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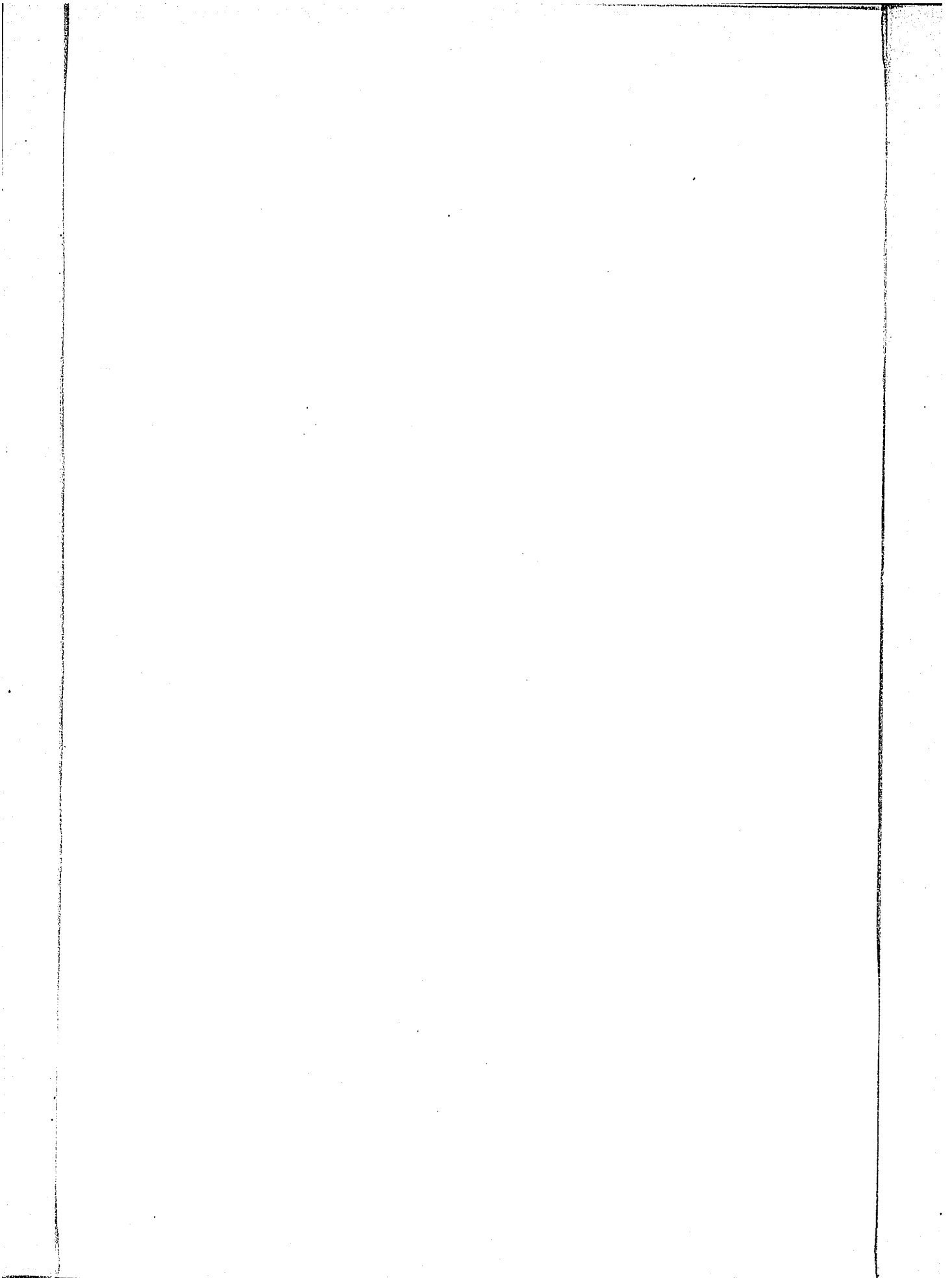
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The Politics of Saturninus

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Chronology of the End of the Second Century B.C.¹

- 133- Tiberius Gracchus, tribune, proposes a land law. Opposed by tribune Octavius who is deposed; land law passed and land-commission established. Pergamum bequeathed to Rome by Attalus III. Gracchus murdered.
- 123- First tribunate of Gaius Gracchus. Corn dole established; agrarian bill; law barring deposed magistrates from further office; right of appeal in capital cases re-affirmed; law on consular provinces; colonies proposed in Italy.
- 122- Second tribunate of Gaius Gracchus. Rubrian law to colonize Carthage (Gracchus commissioner); judiciary law favouring equites; proposes citizenship for Latins, Latin rights for Italians. Opposition of M. Livius Drusus. Gracchus fails to win re-election for 121.
- 121- Senate passes the 'last decree'. Civil disorder in which Gaius Gracchus is killed; his followers executed by Opimius.
- 120- Trial and acquittal of Opimius.
- 114- Scordisci defeat C. Cato in Macedonia.
- 113- Cn. Carbo defeated at Noreia by Cimbri.
- 112- Outbreak of war against Jugurtha
- 110- Mamilian inquiry. Renewal of war in Africa.
- 107- Marius, elected consul, enlists volunteers and *proletarii*; succeeds Metellus and captures Capsa. Tigerini defeat Cassius in Gaul.
- 106- Caepio's *lex iudicaria*. Marius advances into western Numidia. Bocchus of Mauretania surrenders Jugurtha to Sulla.
- 105- Cimbri and Teutones destroy armies of Caepio and Mallius at Arausio.
- 104- Judiciary law of Servilius Glaucia (101?). Marius, consul II, re-organizes Roman army. Second Sicilian Slave War. (Saturninus quaestor at Ostia)
- 103- Saturninus tribune: corn law, *lex de maiestate*, land allotments for Marius' veterans. Marius, consul III, trains army in Gaul.
- 102- Marius, consul IV, defeats Teutones near Aquae Sextiae. M. Antonius sent to Cilicia to deal with pirates. (Metellus attempts expulsion of Saturninus and Glaucia from the senate)
- 101- Saturninus insults Mithridatic embassy, wins popular support, murder of Nunnius. Marius, consul V, and Catulus defeat Cimbri near Vercellae.
- 100- Marius, consul VI. Legislation of Saturninus; veteran colonies in Sicily, Achaea and Macedon; Gallic land law with oath; (piracy law). Murder of Memmius. Marius breaks with Saturninus and Glaucia; rioting in Rome; *senatus consultum ultimum*; Marius restores order. Death of Saturninus and Glaucia. Birth of Julius Caesar. Second Sicilian Slave War ended. Colony settled at Eporodia in Gallia Cisalpina.
- 99- Reaction in favour of senate.

¹ This table has been adapted from Scullard, *From the Gracchi to Nero*, pp. x-xii.

The history of the Roman republic has given rise to a varied and colourful source tradition. The tradition has in turn produced a catalogue of heroes and villains who dominated the events of Rome's incredible rise to wealth and empire. This ancient interpretation has in fact been so dominant that for modern historians of antiquity the study of Rome has centred largely on personalities, rather than events. Whether this is beneficial to our discipline or not remains a matter of opinion. What is of paramount importance, however, is to recognize this theme in our primary sources and to understand that for the ancients, history was very much a subjective discipline. The picture of an ancient historian, lacking the benefits of modern historical methodology, is by and large one of a man on a mission, chronicling past events with fervor, but always with his mind and opinions already shaped by his own situation and the events of his own time. Polybius glorified the Roman way because his own people had fallen divided. Sallust's moralizing was the result of the rampant corruption he saw around him. Much of Cicero's history has come down to us in speeches, most of them written for the courts, where fact gave way to rhetorical technique as a matter of course. Livy and Tacitus praised the republic because they were concerned about the excesses of monarchy. The inevitable result of all this is that the sources give us a very black and white interpretation of history; there are no shades of gray. Heroes are lauded, their achievements overemphasized, their shortcomings glossed over. Villains are condemned to the dustbins of history, their wickedness intensified, their claims to merit unheeded.

No study of the Republic is likely to reveal a more contemptible character than Lucius Appuleius Saturninus. Perhaps this is somewhat understandable. After all, much of his legislation was accompanied by violence, violence which oftentimes he initiated, but which was occasionally employed by his enemies. He is held responsible for not one, but two murders of electoral rivals. His tribunes were associated with the enigmatic Gaius Marius, whose final years saw Rome plunged into her first civil war and who exacted grim vengeance on his enemies. Finally, Saturninus died with his friends and followers attempting armed sedition and the overthrow of the state. The case against him in the ancient tradition is closed. Modern scholarship has been more or less as negative. Short of an understanding that Saturninus was a popular tribune in the Gracchan style, and perhaps even an 'innovator', modern scholarship has advanced his cause little. He is the bastard son of Gaius Gracchus, never treated with the same awe or respect, and ultimately viewed as a pale imitation of the original. Even Cicero could, when pressed, say something nice about Gaius Gracchus.¹ Why has Saturninus become such an object of scorn?

Perhaps the answer lies in Saturninus' untimely demise, for little of his legislation survived. Without tangible results, historians have no record of the success or failure of his laws. Judgment of his political agenda is, therefore, left to the realm of speculation: what might have been? With little concrete evidence upon which to form our own conclusions we are driven into a reliance on the literary tradition of Saturninus' life which, rather than documenting the effect of his career on the late republic, has served only to debase his memory. But his legacy is enormous, as I hope to demonstrate. Though very much a product of his own time, Saturninus was the first

¹ Cic., *de off.* 3.47; *Brut.* 109- by implication!

to recognize the importance of combining army, commander, and veteran settlements in the political sphere. In many ways it was his two tribunates that forged the first link in the chain that would culminate in Caesar's overthrow of the republic. Perhaps he was also the first to fully understand that the support of soldiers was in the final analysis the only support that truly mattered. That he never actually held a military command has caused many to overlook his significance in this area and turn to Marius. But as Sherwin-White so correctly pointed out, the analogy of Marius appearing as the prototype of later 'political Imperators' is a misleading one.² I think that if Marius' career demonstrates anything, at least during his tenure as Rome's first citizen, it is that he still believed in the republic and its institutions. That military dictatorship was within his grasp would not have occurred to him. Saturninus was not weighed down by such beliefs. He recognized first and foremost that Rome had long since outgrown her institutions, especially the senate - the true bastion of the republican system - and he sought to initiate reform and change.

* * *

Saturninus lived during a crucial period in republican history. The legacy of the reforms and violent deaths of the Gracchi was still within living memory for many contemporaries. The victory of conservative reaction had polarized the state and, while the decade after the death of Gaius saw the establishment exploit its position, an uneasy calm prevailed. The first sign that the aristocracy was beginning to lose its grip came in 113 when the army of the consul Cn. Papirius Carbo was routed by the Cimbri causing fear in Rome of another invasion of Italy from the north.³ If this was not enough to disgrace the establishment these years also witnessed the government's inability to deal with Jugurtha which culminated in the agitations of the tribune C. Memmius and the outbreak of war in Africa in 111.⁴ The aristocracy was further discredited by the *quaestio Mamilia* of 109, established to investigate allegations of leading senators receiving bribes from Jugurtha,⁵ so that by 107 the climate was ripe for a new man, C. Marius, to reach the consulship. Marius was the embodiment of the claims of merit over birth,⁶ and his success in Africa saw him become the figurehead of the alliance of equestrian and popular interests which was again coming together to challenge the aristocracy. In 106 the conservatives were able, briefly, to strike back with the election to the consulship of the staunch aristocrat Q. Servilius Caepio. Before leaving for his province to counter the Cimbri, Caepio managed to secure the passage of a law returning senators to the juries of the *quaestio repetundarum*. But scandal followed Caepio after he left Rome when the sacred Tolosan treasure, which he had captured, disappeared on its way back to Rome.⁷ Worse was to come. In the following year Caepio, as proconsul, and the new consul Cn. Mallius, failed to co-ordinate their activities, with the result that the armies of both were destroyed by the invading tribes at Arausio, Rome's worst defeat since Cannae.

² Sherwin-White, *JRS*, p. 5.

³ Liv., *Per.* 63.

⁴ Sall., *BJ* 27.1-5; 30-34.

⁵ Sall., *BJ* 40. 1-2.

⁶ Sall., *BJ* 85.

⁷ Oros. 5.15.25.

By now the aristocracy was thoroughly discredited and the new man, Marius, was called upon to save Italy from invasion, leading to his unprecedented string of consulships (104-100), and the problem of the extended military commands that would ultimately overthrow the republic entered Roman politics for the first time. Marius, the humble citizen with equestrian sympathies, was to dominate Rome for almost a decade. Only the popular element was missing to press the advantage already gained against the aristocracy. Here the office of the tribunate was to play the leading role and the times produced the man, Lucius Appuleius Saturninus.

Our most devastating loss for any study of this period is the absence of Livy's continuous account. The source tradition is therefore incomplete. As a result historians have been unable to reconstruct an accurate picture of Saturninus' career. Inevitably, chronological and interpretive problems have emerged in a number of areas. At this stage a brief outline of events as they appear in MRR will suffice, and any chronological debates will be addressed at length during the course of my discussion. The year 104 is accepted by Broughton for Saturninus' quaestorship⁸, though Diodorus' account suggests an interval between it and his first tribunate in 103.⁹ To his first tribunate belong the bill to settle Marian veterans, the *lex frumentaria* and the *lex de maiestate*. The frumentary law has caused the greatest concern here and many have wanted to date it to 100, emphasizing Saturninus' need for popular support.¹⁰ Nevertheless 103 seems more likely, given his previous quaestorship and his *popularis* agenda. This does of course necessitate accepting that the *lex de maiestate* was passed beforehand, given the younger Caepio's trial in 95, but to do so presents no real difficulties. Other than this one distinction, the order of legislation in 103 is of little consequence. His second tribunate saw the piracy law, which I feel we can accept as a law of Saturninus', and his second agrarian scheme. Here the concept of a binding oath is a constant theme. Finally, there is the question of the date of his death in 100. I have accepted a date earlier in the year than 10 December, which is recorded in Appian, though precise dating remains impossible. Though none of these points is engraved in stone I think that at this stage we can accept them as the most accurate chronology of Saturninus' career possible with the evidence we have.

With the absence of Livy, the Latin tradition remains incomplete though the accounts of Orosius, Granius Licinianus, Julius Obsequens and Cassiodorus, have preserved at least some of his account. Of these Granius, who lived during the second century is the closest contemporary. Much of his work on Roman history is lost though it is clear from the fragments that he was familiar with both Livy and Sallust.¹¹ Obsequens, who lived in the fourth century, wrote a selective work based on a Livian epitome, though he was interested primarily in defending Rome's pagan past. His use of source material is, as a consequence, restricted to accounts of prodigies and portents, which he used to justify Rome's traditional religion and these can rarely be relied upon for sound history. Orosius was a follower of St. Augustine, who prompted him to write a history of the world from a Christian point of view. Being only seven books it is obviously compact and for republican history is also based on an epitome,

⁸ MRR 1.560.

⁹ Diod. 36.12.

¹⁰ See MRR 1.575,578 n.3. Broughton later amends his dating in 3.21.

¹¹ Cook, Adwell and Charlesworth, CAH 9.885.

though his account is the closest we come to Livy's actual history.¹² Finally Cassiodorus who lived in the sixth century wrote a very short summary of world history known as the *Chronica*.¹³ Clearly what remains of the Livian tradition is at best superficial due to the passage of time and the reliance of these men on epitomes of the original.

Our most important evidence comes from Cicero, the closest contemporary of Saturninus; Asconius, who wrote commentaries on Cicero's speeches in the first century; and Valerius Maximus. All other sources are lost. Valerius' work, published during the reign of Tiberius, lacks structure and a narrative thread and is more concerned with moral and philosophical issues than with history.¹⁴ Cicero never wrote a history of Rome, so we are restricted to his many speeches and dialogues, where much of our evidence comes from casual statements that he is at no great pains either to explain or justify. Important, however, is the speech in defence of Rabirius, charged with treason for his part in the murder of Saturninus. The *pro Rabirio*, however, falls far short of objective reporting and we must be wary of Cicero's motives in his portrait of Saturninus and his attitude towards tribunes in general.¹⁵

Finally there remains the *de viris illustribus* to round out the Latin tradition. We know of no author for this work but it has been associated with Aurelius Victor's *Liber de Caesaribus* of the mid fourth century.¹⁶ As its title implies the work is concerned with famous characters, in this case of the Republic, but only in fleeting detail, making it useful primarily as a means to confirm hints in other texts.

Ironically the mainstream of the Greek tradition may in fact derive from a Latin source. The memoirs of P. Rutilius Rufus (cos.105) were certainly used by Plutarch and may even have influenced Appian.¹⁷ Unfortunately this kind of association in any tradition can never be properly identified. We just do not know how much these later writers may have relied on Rufus, or how detailed his account was, though Plutarch found him useful enough.¹⁸ But again we must be wary because Saturninus is not himself the focal point for either author. For Plutarch, of course, Marius is the main concern and as a result most of Saturninus' early career is overlooked. When Saturninus does appear he is introduced as a 'dangerous agitator' and Marius is condemned for his tolerance of him. Appian, who reflects the influence of Sallust,¹⁹ is concerned primarily with civil unrest and so he was drawn to Saturninus' era because it produced sedition. Neither author is much interested in the political effects of his career, except perhaps the banishment of Metellus Numidicus, the honorable and unworthy victim of Saturninus' malice. A continuous account in Greek is lacking. Dio Cassius' work down to AD 229 survives only in fragments for Saturninus' era, though his twelfth century epitomer Zonaras preserves at least some of Dio's tradition.

