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***Pontificalis Honor: A Re-evaluation of Priestly Auctoritas***  
**and Sacro-Political Violence in the Transition from**  
**Republic to Principate**

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## ABSTRACT

This thesis examines the transition from the Roman republic to the Principate of Augustus through the lens of the *pontifex maximus*, the office of the head of the pontifical college. Despite burgeoning interest in this role, current scholarship still regards the elevation of the chief pontiff to a politically significant position as a by-product of Caesar's ambition and, subsequently, Octavian's quest for both power and legitimacy. It is my contention that the trajectory of this priesthood's ascendancy has been incorrectly plotted and that a proper understanding of the pontificate requires an analysis of the events surrounding the politically motivated murder of a tribune by the chief pontiff in 133 and subsequently over the next century.

After a survey of literature and a summary of the key features of the office, the thesis argues that the position of chief pontiff had long since conferred a stable prominence which was unique in the Roman republic. This prominence brought with it a particular kind of power which interacted with the *auctoritas* of the men who occupied the priesthood: in this way, the holders of an office which was bound up with some of the most revered traditions of the city were empowered to improvise courses of action which further enhanced the standing and influence of the chief pontiffs. It was through this cycle of action and perception that the *pontifex maximus* became a mechanism of political change – and was itself transformed in the process. In considering this cycle, particular emphasis is placed on the phenomenon of 'sacro-political' violence which, as a novelty instigated by one chief pontiff, became a recurrent motif in Roman political life thereafter.

I argue that Scipio Nasica Serapio made deliberate use of his office to sanction an intervention which would have serious consequences for the republic and which radically altered how the Romans saw this priesthood. The thesis then explores how subsequent holders of the office either negotiated or exploited this 'legacy' to further their careers, to respond to unprecedented constitutional crises or simply to stay alive.

Although all the *pontifices maximi* from 141 B.C. to 14 AD are considered, this thesis focuses on the lives and times of Nasica Serapio, Quintus Scaevola, Julius Caesar and Augustus as their tenures are particularly emblematic of the tensions between the *mos maiorum* and an increasingly extreme political climate. I argue that the new dispensation established by the first *princeps*, with all the restorationist rhetoric which accompanied it, relied decisively on Augustus' assumption of the role. Even if Augustus had absorbed virtually all of the available priesthoods, the long wait he had to endure for the office of chief pontiff says a great deal about the nature of the pontificate and its strategic value to the heir of Caesar.

Two case-study Appendices discuss the disputed pontificate of Q. Servilius Caepio and the relationship between Cicero, Clodius and the pontifical college. These studies exemplify the prosopographical challenges in reconstructing republican priesthoods (even the most prominent) and the interaction between law, religion and politics in the mid first century B.C.

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Finally, to friends and family: Christopher Morris and David Melvin deserve my particular thanks for their unstinting support and sympathetic ear. To all my friends, both near and far, I owe you a debt of gratitude. My sisters and wider family have been, in so many ways, the chief source of my encouragement and the providers of company and relaxation: I am so very grateful to Evelyn, Helen and their families. The happiness of completing a work such as this is tempered by sadness that my mother, who took delight in listening to the most obtuse points of this thesis, did not live to see it finished. To paraphrase Cicero, speaking of Cornelia Africana and her sons, I too have been educated 'in sermone matris' (Brutus, 58). Bereft of her speech, but grateful for her unstinting love, I respectfully dedicate this work to my mother Josephine and my late father, Francis: *optimis parentibus*.

## **AUTHOR'S DECLARATION**

I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

Signature: \_\_\_\_\_

John McGrory Bollan

## INTRODUCTION

In the Roman Republic, although... sources of religious authority were highly diffuse, there was considerable political competition to hold a priesthood, and the position of “chief priest” (*pontifex maximus*), in particular, came to be coveted by ambitious politicians as the basis for political influence and manipulation. Priests were expected to acquire and deploy expert religious knowledge, but that knowledge gave them an authority which could be transferred into the political realm (Osborne, 2009: 125).

Osborne neatly captures the issue at the heart of this thesis: the development of the office of *pontifex maximus* and its usefulness to men of ambition. He writes with Caesar explicitly in mind and there is no question that Caesar used the position to further his own political influence and to manipulate affairs to his advantage. What he does not say, however, is how this influence came about or how these interactions between knowledge, authority and manipulation influenced both the office and an increasingly sclerotic Republic (Mackie, 1992: 57). To attempt to answer this question, we need to survey events and actors from the preceding generations.

This thesis is concerned with the period which began with the disorder surrounding the death of Tiberius Gracchus at the instigation of Scipio Nasica, the *pontifex maximus* in 133 B.C. Much of what ensued over the course of the next century and a half can be traced back to this clash, as a series of increasingly violent disputes led to the disintegration of the Republic which only ceased when Augustus emerged as victor, both ideologically and militarily. I

must emphasise that I am subscribing to a ‘disintegration model’, not the former, discredited ‘collapse model’ of the end of the Republic: by this I mean that what we now come to regard as the last century of the *res publica* was characterised by an increasing failure of the former mechanisms of integration which had held the *Senatus Populusque Romanus* in relative (and productive) balance.

This thesis sets out to examine this transition from Republic to Principate through the lens of the *pontifex maximus*. Despite the burgeoning interest in the interplay between religion and politics during the final phase of the Republic<sup>1</sup> and increased scholarship on the legal activity of the pontifical college as a whole, comparatively little attention has been focused on this individual office in terms of its status and powers. Osborne (2009) is a rare challenge to the consensus that the *pontifex maximus*, despite his nominal superiority in religious matters, was no more significant a figure in Rome’s public life than the other senior religious personnel who had their own areas of competence and unique functions to perform. According to this same view it was Augustus who, with his genius for infusing moribund institutions with the vigour of his own appetite for power, transformed the office of chief pontiff into the fulcrum of sacro-political power it would become and remain for centuries thereafter. What such a position fails to account for is why, of all these religious offices, it was this particular role and not one of the other priesthoods (which Augustus also held) which became central to his religious policy? Why, for example, did the Augurate not come to dominate the landscape?<sup>2</sup>

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<sup>1</sup> The on-going research of John Scheid and Jorg Rüpke in this field has been augmented by new publications by Santangelo and Pollini.

<sup>2</sup> Given Cicero’s (admittedly) self-serving estimation of the augurate - *Maximum autem et praestantissimum in re publica ius est augurum cum auctoritate coniunctum* (Cicero, *de Legibus* 2:31) – would it have not have been more sensible for Augustus to predicate his new powers on his control of the auspices rather than some notional bureaucratic precedence?

It is my contention that the ‘chief priesthood’ was not merely *primus inter pares* for Augustus when he alighted upon it as the conduit for his reforms: he was not so much investing this old office with a raft of new powers and a fresh veneer of prestige, as he was exploring and extending the opportunities it *already* afforded the *pontifex maximus*. The thesis will argue that, for the century preceding Augustus’ ascendancy, features of the office which had always been present, though latent, were cast into sharp relief by the actions of successive *pontifices maximi*. Through their involvement in political crises with obvious religious implications, or in addressing religious controversies which had clear political ramifications, these chief pontiffs intervened in ways which had a profound impact on the office itself. To borrow Hölkeskamp’s metaphor of language to express the tension between what is happening on the surface of politics and what underpins it, there is, he argues

a vocabulary of images, metaphors, rituals, assumptions and performances and a grammar, a set of conventions governing the appropriate use of this vocabulary... This language is instrumental not only in representing power, but also in stabilizing and even generating it. (Hölkeskamp, 2010: 55)

Central to this exercise of ‘authorship’ is the notion of *auctoritas* which

conveyed something like a stamp of approval and so served in a sense to guarantee that the course of action advocated or the advice offered by someone who possessed it (an *auctor*) was right and proper by virtue of his record of achievement and the superior judgment and insight it attested.’ (Rosenstein, 2006: 372)

It is my argument that these Roman priests used their own personal *auctoritas* to legitimise courses of action which would have enduring consequences – both for the office of *pontifex maximus* and for Rome itself. There is even a sense in which this capacity to refashion the *language* and *grammar* of religious and political action results in the office itself acquiring a kind of *auctoritas* in its own right. As a consequence, I argue that the unique status of this ‘highest’ priesthood as a quasi-magistracy meant that the notion of *auctoritas*, seldom associated with priesthods,<sup>3</sup> should be applied to the chief priesthood in a particular way: in this regard, the former, somewhat rigid, understandings of *auctoritas* require some revision.

Finally – and crucially – a study of this nature cannot ignore the way in which violence became a recurring motif in the life of the city, either as a way of effecting or inhibiting political change. In the period of particular interest to this thesis, one *pontifex maximus* is credited with the invention of a new form of sacro-political violence, two others fell victim to it, while yet another was accused of opportunistically benefiting from his predecessor’s bloody demise. This culture of violence can be shown to have a very particular relationship with the way in which the chief pontificate came to be viewed and exercised.

The resulting argument is this: the office came to be associated with a status of *stable prominence* at the heart of Republican life and institutions. Such a position gave the holders of the office unrivalled scope to take advantage of the tension between tradition (*mos*) and innovation which was becoming increasingly a feature of politics during this period. The *auctoritas* of the men who became chief pontiff shaped the *perception of the office* but so too

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<sup>3</sup> Although Cicero speaks of the ‘*auctoritas*’ entrusted to the pontiffs in religious matters (*de Haruspicem Responso*, 14); as we will see, *de Domo* is an extended reflection on the authority of *pontifices*.

the office changed as a result of the *perception of the people* who witnessed the creative – and sometimes transgressive – actions of these public figures. I will demonstrate how personal *auctoritas* began to ‘stick’ to the *pontifex maximus*, not necessarily adding to the powers of the office, but most definitely maximising its scope. This will go some way to explaining how certain individuals did a great deal with the office and made a considerable mark with it, while others did comparatively little during their tenure. Such a contrast may be accounted for by the *pontificalis honor* (Ovid, *Fasti*, 3.420) being seen as an end in itself. So tradition and innovation, *auctoritas* and the perception of power are the matrices in which this priesthood grew and consolidated itself as a prize of considerable worth and, as I argue, came to constitute one of the central mechanisms of the Augustan ‘reintegration’ of the *res publica*.

### **Methodological considerations:**

#### **(a) Prosopography**

One feature of this dissertation is the extent to which the personal and family histories of these pontiffs and their political careers influenced – and were influenced by – this religious office. It is important to consider the contribution which prosopography can offer this research.

My thesis seeks to carry out a thematic analysis of the key issues and, although the argument is not teleological, it is inevitably diachronic to some extent. Furthermore, as we have already indicated, to approach these themes merely as discrete principles without considering the

lives of the men who explored the possibilities of the office, is to furnish a partial account.

According to Stone:

...the purpose of prosopography is to make sense of political action, to help explain ideological or cultural change, to identify social reality, and to describe and analyze with precision the structure of society and the degree and the nature of the movements within it (Stone, 1971: 46).

This is still, with the necessary modifications, the purpose of adopting a partly prosopographical approach in this thesis: it is by exploring the careers of individuals that we hope to illuminate political, cultural and social movements (or ‘transformations’) in the office of the chief pontificate. Although prosopography may have fallen into disrepute in some quarters, especially given its reliance on lacunose primary sources and the inherent bias of the winner in shaping Roman historiography, it is also

‘a method of research we cannot do without if we want to open up broad swathes of Roman history and culture in a scientific way’ (Eck, 2010:157).

The pioneering work of Mercklin (1848) and Bouché-Leclercq (1871) which, in turn, enabled Broughton to collate his prosopography of Roman republican magistrates, continues to influence more recent forays in this field.<sup>4</sup> Indeed Broughton’s decision to include the priesthoods in his lists – and his justification for doing so – still remains the most cogent

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<sup>4</sup> Linderski has bemoaned the use of priests as ‘quarries for the prosopographical hunt’ with abundant lists of names and marriage connections, but hardly a reference to ritual context of their lives (Linderski, 1990: 49).



argument for surveying the late republic through this particular lens (Broughton, 1951:x). Jörg Rüpke, while questioning the utility of some of Broughton's lists, is emphatic about the value of the prosopographical method (Rüpke, 2008:2). Indeed it is Rüpke's stated desire and intention that 'a more thorough biographical investigation of religion in Antiquity' be forthcoming (ibid.).

