LUCILIUS AND ACCIUS

Lucilius 82–3 M. nondico: ‘vincat licet, et vagus exulet, erret exlex’.
Nonius p. 10, 15.

This fragment from the second book of Lucilius is generally supposed to represent an utterance of the prosecutor T. Albucius in the burlesque account of the case against Q. Mucius Scaevola Augur on a charge of repetundae in his province of Asia, heard in 119¹). The general purport of this fragment is paraphrased by Marx as follows: “orator profitetur se non eum esse qui dicat: licet vincat reus sese pecunias non cepisse, tamen exilio multetur”²). In his note³), he quotes for their similarity of expression and sentiment the words of the curse which Medea invokes upon Jason in the prologue of Seneca’s tragedy:
vivat. per urbes erret ignotas egens
exul pavens invisus incerti laris (20–1)
and again, with acknowledgement to Francken, a similar phrase in Cicero pro Cluentio 175: cum vagus et exul erraret. To these might be added Ovid Heroides 6. 162, in which Hypsipyle, addressing Jason, turns the same curse upon Medea:
erret inops, exspes, caede cruenta sua.
The Ovidian and Senecan passages seem to point to a common source, which is probably to be found in a fragment from the Medea of Accius:
exul inter hostis, exspes expers desertus vagus⁴).

¹) Marx, vol. i pp. xlii ff; Cichorius, Untersuchungen zu Lucilius, p. 238.
²) The trial would have been held under the Lex Aelia of 123 or 122, which, so far as can be gathered from the Naples inscription, does not mention exile but restitution (either simple or double, according as to whether the malversation took place before or after the passing of the law) as the penalty in cases of repetundae (Bruns, FJR³, p. 68). However, it is clear from Albucius’ own case that exile was a possible sanction for such offences. Following his praetorship in Sardinia he was prosecuted for extortion in 103 by C. Julius Caesar, whom the Sardinians had selected as their patronus, and, on conviction, died in exile at Athens (Cic., Div. in Caec. 63, de Off. ii. 50, Tusc. disp. v. 108).
³) vol. ii p. 38.
⁴) Ribbeck, TRF⁴ fr. 415 (Medea x); Nonius 12, 8.

⁸ Rhein. Mus. f. Philol. N. F. CVIII
Some such words⁵), apparently, came almost to form an indispensable part of subsequent Roman versions of the Medea-Jason legend, and even, or so it would appear from the passage of the Pro Cluentio quoted above, to have joined the number of those stock sayings, applicable to a particular situation, which even in a garbled form still clearly proclaim their original. The probability that this is such a case is heightened when it is recalled that there the words are used in connexion with the sufferings of the elder Oppianicus, a convicted and outlawed felon⁶).

The general drift of the Lucilian fragment is sufficiently clear in itself to suggest that here in the case of Albucius v. Scaevola we have another and earlier courtroom allusion to Medea suggested by mention of the penalty of exile, and the play made with the ex- compounds (exulet, exlex) may well indicate a deliberate echo of that passage of the Medea of Accius in which this fragment originally stood, making due allowance for the fact that the similarity is to some extent obscured by the change from the trochaics of Accius to the hexameter of Lucilius, and, inevitably, by the truncated nature of both quotations.

It is notorious that Accius was a poet who frequently drew upon himself the strictures of Lucilius, and it can well be imagined that, if the satirist is in fact here alluding to this odd morsel of Accius with its heavy incrustation of words beginning in ex-, he is not doing so with approval⁷). But it is possible too that there is another reason, other than literary fastidiousness, that prompted Lucilius thus to quote or to parody Accius in a case against a member of the gens Mucia. We are told by the Auctor ad Herennium⁸) that “C. Cælius iudex absolvit iniuriarum eum qui Lucilium poetam in scena nominatim laeserat, P. Mucius eum qui L. Accium poetam nominaverat condemnavit”; in other words, that in similar cases of slander this Cælius failed to give Lucilius redress, while P. Mucius [Scaevola] found for Accius, a circumstance hardly calculated to endear either Accius

⁶) Cf. Clu. 170: adeone erat stultus ut illam, quam tum ille vivebat, vitam esse arbitraretur, damnati, exsulis, deserti ab omnibus, quem nemo recipere tecto, nemo adire, nemo adloqui, nemo aspicere vellet?
⁸) ii. 19 (cf. i. 24).
or P. Mucius Scaevola or indeed his family to the satirist, who
doubtless was convinced of the justice of his own case. If it
could be shown that both these slander actions preceded the
composition of Lucilius' account of the impeachment of Q.
Mucius Scaevola Augur in 119, it would be pleasant to speculate
that Lucilius has worked into this satire a spiteful reminder of
his grievance that a Scaevola had accorded to Accius the justice
which was withheld in his own case. The traditional identifi­
cation of Caelius with C. Caelius Caldus, the consul of 94, would
make such a supposition quite untenable. Cichorius, however, has
shown clearly 9) that grave doubt must be attached to this iden­
tification for several reasons of which the most important are the
banishment of the "ars ludicra from the City by the censors of
115, L. Caecilius Metellus and Cn. Domitius Ahenobarbus10);
the fact that it is unlikely that Caelius Caldus would have been
acting as "iudex so long before his consulship; and, finally, that to
give the statement of the Auctor ad Herennium its full point it
is necessary to suppose that the "iudex in the Lucilius action pos­
sessed an eminence as a jurist in some way comparable with that
of P. Mucius Scaevola who figures in the Accius case. He, there­
fore, working within the years 130–115, confidently identifies
Caelius with the historian L. Caelius Antipater, a jurist of stand­
ing, described by Cicero as "iuris valde peritus11), as the only Cae­
lius within this period likely to fit the circumstances. The case in
which Accius successfully sued before P. Mucius Scaevola pre­
sents less difficulty and may be dated to the year 136, the year of
Scaevola's praetorship12). If, then, we accept Cichorius' reason­
ing, the suggestion that Lucilius' case ante-dates the composition
of the second book of Satires comes well within the bounds of
possibility, and nothing forbids us to entertain the idea that
Lucilius in representing T. Albucius as quoting Accius in the
prosecution of Q. Mucius Scaevola Augur was prompted by a
rankling sense of grievance against Quintus' kinsman Publius
for granting to Accius the remedy at law which, in similar cir­
cumstances, had been denied to him.

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9) op. cit. pp. 59f.
11) Brut. 102.
12) Broughton MRR vol. i p. 486 and p. 488 n. 3.