¹² Hammond and Scullard, *OCD*, p. 744.

¹³ *OCD*, p. 211.

¹⁴ *OCD*, p. 1106

¹⁵ Cic., *de leg.* 3.10.23: *ego enim fateor in ista ipsa potestate inesse quiddam mali.*

¹⁶ *OCD*, p. 153.

¹⁷ Stockton, *Sources*, p. 101.

¹⁸ Plut., *Mar.* 28.

¹⁹ *CAH*, 9.886.

Diodorus Siculus is a closer contemporary, writing under Augustus, so his sources for the Roman chapters of his world history are likely to be more reliable, but again the relevant era survives only in fragments. One of his primary sources, Posidonius, is known to have dealt with Rome down to the Sullan age and to have entertained an intense dislike of Marius.²⁰ How this could have influenced later historians of the era one can only guess, but it is possible that Posidonius has contributed to the hostile tradition that surrounds Marius and Saturninus.

In the following pages I hope to address these and other concerns in an attempt to evaluate Saturninus' career, not his reputation. If at times my treatment seems overly sympathetic it is because I feel that history has not been fair to him. His career and his legacy have been overshadowed by Marius, the great man of the era, and while it may be true that Saturninus benefited from Marius' support, he was never just his political mouthpiece. Saturninus, it will be argued, had his own agenda, one which aimed primarily at limiting the influence of the senate and the aristocracy in Roman society. If he used the Gracchan precedent as a model it was because the model was there to be copied, but he adapted it to his own time and circumstances in the hope that he might succeed where they had failed.

The Frumentary Law

The historical tradition holds that in 439, during a particularly harsh famine, C. Servilius Ahala, Cincinnatus' *magister equitum*, saved the state when he killed the would be tyrant Spurius Maelius.²¹ Maelius' crime was that he distributed free corn to the poorer of Rome's citizens and became, understandably enough, a popular champion. That the senate went so far as to appoint a dictator shows how great the perceived threat was. Pandering to the masses was the exclusive preserve of the Classical Greek tyrant, and the Roman aristocracy hated tyrants. It is hardly surprising then that once accused of aspiring to tyranny Maelius was dealt with swiftly and decisively. Such was the stigma attached to any proposals to alleviate poverty with corn distributions, and in the late Republic *leges frumentariae* were looked upon as the tell-tale sign of the demagogue.

In 123 Gaius Gracchus passed a *lex Sempronia* which established a corn dole with a fixed price of six and one third asses per *modius*.²² Included in Gaius' measure was a provision to build granaries so that the state could stockpile cheap corn when it was available. The measure was passed despite predictable opposition in the senate and its success won for him the support necessary to continue with his programme.²³ Twenty years later Saturninus, no doubt inspired by Gracchus' career, followed his precedent as he embarked on his first tribunate in 103.

Saturninus first appears in the source tradition as quaestor at Ostia in 104, only to be replaced at his post by none other than the *princeps senatus*, M. Aemilius Scaurus. Ostensibly a rise in the price of corn prompted this action, and Saturninus

²⁰ *OCD*, p. 868.

²¹ Liv. 4.13.14 ff

²² Plut., *GG* 5.1; Vell. Pat. 2.6.3; App., *BC* 1.21.

²³ Cic., *de off.* 2.72; *Tusc. Disp.* 3.48.

may well have felt justifiably embittered at the senate's lack of confidence in him. A hostile tradition has suggested more sinister reasons, emphasizing Saturninus' licentious pursuits,²⁴ a claim that is difficult to prove, but certainly easy to comprehend. The circumstances of Saturninus' dismissal are unclear and warrant examination, particularly as they add to confusion over the date of his quaestorship. Diodorus records trouble in Sicily in 105,²⁵ the same year as Rome's defeat at Arausio, one of general crisis. Diodorus has also suggested a period of reform after Saturninus' dismissal in which he "corrected his former loose habits and adopted a sober manner of life."²⁶ But as to how long this period may have been we are given no clue. Such evidence is certainly not enough to fix Saturninus' quaestorship in 105.²⁷ Given the fact that the slave revolt in Sicily continued into 104 and may well have affected grain shipments to Rome would seem to make this year the more likely. Hoarding in Italy itself should not be ruled out either as a contributing factor, given the threat of another invasion from the north. To what lofty extremes these crises reached is never adequately explained, and Diodorus, who comments on Sicilian problems at 36.11, makes no reference to them at all when he chronicles Saturninus' dismissal.

The appointment of Scaurus to Ostia certainly hints at some kind of problem or scandal, but what? There is a possibility of explaining this move which has little to do with Saturninus' tenure there. Earlier in the year Scaurus had survived prosecution by the zealous tribune Domitius Ahenobarbus,²⁸ who had accused him of improper celebration of sacred rites.²⁹ Domitius wanted vengeance against Scaurus, who had refused to co-opt him into the college of pontiffs, a painful episode for the aged *princeps* to be sure, and Scaurus may well have seized the opportunity to leave Rome on a special commission. I will not venture so far as to suggest that a crisis at Ostia was contrived for the sole purpose of restoring Scaurus' reputation and ensuring that the nobility got credit for a stabilization of prices,³⁰ but Saturninus may have sensed such political machinations. In any case he returned to Rome to stand for the tribunate with the intention of avenging this slight.

It should hardly come as a shock then that, having won the tribunate for 103, Saturninus embarked on a popularis agenda, beginning with a *lex frumentaria*. Effectively Saturninus could achieve two purposes at once. Politically, a liberal corn dole would solidify popular support for the continuance of his agenda and embarrass the senate into the bargain, restoring his political reputation by demonstrating a definite ability to influence Rome's corn policy established his reputation as a capable politician. With a bill to provide for veteran colonies in the same year, may we also conjecture that Saturninus hoped to create a means for providing new colonists with a ready market as they established themselves? In any event the year 103 seems far more likely for the *lex Appuleia frumentaria*.

²⁴ Diod. 36.12. cf Cic., *pro Sest.* 17.39; *de Har. Resp.* 20.43.

²⁵ Diod. 36.11.

²⁶ Diod. 36.12.

²⁷ See *MRR* 3.21 which supports 104. Also Crawford, *RRC* 1.323-324 #317; Sumner, *Orators*, p. 119; Gruen, *RPCC*, p. 165 n.35, who believes that 105 cannot be ruled out.

²⁸ *MRR* 1.559.

²⁹ Val. Max. 6.5.5.

³⁰ Last, *CAH* 9, p. 165.

With the *lex Appuleia frumentaria* we face problems of chronology. Broughton attributes it to Saturninus' second tribunate, motivated by the demagogue's dire need for popular support as his actions became more radical and violent.³¹ The difficulty in dating Saturninus' law lies primarily in determining the quaestorship of the younger Caepio, who opposed Saturninus' measure and used force to prevent voting on the bill.³² A coinage issue of Caepio and his colleague Piso bearing the legend AD FRV EMV EX S.C. (for distributing corn by decree of the senate) around the turn of the century has also complicated matters. Did the senate go ahead with a large corn distribution after Saturninus' death? Mattingly uses the coin issue as evidence that the *lex frumentaria* came at the very end of Saturninus' second tribunate, only days before the final electoral riot that saw his death. He suggests that a *lex Octavia* replaced the Gracchan *lex Sempronia* in 99, reducing its scope, and was paid for by the coinage issue of Caepio and Piso as their quaestorships continued into that year.³³ Unfortunately, Mattingly's arguments depend on a very specific interpretation of dates in December of 100 and rely on the overlap of Saturninus' tribunician year and the beginnings of Caepio's quaestorship. Such a strict interpretation leaves little room for error, considering that the exact time and circumstances of the tribune's death remain a puzzle.³⁴ That another quaestor, C. Saufeius, died as an ally of Saturninus may explain why Caepio alone opposed the measure, as Mattingly suggests, but he seems far too anxious to add Piso as *quaestor suffectus* for 99, who then joined Caepio in minting coins *ex senatus consulto*, presumably to pay for the *lex Octavia*.³⁵ There are a number of problems with this approach, not the least of which is time constraints. As the consular elections for 99 drew near Saturninus would have become increasingly occupied with supporting the candidacy of his confederate Glaucia (pr. 100); it seems unlikely that he would have been able to sponsor new and controversial legislation. We have also to come to terms with the mob's hostility to Saturninus, unlikely in the extreme if he had so recently tried to legislate a corn dole. Quite simply, it seems that what we do know of the last days of Saturninus is not compatible with the interpretation Mattingly proposes.³⁶

The date of the *lex Octavia* also poses problems with chronology, for a date in 99 can by no means be taken for granted. Our only references to it come from Cicero, who establishes no definite context by which we can place it with any accuracy.³⁷ Such a concerted effort by the establishment, first to silence Saturninus, and then to forge ahead with a grain law of its own, so soon after the chaos surrounding Saturninus' death, to the extent of authorizing a special coin issue, seems unlikely, and would surely warrant some comment from our sources. Add to this Sydenham's suggestion that the coins minted by Caepio and Piso were commemorative and appeared around

³¹ *MRR* 1.578 n.3.

³² [Cic.] *ad Heren.* 1.12.21.

³³ Mattingly, *CR*, pp. 267-70.

³⁴ This problem will be addressed below, pp. 30f.

³⁵ As Saufeius would have entered office Dec. 5, Mattingly suggests Dec. 7, 8 or 9 for Caepio's opposition to Saturninus. His argument continues that in trying to force through the measure Saturninus lost control of the urban mob, who then started the riot that killed Memmius.

³⁶ See arguments of Hands, *CR*, pp. 12-13.

³⁷ Cic., *Brut.* 222; *de Off.* 2.21.72. Dates range from 120 to the decade of the 80s.

94, and we are left no better off.³⁸ To date Saturninus' *lex frumentaria* to 100 simply poses too many problems, not least of which is the tribune's mind and motive.³⁹

Our only source for the law has provided scholars with a useful controversy over the price Saturninus fixed; "Cum L. Saturninus legem frumentariam de semissibus et trientibus laturus esset..."⁴⁰ Last proposes amending the text to *senis* and so establish the price at six and a third asses rather than five sixths of an as per modius.⁴¹ Thus the Gracchan law was revived. I do not intend to take sides here (either seems as likely as the other), but the lower price has been suggested as possible evidence supporting a later date in 100, when Saturninus was in desperate need of support.⁴² Indeed, this is the only argument that allows for the unamended reading, and the possibility that Saturninus may have fixed the lower price in 103 is never really considered. Caepio's violent opposition could well have been provoked because the law called for such an absurdly low price and not because Saturninus wanted to revive Gracchan policy at all. Perhaps conditions in Rome demanded such a level of social reform; our sources are hardly likely to tell us how many Romans were starving in the streets of the metropolis. Saturninus may well have proposed the *lex frumentaria* with every intention of embarrassing the senators who had so readily dismissed him from Ostia and to make the point that the state could indeed afford such extravagances. Nevertheless, the question should remain an open one.

It appears that the senate first attempted to stop Saturninus by decreeing that in bringing the proposal before the people *adversus rem publicam videri eum facere*.⁴³ Needless to say, Saturninus ignored this warning and a veto by a nameless colleague, and went ahead with voting until Caepio interfered and the assembly was broken up. The fate of the bill remains uncertain, but early in his career Saturninus experienced the vindictiveness of the senate towards anyone challenging its authority. Violence became a trademark of Saturninus' success; he learned from the masters of its application. Caepio was later charged under the *lex Appuleia de maiestate*, but not until 94, which is odd, for one would think that Saturninus would have tried to bring Caepio to account himself. Certainly the younger Caepio's behaviour added weight to the attack by Norbanus on his father later in the year,⁴⁴ but why was his son overlooked? That the younger Caepio escaped Saturninus' vengeance is at first difficult to understand, and lends weight to arguments placing the *lex frumentaria* in 100 I would like to propose the following solution to this discrepancy. Facing just such a charge Caepio may have left Rome. The following year saw the election of Q. Lutatius Catulus to the consulship. Badian attributes Catulus' sudden success after three *repulsae* to his connections with the Julii Caesares.⁴⁵ Marius had married a Julia and so offered Catulus his support. But Catulus was also the brother-in-law of the elder Caepio and thus linked to the latter's son. It is conceivable that the younger Caepio joined Catulus

³⁸ Sydenham, *NC*, pp. 164-178.

³⁹ See Hands, *CR*, p. 13. "the numismatists do not seem to speak with a single voice."

⁴⁰ [Cic.] *ad Herenn.* 1.12.21.

⁴¹ Last, *CAH* 9, p. 165.

⁴² *MRR* 1.578 n.3.

⁴³ [Cic.] *ad Herenn.* 1.12.21.

⁴⁴ See Badian, *Hist.* 6, p. 319.

⁴⁵ Badian, *Hist.* 6, p. 323.

as legate and left Rome to fight with the consul in the north. Such an appointment would not be uncommon and that Catulus may have kept alive the connections to his optimate past is evidenced by his disgraceful attitude towards Marius when he returned to Rome.⁴⁶

Caepio's use of violence against Saturninus' bill again points to the brutal harshness with which such programmes were opposed by the nobility. It could thus be viewed as a bold step for any tribune to make. In ignoring a tribunician veto Saturninus moved from boldness to downright temerity. Until Tiberius Gracchus had deposed his colleague Octavius, the veto power, which was slowly evolving into a tool of the aristocracy, had never really been successfully challenged. But Gracchus had side-stepped the issue, employing a political tactic which did maintain at least the appearance of constitutional legality. We have no record of Saturninus' doing the same. His support was obviously widespread and he must have felt his position strong enough to get away with ignoring what was in essence the *raison d'être* of the tribunate. What was so important about the *lex frumentaria* that its sponsor would risk political suicide to see it pass?

The first answer is, of course, obvious. The law established his reputation and won him the support of a substantial part of the citizenry. But there were other implications. To begin, we cannot rule out Saturninus' desire for social justice. Rome's corn supply was never adequately guaranteed, prices fluctuated widely, and shortages were a common occurrence. Gaius Gracchus had attempted to deal with the problem, but we have no reason to suppose that matters improved much after his death. Gracchus' plan had also been based, not so much on providing cheap food, but rather on establishing a fixed price that would not fluctuate.⁴⁷ Why should we not attach the same ideal to Saturninus' scheme? Whatever price we agree on for the *lex frumentaria*, its significance lay in a static price, so Roman citizens would never be at the mercy of an unpredictable corn supply.

According to Plutarch, Gaius had successfully overcome supply problems during his time as quaestor on Sardinia, a feat made even more remarkable because of a lack of co-operation in the senate.⁴⁸ This first-hand experience must have contributed in no small way to his desire to reform Rome's corn supply. His *lex frumentaria*, by establishing a fixed price and providing for the construction of storage facilities, required that the state oversee and regulate its system of supply on a permanent basis, rather than simply react to crisis situations. Garnsey and Rathbone have pointed out that it is only from Gaius' tribunate that Rome had any system of supply and distribution.⁴⁹ By invoking Gaius' precedent, Saturninus was himself attempting to instill in the state a sense of responsibility. He too had been quaestor, and had seen the price of corn sky-rocket during his tenure. Perhaps Saturninus too realized the need for some kind of formal system of acquisition as Rome's urban population grew.

⁴⁶ Plut., *Mar.* 27.

⁴⁷ See arguments of Stockton, *The Gracchi*, p. 126.

⁴⁸ Plut., *CG* 1-2.

⁴⁹ Garnsey and Rathbone, *JRS*, p. 24.

One would think that such arguments would have been as logical two thousand years ago as they are today. Why then did corn laws provoke such resistance? The answer I believe lies in the Roman system of patronage, through which the great noble families exerted all their power and influence. Certainly a succession of electoral reforms had slowly limited the nobility's ability to intimidate their clients on voting day, but for the rest of the year many clients remained dependent on their patron's generosity. It was this dependence that both Gracchus and Saturninus wanted to destroy.⁵⁰ Saturninus in particular would devote much of his career to attacking the position of the senate in the state. If patronage of this kind could be ended, or at least weakened, much of the effective power of the aristocratic faction would go with it. Undoubtedly this is why laws of this nature met such opposition. Also we must consider the possibility that individual senators were profiting from such wide fluctuations, having interests in the ancient equivalent of commodities futures. Thoroughly aware of this, Saturninus persisted where others might have given up. But the stakes were too high. Weakening the hold of the aristocracy on the populace was the first step towards the attainment of any serious reformist agenda.