Sandwiched between Broughton and Rüpke's *fasti*, stands Szemler's essays on prosopography and priesthoods, especially his 1972 study 'The Priests of the Roman Republic'. Although roundly (and harshly) dismissed by Wiseman (1973:266-267), Szemler deserves credit for attempting to go beyond the compilation of lists and speculate on the interaction between priesthoods and magistracies. Even if, as Wiseman observes, the line between inference and speculation is too blurred, he at least argues for the possibility of *pontifices maximi* setting their mark upon the office as individuals as well as members of the ruling nobility (Szemler, 1972: 84).

It is worth considering, however, the limits and even the temptations of the prosopographical method. The gaps in our knowledge and the reliance on secondary authorities, however persuasive, can lead to the perpetuation of subjective or modish preferences in reconstructing Roman religion. Even apparently objective sources, such as numismatic evidence and inscriptions, are open to subjective readings. It goes without saying that, even when a man's dates are certain, his thoughts and motivations are not. Especially with regard to prosopography, Linderski sounds a cautionary note regarding the likelihood of reliably 'inferring from a general pattern to the likely behaviour or situation of an individual' (Linderski, (1977) 1995: 137-138).

### (b) Source problems

A study of this nature must also make clear its approach to the ancient sources. Any attempt to ‘recreate’ the religious landscape of Rome will always prove elusive: the gaps in the surviving material impose their own limits and those analysing what sources we have should be aware of their own interpretative bias (to say nothing of the bias of the ancient authors themselves). The sources closest to the events which are relevant to this thesis are the anonymous *Rhetorica ad Herennium* and the various works of Cicero. Although very different in their sympathies, both authors are presenting history within a rhetorical context (Várhelyi, 2011; Goodyear, 1983: 96) and, as will be of particular relevance in discussing Cicero’s commentary on events, it should be remembered that much of what Cicero writes about notable figures is really about Cicero himself (Lintott, 2008: 11).

Given that this is an argument about the place of the *pontifex maximus* in the final century of the Republic, we must also acknowledge that the rest of our sources are from the early Principate or the reigns of the adoptive emperors. Livy, whose *Ab Urbe Condita* is perhaps our most significant single source, was writing in the shadow of Augustus. It is sometimes objected that Livy, who held neither elected office nor priesthood, had no direct access to the wealth of material that being an ‘insider’ allowed (Ogilvie, 1983: 163). What is important for my purposes is that he provides a narrative in which a wealth of religious material is intricately interwoven with the other events and behaviour he is discussing: although sometimes careless about fact-checking (Ogilvie, 1983: 164), Livy has been considered as a more or less reliable source on religious matters – even though his ‘specifically religious methodology’ has not always been a focus of attention (Davies, 2004: 21). Livy’s lack of

exposition on certain religious matters rests on the assumption that his audience would already have been familiar with such things. His frequent recourse to *oratio obliqua* creates a certain distance between Livy and the events or beliefs he describes, with the result that our reading of these texts can make him either a sceptical reporter or a ‘conventionally pious’ narrator (Levene, 1993: 23). The other writers who follow not long after Livy, such as Valerius Maximus and Velleius, are no less conscious of the *princeps-pontifex maximus* (in their case Tiberius) and more focused on offering vignettes instead of coherent narrative (Vessey, 1983: 5; Goodyear, 1983b: 143).

The remaining significant sources, Plutarch and Appian, are still further removed from events but are not to be disregarded for that reason: Plutarch displays a keen interest in religious matters and is sensitive to the relationship between the archaic forms of power in Rome and the new dispensation whereby the *pontifex maximus* is now also monarch (Stadter, 2002: 17). Appian too, for his remoteness in time, clearly engages with sources which take us into a detailed analysis of the Gracchan crisis – indeed in a way which is considered unique (Cuff, 1967: 178). As Davies observes:

Our criteria are no longer centred on the search for some ‘original’ ‘authentic’ Roman religion, but the urge to understand the dynamic creation of identity and systems of meaning by and within a society (Davies, 2004: 9).

So, rather than simply treat these texts and their religious content as literary artefacts – a characteristic of a ‘phase of scholarship (which) is thankfully passing’ (Feeney, 2007b: 130)

– I will approach these sources as representing not only the preoccupations of their authors but also as a reflection of how the dynamic process of creating a ‘system of meaning’ influenced perceptions of the *pontifex maximus*. In the process of doing so, I accept that a cultural familiarity with the ideas and events described (or, equally, left in shadow) in these texts is taken for granted among their intended audience. Apart from the necessary methodological caveats already mentioned, I reject an outright ‘hermeneutic of suspicion’ in my reading and use of the primary sources (Stewart, 1989: 296).

## **A conspectus of scholarship**

This thesis is concerned with the remarkable clustering of power around the *pontifex maximus* in a crucial phase of Roman history. The relationship between the religious and political dimensions of life in the Republic has been an area of growing interest, but my contention is that the office of *pontifex maximus* is still not sufficiently recognised as one of the most important offices of all. Indeed, I am convinced that the chief pontificate offers a distinct vantage point from which to survey this well-studied period of Roman history. Although we will consider the most relevant insights of contemporary scholarship throughout the thesis, it is worth highlighting the principal concepts which have informed the debate.

### **a) The ‘end’ of the Republic**

In this thesis I consider some of those events which, since antiquity, have been reckoned as signalling the start of the demise of the Republic and its gradual replacement by a settlement which, however subtle the apparent changes, was substantially different. Syme (1939) has remained an unmatched narrative (Millar, 2000: 1) which continues to exercise considerable influence on scholarship in this field. As Bowersock, writing in a 70<sup>th</sup> anniversary edition of

Syme's landmark study observed, the impact of *The Roman Revolution* was such that it eclipsed the 'old masters' such as Theodor Mommsen and the prevailing interpretations of republican decline (Bowersock, 2009: X). The inherent disadvantage in this, for all the brilliance of Syme's reconstruction and commentary, was that it located the start of the republic's slow dissolution from the dominance of Sulla down through the struggles between Pompey and Caesar. Other impressive surveys, such as Gruen (1974), while setting out to challenge Syme's model, implicitly accept his chronology of decline and focus on the first triumvirate. Gruen, however, was not only dissenting from Syme's conclusions but was also rebutting Brunt's thesis (1971) that the dissolution of the Republic stemmed from a failure on the part of the senate to address the competing demands of various disaffected groups both within the city and in Italy as a whole. Crucially, this narrative goes back to the Gracchan crises and indeed predates the upheaval of the 130s. Brunt had earlier contended that the root cause of the Republic's eventual collapse was its success as a military power and the uneven distribution of the fruits of conquest. Although the evidence for economic decline among Rome's soldier class is not so robust as Brunt suggested in *The Army and the Land in the Roman Revolution* (1962), there is still merit in recognising that two of the major fault lines in the 'late Republic' – the shift of allegiance and authority from senate to individuals and the increasingly entrenched blocs of *senatus* and *populus* – did radiate from Rome's recently-acquired status as an imperial power. The crisis of the 130s B.C. is, at least in part, occasioned by the fragmentation of senatorial consensus on issues such as the Gracchan reforms and the unresolved grievances of the Italians. This is clearly germane to my argument that the actions of Scipio Nasica in response to the 'provocation' of Tiberius Gracchus are illustrative of this attempt by prominent individuals to derive legitimacy from a personal *auctoritas*. To this end, Hölkeskamp (2010), while rejecting the polarisation of the Roman people and the political class, argues convincingly for a new way of understanding

political culture in this period in which a hierarchical power structure was crucial to the integration of Rome's constituent groupings (2010: 134). This is also consistent with Flaig's analysis of the power of the elite to use symbols and elements of ritual to direct the people in a political consensus (2003). Successive *pontifices maximi*, from Nasica to Augustus, will make use of this 'language' to legitimize their actions and foster a new perception of their office which exemplifies the relationship between religion and politics in this period. Indeed, as I argue with reference to Quintus Mucius Scaevola in particular, this innovation actually operates on the level of language itself and the way in which a high pontiff can influence the *meaning* of words and ideas.

#### **b) Religion and Politics in the Republic**

For many years, especially in those circles most influenced by an reductionist approach to matters of religion, the standard conception of Roman religiosity was of a hollow formalism which was prey to political manipulation or as a revered conceit altogether separate from the 'reality' of the state (Stroumsa, 2010:150). Mommsen, so interested in the other aspects of Roman republican history, felt little enthusiasm for questions of religion beyond its intersection with his true passion, Roman law. Wissowa (1912) stands out as a landmark in the study of Roman cult but, like Mommsen, regards the period from the Gracchi to Caesar to be one marked by the decline of religion – a decline Wissowa lays at the door of the priesthoods (Ando, 2003: 342). According to Wissowa's analysis, the cause of this weakening of the religious system lies in the priesthood becoming 'purely political authorities' (Wissowa, 1912:70). This estimation, even by way of hyperbole, rightly identifies the relationship between religion and politics as key to the understanding of both; Wissowa, as others before and since have done, clearly felt that the relationship between

politics and religion was somewhat parasitic. It should be noted that this reservation was not confined to German scholarship: Warde Fowler (1911), a contemporary of Wissowa, also traces a process of 'secularisation' which is synonymous with a split between the genuine religious sensibilities of the Roman people and the suffocating effect of politically motivated interference.

This characterisation of Roman religion now appears overly simplistic, especially in its representation of the relationship between politics and religion. More recent scholarship, such as Liebeschuetz (1979), has allowed an enhanced appreciation of the complex interactions between the public cult of Rome and its impact on the public business of sustaining and governing its burgeoning empire. The individual and collective scholarship of Beard, Price and North has ensured that a more nuanced – and fruitful – appreciation of religion and politics has emerged. Other more recent works have carried out a more in-depth study of specific elements of Roman religion through a political lens, Rüpke (1995) and Scheid (2003) being emblematic examples. Phillips questions this tendency towards micro-analysis at the expense of 'the large-scale' in Roman religion (2007:26). We will return to the contributions of some of these 'micro theorists' in subsequent sections of this introduction. Perhaps of greatest interest to our argument, however, and one which neatly mirrors Phillips' preoccupations, is the way in which the *pontifex maximus* effectively ceased to be one specialist among many and became 'the chief priest' in the most expansive sense of the term.

Rüpke observes that the religion of Rome served the interests of the élite by maintaining the city's social stratification while at the same time allowing for cohesion during moments of national peril (2004: 193). The purpose of religion was, therefore, as much a matter of social

and political ordering as appeasement of the gods. Another strand of more recent scholarship has been the establishment of manubial temples and their dual function as political as well as religious spaces (McDonnell, 2006: 218); as well as the fulfilment of vows, the creation of these temples afforded competing families the opportunity to make significant claims on political – and urban – landscape (Orlin, 1997:178). The overlap between these aspects of life is also demonstrated in the activities of the senate. Rome's chief political assembly had to convene on consecrated ground which had been designated a *templum* by being 'defined and freed' as such (*effatum et liberatum*) by the augurs (Beard, North & Price, 1998: 22); it was not as though the sacred spaces were being invaded by politics, so much as the *res publica* being transacted as a kind of liturgy. Cicero elaborates on the public and political impact of religion in the second book of *de Legibus*, acknowledging that the religious 'constitution' precedes the political settlement (Scheid, 2001:58). Having no concept comparable to 'revelation', Roman religion advanced by way of 'amalgamation, elaboration and systematisation' (Linderski, 2000:462), a process which resulted in a distinct *scientia* in which the priests were the specialists.

Similarly, as Beard and Crawford (1999) discuss at some length, the symbiosis between religion and public life was such that those whose policies are adjudged to be inimical to the State (although in practical terms this can be a fairly subjective judgement) could be dismissed as being equally unfriendly towards the gods. Cicero was only too aware of the political benefit that could accrue from co-opting the support of Rome's tutelary divinities against his personal and ideological opponents. Even the meetings of the senate (and other public business) could be suspended or its acts invalidated by inauspicious omens. The dramatic, or some would say farcical, high-point of such religiously coloured interventions occurred during a consulship of Caesar. While it is tempting to be cynical in surveying the



relationship between religion and politics in Roman life, Bendlin argues for the need to transcend ‘the civic compromise’:

The link between magistracy and priesthood formed one crucial element in the self-definition of the Roman elite. What has been called ‘the civic compromise’ symbolises the elite’s perception of an inseparable connection between priestly and civic office, between religion in the city-state and political life, in short: between religion and the state (Bendlin, 2000:119).

