,304-324.

<sup>3</sup> P.Foucart, "La Formation de la province Romaine d'Asie" *Mém. de l'Acad. des Inscr. et Belles Litt.* 37,1904,330 n.1, G.Lafaye at IGR 4,968, L.Robert, *Op.Min.* 1.561 and n.6 and Touloumakos, *Hermes* 116,1988,310 have identified the father and son as consuls of 162 (suffect) and 122; Münzer, *RE Suppl.* 3.349, P.Hermann, *ZPE* 14,1974,257-8 and G.Chiranky, *Athenaeum* 60,1982,474-475 and n.72 have identified the two Domitii as the consuls of 122 and 96.

<sup>4</sup> E.Badian, *Foreign Clientelae* 158-159; Touloumakos, *Hermes* 116,1988,310-311.

<sup>5</sup> L.Robert, "Les Asklepieis de l'archipel," *REG* 46,1933,423-442 = *Op.Min.* 1.549-568.

<sup>6</sup> Touloumakos, *Hermes* 116,1988, esp. 314-316.

periods. Only in IGR 4,968, however, is a patron said to be given to a city.<sup>7</sup> Indeed the very idea of appointing a patron seems contrary to the voluntary nature of the relationship.

However, a circumstance is known in which patroni were assigned to cities: as prosecutors in extortion trials. The earliest such case dates from 171 B.C. when ambassadors from the Spanish provinces approached the senate and complained about governors' depredations (Livy 43.2). Recuperatores were assigned and the Spaniards themselves chose patroni as their representatives (we will return to this later). Later, in the Gracchan *lex repetundarum* (123 or 122 B.C.), there was a paragraph *de patroneis dandeis*, under which the praetor of the new *quaestio* could (if the provincials desired) appoint patrons.<sup>8</sup> During Augustan times, the *SC Calvisianum* established a similar practice: the magistrate who convened the meeting of the senate at which the provincials laid their complaint 'gave' them (*διδόναι*) a *συνήγορος*, i.e., a *patronus causae*.<sup>9</sup> Another century later, the younger Pliny reports that a senate decree urged that he be 'given' as patron (*ut darer provincialibus patronus*) for a senatorial extortion trial.<sup>10</sup> Indeed, a witticism reported by Cicero well illustrates that *dare patronum* was the regular phrase for the assignment of prosecutors:<sup>11</sup>

Est etiam stultitiae salsa reprehensio, ut ille Siculus, cui praetor Scipio patronum causae dabat hospitem suum, hominem nobilem, sed admodum stultum, 'quaeso,' inquit 'praetor, adversario meo da istum patronum, deinde mihi neminem dederis'.

Here again *dare patronum* refers to legal advocacy.

It is necessary now to bring together two observations. First, the appointment of patroni in *repetundae* trials was perfectly regular. Second, appointing civic patrons is unparalleled and intrinsically unlikely. Combining these two points leads naturally to the conclusion that IGR 4,968 is about *repetundae*, not civic patronage.

The interpretation that the phrase *τοῦ δόθεντος ὑπὸ τῆς συγκλήτου πάτρωνος τῷ δήμῳ* in IGR 4,968 refers to an extortion trial is confirmed by an allusion in the inscription to the culprit's victim. The senate gave Domitius as patron *τῷ δήμῳ ὑπέρ τε τῶν κατὰ τὸ ἱερὸν τῆς Ἀρτέμιδος τῆς Ταυροπόλου*. Since *τε* attaches *ὑπέρ* and what follows to the

<sup>7</sup> The two cases (at CIL 10,416 and 10,5393 = ILS 6286) proposed by J.Nicols ("The Emperor and the selection of the *patronus civitatis*: two examples," *Chiron* 8,1978,429-432) are due to mispunctuation, corrected by W.Eck, "Wahl von Stadtpatronen mit kaiserlicher Beteiligung?" *Chiron* 9,1979,489-494.

<sup>8</sup> FIRA<sup>2</sup> I.7 (henceforth "*lex rep.*") vv. 9-11. The argument for 123 B.C. is given by A.N.Sherwin-White, "The *lex repetundarum* and the political ideas of Gaius Gracchus," *JRS* 72,1982,18 n.2; for 122 B.C., see (e.g.) A.Lintott, "The *leges de repetundis* and associate measures under the Republic," *ZSS* 98,1981,182-185.

<sup>9</sup> SEG 9.8 (= EJ 311) no. 5 vv. 102-103.

<sup>10</sup> Plin. Ep. 3.4.2-4; cf. 2.11.2, 10.3a.2.