The Equestrian Constituency

It is difficult to assess just when, or with what event, the slow march towards reform and political upheaval began. A decade had passed since the death of Gaius Gracchus, one of relative tranquillity on the domestic front, when trouble in Africa again brought the populace into conflict with the senate. The fiery speeches of Memmius forced the state into open hostility against Jugurtha, and the *quaestio Mamilia*, having exposed rampant corruption within the senate, launched a new offensive against the aristocracy. The battle lines drawn between senate and people in the Gracchan era began to re-form. The rise of Marius, a *novus homo*, to the consulship ushered in an atmosphere of change and for Sallust signalled the beginnings of a new era for Rome.⁵¹ Marius was the people's champion, but he could never have succeeded with only the support of the masses. It was the equites - the non-senatorial propertied class - that provided Marius with his most crucial support. According to Velleius, it was through the *publicani* that Marius managed to oust his *inimicus* Metellus from the African command,⁵² and there can have been no shortage of businessmen impatient with Metellus' delay in bringing the war to a successful conclusion, and who had eagerly embraced the Mamilian commission as a means of flexing their judicial muscle.⁵³

It is with the equestrian juries constituted under the *lex Sempronia* that I would like to begin. Let us set the scene. The year is 106 B.C. Marius, by the grace of an overwhelming wave of equestrian and popular support, is proconsul in Africa. At Rome the *quaestio Mamilia* has run its course, though the bitterness remains. The reputation of Metellus and the prestige of the senate were still strong enough to award a triumph to the returning proconsul, and to secure the consulship for the patrician

⁵⁰ Again see the arguments of Stockton, *Sources*, p. 128.

⁵¹ Sall., *BJ* 5.1

⁵² Vell. Pat. 2.11 (see Carney, *Marius*, p. 80 for the view that Marius began his career as a *publicanus*)

⁵³ Cic., *Brut.* 128, lists optimates condemned by Gracchan *iudices*.

Servilius Caepio. Temporarily, then, it would seem that the fortunes of the aristocracy had been restored, for Caepio succeeded in passing a law returning the senators to the jury of the *quaestio de repetundis*.⁵⁴ Exactly how Caepio successfully pushed his law through is never adequately explained by any of our sources, and there remains some controversy as to its scope. Last ventured to suggest that it was aimed primarily at the *quaestio repetundarum* of the Gracchan *lex Acilia*,⁵⁵ a view earlier espoused by Baldson.⁵⁶ What is difficult to envisage is the political climate that allowed the law's passage. Cicero attributes much of Caepio's success to the eloquence of Crassus⁵⁷, but unfortunately says little of the attitudes of the voters. Could there have been enough convinced listeners among the equites for them to vote themselves off the juries? No matter how many ways we want to interpret Caepio's law it remains an enigma, if its focus was specifically the equestrian jury of the extortion court.

Gruen more recently proposed that the *lex Servilia* of Caepio was rather a *lex iudicaria* which included many courts within its scope.⁵⁸ His argument that Caepio's motivation was to provide senators with a safeguard against the excesses of a special commission is convincing, particularly in the aftermath of the *quaestio Mamilia*. Sallust tells us that the three judges created by the Mamilian law were to be chosen by the people and the inquiry was conducted maliciously; "sed quaestio exercita aspere violenterque et rumore et lubidine plebis."⁵⁹ Gruen's contention that Caepio's law intended to draft future commissioners from the jury pool seems plausible enough given the law's easy passage, his conclusions drawn from the Livian tradition evidenced in *Obsequens*: "Per Caepionem consulum senatorum et equitum iudicia communicata"⁶⁰ Unfortunately our other sources make no reference to the jury pool and we must assume, particularly from Cicero, for whom Crassus' speech was an inspiration, that the law attacked equestrian privilege exclusively.⁶¹ Still it remains a puzzle, made even more difficult to comprehend within the political climate of the time.

The best evidence to suggest that the *lex Servilia* was indeed targeted at the extortion court is the passage soon thereafter of the *lex Servilia Glaucia*. The exact date of the law poses problems, for Glaucia's career is itself rather a mystery. We know he held the praetorship in 100, but the scope of the *lex Servilia* makes it unlikely that it was one of praetorian sponsorship. Surely it is a tribunician law.⁶² Baldson pointed out that Glaucia must have been tribune in a year preceding a tribunate of Saturninus⁶³, suggesting accordingly either 104 or 101. The earlier date is favoured by Broughton,

⁵⁴ Cic., *de Orat.* 2.199f; *Brut.* 161-164; *Val. Max.* 6.9.13.

⁵⁵ Last, *CAH* 9, p. 161.

⁵⁶ Baldson, *PBSR*, p. 103.

⁵⁷ Cic., *de Orat.* 2.199; *de Invent.* 1.92.

⁵⁸ Gruen, *RPCC*, p. 158.

⁵⁹ Sall., *BJ* 41.5; cf *Ascon.* 79C.

⁶⁰ *Obseq.* 41. See Stockton, *Sources*, p. 79. This statement is virtually identical to Cassiodorus, *Chronica* (106), who also followed the Livian tradition. See G&C, pp. 78 & 207.

⁶¹ Cic., *de Orat.* 2.199.

⁶² Sumner, *Orators*, pp. 121-122.

⁶³ Baldson, *PBSR*, p. 6.

Last and Gruen, though Badian and Stockton prefer 101.⁶⁴ Our main source is a confused text from Appian (B.C. I 28), who has clearly associated Glaucia's tribunate with the elections of 101 and the murder of Nonius. His reference to Glaucia here as praetor is obviously an error as only a tribune can preside over tribunician elections, but his record of Glaucia as the presiding magistrate is surely correct.⁶⁵ The accepted compromise over Appian's clumsy phraseology here is to assume that Saturninus wanted to win the tribunate for the same year as that in which Glaucia would be praetor, and that Glaucia was in fact already praetor designate. Last, while conceding that Appian's words favour 101, still prefers 104 as the date for the *lex Servilia Glaucia*, citing Appian's confusion with his own source and the brief validity of Caepio's law.⁶⁶

Whether the *lex Servilia Caepionis* held good for two or five years is of little consequence. Either way it had a brief run, and to date Glaucia's tribunate to the first possible year when it could have been annulled is hardly sound. That Appian is our principal source is unfortunate, but there is little substantial reason for doubting him in his chronology. Considering the ebb and flow of political fortunes, 101 seems much more likely, as the culmination, rather than the beginning of the attack on Caepio and the senate. In 104 the tribune Cassius Longinus secured a motion expelling Caepio from the senate for having been deprived of *imperium* by the people.⁶⁷ Though obviously embarrassed by the incompetence of its commanders in the field, the senate could not have accepted such actions by a tribune lightly. Perhaps the expulsion of Saturninus from Ostia in this same year can be seen as an attempt by conservatives in the state to reaffirm their authority over magistrates away from Rome. Nonetheless, to combine Longinus' attack on Caepio with a repeal of the latter's judiciary law would certainly have stirred up a hornet's nest in the senate, one which would surely have merited some comment from our sources. Though disgraced, Caepio was by no means friendless and, furthermore, was now back in Rome where he could easily have mobilized support for a defense of his law protecting senatorial privilege in the courts.

It was in 103, with Saturninus' first tribunate, that initiative finally turned against the senate. The *lex Appuleia de maiestate* provided the legal means for further action against Caepio. His prosecution and eventual exile at the hands of Saturninus' confederate Norbanus in this year finally removed one of the most problematic optimates permanently from the scene.⁶⁸

In 102 the optimates sought to even the score when the new censor Metellus Numidicus attempted to expel both Saturninus and Glaucia from the senate. This attack upon two popular leaders must have had support in the senate, many senators wanting to exact vengeance against the populares who had engineered Caepio's exile. That the episode galvanized Saturninus' hatred for Metellus can be assumed, and we cannot overlook the fact that it influenced the two in their plans for the future. Finally,

⁶⁴ See *MRR* and supplement; Stockton, *Sources*, p. 86, "with no great confidence"; Last, *CAH* 9, p. 162 ff.; Gruen, *RPCC*, p. 166; Badian, *FC*, p. 202.

⁶⁵ See Sumner, *Orators*, pp. 121-122., for discussion.

⁶⁶ Last, *CAH* 9, p. 162.

⁶⁷ Ascon. 78C; Cic., *de Orat.* 2.124.

⁶⁸ Val. Max. 4.7.3; Gran. Lic. 13F; Cic., *de Orat.* 2.197.

in 101, with the final triumph of Marius in Gaul, and with it the prospect of new veteran colonies to fuel equestrian business interests, we have the tribunate of Glaucia and the next item on the agenda of the reformers: the *lex Servilia Glauciae*.

Though obviously not a law of Saturninus', I think it reasonable to include it as part of his programme, for ultimately no one can deny that he and Glaucia were confederates. A crucial component of Saturninus' programme, the law played a significant role in reforging the alliance between the equites and the popular party, which allowed Saturninus and Glaucia to dominate domestic affairs for some time, and put the aristocracy in the senate on the defensive.

* * *

It has been generally accepted that Saturninus passed the *lex Appuleia de maiestate* in 103, his first tribunate, creating a new standing court with an equestrian jury.⁶⁹ It has been assumed that the immediate consequence of this law was the prosecution of Servilius Caepio by Saturninus' tribunician colleague Norbanus. Having failed to co-operate with the consul Mallius, Caepio was seen to bear much of the responsibility for the crushing Roman defeat at Arausio in 105,⁷⁰ though whether he was prosecuted under the *lex Appuleia* remains to be seen. That Caepio had earlier sponsored a reactionary judiciary law can hardly have been a coincidence, but it would be a mistake to view the *lex de maiestate* as purely partisan. Exactly what the law entailed has remained a mystery, for our sources are scant, but what we do have leads to the conclusion that Saturninus had broader objectives in mind. But before jumping to conclusions we need to examine the law in as much detail as the sources allow.

Paramount to any discussion is a definition of the term *maiestatem minuere*: what did the law mean? Unfortunately we have no text, though debate has raged for decades on the possible significance of both the Tarentine and Bantian fragments.⁷¹ I do not propose to join this debate. More important is to examine the history of treason laws and try to establish a precedent. Bauman's arguments⁷² against the assertion of Last that Saturninus invented the law have, I believe, demonstrated that evidence does exist for *ad hoc* trials *apud populum* before 103. Surely Saturninus' law was the first solid recognition of the crime⁷³ and must have evolved from the concept of *perduellio*, though Bauman finds the relationship between the two "difficult". Certainly, one cannot equate the lessening of the *maiestas populi* with a specific act of treason against the state, but Last is right to suggest that a prosecution for *minuta maiestas* was more appropriate and better suited to the popular faction in its attack on senatorial commanders.⁷⁴ The chances of a conviction for *perduellio* were slim, especially if the

⁶⁹ See *MRR* 1.563, for sources.

⁷⁰ Sall., *BJ* 114; Liv., *Per* 67; Gran. Lic., 11F; Dio. 27. 91.

⁷¹ Both inscriptions may, or may not, be the text of Saturninus' law. Badian, *Hist.* 11, p. 206 points out the difficulties of trying to come to terms with this "parlour game". Stuart-Jones, *JRS*, p. 170f. first argued that the Bantian fragment was part of Saturninus' *maiestas* law and he assumes that Bantia had some kind of *maiestas* treaty with Rome. Bauman, *CM*, p. 55-58, rejects this view, arguing that the Tarentine fragment is a more appropriate text for the *maiestas* law of Saturninus.

⁷² Last, *CAH* 9, p. 151; Bauman, *CM*, p. 16.

⁷³ Bauman, *CM*, p. 16.

⁷⁴ Last, *CAH* 9, p. 161.

prosecution was represented by a people's tribune; senators would surely close ranks. The concept of *maiestatem minuere* provided a broader context from which to draw a possible charge.

Bauman states that the *lex Appuleia* used the expression *maiestatem minuere*, but did not define it,⁷⁵ and uses Gaius Gracchus' law against judicial corruption to demonstrate the categorization of wrongful acts under laws of such type. Obviously Bauman believes that *maiestatem minuere* was not the crime in and of itself, but rather the result of a wrongful act. It is a convincing argument, for we must assume that Saturninus would not have set up a new *quaestio* without a broad and detailed definition of its jurisdiction. *Maiestatem minuere* just does not fit the bill here. In order to understand properly the full implications of the law we need to examine proceedings conducted under its auspices in detail.

Accepting 103 as the year of the law brings it into conjunction with the proceedings against Caepio and Mallius in the same year. This is not to say that the *lex Appuleia* was applied in these cases (it was not), but both cases can I think be discussed here, as they lend themselves nicely to an understanding of the *lex de maiestate* and the political climate in which it was passed.

After the disaster at Arausio, both commanders had been deprived of their *imperium* and later the tribune Cassius Longinus passed a measure expelling them from the senate.⁷⁶ Added to Caepio's misfortunes was his suspected involvement in the disappearance of the Tolosan treasure.⁷⁷ Proceedings now began against the two. Mallius, who had the good sense to go into voluntary exile, was barred from fire and water by Saturninus after the fact. Caepio was prosecuted by Norbanus. Broughton suggests that Caepio was in fact prosecuted under the *lex Appuleia*, but this is difficult to prove one way or the other and is not in keeping with Bauman's theory that the *lex Appuleia* was aimed solely at internal affairs,⁷⁸ as later cases would seem to suggest. Perhaps the difficulty here arises from confusion between the *lex de maiestate* and the more serious charge of *perduellio*. Could Caepio have been charged with *perduellio* in a special ad hoc *quaestio*? As proconsul in Gaul he was in fact subordinate to the newly arrived consul Mallius, a man whom he had little reason to love.⁷⁹ The modern notion of treason can be seen to apply here, for Caepio engaged in a deliberate act of disobedience against the state, though the Roman concept of *imperium* makes the association a difficult one. The *maiestas populi* was not so much the victim here as was the *imperium et auctoritas rei publicae*, a different matter altogether.

That proceedings were also undertaken against Caepio for the Tolosan affair has added confusion here. Mommsen held that this was indeed the purpose of the *lex Appuleia*,⁸⁰ and denied that it created a new standing court. This view has obviously been revised by more recent scholarship, but it is not impossible that the *lex Appuleia*

⁷⁵ Bauman, *CM*, p. 54.

⁷⁶ Liv., *Per.* 67; Ascon. 78C.

⁷⁷ Just. 32.3.10; Oros. 5.15.25.

⁷⁸ Bauman, *CM*, p. 37.

⁷⁹ See Badian, *Hist.* 6, p. 325.

⁸⁰ Mommsen, *History of Rome*, vol. 3, p. 441.

could well have been aimed at Caepio for this very reason. Having been captured, the bullion from the Tolosan treasure would have become the property of the state treasury and was presumably under guard when it disappeared.⁸¹ How this would have undermined the *maiestas populi* escapes me, and the whole Tolosan mystery remains a puzzle we will never solve. There is no real evidence to suggest that Mommsen was correct in his interpretation of the *lex de maiestate*, particularly with evidence of trials under its auspices in the nineties. The Tolosan scandal may well have added fuel to the fire of opposition against Caepio. Consider the irony: the younger Caepio attacked Saturninus on behalf of the treasury as his father was accused of robbing it! A special *quaestio* was probably established to find the culprits, but probably not by the *lex Appuleia*. There was no need. Faced with condemnation for the loss of his army, Caepio left Rome and evidently died in exile.⁸²

Next I would like to turn briefly to the banishment of Metellus Numidicus in Saturninus' second tribunate, though this will again appear in another context. Gruen sees it as "noteworthy and revealing" that Saturninus chose to prosecute Numidicus before the people, rather than in his own *maiestas* court.⁸³ He assumes that by now Saturninus was sensing the fickleness of his equestrian support, and shied away from using the *quaestio*. But was the *lex de maiestate* appropriate? That Marius was anxious for the exile of his *inimicus* is clear, at least from a source tradition sympathetic to Metellus, but it is unlikely that a trial of Numidicus would have been successful. Besides, according to Appian, banishment was not the penalty imposed by the *lex agraria* for refusal to take the oath.⁸⁴ Metellus had used no extra-constitutional means to oppose Saturninus or passage of the law, and his opposition was symbolic, reminiscent of Lucius Piso's lining up to collect his corn allotment after having opposed the *lex frumentaria* of Gaius Gracchus.⁸⁵ The *lex de maiestate* could not have been intended to apply to all acts of political, constitutional, or ideological opposition. Even Saturninus could not have expected to prosecute all those who disagreed with his policies. What of the tribunician veto? Saturninus and Marius may indeed have had a personal vendetta to settle with Numidicus, but it is inconceivable that Saturninus would have employed his *lex de maiestate* to this end. Such a precedent would only have succeeded in reducing the law to a farcical level, and this was not his intention at all.

Evidence that the *lex Appuleia* created a new standing court that outlived its author can be found in political trials of the years immediately following Saturninus' untimely demise. The first occurs in 98 B.C. with the trial of Sextus Titius, a tribune of the preceding year. Unfortunately Cicero only mentions the trial in passing, citing Titius' crime "quod habuit imaginem L. Saturnini domi suae",⁸⁶ though it is doubtful that this alone was the charge. Bauman views Valerius Maximus' catalogue of *maiestas* charges as possible proof that Titius was indeed condemned under the *lex de*

⁸¹ Oros. 5.15.25.

