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## The significance of the changes that Sulla made to the Roman constitution, and to what extent these changes had been reversed by 70 B.C.

Ruth MacDonald

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The time when Sulla rose to the dictatorship of the Roman Republic was one in which the power of the Senate was waning. On his accession Sulla implemented changes which sought to re-establish the authority of the Senate thus regaining stability within the state. Here I consider: the impact the reforms had on the existing Roman constitution; the reception of the reforms by different social groups; the political and social context surrounding their implementation and, where applicable, their reversal with the ultimate aim of establishing the reforms' overall success in achieving the goals of their author.

The Sullan reforms were ultimately a scheme by which the perpetrator of these changes sought to re-establish a level of Senatorial authority, arguably not seen since the tribunate of Tiberius Gracchus, with the aim of recovering stability within a state at this time much shaken by civil war. At the time of the Sullan reforms there were two dominant factions apparent in Roman politics: the *optimates* and the *populares*.

The *optimates* were made up of conservative Senators who wished to curtail the influence of the people, keeping power in the hands of the Senate<sup>1</sup>. They were

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<sup>1</sup> The Senate acted as an advisory board for magistrates.

opposed by the *populares* who addressed the problems directly facing the people. Neither faction should be seen as a political party in modern terms. Those involved in political life were not formally grouped in such a way. In fact, at different points in a political career, depending on which position most benefited his ambitions, an aspiring magistrate could change his stance as the situation required. The *populares* encouraged the people to assert their authority as the primary legislative body of the Roman state whereas the *optimates* opposed any such threat to Senatorial authority. In the years leading up to the Sullan reforms the frictions between the two factions had led to serious outbreaks of violence.<sup>2</sup> It was such disruptions which led to action being taken to restore the authority of the Senate which would, by extension, ensure the stability of the state overall. The four primary reforms were: the curtailment of the tribunes' powers, the expansion of the Senate, the increase in the number of magistrates and the reorganisation of the law-courts. Taken individually, it is easy to see how reforms in these three areas were pinnacle in achieving Sulla's aims. The office of the tribune was distinctly *popularis*<sup>3</sup> and the Gracchi demonstrated the potential power of this office and how it could lead to the diminution of the power of the Senate. The brothers Tiberius and Gaius Gracchus (tribunes 133 B.C.; 123 B.C., 122 B.C. respectively) years' in office damaged the authority of the Senate, developing something akin to political organisation which could eventually threaten the aristocracy. Not only were the people given the opportunity to vote on legislation which directly affected them (such as regarding corn doles and land distribution) but now the people were being given the chance to vote on important issues (issues which heretofore the Senate had regarded as their private sphere of interest)

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<sup>2</sup> Appian ed. J Carter, *The Civil Wars*, (New York/London: Penguin, 1996) 4. 77-78

<sup>3</sup> The tribunate office was shared by ten individuals who had been voted in by the people. Their role included proposing legislation before the people, vetoing the acts of magistrates and acted as legal protection for individuals from members of the aristocracy.

such as those regarding state finance and foreign policy.<sup>4</sup> The Senate had been considerably weakened not only by being thus undermined but the civil war and the following proscriptions meant that numbers were at an all-time low and so the expansion which Sulla enacted was, at this point, necessary. The introduction of members of the equestrian class<sup>5</sup>, including Sullan appointees, also ensured that these new members would maintain the constitution which had brought their Senatorial careers into being. The re-organisation of the law-courts also sought to further consolidate power in the hands of the Senate. However, by 70 B.C. all of these reforms had been, if not completely reversed, significantly altered. Whereas the Gruen school of thought touts this as a sign that the Sullan reforms were simply means to an end (i.e. stability within the state) others point towards it as evidence that the reforms were so rigid that they were inevitably doomed to failure.<sup>6</sup> It is the purpose of this essay to look at the impact of the reforms on the Roman constitution and why they were, or in some cases why they were not, repealed within the space of a decade.