<sup>11</sup> Cic. de Or. 2.280. The charge is probably *repetundae* (since the plaintiff is a Sicilian) and perhaps under the Gracchan *lex repetundarum*, since the provincial can repudiate his patron (cf. *lex rep.* vv. 11-12). C.Venturini, *Studi sul 'crimen repetundarum' nell'età repubblicana*, Milan 1979,151 n.51. Broughton (MRR 1.347) identified the praetor as L.Cornelius Scipio (cos. 190), praetor of Sicily in 193. This should be rejected. P.Cornelius Scipio Nasica Serapio (cos. 111) is more likely, praetor of the *repetundae* court by 114.

preceding clause, this should report the specific circumstances which lead to his appointment as patron, and not the Samians' reason for honouring their patron's son.<sup>12</sup> Thus a specific allegation is recoverable: that a Roman official had committed an offence against the temple of Artemis Tauropolus. Such an accusation is not surprising: the wealth of sacred places, not only in cash but also in priceless works of art, made them attractive prey for malefactors.<sup>13</sup>

It seems clear that the elder Domitius in IGR 4,968 was a prosecutor in an extortion trial - a *patronus causae*. It therefore should be recognised that in its use of the word *πάτρων*, this inscription is imitating the technical vocabulary of Roman legal procedure. It does not necessarily follow that the Samians thereafter considered themselves part of Domitius' *clientela*. The senate appointed Domitius as prosecutor for a specific trial: thus the aorist participle. It is therefore unclear whether either Domitius or the Samians regarded the relationship as permanent or long-term. Domitius' advocacy may have been the initial *beneficium* that created a patron-client relationship with Samos. Indeed there is evidence supporting this.<sup>14</sup> Nevertheless it is unsafe to assume that the word *πάτρων* in the inscription refers to such a relationship rather than strictly to Domitius' actions as prosecutor. Consequently, this inscription should not be used as evidence for the nature of municipal patronage, and cannot show that the senate could impose a patronal relationship between a senator and city, or that it ever had a policy of doing so.<sup>15</sup>

IGR 4,968 refers to a *repetundae* trial,<sup>16</sup> and the victim was the temple of Artemis Tauropolus. But when?

Philotechnus, son of Herodes, sculpted the statue of the younger Domitius, as the inscription on its base (IGR 4,968) tells us. Fortunately, a statue of a Seleucid prince by the same sculptor can be dated with confidence to 130 or 129 B.C. by the titulature of the young man's father.<sup>17</sup> For Philotechnus to sculpt the children of a Seleucid monarch and a Roman senator are signs of conspicuous success. Consequently, the period between the statues of the young Domitius and the young Seleucid prince may be short: probably within a decade or two. The possibility of a longer interval between the two statues, or between the statues and

<sup>12</sup> Pace Touloumakos, *Hermes* 116,1988,310, who assumes that the phrase refers to the younger Domitius.

<sup>13</sup> E.g., C.Lucretius (Liv. 43.7.10), Antiochus IV (Polyb. 30.26.9), Mithridates Eupator (Jos. AJ 14.112), C.Verres (Cic. Verr. 4.72-83, 93-132, 140), Cleopatra (Dio 51.5.5, 51.17.6), publicani (Strabo 14.1.26, IPriene 111, ILS 8770, Syll.<sup>3</sup> 747), pirates (App. Mith. 63).

<sup>14</sup> Cf. AM 75,1960,138 no.32, where (assuming a correct supplement) the consul of 32 B.C., a descendant of this Domitius, is an ancestral patron of Samos: *Καμί[ων ὁ δῆμος] | Γναίων Δ[ομέτιον?] | διὰ προγόνων πατρῶνα] | [τῆς πό]λεως κα[ὶ εὐερ][γέτην]*.

<sup>15</sup> So J.Touloumakos, *Hermes* 116,1988,310, 314-315 and n.39.

<sup>16</sup> The possibility of *repetundae* seems to have been recognised by Badian (*Foreign Clientelae* 158 and 159 n.1), but his insight has not borne results. For a list of known *repetundae* trials in the Republic, see A.Lintott, *ZSS* 98,1981,209-212.

<sup>17</sup> OGIS 255-256 are a pair of statue bases of Antiochus IX and his tutor (*προφεύς*), Crateros. Both inscriptions call Antiochus VII Sidetes *βασιλεὺς μέγας*, a title which he took in 130, the year before his death. Lippold *RE* 20.180 s.v. Philotechnus. Cf. J.Marcadé, *Signatures* 2.87-88.

the trial, cannot be excluded, but the larger these intervals are, the less credibility any resulting scenario will have.

A *terminus ante quem* of 122 B.C. can in any case be established. A *repetundae* trial is the best explanation of the formula τοῦ δοθέντος ὑπὸ τῆς συνκλήτου πάτρωνος τῶι δήμῳ, as we saw above. This phrase seems consistent with the *ad hoc* prelegislative procedure that the Spaniards used in 171 B.C. The praetor L.Canuleius was instructed to give the Spaniards the right to choose their patrons.<sup>18</sup> Later, the Spanish envoys were summoned before the senate to declare which senators they had selected.<sup>19</sup> Presumably the senate then confirmed their choice: thus, from the provincials' perspective, patrons were given by the senate. The wording of the Samian inscription would describe this process very well indeed.