⁸² Badian, *Hist.* 6, p. 334.

⁸³ Gruen, *RPCC*, p. 182.

⁸⁴ App., *BC.* 29-31 (a fine of 20 talents and removal from the senate)

⁸⁵ Cic., *Tusc. Disp.* 3.48.

⁸⁶ Cic., *pro Rab.* 9.24.

maiestate,⁸⁷ a likely assumption given what we know of Titius' career. In 99 he persisted with an agrarian bill against the intercession of his colleagues⁸⁸, which must have been the principal element of the charge. If Cicero was correct in describing Titius as *seditiosus et turbulentus*,⁸⁹ his devotion to Saturninus would have added weight to the prosecution's outrage, an overture to his contempt for the state perhaps. A charge of *maiestatem minuere* does seem to apply here. In ignoring tribunician intercession Titius was challenging the first basic right of the tribunate, and his actions may well have been interpreted as an affront to the Roman people.

Another clue that this prosecution took place before Saturninus' *quaestio* comes from the *pro Rabirio*, "statuerunt equites Romani illo iudicio" (9.24). An equestrian jury does indeed imply the standing court of the *lex Appuleia*, but again there is confusion, as Valerius Maximus refers to the trial as one "apud populum"⁹⁰. Taking two passages Bauman dismisses Cicero to accept Valerius as to the charge, but accepts Cicero, rejecting Valerius, to determine the kind of trial. Nevertheless, without any concrete source, Bauman's conclusion offers the best interpretation.

The trial of Norbanus provides us with the most comprehensive evidence that the *lex Appuleia* established a new standing *quaestio*, "C. Norbanum maiestatis crimine publicae quaestioni subiectum..."⁹¹ Perhaps we are lucky that Norbanus was defended by M. Antonius (cos. 99), for much of his speech is preserved by Cicero. The relevant passages come from the *de Oratore* as Antonius debates the meaning of *maiestatem minuere* "ex quo verbo lege Appuleia tota illa causa pendebat" (II. 107). Thus we have a relatively firm attestation of a standing court. Norbanus was tried for employing violence at the trial of Servilius Caepio in 103⁹², but was acquitted, thanks no doubt to the painful memories associated with Caepio's defeat.⁹³ But were his actions seditious? This is difficult to assess, for we have little account of the proceedings and are relying on Cicero. "Violence, flight and stone throwing", while a deplorable circumstance, is a difficult charge to pin on a sole defendant, given the public hostility toward Caepio of which Antonius speaks. Besides, Norbanus was operating as the instrument of the people's will in his capacity as tribune, not contrary to it. That this is the only documented case of the *lex Appuleia*'s being used to condemn events taking place at a public trial could be significant. Roman trials tended to be emotional affairs, and that passion could often spill over into violence is hardly remarkable. I doubt that Saturninus intended his law to ensure order in the courts.

The trial of the younger Caepio in 95, though revolving around the factional vendettas of the time, provides us with the best working example of Saturninus' law. Caepio, who in opposing Saturninus as *quaestor* had led a gang of nobles to break up the tribune's assembly destroying the voting bridges, was now accused of *maiestas*.⁹⁴

⁸⁷ Val. Max. 8.1.4; see Bauman, *CM*, p. 47f.

⁸⁸ *Obseq.* 46.

⁸⁹ Cic., *de Orat.* 2.48; *pro Rab.* 9.24.

⁹⁰ Val. Max. 8.1.

⁹¹ Val. Max. 8.5.2.

⁹² Cic., *de Orat.* 2.197.

⁹³ Cic., *de Orat.* 2.199.

⁹⁴ [Cic.] *ad Herenn.* 1.12.21.

Presumably the charge was conducted under the *lex Appuleia*, and though this is nowhere firmly stated, the nature of the charge leaves little doubt. Nowhere was the theoretical representation of the *maiestas populi* more prevalent than in the sovereignty of the people's assembly. When Caepio used violence to prevent the assembly from voting, he attacked the very essence of the *maiestas populi*, the ability of the people to express its will through the vote. Whether Saturninus' intent was to safeguard Rome's one true democratic institution is doubtful and impossible to prove one way or the other. But the example of Caepio's trial is nonetheless a useful one, for in it we see that Saturninus may well have intended his law to condemn those very acts of conservative vigilantism which had been the downfall of both Tiberius and Gaius Gracchus. Personal survival can be a great motivator, and Saturninus would have wanted to stay around long enough to see his programme through.

Now we may assess the significance of the *lex de maiestate*. That it created a permanent standing court has been demonstrated, and that its jury was equestrian can be reasonably surmised from the case of Norbanus, "...et animos equitum Romanorum, apud quos tum iudices causa agebatur."⁹⁵ This one line may be our strongest indication from the sources that Saturninus staffed his juries with equites, but I think it is enough. With the *lex Appuleia* aimed at the aristocracy, it is only to be expected that Saturninus would have kept its jury out of the hands of senators. The *lex Appuleia de maiestate* was to be the first step in trying to gain equestrian sympathies. With the *lex Servilia Glaucia* in 101, equestrian support for Saturninus' programme should have been secured, and the alliance against the senate strengthened. Gaius Gracchus had sought to instill within the equestrian class a sense of responsibility by granting it jury privileges, and now Saturninus attempted to do the same. When motivated, the equites could be a powerful political force and, unlike Gracchus, Saturninus could look for support to the awesome presence of Marius, a champion of the non-senatorial class, himself of equestrian stock.

Whether it was the threat of the German tribes that caused a disillusionment with senatorial dominance, or motives less tangible, the forces the senate had managed to mobilize to defeat Gaius Gracchus were again shifting their impetus. Sallust spoke of an equestrian class lured to the senate by the hope of sharing in its privileges, "...interdum per equites Romanos, quos spes societatis a plebe dimoverat."⁹⁶ Now with the senate coming under increasing attack the fickle equestrians changed sides again and supported Saturninus for as long as the price was right. No fool, Saturninus must have realized that as long as he could keep the equites happy, he could keep the senate on the defensive and increase his chances of success. The courts had traditionally been a bone of contention between the senators and equestrians, and Saturninus was quick to exploit this to his own ends.

But the *lex Appuleia de maiestate* went much further than simply providing a new *quaestio* for equestrian jurors. Ultimately we must return to the most basic motive of all, self-preservation. What with the revolutionary aspects of Saturninus' two tribunates, it is only reasonable to assume that he would have anticipated the kind of opposition he would encounter. It only makes sense that he would attempt to obstruct

⁹⁵ Cic., *de Orat.* 2.199; see also Gruen, *RPCC*, p. 168.

⁹⁶ Sall., *BJ* 42.1

those who might oppose him with a law designed to protect the *maiestas populi*, in the form of a people's tribune. Unfortunately for Saturninus, even this was not enough, as conservatives found a way around the *lex Appuleia* in their employment of the *senatus consultum ultimum* (SCU).⁹⁷ Saturninus was not able to foresee the instrument of his own demise and, in his folly, relied on his connections with Marius and his own *lex de maiestate* to protect him.

The *lex agraria* of 103

At the very heart of political and socio-economic uncertainty in the last century of the Republic was the question of land. Tiberius Gracchus sought to alleviate the erosion of Rome's small land holders by the distribution of the *ager publicus*, as did his brother Gaius. It has generally been assumed that Tiberius' measures were aimed at rebuilding Rome's conscript base, a free peasantry that was the backbone of the legions. However well intentioned, these measures would have only served to treat the symptoms of a much more serious problem, had they not themselves been defeated first by violence, and then by a series of measures passed after the death of Gaius.⁹⁸ The crisis continued and became ever more acute as Rome's military commitments grew. Brunt argues that by the late second century the legionary property qualification "had sunk so low we cannot entertain the view that legionaries were necessarily men of independent means".⁹⁹ By the time Saturninus arrived on the political scene, Marius had already taken conscription to its next evolutionary level by enrolling *proletarii* for his war against Jugurtha, the logical conclusion to the senate's lowering of the property qualification.¹⁰⁰ There would be no turning back, for despite the fact that such a precedent had been set before¹⁰¹ and then quietly forgotten, the client army of Marius would prove a lasting innovation. Thus the agrarian law of Saturninus' first tribunate assumes a profound significance, for it created for the first time an alliance of army, commander, and politician, born of expediency for the sole purpose of dominating Rome's political affairs. The Roman revolution begins here.

Velleius tells us that before 90 the proportion of Roman citizens in the army amounted to only one third, the majority thus comprised of Italian allies.¹⁰² Though Brunt dismisses Velleius' figures as an over-exaggeration, he argues nevertheless that "no one will question that they then provided over half the recruits."¹⁰³ Whatever the actual figures, the decline in citizen enrollment in the army must have caused concern as the property qualification fell and the army continued along the path of "proletarianization."¹⁰⁴ Scullard cites the findings of Gabba,¹⁰⁵ who finds two passages of Polybius particularly revealing, as he tells of the changes in his own time to the

⁹⁷ See Bauman, *CM*, pp. 49-50 for discussion.

⁹⁸ See Brunt, *Fall*, p. 79; Develin, *Antichthon* 13, pp. 48-55.

⁹⁹ Brunt, *JRS*, p. 74.

¹⁰⁰ Brunt, *IM*, p. 82.

¹⁰¹ Most notably during the Hannibalic war.

¹⁰² Vell. Pat. 2.15.2.

¹⁰³ Brunt, *JRS*, p. 74.

¹⁰⁴ Scullard, *JRS*, p. 63.

¹⁰⁵ Gabba, *Ath*, pp. 173ff.

Roman army. In Book VI.23.15, he suggests that the troops enrolled from the lower census classes could no longer afford their own arms and were thus armed by the state. Later at VI.30.15, he implies that while in theory Roman citizen-soldiers armed themselves, in reality they were only able to do so through the time honoured system of pay cuts. Such was not supposed to be the lot of the model republican legionary who was expected to own at least a small part of the country he was fighting for. Small wonder that Tiberius Gracchus could claim that the Roman people "are called masters of the world, but do not possess a single clod of earth which is truly their own."¹⁰⁶

Tiberius, of course, stirred up a hornets' nest, not because of his agrarian policy *per se*, but specifically because his programme was directed at the *ager publicus*. That plenty of land was available for colonization before Gracchus was proposed by G. Tibiletti, whose arguments blaming the crisis of 133 on the assumption that Tiberius wanted to settle his colonists closer to Rome certainly facilitates our understanding of the perceived threat Tiberius' proposals held for the owners of large estates.¹⁰⁷ Whether or not Tiberius' law was aimed particularly at demobilized soldiers, as Plutarch implies,¹⁰⁸ is neither here nor there. Veterans had certainly been settled by victorious commanders before,¹⁰⁹ but never through the agitation of a tribune. For all his revolutionary ideals I doubt Tiberius targeted his appeals exclusively at soldiers. Most interpretations view Tiberius as being motivated by the erosion of Rome's small landholders and the social problems accompanying this development. Brunt believes that Tiberius' programme came about as a result of the tribune's alarm at a declining birth rate among the lower census classes,¹¹⁰ definitely a plausible assertion given that most of his and Gaius' support came from country districts, not from the military.

Saturninus, of course, took the colonial idea to its next step, and by being the first tribune to actively fight for settlements for demobilized veterans, departed from the Gracchan course. Marius had earlier set aside the property qualification, an act which ultimately gave Saturninus his impetus. By settling Marius' African veterans, Saturninus not only won their support, but he offered a substantial carrot for troops still under arms, even to those as yet unrecruited. If nothing else Saturninus succeeded in bringing the question of land for veterans forever to the forefront of Rome's political scene, a development that gave rise to the likes of Sulla, Pompey and Caesar, and which ultimately overthrew the Republic.

Once again our sources for the *lex agraria* of 103 are few, the best of which is a passage from the *de viris illustribus*: "Lucius Apuleius Saturninus, tribunus plebis seditiosus, ut gratiam Marianorum militum pararet, legem tulit, ut veteranis centena agri iugera in Africa dividerentur."¹¹¹ Evidence also comes from Africa itself where several sites are said to have been settled by Marian veterans. Also inscriptions from

¹⁰⁶ Plut., *TG* 9.5.

¹⁰⁷ Tibiletti, *Ath*, pp. 173-236; cf Scullard, *JRS*, p. 63

¹⁰⁸ Plut., *TG* 9.5.

¹⁰⁹ For Scipio Africanus settling Hannibalic veterans in Samnium & Apulia: Liv. 31.4.1-3; cf Scullard, *JRS*, p. 64.

¹¹⁰ Brunt, *JRS*, p. 74. cf App., *BC* 1.7.30; Plut., *TG* 8.3.

¹¹¹ *de vir. ill.* 73.1.

Cercina bearing the names of commissioners, most notably Caesar's father, attest to some kind of Roman colony in Africa, founded, presumably under Saturninus' law.¹¹²

So much for the source tradition, hardly as comprehensive as we would like, but sound enough I think, to accept with few reservations. There can be little doubt that the *lex agraria* of 103 reached its fruition, and his success here no doubt encouraged Saturninus to follow his own precedent in his second tribunate. The significance of the law of 103 was its author's motive, the circumstances of its passage, and the way it changed Rome's political structure forever.

Mommsen first remarked on the changed status of the Roman soldier. He saw the creation of a pure soldier class ending the previous distinction of a citizen soldier: "...his only home was the camp, his only science war, his only hope the general, what this implied is clear."¹¹³ Though this development was only in its infancy at this point in Roman history,¹¹⁴ the impact on Rome's political climate is clear. Though it was necessitated by military motives and the new realities of Rome's social structure, Saturninus was quick to exploit the emergence of the "new" army to his own ends. The reforms of the Gracchi had, by the time of the Jugurthine war, been legislated out of existence, culminating in two agrarian laws, the first in 119 when the Gracchan commission was abolished, and the *lex Thoria* of 111, which ended redistribution and gave ownership over entirely to those already in possession.¹¹⁵ Although the precise dates of the agrarian laws referred to by Appian remain a subject of some controversy,¹¹⁶ those accepted here will suffice. What is important to consider is that the system of redistribution was brought to an end, as was the phenomenon of squatting, forcing the landless into increasingly dire straits. Although Gabba¹¹⁷ denies any unity in Rome's pattern of agrarian reform, the fact that it was continually an issue suggests at least a common motivation. That any attempts at land redistribution were ultimately futile is apparent from Cicero's record of Philippus' assertion "non esse in civitate duo milia hominum qui rem haberent".¹¹⁸ There can be little doubt that by the time Saturninus rose to the tribunate, the big landowners were once again firmly entrenched, and the problem of rural poverty was again making itself felt.

It only follows then that this problem would affect Rome proper, where the mass of the urban proletariat was swelled by an influx of landless moving to the capital, factors which must certainly have influenced the lowering of the census qualification sometime in the second century.¹¹⁹ It is certainly no surprise that this period saw increasing popular dissatisfaction with the senate, discontent which spawned the *quaestio Mamilia* in 110 and which aided the rise of the first *novi homines* to the

¹¹² See G&C, *Sources*, p. 94.

¹¹³ Mommsen, *History of Rome*, vol.4, p. 461.

¹¹⁴ See Brunt, *JRS*, p. 75 arguing that Mommsen's statement is a little over zealous.

¹¹⁵ App., *BC* 1.27; see Develin, *Antichthon*, pp. 48-55.

¹¹⁶ Badian, *Hist.* 11, pp. 211ff; Meister, *Hist.* 23, pp. 93ff.

¹¹⁷ Gabba, *Ath.*, p 212.

¹¹⁸ Cic., *de off.* 2.73; see Brunt, *JRS*, p. 69, who argues that this exaggerates the failure of the Gracchi.

¹¹⁹ See Taylor, *RVA*, pp. 98 ff.

consulship since Opimius in 121.¹²⁰ Marius' success was certainly influenced by the changing social climate. Carney observed that the drop in the census rating led to an increase of a quarter in the number of the electorate that could vote effectively, a development that "wrecked" the so called optimate voting machine.¹²¹ Consequently, Carney's argument continues, independence of the senate became possible for a career politician for the first time. Marius may well have been the obvious by-product of this development, but so too was Saturninus. With the ascendancy of Marius, Saturninus was able to successfully revive the *popularis* cause and pose a far greater threat to the senate's position in the state than had either of the Gracchi. The *lex agraria* of 103 demonstrates this conclusively. Opposed by the senate, as the tribune could well expect, Saturninus had recourse, not to any shabby political coalition, but to the very real presence of Marius' African veterans. The army had entered Rome's political sphere.

