

# THE TRIBUNATE OF P. SULPICIUS RUFUS

## I. INTRODUCTION

IN 88 B.C. the dying embers of the Social War kindled an even more dangerous civil war. Violence with gangs was no longer the final solution in Roman political struggles, but war with a regular army took its place. The link between the two wars and the critical escalation of political conflict was created by the tribunate of P. Sulpicius Rufus. Most modern accounts differ little in describing the sequence of events in his tribunate, though they vary in the interpretation of his motives and policy. They agree because they accept the common basis to the narratives of Appian, Plutarch, and Velleius as true, even though they usually discard the *Tendenz* in these authors, through which Sulpicius is portrayed as an unscrupulous man who put his services at Marius' disposal.<sup>1</sup> It is the aim of this paper to propose that the wheat in these authors cannot be so easily separated from the chaff: that in fact the bias, which is most obvious in Plutarch's *Lives*, and there can be largely ascribed to the influence of Sulla's own memoirs,<sup>2</sup> has not only distorted motives but misplaced and misrepresented facts. Important inconsistencies in Appian, when taken in conjunction with the little information we have outside these sources, suggest a different outline for Sulpicius' tribunate—one which involves more uncertainties than the commonly accepted view, because it is obtained by rejecting the validity of more of our scanty source material, but which may enable us to judge more fairly not only Sulpicius and Marius but also Sulla himself.

## II. THE MAIN SOURCES

### A. The Anti-Marian Tradition

Let me first summarize the versions of Sulpicius' tribunate given by Plutarch, Velleius, and Appian, beginning with the most extreme, Plutarch's *Sulla*.

Sulla, who had already been pandering to his soldiers during the Social War with a view to obtaining the Mithridatic command (6. 9), thought little of his consulship in comparison with his future hopes. However his rival Marius, when Sulla as consul left Rome for his camp (at Nola), contrived a fatal sedition (7. 1–2). Marius allied himself with Sulpicius—such a villain that men did not ask whom he exceeded in wickedness, but in what respect he exceeded his own wickedness (8. 1). Sulpicius sold citizenship to freedmen and foreigners for cash and kept 3,000 swordsmen as a bodyguard as well as a mob of young *equites* whom he called ἀντισύγκλητος.<sup>3</sup> Such was the man, who, at

<sup>1</sup> Examples of modern scholars who believe that Sulpicius' tribunate was a plot by Marius against Sulla are Carcopino (*Sulla*, 30 ff. and *Histoire Romaine* [Bloch-Carcopino], ii. 393 ff.) and Valgiglio (*Silla e la crisi repubblicana*, 6 ff.). Last (*CAH* ix. 201 ff.), Badian (*Foreign Clientelae*, 230 ff. and *Historia*, xviii [1969], 481 ff.), Ch. Meier (*Res Publica Amissa*, 216 ff.), Münzer (*RE* 2. iv. 843 ff.) and Gabba (*Appiani Bellum Civile*

*Liber Primus*, pp. 162 ff.) all credit Sulpicius with a policy of his own, to improve the lot of the newly enfranchised Italians.

<sup>2</sup> These are cited by Plutarch in *Sulla* 4, 5, 6, 14 (twice), 16, 17, 19, 23, 27, 28, 37; and in *Marius* 25, 26, 35.

<sup>3</sup> Badian (*F.C.* 234 n. 1) has suspected this statement on the ground that there is no Latin equivalent for the Greek word. It seems possible to me that Plutarch has

Marius' instigation proposed vicious laws, including that granting Marius the command against Mithridates (8. 2). The consuls decreed a suspension of public business,<sup>1</sup> but while they were holding a meeting near the temple of Castor, Sulpicius attacked them with his mob. In the fight the son of Q. Pompeius Rufus, Sulla's colleague, was killed. Pompeius himself escaped, but Sulla was pursued into the house of Marius and then forced to come out and rescind the ban. Sulpicius now stripped Pompeius of the consulship, but merely deprived Sulla of the Mithridatic command, which he gave to Marius. He sent military tribunes to Nola to take charge of the army and bring it to Marius (8. 3-4). However, Sulla got there first and told the troops what had happened. In consequence they stoned Marius' military tribunes to death.

Such are the terms in which the *Sulla Life* describes the preliminaries to Sulla's march on Rome. Apart from the general exaggerations one should notice the alleged abrogation by a tribune of a consul's powers, something without parallel in Republican history. It is however possible that Plutarch misinterpreted a statement in his source about Sulpicius' preventing Pompeius from effectively exercising his powers. Other important features of the account are the suggestion that Sulla lifted the ban on public business under duress applied while he was in Marius' house, and the vagueness with which Sulla's journey back to his army is described. The impression is given that Sulla did not leave Rome until the bill which took away his province and his legions was on the verge of enactment.

Plutarch's *Life* of Marius shows at this point a similar hostility both to Marius and Sulpicius Rufus, which again to a great extent is attributable to the influence of Sulla's memoirs.<sup>2</sup> In Chapter 34 Plutarch gives a character sketch of Marius endeavouring to renew his youthful valour in order to undertake the Mithridatic command. The public, we are told, felt that he would be better off in a hot bath at Baiae than in the Campus exercising, and pitied his inferiority complex, which was so great that he desired to go to Cappadocia and the Euxine to fight Mithridates' satraps (34. 1).<sup>3</sup> The period to which this account refers seems to be early 88, since Plutarch remarks first that the Italian resistance was broken. In Chapter 35 Sulpicius' character and his dependence on Marius is described summarily but in a similar tone to that used in the *Sulla Life*. Sulpicius' legislation is not yet mentioned, but Plutarch moves straight to the assault on the consuls. Next Plutarch gives two versions of Sulla's visit to Marius' house: first, that he fled there for safety and Marius sent him off by the back door, after which he escaped straightaway to his army; secondly, and this was Sulla's own version, that he went there deliberately to discuss Sulpicius' intimidation and subsequently went straight to the forum to rescind the ban on public business. Sulla's departure from Rome is not discussed by Plutarch further, but we are told of the passing of the Mithridatic bill and Marius' attempt to secure Sulla's army.