Would the phrase be as fitting at other times? It has never been clear whether the *lex Calpurnia* appointed patrons, or how such appointments were made. The procedure of the *lex Calpurnia* was by *legis actio sacramento* (*lex rep. v. 23*), a civil procedure which was not available to non-Romans. Consequently some have argued that Roman *patroni* were compulsory.<sup>20</sup> Recently Richardson has taken the extreme position that the *lex Calpurnia de repetundis* was only for Roman citizens and that extortion charges brought by *peregrini* after 149 B.C. followed an *ad hoc* procedure like the one that the Spaniards used in 171 B.C.<sup>21</sup> This debate need not detain us. For whatever the procedure, it appears that accusations against magistrates could still begin with an approach to the senate,<sup>22</sup> perhaps for appointing patrons.<sup>23</sup> Whether this was under the *lex Calpurnia* or in an *ad hoc* process parallel to it is irrelevant to our present interests, for either way it seems likely that the senate could appoint patrons as prosecutors *de repetundis* until the time of the Gracchan *repetundae* law (123 or 122 B.C.). This law, however, assigned patrons differently, for now a provincial approached the praetor of the *quaestio perpetua*, who then would appoint a patron if the plaintiff so desired.<sup>24</sup> The formula τοῦ δόθεντος ὑπὸ τῆς συγκλήτου πάτρωνος would not describe this process very well, since the senate was (quite intentionally) excluded from the process.

<sup>18</sup> Liv. 43.2.3: *patronosque quos vellent sumendi potestatem faceret.*

<sup>19</sup> Liv. 43.2.4: *vocatis in curiam legatis recitatum est senatus consultum, iussique nominare patronos.*

<sup>20</sup> For the place of *patroni* in these trials, cf. W.Eder, "Das vorsullanische Repetundenverfahren," Diss. Munich, 1969, 69-71; F.Serrao, "Appunti sui patroni e sulla legittimazione attiva alla accusa nei processi *repetundarum*," in *Classi, Partiti e Legge nella repubblica Romana*, Pisa 1974, 233-275, esp. 239-240; A. W.Lintott, "The Procedure under the *leges Calpurnia* and *Iunia*," *ZPE* 22, 1976, 207-214, esp. 208-209; *ibid.*, *ZSS* 98, 1981, 162-212, esp. 172-175; C.Venturini, *Crimen repetundarum* 169-172.

<sup>21</sup> J.S.Richardson, "The Purpose of the *lex Calpurnia de repetundis*," *JRS* 77, 1987, 1-12.

<sup>22</sup> Liv. Per. 54 (c. 141 B.C.): *cum Macedonum legati questum de D.Iunio Silano praetore venissent, quod acceptis pecuniis provinciam spoliasset, et senatus de querellis eorum vellet cognoscere.* Cf. Liv. Oxy.Per. 54; Cic. Fin. 1.24; Val.Max. 5.8.3.

<sup>23</sup> In the period between the *lex Calpurnia* and the Gracchan *lex repetundarum*, Roman patrons are known in the trials of M'. Aquilius (125 or 124 B.C.) and L.Cotta (before 129 B.C.) (Cic. in Caec. 21.69).

<sup>24</sup> *lex rep. v. 9: sei eis volet sibi patronos in eam rem darei pr(aetor) ad quem [nomen detulerit] ...*

Therefore the extortion trial reported at IGR 4,968 should precede the Gracchan law of 123 or 122 B.C. This is also consistent with our earlier observation that the statue of Domitius' son should be not long before or after 130/129.

Next, we must establish a *terminus post quem*.

The Samian trial should come after 171 B.C., since the *ad hoc* process for *repetundae* devised in that year and reported by Livy (43.2) was probably an innovation.

A *repetundae* trial is prosecution of office holders for corruption, so defendants can easily be identified in the series of men who governed the province of Asia after its annexation. A prosecution before this time would not be impossible, but it is difficult to identify occasions when the crime could have been committed, since in the Third Macedonian War Roman action was mostly on the opposite side of the Aegean,<sup>25</sup> and in the Fourth Macedonian War the fleet (necessary to get to Samos) was not Roman.<sup>26</sup> Absolute proof, however, is not possible. For the moment we will pursue the more likely prospect and leave aside the possibility of a prosecution before 133 B.C., to which we will return later.

First, a few more years can be excluded: the commissioner sent in 132 B.C. to organize Asia, Scipio Nasica (cos. 147, 134), died there, as did P.Licinius Crassus Dives Mucianus (cos. 131) who succeeded him in 131.<sup>27</sup> Crassus in turn was replaced in 130 by the consul M.Perpenna, who also perished.<sup>28</sup> There would be no point in prosecuting dead men, and so the prosecution should not come in these years. Again, since a governor could not be prosecuted until after he left his province, the years 129 to 126 B.C. can be excluded, since it was not until 126 B.C. that M'.Aquillius (cos. 129), who replaced Perpenna, returned to Rome for his triumph.<sup>29</sup>

We have established that a *repetundae* trial took place before 122 B.C., and (leaving aside the years before 133) after 126 B.C. It is now necessary to address the question of identity of the prosecutor and his son. A pair of Gnaei Domitii (father and son) are needed - obviously senators since the senate appointed one to prosecute a senator. Only Ahenobarbi seem possible.