The implications are clear. Saturninus won the support of Marius' veterans and the consul himself, who needed concrete incentives for the recruitment of more troops for his campaign in the north. Moreover, by supporting Marius' bid for the consulship of 102, Saturninus could rely in turn on his support to protect him against optimate reprisals when his term as tribune came to an end. The *lex frumentaria* had already ensured him the support of the masses, so that even as *privatus*, Saturninus could wield significant influence.¹²²

Despite the fact that this law targeted land outside Italy, and so interfered little with the personal interests of the big landowners, the challenge to senatorial prerogative is evident. Though once settled, African colonists could be of little use in Rome, the ideas of the Gracchi were revived. Marius may have cared only about his image as a great *patronus*,¹²³ one which Saturninus too could foster for himself, but the tribune's motives were ultimately political. Mommsen held that Saturninus' colonial laws aimed at restoring power to Rome's magistrates, and returning the senate to its original function as a deliberative body.¹²⁴ As the Gracchi had pursued policies of reform in the face of senatorial opposition, so too Saturninus. Whether he envisioned a more representative type of democracy, as Mommsen suggests, is difficult to ascertain though personally I doubt that his motives were so ideologically inspired. Rather it seems that the one consistent theme in all of his activities was to attack, from every possible direction, the senate's position as the dominant political body in Rome. This is, I think, better evidenced in his agrarian law of 100, but nonetheless apparent in 103, as Saturninus promoted the interests of Marius and his troops over those of the senate, and without senatorial sanction.

Before we discuss the crucial year of 100, there is one other factor that first needs consideration: the ever-present, and growing problem of Rome's Italian allies. Again we must look back to the tribunate of Tiberius Gracchus. Given the military

¹²⁰ See *MRR* 1. Hortensius in 108 and Marius in 107.

¹²¹ Carney, *Marius*, p. 19.

¹²² Numidicus' attempts to leave Saturninus and Glaucia off the senatorial roll and Saturninus' insult to the embassy of Mithridates only served to further his reputation.

¹²³ Badian, *FC*, p. 204.

¹²⁴ Mommsen, *History of Rome*, vol. 4, p. 468.

motives behind his agrarian reform, it is understandable that the Italian question would arise. Richardson proposes that Tiberius may well have intended to settle non-Romans, as they made up the majority of the army.¹²⁵ Tiberius had ventured into dangerous territory which in the final analysis cost him the support of the urban plebs, and he was unable to effectively deal with the problems that arose. As Richardson suggests, Tiberius needed to find legal and political, as well as the inevitable sacral solutions to complexities posed by a transfer of Rome's public land to *peregrini*. Here for the first time we see the principle emerging that Roman citizenship might also be conferred with the gift of Roman land.¹²⁶ Though Tiberius' measures never went so far, the question was surely raised,¹²⁷ to be later addressed by Gaius Gracchus and Fulvius Flaccus.

By the time of the Jugurthine War there had been a gradual acceptance of Italians into Roman colonies. Significant is the *Tabula Bembina*, which bears a *lex agraria* of 111 and refers to the *ager publicus* being farmed by Romans, Latins and *peregrini*.¹²⁸ Just how far this trend had developed, exactly what the status of non-Romans on Roman land was, remains cloudy. What we must remember though, is that the land issue persisted and was so complex and intertwined with social and political issues in countless Italian communities as to make an easy distinction impossible, certainly inaccurate. These problems became enshrined with the rise of Marius. Badian wrote:

With the formation of Marius' personal client-army the importance of the allies for Roman political purposes increased, and Marius and Saturninus, recognizing this, tried to establish by precedent the principle... that citizenship might be gained by distinguished military service.¹²⁹

Marius was himself sympathetic to the Latin cause, at least he tried to cultivate that reputation, as is evidenced by his attack on Metellus for the execution of Turpilius.¹³⁰ As a commander he could also become *patronus* of Italian and Latin conscripts, and tie their interests to his own. No doubt Saturninus was aware of the enmity between the allies and his followers in the city, but as long as Marius remained Rome's first citizen, he could weather the storm. Badian has suggested that others may well have benefited from Saturninus' African colonies, not just the Romans themselves.¹³¹ Certainly it would be hasty to assume that Saturninus settled only Marius' Roman veterans,¹³² to

¹²⁵ Richardson, *JRS*, p. 8.

¹²⁶ Richardson, *JRS*, p. 8.

¹²⁷ It is difficult to see how a wholesale distribution of Rome's *ager publicus* could have been undertaken without affecting Italian interests.

¹²⁸ Richardson, *JRS*, p. 4.

¹²⁹ Badian, *FC*, p. 211.

¹³⁰ Sall., *BJ* 86.3.

¹³¹ Badian, *FC*, p. 199.

¹³² See Brunt, *Fall*, p. 278 doubting the inference from Cic., *de leg. agr.* 2.38 that no remaining *ager publicus* in Africa meant that all had been distributed to Marius' veterans.

do so would surely have caused divisions within the army, and Saturninus could not have benefited from only the fleeting support of divided veterans.

The *lex agraria* of 100

The history of Saturninus' second programme of agrarian laws in 100 B.C. is difficult to chart with any real accuracy. The violent circumstances of his death soon after meant that few, if any, of his schemes reached fruition. Also hand-in-hand with the colonial laws is the saga of Marius' old *inimicus*, Metellus Numidicus, and our sources are far more concerned with the petty intrigues of the infamous oath clause and Numidicus' eventual banishment, than they are with the particulars of the laws themselves¹³³. This rather comical episode is by and large associated with Saturninus' proposal for veteran colonies in Gaul, using land conquered by the Cimbri and then later annexed by Marius.¹³⁴ But the tribune also proposed colonies for Sicily, Achaia and Macedon,¹³⁵ and determining whether all his proposals called for the oath, or just the Gallic one, is virtually impossible. Our only clue comes from Appian, who mentions only the Gallic lands, and in the absence of other sources we must assume that only this bill carried the oath clause with it. With two separate land distributions in one year Saturninus' agrarian policy grew more ambitious, inspired no doubt by his earlier successes.

Before examining the proposal for settling Marian veterans in Gaul, I would like to deal first with the overseas settlements. The *de viris illustribus* 73 tells us: "Saturninus...tribunus plebis reffectus Siciliam Achaia Macedoniam novis colonis destinavit; et aurum dolo an scelere Caepionis partum ad emptionem agrorum convertit." Two important points immediately present themselves. The first is obvious enough, Saturninus intended to found colonies throughout the Empire, not just in the areas of Marius' campaigns. The second is that he intended to use the monies appropriated from the Tolosan scandal to pay for it all, yet another move calculated to embarrass the senate.

The importance of this decision cannot be overlooked, for in targeting a specific and recent addition to the treasury Saturninus invoked the precedent set by Tiberius Gracchus. When the usual arguments of fiscal responsibility had thwarted Gracchus' schemes, he was aided by the timely demise of Attalus III of Pergamum who had bequeathed his entire estate and kingdom to the care of the *populus Romanus*.¹³⁶ Here was a windfall quite unlooked for, and Tiberius seized on it and proposed to use the money to pay for his agrarian programme.¹³⁷ Such a move by a tribune was a direct challenge to the senate's position as overseer of Rome's foreign affairs, and it probably cost him the support of moderates in the senate. Tiberius was no doubt confident that the situation was indeed ripe enough to take such a bold step. With Rome's conquests

¹³³ See in particular Plut., *Mar.* 29, who uses the incident to condemn Marius' duplicity.

¹³⁴ App., *BC* 1.29.

¹³⁵ *de vir. ill.* 73.5.

¹³⁶ Liv., *Per.* 58; Sall., *Hist.* 4.69M; Plin., *NH* 33.11.148.

¹³⁷ Plut., *TG.* 14; Liv., *Per.* 58; *de vir. ill.* 64.5.

of the last half century and the wealth that was thus generated for the city, Tiberius could easily argue that the people were owed their due. Brunt suggests that there may even have been no real moral objections to Tiberius' proposal, and in an era when rich Romans were continually feathering their own nests, not always legally, charges of extravagance could easily be thrown back on senators.¹³⁸ It really is no surprise that Tiberius' proposals caused resentment, especially since he created the dangerous precedent of attempting to give the people some control over the treasury and Rome's foreign relations.¹³⁹

Saturninus was quick to follow the Gracchan example. Once again Rome's conquests were bringing in new wealth. The defeat of Jugurtha had opened the way for the exploitation of virtually all of North Africa, and Marius' victories in Gaul had ended a serious threat allowing for a return to stability and confidence. Without the grace of an accommodating foreign monarch, Saturninus seized on the next best thing, the Tolosan treasures which had helped him before when dealing with the irrepressible Servilius Caepio.¹⁴⁰ No good optimate in Rome would have failed to see the significance of this move. Saturninus was passing himself off as the people's champion, using public funds rescued from a greedy aristocracy for the furtherance of the popular will. Politically, it was a masterstroke worthy of admiration. Practically, Saturninus was looking ever more the responsible magistrate, setting out his agenda complete with a detailed account of how he was going to pay for it all.

That the colonies were to be outside the bounds of Italy, in the provinces, marks another significant step. Again a tribune was drifting into foreign affairs, as Saturninus tried to establish control of all land allotments. Marius had not been the only active commander of the preceding year. M. Aquilius, consul in 101, had successfully ended the slave revolt in Sicily, for which he was hailed *imperator*,¹⁴¹ and T. Didius had won victories in Thrace against the Scordisci, for which he later celebrated a triumph,¹⁴² and was probably governor in Macedon in 100.¹⁴³ That Didius would hold the consulship in 98 suggests that he did not openly court Saturninus and may have had no connection with him whatsoever. What did Saturninus have to gain?

Badian suggests that Saturninus was in fact "acting under the *auctoritas* of Marius", who, in his bid for recognition as Rome's first citizen, was trying to increase his reputation as a great *patronus*.¹⁴⁴ Saturninus was probably happy to oblige, but I doubt he intended to play the role of Marius' political arm for long. He was also furthering his own reputation. Saturninus had already reaped the rewards of supporting the interests of veterans and no doubt hoped to be able to do so again. That the colonies never materialized is beside the point. By attempting to settle the troops of

¹³⁸ Brunt, *Fall*, pp. 64-65.

¹³⁹ See arguments of Last, *CAH* 9, pp. 28-29.

¹⁴⁰ *de vir. ill.* 73.5. The truth behind the Tolosan scandal has never come to light and Caepio's involvement remains a mystery. It is doubtful that the actual treasure was ever retrieved and more likely that Saturninus determined to use Caepio's confiscated estate.

¹⁴¹ Liv., *Per.* 69; Cic., *de Orat.* 2.195; Diod. 36.10.

¹⁴² Cic., *Pis.* 25.61; Flor. 1.39.3-5.

¹⁴³ See *MRR* 3.81.

¹⁴⁴ Badian, *FC*, p. 205.

other commanders, he was himself trying to establish his own reputation as a tribune that was both willing and able to support the interests of soldiers. Cultivating the enthusiasm of virtually the whole army would give the tribune considerable power and prestige, and a dominant position in the state. It was a lesson learned and employed by both Sulla and Caesar when they rose to prominence. I doubt that the full force of such implications would have been lost on Saturninus.

We need now to turn to the proposal to settle Marius' northern veterans. Having already provided for his African troops, Saturninus surely turned to this latest programme as a matter of course, though this time he was not to limit his proposals simply to a distribution of land. Accompanying this latest *lex Appuleia* was a provision that all senators swear to uphold the law and a confirmation of Marius' grants of citizenship. But first the colonies themselves, for again there is little evidence to demonstrate that they ever came into being.

As we have already seen, Appian says that Saturninus proposed to use Gallic land initially conquered by the Cimbri,¹⁴⁵ and the colony of Eporodia in Cisalpine Gaul is indeed dated to 100 by Velleius,¹⁴⁶ which may be our only link for determining the truth behind Appian's assertion.¹⁴⁷ Pliny also makes reference to a possible Marian colony on Corsica¹⁴⁸, though for what purpose is unclear. Marius may well have been trying to increase the communities over which he was *patromus*. Brunt has gone to some length to deny that all communities, particularly those in Africa, who commemorated Marius as *conditor*, were necessarily those of Marius' veterans and thus of Saturninus' legislation.¹⁴⁹ It is a valid argument, but the number and location of Saturninus' intended settlements is of only small concern here. Crawford has suggested that an unusually large coinage issue from 99-97 B.C. may well have been struck to pay for the *lex agraria* of 100.¹⁵⁰ Brunt finds this argument 'plausible' enough,¹⁵¹ but this would, of course, be contradicted if the laws of Saturninus were annulled.

In the *pro Balbo*, Cicero tells us, "qua lege Saturninus C. Mario tulerat ut in singulas colonias ternos cives Romanos facere posset..." (21.48). Saturninus was, with this provision, both confirming those grants made by Marius on the battlefield and extending them. Marius must have been pleased, for this could only add to his reputation as a great *patromus* and he may even have been behind the measure. The story of Marius' grants of citizenship to a cohort from Camerinum was probably quite well known by the time of Saturninus' law, and must have made him somewhat of a hero among the allies, for Marius had shunned any arguments of its illegality: "Quod quidem factum et vere et egregie excusavit dicendo inter armorum strepitum versa se viris civilis exaudire non potuisse."¹⁵² Badian argues that Marius and his associates did

145 App., *BC*. 1.29.

146 Vell. Pat. 1.15.

147 See Brunt, *IM*, p. 198.

148 Plin., *NH* 3.80.

149 Brunt, *IM*, p. 198.

150 Crawford, *RRC*, pp. 629f.

151 Brunt, *Fall*, pp. 279-80.

152 Val. Max. 5.2.8; cf Plut., *Mar.* 28 and Cic., *pro Balb.* 20.46.

much to emphasize Italian claims during this period,¹⁵³ perhaps recognizing the need for some kind of official settlement with them. Such suggestions cannot be far from the truth, though both Sherwin-White and Brunt have remained unconvinced.¹⁵⁴ Brunt argues that Marius' disposition toward the allies cannot be demonstrated by one, possibly impetuous act. Certainly other evidence of the kind is lacking; the case of Matrinius stands alone,¹⁵⁵ but when an impetuous act of such magnitude is followed by a law confirming and extending it, can official support be far behind?

Whatever scholarship deigns to accept as Marius' attitude must ultimately take into account the fact that Saturninus' *lex agraria* took steps toward the recognition of allied grievances. Just how significant the attempt was depends on our interpretation of the numbers involved. Cicero says quite clearly that Marius was to enfranchise three Italians in each of the colonies, but Brunt has suggested that *ternos* be amended to *trecenos*, though clearly stating that "there is no compelling reason for the emendation."¹⁵⁶ It is because of Appian's confused account that it is even suggested, for he initially talks of the law benefiting *Italiotai* and then later tells us that Roman *agroikoi* rallied behind Saturninus to support it. But why should Roman peasants support the enfranchisement of so great a number of Italians, unless they themselves stood to gain from the allotments? Could Appian have supposed the grants to be for both veterans and regular citizens? It is never difficult to see why the city mob would oppose citizenship grants, whatever the number. Last has proposed the notion that Saturninus' bill intended to establish not colonies, but settlements with Latin rights, which could conceivably include no Romans at all.¹⁵⁷ This just cannot be so, for in the end it was to be Roman citizens who determined the fate of Saturninus' legislation.

We are left with a compelling problem and no easy solution. Brunt mentions a reference to a *lex agraria* in the *Periocha* of Livy¹⁵⁸ but writes "this does not prove, especially given the character of the source, that there was also to be virgane settlement, as under other agrarian laws."¹⁵⁹ Another reference in Plutarch tells of Marius' concern for land distribution to his veterans, land which Brunt assumes to have been in Italy.¹⁶⁰ Our problem is, of course, that Saturninus' programme never got off the mark, so we are left with mere speculation. The citizenship issue must surely have come up, whatever number we settle on, and that is significant in and of itself, as is the fact that some kind of settlement scheme was intended for the provinces. Such developments were surely new, a far cry from the agrarian reforms envisioned by the Gracchi, and set important precedents not just in their scope, but in the way they were forced through.¹⁶¹ The cryptic references in our sources are varied and confusing, since

¹⁵³ Badian, *FC*, p. 293 ff.

¹⁵⁴ Sherwin-White, *The Roman Citizenship*, p. 140; Brunt, *Fall*, p. 131.

¹⁵⁵ Cic., *pro Balb.* 21.48. Matrinius was charged in 95 with usurping the franchise under Saturninus' law.

¹⁵⁶ Brunt, *Fall*, p. 131.

¹⁵⁷ Val. Max. 9.5.1; Last, *CAH* 9, p. 169, suggests choice given to individuals; Brunt, *Fall*, p. 94, that communities to have choice between incorporation and *ius provocationis*.

¹⁵⁸ Liv., *Per.* 69.

¹⁵⁹ Brunt, *Fall*, p. 279.

¹⁶⁰ Plut., *Crass.* 2. c.f Brunt, *Fall*, p. 279.

¹⁶¹ See below on the significance of the oath clause, pp. 27-30.

when they are combined they seem to portray the agrarian laws of 100 as all things to all people. Perhaps they were. Let us not forget there were also to be colonies in Sicily, Achaea and Macedon, as well as those in the north, and perhaps even some in Italy. Could Saturninus have envisioned a programme of agrarian reform on such a large scale that it encompassed all those factions that we have been discussing? It bears consideration; nothing else can explain why the sources portray so many differing accounts. Perhaps the law's failure was due to its enormity of scope, which may also explain the confused tradition, particularly in light of a lack of physical evidence: the colonies themselves. With Saturninus' earlier successes to inspire him perhaps anything is possible. Unfortunately we may never know.