The years between 80 and 70 B.C. saw the only period in the Roman Republic where the people did not possess the unlimited right to pass legislation via the tribunes.<sup>7</sup> Not only did the tribune allow the people to vote on legislation proposed to them by their own representative (the tribunate office could not be held by a patrician, a member of Rome's aristocratic class, as it was their role to

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<sup>4</sup> Appian, *The Civil Wars* 1.100; E.Gruen, *The Last Generation of the Roman Republic*, (Berkeley: University of California Press, 1974), 22; A.W. Lintott, *The Constitution of the Roman Republic* (Oxford: University of Oxford Press, 1999), 209; F. Millar, *The Crowd in Rome in the Late Roman Republic* (New York: University of Michigan Press, 1998), 50

<sup>5</sup> The equestrian class (*ordo equester*) made up the lower order of Rome's two aristocratic classes (the upper class being the patrician class). Unlike the patrician class, which was hereditary, the equestrian class was defined in terms of a property qualification.

<sup>6</sup> Gruen, *The Last Generation of the Roman Republic*, 46; Lintott, *The Constitution of the Roman Republic*, 211; Millar, *The Crowd in Rome in the Late Roman Republic*, 49

<sup>7</sup> Millar, *The Crowd in Rome in the Late Roman Republic*, 49

eliminate oppression of the people by the Senate) but could veto legislation on behalf of the people and acted as the advocate of individuals experiencing aristocratic oppression. Their role was a vital part of the political scene, so much so that they were forbidden from travelling more than a day's distance from Rome and their person became sacrosanct, that is to say their person was made inviolable from patrician magistrates. As previously stated in terms of the Gracchi, the office held the potential to undermine the authority of the aristocratic elite and tensions between this office and the Senate further inflamed the *optimates/ populares* division. As the office of the tribunate comprised the larger part of Rome's democratic element the reforms regarding this office<sup>8</sup> had a large impact on the balance of power in the state (as was indeed the intention) putting the control firmly in the hands of the Senate. Although there is no direct evidence on the principles behind, or the exact substance of, Sulla's reforms some indications can be derived from ancient texts. All legislation required Senatorial approval prior to being put before the people<sup>9</sup> and now the office could no longer be used as a political path paving the way to the Senate<sup>10</sup>. Restrictions on their rights of veto and intercession on behalf of an individual against a member of the elite seem to have also been affected but the sources do not fully reveal the extent of the changes. Lintott writes that these reforms upset the balance of the constitution as the tribunes could no longer as effectively check the Senatorial elite.<sup>11</sup> For Millar, although Sulla's tribunician legislation was passed in order to curtail the potential of the assembly as constituting a threat to Senatorial authority, the force of popular politics gained in momentum throughout the decade, resulting in the full

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<sup>8</sup> Appian, *The Civil Wars*, 1.59, 100; Caesar ed. J. Carter, *The Civil War*, (Oxford: Oxford University Press, 1998), 1.5, 1.7

<sup>9</sup> It is unclear whether the tribune could still propose legislation within these terms or if the power was removed from the office altogether

<sup>10</sup> Previously, a tribune would follow a *popularis* stance in order to gain votes for any forthcoming elections in which he might be a candidate. This included, as previously mentioned, proposing legislation which encroached on the Senatorial sphere of interest

<sup>11</sup> Lintott, *The Constitution of the Roman Republic*, 211

restoration of tribunician powers in 70 B.C.<sup>12</sup> According to Cicero, the people now sought to have its voice heard through other, more violent means.<sup>13</sup> In 75 B.C. potential famine due to corn shortages and the cost of maintaining armies overseas led to a reinstatement of the tribunes' right to hold further office,<sup>14</sup> placating the people for the time being. Although tensions remained high until the full powers of the tribune were restored by Pompey and Crassus in 70 B.C.<sup>15</sup>

It seems that despite the curtailment of tribunician powers, the people still played a fundamental part in the political system. Millar writes that:

*Nearly all the functions of the various elements of the res publica [the Roman Republic], with the significant exception of meetings of the Senate, had to be acted out in front of the people, involved persuasion addressed either directly or (in the case of speeches before quaestiones [criminal proceedings] in the Forum) indirectly to them, or required them actually to vote, in elections, legislations or trials.<sup>16</sup>*

Despite the fact that the tribune could no longer propose bills to them, the people remained the legislative body in Rome. This power was not transferred to the Senate in its entirety (although Senatorial decrees also had force of law).<sup>17</sup> However, all legislation passed was now on the proposal of the consuls<sup>18</sup> or another presiding magistrate. Almost from the moment of its inception up until

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<sup>12</sup> Sallust ed. P. McGushin, *The Histories* Volume 1 (Oxford: Clarendon Press, 1989-1992), 1.48, 3.34