From Plutarch's two stories it appears that Sulla only vaguely indicated the time of his departure from Rome in his own memoirs. The source more favourable to Marius, which Plutarch also quotes, although it does not explain the

mistranslated a phrase in a Latin source, e.g. 'quos in consilium senatus vicem vocabat'. For Plutarch's mistranslations of Latin see the Budé edition of Livy, vol. ii, pp. 143 ff.

<sup>1</sup> See below, p. 444 n. 4.

<sup>2</sup> See above, p. 442 n. 2.

<sup>3</sup> A similar sketch is found in Diodorus 37. 29. 1, and therefore this particular passage derives probably from Poseidonius, cited in Plut. *Mar.* 45, see p. 449 n. 5 below.

removal of the ban on public business, suggests that Sulla left Rome soon after his visit to Marius. Taken together, the two Plutarch accounts are exceedingly unhelpful about the exact sequence of events and especially the time when the Mithridatic bill was first proposed. The Sulla *Life* lumps all Sulpicius' legislation together in a confused summary. The Marius *Life* ignores the Mithridatic bill until after Sulla's visit to Marius' house.

Velleius' brief account (2. 18. 4 ff.) also betrays the effect that Sulla's denigration of his opponents had on subsequent literature. Sulpicius, it is true, is given credit for his previous political career founded on 'opibus gratia amicitiiis', the regular basis for optimate aristocratic politics. He sought his tribunate with the most upright intentions, but suddenly repented of his virtues and made himself Marius' slave. Marius still lusted after every kind of *imperium* and *provincia*. So Sulpicius, among his other calamitous bills, passed a law which deprived Sulla of his *imperium* and placed Marius in charge of the Mithridatic War.<sup>1</sup> He also killed Pompeius' son, who was Sulla's son-in-law. In consequence Sulla occupied the city and expelled 'duodecim auctores novarum pessimarumque rerum' (2. 19. 1). Velleius in fact knows of an original restriction of the new citizens to eight tribes, but he does not mention this injustice nor does he discuss its reform until later, when he is dealing with Cinna's proposal of 87 (2. 20. 2, see note 3 below).

#### B. *The Inconsistencies of Appian*

Appian begins his account (B.C. 1. 55) in a similar way to Plutarch: Marius desiring the Mithridatic command, which had been allotted to Sulla, persuaded Sulpicius to help him, while Sulla was still in Rome.<sup>2</sup> However, Appian is more explicit about their plans: Marius also encouraged the newly-enrolled citizens to hope for distribution among the thirty-five tribes, although he did not openly suggest that he himself wished to profit from this. (Appian has previously informed us that the Italians' votes were restricted and useless, because they were confined to ten new tribes.)<sup>3</sup> Sulpicius accordingly brought forward the citizenship bill first. Violence between the old and new citizens reached such a pitch that a public holiday was proclaimed in order to postpone a vote on the bill.<sup>4</sup> Sulpicius (B.C. 1. 56) mustered a gang and tried to force the consuls

<sup>1</sup> The Epitome of Livy 77 likewise states that Marius was the source of Sulpicius' plans. It records three proposals of Sulpicius, including a bill about the return of exiles, but no chronological deductions can be made from the résumé.

<sup>2</sup> Appian (B.C. 1. 55. 242) is probably only stressing that Sulla had not yet gone East. For Sulla's first visit to his camp see Vell. 2. 18. 4; Plut. Sulla 8.

<sup>3</sup> B.C. 1. 49. 214-15, referring to the *lex Iulia*. Velleius (2. 20. 2) refers to an original provision that they should be placed in eight tribes (whether new or previously existing, is not clear). Gabba (*App. B.C. 1*, pp. 147 f.) and Sherwin-White (*Roman Citizenship*, p. 133) believe that the *lex Iulia* was modified in this matter (by the *lex Plautia Papiria*—Gabba; by the *lex Calpurnia*—

Sherwin-White), but it is doubtful whether we should attribute to later laws more than our direct evidence warrants.

<sup>4</sup> *ἀππύλα* is used elsewhere to mean *feriae*, but we cannot be certain that this is what Appian means here nor that Plutarch's ἀπραξία (Plut. Sulla 8. 3) means *iustitium*. The latter was used for political obstruction at a time of violence in 57 (Cic. *Red. Sen.* 6); the former in 56 (Cic. *Q.F.* 2. 5. 2 = 4. 4). See my *Violence in Republican Rome*, 144 n. 2, 153. I am inclined now to think that Sulla declared *feriae*, not a *iustitium*, because this would have been a more effective form of obstruction. As Mommsen (*Staatsr.* i<sup>3</sup>. 265) shrewdly pointed out, infringement of a *iustitium* did not automatically make the offender liable for a penalty (though no doubt he could be indicted for *maiestas*),

to end their obstruction. Daggers were drawn, Pompeius Rufus and Sulla left the scene, but Pompeius' son was killed. Sulla then ended the holiday and departed to his army at Capua, in order to lead it to Asia, for, says Appian, he did not yet know what was being engineered against him. Meanwhile in Rome Sulpicius passed the franchise bill and then had the Mithridatic command voted to Marius—this had been the object of his policy. As soon as Sulla heard of this (*B.C.* 1. 57), he decided to resort to war.

