



Steel, C. (2014) *Rethinking Sulla: the case of the Roman Senate*. *Classical Quarterly*, 64 (2). pp. 657-668. ISSN 0009-8388

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Deposited on: 16 December 2014

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## RETHINKING SULLA: THE CASE OF THE ROMAN SENATE\*

Pressing and urgent domestic problems were the justification for L. Cornelius Sulla's election to the dictatorship in 82 B.C.<sup>1</sup> He responded with an extensive legislative programme which reorganized the judicial and legislative processes of the *res publica*.<sup>2</sup> Whilst there is agreement, in broad terms, about the nature of these changes, their purpose and significance remain debated.<sup>3</sup> Nonetheless, there is general consensus that the Senate's role in Sulla's *res*

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\* The research for this article was supported by the British Academy, through its Mid-Career Fellowship scheme. I am grateful to audiences at Durham, Cambridge and Trinity St. David and to *CQ*'s anonymous referee for their responses to its earlier versions.

<sup>1</sup> Appian (*B Civ.* 1.99) records that Sulla was elected ἐπὶ θέσει νόμων ... καὶ καταστᾶσει τῆς πολιτείας. The description is plausibly understood as a translation of the phrase *legibus scribundis et rei publicae constituendae* (E. Gabba, *Appiani Bellorum civilium liber primus* [Florence, 1967<sup>2</sup>], 270-1).

<sup>2</sup> The major changes were i) restrictions on the tribunate of the plebs, which ceased to have either positive or negative legislative capacity; ii) increases in the numbers of quaestorships and praetorships, with automatic Senate entry for quaestors; iii) a reorganisation of the *iudicia publica* and the restriction of jury service to senators. Tribunes of the plebs were barred from holding further office.

<sup>3</sup> See T. Hantos, *Res publica constituta. Die Verfassung des Dictators Sulla* (Stuttgart, 1988); F. Hurlet, *La dictature de Sylla* (Brussels, 1993); T.C. Brennan, *The Praetorship in the Roman Republic*, 2 vols. (New York, 2000), 388-402; A. Thein, 'Sulla the Weak Tyrant', in S. Lewis (ed.), *Ancient Tyranny* (Edinburgh, 2006), 238-49.

*publica* was enhanced in comparison with earlier periods.<sup>4</sup> This conclusion is based on the increase in the size of the Senate; the monopoly it resumed of judicial decision-making in the *iudicia publica*; and the extension, in practice, of its legislative capacity, given that its decrees could not be vetoed by tribunes of the plebs, who had also lost their capacity to put forward legislation. Flower offers a recent and concise summary: ‘This new “consensus” of Sulla was based on force and on the necessity of agreeing with Sulla himself, and subsequently with his new, mighty senate that was expected to wield unprecedented power and absolute authority.’<sup>5</sup>

Two hypotheses are required to support this view of Sulla’s Senate: first, that his proposals were designed to enhance the role of the Senate, or even, in a stronger version, to ensure that it monopolized political power; and secondly, that they were implemented in such a way that,

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<sup>4</sup> E.g. E.S. Gruen, *The Last Generation of the Roman Republic* (Berkeley, 1974: 7-12); C. Meier, *Res publica amissa. Eine Studie zu Verfassung und Geschichte der späten römischen Republik* (Wiesbaden, 1980<sup>2</sup>), 246-66; F. Millar, *The Crowd at Rome in the late Republic* (Ann Arbor, 1998), 49-54; H. Flower, *The Art of Forgetting: Disgrace and Oblivion in Roman political culture* (Chapel Hill, 2006), 98; U. Gotter, ‘Cultural differences and cross-cultural contact: Greek and Roman concepts of power’, *HSPH* 104 (2008), 179-230, at 214-16; T.P. Wiseman, *Remembering the Roman People: essays on late-Republican politics and literature* (Oxford, 2009), 11.

<sup>5</sup> Flower (n. 4), 98; the comment is particularly striking as it comes from what is otherwise an incisive and highly revisionist reading of Sulla. H. Flower, *Roman Republics* (Princeton, 2010), 121-134 implicitly revises this analysis of the role of the Senate, though it remains unclear how it fitted into the model presented there of a Sullan republic dominated by the rule of law (129-30) .

in practice, the Senate acquired greater power and authority than it had had previously. The purpose of this paper is to scrutinize these claims: it will suggest that neither can be accepted without modification. Sulla's package of constitutional change combined solutions to specific problems with an attempt to eliminate conflict from the *res publica*, and the resulting mix of measures was incoherent. The Senate's position was different as a result of Sulla's changes, but not necessarily stronger. In addition, their implementation was affected both by the nature of his dictatorship and by the recent history of the Senate. These factors created a Senate which was structurally weak, divided, and ineffectual.

A determination to remove opportunities for destructive conflict from the structure of the *res publica* is a convincing framework within which to understand the changes Sulla introduced to the role of the tribunate of the plebs and to the composition of juries, both of which had effects on the role and composition of the Senate. Every episode of domestic violence over the previous half-century had had its origins in a dispute over legislation proposed by a tribune.<sup>6</sup> Sulla's own consulship in 88 had come under unprecedented attack from the tribune Sulpicius, and he had narrowly escaped death in the rioting which occurred as a result of Sulpicius' proposals and which had led to the death of his daughter's husband.<sup>7</sup> The kind of arguments which could be put forward to legitimize the restriction of the tribunate to

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<sup>6</sup> See, in general, Meier (n. 4), 128-140; J. Bleicken, 'Das römische Volkstribunat', *Chiron* 11 (1981), 87-108; J.A. North, 'Democratic politics in Republican Rome', *P&P* 126 (1990), 3-21; A.W. Lintott, *The Constitution of the Roman Republic* (Oxford, 1999), 67-73; Wiseman (n. 4) 7-10.

<sup>7</sup> Liv. *Per.* 77; Plut. *Sull.* 8; App. *B Civ.* 1.56; R. Morstein-Marx, 'Consular appeals to the army in 88 and 87', in H. Beck et al. (edd.), *Consuls and res publica: holding high office in the Roman Republic* (Cambridge, 2011), 259-278, at 262-264.