It is Bendlin who, according to Gildenhard, offers the most helpful distinction between the concepts of ‘Roman religion’ and ‘Roman civic religion’, enabling us to separate out religious activity in general from the specifically political dimensions of Roman religion (Gildenhard, 2011:247). In this regard, however, it seems that Gildenhard somewhat undersells Bendlin’s main thesis, namely that ‘personal’ religion and ‘state’ cult can still be treated as dimensions of the same pluralistic reality (Bendlin, 2000: 135). Naturally it is important to my thesis to appreciate the current state of the arguments surrounding religion in Roman political life, especially vis-à-vis the *pontifex maximus*. Although the inextricability of *religio* and *res publica* is now well established, the authority and general standing of key personnel is still far from settled. Gildenhard is wedded to a narrow construction of *auctoritas* which is strictly denied to the *pontifices*, whereas Beard overstates the priestly powers of the senate at the expense of the *collegium* (Beard, 1990: 30). My contention is that the missing piece of this mosaic is the *pontifex maximus*, who must have exercised a particular function as the senate’s ‘point man’ with the college and who could operate without an explicit mandate *ex auctoritate senatus* (Cicero, *de Domo* 136). But what was the nature of his *auctoritas*?

### c) *Auctoritas*

For an idea so important for the functioning of politics in Rome, *auctoritas* is notoriously hard to render in English. As we have already seen, it has the weight of ‘authority’, but also signifies an entitlement to a hearing and the serious consideration of what a person is saying – indeed ‘clout’ is not so far from the mark (Pomeroy, 2012: 142). This credibility is bound up with the performative nature of so much of public life in the Republic (David, 2006: 421): *auctoritas* was a matter of stage presence as well as the technical requirements of eloquence. The credibility of an individual was also enhanced by his family connections. van der Blom (2010) notes that *auctoritas* could be ‘passed on’ from one generation of a family to the next. It is for this reason that inherited *auctoritas* facilitated a public career, thereby creating further opportunities for bolstering an individual’s own standing or, to use a modern equivalent, *profile* (van der Blom, 2010: 126). Because of its association with the *mos maiorum*, *auctoritas* came to be associated with those who had descended from the most prestigious *gentes* and had, no doubt with some help from their ancestral *imagines*, attained the very highest offices. In the structured hierarchy of the senate, this meant that those who had been consuls and censors and were regarded as the ‘leading citizens’ enjoyed the greatest dignity and authority (Hölkeskamp, 2010: 91).<sup>5</sup> It must be remembered that the senate itself was the subject of its own *auctoritas*, the *auctoritas patrum* by which legislation and elections were properly authorised (Jehne, 2011: 220; Loewenstein, 1973: 157); furthermore, it was the effective seat of religious authority in the Republic.

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<sup>5</sup> The status of censors as religious authorities is somewhat overstated. Although they had care for temples, they had to defer to the opinion of the *pontifex maximus* and derived any religious authority from the express mandate of the people (Palmer, 1965: 323). Curiously, few *pontifices maximi* were elected to the censorship and only Marcus Aemilius Lepidus and Domitius Ahenobarbus *after* their election as chief pontiffs; Scipio Nasica Corculum was censor before his tenure as head of the pontifical college.

Santangelo (2013b) explores the relationship between the *auctoritas* of *priesthoods* and that of *individual priests*. He acknowledges that

priests exert a level of influence that other centres of power cannot attain. Their actions can have strong political implications, but may be justified as actions that have a religious significance and cannot fall into the fold of partisan controversy... priests have to be prepared to defend their action and their craft from external pressures and interferences. (Santangelo, 2013b: 762)

In the *de Domo*, while Cicero addresses the authority of the pontifical college as a *whole* (since distribution of power is considered a fundamental principle of the Republican system), he appears to be making a case for the senior members of the college enjoying an enhanced position relative to that of their less experienced colleagues. A senior *pontifex* who had scaled the heights of the *cursus honorum* would have been a formidable proposition: the combination of more than one type of *auctoritas* in a single figure opens up the possibility that these manifestations of ‘clout’ could be made to interact in new ways. I would argue, therefore, that the traditional understanding of *auctoritas* needs to be reevaluated in order to embrace these interactions between tradition and improvisation which will be discussed in the course of this thesis.

All of the *pontifices maximi* we shall consider had a particular personal *auctoritas*, quite apart from whatever prestige they derived from their presidency of the college. All, to some extent,

had powerful family connections – even if these were not strictly gentilicial. The scope of this study argues that certain cardinal points occur at which the authority of the senate or the custom of the ancestors becomes incapable of dealing with a challenge to the old dispensation. It was precisely at these points that the *pontifex maximus* showed himself to be an ‘auctor’ who drives forward a resolution or who, by virtue of his standing, represents an obstacle in the path of those forces trying to effect some change. As has already been noted, the overcoming of this impasse was almost always through acts of violence.

#### **d) Violence in the ‘late’ Republic**

Lintott’s (1968; 1999) remains a classic treatment of the phenomenon of the use of violence as a political tool. Lintott attempts to reconstruct the intellectual categories in which a Roman of this period would have ‘processed’ violent activity in the public square, concluding that personal enemies were invariably presented as enemies of the state. This is clearly the tactic which will be adopted by the *pontifex maximus* Scipio Nasica Serapio as he rallied the crowd against the tribune Tiberius Gracchus. Although we will discuss this episode in greater detail, it is worth noting how some theorists, including Flaig (2003), would see this as an instance of elite-led ‘consensual’ violence in which the people themselves would have been mobilised against the tribune’s assault on the most cherished principles of Republican democracy. Nippel (1995) notes that the higher magistrates enjoyed the means of controlled violence, as represented by the *fascēs*: the fundamental spatial distinction of what lay either side of the city’s sacred boundary, the *pomerium*, meant that civil and military forms of discipline were kept separate (Nippel, 1995:4). What is problematic about Nasica’s actions was the importing of a stylised martial violence to the very heart of the civic space. Flower (2010) also observes the additional element of ‘transgression and pollution’ in the violent death of Tiberius and

these religious *motives* will recur throughout the remainder of the Republic. Although, as Woolf (2012) notes, it was at this point that the novelty of political murder was introduced, the seeds of violence had already been sown in the conflict between Octavius and Tiberius (Flower, 2010: 83). Of course the cycle of violence claimed many more victims in the century which follows and the murders of the *pontifices maximi* Scaevola and Caesar would be an occasion for many of the same arguments and justifications to be advanced by the perpetrators. So too, the religious aspects of these violent deaths will be a feature among contemporary (i.e. ancient) authors as well as theorists of our own day. The ways in which attempts have been made to legitimize and even restrain the tendency towards violence are exemplified in the ritual of *consecratio* and the measure of the *senatus consultum ultimum*. Many see Nasicus's actions on the Capitol as an attempt at rendering his cousin *homo sacer*, thereby casting him outside the realm of legal protection (a striking reversal for someone who had enjoyed *sacrosanctitas*) and the object of lawful killing. Agamben (1995) retrojects his philosophical interest in the place of the individual against the reality of 'sovereign power' into the origins of *sacratio*, exploring the seemingly contradictory categories of this ancient practice. The sanction of killing with impunity an individual who *cannot* be sacrificed offers an insight into the archaic operations of Rome's laws which were, on many levels, religious in origin. Although the precise outlines of this practice had become blurred through infrequent use – a fact which left them open to political extemporisation – it is striking that the legitimizing force of such precedents could still be invoked in times of crisis. The *Senatus Consultum ultimum* is described as 'another moment of *homo sacer*' (van der Valt, 2005: 135). It is a matter for conjecture whether the *SC ultimum*, an innovation of the second 'Gracchan crisis', might not have emerged at this earlier juncture if there had been greater consensus within the senate, but Gaughan (2010) notes that much of the 'blurred category' issues affecting *consecratio* also engender a certain ambivalence on the part of the Romans

with regard to the final decree. Golden (2013) argues that, by the late Republic, the *SC ultimum* had institutionalized violence, ‘providing political cover to the executive’s decision to employ armed force even in situations where it would normally be unacceptable and illegal’ (2013: 221).

Although much of the literature relating to religious violence tends to focus on late antiquity (Gaddis, 2005; Drake *et al.*, 2006), some recent interest has been shown in the sacral dimension of officially sanctioned violence in the republican period. The clearest instance of this is the punishment of those found guilty of *incestum* with a Vestal (Dionysius of Halicarnassus, *Antiquitates*, 8.89.5. and 9.40.4, Livy 22.57.3). It was the responsibility of the *pontifex maximus* to order the beating to death of anyone convicted of sexual relations with a Vestal virgin.<sup>6</sup> This particular sentence, an extreme form of the beating administered to a priestess for more minor lapses in her duties, took place *within* the sacred boundary of the city (Rüpke, 1992: 65). The Vestal herself would be tried before the *pontifices* and, if found guilty, would be buried alive (again within the *pomerium*); this may be understood as a response to the various levels on which Vestal ‘unchastity’ was considered offensive. Not only was it a breach of priestly discipline; the breaking of her vows made the Vestal a *prodigium* in herself. Mirroring the impenetrability of the sacred bounds of the city, the continued visibility of her ‘possessed’ body made her an intolerable sign of contradiction. Moreover, this symbolic representation of the city and its safety meant that her infidelity was also an act of *treason* (Parker, 2004: 585). These infractions – disciplinary, religious and ‘political’ – collectively assumed the proportions of an offence which could only be remedied by a particularly elevated kind of violence: sacrifice. This action, however, did not derive

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<sup>6</sup> Some – for example Rüpke (1992) and Coarelli (2011) – argue that it was the chief pontiff who carried out the sentence in person.

from the category of *sacratio* which we mentioned above; this was a reversal of the process by which the Vestal was first ‘seized’ by the chief pontiff. Now she would be handed back to the goddess and the earth of the *patria*, both of whom had been betrayed by her desecration (Kroppenberg, 2010: 431-432). Although the ‘blood’ of the Vestal would not be on his hands, the *pontifex maximus* was instrumental in the excision of this threat to the wellbeing of the state.

Osiander (2000), following Galtung (1996), offers a template for analysing violence both in antiquity and in modern society. There is a distinction to be made between direct violence (caused by ‘identifiable individual actors’), structural violence (‘institutionalising an unfair distribution of advantages’) and cultural violence (where those structures of inequality are ‘legitimated by belief systems’). The deepest substratum of violence, the cultural, in turn also legitimizes direct and structural violence, rendering them less ‘wrong’ than they otherwise might appear. All these forms of violence are, according to Osiander, strongly influenced by religious belief (2000: 762). Although Osiander’s grasp of the relationship between religion and politics is less sure,<sup>7</sup> he does recognise the *pontifex maximus* as a figure of prominence in the wider culture of public life at Rome. We should recall of course, the etymological links between *cultus*, *cultura* and *culter*.<sup>8</sup> The worship of the gods, so essential to the development of the ‘culture’ of Roman society, was often predicated on the use of the sacrificial knife: Várhelyi (2011: 137) argues that the phenomenon of political murder during the Republican period came to be framed in sacrificial terms. Recourse to such categories enabled diverse

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<sup>7</sup> Osiander consistently opposes ‘secular’ authority (the senate) and ‘sacred’ power (the priests); he considers a function of the pontifex maximus was ‘to keep the priesthood under the control of the secular power’ (2000: 765).

<sup>8</sup> All three words are predicated on the blade: both worship (including sacrifice) and the accoutrements of civilised society hark back to a link with the land and the practice of cutting the earth with the blade of the ploughshare (also *culter*). (Pliny, *Hist. Nat.* 18:48; Puhvel, 1964: 180).

groups to mark out ‘the other’ and to seek religious legitimation for turning ‘the knife’ on those who posed a threat to the peace of the gods (and whatever notion of order coincided with their own position). Várhelyi cites Publius Cornelius Scipio Nasica Serapio and Lucius Cornelius Merula as two emblematic examples of this use of violence dependent on the visible demonstration of priestly status. I shall also consider their actions – and the questions raised by them – at greater length, arguing that there is even more to say about sacro-political violence during this period.

In this Introduction we have noted that, as popular unrest and competition among the elite intensified, the balancing mechanisms of the Republic struggled to cope. *Vis* increasingly became the default solution to settling both political and personal scores. The fact that the *pontifex maximus* was publicly associated with this violence from the outset, lending authority to its execution, meant that the failure of the *res publica* showed also in an undermining of confidence in the apotropaic power of *religio*. To put it bluntly, if a chief pontiff could be a ‘killer’, he could be killed: if the forms of ritual could be coopted in the suppression of one’s opponents, then one’s opponents could set aside vows and violate sanctuaries without scruple. I intend to show that the eventual process of rebalancing the *res publica* had to be seen to involve the *pontifex maximus* – and all that he represented – in an explicit way.