This brings us to the inevitable question of the law's validity, for which the prosecution of T. Matrinius under the *lex Licinia Mucia* of 95 provides the best evidence. Charged with usurping the franchise, Matrinius was defended by L. Crassus and obviously supported by Marius. Gabba maintains that all of Saturninus' legislation of 100 was annulled, but his view has found little support.¹⁶² The principal argument comes from Cicero's portrayal of the case against Matrinius at *pro Balbo* 21.48. His language implies that the prosecutor was unable to deny the law's validity *carte blanche*,¹⁶³ but had to resort to sophistry:

..non duxit fundum Spoletinum populum non esse factum...sed,
cum lege Appuleia coloniae non esset deductae, qua lege
Saturninus C. Mario tulerat, ut in singulas colonias ternos cives
Romanos facere posset, negebat hoc beneficium re ipsa sublata
valere debere.

Brunt probably comes closest to the truth when he suggests that Matrinius' prosecutors may have based their case on the argument that the specific colony for which he had been destined never materialized.¹⁶⁴ In view of the fact that Matrinius was defended by none other than L. Crassus, who co-authored the law,¹⁶⁵ there can be little doubt that at least some of Saturninus' grand vision survived him.

Matrinius' trial is perhaps less significant for what it tells us of Saturninus' law than it is as an example of Rome's deteriorating relations with her allies. Drusus' tribunate and the outbreak of the Social War were after all only four years away by the time Matrinius' citizenship was challenged. Obviously Saturninus had tried to take some steps towards Italian enfranchisement, but most were frustrated, as were those of Fulvius Flaccus in 125¹⁶⁶ and Gaius Gracchus in 122.¹⁶⁷ Mommsen may have been a little rash to say that Saturninus' agrarian programme was the first to try to satisfy

¹⁶² Gabba, *Ath* 29, p. 17; Badian, *Hist.* 11, p. 219 n.87, despite Diodorus' claim at 36.16 that the laws were annulled.

¹⁶³ Badian, *Hist.* 11, p. 219 finds this significant.

¹⁶⁴ Brunt, *Fall*, p. 279; he also points out that Sporedia and Cerceina, should they be accepted as colonies of Saturninus, which would obviously nullify any claims of invalidity.

¹⁶⁵ See Brunt, *Fall*, p. 131; cf Ascon. 67C.

¹⁶⁶ Val. Max. 9.5.1; App., *BC* 1.21.

¹⁶⁷ Cic., *Brut.* 99; Vell. Pat. 2.6.2; Plut., *CG* 5.1, 9.3, 12.1-2; App., *BC* 1.23.

Italian claims,¹⁶⁸ but it is plain that the problem would not go away. No doubt Saturninus recognized that sooner or later something had to be done and he tried to find a solution himself. His motives were, no doubt, more egocentric than those of his predecessors, but he cannot be faulted for it. That it would take a major war to finally force some action is a testament to Rome's unwillingness to act on the matter, not just in 91, but every other time the question reared its ugly head.

This brings us finally to the question of the binding oath that the *lex agraria* called for, by which all senators were to swear to uphold the law and for which we must rely primarily on what we can divine from the accounts of Appian and Plutarch. That both traditions derive from the history of Rutilius Rufus is certainly plausible given that Plutarch does indeed mention Rufus as a source. Stockton, who complains that the "whole story is hard to credit as it stands and reads like a piece of hagiology",¹⁶⁹ certainly cautions wisely. I doubt Saturninus would go to such elaborate lengths to engineer the exile of Numidicus, no matter how much mutual animosity the two shared.¹⁷⁰ Surely Metellus' departure from Rome was an unexpected bonus. Besides, if we can believe Appian, banishment was never proposed by the law, which called only for a fine of twenty talents and expulsion from the senate.¹⁷¹ So what was Saturninus after? At first the whole question of an oath poses theoretical problems. Why should it be necessary to force senators to swear to abide by the law? Was not the will of the *populus Romanus* itself the most inviolable of laws? To anyone who has made a study of the republic these questions may seem naïve; they are, but all the more important for being so. Saturninus could not afford such naïveté. An agitator for radical reform, in one of history's most conservative states, he knew better than to trust in the moral fortitude of his opponents or the permanence of the assembly, which always bowed with the prevailing winds. In requiring senators to swear an oath to abide by the terms of his law Saturninus attempted to force the compliance of those who might have otherwise opposed him.

It was not, however, unprecedented. Earlier a law to deal with piracy in the east and sponsored, it is assumed, by Saturninus, contained a similar clause.¹⁷² The sanction of the Delphic piracy law was directed at the governors of Asia and Macedon, serving magistrates, with the notable exception of tribunes and *eparkoi*, and all future magistrates, excepting *eparkoi* once again. Stuart Jones believes the *eparkoi* to be provincial governors, a supposition that is bewildering to say the least, given the fact that the governors of Asia and Macedon are singled out especially. Perhaps his first suggestion, that the *eparkoi* represent the minor magistracy of the praefecti, who

¹⁶⁸ Mommsen, *History of Rome*, vol. 4, p. 469.

¹⁶⁹ Stockton, *Sources*, p. 101.

¹⁷⁰ On Metellus' exile see Appendix I.

¹⁷¹ App., *BC* 1.29.

¹⁷² Hassal, Crawford, Reynolds, *JRS*, pp. 195-220. See Stuart-Jones, *JRS*, pp. 155-173, who argues that the piracy law was indeed authorized by Saturninus; see also Ferrary, *MEFR(A)* II, pp. 85-134. G.V. Sumner disputes this fact, *GRBS*, pp. 211-225, suggesting that the law was the result of a *senatus consultum* and may even have been co-authored by M. Porcius Cato, *tr. pl.* 99. It seems unlikely that the senate would have supported the concept of a binding oath so soon after Saturninus' *lex agraria*. The idea seems far more in keeping with Saturninus' own policy. For the law itself, see G & C, *Sources*, p. 279.

would have had little to do with it anyway, is more accurate.¹⁷³ The piracy law also provided for penalties, two hundred thousand sesterces for each infraction and similar fines on any magistrate interfering with the process of recovery.¹⁷⁴ We can only assume that the law was both initiated and obeyed.

However, with no real evidence in the sources the law remains an enigma. Badian concludes that any attempt to fit the law into any coherent pattern of policy (presumably Saturninus') is thus doomed to be unsuccessful,¹⁷⁵ but we can always speculate. If it was in fact one of Saturninus' laws it would stand, arguably, as his least offensive piece of legislation. Dealing with pirates would always find ready support from Rome's business interests. Saturninus certainly cultivated equestrian support, as earlier judicial legislation shows, and the piracy law may well have been designed to help maintain that support when Saturninus' programme became increasingly radical.

More importantly, Saturninus was extending his influence into foreign affairs.¹⁷⁶ Let us not forget that the tribunate, by its very definition, had no jurisdiction outside of Rome. Tribunician incursions into foreign policy were by no means unprecedented, but they were rare. The numerous scandals of the Jugurthine War had shown that the senate, often acting more like an old-boys club than a responsible deliberative body, could not be trusted to protect the interests of the Roman people. Saturninus' famous insult to the embassy of Mithridates¹⁷⁷ was probably intended to remind the people of the senate's passion for foreign bribes, and to guard against it. Although *privatus* at the time, Saturninus continued in his role as a watchdog of senatorial corruption.

The politics behind both the piracy law and the *lex agraria* seem clear, and are summed up brilliantly by Sherwin-White:

He was fostering a scheme that would secure a great extension of the effective power of the tribunes, a scheme that would enable tribunes not merely to pass several legislative reforms, as formerly, but also to intervene extensively in ordinary administration, and to subject the upper magistracies to a detailed control of their activities in a way that smacks of government by psephisma... The object of the oath was to use the senate as an instrument by binding all senators and magistrates to carry out plebiscites, instead of neglecting them if contrary to their own ideas.¹⁷⁸

¹⁷³ Stuart-Jones, *JRS*, pp. 171-172.

¹⁷⁴ Stuart-Jones, *JRS*, pp. 159-160.

¹⁷⁵ Badian, *Hist.* 11, p. 217.

¹⁷⁶ See Sherwin-White, *JRS* 46, p. 4, who, in describing Saturninus as "the real innovator" of the era, argues that in the piracy law Saturninus "seems to have sought to control Asiatic affairs in considerable detail."

¹⁷⁷ Diod. 36.15.

¹⁷⁸ Sherwin-White, *JRS* 46, p. 4.

With few exceptions the tribunate had remained a negative office throughout the republic. Its power lay in the fundamental principle of *intercessio*, the veto, and it had become a tool of the governing class. The Gracchi had sought to change the tribunate's *raison d'être*, and use it as a vehicle for positive government and for change. Tiberius' deposition of Octavius was aimed at preventing the aristocracy from using the people's office to oppose the people's will. Representative government may not be the best term to apply here, but the idea is apparent. The use of an oath clause tacked to both the piracy and agrarian laws certainly suggests that Saturninus may well have been inspired by this concept. In no uncertain terms the oath bound the senate to obey and respect the will of the Roman people, insofar as that will was represented in the people's assembly. Thus the attempt was made to by-pass the senate as a constitutional force. Though composed of ex-magistrates, the senate had no real constitutional function and remained by and large a bastion of aristocratic privilege. Throughout the history of the republic the tribunate had slowly evolved into the state's principal office of legislative initiative, though it was often used as a tool of the aristocracy. When Tiberius Gracchus had sought real independence for the office, he created a dangerous precedent and the outcome was predictable. Saturninus wanted to oversee the last stages of the tribunate's evolution. Questions of veteran settlements and agrarian reform aside, the *lex agraria* of 100 B.C. aimed at nothing less than the establishment of the tribunate and the popular assembly as the dominant legislative force in Rome and the destruction of the notion of senatorial patronage.

The Death of Saturninus

We can now turn our attention to the last phase of Saturninus' illustrious career, the murder of Memmius, the final riot, and the tribune's violent death. Once again our source tradition is confused and has presented scholarship with a myriad of unsolved problems, the most important of which is attempting to establish with some certainty the time and the circumstances of Saturninus' fall. Appian, our main source, states in no uncertain terms that Saturninus, Glaucia and Equitius all died on 10 December, 100, since he says that the riot occurred on the first day of the new tribunician year.¹⁷⁹ That scholars question Appian's reliability has caused many to doubt his dating of events, as has the difficulty posed by other sources in attempting to clarify Equitius as either tribune or merely tribune designate.¹⁸⁰

It would be useful to begin this discussion by presenting Gabba's arguments against Appian in the order in which Seager rejects them. (1) Appian's text implies that the consular elections were postponed until December 9. (2) The *de viris illustribus* 73 tells of the water supply to the Capitol being cut *maximo astu*, which Gabba, emending to *aestu*, believes implies a hot day, not December. (3) Valerius Maximus (3.2.18) describes L. Equitius as *tribunis designatus*, a fact supported *ex silentio* by Cicero (*pro*

¹⁷⁹ App., *BC* 1.33.

¹⁸⁰ Support for Appian comes primarily from Seager, *CR*, pp. 9-10, and Beness and Hillard, *CQ*, pp. 269-272. Problems with Appian's interpretations were raised by Gabba in his edition of Appian's text, p. 110 ff., arguments which found initial support in Gruen, *Hist.*, p. 33 n.6, and later more vigorously in Badian, *Chiron*, pp. 101-147. All arguments are treated below. Further complications have arisen in establishing dates for magistracies in the years immediately following Saturninus' death, but as they have little to do with this paper I will not discuss them at any great length. See especially *MRR* 3.21-22 and Badian, *Chiron*, pp. 130 ff.

Rabirio 20). (4) Dio's statement (28.95.3) that P. Furius first supported Saturninus, then abandoned him, is taken by Gabba to mean that Furius was Saturninus' colleague in 100.

I would like to examine this last point first. Furius' tribunate causes a number of problems, and is thus of little help in dating Saturninus' murder. Two aspects of his tribunate have been recorded in the annals of Roman history. He sponsored the bill to confiscate the property of Saturninus and his associates, and he successfully vetoed the recall of Metellus Numidicus.¹⁸¹ Dio's fragment condemns Furius as seditious and tells us that he first joined Saturninus and then deserted to the other side.¹⁸² Dio makes no allusion to when this desertion occurred or to Furius' status at the time. He could well be one of the tribunes who rallied to support Marius and the SCU. In that case it is plausible to assume that his measures came in 100 if Saturninus' death is dated early in the year.¹⁸³ However, Dio's statement could be interpreted to imply that Furius used Saturninus' patronage to secure his election for 99 and then deserted to the optimates.¹⁸⁴ Appian, whether accurate or not, is at least firm in his interpretation of the chronology and has Furius as tribune after Saturninus' death, clearly placing Furius' tribunician year in 99 (at least by his own logic). Obviously there is no simple solution to the problem. It would thus appear that any attempt to use Furius' tribunate to date Saturninus' death requires us first to determine the latter before establishing the former. Confronted with such a problem we must look for a solution elsewhere.

The second of Gabba's points is the reading of the *de viris illustribus*. Seager supposes Gabba's reading of "maximo aestu" is an emendation leading to his conclusion that the riot occurred on a hot day and dismisses the argument.¹⁸⁵ However, "aestu" is in fact the principal reading of the text and Badian points out that "aestu" is in fact the correct reading from the A class of manuscripts, and thus not an emendation at all.¹⁸⁶ Regardless the point is moot. That the riot may have occurred on a hot day can indeed suggest a date earlier than December, but cannot stand alone. Perhaps the author meant a hot day for December! Unfortunately no interpretation of the text can lead us to any satisfactory conclusion. Hot or cold, Saturninus could not hold out for long without water and we have no idea how many were with him or for how long they were besieged. Cutting the water pipes was simply a way of preventing the situation from dragging on. We must also remember that Saturninus surrendered to Marius with an understanding of some kind of safe conduct.¹⁸⁷ It was in his own interests, once defeat was inevitable, that he cultivate as much tolerable good will as possible and surrender quickly. Again we are left facing an argument that can neither deny nor confirm Appian's chronology.

¹⁸¹ Oros. 5.17.10; App., *BC* 1.33.

¹⁸² Dio. 28.95.3.

¹⁸³ Gabba, *BC*, pp. 110 ff.; Gruen, *Hist.* 50, p. 33-36; Beness and Hillard, *CQ*, p. 271 n. 13; Badian, *Chiron*, p. 133 date Furius' tribunate to 100.

¹⁸⁴ Seager, *CR*, p. 10

¹⁸⁵ *ibid.*

¹⁸⁶ Badian, *Chiron*, p. 105.

¹⁸⁷ Cic., *pro Rab.* 10.28; Plut., *Mar.* 30.

The question of L. Equitius, to whom Valerius Maximus refers as *designatus* on the day of his death, is perhaps more significant.¹⁸⁸ That Cicero fails to mention Equitius at *pro Rabirio* 7.20 has generally been taken as proof that the "false Gracchus", Equitius, was not a tribune at the time of the riot.¹⁸⁹ He claims that all tribunes joined Marius in opposition to Saturninus. Seager argues that a lacuna in the text accounts for this discrepancy, but his view is countered by Badian, who rightly insists that no lacuna is evident.¹⁹⁰ Even if there is a gap in the manuscript we cannot presume to fill it and must concentrate on what we have, not on what may or may not be missing.

Whether Equitius actually died with Saturninus is disputed by Beness and Hillard in an article published in 1990.¹⁹¹ Their argument is based on Orosius' testimony that Saturninus and his confederates met with different fates and that Equitius is not numbered among them. They thus conclude that the Livian tradition makes the same distinction and that Appian is correct in his dating of Equitius' death to the day upon which he entered his tribunate. While admitting that Equitius was with Saturninus, they insist that he was there as *privatus*. The problem here is the daring assumption that Equitius somehow managed to escape the fate of his companions and lived long enough to assume office. That earlier a popular show of support had freed him from prison cannot lead to the conclusion that he was rescued again.¹⁹² The suggestion that the urban mob which turned against Saturninus would still support Equitius is a difficult one to come to terms with. Cicero, who would surely have been aware of it, is silent, and assumes that the "false Gracchus" perished with the others.¹⁹³ Lacking any concrete evidence to the contrary, we must accept that Equitius died with Saturninus, or at least on that day, and that he died before taking office.

Finally there is the question of the dating of the consular elections, which Appian places on December 9, a view rejected by Gabba.¹⁹⁴ Seager, who finds Gabba's suggestion that the elections were held in the summer equally unlikely, proposes no other solution than conformity with Appian.¹⁹⁵ But Appian's account is compressed and misses much of the detail recorded by other sources. Orosius reports many developments in the saga before the final act: Marius' speech to the urban plebs that turned them against Saturninus, Saturninus' speech to his own followers and several skirmishes before Saturninus withdrew to the Capitol.¹⁹⁶ Orosius' protracted account suggests that Livy recorded the events in detail, and it is difficult to accept how Marius' preparations alone could have happened in as short a time as Appian suggests. Nevertheless these arguments alone cannot discount December 10 as the date of

188 Val. Max. 3.2.18.

189 Cic., *Pro Rab.* 7.20. Cicero lists all those who rallied against Saturninus: *Adhibent omnis tribunos pl. praeter Saturninum.*

190 Seager, *CR*, pp. 9-10; Badian, *Chiron*, p. 105.

191 Beness and Hillard, *CQ*, pp. 269-272.

192 Beness and Hillard, *CQ*, p. 271; cf. Val. Max. 9.7.1.

193 Cic., *pro Rab.* 7.20.

194 Gabba, *BC*, p. 110f.

195 Seager, *CR*, p. 10.

196 Oros. 5.17.5-9. cf. Badian, *Chiron*, p. 109.

Saturninus' death, but other evidence does allow for us to at least rule out the ninth as the date for the elections.