*prouocatio* on behalf of individual citizens are also evident: that that was the initial function of the tribunate and that the legislative activity by individual tribunes was supported by an unrepresentative faction with the citizen body.<sup>8</sup> However far the ban on tribunician legislation seemed to subsequent commentators to be an unworkable and unstable attempt to silence the urban populace, we need not posit an unsustainable level of self-delusion on Sulla's part in the belief that restricting legislation to citizens voting in the *comitia centuriata* on proposals put forward by consuls and praetors might solve, or at least substantially mitigate, the problem of violent factionalism.<sup>9</sup> This reorganisation of legislative practice gave a much greater role to *imperium*-holding magistrates than hitherto; it also affected the Senate, whose decrees no longer faced the threat of veto.

The change in the composition of the juries can also plausibly be linked to eliminating dissension between equestrians and senators and the exploitation of that conflict by others. That dispute had been an important, if indirect, factor in the outbreak of the Social War in 91, a catastrophe from which all other more recent disasters could be seen to flow. Once Sulla had decided to rebuild the *iudicia publica* around seven new standing courts and to provide their juries from the Senate, it would have been apparent that many more senators would be

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<sup>8</sup> Flower (n. 5), 119 notes the difficulty of accessing Sulla's own intentions. On ancient analyses of the legitimacy of popular politics at Rome, see A. Erskine, *The Hellenistic Stoa* (London, 1990), 150-80.

<sup>9</sup> Cic. *Leg* 3.23-26; R. Morstein-Marx, *Mass Oratory and Political Power in the Late Roman Republic* (Cambridge, 2004), 241-78; Wiseman (n. 4), 16-32.

required simply in order to provide an adequate number of jurors.<sup>10</sup> The rise in the number of praetors from six to eight ensured that each court had a praetorian president; and a future supply of an adequate number of jurors was ensured by the extraordinary growth in the number of quaestors to twenty.<sup>11</sup>

Sulla introduced a variety of changes to the Senate. Senatorial membership had been the responsibility of the censors: but the senatorial *lectio* was now replaced, as the means of entering the Senate, by the elections for the quaestorship, since quaestors now participated in the Senate from their election, even if they were not formally members until enrolled by the censors.<sup>12</sup> The role of *princeps senatus* appears to have fallen into abeyance, and the *princeps*' privileged speaking position during debate to have fallen to one of the consulars, whose identity changed from year to year.<sup>13</sup> The consular who would speak first that year was identified at the start of the year by the consul who presided during January, and was

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<sup>10</sup> A. Greenidge, *The Legal Procedure of Cicero's Time* (Oxford, 1901), 436-42. The alternative of making jurors entirely non-senatorial was presumably unthinkable because of the connection between equestrian jurors and Gaius Gracchus and other *popularis* politicians.

<sup>11</sup> The exact number of quaestors before Sulla's expansion of the office is unclear, though it was between eight and twelve: W. V. Harris, 'The Development of the Quaestorship, 267-81 B.C.', *CQ* 26 (1976), 92-106; W. Kunkel, *Staatsordnung und Staatspraxis der römischen Republik* (Munich, 1995), 512-14.

<sup>12</sup> F.X. Ryan, *Rank and participation in the Republican Senate* (Stuttgart, 1998), 72-87.

<sup>13</sup> The details of this transition, including Sulla's role in it, are unclear; see Ryan (n. 12), 284-92.

expected to agree with that consul.<sup>14</sup> The presence of all eight praetors in Rome during their year in office, the tendency for the consuls also to be present throughout the year, and the much earlier elections contributed to a major change in the nature of senatorial debate, in which magistrates now played a much more dominant role.<sup>15</sup> The post-Sullan Senate was run by the consuls, with a significant role in the second half of the year for the consuls-elect.<sup>16</sup>

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<sup>14</sup> That is the implication of Cic. *Att.* 1.13.2, where he consoles himself for losing first place to C. Calpurnius Piso with the thought that ‘I am free from paying attention to a difficult man [sc. the consul Pupius Piso] and free to preserve my position in the *res publica* by opposing his wishes; moreover, the second place in speaking has almost as much influence as the first, and one’s stance is less tied by a favour from the consul’ (*sum enim et ab obseruando homine peruerso liber et ad dignitatem in re publica retinendam contra illius uoluntatem solutus, et ille secundus in dicendo locus habet auctoritatem paene principis, uoluntatem non nimis deuinctam beneficio consulis*). Despite Cicero’s special pleading about second place, this is clear evidence for the bond of gratitude which tied the year’s senior consular to the consul who chose him.

<sup>15</sup> They remained, however, formally outside senatorial debates: the Senate’s role, after all, was to advise magistrates.

<sup>16</sup> In contrast, before 81 there were years in which, after the *Feriae Latinae*, the only *imperium* holders in the city were the urban and peregrine praetors. Although it is now accepted – or should be – that Sulla did not prevent consuls from exercising their *imperium* outside Rome, it remains unclear why they now tended to stay (they did not, after all, receive new responsibilities as the praetors did which prevented their departure). F. Pina Polo, *The consul at Rome* (Cambridge, 2011), 316-28 discusses the change in the tempo of political life which followed from this development. Consuls-elect had possessed a privileged position in senatorial debates long before Sulla, but when elections took place towards the end of the

Even had other factors not conspired against the authority of senior *priuati* in the Senate, that is the *principes*, this shift towards the presence of *imperium*-holders in Rome alone undermined their position.