Before doing so, however, it is necessary to take a closer look at just what the office of *pontifex maximus* represented and its imprint on the life of the city, using the ‘matrices’ outlined above. In order to better understand how the chief pontiff emerged as a distinct religious position – and was taken in different directions by successive holders of the office –



it is important to flesh out the development of its powers and prerogatives, as well as its standing in regard to the other priests of Rome.

## CHAPTER ONE

### **The *pontifex maximus* in the Life of the City**

Although, as I have already indicated, scholarship on Roman religion and the pontifical college has gradually expanded in recent years, literature on the *pontifex maximus* is diffuse and focused on elements of activity rather than the office itself or the careers of significant figures *as* pontiffs. While these contributions will be considered throughout the rest of the thesis, a brief overview of the main literature will serve as a departure point for our argument.

According to Mommsen, the chief *pontifex* was the titular head of the college and the other pontiffs assume the nature of an advisory council (Mommsen, 1887: 23); Mommsen was of the view that the high pontiff was possessed not only of a kind of *imperium* but also *auspicium* (the right to determine the ‘auspiciousness’ of the assemblies he was empowered to convoke [1887: 28; Linderski, 1986: 2215]): these were real and substantial quasi-magisterial powers. For Wissowa, however, the *pontifex maximus* is more of a symbolic figure, embodying a somewhat more opaque priestly ‘Würde’ which he shares with his fellows (Wissowa, 1912: 509). By the time we reach the 1950s, German scholarship has revised the scope of the office in more restricted terms, the ‘chief’ priest is the servant of collegiality and unable to take decisions without the consent of the body as a whole (Bleicken, 1957:364); it should be remembered, however, that academic revisions are as subject to external influences as the office of *pontifex maximus* itself. At what point the *pontifex maximus* becomes a figure of real prominence in Roman religious life, eclipsing the other office of influence, the *rex sacrorum*, is hard to determine. Christopher Smith captures this narrative ambiguity, but makes a virtue out of it in linking it with a diffusion of religious

power and prerogative (Smith, 2007: 40). For Beard, this lack of central authority is wholly reflective of the ‘elusive and intangible’ nature of the Roman religious system itself (Beard, 1990: 42). Similarly Rüpke, while recognising the enhanced position of the *pontifex maximus* due, in part, to his publicly elected status, maintains the view that all the pontiffs were possessed of a ‘distributed religious competence’ (Rüpke, 2006: 227). However his contention that priests were not as extensively involved in religious communication as is widely thought seems based only on the ‘spare time’ nature of priestly functions; the conclusion he then draws, that priests did not therefore benefit from their religious status so much as from their other public roles, is open to question. Rüpke is interested in the politicization of religion in the third century and argues that the *lex Ogulnia* of 300 B.C. marks a watershed in this process, much of it surrounding the pontificate itself.<sup>9</sup> His analysis of the many factors at work, especially in the concentration of important priesthoods among a small number of noble families, is highly plausible; however, his assertion that the *pontifex maximus* ‘later became the highest priestly office’ (Rüpke, 2007:55) after (or as a result of) the *lex* is perplexing. John Scheid is of the view that the *lex Ogulnia* derived its importance from the offices it affected and not because the law somehow made this priesthood more of a prize or increased its relative standing (Scheid, 2001:87). Although Scheid is more emphatic in his treatment of the chief pontiff’s authority over the pontifical college, he is equally robust in maintaining the strict separation of roles between priest and magistrate (Scheid, 1998:111). While this distinction is wholly consistent with the broad framework of Roman magistracies and their competences, it does not entirely reflect the symbolic communication at the heart of Roman religion. This was not merely communication with the gods: the Romans were saying

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<sup>9</sup> The *lex Ogulnia*, in reality a plebiscite, opened the pontifical and augural colleges to plebeians, as well as increasing their numbers. Our only ancient source is Livy, who mentions the *lex* in 10.6 and 10.7. d’Ippolito (1985) sees the law as a stabilising and consolidating counter measure to Flavius’ publication of the *legis actiones and dies fasti*. For other commentary, see Valgaeren, 2012. The *lex Ogulnia* occupies a significant position in the timeline of ‘egalitarian’ law-making, predating the *lex Hortensia* – which made plebiscites binding on all citizens - by over a decade: however it took nearly fifty years before a plebeian was appointed *pontifex maximus*.

something about themselves in the exercise of the public and private cults. These religious activities mirror a complex range of social, as well as hieratic transactions. As we shall argue, a great deal of what Augustus was able to achieve in consolidating his position was rendered possible by the osmosis of priestly and political *personae*. Indeed, Scheid acknowledges as much in describing Augustus' reviving of the rites surrounding the *compita*, the cult places of the crossroads: here, after his election as *pontifex maximus*, he was able to authorise religious activities which were part of a longer term political strategy (Scheid, 2009:296). Yet far from being an Augustan invention, there are signs that a symbolic 'aura' could be – and had been – attached to political actions by Republican *pontifices maximi* for quite some time.

Linderski (2002) extensively examines Scipio Nasica's involvement in the death of Tiberius Gracchus. In a minute analysis of Nasica's actions, Linderski finds them curiously deliberate for a supposed crime of oligarchic passion. Most interesting, for our purposes, is his evocation of the *pontifex maximus* in Festus' emphatic phrase – *iudex atque arbiter rerum divinarum humanarumque* (Linderski, 2002: 365; Festus, 200 L.). Although Festus was writing at the high-point of the emperor-pontiffs, Linderski is certainly correct in seeing this episode as an exercise in pontifical power which crossed a political boundary and would continue to cross such boundaries in the succeeding centuries. While there are some conclusions drawn by Linderski which are open to question, this contribution to the debate remains one of which every subsequent researcher in this field must take account: Wiseman (2009) is a case in point, taking Linderski's study as near normative.

In terms of the functions of the *pontifex maximus*, Van Haepere (2002) offers an invaluable technical overview; although, as her title *Le Collège Pontifical* suggests, the emphasis is very

much on the collegial activities of the chief pontiff. She is scrupulous in avoiding discussion of the swirl of politics around the *pontifices maximi* of the late Republic. In this regard, Van Haepereen illustrates a lingering tendency in some circles of classical scholarship to focus on the procedural aspects of Roman religion and keep the complex web of political and personal interactions as far out of the picture as possible.

Many of these interactions depended on the how the *pontifices maximi* and those around them understood the nature of the office. As we shall see, there was ‘room for manoeuvre’ even in the meaning of the word *pontifex* itself.

### **The etymology of *pontifex maximus***

The origins of the *pontifices* have been lost in the period where myth meets history. One suggestion, indeed the theory with widest currency in contemporary scholarship (as well as being favoured by Varro), is that the pontiffs originally had a particular connection with the notion of bridges – hence the combination of *pons* and *facere* (Van Haepereen, 2002: 44). The creation of these structures which spanned perilous or impassable spaces, allowing the transfer of people and goods from one ‘side’ to another is an activity with clear religious parallels. Support for this (meta)physical bridge-building etymology can be found in the pontifical ritual surrounding the *pons sublicius*: *nam ab his Sublicius est factus primum ut restitutus saepe, cum ideo sacra et uis et cis Tiberim non mediocri ritu fiant* (Varro, *de Lingua Latina*, 5.83).<sup>10</sup> The Sublician bridge was an object of particular reverence for the Romans as the first to span the Tiber. Rendered something of a symbol of Roman resistance

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<sup>10</sup> For the Sublician bridge was first built by them and repaired frequently by them, and for that reason religious rites are carried out on both sides of the Tiber with no small ceremony.

by Cocles' legendary defence of the city, the bridge remained a wooden structure long after construction in stone became the norm. According to Varro, it was the *pontifex maximus* and his colleagues who attended to the repair and ritual upkeep of what must at times have been a fragile crossing. Servius, in his commentary on the *Aeneid*, also mentions the *pons Sublicius*, albeit linked – somewhat confusingly – with the Palladium (Servius Auctus, *Aen.* 2:166). The Mid-May rites of the *Argei*, perhaps a substitute for human sacrifice, involved the pontiffs and the Vestals in casting wicker effigies from the bridge into the Tiber (Hallett, 1970: 223; Takács, 2008: 46).

Such well-attested 'pontifical' activities do not exhaust the possible understandings of this office. Although less current, partly due to the slightly more strained etymology, Varro also offered an alternative: *Pontufices, ut Scaevola Quintus pontufex maximus dicebat, a posse et facere, ut potentifices*.<sup>11</sup> This was, Varro notes, the preferred etymology of Quintus Mucius Scaevola, himself both pontiff and chief pontiff: This rendering, as if the term were 'a syncopation of *potentifex*' (Hallett, 1970: 220) offers an interesting insight into the way the office was understood 'from within'. Scaevola seems to have been struck by the potential of the office: here, it seems, was a way of conceiving an individual's capacity to act in ways which others could not or, to continue the analogy of language, to inflect existing formulations of religious and political action in ways which not only symbolised a kind of power but created it. Scaevola's understanding of the 'priest of the possible' is especially interesting given the way he responded to the tug-of-war between Sulla, Marius and Cinna.

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<sup>11</sup> The *pontifices*, as Quintus Scaevola the *pontifex maximus* said, were named from *posse* 'to be able' and *facere* 'to do', as though from *potentifices*.

Moreover, allusions to power are also to be found in the etymologies proposed by Dionysius of Halicarnassus (ἐξουσία 2.73:1) and Plutarch, although here Plutarch attributes the ‘potens’ aspect (actually transcribing the Latin) to the service of the gods themselves ‘who are powerful and supreme over all the world’ (*Numa*, 9:1).

The fact that these ancient sources identified a connection with power, authority and freedom to act is of interest to us as we discuss the perceptions and interpretations of those who held the office. Yet no matter how intellectually appealing (and, for the purposes of this thesis, convenient) the Scaevolan etymology might be, in the last analysis it does not entirely matter which derivation is favoured by current philologists. Arguably of greater significance is the further designation *maximus*. Romans were seldom given to superlative appellations in public life: the honorific of the Fabii Maximi is a rare instance and, outwith the field of religious offices, we do not find ‘maximus’ appended to any public official in Republican Rome.<sup>12</sup> The fact that the headship of the priestly college was not automatically conferred on the eldest or most experienced member but could, in theory and frequent practice, be won by a much younger man suggests that the prospect of becoming ‘maximus’ would not have been a matter of indifference to an ambitious Roman. No one who held the office of chief pontiff before his first consulship failed to reach it thereafter.

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<sup>12</sup> The chief Vestal was sometimes referred to as *virgo Vestalis maxima*. The office of *curio maximus* had become largely defunct by the end of the Republic; the notion of *augur maximus* is dubious and now widely disregarded, Linderski, 1986: 2154); the precise nature (indeed the existence) of a *praetor maximus* in the post-monarchic period is still a matter of speculation and dispute (Brennan, 2000:20-23).

### **The *pontifices* and the pontifical college**

Although, unlike other contemporary cultures, a specifically priestly order was unknown at Rome, the religious life of the city was itself highly organized. The creation of different priestly *collegia* was as much a reflection of élite competition as the product of increasing specialization within the functions of cult, divination and prodigy expiation. Ensuring that a range of options was available to ambitious individuals and influential clans was key to regulating a system in which priestly office was an accompaniment to the *cursus honorum*.

To this end Walsh offers a fair account of the Roman religious environment:

Though private households maintained their own shrines and made modest offerings to their household gods, Roman religion was predominantly the province of the state, conducted scrupulously by ritual and cult... The conduct of Roman religion was managed by the politicians. The senate was endowed with supreme authority in all matters religious. They delegated decisions to the four main priesthoods... but the individuals appointed to these offices were not a priestly caste, but men active in public affairs. (Walsh, 1997: xxiii-xxiv)

It is worth emphasising Walsh's point that those who held priesthoods, apart from a very few exceptions, were not precluded from engagement at all levels of Roman political life. It was a regular occurrence that a consul who also happened to be a pontiff would be called to carry out a sacrifice in the name of the people, but he would be acting in his capacity as consul, not as priest. Magistrates could offer sacrifices as competently as priests – indeed in offering sacrifices they *were* exercising a priestly function. In terms of a hierarchy of prestige, despite



some attempts to argue for the augurs as the pre-eminent group (Hahn, 1963: 75, of course following Cicero), the majority of the ancient sources agree that the pontiffs ‘scrutinize all the offices to which sacrifice or service to the gods is assigned’ (Dionysius of Halicarnassus 2.73) and held first place. Even within the college there was a clear differentiation of roles and responsibilities: the *collegium pontificum* consisted of (in terms of ‘priority’) –

1. The *Rex Sacrorum*
2. The *flamines maiores* (the *flamen Dialis*, or priest of Jupiter; the *flamen Martialis*, or priest of Mars; the *flamen Quirinalis*, or priest of Quirinus)
3. The *pontifex maximus* and the *pontifices*
4. The *pontifices ‘minores’*
5. The *flamines minores* (twelve in number, attached to specific but obscure deities)
6. The Vestal Virgins.