Although Appian, like Plutarch, takes the Mithridatic bill to be the ultimate objective of Marius and Sulpicius, it is the franchise bill that he considers to have been the cause of the violence and the suspension of public business; Marius' final plans are a secret from Sulla until he has left Rome. It is possible that Appian's ultimate source (who may have been Cornelius Sisenna) did not have any evidence for this suggestion, but simply put it forward himself, because he could not understand why Sulla should have left Rome if he knew that his enemies would have a clear field to strip him of his command. However, he must at least have had evidence that Sulpicius' Mithridatic bill was not promulgated until after Sulla's departure.<sup>1</sup> It looks as if he had difficulty in reconciling this fact with the suggestion in Sulla's memoirs (and perhaps elsewhere) that from the beginning Marius' aim had been to pass a bill depriving Sulla of his province.

If we assume that Appian and the pro-Marian source in Plutarch's *Marius* are right in suggesting that Sulla left Rome immediately after ending the holiday, and if we also for the moment accept that Marius had always planned to deprive Sulla of his command against Mithridates, there are three possible explanations. (1) Sulla did not know Marius' plans, as Appian suggests. (2) He did, and was intending to march on Rome with his army to frustrate them. (3) Marius had agreed with Sulla during the meeting at his house not to proceed with the Mithridatic bill. The third possibility was suggested by Carcopino,<sup>2</sup> who went on to argue that Sulla did not in fact trust Marius to keep his side of the bargain (with good reason) but planned to march on Rome if the bargain was not honoured. Given the first part of this hypothesis, the second part is also required, if Sulla is not to be treated as naïve. Therefore there is in effect little difference between the second and third possibilities. Neither of them seem to me convincing explanations in the light of Roman political history from the time of the Gracchi. If Sulla expected a bill depriving him of his command to be passed soon after his departure from Rome, surely his best course was to stand firm and continue his obstruction? He must have had considerable backing in the senate on the issue of Sulpicius' measures and, if the violence continued, a *senatus consultum ultimum* could be confidently expected and indeed demanded. This would have been a vote of confidence in Pompeius Rufus and himself, urging them to repress violence at all costs, even by disregarding the law, and as such might have been held to justify the

nor did it invalidate any measure enacted. However, legislation during *feriae*, on days which had thus become *non comitiales*, would have breached the *leges Aelia et Fufia* and could probably be annulled by the senate on this ground (in my view a specific provision of the *lex Caecilia Didia*). See my *Violence in Republican Rome*, 132 ff., esp. 140–1. References to views on these passages can be

found in Gabba's edition of Appian *B.C.* 1, pp. 163–4. The type of *feriae* envisaged are 'imperativae . . . quas consules vel praetores pro arbitrio potestatis indicunt' (Macr. *Sat.* 1. 16. 6).

<sup>1</sup> Cf. Münzer, *RE* 2. iv. 847; Gabba, *App. B.C.* 1, p. 165.

<sup>2</sup> *Histoire romaine*, ii. 395.

introduction of Sulla's army into Rome.<sup>1</sup> In this way he could have achieved what he did in fact achieve, but without such a blatant breach of legality.<sup>2</sup> It only needed physical courage and resolution, qualities which Sulla had in abundance.

If the other two explanations are implausible, the first remains—Sulla did not know what was in store for him, when he left Rome. Yet this is itself remarkable, if it was common knowledge that Marius wanted the Mithridatic command and his exercises in the Campus had provoked public comment. In the fourth part of this paper I will offer a solution to this problem. For the present I would stress that it is largely caused by the acceptance of the view of our fullest sources (which is almost certainly the published view of Sulla himself) that Marius from the beginning of 88 wished to deprive Sulla of his allotted province for his own benefit. Modern scholars have disputed the allegation that Sulpicius was Marius' tool from the start (see p. 442 n. 1); they have not disputed the allegation about Marius' own intentions.

### III. THE CONSULAR CANDIDACY OF C. IULIUS CAESAR STRABO

Appian, Plutarch, Velleius, and Livy's Epitome all ignore an important event in Sulpicius' tribunate, his conflict with C. Iulius Strabo. According to Cicero and Asconius, this Caesar sought 'consulatum ex aedilitate' (he had been *curule aedile* in 90) during Sulpicius' tribunate. This was contrary to the law and bitterly opposed by Sulpicius.<sup>3</sup> The violence which ensued is only known to us through one of Caesar Strabo's famous witticisms. A supporter called Pomponius proudly showed him a wound in the face that he had received in the fighting. 'Never look round when you are running away,' remarked Caesar.<sup>4</sup> Until recently it has been assumed that Caesar was seeking election in 88 for office in 87. However, Badian has pointed out that the elections for 88 must have been held very late in 89. Pompeius Strabo, the surviving consul of 89, was rewarding a Spanish cavalry squadron at Asculum on 17 November<sup>5</sup> and need not have reached Rome long before his triumph on 25 December.<sup>6</sup> The consular elections for 88 could therefore have been held during Sulpicius' tribunate, which began on 10 December 89.