A range of other factors also weakened the *principes*. The Senate which Sulla found after his victory in 82 had been hollowed out by the violence of previous years; the proscriptions he presided over compounded the effect. As few as half those enrolled by the censors in 86 might now still be alive and able to attend.<sup>17</sup> One particularly striking aspect of these losses was the very small number of ex-consuls and ex-praetors present.<sup>18</sup> When Sulla assumed the dictatorship in 82, he was still the most junior surviving consular present in Rome, despite having held the office in 88: everyone who had held that office with him or subsequent to

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year its use was limited: see F. Pina Polo, 'The Political Role of the *consules designati* at Rome', *Historia* 62 (2013), 420-452

<sup>17</sup> Eutropius (5.9.2) and Orosius (5.22.4) give almost identical figures for numbers killed in the Social and Civil wars: the figure for senators is 200, though some of the deficit may have been filled by the censors of 86. Forty senators were on Sulla's proscription list (App. *B. Civ.* 1.95); he gives ninety (*B.Civ* 1.103) as the final number of senators killed by Sulla. F. Santangelo, 'Sulla and the Senate: a reconsideration', *Cahiers Glotz* 17 (2006 [2008]), 7-22, at 8 concludes that the Senate Sulla found in 82 may have been as small as 150. R.J. Evans, 'The Augustan 'purge' of the Senate and the census of 86 B.C.', *Acta Classica* 40 (1997), 77-86, at 80-1 notes in connection with the census of 86 the possible effects of deaths during the wars with the Cimbri and Teutones towards the end of the second century B.C.; but by the end of 80s B.C., those losses had probably ceased to have an impact.

<sup>18</sup> R.J. Evans, 'The *consulares* and *praetorii* in the Roman Senate at the beginning of Sulla's dictatorship', *Athenaeum* 61 (1983), 521-8 lists the members of each category.

him was dead, about to die, or in exile.<sup>19</sup> This is an extraordinary rate of attrition, unparalleled in any other period of Republican history.<sup>20</sup> Moreover, these losses were in addition to consular deaths during the Social War, and the deaths of earlier holders of the

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<sup>19</sup> There are ten men in this category, eight of whom died violently. Q. Pompeius Rufus (*cos.* 88) was killed, during his consulship, by the troops of Cn. Pompeius Strabo, when he attempted to take command of them; Cn. Octavius (*cos.* 87) and L. Cornelius Merula (*cos. suff.* 87) died during Marius' and Cinna's capture of Rome in 87; L. Cornelius Cinna (*cos.* 87, 86, 85, 84) was killed by his own troops in 84; L. Valerius Flaccus (*cos. suff.* 86) was killed during his consulship, by his troops, whilst campaigning against Mithridates; Cn. Papirius Carbo (*cos.* 85, 84, 82) was executed by Pompeius during his third consulship; C. Norbanus (*cos.* 83) committed suicide on Rhodes following defeat by Sulla's followers; the younger Marius (*cos.* 82) was killed during his consulship as he tried to escape from the siege of Praeneste. The elder Marius died of natural causes, aged around seventy, early in his seventh consulship in 86; L. Cornelius Scipio Asiagenes (*cos.* 83) was in exile in Massilia after his defeat and proscription by Sulla during his consulship (he survived into the 60s: R. Kaster, *Cicero: speech on behalf of Publius Sestius* [Oxford, 2006], 126).

<sup>20</sup> Even an equivalent span of the opening years of the Second Punic War are not quite as destructive: at the end of 212, nine holders of the office since 218 (inclusive) were still alive (P. Cornelius Scipio (*cos.* 218), Ti. Sempronius Longus (*cos.* 218), M. Atilius Regulus (*cos. suff.* 217), C. Terentius Varro (*cos.* 216), M. Claudius Marcellus (*cos. suff.* 215, *cos.* 214), Q. Fabius Maximus Verrucosus (*cos. suff.* 215, *cos.* 214), Q. Fabius Maximus (*cos.* 213), Q. Fulvius Flaccus (*cos.* 212) and App. Claudius Pulcher (*cos.* 212), in comparison with five dead: Cn. Servilius (*cos.* 217), C. Flaminius (*cos.* 217), L. Aemilius Paullus (*cos.* 216), L. Postumius Albinus (*cos. des.* 215) and Ti. Sempronius Gracchus (*cos.* 215, 213); Scipio and Pulcher died in 211.

office during the civil conflicts of 88-87 and of 82.<sup>21</sup> In consequence, only four consulars, apart from Sulla, are known to have been alive and able to participate in the Senate in 82: L. Valerius Flaccus (*cos.* 100); C. Valerius Flaccus (*cos.* 93); M. Perperna (*cos.* 92); and L. Marcius Philippus (*cos.* 91).<sup>22</sup> L. Flaccus led the senatorial negotiations with Sulla after the latter's arrival in Italy, and as *interrex* after Sulla's victory he ensured some semblance of

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<sup>21</sup> T. Didius (*cos.* 98), P. Rutilius Lupus (*cos.* 90) and L. Porcius Cato (*cos.* 89) were killed during the Social War; A. Postumius Albinus (*cos.* 99) was murdered by his troops and Sex. Iulius Caesar (*cos.* 91) died of disease during the siege of Asculum. M.' Aquillius (*cos.* 101) was killed by Mithridates in 88 and Cn. Pompeius Strabo (*cos.* 89) died of disease during the Octavian war in 87. M. Antonius (*cos.* 99) and L. Iulius Caesar (*cos.* 90) were killed after Marius' and Cinna's capture of Rome that year and Q. Lutatius Catulus (*cos.* 102) committed suicide. Q. Mucius Scaevola (*cos.* 95) was killed on Damasippus' orders in 82.

<sup>22</sup> Rutilius Rufus (*cos.* 105) was in exile in Smyrna; he was still alive in 78, when Cicero visited him (*Brut.* 85). In 49, at the start of the Civil War between Pompeius and Caesar, when the existence of consulars is well-documented, twenty-two are known to be alive: Perperna (*cos.* 92); Pompeius (70); L. Aurelius Cotta (65); L. Iulius Caesar (64); C. Antonius (63); Cicero (63); Afranius (60); Caesar (59); Bibulus (59); Piso Caesoninus (58); Gabinius (58); Lentulus Spinther (57); L. Marcius Philippus (56); Domitius Ahenobarbus (54); Appius Claudius (54); Domitius Calvinus (53); Valerius Rufus (53); Metellus Scipio (52), Ser. Sulpicius Rufus (51); M. Marcellus (51); C. Marcellus (50); L. Aemilius Lepidus Paullus (50). Two of these (Antonius and Gabinius) were certainly in exile. R. Syme, *The Augustan Aristocracy* (Oxford 1986), 15-31 draws attention to patterns of mortality among the elite, including (22-3) apparently high mortality in the mid-50s. On the other hand, it may be rash to assume that every consular unnoted in the sources was dead, even in a well-documented period: Perperna (n. 24 below) is a useful counter-example.