<sup>13</sup> Cicero, 'The Laws', in Niall Rudd (ed.), *Cicero: The Republic and The Laws* (Oxford: Oxford World's Classics, 1998), 3.23-4

<sup>14</sup> *Lex Aurelia de tribunicia potestate*; R. Seager, *Pompey: A Political Biography*, (Oxford: Basil Blackwell, 1979), 18

<sup>15</sup> *Lex Pompeia Licinia de tribunicia potestate*

<sup>16</sup> Millar, *The Crowd in Rome in the Late Roman Republic*, 54

<sup>17</sup> Appian, *The Civil Wars*, 1.59

<sup>18</sup> The consulship was the highest magistracy in the Roman Republic, serving as heads of state. Each year, two men were voted into the office.

70 B.C., the tribune question was a dominating one on the political scene (with conservative Senators resisting the reinstatement).<sup>19</sup> From Sallust's *Histories*, in a speech attributed to Aemilius Lepidus to the Roman people it is apparent that the issue of the tribune reforms was one which was politically live, and furthermore can be cynically interpreted as a ploy by Lepidus to gain popular favour.<sup>20</sup> However, as a plebeian<sup>21</sup> and a staunch *popularis* we cannot therefore be certain of the accuracy of his information and von Fritz accuses him of being an 'unscrupulous, though very subtle propagandist who gave a deliberately distorted view of the events which he describes and above all of the motives of the main actors on the political scene.'<sup>22</sup>

Nevertheless, the tribunician reforms saw a complete reversal by 70 B.C. and although it is tempting to surmise that such a rigid constriction of the powers of the people was inevitably doomed to failure, Gruen argues that the Sullan constitution was a far more flexible body and the total reversal of the tribunician reforms did not adversely affect the Sullan constitution and aims in general (i.e. the restoration of senatorial power in Rome). C. Aurelius Cotta (the author of the *lex Aurelia* of 75 B.C.) was a central figure in the Sullan establishment and Gruen therefore summarises that allowing the tribunes to hold further office did not rip a hole in the Sullan constitution.<sup>23</sup>

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<sup>19</sup> Sallust ed. P. McGushin, *The Histories*, Volume 2, (Oxford: Clarendon Press, 1989-1992) 3.34

<sup>20</sup> Sallust, *The Histories* Volume 1, 48; Gruen, *The Last Generatio of the Roman Republic*, 13

<sup>21</sup> Plebeians made up the general citizen body and were therefore distinct from the aristocratic patricians.

<sup>22</sup> K. von Fritz, 'Sallust and the attitude of the roman nobility at the time of the wars against Jurgurtha (122-105 B.C.)', (1943) 74 *Transactions and Proceedings of the American Philological Association* 134

Henceforth von Fritz, 'Attitudes of the Roman Nobility'

<sup>23</sup>Gruen, *The Last Generation of the Roman Republic*, 27-6

However it seems that the people still saw the right to pass legislation proposed to them by their own representatives as a fundamental part of government.<sup>24</sup> Gruen underestimates the importance of the curtailment of tribunician rights writing that '[t]he tribunate as an institution represented no threat to the established order.'<sup>25</sup> Even if in the general sense the tribunes tended to follow conservative ends<sup>26</sup>, it is apparent that the office could also be used as a mechanism for civil unrest.<sup>27</sup> Although Gruen acknowledges the potential of this,<sup>28</sup> if the threat were truly as negligible as he purports then surely such controversial measures would be deemed unnecessary; not only that but if the tribunate did not pose a threat to the constitution then why were objections to the reinstatement of their powers so great? One reason he gives is that perhaps Senators viewed the question as being associated with disruption to the state<sup>29</sup> yet it could be said that in the face of potentially violent popular opinion surely it would be more peaceful to restore the powers of the tribune (although perhaps such haranguing of the people reminded them why their powers had been curtailed in the first place). However, by 70 B.C. it was apparent that even the most conservative had accepted – if grudgingly – the inevitability of the reform.<sup>30</sup> To counter Gruen, Lintott writes that far from not affecting the Sullan regime in any significant way, the full restoration of the tribunes'

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<sup>24</sup> Millar, *The Crowd in Rome in the Late Roman Republic*, 54; Lintott, *The Constitution of the Roman Republic*, 211

<sup>25</sup> Gruen, *The Last Generation of the Roman Republic*, 23

<sup>26</sup> Though the office of the tribune was normally associated with *populares* inclinations however aspiration to higher offices in the future ensured that many tribunes chose not to infuriate the Senators by proposing radical legislation which could thwart their political objectives.