What evidence is there for the date of Caesar's candidature? Two passages are said by Badian to point to late 89, which I am going to discuss at some length because they are not merely of chronological importance: Cicero, *de Haruspicum Responsis*, 54, and Diodorus 37. 2. 12. Diodorus tells of a conflict between Marius and Caesar Strabo over the Mithridatic command (a matter to which I shall return later) which, he says, occurred 'while the Marsic War was already almost being brought to a close'. 'The Marsic War' was apparently the original Greek and Latin term for what was later often called the 'Social'

<sup>1</sup> The introduction of serving soldiers into Rome after a *s.c.u.* did not in fact occur until 52. However, M. Antonius had been ordered to hold troops in readiness outside Rome in 100 (Cic. *Rab. Perd.* 26). See my *Violence in Republican Rome*, 89 ff., 200.

<sup>2</sup> Sulla told envoys who met him on the road to Rome that he was going to free Rome from the tyrants (App. *B.C.* 1. 57. 253). Similar claims had been made by those who used force against the Gracchi. Indeed

Opimius had been urged to do this in 121 by the *senatus consultum ultimum* (Plut. *T.G.* 19. 3; *C.G.* 14. 3).

<sup>3</sup> Cic. *Phil.* 11. 11; cf. *Brut.* 305; Asc. 25 C; and see Astin, *The Lex Annalis before Sulla* (Collection Latomus, vol. xxxii [1958]), pp. 20 ff.

<sup>4</sup> Quint. 6. 3. 75.

<sup>5</sup> *F.C.* 228–31, cf. *Historia*, xviii (1969), 481–2; *ILS* 8888.

<sup>6</sup> *CIL* i<sup>2</sup>. 1, p. 49.

or 'Italian' War.<sup>1</sup> Diodorus, whom we possess at this point through Photius' excerpts, goes on to describe the resistance of the Samnites at Nola and that of the remnants of the Lucanians under Lamponius and Clepitius which lasted until after Sulla had left for Asia (in 87). He then suggests that the so-called Marsic War merged into the subsequent civil war and was not finally quenched until the end of the civil war (here he is clearly referring to the Samnites' last throw at the battle of the Colline Gate in 82). Therefore in itself the reference to the near-conclusion of the Marsic War merely places the conflict between Caesar Strabo and Marius some time in or after late 89. In fact it must have occurred after the battle of Asculum (which is not included in Photius' excerpts of Diodorus) and before the 'other disturbances' mentioned vaguely at the end of the excerpt relating to Marius and Caesar—presumably those caused by Sulpicius' conflict with Sulla.<sup>2</sup> The Diodorus passage is too imprecise to date Caesar's candidature.

The Cicero passage is equally unhelpful, if it is a question of deciding between late 89 and 88. Cicero is describing the critical events which impelled demagogues to undertake their political programmes. For Ti. Gracchus it was the senate's reaction to the Numantine treaty, for C. Gracchus his brother's death, for Saturninus the transfer of the supervision of the corn-supply to Scaurus. *Dolor* was the motive they had in common. 'Sulpicium ab optima causa profectum Gaioque Iulio consulatum contra leges petenti resistentem longius quam voluit popularis aura provexit.' The metaphor is surely taken from navigation. 'Proficiscor' (with 'ab' or a simple ablative) is used by Cicero and Caesar for setting out from port.<sup>3</sup> Thus 'ab optima causa' does not mean the same as 'ob optimam causam'. Sulpicius put out from the safe haven of the *optima causa*, the cause of the *boni*,<sup>4</sup> but while resisting Caesar's illegal candidature for the consulship the breeze of demagogy carried him further than he wished—presumably too far into the open sea for him to be able to fetch port again.<sup>5</sup> On this interpretation it is clear at the start that the passage does not imply that Sulpicius' resistance to Caesar was in his first month of office.

What does follow from it? Sulpicius' resistance to Caesar came after he left his optimate harbour. Moreover, at the time he was probably under the influence of the *popularis* breeze, since 'longius quam voluit . . . provexit' suggests that he was carried too far on the offshore course on which he had set out for a short voyage. Of course a man might be *popularis* in method, but

<sup>1</sup> Diod. 37. 1. 2 f.; Plut. *Luc.* 1. 8; Strabo 5. 4. 2; Cic. *Leg. Agr.* 2. 90 (contrast 80); *Fasti Capitolini*, CIL 12. 1, p. 27.

<sup>2</sup> Badian also adduces the fact that Diodorus does not mention Sulla's consulship until after the rivalry between Marius and Caesar (*Historia*, xviii [1969], 483). However there are many *lacunae* left by Photius' excerpts (*Bibliotheca*, 391a–392b)—e.g. no mention of the capture of Asculum or Sulla's march on Rome. After Photius has referred to the 'other disturbances', he continues: *ὁ μὲντοι Σύλλας . . .*, and relates the capture of towns near Nola and Sulla's departure for the East. This suggests that Diodorus was writing *κατὰ γένος* here and reserved discussion of Sulla's military opera-

tion against the Samnites until after he had dealt with the domestic upheaval in Rome.

<sup>3</sup> Cic. *Att.* 16. 7. 1; cf. *Att.* 9. 15a; Caes. *B.C.* 1. 25. 2.

<sup>4</sup> Cf. Vell. 2. 18. 4. Sulpicius' previous allegiance is shown by his friendship with Livius Drusus (Cic. *de Or.* 1. 25; 3. 11), his prosecution of Norbanus (Cic. *de Or.* 2. 107 ff.; *Off.* 2. 49), his friendship with Q. Pompeius (*Amic.* 2).