propriety to the installation of Sulla as dictator; he was, moreover, Sulla's Master of Horse.<sup>23</sup> His cousin C. Flaccus appears to have missed all the domestic excitements of the previous decade, through an extraordinarily extended proconsular command in the Spains and Gaul: he returned to Rome, and a triumph, only in 81 B.C. These men – both, like Sulla himself, patricians – played an important part initially in legitimizing Sulla's activity, but neither seems to have played a prominent role after 81. M. Perperna was, as far as is known, almost entirely inactive, and this may be connected with his son's opposition to Sulla; but he was still alive.<sup>24</sup> The only pre-82 consular who is attested as an active member of the post-Sullan Senate was L. Marcius Philippus. Information for men of praetorian standing is less complete, but indicates a similar pattern.<sup>25</sup> Eight ex-praetors can firmly be placed in the

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<sup>23</sup> He had been *flamen Martialis* since before his consulship in 100, and the taboos which prevented the holder of that office from undertaking military activity had helped his life-expectancy.

<sup>24</sup> His death in 49 B.C., at the age of 98, is the subject of anecdote (Plin. *HN* 7.156, Val. Max. 8.13.4). The only notice of his activities after his censorship are his presence at a civil process (Cic. *Rosc. Com.* 22) and that he provided a character reference for M. Aemilius Scaurus at his trial on *repetundae* charges, probably *by* letter rather than in person (Asc. 28C). It is tempting to explain this latter occasion through some connection between Perperna and the elder Scaurus, but that is speculation.

<sup>25</sup> See Evans (n. 18), though of the eleven surviving praetors he identifies, Perperna was not in Rome, Murena may never have held the praetorship and M. Claudius Marcellus *may* have held his praetorship after 81. He also notes eighteen ex-praetors who may or may not still have been alive.

Senate in 81.<sup>26</sup> This category produced five of the six consuls of 81-79 (with Sulla himself being the sixth), evidence that Sulla placed considerable importance on re-establishing a pattern of regular office-holding in accordance with the *lex annalis*.<sup>27</sup>

Sulla's Senate thus had an unprecedentedly tenuous connection in terms of membership with the body that had existed ten years' earlier at the outbreak of the Social War. Pre-Social War senators who survived into the Sullan period were also subject to brutal demonstrations of the nature of Sulla's power. These began even before the proscriptions. Plutarch (*Sull.* 30.2-3) records a Senate meeting which Sulla summoned soon after his victory at the Colline Gate:

ἐκάλει τὴν σύγκλητον εἰς τὸ τῆς Ἐνυοῦς ἱερόν. ὅμα δ' αὐτός τε λέγειν ἐνήρχετο καὶ κατέκοπτον οἱ τεταγμένοι τοὺς ἑξακισχιλίους. κραυγῆς δέ, ὡς εἰ κός, ἐν χωρίῳ μικρῷ τοσοῦτων σφαττομένων φερομένης καὶ τῶν συγκλητικῶν ἐκπλαγέντων, ὥπερ ἐτύγχανε λέγων ἀρέπτῳ καὶ καθεστηκότι τῷ προσώπῳ προσέχειν ἐκέλευσεν αὐτοὺς τῷ λόγῳ τὰ δ' ἔξω γινόμενα μὴ πολυπραγμονεῖν· νουθετεῖσθαι γὰρ αὐτοῦ κελεύσαντος ἐνίους τῶν πονηρῶν.

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<sup>26</sup> They are L. Gellius (*pr.* 94, *cos.* 72); P. Servilius Vatia (*pr.* 90, *cos.* 79); Q. Caecilius Metellus Pius (*pr.* 89, *cos.* 80); App. Claudius Pulcher (*pr.* 89, *cos.* 79); P. Gabinius (*pr.* 89); Q. Oppius (*pr.* 89); M. Tullius Decula (*pr.* ?84, *cos.* 81); Cn. Cornelius Dolabella (*pr.* ?84; *cos.* 81). A degree of circularity is, however, involved: Decula's and Dolabella's praetorian standing is assumed on the basis of their consulship in 81, since, it is argued, it is improbable that Sulla would ignore his *lex annalis* (whose passage nonetheless post-dates their election). On Dolabella, see further E.S. Gruen, 'The Dolabellae and Sulla', *AJPh* 87 (1966), 385-99.

<sup>27</sup> By 78, men who had held the praetorship in 81 were eligible to stand for the consulship.

He summoned the Senate to meet in the Temple of Bellona. Just as he began to speak, by arrangement his men began to execute the six thousand [sc. prisoners]. The noise of so many men being slaughtered in a small area was audible and the senators were terrified; but Sulla continued to speak with an unchanged and immoveable expression and instructed them to pay attention to what he was saying and not to worry about what was taking place outside; some wrong-doers were receiving correction, on his orders.<sup>28</sup>

The Temple of Bellona was outside the *pomerium*, and not infrequently used as a meeting place for the Senate when the attendance of an *imperium*-holder was required; on this occasion, it had the added advantage of proximity to the Villa Publica and Circus Maximus, where prisoners of war captured after the Battle of the Colline Gate were being held.<sup>29</sup> It had only been a matter of weeks since that year's urban praetor, M. Iunius Brutus Damasippus, had ordered a massacre at a meeting of the Senate which he had convened; now Sulla was

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<sup>28</sup> The story is also told, with varying numbers of dead, by Seneca (*Clem* 1.12.2. 'a few seditious men are being killed on my orders', *seditiosi pauculi meo iussu occiduntur*), Livy (*Per.* 88); Val. Max. 9.2.1; August. *Civ D* 3.28; Oros 5.21; Flor 2.9.24; Firm Mat. 1.7.27: see F. Coarelli, 'Il tempio di Bellona', *BCAR* 80 (1965-67), 37-72, at 62 n. 113.