It will be helpful to digress and examine the family of Domitii Ahenobarbi in the second century, since the commonly accepted stemma of this family may be wrong in a small but significant detail. During the second century B.C. and first decade of the first century, five Domitii Ahenobarbi reached the consulship: [RE 18] Cn.Domitius L.f.L.n. Ahenobarbus

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<sup>25</sup> The activities of two Roman admirals are especially relevant: both L.Hortensius (Liv. 43.4.8-13) and C.Lucretius (Liv. 43.4.6, 43.7.5-8.8) were attacked in Rome for their behaviour towards allies. But their misdeeds - indeed all their known actions - were on the opposite side of the Aegean from Samos. Furthermore, since Livy reports the 'trials' of both L.Hortensius and C.Lucretius for crimes against Abdera and Chalcis, respectively, crimes against Samos or any city by them or by their contemporaries would be of topical interest to him and would probably be reported.

<sup>26</sup> Attalus of Pergamum sent a fleet to help Q.Metellus against Andriscus (Zon. 9.28, cf. Strabo 13.4.2).

<sup>27</sup> For the references see MRR 1.499, 503.

<sup>28</sup> MRR 1.504.

<sup>29</sup> He triumphed in November 126 (Degrassi Act.Tr. 82-83).

(cos. 192); [RE 19] Cn.Domitius Cn.f.L.n. Ahenobarbus (suff. 162, pr. 170 or earlier);<sup>30</sup> [RE 20] Cn.Domitius Cn.f.Cn.n. Ahenobarbus (cos. 122); [RE 21] Cn.Domitius Cn.f.Cn.n. Ahenobarbus (cos. 96); [RE 26] L.Domitius Cn.f.Cn.n. Ahenobarbus (cos. 94). These have usually been arranged over four generations, with #21 and #26, being brothers, and in a direct and uninterrupted line of descent from #18.

There is however another Domitius Ahenobarbus who may belong to this family. Livy (42.28.13) reports that a Cn.Domitius Ahenobarbus was coopted pontifex in 172 B.C., although 'very young to be a priest' (*oppido adulescens sacerdos*). The young pontifex can hardly be the suffect (#19), who would now be at least thirty-eight (praetor by 170, therefore born by 210 B.C.).<sup>31</sup> If this were so, he would be no younger than other priests appointed in this decade.<sup>32</sup> Yet he cannot be the consul of 122 (#20), who probably did not yet exist (born by 165). Therefore another Ahenobarbus seems necessary.<sup>33</sup> He was perhaps a teenager, to judge from other instances where the youth of a new priest is deemed worthy of comment.<sup>34</sup> A pontifex (especially one coopted at an extraordinarily young age) should belong to an illustrious family and the Ahenobarbi were ennobled by the consul of 192 (#18). Therefore it is likely that the young pontifex was a direct descendant of his.<sup>35</sup> The interval between #19 (suff. 162) and #20 (cos. 122) is about forty-five years. This is not too long for them to be father and son,<sup>36</sup> but neither is it too short for them to be grandfather and grandson.<sup>37</sup> If the young pontifex was indeed a teenager in 172 B.C. (born c.188?), he would fit nicely between the two, for when the next Cn.Domitius (cos. 122) was born in the

<sup>30</sup> MRR 1.420, 422 n.2.

<sup>31</sup> Pace Broughton, MRR 1.414, 3.82; C.Bardt, "Die Priester der vier grossen Collegien aus römisch-republikanischer Zeit," Diss. Berlin, 1871, p.12 no.41; Münzer, RE 5.1322 s.v. Domitius no.19.

<sup>32</sup> In 177 B.C., M.Claudius Marcellus (cos. 166) c. 32 years old (Liv. 41.13.4); in 176 B.C., L.Furius Philus (pr. 171), at least 35 (Liv. 41.16.4, cf. 43.11.13); in 174 B.C., C.Sulpicius Galba (pr. 171), at least 37 (Liv. 41.21.8-9); in 170 B.C., T.Manlius Torquatus (cos. 165, pr. 170?) at least 40 (Liv. 43.11.13).

<sup>33</sup> This was recognised by Crawford RRC p.286.

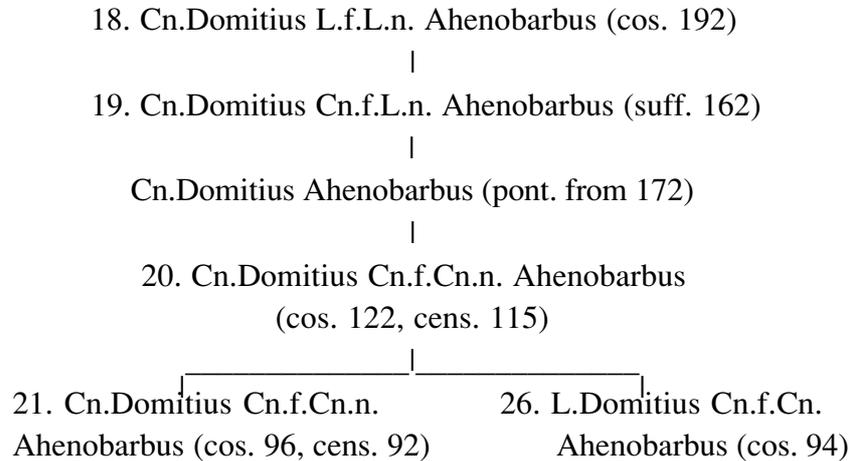
<sup>34</sup> Vell.Pat. 2.59.3 says that the young C.Octavius (later Augustus) was a puer when made pontifex (aged fifteen). Livy 29.38.7 says that Ti.Sempronius Gracchus was *admodum adulescens* when made augur in 204 B.C. If this was Ti.Gracchus P.f., father of the reformers (so Sumner, *Orators* 38-39, cf. Broughton MRR 3.188-189), he would be coopted at age sixteen (cos. 177, born c.220). If it was a homonymous cousin, Ti.Gracchus Ti.f. (so E.Badian, *Arethusa* 1,1968,32-33 and Münzer, RE 2A.1403 s.v. Sempronius no.52), he would still probably have been a teenager: he died in 174 (Livy 41.21.8), apparently without reaching high office. It may be best to pass over Crassus, who was *admodum adulescens* when he prosecuted C.Carbo in 119 B.C. at age 20 (Cic. *Brut.* 159; Sumner, *Orators* 95-96): what is regarded as 'very young' for a priest may be different from what is felt to be young for a prosecutor.