<sup>5</sup> The sequence of events, if not the metaphor, is brought out in the translation of the Budé edition, xiii. 2, p. 63. 'Proveho' is used with 'in altum' both literally (e.g. Caes. *B.G.* 4. 28) and metaphorically (Cic. *Tusc.* 4. 42; Lucr. 5. 1434).

optimat in aim—Livius Drusus was the outstanding example. So Cicero might still have thought that Sulpicius was acting in the interest of the *boni*. However, the point that Cicero makes about all four tribunes is that a genuine cause and the indignation (*dolor*) which was only to be expected in a true man who took his politics seriously led them to damage the interests of the community by *popularis* behaviour.<sup>1</sup> Though Cicero is not specific about the cause of Sulpicius' *dolor*, the cause for his defection from the *boni* must have arisen, in Cicero's view, from the decisive event he mentions, Caesar's illegal candidature: that is to say, Sulpicius found himself in conflict with the *boni* over this and was in some way slighted by them.<sup>2</sup> It is likely that this brought about the surprising breach in his friendship with the consul, Q. Pompeius.<sup>3</sup> We may prefer to believe ourselves that Sulpicius was moved by the injustice suffered by the Italians, just as we may prefer to think that Ti. Gracchus was moved by the plight of the poor Roman farmers, but we must not impute this explanation to Cicero here. In short, we should deduce from Cicero that Sulpicius' use of *popularis* methods in resisting Caesar's illegal candidature involved a conflict with the senate and led him on to a more decisive estrangement from the *boni*.<sup>4</sup>

It still remains true that for Cicero the first significant act in Sulpicius' tribunate was his resistance to Caesar, but this may be related to the canvassing for the consulship of 87 during the first half of 88. While there is no direct evidence to date Caesar's candidature, there are important arguments from probability. Caesar could have planned to have his candidature legitimized by two methods—a *senatus consultum* (which was later the customary way of obtaining exemption from the law)<sup>5</sup> or a plebiscite suspending the *lex annalis*, passed with or without senatorial approval.<sup>6</sup> In late 89 there were two good candidates

<sup>1</sup> *Har. Resp.* 44: 'Fuit in his omnibus etsi non iusta . . . causa,—gravis tamen et cum aliquo animi virilis dolore coniuncta.'

<sup>2</sup> Even if one translates 'ab optima causa profectum' as 'starting from the cause of the *boni*', i.e. 'taking it as his intellectual starting-point' (cf. *Cic. de Or.* 2. 58; *Fin.* 13. 73), as for example Badian does in *Historia*, xviii (1969), 481–2, it still seems to me unlikely that Cicero is treating Sulpicius' opposition to Caesar as a symptom of his loyalty to the *boni*. When dealing with the other demagogues Cicero mentions each time the specific incident which led them away from the *boni*. He has to, for the sake of his argument, in order to build up a contrast with the disreputable incident which, in his view, turned Clodius into a demagogue.

<sup>3</sup> *Cic. Amic.* 2.

<sup>4</sup> Badian (*Historia*, xviii (1969), 482) has identified the man called Pomponius, who was a supporter of Caesar Strabo (*Quint.* 6. 3. 75), with Cn. Pomponius, active accuser and perhaps tribune in 90 (*Cic. Brut.* 305. cf. *MRR* ii, p. 26). The latter was an opponent of the *boni*, in so far as he prosecuted Drusus' associates. For this reason (and because he may be the person to whom the text of Cicero in Asconius 79 C should refer), Badian believes that he could not have been

acting in the senate's interest in 88. However, the identification is far from certain. So is the emendation of Asconius. Further, Cn. Pomponius was not necessarily an opponent of all senatorial policy, and, when Drusus' associates divided, he might reasonably have chosen either side.

<sup>5</sup> *Asc.* 58 C; *Dio* 36, 39, cf. *Cic. Imp. Cn. Pomp.* 62, on 71 B.C. Mommsen, *Staatsrecht*, iii<sup>3</sup>. 1229 ff., cf. 337, believed that this procedure was only used after Sulla's dictatorship (there is no direct evidence for it before), but such action does not seem impossible on principle in 88. According to Asconius, originally *solutio legum* could only be enacted by a *lex*; *senatus consulta* had merely recommended that the appropriate bill should be presented to the people. Later, reference to the people had been neglected and *senatus consulta* had ceased to recommend that they should be consulted. Legislation about individuals was not on principle illegal (cf., e.g., the conferment of special commands), and the Twelve Tables' clause, 'privilegia ne inroganto', seems to have had a very limited application (for a recent interpretation see Bleicken, *ZSS* lxxvi [1959], 352 ff.).

<sup>6</sup> According to Appian (*Lib.* 112. 530 ff. and *Iber.* 84. 364) Scipio Aemilianus was

for the consulship, Sulla and Pompeius Rufus, who were linked by *adfinitas* and both defenders of senatorial authority (as they later showed). Sulla, moreover, had probably by then married into the Metelli. It is difficult to see why the senate should have supported an irregular candidature then. Moreover, it is even more improbable that Caesar Strabo was relying on a bill being passed in his favour, presumably a plebiscite proposed by one of the new college of tribunes. A colleague of Sulpicius, who entered office on 10 December 89, was unlikely to be able to pass the bill in time because of the need to observe *promulgatio trinundinum*, which had been enjoined by the *lex Caecilia Didia* of 98. I have interpreted *promulgatio trinundinum* as a proclamation belonging to (i.e. which had to be made on) three market-days (*nundinae*).<sup>1</sup> Assuming this is right, if three market-days fell very favourably (the first on 10 or 11 December), a tribune could have passed a bill on 28 December, as a result of which Caesar Strabo might have been elected on 29 December. Yet even this would have infringed the *leges Aelia et Fufia*, which did not allow legislation within the *trinundinum* which elapsed between the final date for *professiones* and the election itself,<sup>2</sup> and special exemption would have to be sought from the senate. In short, the odds against Caesar Strabo's name appearing on the list of candidates in late 89 are immensely long. Nor would Caesar have profited from an *interregnum*, if he had delayed the election until 88, since an *interrex* was unlikely to prefer him to Sulla or Pompeius Rufus.