Another reason for the pontifical college to be ranked first among the four principal *collegia* was the fact that it boasted the largest number of religious specialists and, as a consequence, had the widest ‘reach’ of all. There were originally three pontiffs, all patrician, who perhaps played an advisory role during the monarchic period (Van Haepelen, 2002: 69). This patrician dominance was to be a feature of the office for centuries.

The *lex Ogulnia* increased the number of pontiffs to nine and ensured that four had to be of plebeian origin. As Lintott argues, this was probably because plebeian families had had their sights on those priesthoods with the greatest political clout, and that is why popular election –

or a form of it – was gradually introduced (Lintott, 1999a: 185). In the middle of the 1<sup>st</sup> century B.C., however, the process of co-optation still held good, whereby vacancies in the college were filled by the members choosing their preferred candidates from among the ranks of senators (Rüpke, 2007:217). An unsuccessful attempt to introduce elections to the college had been attempted by the tribune Crassus in 145 but this initiative had been defeated by the praetor Laelius (Cic. *de Am.* 25, *Brut.* 21, *de Nat. Deor.* 3.2).

The *pontifices* were charged with the general supervision of the public cult in its various expressions and exercised a teaching function *vis-à-vis* the people in the matter of religious ‘explanation’ and instruction (Livy 1.20.6-7; Wiseman, 2008: 32). This entailed the maintenance of Roman religion in its traditional forms and the scrutiny of imported cults; provided they were not a source of disruption, foreign religions were allowed to proceed according to their own lights (Rüpke, 2007:30).

An obvious – and extreme – example of this was the measures taken by the consuls Quintus Marcius and Spurius Postumius against the Bacchanalia in 186 B.C. Although there are some inconsistencies in the vivid Livian account (Livy, 39.8-19), we know that the senate took decisive action in the face of a pluriform threat to the Roman way of life. In its broadest outlines, this threat arose from the expansion of the cult of Bacchus – expansion both in terms of geography and in the numbers of adherents from all strata of Roman society – which came to assume the characteristics of an *intestina coniuratio*. The excesses of the Bacchanalia were well known to the authorities, but the relatively discreet nature of the cult meant that it seldom posed a serious problem to the moral stability of the *res publica*, nor did it deprive the native rites of their proper place and rightful esteem. Among the inconsistencies in Livy is the

idea of a sudden discovery of the scope of the problem by the senate; more probable is that the senate took advantage of a rare pause in foreign wars to turn its attention to this internal matter (Beard et al., 1998a: 93). This does not quite explain *why* the decision was taken to carry out what proved to be a brutal repression of the Bacchic movement. The alleged activities of the initiates – from forgery of wills to murder – were objectively illicit (Bayet, 1992: 168), but it is probable that other factors were influential in the decision to act with such decisiveness. Livy's emphasis on the subversive prominence of women is less likely to have been a factor than the potential influence of the cult on Rome's political class (Schultz, 2006:83; Nippel, 1995: 29) and there is always the possibility that punitive action was being taken against a Greek cult at a time when suspicion of Hellenism was in the ascendant (North, 2000: 64).

Against this background of social, political and religious upheaval, it is important to note the influence of the pontifical college in the drawing up of the *senatus consultum* which addressed the Bacchanalian 'menace'.<sup>13</sup> Of the three senators listed as present at the drafting of the decree, two, Valerius Flaccus and Claudius Marcellus were pontiffs. Bauman notes that the *pontifex maximus* at the time, P. Licinius Crassus Dives had been an ordinary member of the college in 213 and had influenced the *decreta pontificum* used by the consul Postumius to reassure the people in the wake of the suppression nearly thirty years later (Bauman, 1990: 345). It was also the pontiffs who intervened with a decree to carry out religious observances to appease the gods and calm the worried populace when menacing portents were seen in the wake of this fraught episode (Livy 39.22.3-4; Février, 2009: 233).

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<sup>13</sup> *ILS* 18; *ILLRP* 511.

The response to this crisis, real or invented, permits an insight into the way in which pontifical opinions would be crucial in determining the senatorial decision. As Pagán observes, the perceived threat had more to do with the creation of a counter-state than the religious cult itself (Pagán, 2004: 55); that said, the fact that this parallel republic already had a defined priestly structure which crossed both class and gender lines meant that a fundamental principle of the Roman religious establishment was at stake. Such subversion could only conflict with all that the *collegium pontificum*, with all its legal and procedural *gravitas*, stood for. The restrictions which were placed on the cult clearly bear the imprint of pontifical expertise, perhaps most clearly in the provisions of the decree concerning the destruction of existing Bacchic shrines *exstrad quam sei quid ibei sacri est* ('unless they contain anything which is sacred'); this is wholly consistent with the *pontifices'* preoccupation with the inviolability of cult spaces, tombs, altars etc. Again, typically, such measures ensured that a legitimate cult could be allowed to continue within the parameters set for it until such time as another *pontifex maximus*, Caesar, saw fit to liberalise the worship of Bacchus once again (Luisi, 2006: 155).

Collectively, the *pontifices* constituted an advisory body of the senate and offered advice on matters remitted to it by the senate as a whole or by individual magistrates. This might, for example, be a sensitive matter of sacred law, such as the investigation of the *Bona Dea* affair in 62 B.C. or the precise formulation of the *indigitamenta*, the 'function specific' invocation of the gods.<sup>14</sup> Lipka argues that this privileged access to ritual procedure dated from a time when the 'bridge builders' would have been technical experts and, crucially, able to write and perform calculations. Thus, he argues, the sacred expertise of the pontifical college had its

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<sup>14</sup> For linguistic analysis of *indigitare* and *indigitamenta* in relation to the pontiffs and the *pontificum libri*, see Perfigli, 2004: 241-257; for the importance of ritual prayer, Pliny, *Historia Naturalis* 28.10-11.

origins in the very practical ‘skills set’ of royal officials (Lipka, 2009: 71-72). By the middle of the second century B.C., however, the skills of the college were very much directed towards the governance of activities which would have only the most tenuous links with Lipka’s constructed past. Some measure of calculation was required for the process of intercalation, the insertion of days and even whole months to ensure the correct passing of seasons and proper observance of festivals. Alongside the *sacra publica*, the pontiffs also had a watching brief over the religious implications of family life: certain forms of marriage, adoption and the very important field of testamentary law and the maintenance of tombs (Crook, 1984:134).

Although all the *sacerdotes publici*, those designated by Varro as ‘*sacerdotes universi a sacris dicti*’ (L.L.5.15.83), namely the pontiffs, augurs and *decemviri sacris faciundis*, shared a concern for the religious dimension of daily life, there was a clear sense of delineated responsibilities. Cicero notes the distinction between *sacra* and *auspicia* (*de Natura Deorum* 3.2.5) and the respective competences of the *pontifices* and the augurs. As an augur himself, Cicero had an understandable tendency to elevate the status of the augural college: Rome was, after all, founded on the principles of auspicy and augury (Takács, 2000: 302). The fact remains, however, that the *collegium pontificum* had assumed a different profile by Cicero’s day precisely because its structure – with a *pontifex maximus* at its head – lent it cohesiveness and a standing which no other priestly grouping could equal.

One area in which the particular competences of Roman priests came closest to overlap was in the identification and, if necessary, expiation of *prodigia*: ‘divagations from the order of nature, eclipses, earthquakes, monstrous births and so forth’ (Nock 2003 [1939]: 94) which

were routinely interpreted as expressions of displeasure among the gods. Since the gods were also, in a sense, citizens of Rome (Scheid, 2001:69-70), the senate took the task of classifying these portents and repairing the *pax deorum* very seriously and was mindful of the different strands of expertise to which it had recourse. In addressing the implications of a *prodigium*, the senate could turn to the *haruspices*, ancient experts in the Etruscan discipline of divination, as well as the proponents of the *ritus Graecus*, the consultation of the Sibylline texts by the decemvirs. Livy (27.37) records an incident in 207 B.C. in which these schools of practice made parallel interventions; after a series of unsettling omens in which the pontiffs had made their own recommendations, the birth of a hermaphrodite caused the *haruspices* to advise that the infant be cast alive into the sea – dealing with Androgynes was their field of particular competence (Rosenberger, 2007: 295). The *pontifices*, however, had devised a new ritual in which twenty-seven virgins were to process through the city singing a specially commissioned hymn. While this ritual was being performed, a lightning strike on the temple of Jupiter Stator brought the expiation rites to a halt and necessitated the involvement of the *decemviri* who, in their turn, prescribed additional measures. Rasmussen (2003: 182) considers this illustrative of ‘a division of labour and parity among the three priesthoods without any hint of enmity, competition of ranking hierarchy’. Although Livy draws no conclusions about this threefold expiation and the interactions of the specialists (Santangelo, 2013a: 167), the fact that new rituals are created demonstrates that neither pontiffs nor decemvirs were constrained by their ‘discipline’ and so could be innovators as well as conservators. But even in this respect the pontifical college enjoyed greater freedom.

Although the Sibylline books conferred a particular authority on their keepers, the overarching juridical authority of the pontiffs meant that, whatever the origin of the measure indicated to appease the gods, the *ritus patrius* often predominated (Février, 2002: 33). This

is perhaps because the *libri* kept by the pontiffs came to constitute a repository of lore and expiatory practices (Berthelet, 2011: 3); while the texts of the decemvirs remained, of necessity, always the same, the pontifical books were an expanding corpus of knowledge and it was the same college which was consulted as a matter of course in the drafting of the senate's *consulta*. Berthelet argues that this primary role of the *collegium pontificum* means that, in those instances where no particular group of priests is credited with an intervention, we should attribute the 'resolution' of the case to the *pontifices* (Berthelet, 2011:6).<sup>15</sup> Given that augurs also kept written records of their *scientia* (Linderski, 1986: 2233), it is not clear why these augural texts did not assume the same profile or authority as the pontifical annals; nor can we easily account for the dearth of reference to augural activity in the process of *procuratio*. One potential hypothesis is that the incorporation of elements of these records in the *Annales Maximi* meant that the pontiffs, under the presidency of the chief pontiff, came to be the channel for public dissemination of prodigies and their expiation. Not only would this be a reference for the public at large, but it would also be indispensable to the incoming consuls who had to undertake a *procuratio prodigorum* at the start of the year (Pina Polo, 2011b: 100). The fact that Cicero, who was of course an augur, is unable to furnish much information about the content of the *Annales Maximi* suggests that he did not have immediate access to the text itself (Drews, 1998: 297). While the chief pontiff Scaevola may have produced a definitive collation of the pontifical records in the aftermath of the Gracchan crisis, we may assume that the college continued to set down their activities and opinions in a separate archive. The diminishing interest in the recording of prodigies from the start of the first century B.C. may have something to do with the equally prodigious political upheavals of the time (Bollan, 2012: 341) or the increasing Academic scepticism which interested

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<sup>15</sup> Rosenberger's assertion that 'Pontiffs played a marginal role' in expiatory practices (2007: 295) is an *argumentum e silentio* based on Livy's lacunose sources and does not take account of the more recent scholarship of Février (2002) and others.

Cicero (Schofield, 1986: 47). Still, although this one aspect of pontifical activity may have entered upon a trajectory of gradual decline, the pontiffs continued to exercise a not insignificant role in the senate's religious deliberations. Although not all *pontifices* were members of the senate (there is still some vagueness about this in certain quarters, e.g. Orlin, 2007:60<sup>16</sup>), they were, as we have seen, collectively associated with its authority and with the *auctoritas* of the *pontifex maximus*.

### **The development of the *pontifex maximus* and its relationship with the *collegium pontificum***

As we have seen, a fundamental preoccupation of the Roman people, from their earliest days, was the maintenance of harmonious relations with the gods – especially Rome's tutelary deities. This concern for the *pax deorum* demonstrates a typically Roman micro/macro approach to its constituent relationships, whereby the formal dependencies of individuals and clans are replicated in the diligent cultivation of divine patrons. (Or, it might also be argued, the *concordia civium* was underwritten by the clear lines of benefaction and support between the gods and their 'clients'; Scheid, 2013: 214). The *pontifex maximus* was one of a number of religious personnel with a key interest in maintaining these lines of communication in good order; indeed according to the quasi-mythical accounts, the chief pontiff is one of a small number of 'proto-specialists' from the pre-republican period.