<sup>29</sup> Coarelli (n. 28); M. Bonnefond-Coudry, *Le Sénat de la République Romaine* (Rome, 1989), 151-160; C. Mackay, 'Sulla and the Monuments: studies in his public persona', *Historia* 49 (2000), 161-210, at 196.

demonstrating what would happen to *his* enemies.<sup>30</sup> This initial act of terror was followed over the next six months by the organised terror of the proscriptions. In a gruesome indication of the lawlessness which followed Sulla's victory, the idea of a written list – the defining feature of the proscriptions, on this occasion and subsequently, and the source of the name – was itself presented as a concession, insofar as it set limits to what was otherwise the indiscriminate elimination, by Sulla's followers, of their personal enemies.<sup>31</sup>

The device of proscription turned Sulla's purge of his and his followers' enemies into a bureaucratically supported redefinition of a selected group of citizens. The property of the proscribed became the state's; they themselves lost the state's promise of protection in case of violence; and the citizen rights of their male descendants, for two generations, were curtailed.<sup>32</sup> The neatness of the process was underscored by its having a fixed end-point of June 1<sup>st</sup> 81, enshrined in the law which authorised the proscriptions.<sup>33</sup> Glimpses of the consequences in communities outside Rome can be caught in some of Cicero's early speeches, particularly his defences of Sextus Roscius of Ameria and Cluentius: those members of local elites who were acknowledged supporters of Sulla were able substantially

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<sup>30</sup> On Damasippus' massacre, F. Hinard, 'La terreur comme mode de gouvernement (au cours des guerres civiles du 1<sup>er</sup> siècle A.C.)', in G. Urso (ed.), *Terror et pavor: violenza, intimidazione, clandestinità nel mondo antico* (Pisa, 2006), 247-64, at 254.

<sup>31</sup> Plut. *Sull.* 31.1-3; F. Hinard, *Les proscriptions de la Rome républicaine* (Rome, 1985), 18-37.

<sup>32</sup> Hinard (n. 31), 87-100; J.W. Crawford, *M. Tullius Cicero, the fragmentary speeches: an edition with commentary* (Atlanta, 1994), 201-207.

<sup>33</sup> Cic. *Rosc. Am.* 128; T. Kinsey, 'The sale of the property of Roscius of Ameria: how illegal was it', *Antiquité classique* 57 (1988), 296-297.

to extend their political and economic power. Conversely, Sulla attempted to revoke the citizen status of some of the communities which had opposed him.<sup>34</sup> Other Italian towns were now neighbours to settlements of Sullan veterans established on confiscated land.<sup>35</sup>

The elimination of Sulla's enemies through the proscriptions was accompanied by continuing news of their defeat overseas and the public demonstration of these successes in Rome. Gnaeus Pompeius had pursued the consul Carbo, captured him in Sicily and had him executed; Pompeius then crossed to Africa and captured and killed Cn. Domitius, one of the proscribed, who had raised an army and gained the support of the local ruler Iarbas. Only in Spain did Roman opponents of the new regime maintain a presence beyond the end of 81. On January 28<sup>th</sup> 81 Sulla held a triumph over Mithridates, remarkable not only for the display of booty but also – according to Plutarch's account – for the presence in the procession of Sulla's elite supporters declaring that they were returning from exile.<sup>36</sup> Sulla concluded his triumph with a *contio* at which he gave an account of his *res gestae* and took the title 'Felix'.<sup>37</sup> Also during 81, Murena held a triumph over Mithridates and C. Valerius Flaccus one from his campaigns in Spain and Gaul. Within a single year, three Sullan commanders

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<sup>34</sup> Cic. *Caec.* 101-103; *Dom.* 79; the evidence relates to Volaterrae and Arretium, and the Etrurian location of both cities may not be a coincidence. See further F. Santangelo, *Sulla, the Elites and the Empire: a study of Roman policies in Italy and the Greek East* (Leiden, 2007), 172-8.

<sup>35</sup> A. Thein, 'Sulla's Veteran Settlement Policy', in F. Daubner, F. (ed.), *Militärsiedlungen und Territorialherrschaft in der Antike* (Berlin, 2011), 79-99.

<sup>36</sup> Plut. *Sull.* 34.1

<sup>37</sup> Plut. *Sull.* 34.2

had demonstrated the new regime's military capacity.<sup>38</sup> At Rome, Sulla's unique status was made visible during his dictatorship in the twenty-four lictors who accompanied him. He altered religious practice through the addition to the annual cycle of festivals of *ludi Victoriae*, which commemorated the battle at the Colline Gate and were first held in 81; and, probably also in this year, he redrew the city's boundaries by extending the *pomoerium* for the first time since the regal period.<sup>39</sup> Rome was now, temporally and spatially, a Sullan city.

The Senate, too, became Sullan. Few if any surviving senators can have been known opponents of Sulla, and many had welcomed his return with enthusiasm; Sulla's relentless assertion of his power will surely have deterred any waverers from expressing even modest hesitation about the changes which were taking place. In addition, surviving senators were soon joined by a large number of new senators, in whose appointment support for Sulla was the major criterion. The act of appointment itself recalled the quinquennial censorial *lectio*, though there were important differences in the *lectio* of 82 or 81: Sulla did not hold the office of censor, he appointed a much larger number of new senators than the censors tended to, and

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<sup>38</sup> These were the first triumphs since Vatia had celebrated a praetorian triumph in October 88; and not since 167 had three triumphs been celebrated in a single calendar year (T. Itgenshorst, *Tota illa pompa: der Triumph in der römischen Republik* [Göttingen, 2005], 268-9). The impression created would be even more powerful if in fact there were four triumphs in 81; but the date of Pompeius' first triumph is uncertain (E. Badian, 'The date of Pompey's first triumph', *Hermes* 83 [1955], 107-118; R. Seager, *Pompey the Great* (London, 2002<sup>2</sup>), 29). It may have taken place on March 12<sup>th</sup> 81; but that demands a very tight timetable for his campaigning in Sicily and Africa, and March 12<sup>th</sup> 80 is more probable.