#### IV. THE AIMS OF MARIUS AND SULPICIUS RUFUS

The traditional view, that Caesar Strabo sought the consulship in 88 for 87, should be retained. However, if due weight is given to the passage of Diodorus we have been discussing,<sup>3</sup> we obtain a different perspective on the aims of Marius and Sulpicius Rufus from that provided by the majority of our ancient sources, which ignore the candidature altogether. Diodorus (37. 2. 12) specifically states that political disturbances occurred because Marius and Caesar Strabo were rivals for the Mithridatic command. Although Photius' excerpts from Diodorus omit important facts, there is no evidence of distortion of his original material. Moreover, Diodorus himself is a worthy authority for this period,<sup>4</sup> for which he was still able to use the work of Poseidonius as a source.<sup>5</sup> Given that Caesar was seeking the consulship, we must conclude that he hoped

elected consul in both 148 and 135 after a plebiscite temporarily suspending the *lex annalis* had been passed *ex senatus consulto*, cf. *Ad Herenn.* 3. 2 and Livy, *Ep.* 50 for senatorial discussion. Though Livy, *Ep.* 50 and 56 suggest that Scipio was personally exempted on both occasions (i.e. by an *s.c.*), this is probably the result of compression. Cf. Mommsen, *Staatsrecht*, 13. 539 n. 1; Astin, *Scipio Aemilianus*, 66–7.

<sup>1</sup> *CQ* n.s. xv (1965), 281 ff. Tribunician legislation of this kind would be totally impossible on Mommsen's view (a 24-day interval) or on that of A. K. Michels (*The Calendar of the Roman Republic*, 191 ff.—25 days).

<sup>2</sup> Cic. *Att.* 1. 16. 13, cf. Sumner, *AJP* lxxxiv (1963), 337 ff.; Astin, *Latomus*, xxiii

(1964), 421 ff.

<sup>3</sup> I have been critical of Badian's chronology of Sulpicius' tribunate, but it should be pointed out that his solution does reconcile to some extent the evidence of Diodorus on Caesar Strabo and Marius with that of Cicero and Asconius. His chronology and interpretation have been generally followed by T. J. Luce, *Historia*, xix (1970), 190 ff.

<sup>4</sup> See 37. 10 on the repeal of Drusus' law and 37. 2. 11–14 with details of later operations in the Social War, which contain material ignored by Appian.

<sup>5</sup> See Jacoby, *FGH* iic, 157 ff. and especially 188 (discussing the link between Diodorus 37. 29. 3–4 and Plutarch, *Mar.* 45. 3–4 = Poseidonius F. 37).



to go out to the Mithridatic War as consul in 87. Major wars were at this time undertaken by consuls in their year of office. The senate may have already decreed the Mithridatic War to be a consular province under the *lex Sempronia* well before the elections of 88. Since Marius was Caesar's rival, the obvious conclusion is that Marius planned to do exactly the same. This is in fact Orosius' version of Marius' aims (5. 19. 3): 'Marius, Sylla consule et contra Mithridatem in Asiam cum exercitu profecturo, in Campania tamen propter socialis belli reliquias consistente, adfectavit septimum consulatum et bellum suscipere Mithridaticum.' Orosius moves hastily from one historical tit-bit to another and this leads him to make important omissions. After this passage he immediately relates Sulla's march on Rome. Moreover, he is sometimes careless in reproducing his source—in 5. 19. 6 he calls Sulpicius Marius' 'collega'. However, in the light of my previous arguments it seems that here he may be reproducing the genuine Livian tradition.

The fabulous story which Marius told during his exile, that, when young, he had caught a nest of seven eagle-chicks, reveals his obsession with a seventh consulship.<sup>1</sup> Nor is it likely that he only conceived this desire after his expulsion from Italy. What could have suited him better than to fulfil this wish and his desire for the Mithridatic command simultaneously? After all his greatest victories had been won as consul. In spring 88 the news from Asia was serious but probably not yet desperate.<sup>2</sup> Sulla was unlikely to finish the war before Marius arrived,<sup>3</sup> and if he remained as proconsul, when Marius arrived as consul, then Marius would at least have superior *auctoritas* to him.<sup>4</sup> If Sulla were successful, Marius would still be in time for the kill and perhaps be able to supervise the peace settlement in the interest of his backers, the *equites*. Should Sulla fail, Marius had made his reputation by picking up the pieces after the failures of others.

I have pointed out earlier that Appian's account implies that no bill transferring Sulla's command to Marius was promulgated before the death of Pompeius' son and Sulla's departure from Rome. If Marius' plans were as I suggest, we can explain the testimony of Plutarch and Diodorus (Poseidonius)<sup>5</sup> about Marius' preparations for military service and the gossip that ensued, and at the same time Marius' conflict with Caesar Strabo. There was no question yet of Marius' supplanting Sulla. It was simply a struggle for the consulship.

Caesar Strabo no doubt found support in 88 from many senators as a candidate opposing Marius, and it is possible that he hoped to be freed from the *lex annalis* by senatorial decree. However, his use of violence suggests that eventually he was trying to force through a bill. Marius too technically required exemption from the law regarding second consulships (he had presumably received exemptions from this law and the *lex annalis* from 105 to 101 by

<sup>1</sup> Plut. *Mar.* 36. 4-5; cf. App. *B.C.* 1. 61. 275; Dio, fr. 98. 2 Boiss.