Numa, the legendary second king of Rome, emerges as a figure of singular importance in the history of Roman religious practices, both as an innovator and a consolidator of existing ideas – not least in his creation of the pontifical college. Gordon notes that Livy's treatment of the

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<sup>16</sup> Cicero states explicitly that some were not: cf. *ad Atticum* 4.2.4.



far-reaching power of religion at Rome is made with Numa in mind (1990: 193; cf Livy 1.20). Warde Fowler (1911) operates on the presumption that the pontifical college existed during the Monarchy and supported the *rex* in his sacral functions as the embodiment of priestly power. The expulsion of Tarquinius Superbus and the establishment of Republican institutions did not substantially affect the nature of Roman religion, merely the officials charged with overseeing its functions.

In both etymologies of *pontifex* mentioned above, we noted the emphasis on *doing*, and this is entirely consistent with the Roman understanding of religion as performative and based on prescribed actions. Szemler (1971:106) emphasises the *pontifex maximus*' role in pre-announcing the *indigitamenta*, the propitious ritual formulae, to the magistrate carrying out the sacrifice. Yet the really distinct contribution of the *pontifex maximus* to Roman life lay more in his jurisdiction of religious (and some civil) matters than in the exercise of cult which was as much the province of Rome's *patresfamilias* and magistrates as its priests. The chief pontiff held a position of pre-eminence over the principal functionaries of Roman religion, the *quattuor collegia amplissima* of the pontiffs, augurs, *decemviri* (later *quindecemviri*) and *tresviri epulonum* (later *septemviri*).<sup>17</sup> Although a member of the pontifical college, the chief pontiff's more extensive oversight is attested by Livy's enumeration of the college's membership at eight instead of nine (Broughton, 1951: 282, 393). The fact that Livy omits the *pontifex maximus* suggests that he was perceived as standing over and above these other groupings. Despite this pre-eminence, the chief *pontifex* was technically ranked below four of his colleagues (Carter, 1915: 9), appearing fifth in Festus' '*ordo sacerdotum*' after the *rex* and the three major *flamines* (Ridley, 2005: 281).

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<sup>17</sup> On jurisdiction of the weightiest matters, Dionysius of Halicarnassus, *Antiquitates*, 2.73.1-2; on the particular duties of the *pontifex maximus* towards the gods, Plutarch, *Numa*, 9.4.

(a) The *pontifex maximus* and the *rex sacrorum*

The real ascendancy of the *pontifex maximus* may be traced, at least according to Livy, to the expulsion of the kings and the gradual erosion of the prestige of the *rex sacrorum* (or *rex sacrificulus*). According to our best estimates, the office of *rex* – as the name implies – assumed most of the religious duties of the king. To what extent this role was a public function of the *rex* as ‘head of state’ or the gradual expansion of his cultic responsibilities as *paterfamilias* of the *domus regia* to the nation as a whole, is impossible to reconstruct (Dumézil, 1996:576).<sup>18</sup> As Livy records, the architects of the nascent Republic wished to ensure that *potestas sacra* was kept separate from the civil power and devolved many of the former royal religious prerogatives to the *rex sacrificulus* (Livy 2:2.1-2).<sup>19</sup> Although perhaps initially an expression of that preference for shared office so central to the Republican system, the *pontifex maximus* was always superior to the *rex*. Given the negative connotations of the appellation ‘rex’, effective measures were put in place to ensure that no other means of acquiring political power were open to the holders of this priesthood.<sup>20</sup> With no such restrictions placed upon the *pontifex maximus*, the foreclosing of public office may well have been the root-shock which led to the eventual withering of the *rex sacrorum* as a prized position. Moreover, the chief pontiff’s power to select the *rex* was not only an opportunity to exercise political clout but, just as with the appointment of *flamines*, an occasion to indulge in strategic instances of *promoveatur ut amoveatur*.

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<sup>18</sup> Like the *flamines*, and perhaps a further indication of the domestic parallels of some aspects of Roman cult, the *rex sacrorum* was complemented by his wife as *regina*. Warde Fowler suggests that the *flamines*, ‘the kindlers’, corresponded to the sons of the royal household (1899: 147).

<sup>19</sup> Attempting to resolve the question of why the office of *rex sacrorum* was created in the first place, Cornell (1995) makes an interesting but ultimately speculative case for a dual monarchy in 6<sup>th</sup> century B.C. Rome. In Cornell’s view, the *rex sacrorum* was indeed the ‘old king’ in a much reduced ceremonial role, while a *magister populi* exercised political power. What was overthrown by the ‘republic’ was the rule of the tyrant, while the *rex* was allowed to retain his functions under the supervision of the *pontifex maximus*. (Cornell, 1995: 236).

<sup>20</sup> This also seems to have been the case with the *flamen Dialis*, who may have acquired some of the king’s duties during the monarchical period (Livy 1.20:2; Holleman, 1973:226).

Livy offers an account of an interesting dispute between the *pontifex maximus* and a reluctant *rex* in 180:

de rege sacrificulo sufficiendo in locum Cn. Cornelii Dolabellae contentio inter C. Seruilium pontificem maximum fuit et L. Cornelium Dolabellam duumvirum naualem, quem ut inauguraret pontifex magistratu sese abdicare iubebat. recusantique id facere ob eam rem multa duumuiro dicta a pontifice, deque ea, cum prouocasset, certatum ad populum. cum plures iam tribus intro uocatae dicto esse audientem pontifici duumvirum iuberent, multamque remitti, si magistratu se abdicasset, uitium de caelo, quod comitia turbaret, interuenit. religio inde fuit pontificibus inaugurandi Dolabellae. P. Cloelium Siculum inaugurarunt, qui secundo loco nominatus erat. exitu anni et C. Seruilus Geminus pontifex maximus decessit: idem decemuir sacrorum fuit. pontifex in locum eius a collegio cooptatus est Q. Fuluius Flaccus: creatus inde pontifex maximus M. Aemilius Lepidus, cum multi clari uiri petissent (Livy 40.42:6).<sup>21</sup>

This episode is illuminating in many respects, not least in recording a phase of rapid change in the major colleges, but also in the insight it may offer into the inner working of the pontifical college itself. The fact that Lucius Dolabella is unwilling to follow his brother and yet is still subject to a fine suggests that the chief pontiff's nomination was sufficient to bring

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<sup>21</sup> The filling of the vacancy caused by the death of Gnaeus Cornelius Dolabella, the *rex sacrificulus*, led to a dispute between the *pontifex maximus* C. Servilius and L. Cornelius Dolabella, one of the two naval duumvirs. The pontiff required him to resign his post so that he might inaugurate him. Upon his refusal, the pontiff imposed a fine upon him, and on his appeal the question of the fine was argued before the people. When several of the tribes summoned had declared that the naval duumvir should comply with the pontiff's ruling, and that if he resigned his post the fine should be remitted, a thunderstorm interrupted the assembly. The pontiffs were thus prevented on religious grounds from appointing Dolabella, and they inaugurated P. Cloelius Siculus, who had the next largest number of votes. At the close of the year the *pontifex maximus* died. C. Servilius Geminus was not only *pontifex maximus*, but also one of the Decemvirs. Q. Fulvius Flaccus was co-opted by the college as one of the pontiffs, and M. Aemilius Lepidus was made *pontifex maximus* in place of Geminus from among many distinguished competitors.

him into the college, albeit without the formal inauguration: to all intents and purposes, Dolabella was the *rex sacrificulus* and his failure to comply with the pontiff's wishes was a matter of internal indiscipline. Dolabella's resistance to his appointment further suggests that, even by this relatively late stage, those post-monarchical career restrictions imposed on the *rex* had not been relaxed, marking an abrupt end to the *cursus honorum*. It is also worth noting that Servilius Geminus was both *pontifex maximus* and *decemvir* (a position he must have held since youth; Rüpke, 2008: 891); there seems to have no mechanism to force someone who had been co-opted into a 'higher' college to relinquish their position in a lower one, perhaps because of the rarity of such an occurrence. Szemler argues that such 'dual priesthoods' were a feature of the state of emergency which characterised the Hannibalic Wars and that it was not until the time of Caesar that the combination of priesthoods became a 'normal' practice (Szemler, 1974: 73).

What is also interesting about this conflict is not merely the disciplinary intervention of the *pontifex maximus*, but the way in which it underscores how the ancient 'royal' priesthood had been both symbolically and literally displaced by the chief pontificate. This change had already been reflected in the use of the *regia* at the heart of the forum. What was to become the centre of operations of the pontifical college had prior occupants: no doubt Dolabella had been summoned to appear before the college at the *regia*. The *regia*, as the name suggests, was a building with regal associations; even if it cannot be ascertained if it was originally the king's residence – Ovid has it the dwelling of Numa<sup>22</sup> – it came to be the official 'headquarters' of the *rex sacrorum*. At some indeterminate point, however, it ceased to serve this purpose and the only other location we have for the 'king of sacrifices' is his home on the Velia (Richardson, 1994:328); thereafter the complex on the lower slopes of the *sacra via*

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<sup>22</sup> Ovid, *Fasti* 6.263-264.

became permanently associated with the office of the *pontifex maximus*. Although the entire forum could be considered a sacred space, the precincts of the *regia*, adjoining the *domus publica* (the chief pontiff's grace-and-favour residence) and the house of the Vestals, were an area of particular resonance.

(b) The *pontifex maximus* and the *flamines*

The three *flamines maiores* – priests of Jupiter, Mars and Quirinus – were always patrician and, as well as an array of privileges (such as travelling by carriage to the *sacra publica*), they were also subject to a number of taboos which hampered the pursuit of a normal political career. Even though these limits were less stringent for the priests of Mars and Quirinus than for the flamen of Jupiter,<sup>23</sup> it would be late in the life of the Republic before they too could have their duties delegated to the pontiffs, ‘governed by priestly law under the supreme responsibility of the *pontifex maximus*’ (Turcan, 2000: 53). As well as being empowered to carry out the inauguration of new *flamines*, the chief pontiff was also instrumental in receiving the *flamines* into the college (*captio*) – and this was a prerogative which could also lead to internal conflicts, particularly if this selection was not willingly accepted. Livy speaks of forced inauguration as a moral corrective:

et flaminem Dialem inuitum inaugurari coegit P. Licinius pontifex maximus C. Valerium Flaccum; decemuirum sacris faciundis creatus in locum Q. Muci Scaeuolae demortui C. Laetorius. causam inaugurari coacti flaminis libens reticuissem, ni ex mala fama in bonam uertisset. ob adulescentiam negligentem luxuriosamque C. Flaccus flamen captus a P. Licinio

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<sup>23</sup> Aulus Gellius, *Noctes Atticae* 10.15 offers a long list of the prohibitions surrounding the priest of Jupiter.

pontifice maximo erat, L. Flacco fratri germano cognatisque aliis ob eadem uitia inuisus. is ut animum eius cura sacrorum et caerimoniarum cepit, ita repente exiit antiquos mores ut nemo tota iuuentute haberetur prior nec probatior primoribus patrum, suis pariter alienisque, esset (Livy, 28:8.4-10)<sup>24</sup>

This *pontifex maximus* is Publius Licinius Crassus Dives, head of the college from 213/2 until 183 B.C. Some seven or eight years before attaining the consulship, he accomplished a prodigious victory in the election for chief pontiff, defeating two censors. His activity in the office attests to a thorough grounding in pontifical law (proposing several *leges de sacerdotiis*) and an awareness of his disciplinary powers, punishing a Vestal for allowing the sacred fire to go out (Livy, 28.11:6) as well as other ritual interventions (Livy 33.44: 1). Crassus also seems to have been conscious of the restrictions placed upon him by his office, declining a consular posting outside Italy on account of his religious duties (Szemler, 1972: 99). It is hard to determine whether his intervention in the life of Gaius Flaccus – in 209 - was indeed born of a paternalistic concern for his welfare or the emergence of a pattern for later conflicts with reluctant *flamines* and others within the college. In 189 Crassus restrained the *flamen Quirinalis*, Quintus Fabius, from abandoning his religious responsibilities to the city to take up a province (Livy, 37.51:1). A year earlier, during a period of heightened religious sensitivity, the consul who had been awarded the province of Macedonia was instructed to