<sup>27</sup> The Gracchi being the most obvious example of this.

<sup>28</sup> Gruen, *The Last Generation of the Roman Republic*, 24

<sup>29</sup> Such as in the case of Aemilius Lepidus whose exploitation of the political situation eventually led to war (Appian, *The Civil Wars*, 1.107; Gruen, *Last Generation of the Roman Republic*, 26)

<sup>30</sup> Cicero 'In Verrem' in D.H. Berry (ed.), *Cicero: Political Speeches*, (Oxford: Oxford University Press, 2006) 1.44. Henceforth Cicero 'In Verrum'



power led to a surge of tribunician legislation most of which was linked to what the Senate viewed as their own personal field of authority such as the assigning of governors to provinces and finance<sup>31</sup>. This left the Senate in a vulnerable position between ‘tribunes who, following the example of the Gracchi, were reasserting the theoretical decision-making at Rome, and pro-consuls<sup>32</sup> who were exploiting the discretion granted to them to manage affairs in the empire.’<sup>33</sup>

As well as curtailing the legislative powers of the people (through the diminution of the powers of their tribunes) Sulla sought to further consolidate the power of the Senate through its expansion. Furthermore, Lintott points out that although it could have been claimed that the large surge in the population made the assembly<sup>34</sup> too non-representative for it alone to be entrusted with the sole power to legislate so firmly rooting the power of the state within the Senate caused a political imbalance resulting in a corrupt political climate such as that delineated by Cicero in the speeches against Verres, including factors which contributed to this such as judicial bribery, blatant exploitation of provincial commands which went unchecked etc.<sup>35</sup>, however the use of Cicero as a source for the late Republic is problematic as shall be discussed later. This led to a breakdown in confidence in the Senate amongst the people.<sup>36</sup> Instead of being able, through their tribunes, to pass their own legislation and veto that of the Senate, they now had to endure more limited political representation and could no longer ensure that their needs were being met.

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<sup>31</sup> Plutarch ‘Life of Pompey’ in R. Warner (ed.), *Fall of the Roman Republic: Six Lives by Plutarch*, (Harmondsworth: Penguin, 1972) 25. Henceforth Plutarch ‘Pompey’

<sup>32</sup> After spending a year as consul, the man would (as a pro-consul) spend a year as the governor of a province.

<sup>33</sup> Lintott, *The Constitution of the Roman Republic*, 212-213

<sup>34</sup> The main legislative body in Rome made up of citizens.

<sup>35</sup> Cicero ‘In Verrem’ 1.49, 2.2, 2.3, 2.5

<sup>36</sup> Lintott, *The Constitution of the Roman Republic*, 211

In 81 B.C. the numbers in the Senate were at a low point due to the civil war and the following proscriptions<sup>37</sup> and so it was necessary for Sulla to expand it by including members of the equestrian classes, increasing the number of *quaestors*<sup>38</sup> to twenty (making this office the route into the Senate), the number of praetors<sup>39</sup> to eight<sup>40</sup> as well as adding some of his own followers in the region of 300 men<sup>41</sup> leading to a Senate numbering 450-500 on average<sup>42</sup> eventually increasing to 500 or 750.<sup>43</sup> If Hawthorn and Santangelo's calculations of the numbers of Sullan appointees are correct, then, as Gruen<sup>44</sup> also notes, the new Senators would have significantly outnumbered the old and, as a result would be keen to maintain the political system which brought about their rise to the Senate. This could be seen as undermining the role of the Senate which was as an advisory body for magistrates constituting of serious and experienced

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<sup>37</sup> According to Hawthorn, 1962: 54, the number of Senators at this point was around 200 whereas Santangelo, 2008: 7, claims that it would have been nearer 150

<sup>38</sup>Magistrates who supervised the state's finances.

<sup>39</sup> A magistracy to which were assigned various duties but was particularly linked to the lawcourts. The next step on the political ladder was the consulship.

<sup>40</sup> More praetors mean that the provincial governors can be changed regularly so they do not become powerful enough to threaten the state. However there is a disparity between the ideal and the reality: there was a lack of the competent leaders which the numbers of battles fought around this period required. As a result the long-term command which Sulla sought to discourage continued in the form of e.g. Metellus Pius in Spain and Pompeius (Lintott, *The Constitution of the Roman Republic*, 211-212). It also increases competition for the consulship.