<sup>2</sup> Mithridates' invasion of Phrygia is mentioned after domestic affairs of 88 B.C. in Livy, *Ep.* 77 and presumably occurred in spring 88. The Romans may not yet have heard of the complete loss of Asia, the attack on Rhodes, and the slaughter of Italians (App. *Mith.* 20-3). Mithridates probably did not massacre the Italians until he

realized that alliance with the rebellious *socii* was valueless (Diod. 37. 2. 11).

<sup>3</sup> Marius could expect to go out early in 87, since the Social War would by then be no longer a problem.

<sup>4</sup> Cf. Dio, fr. 91 Boiss, on which see Staveley, *Historia* xii (1963), 477-8; Livy 41, 10. 5 ff.

<sup>5</sup> Plut. *Mar.* 34; Diod. 37. 29. 1.

decrees of the senate).<sup>1</sup> Perhaps in 88 he hoped that popular pressure at election time would induce the senate to give way, in the same way that it yielded to Scipio Aemilianus. In the last resort he would have been driven to get a plebiscite proposed altering the law in defiance of the senate. If we deduce from Cicero<sup>2</sup> that Sulpicius was already under the influence of the *aura popularis* when he resisted Caesar's candidature, we may reasonably infer that he vetoed either a *senatus consultum*, or more probably a bill proposed *ex senatus consulto*, which suspended or altered the *lex annalis* in Caesar's favour.

At all events a general picture of Sulpicius' policy can be formed. After resisting Caesar Strabo and incurring some disfavour among the *boni*, he committed himself to a *popularis* course, however reluctantly, and pressed on with his main aim, the suffrage bill. It is at this point that his alliance with Marius can be best dated.<sup>3</sup> Marius was no doubt grateful to Sulpicius for his resistance to Caesar Strabo and believed that by supporting the suffrage bill he could enhance his own chances in the consular elections.<sup>4</sup> Violence over the suffrage bill between the gangs of Sulpicius and their opponents grew fiercer, until public business was suspended by Sulla. The latter had returned to Rome from Nola, which his army was besieging. There was no need for him to be recalled to hold the consular elections, while Pompeius Rufus remained in the city, and there is no reason to suppose that it was yet time for them. It is more likely that Sulla returned to secure money and supplies for his forthcoming Eastern expedition. This must have been giving him some concern. According to Appian, the funds in the treasury were so low at the end of the Social War that it was decreed that the sacrificial apparatus of Numa should be sold to raise money for the Mithridatic War. In this way 9,000 pounds of gold were raised (36 million sesterces). Orosius informs us that Pompeius Strabo made no contribution to the treasury out of the profits he made from selling booty at Asculum. The treasury was exhausted and there was no money *ad stipendium frumenti* (I take this to mean 'to pay for food for the army'). The state was forced to sell off *loca publica* in the open space round the Capitol, which had previously been assigned free to religious officials.<sup>5</sup> The cost of the Social War

<sup>1</sup> Cf. Livy, *Ep.* 56 for 'legem, quae vetabat quemquam iterum consullem fieri', believed by Mommsen (*Staatsr.* i<sup>3</sup>, 519 ff.) to have been passed c. 151 B.C. as a reaction to the third consulship of M. Claudius Marcellus. It is conceivable that, after being repealed for Scipio Aemilianus' benefit, it had not been re-enacted, as the senate had enjoined (*App. Iber.* 84, 364). Otherwise Marius must have been exempted from this law as well as the *lex annalis* (because there was no *biennium* between his offices)—presumably by *s.c.* (see *Cic. Prov. Cons.* 19 for the senate's co-operative attitude), since the abolition of the *lex annalis* for a long period would surely have left some trace in our sources.

<sup>2</sup> *Har. Resp.* 43.

<sup>3</sup> Sulpicius' alliance with Marius seems best placed at the stage when, in Cicero's view, the *aura popularis* began to sweep him too far.

<sup>4</sup> The bill probably made some provision for the swift registration of the voters in their new tribes (perhaps by the censors of 89, if they had not already abdicated their office). If it did not, Marius was unlikely to derive effective assistance from the Italians in an election or legislation for some time. Although the censors of 89 completed the *lustrum* (*Fasti Antiates*), according to Cicero (*Arch.* 11) 'nullam populi partem esse censam'. Cicero's statement is probably an exaggeration (*MRR* ii. 32 f., 37 f.; Suolahti, *Roman Censors*, 449–50), yet it may be true as far as the new citizens were concerned. Perhaps the censors were reluctant in the first place to enrol them in classes or tribes. Alternatively, after waiting for the Italians' status to be settled, they abandoned their task either as a protest against Sulpicius' legislation or after Sulla's occupation of Rome.

<sup>5</sup> *App. Mith.* 22, 84; *Oros.* 5, 18, 26–7.

must have been considerable on account both of the financial outlay necessary and of the loss of *vectigalia* in Italy. Mithridates' advance in 88 would also have deprived the Romans of much coin deposited by the *publicani* in Asia.<sup>1</sup> The financial plight of the state may even have been used by Marius as an argument for entrusting him with the consulship and then the war, on the ground that he could raise finance privately from his equestrian friends.