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<sup>24</sup> P. Licinius, the *pontifex maximus*, obliged C. Valerius Flaccus to be consecrated *Flamen* of Jupiter against his will. C. Laetorius was appointed one of the *decemviri* in place of Q. Mucius Scaevola, who had died. I would have preferred to keep silence as to the cause of this forced consecration were it not for his bad reputation giving way to a good one. It was because of his careless and dissolute life as a young man, which had estranged his own brother Lucius and his other relations, that the *pontifex maximus* made him a *Flamen*. When his thoughts became wholly occupied with the performance of his sacred duties, he threw off his old way of life so completely that amongst all the young men in Rome, none held a higher place in the esteem and approval of the leading senators, whether personal friends or strangers to him.

vow games to Jupiter. Sulpicius Galba, the consul in question, had promised a *votum ex incerta pecunia* (a vow based on an unspecified sum of money) but the *pontifex maximus* had objected to this on the grounds that the costs of war should be kept separate from the costs of peace (with the gods). As Livy reports, ‘quamquam et res et auctor mouebat’, this dispute was remitted to the judgement of the rest of the *pontifices* who found in Galba’s favour (Livy 31.9: 5). This is significant for two reasons: firstly it demonstrates some of the practical issues confronting even the most assertive *pontifex maximus*. What could the chief pontiff do if, as seems to have been the case here, there were *pontifices* with other vested interests?<sup>25</sup> Crassus seems to have accepted the majority view and, either in a show of magnanimity or simply reasserting his status, dictated the vow to the consul. Although Crassus represents a high pontiff with a clear sense of his own *auctoritas*, it would appear that his exercise of this authority was circumscribed by a sense of precedent and process. His namesake (by adoption) in 131 would have no such qualms: although it reads like a replay of the events of 189, the later conflict between *pontifex* and *flamen* was different in one significant respect:

Cum Aristonico bellum gerendum fuit P. Licinio L. Valerio consulibus. Rogatus est populus, quem id bellum gerere placeret. Crassus consul, pontifex maximus, Flacco collegae, flamine Martiali, multam dixit, si a sacris discessisset: quam multam populus [Romanus] remisit, pontifici tamen flaminem parere iussit. (Cicero, Philippic 11.18)<sup>26</sup>

<sup>25</sup> There were two other Sulpicii in the pontifical college at this time (Rüpke, 2008: 768).

<sup>26</sup> War was to be waged against Aristonicus in the consulship of Publius Licinius and Lucius Valerius. The people consulted as to whom it wished to have the management of that war. Crassus, the consul and *pontifex maximus*, threatened to impose a fine upon Flaccus his colleague, the priest of Mars if he deserted the sacrifices. And though the people remitted the fine, still they ordered the priest to submit to the commands of the pontiff.

This Crassus is dealing with the *flamen* not simply as a subordinate but also as a rival. An apparent disciplinary measure is also a political tactic, one which has been made possible by a significant change in the relationship between the chief pontiff and the city. As we will discuss further in chapter two, by this time is no longer unthinkable for the *pontifex maximus* to be absent from Italy for extended indefinite periods.

(c) The *pontifex maximus* and the Vestals

The proximity of the chief pontiff's residence in the *domus publica* to the house of the Vestals has been read as an indication of the *pontifex maximus*' quasi-paternal authority over them: not even a sacrosanct household was exempt from some form of *patria potestas*. Beard et al. (1998a:58) suggest that, while the *pontifex maximus* did not have an extensive range of religious or ritual functions which he *alone* could perform, the exclusivity of his relationship to the Vestals is a mark of a superiority which may antedate the end of the Monarchy.<sup>27</sup> It was the *pontifex maximus* who inducted new entrants into the ranks of the Vestals in a ceremony which included a gesture of *captio*, recalling the ritual seizing of the bride found in the Roman marriage ceremony. A further potential allusion to marriage is noted by Beard (1980:14), who sees the *pontifex maximus* addressing of the child-candidate as *Amata* (if it does indeed mean 'beloved' in this context) as suggestive of his role as father-husband.<sup>28</sup> A *lex Papia* (not the *lex Papia Poppea*, possibly a *lex Popilia*) introduced a ballot into the

<sup>27</sup> While it is true that many aspects of the *pontifex maximus*' activity are either indistinguishable from his pontifical colleagues or may be characterised as an exercise of a *primus inter pares*, I would not agree with their assertion that 'he had no elaborate programme of rituals which he alone could carry out, as for instance did the *flamines*'. For example, only the *pontifex maximus* could perform the rituals associated with *confarreatio*.

<sup>28</sup> Beard is sensitive to the limits of these parallels: the pontifex takes the child from her father, not her mother. The title *Amata* may be a corruption of ἀδμήτη (unsubdued) and therefore a reference to the child's virgin status. Any attempt to directly map the roles and functions of the *rex* and *regina* onto the *pontifex maximus* and the Chief Vestal would be partial and simplistic. (cf. Beard 1980:15) A connection between the *pontifex maximus*' use of 'Amata' and the Etruscan consecration of the 'Hatrencu' is briefly considered by Lundeen (2006: 54).



selection of Vestal candidates and this has been interpreted by some as an attempt to limit the chief priest's power of *captio* (Gellius, *Noctes Atticae* 1:12). It should also be remembered that the expression *captio* is also the term used to describe the process whereby new *pontifices* were added to the College.

### Entering the Pontifical College

The process of becoming a pontiff (and more particularly becoming the chief pontiff) underwent some important transformations. Initially, as far as can be ascertained, the *pontifices* were chosen by the king and, after the extinction of monarchy, by a process of cooptation. A system of *cooptatio* naturally led to something of a 'closed shop' and, with it, a lack of accountability to anyone outside it. Then, at some point during the Republican period, the priesthoods became elected offices (albeit *ad vitam* and the preserve of patrician candidates). As we have already seen, it was only with the *lex Ogulnia* of 300 B.C. that four of the pontifices could be recruited from the ranks of the plebeians.<sup>29</sup> The same measure also legislated the opening up of the augural college. Billows (1989:120) rightly interprets this as a recognition of the political clout associated with both the pontificate and the augurate and shows a determination to do in the priestly sphere what the *lex Genucia* (342 B.C.) had attempted for the consulate. Although we are uncertain as to the mechanism by which it came to pass, by the third century B.C. the *pontifex maximus* was elected by the *comitia tributa* (specifically the *comitia pontificis maximi*) with seventeen of the thirty five tribes casting their ballot. Did the election 'heighten the profile' of the *pontifex maximus* and make the

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<sup>29</sup> Cicero makes a comment which suggests that being of patrician status is potentially a disadvantage in joining the pontifical college. Cf. *De Domo* 37: *Cur enim quisquam vellet tribunum plebis se fieri non licere, angustiore sibi esse petitionem consulatus, in sacerdotium cum possit venire, quia patricio non sit is locus, non venire?* Given that it was Sulla who expanded the college to fifteen members, this turn of events could only be described as ironic.

office a more desirable proposition,<sup>30</sup> or was it simply a reflection of its increasing prestige? Involving the people in what had hitherto been a collegial activity was an event of real significance and one whose electoral arithmetic enshrined and defended an important principle. The arrangement, whereby the chief priest was elected by the *minor pars populi*, is described by Linderski as

a compromise between the democratic principle of popular election and the religious principle of the augural law that the priesthoods cannot be given by the people (Linderski, 1972: 192).<sup>31</sup>

Such religious scruples had been adroitly exploited by the oligarchy for some time<sup>32</sup>: in the convulsive events following the tribunes of Tiberius and Gaius Gracchus, appeals were made *to ius divinum* to sanction moves which were clearly aimed at curbing the power of the *plebs*. From this point onwards religious legislation begins to assume the character of a tug-of-war. The *lex Domitia de sacerdotiis*, promoted by Gnaeus Domitius Ahenobarbus as tribune of the plebs in 104 (although himself becoming *pontifex maximus* a year later) ensured, among other measures, that an individual could not accumulate major priesthoods

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<sup>30</sup> cf. Beard, North and Price (1998a: 100). The rise of plebeian *pontifices maximi* is noted as one sure outcome of the change.

<sup>31</sup> P. Servilius Rullus, tribune of the plebs in 63 B.C., proposed as part of his land bill that the agrarian commissioners be elected by seventeen instead of eighteen of the thirty-five tribes as was the case with the *pontifex maximus* (Cicero, *de Lege Agraria* II.16). We do not know why Rullus wished this form of election, but Cicero was able to portray it as an attempt to subvert the will of the majority (Williamson, 2005:73).

<sup>32</sup> Perhaps this struggle worked 'both ways'. The struggle between the *pontifex maximus* Servilius and the recusant Dolabella, mentioned above, may be an example of this. Since the accession of Tiberius Coruncanius, four of the five *pontifices maximi* had been plebeian. Dolabella's appeal (to whom?) was referred to the *concilium plebis*, who voted to support the decision of the *pontifex maximus*; the intervention of a thunderstorm led to the process being set aside (by whom? An augur sympathetic to Dolabella?) and a compromise found whereby the other candidate, P. Cloelius Siculus, was inaugurated (why did this assume the characteristic of an election?) This was also a period of heightened sensitivity to prodigies, with Servilius carrying out a variety of *piacula*, propitiatory rituals to appease the gods.

nor could one family ‘stack’ a college with its members. But by far the most important provision of the Domitian law was its insistence that all vacancies in the priestly colleges should be filled in the same manner as the headship. That said, we should not forget that the patrician hold on some of the most ancient levers of religious life remained steadfast. The *rex sacrorum* and the *flamines* still had to be products of confarreate marriages and therefore of solid patrician stock.

The religious interventions of Sulla reflect his antipathy towards the *populares*. In 81 B.C. he suppressed popular election of the *pontifices*, reviving the practice of *cooptatio* as the normal means of returning the colleges to their full complement, as well as raising their number (the *pontifices*, *augures* and *decemviri* all increased their membership to fifteen). Sulla’s action, viewed as an attempt to return to the situation before the *lex Domitia*, hints at his own understanding of these offices. Scheid (2001:85) points out that the proportional increase in both ‘civil’ magistracies and priesthoods is suggestive of Sulla’s view of these religious posts as quasi magistracies. It is a common assumption that Sulla also suppressed the election of the *pontifex maximus* by popular assembly but, as Taylor argues, there is no evidence for this (Taylor, 1942a: 421-424). The implications of this assumption will be discussed later in the context of Caesar’s campaign for the chief pontificate. One question that remains unanswered, however, is the role Sulla adopted vis-à-vis the *nominatio* of the *pontifex maximus*. Although the election may have continued to be entrusted to the *comitia*, Caesar’s predecessor in the post (Quintus Caecilius Metellus Pius) is customarily referred to as ‘Sulla’s nominee’. What are we to make of this ‘nomination’? Although Sulla was a deeply religious figure – and an augur - he was not a member of the college of *pontifices* (Keaveney, 2005: 30). So it would seem that his manoeuvring in favour of Metellus was either an exercise of his dictatorial powers or the result of pressure on his allies among the pontiffs.

### **The *pontifex maximus* and the other priesthoods**

We have already discussed the relationship between the *pontifex maximus* as president of the *collegium pontificum* and the priests and priestesses who composed this most diverse and ritually significant group. The chief pontiff's standing vis-à-vis the other colleges is less direct and more nuanced. Beard et al.'s assertion that the chief pontiff had no authority over the other priests is *mostly* correct (1998a: 21) but requires some qualification.

#### (i) The College of Augurs

The Augurs were charged with the examining of signs, both in deciphering the behaviour of animals, such as the flight of birds, and the reading of naturally occurring phenomena: the pleasure or disapproval of the gods could be divined by applying strict rules of interpretation. It has been suggested that the activity of the augurs complemented that of the pontiffs in so far as one was concerned with the sacred properties of physical space, whereas the other was responsible for overseeing the unfolding of time and its religious implications. Just as the *pontifices* were expert in a variety of laws, both religious and 'secular', so too the augurs were custodians and interpreters of the augural law; augural control of the *auspicia* mirrored the pontiffs' control of the *sacra* (Cicero, *de Natura Deorum* 1:122). Both colleges were thought to be features of Numa's religious architecture<sup>33</sup> and the augural college, like the pontifical college, was exclusively patrician until the *lex Ogulnia* both expanded it and provided for plebeian augurs. The real power of the augur in the public forum was his ability

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<sup>33</sup> Or effectively reconstituted by him (Cicero, *de Re Publica*, 2.26), if we accept the foundation of the augural college by Romulus (Cicero, *de Re Publica*, 2.9, Dionysius of Halicarnassus, *Antiquitates* 2.5.1 and 2.73.1-3); see also Lactantius, *Divinarum Institutionum* 22.

to pronounce on the favourability of certain undertakings - or the lack of it. It merely required the intervention of an augur, declaring a course of action ill-starred, for it to be set aside or dismissed as defective after the fact. This power affected not only the peaceful functioning of the organs of the state, but also the prosecution of war (Poma, 2009: 110).