<sup>41</sup>Appian, *The Civil Wars*, 1.100; J. Hawthorn, 'The Senate after Sulla', (1962) 9 *G&R* 54. Henceforth Hawthorn 'The Senate after Sulla'.

<sup>42</sup> Hawthorn, 'The Senate After Sulla', 53: numbers the planned Senate at 500 from his calculations, whereas F. Santangelo, 'Sulla and the Senate: a reconsideration' (2006) 17 *Cahiers du Centre Gustave-Glotz* 7; places the number at 450 based on his. Both base their calculations on Appian, *The Civil Wars*, 1.100

<sup>43</sup> Although this would be somewhat offset by the fact that the tribunes (their right to obtain higher office removed) would no longer be included in the calculations

<sup>44</sup> Gruen, *The Last Generation of the Roman Republic*, 9

members. Far from consolidating its power, in his expansion Sulla could be seen to have in fact weakened it.

To counter this, Gruen argues that the more important roles (such as the consulship, the censorship<sup>45</sup> and important provincial posts) would remain in the hands of the old aristocracy (for the people seemed more inclined to vote for those whose names they recognised as opposed to new men<sup>46</sup>); it was they who still held the sway of power in the Senate, in elections and in the law courts. According to Gruen and Hawthorn, fewer new men were elected to the consulship in the years following Sulla's reforms than in the years preceding them;<sup>47</sup> the Sullan reforms although they sought to prevent disruption to the state via individual men (such as the Gracchi or ambitious military commanders (perhaps such as himself) or factions (such as the *optimates* and *populares*) they did not, nor did they aspire to, end the in-fighting between Senatorial families for the higher offices.<sup>48</sup> If Lintott's line of argument is followed and the consulship was the central feature of the Roman Republic then the most important changes would be those affecting it.<sup>49</sup> As well as chairing Senatorial meetings, they commanded two legions in the Roman army apiece, held the highest juridical authority and could interpose in the decisions of lesser magistrates. For Polybius the consuls held an almost sovereign position.<sup>50</sup> Only Senatorial decrees, the decrees of the Assembly or the vetoes of their fellow consul or tribune (if the tribunes still maintained this power after the Sullan reforms) could curb their ultimate authority. As all Sulla did was increase competition for the office through raising the number of praetors it could be

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<sup>45</sup>A magistracy which was concerned with public morality, as well as some financial aspects, in the running of the Roman state.

<sup>46</sup> A term used to describe a man who was the first in his family to be admitted into the Senate upon election to a magistracy.

<sup>47</sup> Gruen, *The Last Generation of the Roman Republic*, 9; Hawthorn, 1962: 55

<sup>48</sup> Gruen, *The Last Generation of the Roman Republic*, 9

<sup>49</sup> Lintott, *The Constitution of the Roman Republic*, 192

<sup>50</sup> Polybius ed. Ian Scott Kilvert, *The Rise of the Roman Empire*, (London: Penguin, 1979) 6.11

argued that he left the most fundamental part of the Roman constitution, the ultimate authority of the consuls, almost entirely intact. Leach concurs, writing that for a candidate who was not a member of the nobility the possibility of reaching the higher offices was further complicated by Sulla's reviving of earlier norms through the imposition of restrictions imposing age limits, mandatory intervals between offices and enforcement of the prescribed path of the *cursus honorum*<sup>51</sup> before being eligible for election.<sup>52</sup> These Senatorial reforms remained beyond 70 B.C. (the time by which most of Sulla's reforms had either been reversed or significantly altered) until 52 B.C. when Pompey passed a law which imposed a five year break between holding office in Rome and a governorship to prevent the bribery and extortion which resulted from increased competition for the consulship. From this it can be deduced that the changes Sulla made did not greatly threaten the established order or adversely affect the existing constitution in any significant way. If it had, we could expect to see earlier reform in this area.