Surprisingly the most convincing argument against Appian's dating has been constructed using another piece of information in Appian's text, namely the identification of C. Saufeius, a colleague of Saturninus', as quaestor.¹⁹⁷ Given that the consular elections had to be held before the elections for any other offices, and that new quaestors assumed office on December 5, it follows that Saufeius was quaestor for 100 and thus that the consular elections had occurred sometime before the fifth of December. It is a valid solution. First, it is less likely that Appian would confuse his source's reference to Saufeius as quaestor than he would particularities over elections and entry into office. Also we have Cicero's statement placing Saufeius with Saturninus on the day of the riot.¹⁹⁸ Saufeius must have been a significant character, and for Cicero to mention him specifically suggests that he did indeed hold the office of quaestor. Quite clearly with Saufeius as quaestor the elections and the riot must surely have taken place sometime before December 5.

Of the four arguments discussed, this final one is certainly the most sound and does, I believe, make a strong case for accepting the arguments of Gabba and Badian, and rejecting Appian's date of 10 December. Unfortunately the precise date of Saturninus' death must remain an open question. However, far more significant is a correct interpretation of the circumstances leading to and culminating in the final anarchy that killed him. Saturninus' increasingly radical programme during 100 B.C. had helped to solidify his support among certain groups, and secured his reputation as an effective politician. No doubt he wanted to continue on to new heights in 99, and perhaps even aspired to controlling the government. Marius had proved a useful patron, but their co-operation had been born of convenience, not through any shared ideological bent. Marius was after all the typical *novus homo* made good, and having gained respectability, wanted nothing less than to be accepted as a full fledged member of the aristocracy. His implied desire for the censorship demonstrates that he took this, and his position in the senate, seriously.¹⁹⁹ Saturninus had no such aspirations, and must have known that sooner or later he and Marius would clash. Glaucia's candidacy for the consulship for 99 must have been on the demagogues' agenda for some time.

Glaucia had already established his reputation as tribune in 101 when he sponsored the *lex Servilia Glaucia* which restored the equites to the law courts.²⁰⁰ Mouthpiece of equestrian interests, he also had much popular appeal and with Saturninus elected tribune for 99 the two would have posed a severe challenge to senatorial government. I think we can assume that no Roman noble would have relished such a combination at the head of the state. With a willing and able colleague, Saturninus' ambitions would have been limitless. There was, of course, one problem, which aristocratic interest would certainly have exploited. Glaucia was praetor in 100, and the holding of successive magistracies was prohibited by the *lex annalis*. Nonetheless he persisted in his candidacy. After all he had good reason to hope, even

¹⁹⁷ Badian, *Chiron*, p. 106 ff; cf *MRR* 3.22.

¹⁹⁸ Cic., *pro Rab.* 7.20.

¹⁹⁹ Plut., *Mar.* 30.

²⁰⁰ Caepio's *lex Servilia* in 106 had attempted to establish senators as the only jurors.

expect, that the law could be overlooked. Marius was to preside over the consular elections, himself a beneficiary of the law's uncertain nature, and the two demagogues must have assumed that Marius would use his *auctoritas* and accept Glaucia's candidacy.²⁰¹ Marius was not to be so obliging, and after consultation (presumably with leading senators, whose opinion he probably would have known well in advance), disallowed Glaucia's candidacy.²⁰² Marius' sudden about face to the side of constitutional righteousness must have surprised the demagogues, perhaps prompting Glaucia's famous insult to the consul which is reported by Cicero.²⁰³ After all Marius' career had been one long string of illegalities. Successive consulships aside, there was his recent illegal enfranchisement of allied cavalry.²⁰⁴ That Saturninus had helped Marius combat any challenge to this "illegal" act with his agrarian bill of 100 added insult to *iniuria*. But it would appear that the demagogues were not about to see their plans scuttled so easily:

It is here that the question of postponement of the consular elections becomes paramount. Badian proposes that Saturninus and Glaucia may have turned to their only other plausible option.²⁰⁵ If a *plebiscitum* supporting Glaucia's candidacy could be passed, Marius would have to reconsider his position or fly in the face of public opinion. Such a move was daring to say the least, and would have set a bold precedent. Two earlier occasions had given rise to such expressions of popular will, but hardly under similar circumstances. Both involve Scipio Aemilianus. In 148 he had been exempted from the law and allowed to stand for the consulship.²⁰⁶ Again in 135, Cicero tells us that, although not a candidate, Aemilianus was again elected consul *in absentia*.²⁰⁷ But Aemilianus' situation was hardly comparable to the one facing Saturninus and Glaucia in 100. For one, Scipio had been chosen to lead Rome's armies against troublesome foreign enemies, Carthage in 147 and Numantia in 134. One would thus conclude that the military situation demanded such extreme measures, as was the case with Marius, but other than the unusual nature of Scipio's case, our sources make little of the importance of the precedent that Aemilianus' rise created. No charges of *regnum* are laid, no questions about the effects his power and popularity may have had on the *res publica*. Aemilianus was after all the consummate republican, the grandson of Africanus and a member of a respected patrician clan. Romans had always looked to their leading families in times of crisis, and Aemilianus could be expected to fulfill his role and retire gracefully to the senate when his work was done. The nobility would hardly oppose one of their own. With no demagogue tendencies Aemilianus was acceptable to the governing class.

²⁰¹ See Badian, *Chiron*, p. 113.

²⁰² Cic., *Brut.* 224, see Badian, *Chiron*, p. 113, who proposes that Marius "seized the opportunity of guarding himself in constitutional propriety".

²⁰³ Cic., *de Har. Resp.* 24.51: *Utrum tandem C. Marius splendidior, cum eum C. Glaucia laudabat, an cum eumdem iratus postea vituperabat.*

²⁰⁴ Val. Max. 5.2.8; Cic., *pro Balb.* 20.46.

²⁰⁵ Badian, *Chiron*, p. 112.

²⁰⁶ Diod. 32.15.2; Val. Max. 8.15.4; [Cic.] *ad Herren.* 3.2.

²⁰⁷ Cic., *de Rep.* 6.11.

The case of Tiberius Gracchus, whose occupation of the Capitol Badian cites as Saturninus' precedent,²⁰⁸ while similar, bears one important difference. What Tiberius' intentions were is not certain and various arguments have been proposed. Taylor suggests that his assembly was legislative, but her position was later challenged by Earl and Badian.²⁰⁹ That Tiberius sought a second year as tribune is the more plausible option; his motives defensive as he tried to avoid prosecution.²¹⁰ Saturninus' motives were different. While both cases required popular 'approval' for avoiding constitutional precedent,²¹¹ Tiberius wanted only to be elected. Saturninus was attempting to openly challenge a decision of a presiding magistrate. This was almost unheard of in Rome. Proposed legislation could be vetoed, and ex-magistrates prosecuted when their terms ended, but to secure a vote of the people that would effectively overturn a consular ruling was an innovation. The majesty of the Roman state was embodied in consular *imperium*. Had Saturninus been successful with his *plebiscitum*, this inviolable constitutional truth would have been shattered forever. The *fascēs* would belong to the people's assembly, and any tribune that could dominate it.

But before any of this could happen, the consular elections had to be delayed. The *leges Aelia et Fufia* prohibited any legislation until the elections were completed,²¹² and Glaucia's disqualification suggests that they had indeed been announced. Badian points out the difficulties that Saturninus would face in trying to veto the elections:

...he could not be in two places at once; and since he had to deliver his veto in person, and the other tribunes were against him... he would not be able to preside over the *concilium* at the same time. Admittedly, on December 10 he would have Equitius as a colleague. But it was improbable that Marius would allow the situation to drag on as long as that."²¹³

The decision to murder a consular candidate could not have been arrived at lightly. Glaucia could have forced his colleague's compliance. If the murder of a tribunician candidate in 102 is a historical reality,²¹⁴ then certainly the method was tried and true, but no-one would have expected such a deed to pass unnoticed, considering that evidence supporting the fact that the murder took place at the *comitia* is strong.²¹⁵ The election may even have been well underway. Also we cannot be sure when Glaucia's candidacy was invalidated. It is conceivable that Marius disqualified Glaucia

²⁰⁸ Badian, *Chiron*, p. 112.

²⁰⁹ Taylor, *Ath*, pp. 51-69; Earl, *Ath*, pp. 95-105; Badian, *ANRW*, p. 720 n.152.

²¹⁰ Plut., *TG* 16; App., *BC* 1.14; Dio. 24.83.8.

²¹¹ It is nowhere clear that holding successive tribunates was against the law. No mention is made that Saturninus' tribunate for 99 was illegal.

²¹² See Astin, *Latomus*, pp. 421-445. One wonders why this law in particular commanded Saturninus' respect.

²¹³ Badian, *Chiron*, p. 116.

²¹⁴ On the murder of Nunnus, see Appendix II. Evans, *AHB*, pp. 42-48, makes a good case for believing this act a later fabrication.

²¹⁵ *de vir. ill.* 73.9. ...*in campo Martio*; cf Badian, *Chiron*, pp. 116-117.

just prior to the elections' commencement. If so, then we can assume that the assembly was packed with Glaucia's supporters. Appian tells us that Glaucia was actually in the process of losing to Memmius after M. Antonius' election, when the murder occurred.²¹⁶ Scholars have dismissed Appian here, basing their conclusions on Cicero's statement that it was Glaucia's disqualification, not his death that prevented his election.²¹⁷ But perhaps there is some truth in Appian's story. If we assume that voting began immediately and that Glaucia's supporters were present then they may have proceeded to cast lots for him anyway, in blatant disregard of Marius' ruling. The case of Scipio Aemilianus in 148 and even Marius' in 104-102 may warrant examination. Was Scipio's candidacy approved in order to legitimize what was going to be an inevitable result?²¹⁸ In other words, would the Roman populace have declared for him regardless of his status? It is possible. Saturninus and Glaucia may have tried to win the election with illegal ballots and present Marius with a *fait accompli*.

Scholars accept that Appian's account was based on the history of Rutilius Rufus, a contemporary.²¹⁹ But this fact is never suggested when it comes time to evaluate his description of Memmius' murder. Are we to assume that Rufus accompanied his friend Metellus Numidicus into exile? Unless we do there is no reason to believe that Rufus was not in Rome when Saturninus fell and that he both witnessed and recorded the events of the riot. With a demonstrable link to a contemporary source, perhaps Appian's statement that Memmius was killed during the elections, as he was poised to defeat Glaucia, should carry more weight than it does.

Apart from Appian, we have four other sources that mention Memmius. Livy and Orosius tell of Saturninus' fear that Memmius would be a hostile consul, but as Orosius probably derives from Livy we can treat this as one attitude.²²⁰ The *de viris illustribus* refers to Memmius as Glaucia's *competitorem*, as does Florus, suggesting that this idea pervaded another tradition.²²¹ We thus have two motives for the murder, both of which explain why it was Memmius that was singled out for assassination. But if the murder was conceived in order to delay the elections long enough to allow for a *plebiscitum*, then anyone would do. Again we must look to Cicero:

Longe autem post natos homines improbissimus C. Servilius Glaucia, sed peracutus et callidus cum primisque ridiculus. Is ex summis et fortunae et vitae sordibus in praetura consul factus esset, si rationem eius haberi licere iudicatum esset. Nam et plebem tenebat et equestrem ordinem beneficio legis devinxerat.²²²

²¹⁶ App., *BC* 1.32.

²¹⁷ Cic., *Brut.* 224.

²¹⁸ That this may well have been the case, see Develin, *Latomus*, pp. 484-488.

²¹⁹ Evans, *AC*, p. 66; see also Stockton, *Sources*, for 101.

²²⁰ Liv., *Per.* 69; Oros. 5.17.5

²²¹ *de vir. ill.* 73.9.; Flor. 2.3.16.

²²² Cic., *Brut.* 224.

Quite clearly Cicero felt Glaucia's election a certainty. M. Antonius' success against the Cilician pirates²²³ would virtually guarantee his election to the first place, leaving Glaucia and Memmius to contest the second. If Cicero is to be believed then neither Saturninus nor Glaucia had anything to fear. Memmius would lose. If Saturninus could, after Glaucia's disqualification, pass a *plebiscitum* allowing his candidacy, presumably the result would be the same. Now, it is understandable that Memmius was killed because he provided Glaucia's closest competition, therein removing any question of Glaucia's success, but was it necessary to do this in the full view of the *comitia*. Would it not have been better for Saturninus to veto the *comitia* for the day, and then try to silence Memmius quietly, in a way that would not arouse immediate suspicion? That the murder happened at the *comitia* lends credence to Appian's view that the elections were progressing when the riot started. If Glaucia continued to stand illegally we can see how his once overwhelming support would waiver, particularly among the equites. Hence he was starting to slip behind Memmius in the tally and as the situation grew worse Memmius was lynched by Glaucia's hard-core supporters. Guilty by association, Saturninus' reputation may have suffered the most in a hostile tradition.

It is of course impossible to try to absolve Saturninus of guilt, there simply aren't enough facts. But it is conceivable that events quickly flew out of his control and that the occupation of the Capitol was an attempt to make the best of a bad situation. Trying to make sense of a two thousand year old riot is an impossible task. Nevertheless, after the inevitable chaos provoked by Memmius' murder and a few skirmishes, Marius was instructed by the senate to safeguard public liberty. Our sources report that it was in fact M. Aemilius Scaurus, the *princeps senatus*, who took the lead in prompting Marius to action.²²⁴ Badian has also provided useful arguments as to why Marius would hesitate to act against a serving praetor and tribune: "Saturninus, though he could not be certain what the consequences of his actions would be, had reason to be confident."²²⁵ Whatever Saturninus' crimes, real or imagined, Badian's arguments are valid. The SCU was, at the time, still an undeveloped expedient, with no real constitutional history. Gaius Gracchus was a private citizen when the state moved against him, and the action against Tiberius was legalized *post factum*. All depended on Marius, who may have been unwilling to use armed force against a tribune,²²⁶ whose very person was protected by his *sacrosanctitas*. Saturninus' *sestitutio* having been suppressed, it is clear that he too felt that this ancient concept would protect him, and he surrendered to Marius willingly.²²⁷

Saturninus' surrender demonstrates that he still hoped to escape this incident relatively unscathed. Perhaps he still had faith in Marius' *auctoritas* and hoped that the consul would remember the many services he had rendered him. Plutarch records that Marius did indeed do everything he could to save their lives,²²⁸ though this was

²²³ Cic., *de Orat.* 1.82; Liv., *Per.* 68.

²²⁴ Val. Max. 3.2.18; *de vir. ill.* 72.9. See Shatzman, *Anc Soc*, pp. 197-222, who discusses Marius' relations with Scaurus.

²²⁵ Badian, *Chiron*, p. 119.

²²⁶ Badian, *Chiron*, p. 119.

²²⁷ Cic., *pro Rab.* 10.28; *de vir. ill.* 73.10; Plut., *Mar.* 30.

²²⁸ Plut., *Mar.* 30.

probably due more to his desire to bring them to trial than to any feelings of comradeship. Badian argues that Marius' final policy towards Saturninus was "consistent and rational,"²²⁹ though what this may imply is questionable. Marius may well have had the stereotypical respect of the new man for the laws of the *res publica*,²³⁰ but the laws did not provide for dealing with tribunes supposedly responsible for murder. Marius' long association with Saturninus had forced the consul into an unenviable position. Moving against Saturninus would risk alienating his veterans. It was after all Saturninus who had fought for their settlements in the political arena. By failing to act, Marius risked a greater calamity. Throughout his career Saturninus had demonstrated that he had his own agenda and ambitions and was not content to play the role of Marius' agent. Ultimately it was his independence and the threat that he would overshadow Marius' reputation that turned the consul against him.

* * *

With the state's suppression of Saturninus, the *senatus consultum ultimum* assumed the form of proper constitutional sanction. Whatever threat Saturninus posed to the *res publica*, with the example of Gaius Gracchus to draw from, the precedent for dealing with Saturninus' *seditio* was seized upon quickly. With the consular riot and the fighting that ensued, the state was able to alienate whatever moderate support Saturninus and Glaucia had left. The *equites*, so carefully cultivated by the two, were quickly brought on side because anarchy threatened the preservation of law and order and thus the protection of property rights.²³¹ That the mob turned against him has been taken by Badian to imply that Saturninus' enemies used his agrarian law of 100 to portray him as a champion of allied interests.²³² Marius' veterans may have wavered, but most probably supported their commander. With such an overwhelming consensus achieved, the senate easily asserted its position over any single magistrate that challenged its position.