<sup>39</sup> *Sen. Brev. Vit.* 13; see F. Hinard, *Sullana varia* (Paris, 2008), 62-70.

many of his appointees did not meet the usual criteria for senatorial membership.<sup>40</sup> Appian gives the number of appointees as ‘around three hundred’ (*B Civ.* 1.100) and these appear to have been drawn from two distinct categories.<sup>41</sup> One was those men who would have expected to be enrolled in the Senate at the next *lectio*, because they had held a qualifying office since the census in 86. It seems that Sulla did include this category (excluding of course those of its members who had fought against him in the civil war which preceded his dictatorship), together with that of those who had held the quaestorship since 86.<sup>42</sup> To this

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<sup>40</sup> There was a precedent for co-optation by a dictator in the actions of Fabius Buteo in 216, who replenished a dangerously diminished Senate after the battle of Cannae (*Liv.* 23.22-3), though there is no indication that Sulla was aware of the parallel. Buteo’s appointment was itself peculiar, since another dictator (Iunius Pera) was already in office, and no *magister equitum* was appointed for Buteo. Livy’s account includes a splendid record of Buteo’s speech criticizing most aspects of his appointment. Buteo’s new senators consisted of those who had held curule office or the position of plebeian aedile, tribune of the plebs, or quaestor since the census of 220 and those who displayed enemy spoils in their home or had won the *corona ciuica*. See further Ryan (n. 12), 109-10.

<sup>41</sup> Santangelo (n. 17) provides a full survey of the evidence.

<sup>42</sup> Santangelo (n. 17), 16 lists those in this category, with ten secure identifications. Before Sulla the censors appears to have regularly recruited aediles, and some quaestors may also have been included, depending on vacancies, which naturally varied between censuses; tribunes of the plebs were always included after the passage of the *lex Atinia*, which is plausibly dated to the second half of the second century (R.F. Vishnia, ‘Lex Atinia de tribunis plebis in senatum legendis’, *MH* 46 [1989], 163-76). There is no attested example among Sulla’s appointees of someone who had held the tribunate of the plebs and no other pre-

extent, his *lectio* followed traditional practice. But ex-office holders, even including ex-quaestors, could have provided only a fraction of the number which Sulla had decided to recruit, particularly given that some in this category had been killed during the fighting and others were ineligible because they were Sulla's enemies.<sup>43</sup> Consequently, we can reasonably infer – although no individual in this category can be identified with complete confidence – that the remaining Sullan appointees had not held elected office at Rome. The epitome of Livy says that Sulla filled the Senate *ex equestri ordine* (*Per* 89); technically, new senators were always former equestrians, but this passage may imply that some at least came from non-senatorial families.<sup>44</sup> In this connection, there is a considerable number (forty-three) of

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Sullan qualifying office. Sulla's inclusion of ex-quaestors sits neatly alongside the establishment of the quaestorship as the criterion for entry to the Senate from 81 onwards.

<sup>43</sup> Appian's figure is suspiciously round and may arise from a belief that Sulla doubled the size of the Senate, though there is no good evidence that that method underpinned either the co-option in 81 (since the Senate was almost certainly much smaller than 300 at that point) or the structural shift through the expansion of the quaestorship: see below. Nonetheless, Appian is credible in his presentation of a very large influx. Since we do not know the precise number of quaestors before Sulla, the number of appointees under this criterion in the years 86-82 was somewhere between forty or sixty; given inevitable attrition, they may have formed at little as ten percent of the new appointments. (Sulla might logically also have included men who had held the quaestorship prior to the census of 86 and no further office; they, in accordance with pre-Sullan norms, would not necessarily have become senators at that census. There is no attested example of this category, but since its members were by definition obscure the possibility remains.)

<sup>44</sup> Sall. *Cat.* 37 has Sulla's new senators created *ex gregariis militibus*: this may reflect anti-Sullan sentiment, but does suggest that the new senators came from backgrounds which had

individuals who are attested in the Senate after 80 but are not known to have held a magistracy.<sup>45</sup> This group of new senators who had not held elected office were, we can reasonably assume, fervent supporters of Sulla, and very probably beneficiaries of the proscriptions; the process of appointment was an opportunity for Sulla to reward his adherents from the equestrian class with senatorial status. But it is impossible to reach any very satisfactory conclusions about the identity of the new senators beyond the characteristics of Sullan and equestrian, and the most recent prosopographical survey describes its results as ‘disappointing’.<sup>46</sup>

This *lectio* made the Senate larger than it had ever been, with about 450 members, some two-thirds of whom were new. Thereafter, there was a change from appointment through a *lectio* to membership following automatically from election to the quaestorship. Since the number

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not previously produced such. Cf *Hist.* 1.55.21M, with its reference to the new senator Fufidius, *ancilla turpis, honorum omnium dehonestamentum*. See further C. Nicolet, *L’Ordre Equestre à l’époque républicaine (312 – 43 av. J.C)* (Paris, 1974), 573-91; P.Spann, ‘C. L., or M. Cotta and “unspeakable” Fufidius: a note on Sulla’s *res publica restituta*’, *CJ* 82 (1987), 306-9. On the entry of men from non-senatorial families into the Senate more generally during the Republic, see K. Hopkins and G. Burton, *Death and Renewal: sociological studies in Roman history, vol. 2* (Cambridge, 1983), 31-119.

<sup>45</sup> Santangelo (n. 17), 18-19. It cannot however be assumed that all in this category were Sullan appointments, or that they had not in fact held office, since information about the holders of junior positions is so patchy.