<sup>35</sup> This seems more likely than the suggestion of Crawford (RRC p.286) that he was a member of a collateral branch of Ahenobarbi. Other members of such a branch are difficult to identify: L.Domitius Cn.f. of the SC de agro Pergameno (RDGE 12) is probably the consul of 94 B.C., if one accepts a date of 101 B.C. for this inscription (F.De Martino, *Par.Pass.* 38,1983,161-190); Cn.Domi(tius), the monetalis of 128 B.C., may be a Calvinus (Crawford RRC p.286 [#261]).

<sup>36</sup> Cf. the long interval between Ap.Claudius C.f.Ap.n. Pulcher (cos. 143) and Ap.Claudius Ap.f.C.n. Pulcher (pr. 89, cos. 79).

<sup>37</sup> For three generations in 47 years: Q.Metellus Macedonicus (pr. 148, cos. 143), Q.Metellus Balearicus (cos. 123) and Q.Metellus Nepos (cos. 98).

mid-160s, the pontifex would be in his twenties. Consequently this slightly modified stemma for the Domitii Ahenobarbi in the second century probably makes the best sense of the details known about the family:



This stemma contradicts statements about Nero's ancestors made by Suetonius<sup>38</sup> and Velleius Paterculus.<sup>39</sup> This is not a serious problem, however, for such a mistake is well within their margins of error. Also, Domitius the pontifex probably died young,<sup>40</sup> and so will have left little trace of his existence apart from Livy's annalistic notice of his cooptation, and perhaps a similar one of his death and subsequent replacement. Thus even a diligent antiquarian could miss him.

Which of these Ahenobarbi could have been prosecutor in the extortion trial referred to in IGR 4,968? If the trial belongs to the mid-120s, Domitius #19 (suff. 162 B.C.) would probably be too old. If still alive, he was in his eighties.<sup>41</sup> The pontifex coopted in 172 B.C. probably died before reaching high office, which would be decades before the 120s. Thus he can be excluded too. On the other hand, Domitius #21 (cos. 96) would be too young: to judge from his consulship, he was a mere teenager in the 120s. Domitius #20 (cos. 122),

<sup>38</sup> Suet. Nero 1.2 reports that there were only three consecutive Gnaei after three Lucii. But he has missed at least one Gnaeus in any case, for there were four consuls of this name (192, 162, 122, and 96 B.C.). This is perhaps the result of the conflation of #20 (cos. 122) and #21 (cos. 96) which Suetonius makes at Nero 2.1.

<sup>39</sup> Vell. 2.10.2 reports seven consular Domitii in the seven generations before the father of Nero. However, it is eight consuls, if L.Ahenobarbus (cos. 94) is included (albeit not a direct ancestor of Nero's father). Velleius also reports that these consulars were all only sons, which is demonstrably false and his assertion that they all got priesthoods and triumphs is exaggerated (Münzer, RE 5.1314). Only one triumph is known, that of the consul of 122 B.C. in Gaul (Degrassi, Act.Tr. 82-83), and that there were other triumphs is contradicted by Suet. Nero 1.2 (*functi ... triumpho*).

<sup>40</sup> Obsequens 13 reports a plague and famine in 165 B.C.

<sup>41</sup> He was probably praetor by 170 (MRR 1.420, 422 n.2).

however, is a good possibility. For he is known to have served in Asia: he was *legatus pro praetore* there under Aquillius in 129-126.<sup>42</sup>

How does this fit with what we know of this Ahenobarbus? For him to have been prosecutor seems consistent with the little evidence we have for his behaviour in Asia. An inscription from Bargylia shows Domitius protecting the interests of that city:<sup>43</sup>