Although the Sullan appointees would probably be wealthy enough to qualify as equestrians<sup>53</sup> Hawthorn writes that it is likely that many Senators did not possess the wealth necessary to maintain the lifestyle of a Senator.<sup>54</sup> Campaigning for political office required vast sums of money which many Senators, both old and new, simply did not have. Many, including Julius Caesar, accumulated large debts, the money being lent to them on the proviso that once they were elected to the higher magistracies they would be in a

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<sup>51</sup> The *cursus honorum* was the sequence of political offices which men had to systematically obtain before moving on to the next starting with the least significant (the quaestorship) through to the highest office of the consulship.

<sup>52</sup> This was waived in the case of Pompey in 70B.C. (Plutarch *Pompey* 21; Appian *The Civil Wars* 1.131) and rather than viewing it as a great breach of the Sullan regime Seager (*Pompey: A Political Biography*, 23) writes that in consideration of Pompey's various military achievements during the period no other option could be considered.

<sup>53</sup> Appian, *The Civil Wars* 1. 100; Sallust, 'Catiline's War' in A.J. Woodman (ed.) *Sallust: Catiline's War, The Jugurthine War, Histories*, (Harmondsworth: Penguin, 2007), 37.6

<sup>54</sup> Hawthorn, 'The Senate After Sulla', 55

position to pay it back as a pro-consul or a pro-praetor in a province (as the governorship of a province gave great opportunities for the accumulation of personal wealth both legitimately and illegitimately). Furthermore, with men in potential financial difficulty presiding over trials, it is not a great stretch of the imagination to suppose that bribery may have played a part in the judicial proceedings. When Sulla moved control of the law-courts over from members of the equestrian order to the Senate although it may be assumed that the former holders of the office would be wholly antagonistic to the change, it must be remembered that many members of the equestrian order were included in the newly-enlarged Senate and would therefore still be eligible as jurors.

However with many Senators unable to cope with the financial burden of their office, Hawthorn touts evidence from Cicero as proof that the introduction of these poorer men into the Senate was responsible for the alleged wave of judicial bribery and corruption in the years following the reforms.<sup>55</sup> In fact, most of the evidence available with regards to the corruption in the law-courts which resulted in the counter-Sullan legislation of 70 B.C. is from Cicero<sup>56</sup> whom Gruen used of using the threat of judicial reform in order to secure a conviction against Verres.<sup>57</sup> Gaius Verres is an example of the type of men previously mentioned who bribed their way into office with the promise of lucrative gain for supporters upon their election. After his praetorship in 74 B.C. he was awarded the governorship of Sicily, a position which he abused to the detriment of the inhabitants and for his own great benefit.<sup>58</sup> He was also accused of using the crisis of the slave revolt led by Spartacus as an opportunity to extort money from men. In some cases he would falsely accuse key slaves of plotting revolution and unless a bribe was paid he would have them executed.<sup>59</sup> Another ploy was to accuse slave-owners of harbouring rebellious slaves and imprison them until a sum of money was paid to secure their release. Upon his

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<sup>55</sup> Cicero 'In Verrem', 1.38; Hawthorn, 'The Senate After Sulla', 57

<sup>56</sup> Cicero 'In Verrem', (particularly 1.47-49; 2.1-3, 5)

<sup>57</sup> Gruen, *The Last Generation of the Roman Republic*, 35

<sup>58</sup> Cicero 'In Verrem', 1.11-14

<sup>59</sup> *Ibid.*, 2.8-12

return to Rome, he was prosecuted by Cicero for his misconduct in Sicily but fled the country before his trial was completed. In his prosecution speeches against this man, Cicero informs the jury that the people have lost faith in the law courts due to their corruption and threatens that if this continues (i.e. if they do not find Verres guilty) then the Senate will lose their stranglehold of the law courts.<sup>60</sup> However, according to Gruen, Cicero highly exaggerates the reputation of the law courts to succumb to bribery, in order to secure acquittals, during this period.<sup>61</sup> Seager agrees, writing that there is very little evidence other than Cicero's accounts that the supposedly infamous corruption of the law courts had any effect on the *lex Aurelia iudiciaria*.<sup>62</sup> It cannot be proved on the basis of this unreliable evidence that judicial corruption was in fact as widespread as has been supposed. Although Seager accepts the possibility of a wholly equestrian court<sup>63</sup> being implemented to replace the Senatorial one, it is unlikely that such a measure, if it ever existed, would have got as far as a formal proposal; furthermore, as Seager continues, it is perhaps the hyperbole of Cicero in his attempts to secure a conviction which has led to the idea of a possible total transfer of power as a possibility.<sup>64</sup> Although based on the evidence of Cicero the counter-Sullan legislation of 70 B.C. regarding the law-courts was a reaction to judicial corruption,<sup>65</sup> there are few recorded cases where bribery played a part in the proceedings and a third of the new jury panel was still constituted of Senators. This does not seem to support a theory of widespread corruption throughout the Sullan law courts. Gruen argues that there are only three certain cases of bribery in the 70s and that '[o]n the whole, however, the evidence on juries in the 70s indicates that they were no more susceptible to