The implications of this development are clear, for in the final analysis the use of constitutional violence served only to undermine the senate's position in the state. Legal challenges to the aristocracy were, after Saturninus, no longer a viable option and the process began that would culminate in Caesar's march on Rome at the head of an army, loyal to him and not to the republic. As the establishment turned ever more readily to violence, its image as the sober patron of the *populus Romanus* shattered.

When it comes to evaluating the significance of Saturninus' career, this one factor emerges time and again. Everything Saturninus did was in some way or other directed at reducing the influence of the aristocratic senate over the Roman state. With the *lex frumentaria*, Saturninus, like Gaius Gracchus before him, sought to initiate social reform and to encourage the state to undertake the responsibility of overseeing the welfare of its citizens. His own *lex de maiestate* sought to emphasize the position of serving magistrates and, in all hope, to protect them from having their position

²²⁹ Badian, *FC*, p. 210.

²³⁰ Badian, *Chiron*, p. 119.

²³¹ See arguments of Brunt, *Fall*, p. 148.

²³² Badian, *FC*, p. 206.

undermined. The oath clauses of the piracy law and his second agrarian law again bound the senators to uphold laws passed by the people's assembly and set down specific penalties for those who would not acquiesce to the popular will.

It was, however, his two veteran bills that were the real innovations of the time. By providing for demobilized soldiers, Saturninus began the process that ultimately overthrew the republic. The land reforms of the Gracchi attempted a redistribution of land among Rome's poor, with the intention of rebuilding the conscript base. With the "proletarianization" of the military under Marius, Saturninus recognized where true power in the state would lie in the future. That he tried to establish himself as patron of all troops, not just those of Marius, helps to demonstrate this. By bringing the material interests of the army into the political sphere Saturninus no doubt realized the potential of exploiting this development. That later commanders would come to intimidate the senate was the next obvious step.

Perhaps this is why republican historians produced such a hostile tradition. One only has to think of Cicero's contempt for Saturninus to understand this. Cicero, who tried desperately to keep the republican façade alive, must have realized as the state disintegrated around him the significance of Saturninus' tenure as tribune. Saturninus was certainly perceived as the enemy to the decent conservative and republican values espoused by Cicero. In his book on Tiberius Gracchus, D.G. Earl complained that a corrupted source tradition made determining what actually happened in 133 virtually impossible.²³³ This argument also applies to the career of Saturninus. We simply cannot know how much the literary tradition has corrupted history.

Examining the catalogue of his legislation, it is difficult to accept the tradition's portrayal of Saturninus as a wholly seditious and violent tribune. Rather his legislative programme stands out as the carefully conceived policies of a gifted politician interested in overseeing the natural evolution of the Roman state. That violence is associated with his two tribunates should in no way affect this judgment. Indeed Saturninus would have been truly unique had it not been. If he was responsible for the murder of rival politicians, history should not condemn him. Augustus Caesar himself was responsible for countless such acts, but history has credited him with ushering in Rome's golden age. Though such characterizations may not apply to Saturninus, he should be credited for his accomplishments, not scourged because of a contemptuous tradition. Saturninus' career demonstrates the failings of the republican system, as he continued to exploit the weakness that had been exposed by the Gracchi. The ease with which Julius Caesar overthrew the state was due in no small part to Saturninus' two tribunates. It is perhaps one of Roman history's great ironies that the man destined to usurp the republican constitution was born in the very year of Saturninus' death.

²³³ Earl, *Tiberius Gracchus*, p. 5.

APPENDIX I

The story of Saturninus' second tribunate has been somewhat overshadowed in the source tradition by the exile of Metellus Numidicus. The subsequent glorification of Numidicus by most authors has twisted many of the facts of the matter to such an extent that the truth may never emerge. Plutarch is by far the worst culprit, portraying Marius as the villain, swearing the oath only to force the noble Metellus into a position that he couldn't back away from.²³⁴ Plutarch wants us to believe that Marius' actions were motivated by his hatred for Metellus and that he deliberately engineered his banishment. There was no love lost between the two to be sure, but it is unlikely that Marius would have pursued his vendetta to such extremes. Besides, as Evans so rightly points out,²³⁵ if anyone had cause for revenge it was Metellus, who had lost much prestige in the years of Marius' ascendancy. If an alliance against Metellus existed it was most likely headed by Saturninus and his confederates.²³⁶

In 102 Numidicus had attempted to strike Saturninus and Glaucia, whom he obviously viewed as dangerous demagogues, from the senatorial roll,²³⁷ for which he no doubt incurred the tribune's lasting hatred. He had also thwarted Saturninus' plans by refusing to register L. Equitius, the false Gracchus.²³⁸ According to Orosius, Metellus had besieged Saturninus on the Capitol, but his force was driven off by "enraged Roman knights."²³⁹ If this is true we can see that Saturninus' first tribunate and Glaucia's popularity paid great political dividends. Unfortunately, that the equites played a role in this drama is never attested to by our other sources, and to suppose that the equestrian class would come together *en masse* to show such support for Saturninus is unlikely in the extreme. Nevertheless, by all accounts Saturninus was saved by some kind of mob riot, or at least the threat of it. That Numidicus' censorial colleague and cousin, C. Caecilius Metellus Caprarius (cos 113), refused to support Numidicus' action is also attested.²⁴⁰ It would appear then that even in 102 Saturninus held more sway than Numidicus had either anticipated, or hoped, and his attacks on him backfired. Saturninus would soon have his revenge.

This episode must have demonstrated conclusively to Saturninus who his principal enemy in the state was, and the struggle between the two may have reached its zenith during the elections for 100. Diodorus tells us that, after Saturninus had been acquitted in the senate for his insult to the embassy of Mithridates, a charge no doubt actively supported by Numidicus, he was carried to a second tribunate on a wave of popular support.²⁴¹ With a controversial programme in mind he could ill afford to see

²³⁴ Plut., *Mar.* 29.

²³⁵ Evans, *AC*, p. 65.

²³⁶ As argued by Evans, *AC*, p. 65.

²³⁷ App., *BC* 1.28; Cic., *pro Sest.* 21.47; *de vir. ill.* 73.8.

²³⁸ Val. Max. 9.7.2

²³⁹ Oros. 5.17.3.

²⁴⁰ App., *BC* 1.28.

²⁴¹ Diod. 36.15.

one of the consulships fall to a hostile optimate. Marius' prestige, helped along by lavish bribery,²⁴² pretty well guaranteed that he would win his sixth consulship, and Saturninus could count on his support. But Plutarch records that Numidicus also stood for the consulship of that year. Neither Marius nor Saturninus would have relished this prospect.

Numidicus' candidacy for 100 does present a few problems. First and foremost his election would contravene the *lex Genucia* of 342 which required an interval of at least ten years between consulships.²⁴³ The *Periochae* of Livy also records a *lex de consulatu non interendo* which re-established this principle after the illegal election of M. Claudius Marcellus in 152.²⁴⁴ But Scipio Aemilianus had succeeded despite these regulations in 134 and fortunately for Numidicus, its latest contravention was readily apparent in Marius, who had triumphed over the Germans and only pursued a sixth consulship out of vanity. How the Romans could even pretend to keep faith with this technicality is an interesting question in and of itself. No doubt Numidicus' candidacy was supported by those opposed to Saturninus, and tradition was once again ignored. More important than any constitutional concerns is the absence of any reference to Numidicus' candidacy in the other sources. Plutarch stands alone.²⁴⁵

Scholars have found support for Plutarch's contention in his use of Rutilius Rufus as a source.²⁴⁶ The only other possible candidate is Q. Metellus Nepos, who is not known to have suffered a *repulsa*.²⁴⁷ Badian also argues that, with no Metellus standing in the following year, Numidicus is the most likely.²⁴⁸ Though Plutarch cautions that Rutilius had a personal quarrel with Marius,²⁴⁹ presumably because of his ties to Numidicus, it seems unlikely that he would distort the truth to such an extent. Marius' influence, and money, were enough to secure the election of Valerius Flaccus, and it is thus doubtful that Rutilius would fabricate the story of Numidicus' candidacy only to see it end in a *repulsa*.

With Marius' opposition to Numidicus a given, I think we can conclude that Saturninus too campaigned against him. How significant a role he may have played remains unknown (he probably wielded less influence in the centuriate assembly than in his own), but his position as popular tribune would suggest that he and Marius may well have worked together for the same end, and that Saturninus would have gone to whatever lengths he saw fit to oppose Metellus.

With Metellus thus deprived of power, Saturninus could embark on his agrarian programme and institute his oath. That he did so with the express purpose of attacking Numidicus, as the tradition holds, is doubtful. That he could expect opposition in the senate is obvious, but no one could have known in advance that Metellus alone would

²⁴² Liv., *Per.* 69; Plut., *Mar.* 28.

²⁴³ Liv. 7.42.2. Metellus Numidicus was consul in 109.

²⁴⁴ Liv., *Per.* 56. See also Rotondi, *Leges Publicae Populi Romani*, pp. 290-291.

²⁴⁵ Neither Vell. Pat. 2.12.6. nor Liv., *Per.* 69 mention Numidicus' candidacy.

²⁴⁶ Evans, *AC*, p. 66; see also Badian, *Chiron*, p. 122.

²⁴⁷ Evans, *AC*, p. 68.

²⁴⁸ Badian, *Chiron*, p. 122.

²⁴⁹ Plut., *Mar.* 28.

refuse to swear. Sherwin-White suggests that even Marius opposed the oath.²⁵⁰ Marius' initial attitude to swear to the law insofar as it was a law,²⁵¹ may well have been a legitimate attempt to avoid the law's effect. That he later reversed his stance was probably due more to his desire to settle his veterans and increase his influence than to any duplicity or intrigue against Metellus.

When the time came for all senators to take the oath, Metellus refused, but this did not lead to his exile. If we can believe Appian, Saturninus' penalty was a hefty fine and removal from the senate.²⁵² It was only after the fact that Saturninus seized the opportunity to relieve himself of Numidicus once and for all. Both Appian and Plutarch clearly state that Saturninus next went to the people to demand Metellus' exile.²⁵³ Marius is nowhere mentioned. That Saturninus had to take his proposal before the people suggests that the whole process may have taken a few days. Neither Marius nor Flaccus would have been opposed to this latest development,²⁵⁴ but if we can assume that Numidicus' exile would take some days to be ratified it suggests that Saturninus was merely capitalizing on his good fortune. If Numidicus had wanted the consulship for 100, Saturninus could only assume that he would continue to stand, and he could not hope to deny him indefinitely. Presumably Saturninus himself entertained desires to continue on as tribune, and with Numidicus out of the way, he could set a precedent that would intimidate any would-be opponents in the future, and thus increase his own power.

APPENDIX II

The historical tradition has recorded that, in order to win the tribunate for 100, Saturninus was responsible for the murder of a rival, Nunnius. Scholarship had accepted this as historical fact, until it was questioned by Evans.²⁵⁵ He proposes the novel idea that the murder of Nunnius is in fact a duplication of that of Memmius, which the tradition has turned into two separate events. His arguments seem sound. First there is an inconsistency in the sources for the victim's name,²⁵⁶ and while this could be attributed to copying errors, Evans notes that the manuscript tradition only compounds the problem. While we can certainly understand how such discrepancies would reproduce themselves throughout the variant historical traditions, the difficulty lies in determining which of the four names we have is correct. This is no easy task. Evans points out that, with this single exception, no previous references are made to this 'uncommon name' throughout the Republic. Are we to assume that this Nunnius was the first of his family to gain notoriety? This is entirely possible - they weren't

²⁵⁰ Sherwin-White, *JRS* 46, p. 4.

²⁵¹ Plut., *Mar.* 29; App., *BC* 1.29-31.

²⁵² App., *BC* 1.29-30.

²⁵³ That the accounts of both Plutarch and Appian derive from that of Rutilius Rufus is suggested by Stockton, *Sources*, p. 101. A contemporary, Rutilius would certainly have been aware of Metellus' dangerous position.

²⁵⁴ See Badian, *Chiron*, p. 122.

²⁵⁵ Evans, *AHB*, pp. 42-48.

²⁵⁶ Nunnius: Liv., *Per.* 69, Val. Max. 9.7.3, *de vir. ill.* 73.5; Ninnius: Flor. 2.3.16; Nunius: Oros. 5.17.3; Nonnius: Plut., *Mar.* 29, App., *BC* 1.28.

called new men for nothing. The family may have had a long history of futility in the highly competitive quest for magistracies. Clearly this argument cannot stand alone.

There are two characters in the late Republic whose family names could help in demonstrating the existence of an ancestor who was a tribunician candidate in 101, a tribune named L. Ninnius Quadratus, who agitated for Cicero's return in 58²⁵⁷, and a Sextus Nonnius Suffrenas, praetor in 81.²⁵⁸ Suffrenas is the first in a long line of Nonnii and may thus be a direct descendant. We are thus left with a very unsatisfactory choice. If we accept Ninnius as a descendant, then we are led to the unlikely conclusion that Florus must stand as our only correct source. Accept the Nonnii and we are forced to embrace Plutarch and Appian. The dilemma is clear, for sooner or later the decision to accept one source over another must be made. This problem does not necessarily lead to the conclusion that no tribunician candidate for 100 existed, but it makes determining his identity impossible. Do we accept Florus over Appian, Appian over Livy, Florus over Valerius Maximus? All questions lead to more and we can never be sure. Unlike Ninnius, C. Memmius is a well known figure. Tribune in 111, Memmius had forced the senate into declaring war on Jugurtha and had accused many *nobiles* of accepting bribes.²⁵⁹ Memmius was obviously an interesting figure for our ancient sources, but surprisingly, of the seven that attest to Ninnius' murder, only five record Memmius' assassination.²⁶⁰ Evans notes that, with the exception of the *de viribus illustribus*, which refers to Mummius, all are consistent in their recording of the victim's name. Also, there is plenty of evidence from Cicero,²⁶¹ who fails to mention the murder of a tribunician candidate in 101. Cicero's silence is indeed remarkable, for one would think him unlikely to overlook such a disgraceful act. As Evans so correctly points out:

Cicero rarely misses a chance to slander those tribunes of the past who caused such havoc in political life; the murder of a tribunician candidate preceding the murder of a consular candidate would indeed have made some colorful addition to the denigration of Saturninus and his allies.²⁶²

Plutarch's failure to mention Memmius is compounded by his dating of Nonnius' murder to Marius' sixth consulship in 100. With access to the memoirs of Rutilius Rufus this is surprising to say the least.²⁶³ Can his accidental dating of the murder of a tribunician candidate in this year actually be a reference to the death of Memmius? Appian is also guilty of an anachronism as he attributes Nonius' murder to the year of Glauca's praetorship, which he places in 101, but which was in fact in 100. Which statement of Appian's is correct? Writing some time after Plutarch, Appian's account may be contaminated with the historical doublet. He also refers to Nonius as

²⁵⁷ Cic., *de domo*. 48.125.

²⁵⁸ *MRR*. 2.76 .

²⁵⁹ Sall., *BJ*. 27.1-5.

²⁶⁰ Plutarch and Valerius Maximus fail to mention him.

²⁶¹ Cic., *in Cat.* 4.24.

²⁶² Evans, *AHB*, p. 46.

²⁶³ Plut., *Mar.* 28.

“a man of noble birth” a fact that Evans finds incompatible with the implication in other sources that Nunnius was not a well known figure. Memmius, on the other hand, was. Could Appian's epithet actually refer to him?

The problem is insoluble, but there is definitely a case to be made. The variety and similarity of names in the sources and the close proximity of the events do suggest that some kind of confusion has been institutionalized in the different historical traditions. We must also accept that this tradition is undeniably hostile to Saturninus, and thus far more likely to exaggerate his sedition, than it is to gloss over it. Having said this, the failure of Cicero to mention a murdered tribunician candidate is remarkable. As our closest contemporary source Cicero is most likely to have had access to the truth, and while arguments *ex silentio* cannot be taken as fact, Cicero's silence does, I think, speak the loudest. Also, we must consider the fact that no action of any kind was taken against Saturninus in 101 when he was *privatus* and not protected by his tribunician sacrosanctity. In a state that was becoming increasingly sensitive to political violence this fact too is remarkable and cannot be explained away by Marius' apathy towards the matter.²⁶⁴ Neither has Saturninus' motive been adequately explained. If events in 102 had added to his prestige as the sources suggest,²⁶⁵ why would his success at the elections for 100 be in doubt? Certainly the changing nature of political fortunes can never be relied upon,²⁶⁶ but this question certainly adds to the weight of evidence, albeit circumstantial, suggesting that no such murder occurred in 101 B.C., and that Saturninus' reputation has suffered badly in a hostile tradition.

²⁶⁴ Badian, *Chiron*, p. 117.

²⁶⁵ The attempt by Numidicus to expel him from the senate and the insult to the embassy of Mithridates met with popular approval.

²⁶⁶ “One day you're the most important guy who ever lived, the next you're just some schmo working in a box factory!” Krusty the Clown (1993).

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