[διὸ καὶ ἱκανὸν] | εἶναι νομίζων Ποσειδώνι[ο]ν, τοῦτον παρεκάλεσεν [ὁ δῆμος ἀνανεωσάς] | [θ]αι τὰς ἀνώτερον παραιτήσεις τὰς περὶ τῶν στρατιωτῶν [χαρὶν τοῦ μὴ ἐπι] | [τ]ελεεθῆναι τῆι πόλει τή[νδ]ε παρὰ Κοίντου Καιπίωνος [ἐπιταγὴν ἀκολού] | [θ]ος τῆι προαιρέει Μανίου Ἀκυλλίου στρατηγοῦ· ὁ [δ]ὲ [π]αρ[ακληθεὶς προ] | θύμως ὑπήκουσεν καὶ ἐξαυτῆς ἀποδημήσας μετὰ τ[ῶν] συνπρεβευτῶν, ἐνέ] | τυχεν τῶι [Γ]ναίωι καὶ ποιησάμενος ὑπὲρ τῆς πατρίδος [τοὺς ἀρμόζοντας] | λόγους, τοὺς τε στρατιώτας ἑκομίσατο.

This inscription reports an embassy led by Poseidonius to Domitius to complain about the auxiliary troops that Bargylia was compelled to supply. Poseidonius' embassy was successful and he returned with Bargylia's troops. The Bargylians apparently (if the supplements of Holleaux are accepted)<sup>44</sup> were asking Domitius to contradict both the policy of Aquillius and the orders of Q.Caepio. Hence this inscription reveals two important details: first, that provincials saw Domitius as approachable and at least potentially sympathetic towards them; second, that he was perceived as willing to abandon collegial solidarity in their interest. This attitude, one might argue, is necessary in someone who would prosecute a senatorial colleague for *repetundae*.<sup>45</sup>

Identifying the patron of Samos in IGR 4,968 as Cn.Domitius Ahenobarbus (cos. 122) necessarily implies that the statue erected by the Samians was of his son, the consul of 96 B.C. Some have objected that no contact with the East is known for him.<sup>46</sup> This is incorrect; it overlooks an important piece of evidence. For the same inscription which mentions the appeal of the Bargylians to Domitius also mentions his sons. These should be Gnaeus and Lucius, who were later the consuls of 96 and 94 B.C., respectively. The relevant lines are:<sup>47</sup>

ἐ[ν ᾧ] καὶ μεγάλης ἀπο] | [δ]οχῆς ἤξιώθη παρὰ τῶι Γναίωι ὥστε καὶ ἐν τοῖς φίλοις [αὐτοῦ ἀναγράφηται καὶ ὑ] | [ἐρ] α[ὐ]τοῦ γράφοντες οἱ τοῦ Γναίου

<sup>42</sup> Broughton, MRR 1.505, 506.

<sup>43</sup> M.Holleaux, *Études d'Épigraphie et d'Histoire Grecques* 2.179-198 col.b, vv.28-34, based on the transcription of Blondel; the stone is now lost. Partially translated in Sherk, *Rome and the Greek East to the death of Augustus* no.43. Cf. Robert, *Ét.Anat.* 463-5.

<sup>44</sup> The negative in *μὴ ἐπι* | [τ]ελεεθῆναι is clearly necessary, since the Bargylians would not ask permission to obey an order; *ἐπιταγὴν* is also certain (cf. col. b, v.25); the supplements concerned with Aquillius' specific involvement are uncertain.

<sup>45</sup> Similarly, his actions in Gaul seem to show little respect for his successor, Q.Fabius Allobrogicus. Val.Max. 9.6.3, Liv.Epit. 61. C.E.Stevens, "North-West Europe and Roman politics (125-118)" in *Studies in Latin Literature and Roman History* vol.2, ed. C.Deroux, Brussels 1980, pp.71-97, esp. 88-93.

<sup>46</sup> E.g., Touloumakos, *Hermes* 116,1988,310 and n.24.

<sup>47</sup> Holleaux, *Études* 2.179-86 col. b, vv. 37-43.

υἱοὶ πρὸς [τὴν πόλιν ἐνεφάνισον ὅτι ἀν][έγ]ρασαν καὶ [αὐτοῖ]ς Ποσειδώνιον  
 πατρικὸν [φίλον, ἀνθ' ᾧν ὁ δῆμος τὴν αἴρεσιν αὐτῶν] | [?οἴκε]ίως  
 ἀπ[οδεξά]μενος ἀνέγραψεν εἰ[ς τὴν τῶν προξένων καὶ εὐεργετῶν κτήλην?] |  
 [Γναῖον τε καὶ τοὺς υἱοὺς αὐτοῦ?---]

This text reports that Poseidonius' embassy impressed Domitius and had two results. First, Poseidonius became Domitius' friend (i.e., *cliens*). Second, the sons of Domitius wrote to Bargylia about Poseidonius and their relationship with him. This letter, written on behalf of their father, was probably the official answer to the request which Bargylia had sent through Poseidonius. Such diplomatic epistles regularly praise diplomats to their cities,<sup>48</sup> and some typical terms of praise that we meet in such answers can be detected in these lines.<sup>49</sup>