<sup>46</sup> Santangelo (n. 17), 20. In particular, there is no sign that Sulla took this opportunity systematically to integrate the newly enfranchised Italian *domi nobiles* into the Roman governing class.

of quaestors had risen to twenty, the Senate's larger size would be maintained through the accession of twenty new senators each year.<sup>47</sup> The actual size of the Senate after Sulla as a result of the increase in the number of quaestors to twenty cannot be calculated in the absence of actuarial tables and membership data; in addition, the Sullan system did not quite have time to settle into a stable state.<sup>48</sup> For an annual recruitment of twenty individuals aged thirty to produce an overall size of six hundred, an average male life expectancy, at the age of thirty, of sixty years is required. This figure is higher than most modern estimates of probable Roman population structure.<sup>49</sup> It also contrasts with the imperial Senate: this body also recruited twenty quaestors a year and maintained a size of six hundred, but the minimum age for entry was twenty-five. A reasonable conclusion is that the size of the post-Sullan Senate rose gradually from a total of around 450, immediately after Sulla's co-options, towards a figure between five and six hundred.<sup>50</sup> The size of the new Senate was soon noticeable in built form, since Sulla enlarged the existing Senate House.<sup>51</sup>

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<sup>47</sup> Tac. *Ann.* 11.22 (number of quaestors); App. *B Civ.* 1.100 (order of office-holding). It is unclear whether ex-quaestors were now automatically members of the Senate, or belonged to a category of those who were not senators, would be enrolled as senators in the next *lectio*, and in the meantime had the right to speak in the Senate (see Lintott [n. 6], 68-72).

<sup>48</sup> If we accept 49 B.C. as its end, it lasted for thirty-two years; that is, it ended before the Senate – given life membership – could be expected to consist only of men who had become senators after Sulla's changes. Val. Max. 8.13.4 and Plin. *NH* 7.157 imply that there were eight counter-examples.

<sup>49</sup> See the discussion in W. Scheidel, 'Emperors, aristocrats, and the grim reaper', *CQ* 49 (1999), 254-281.

<sup>50</sup> The largest known attendance at a post-Sullan meeting of the Senate is 417 in 57 B.C. A further complication arises from the tribunate of the plebs. Sulla's restrictions on the tribunate

The Senate as Sulla recreated it was not the body it had been prior to the Social War. That Senate had been composed of the *res publica*'s greatest men, chosen by the censors whose decisions mediated the popular will, as demonstrated in elections for higher office, through their judgement of individual virtue. Sulla's Senate contained his adherents, men identified for their personal loyalty during civil war. The composition of his Senate, combined with the exclusion of his enemies' descendents from public office, ensured that the consequences of civil war would continue to be embedded in the *res publica* for decades.<sup>52</sup> Decisions about its membership thereafter were handed directly to the people, whose capacity to choose was nonetheless limited, insofar as senatorial membership now depended on the relatively indiscriminating quaestorial elections.<sup>53</sup> The effects of this strongly Sullan membership were

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may well have included their exclusion from senate membership, but repeal of the *lex Atinia* is not actually attested. For the years 81-75 this uncertainty translates directly into uncertainty about the size of the Senate, if some of the 70 tribunes elected during these years had not already held the quaestorship. After the passage of the *lex Aurelia* in 75, the tribunate of the plebs was reintegrated into the career plans of plebeian senators; thereafter, it seems reasonable to assume that tribunes tended to be ex-quaestors, and so tribunician membership of the Senate (implied fairly securely post-70 in the context of the lifting of all of Sulla's restrictions) would have little or no impact on its overall size.

<sup>51</sup> Cic. *Fin.* 5.2; cf. Flower (n. 5), 121 n. 11.

<sup>52</sup> Ryan (n. 12), 288 n. 265 suggests that Sulla's *lectio* contained a high proportion of younger men.

<sup>53</sup> This point is a matter of degree, not kind; since the *lex Atinia*, tribunician status brought with it membership of the Senate. But it would be interesting to know how many candidates for the quaestorship in excess of twenty there now tended to be. No failures to be elected

compounded by the increase in size. Hawthorn neatly summarised the issue: ‘There is almost nothing you can do to an exclusive and aristocratic body which is worse than flooding it with new members’.<sup>54</sup> The survivors of the pre-Sullan Senate found themselves outnumbered, perhaps by as much as two to one, by new members whose qualifications for being chosen included their loyalty and commitment to Sulla and his regime and whose prior experience of participation in the *res publica* was in many cases limited or even non-existent.<sup>55</sup> The experience of the new senators as senators was also very different. Sulla’s nominees to the Senate were not all, as we have seen, former office holders; and there does not seem to have been any obligation on them to stand for the quaestorship subsequent to their joining the Senate.<sup>56</sup> There was thus, from 81 onwards, a group of senators, initially around 250 in number and gradually declining thereafter as a result of natural wastage, who had never held an elected office. The role of this group was, in all probability, to serve on juries. That was a consequence of Sulla’s decision to entrust the juries in his new courts to senators; and although we have little evidence for the way in which other senatorial tasks were allocated, it

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quaestor are known after 80, and only one before (Cic. *Planc.* 52); see further F. Pina Polo, ‘*Veteres candidati*: losers in the elections in republican Rome’, in F. Marco Simón et al. (edd.), *Vae Victis: perdedores en el mundo antiguo* (Barcelona, 2012), 63-82.

<sup>54</sup> R. Hawthorn, ‘The Senate after Sulla’, *G&R* 9 (1962), 53-60, at 55.

<sup>55</sup> Some of Sulla’s new senators had presumably been equestrian jurors in the decade before the Social War. On Sulla’s new senators as a group see J. Paterson, ‘Politics in the Late Republic’, in T.P. Wiseman (ed.), *Roman Political Life 90 BC-AD 69* (Exeter, 1985), 21-44, at 23-27; Flower (n. 5), 122.

<sup>56</sup> There was unlikely to be any prohibition, either. But it would have taken over a decade for all of Sulla’s non-quaestorial appointees to hold the office, and that would have precluded anyone else from starting a career in public life.

seems unlikely that they would have been handed over to men who had no prior experience of administering the *res publica*.<sup>57</sup> Ryan's hypothesis that it is this group of men who were called *pedarii* is very attractive.<sup>58</sup> The name suggests a degree of scorn from their office-holding senatorial peers. There was a tension between the reality of an enlarged Senate, divorced from its traditional relationship with the Roman people through office-holding, and the presentation of Sulla's victory as that of the *nobilitas*.<sup>59</sup> This tension may have contributed significantly to the extraordinary *lectio* conducted by the censors elected in 70 B.C., which expelled an unprecedented 64 senators, and apart from one of the consuls of 71, Sura, no senator who had held *imperium* is attested among those expelled. If the censors of 70 were defining, however informally, unworthiness to belong to the Senate in terms that targeted the surviving Sullan appointees, then the general message of renewal and reform to which their *lectio* contributed would be supplemented by a specific move away from the Sullan Senate as constituted during the previous decade.<sup>60</sup>

Sulla's appointments to the Senate increased its size very considerably and were, it appears, embedded informally in a distinction between those who had entered in this manner and those

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<sup>57</sup> On the experience of senators in the 70s, see further C. Steel, 'The Roman Senate and the post-Sullan *res publica*', forthcoming in *Historia* 63.3 (2014).