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<sup>60</sup> Ibid., 2.174

<sup>61</sup> Gruen, *The Last Generation of the Roman Republic*, 35

<sup>62</sup> The *lex Aurelia* took the control of the lawcourts and divided them equally between the Senators, members of the equeatrian class and another class called the *tribune aerarii* (although it is unclear exactly who compromised this class) (Seager, *Pompey: A Political Autobiography*, 25)

<sup>63</sup> Cicero 'In Verrem', 1.49, 2.2, 2.3, 2.5

<sup>64</sup> Seager, *Pompey: A Political Autobiography*, 25

<sup>65</sup> Gruen, *The Last Generation of the Roman Republic*, 31; Cicero 'In Verrem' 2.174

bribery and no less subject to politics than their predecessors in the pre-Sullan generation.<sup>66</sup> As juries were still chosen by lot those who were allegedly open to bribery, acquitting their friends etc could still influence the verdict. This could be a direct result of a lack of tribunician scrutiny in the decade where their powers were diminished. Furthermore, while there was legislation which deterred Senators from conspiring to convict a man there was no such legislation aimed at the equestrian class: 'Instead of eliminating the potential for judicial bribery, men were introduced who could be corrupt without the same fear of prosecution.'<sup>67</sup> Gruen again argues that the changes to Sulla's reform of the courts did not adversely affect the Sullan constitution or its aims. The law was put forward by L. Aurelius Cotta, a member of the aristocratic class, who would therefore have sought to maintain the stranglehold of the Senate not to undermine it.<sup>68</sup>

Members of the equestrian class had moved from that order into the Senate (and were now therefore eligible) due to Sulla's enlargement of that body;<sup>69</sup> in contrast to the calls for tribunician reform, there is very little evidence to suggest that reform within the courts was as pressing an issue. Whereas the restoration of the powers of the tribunes was proposed by two consuls, the final bill concerning court reform was passed by a lesser magistrate, a praetor<sup>70</sup>, indicating that this was not seen as a such an immediate issue in Roman politics at the time. Despite this, it cannot be said that Sulla's reorganisation of the courts was wholly supported otherwise the *Lex Aurelia* would never have come into being, it is just that in the face of greater controversy (the matters relating to the restoration of tribunician powers) it had become a background issue only to resurface after the initial reforms of 70 BC.<sup>71</sup>

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<sup>66</sup> Gruen, *The Last Generation of the Roman Republic*, 32-33

<sup>67</sup> *Ibid.*, 29

<sup>68</sup> *Ibid.*, 33

<sup>69</sup> *Ibid.*, 30

<sup>70</sup> Plutarch, *Pompey* 22

<sup>71</sup> Gruen, *The Last Generation of the Roman Republic*, 34

In conclusion it is apparent that the reforms of Sulla which most seriously affect the pre-existing constitution were those affecting the powers of the tribunes, and thus the powers of the people, whereas the reorganisation of the courts and the Senate were more flexible. It could be said that the changes to the reforms in the decade following them ensured their success whereas rigid adherence would have secured their failure. To say that Sulla's changes were reversed by 70 B.C. due to being insupportable is to assume that the changes to the constitution were ends to themselves. Such measures were to be seen as drastic necessities in the aftermath of civil war and as necessary precautions against further disruption; they were not intended as permanent legislation. The changes that occurred during the decade between 80 B.C. and 70 B.C. can be seen as aiming to make the government more popular and the administration of that body run more smoothly.<sup>72</sup> They in fact consolidated the Sullan regime rather than undermined it. What Sulla ultimately aimed at was stability within the state and once threats to that body abated then the legislation could safely be removed without the aims of the Sullan constitution being adversely affected. It was not a rigid system inevitably doomed to crack but a flexible scheme to ensure the continuing safety of the principles of the Roman state.

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<sup>72</sup> Gruen, *The Last Generation of the Roman Republic*, 46



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