This interpretation, however, requires that the younger Domitius was present in Asia with his father. This should cause us no surprise. It appears to have been a common practice for a son to accompany his father on official business<sup>50</sup> - common enough that senators' sons were made liable for prosecution *de repetundis* (*lex rep. vv. 2-3*). The silence of our literary sources about the young Domitius being in Asia is not problematic, since they also fail to show his father there. Quite naturally evidence for a son's presence in his father's province is often limited to inscriptions like IGR 4,968 and the honorific decree for Poseidonius. Furthermore, if the younger Domitius showed interest in Samos (as we know he and his brother did in Bargylia), this would easily explain the honours he received from the Samians.<sup>51</sup>

Earlier we left open the possibility that the extortion trial in IGR 4,968 came before 133 B.C. and we should now return to this. Such a view would mean that Aquillius' legate (later *cos.* 122) is the young Cn.Domitius whom the Samians honoured in IGR 4,968, while his father was the senate-appointed patron. This view has been taken by several scholars.<sup>52</sup> It has a few problems. First, those who have championed this view have pointed to contact between the suffect consul of 162 B.C. and the Greek East following the Third Macedonian

<sup>48</sup> Sherk, *Roman Documents from the Greek East*, Baltimore 1969, 190-192.

<sup>49</sup> Cf. vv. 36-37 above to OGIS 437.38-40 (90s B.C.); ἄνδρα κ[αλ]ὸν καὶ ἀγαθὸ[ν] καὶ τῆς [μεγίστης ἀξί]λούμενον πίστεως παρ' [ἡμ]ῖν. For 'befriending' of a city's diplomat (37-39 above), cf. J.Reynolds, *Aphrodisias and Rome* no. 6 vv. 31-35 (30s B.C.): ἐφ' οἷς ἐπαινέλας τὸν Κόλωνα μάλιστα ἀπεδεξάμην ἔχλον τε ἐν τοῖς ὑπ' ἐμοῦ ἢ γειωσκομένοις.

<sup>50</sup> As a teenager Scipio Aemilianus was at Pydna with his natural father Aemilius Paullus (Liv. 44.44.3, Diod. 30.22) and Aemilianus in turn was accompanied by his cousin and brother-in-law Tiberius Gracchus to Carthage in 147-146 B.C., again in his teens (Plut. Tib.Gracch. 4.4; on the date of his birth - 163 or 162 -, see Sumner *Orators* 58). Cicero took his son Marcus (born 65 B.C.) and his nephew Quintus (born 66 B.C.) with him to Cilicia (Cic. Att. 5.17): aged fourteen and fifteen, respectively.

<sup>51</sup> It is also possible that the letter of Domitius' sons to Bargylia comes somewhat later, after Domitius' return to Rome. This is less likely, I believe, since the letter appears to be a direct result of Poseidonius' embassy. But even if the inscription falls short of proving absolutely that the younger Cn.Domitius (*cos.* 96) was in Asia with his father, it nevertheless shows that he developed connections with cities in the east as a result of his father's presence there. This too would explain the Samians erecting a statue in his honour.

<sup>52</sup> See above, n. 3.

War,<sup>53</sup> and have argued that Domitius became patron of Samos at that time. However, as was shown above, this man was probably not the father of the consul of 122 B.C., but his grandfather. That his father (the pontifex coopted in 172 B.C.) was patron seems unlikely, given his apparently early death. Furthermore even if Aquillius' legate is identified as the patron's son in IGR 4,968, the inscription itself ought to follow his legateship there in the 120s. However, if the inscription belongs to the 120s, it would be perverse not to identify father and son in that inscription with the two Gnaei Domitii (consuls of 122 and 96 B.C.) who had dealings in the province at exactly this time. Consequently, although a *repetundae* prosecution from Asia may be theoretically possible before its annexation, this is neither necessary nor helpful in identifying the trial referred to in IGR 4,968.

It is now possible to consider possible defendants. As we saw above, the trial should come after 126, when M' Aquillius returned from Asia. Aquillius himself, however, was prosecuted *de repetundis* and his trial belongs to 125 or 124,<sup>54</sup> the intervening year or so being required (apparently) for the Samians to approach the senate and for an appointed prosecutor to prepare his case. One can therefore imagine Aquillius' successor, the governor of 126 (unfortunately unknown), returning to Rome in 125 and being tried in 124 or 123. Or again, Asia's governor in 125, returning in 124, could stand trial in 123 or 122. The possibilities end there, however, for the trial should precede Gaius Gracchus's law (as we saw above), which belongs to 123 or 122 B.C. This *terminus ante quem* receives partial confirmation by the career of our prosecutor. After being Aquillius' legate in Asia, Domitius was elected consul for 122 and received Gaul as his province, where he was active until at least 120.<sup>55</sup>

Is it possible to identify Aquillius himself as the defendant whom the Samians prosecuted? IGR 4,968 reveals the Samians prosecuting someone for *repetundae* at approximately the same time that M' Aquillius was charged and from the same province where he had governed.<sup>56</sup> The coincidence is appetizing and invites further investigation.

For Domitius to prosecute his superior after their return from Asia would be remarkable, but not out of the question. Domitius clashed with his colleagues in Asia, apparently protecting the interests of Bargylia when demands for resources (in this case troops) became unreasonable. A willingness to oppose his colleagues would be consistent with willingness to prosecute them.