<sup>58</sup> Ryan (n. 12), 85-87.

<sup>59</sup> The reasons for the continuing success of the *nobiles* in elections through the seventies deserve further attention; one question is the extent to which preference for a candidate with consular ancestry was perceived by voters as a gesture for or against the *res publica* as Sulla had reconstituted it. On the identification between Sulla's régime and the *nobiles*, see Cic. *Rosc. Am.* 16, where Sulla's victory is described as *uictoria nobilitatis*.

<sup>60</sup> See further Steel (n. 55).

who had served as magistrates. The new senatorial class inevitably drew on a wider group of families than those who had filled the pre-Social War Senate; but the existing elite was not replaced, except insofar as individual families had chosen the wrong side in the civil war, and its pre-eminence was confirmed initially by Sulla's support in consular elections and subsequently, for whatever reason, by the electorate. Sulla's changes to the Senate were not driven by a wish for, and did not result in, a change in the composition of the ruling elite.

Their purpose and explanation lie elsewhere in Sulla's programme of change. Flower has more recently described Sulla's republic as 'a political constitution based on laws and their regular enforcement by a system of courts'.<sup>61</sup> This interpretation offers an attractive framework for understanding what Sulla attempted to achieve, and can be connected with the changes to senatorial procedure which reduced scope for debate as well as to the creation of a group of senators whose role, as jurors, was 'the task of policing Roman society, and especially the behaviour of its most powerful senatorial elites'.<sup>62</sup> Moreover, it gains further support from a consideration of the Senate's behaviour in the recent past, when the Senate had taken a line of action distinct from that of the consuls, with destructive consequences.<sup>63</sup> The shift in power from the Senate to *imperium*-holding magistrates that resulted from

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<sup>61</sup> Flower (n. 5), 129.

<sup>62</sup> Flower (n. 5), 128. It is nonetheless important to note that Sulla did not create a written constitution for Rome: the method he employed – legislation on discrete issues, often modifying earlier statutes – was the same as that used by earlier reformers, and subject to the same prospect of subsequent modification or repeal.

<sup>63</sup> In 91 the consul Philippus fell out disastrously with the Senate, claiming that he needed a different *consilium* (Cic. *De or.* 3.2); and in 87 the Senate stripped Cinna of his consulship, citing the authority of the Sibylline books (see Morstein-Marx (n. 7), 265-6)

Sulla's changes can be seen as a response to these moments of conflict which, as elsewhere in his programme, sought to establish unipolar rather than multipolar locations of power. These separate spheres were now defined by law.<sup>64</sup>

Such a reading is radically different from the standard interpretation of Sulla's *res publica* as one in which the Senate was dominant. But even so it arguably does not quite go far enough in explaining either Sulla's purposes, insofar as those can be divined, or the results which actually occurred. The Senate became – and perhaps Sulla conceptualised this as a return to – a *consilium* for magistrates, whose function was to offer advice when asked for it by magistrates. As the body which contained the *res publica*'s most distinguished citizens, it also was the right organ from which to draw the jurors in legal cases which affected the *res publica*. If that were the case, it would explain why Sulla was willing to recruit so heavily into his Senate; it did not need the authority to act independently, and he had no cause to be concerned about the outraged feelings of its existing members.

Finally, this interpretation of the Sullan Senate helps to explain why, in practice, the Sullan *res publica* did not last, either in its initial form beyond 70, or more fundamentally beyond the outbreak of civil war in 49. Many other factors, above all the response of the Roman people to their loss of power and prestige, are involved. But the Senate was a major design flaw in the overall framework of the *res publica* as constituted by Sulla. The Senate was composed of two groups with interchangeable membership and conflicting ambitions: those

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<sup>64</sup> This framework may also explain the presence in Sulla's legislation on a law concerning *maiestas* – a charge whose initial legal definition was the work of the *popularis* tribune Saturninus. *Imperium*-holding magistrates were at the heart of his *res publica* and were to operate within a defined system of rules.

who policed the actions of the *res publica*'s agents through the courts, and those who acted for the *res publica* as magistrates.<sup>65</sup> Such a system of oversight could only work effectively if the two groups remained separate, but there was continual traffic between the two groups, as men stood for office, were elected as magistrates and then returned to the status of private individuals. If Sulla had hoped that his appointees would act as a bulwark for his changes he was to be disappointed; and was himself largely responsible for its failure, because he did not provide a mechanism for their renewal and because he also supported the re-emergence of an exclusive nobility which largely monopolized access to *imperium*. This group, in turn, had only a few years to wait before they felt confident in challenging Sulla's *res publica*, and its senatorial supporters, and restoring, albeit in an unstable form, a framework which permitted the traditional exchange of favours between aristocrats and the Roman people.

The view that Sulla strengthened the Senate can only be maintained if one believes that larger bodies are more effective than smaller ones. That is clearly not the case. At somewhere between 500 and 600 members, the post-Sullan Senate was not a place where productive discussion took place. It existed to confirm the distinction of those whom the Roman people had elected to office and to demonstrate that the *res publica*'s best citizens advised its magistrates on the conduct of public affairs. It had a useful subsidiary role of avoiding judicial conflict by supplying jurors. But its prominence after Sulla is an illusion, created by the suppression of the people. Sulla's vision had no need of a 'strong Senate': power and authority belonged to the magistrates.

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<sup>65</sup> This conflict closely mirrored the division between senators with ambitions towards high office and those without.

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