When Pompeius Rufus' son was killed by Sulpicius' rioters protesting against the impediment to legislation, and Sulla, after putting an end to the public holiday, returned to his army, Sulpicius and Marius had at first sight achieved their object. The suffrage bill could be passed. However, ironically, Sulpicius' gangs had damaged Marius' chances of ever being elected consul that year. Pompeius Rufus was not likely to be co-operative amidst his domestic grief. He would not have recognized Marius as a candidate, unless his hand was forced, and would have let affairs drift into an *interregnum* rather than preside over Marius' election. It is easy to see why Marius changed his plan then. If he could not have the Mithridatic command as consul, he would have it as pro-consul. It is also possible that he grew suspicious of Sulla. We do not know how long it was before the Mithridatic bill was produced. If there was an interval, during which Sulla would have been still at Nola, Marius' doubts about Sulla's intentions can be imagined. Sulla may well have hoped to complete the siege of Nola and confirm his soldiers' loyalty by a distribution of booty (it would not be surprising if their pay was already in arrears). However, any delay in Sulla's departure for the East, even if innocent in intention, might have been interpreted by Sulpicius and Marius as a sign that Sulla was prepared to return to Rome if violence was renewed, especially if a decline in their own popularity encouraged the senate to resort to the ultimate decree. They therefore decided to solve their problem and eliminate a possible threat by a single bill.

When Sulla heard that the bill depriving him of his command had been promulgated, he must have begun to plan his return to Rome.<sup>2</sup> He perhaps hoped that resistance to the bill would produce such turmoil that the ultimate decree would be passed and he could claim the senate's backing for his return.<sup>3</sup> When this did not occur, he came uninvited. Marius' volte-face must have persuaded him that he had been tricked into leaving Rome too soon. His bitterness at being, as he thought, outwitted, led him to portray Marius and Sulpicius as schemers, who had plotted his humiliation from the beginning. This view not only coloured his own memoirs but affected subsequent historical tradition. Yet this interpretation left his own reputation vulnerable. He appeared a fool and a coward to have left Rome and waited at Nola instead of opposing Marius and Sulpicius in person, or else he appeared to have been

<sup>1</sup> See Cic. *Leg. Agr.* 2. 80 for the loss of *vectigalia* except for that from the *ager Campanus* (and a considerable part of the *ager Campanus* was lost or involved in the war in 90–89 B.C.); Cic. *Imp. Cn. Pomp.* 19 for the collapse of credit when the news from Asia came. In 91 Livius Drusus had enacted that an eighth of the new issue of silver coins should be silver-plated bronze (Pliny, *N.H.* 33. 46, cf. Frank, *ESAR* i. 228, 231 f.), perhaps to help finance his land proposals.

For the large issues of coin in the Social War see M. H. Crawford, *Roman Republican Coin Hoards*, Intro. p. 6 and Table XII. The *lex Papiria* introducing the semiuncial *as* is plausibly attributed to 89 (*MRR* ii. 34).

<sup>2</sup> Appian, whose evidence has been shown to be more trustworthy than that of Plutarch, implies that Sulla was already on the road to Rome before an attempt was made to take over his army (*B.C.* i. 57. 253).

<sup>3</sup> See above, pp. 445–6, nn. 1 and 2.

already meditating treason. Hence his own memoirs suggested that he only left the city at the last moment and won a desperate race to reach his army. His Machiavellian picture of his opponents had frequently been accepted. However, Sulpicius' tribunate is not so much a story of plot and counter-plot as a tragedy of errors. Sulpicius' tragedy was that through his use of gangs Pompeius Rufus son was killed and Pompeius himself humiliated. Although in this way he was able to achieve what, in his view, was his main object—the redistribution of Italian votes, he damaged the interests of his backer Marius. He tried to extricate Marius from his frustration, but this attempt was to cost him his own life, and the cost to the Republic was even dearer.

#### ADDITIONAL NOTES

A. *Sulpicius' law* about bringing back *exules* 'quibus causam dicere non licuisset' (*Ad Herenn.* 2. 45, cf. Livy, *Ep.* 77)—apparently inconsistent with a previous veto on a similar measure.

Gruen (*JRS* lv (1965), 71–3) was surely right to argue that these *exules* were not the victims of the *lex Varia*, nor Italians stripped of Roman citizenship under the *lex Licinia Mucia*. In spite of Badian's recent counter-argument (*Historia*, xviii [1969], 489–90), I do not see how an Italian who had been restored to his own original *civitas* could be technically termed an *exul* in a Roman bill (our sources must reproduce the language of the bill). An *exul* is someone who had held the Roman citizenship but perforce had abandoned it, whether he had formally become a member of another community or not. There was nothing to prevent a Latin or Italian deprived of citizenship by the *lex Licinia Mucia* regaining it with other members of his community under the *leges Iulia* and *Plautia Papiria*. My own (very speculative) solution would be that Sulpicius provided for the return of supporters of Saturninus, who, after fleeing from Rome in face of the emergency measures of 100, had their *exilium* recognized as *iustum* and were forbidden fire and water by the tribunes, the interdict being renewed each year (cf. Cic. *Verr.* 2. 100).

B. *Sulpicius' proposal* to re-distribute the freedmen's votes among the thirty-five tribes. This, although associated with the Italian bill by the Epitomator of Livy (77), must have been a separate measure, as Asconius 64 C suggests, subsequently revived by Manilius. Since it is not mentioned by Appian when discussing the Italian bill and the riots, it is better placed after the Italian bill was passed, either before the Mithridatic bill or almost simultaneous with it. It is not clear whether it was a desperate measure to gain support or part of Sulpicius' original plan. Freedmen had been enlisted during the Social War and they might have lately become more politically conscious and discontented with their inferior position. On this see now Treggiari, *Roman Freedmen during the Late Republic*, 49, 165.

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