Nor do the details known about the charges against Aquillius prevent them being brought by Samos, for nothing is reported of the substance of the charge he faced. Allegations in

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<sup>53</sup> Part of his role was to escort prominent Achaeans to Rome (Liv. 45.31.9-11; Polyb. 30.13.8-11).

<sup>54</sup> P. Cornelius Lentulus is described as *princeps senatus* when he prosecuted Aquillius (Cic. in Caec. 21.69). He was made *princeps senatus* by the censors of 125 (MRR 1.510), probably near the end of that year.

<sup>55</sup> MRR 1.516, 522, 524; 3.82.

<sup>56</sup> Cic. Div. in Caec. 21.69 and Ps. Ascon. ad loc p.204 Stangl. On the trial, E.Gruen, *Roman Politics and the Criminal Courts*, Cambridge Mass. 1968,77.

Appian that he was bribed to give Phrygia to Mithridates are not reported as part of the trial.<sup>57</sup> Indeed although these allegations may have originated in court - any dubious activity of a governor would be attacked there - such bribery would not in itself be grounds for an action *de repetundis*.<sup>58</sup>

However an objection to Domitius prosecuting Aquillius on behalf of Samos can be raised. Our literary source for the trial reports two prosecutors, neither of which is Domitius.<sup>59</sup> Furthermore, Domitius is the only *patronus causae* mentioned in IGR 4,968. Neither of these objections is fatal, of course: Cicero's list does not have to be exhaustive and the Samians could have erected other statues for other prosecutors. Indeed if there were other prosecutors it would be natural for them to be honoured separately. Nor is plurality of patrons in itself a problem: four patrons were appointed to the Spaniards in 171 B.C. (Liv.43.2.5), and the Gracchan extortion law allowed plural patrons.<sup>60</sup> Nevertheless, it is troublesome that Cicero mentions the obscure C.Rutilius as a co-accuser but not Domitius. We should therefore resist the temptation to identify Aquillius as the man whom the Samians prosecuted. This could be false economy. In any case, while governors could be prosecuted *de repetundis*, so could their subordinates. Thus we should include among possible defendants, Q.Caepio, with whom Domitius clashed in Asia, as we saw above.

For the sake of clarity, it will be useful to provide a scenario that summarizes events. Cn.Domitius Ahenobarbus (later cos. 122) was in Asia under M'. Aquillius, helping organize the new province of Asia. Soon after their return, Samos laid a complaint against a Roman official which involved the temple of Artemis Tauropolus. The defendant was possibly Aquillius, or one of his subordinates, or even one of his immediate successors. The senate appointed Domitius as *patronus causae* for Samos, possibly because the people of Samos asked for him especially, just as the Spaniards had requested Cato and others a half-century before. Grateful that Domitius undertook the prosecution, the Samians commissioned a statue of his son (later cos. 96), with whom (like the Bargylians) they may have had dealings. Perhaps Domitius himself also was honoured with a statue. In any case, such honours for family members of Roman governors are not uncommon:<sup>61</sup> presumably the point was to massage the paternal pride of important Romans. Anyway, although the statue was of his son, the inscription on its base emphasized the advocacy of Domitius for Samos and the temple of Artemis Tauropolus. Clearly this was important to them.

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<sup>57</sup> App. Mith. 12 (and anachronistically to the sons of Aquillius and Mithridates at App. Mith. 57: cf. B.McGing, "Appian, Manius Aquillius, and Phrygia," GRBS 21,1980,35-42). The bribery mentioned at App. BC 1.22 must be bribery of senatorial jurors by Aquillius, not of Aquillius by Mithridates, since it was used as a justification for equestrian juries.

<sup>58</sup> On *repetundae* and freely given bribes, see Lintott, ZSS 98,1981,185.

<sup>59</sup> Cic. Div. in Caec. 21.69: cum P.Lentulus, is qui princeps senatus fuit.

<sup>60</sup> lex rep. vv. 9-11.

<sup>61</sup> Cf. e.g., in IMagn. 144-146 the honours for the mother, wife and daughter respectively of the proconsul L.Valerius Flaccus.

It is now necessary to bring this study to an end. We have been able to improve the stemma of the Domitii Ahenobarbi slightly through the identification of a new member (a distant ancestor of Nero). Also a new repetundae trial has been identified in IGR 4,968. This trial comes relatively early in the history of repetundae legislation and only a few years after Asia became a province. It is especially interesting since it provides a rare glimpse of the provincial perspective on repetundae trials. It is (as far as I know) the only such evidence from the Republic;<sup>62</sup> the rest derives from senatorial material and necessarily reflects senatorial concerns. Our Samian inscription is a useful reminder that such trials were not merely political weapons used by senators to harass their rivals. The prevalence of senatorial evidence over-emphasizes this aspect. IGR 4,968, on the other hand, reminds us that often there were real victims (here, the temple of Artemis of Tauropolus). From the perspective of Samos, their Roman champion (Cn.Domitius) prosecuted not out of his own political interest (though this too may have been a factor), but on their behalf.

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<sup>62</sup> For the Empire, such a perspective can be found in Dio of Prusa (e.g. 34.9, 34.39-42; 38.36-37).