One area in which it could be argued that the pontifical college depended upon the services of the augurs was, as the name suggests, the *inauguratio* of a new flamen or *rex sacrorum*. The chief pontiff had to request the inauguration of the priest in the *comitia calata curiata* – which signalled the last stage of his selection.<sup>34</sup> Augural law recognised the chief pontiff's power of *condictio*, a binding prerogative to force an augur to carry out his instruction (Delgado Delgado, 2009: 30); a dilatory augur had three days to comply or face sanction (Van Haepelen, 2002: 305). Even if the *pontifex maximus* had the power of *spectio*, the right to observe his 'own' auspices at the assemblies under his presidency (Szemler, 1971: 105), this would have been more by virtue of his quasi-magisterial status than his priesthood, preserving the augural *nuntiatio* (the public utterance of the auspices).

(ii) The *viri sacris faciundis* and *septemviri epulonum*

As well as being responsible for overseeing certain rituals, the *viri sacris faciundis* were the custodians of the Sibylline books: these three books of prophecies by the Sybil of Cumae,

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<sup>34</sup> The *comitia calata curiata* met under the presidency of the pontiffs (and in some circumstances only under the chief pontiff): this archaic form of assembly met to hear the proclamation of dates, witness religious inaugurations and vote upon *adrogatio* and the transfer of individuals to plebeian status (c.f. Lintott, 1999: 49).

written in Greek hexameters, were housed in the Temple of Jupiter<sup>35</sup> and consulted in times of crisis. At the behest of the senate, the books would be opened and the requisite course of action to appease the gods or ensure the most successful outcome was recommended by the priest-interpreters. Such interventions often followed the patterns of Greek religion, perhaps unsurprisingly since these texts were steeped in the religious culture (and language) of Greece; the introduction of *lectisternia* (Livy, 22.9:7-10) is an example of the *ritus Graecus* penetrating Roman practice. Although the *pontifex maximus* had no direct influence over the work of the *duoviri* (subsequently *decemviri* and *quindecemviri*), the fact that the texts were only ever referred to by order of the senate would imply that the *pontifex maximus* (who invariably gained entry to the senate by virtue of other elected offices) would be in a strong position to advise the consuls for or against consulting them. We know that, as *pontifex maximus*, Augustus took a more direct hand in controlling the Sibylline oracles, instructing the *quindecemviri* to purge suspect texts and transcribe the ‘authorised version’ for posterity (Turcan, 2000: 55). Despite the fact he had been a *quindecemvir* for some years, the lack of hierarchy within the college meant that he could not instigate such executive action until he became chief pontiff.

The last of the ‘higher colleges’ to be founded, in 196 B.C. (Rüpke, 2007: 45), the *epulones* were entrusted with the supervision of the rituals surrounding the proliferation of games dedicated to the gods (Livy, 33.42; Orlin, 2007: 63). The introduction of such fairly late innovations to the array of religious specialists at Rome is due, at least in part, to the prodigious activity of the then *pontifex maximus* Publius Licinius Crassus Dives. Given the number of *leges de sacerdotiis* emanating from the chief pontiff, it is highly likely that this

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<sup>35</sup> Dionysius of Halicarnassus, *Antiquitates*, 4.62.5; Cicero, *de Divinatione*, 2.54; cf. Warrior, 2006: 49. On the general consultation of the books: Cicero, *de Divinatione*, 1.43; Livy 22.57, 43.13; on the nature of the texts, Cicero, *de Divinatione*, 2.110.

particular instance of specialization was conceived - or at the very least permitted – by his genius for ordering the structures of Roman religion.

### **The *pontifex maximus* and the Public Life of the City**

#### a) The *pontifex maximus* as ‘quasi’ magistrate

We have already mentioned the discussion around the *auctoritas* of priests. While the collective authority of the pontifical college is well attested in Cicero’s speeches, there has been on-going debate over the extent to which this authority was distinct from that of the *pontifex maximus* and how far, if ever, he could act on his own initiative without reference to his colleagues. Much of this debate turns on the unique – and to an extent problematic – status of the high pontiff among the magistrates of Rome with *imperium*. Mommsen was of the view that this office constituted the *Grenzlinie* between priesthood and magistracy and, as a result, enjoyed a species of authority strongly analogous to *imperium* (Mommsen 1886: 28). An obvious objection would be that the *pontifex maximus* had no *imperium*: this ‘power of command’ (in military and civil spheres) was delegated by the people (Varro, *de Lingua Latina* 5.87) and one of the key characteristics of the chief pontiff’s office was that, although elected, it was by the lesser proportion of tribes. Attempts have been made to argue that the election of the *pontifex maximus* was originally by the *maior pars* since, at the introduction of the *lex Ogulnia* in 300, there were only thirty-three tribes. One of the proponents of this theory, Pais (1915: 337) based his argument on the premise that only this arrangement could have ensured a popular mandate for plebeian candidates. Furthermore, Livy uses the word ‘creatus’ to describe the election of the first plebeian *pontifex maximus*, Tiberius

Coruncanus.<sup>36</sup> Vallocchia points out that Livy uses ‘creare’ in other senses which do not imply the presence of an election; moreover, he argues that the *comitia pontifici maximo creando* could not have been held before 241B.C. (2008: 31), by which time the thirty-five tribes had been definitively established.<sup>37</sup> There is also the point, made by Bauman, that if there were already elections in place in 300, it would seem odd that it took the plebeian *nobiles* four attempts to get one of ‘their own’ elected (1983: 73).

But even if the principle that the people could not confer priesthods holds good, there remains some ambiguity as to the nature of this office which was conferred by the *minor pars populi*. We should not read too much into Livy’s description of the struggle between the *pontifex maximus* Licinius Crassus and the *flamen quirinalis* Fabius Pictor<sup>38</sup> as a conflict of *imperia*: Livy is not necessarily suggesting that we understand this *imperium* in the same manner as the elected magistrates. Much more interesting, however, is the way in which the office of high pontiff shared one significant aspect of the trappings of *imperium*: lictors. Lictors attended elected magistrates throughout their period in office, most famously bearing the *fasces*, the rods which symbolised the power of punishment and, outside the *pomerium*, an axe to represent the right of the magistrate – or his lictor - to execute citizens (after due process, of course). Only the dictator and the *pontifex maximus* were exempt from this restriction: their ‘capital powers’ applied equally within the sacred boundary, although the high pontiff’s power to put someone to death involved only the *fasces*. It is perhaps for this reason that the lictors who attended the pontiff did not carry an axe with their rods. These lictors, technically *lictores curiati*, were in attendance during sacrifices and public religious ceremonies such as those involving adoption (Magdelain, 2009: 83) and the ‘possibly

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<sup>36</sup> Livy, *Periochae* 18.

<sup>37</sup> And possibly not before the election of Publius Licinius Crassus in 212: Vallocchia bases his observation on the first extant mention of elections in Livy 25.5.2-4. For the tribes, see Cicero, *de Lege Agraria* 2.17.17-18.

<sup>38</sup> Livy 37.51:1-4.



monthly convocations of the community by the college of pontiffs for the announcement of religious days and similar matters' (Loewenstein, 1973: 15).<sup>39</sup> Indeed, by Cicero's day, the thirty curiate lictors had come to represent the *curia* themselves in the *comitia curiata* (Cicero, *de Lege Agraria* 2.31), with the result that most citizens were no longer certain to which *curia* they belonged (Humm, 2012: 59). Their association with *sacra publica* (Van Haepelen, 2002: 287) extended to the members of the pontifical college, accompanying pontiffs and *flamines* as *apparitores* and Vestals as an escort through the street.<sup>40</sup> In the early Principate, this escort was extended still further to include the *vicomagistri* on their duties (to the cult of the *Lares* and *Genius Augusti* - Pollini, 2012: 313) and subsequently to the women of the imperial household. I would suggest that this was because the curiate lictors were not only attached to the pontifical college as a whole, but particularly to the person of the *pontifex maximus* himself. The Vestals were accompanied by the lictors not simply as priestesses (they were accompanied at all times, even when not about their sacred duties) but as quasi-members of the '*domus pontificia*' under the protection of the chief pontiff<sup>41</sup>; this was, I believe, the rationale which permitted Augustus to bestow similar protection on the women of the *domus augusta* and the officials of the *vici* in their religious observances.

Flower describes the 'spectacle value' of the Roman magistrate going about his business, attended by his retinue of lictors who represented his executive power (2004: 324); it could also be argued that the chief pontiff's progress through the forum and the streets of the city

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<sup>39</sup> It was this association with the priestly activities of the college, and specifically with the *pontifex maximus*, which ensured that *lictiores curiati* were high status lictors; the high number of *lictiores curiati* who record their position is an indication of this (Purcell, 1983: 149).

<sup>40</sup> Culham is incorrect in stating that only the *flamen Dialis* was accompanied by a lictor (Culham, 2004: 143); Horster notes that lictors were also part of the representation of the *pontifices* and the Vestal Virgins, although they had only one or two lictors' (Horster, 2007: 334).

<sup>41</sup> Cassius Dio (47.19) is a unique source reporting that the lictoral attendant for the Vestal was a grant of the triumvirs (as opposed to a more ancient privilege); even if this were the case, it may be argued that Caesar *qua pontifex* was behind this deployment of curiate lictors.

would have taken on a similar processional character. This show of *potestas* would not look so very different from the *imperium* of the magistrate - at least not to the crowds in the street. The accoutrements of office were at the disposal of the *pontifex maximus* for the whole of his life, unlike the comparatively brief term of elected office and any subsequent appointment to provincial government. As a result, the holder of this office enjoyed a position of stable prominence in the Republic which was unrivalled among his peers and competitors. In terms of being a visible part of the life of the city, the chief pontiff would be a recognisable figure – not just among the *principes civitatis*, but to the man in the street going about his business. Among the several advantages which the priesthood conferred, this prominent and recurrent role in the theatre of public life and religious ceremonial (Bell, 2013: 178) was perhaps the key.

#### b) The *Annales Maximi*

Another aspect of the *pontifex maximus*' public activity was the maintenance of a record of notable occurrences and the actions of prominent individuals which would eventually constitute the official digest of each year's events. This function of the pontifical college – and more particularly its head – may have originated in the fifth century and become more systematic over the course of the fourth, mirroring a parallel 'rudimentary Roman literature' and implying a more widespread literacy in general (Frier, 1979: 167). In those opening lines of book VI of his *Ab urbe condita* quoted earlier, Livy made reference to 'pontifical commentaries' as a prized source of historical information (although Cicero refers to them as 'a scanty source': *de Legibus* I:6). In addition to these, the chief priest was responsible for collating the pontifical rules, a coverall term for those 'precedents, explanations and formulae developed within (and known only to) the pontifical college' (Gordon, 1990: 188). Both

kinds of writing bestowed considerable prestige and influence on the head of the priestly college. As custodians of Rome's public memory, the *pontifices maximi* were endowed with something of the character of proto-historian and it was to their archives that subsequent generations of historians would turn in their search for Rome's past and for a sense of the *mos maiorum* shaping the actions and decisions of its leaders.<sup>42</sup> Although a variety of public records came to be entrusted to the *pontifex maximus* and his colleagues, the original and most significant pontifical record was referred to as the *tabulae dealbatae*, recalling the fact that they were originally white-washed boards:

erat enim historia nihil aliud nisi annalium confectio, cuius rei memoriaeque publicae retinendae causa ab initio rerum Romanarum usque ad P. Mucium pontificem maximum res omnis singulorum annorum mandabat litteris pontifex maximus referebatque in album et proponebat tabulam domi, potestas ut esset populo cognoscendi, eique etiam nunc annales maximi nominantur. (Cicero, *de Oratore*, 2:52)<sup>43</sup>

It would seem that, by Cicero's lifetime, the *tabula dealbata* was no longer on public display and the precise relation between the *tabulae* and the *annales maximi* is not entirely clear. The kind of information recorded on the *tabula* is somewhat scornfully described by the elder Cato (and transcribed by Gellius) as *quotiens annona cara, quotiens lunae aut solis lumine*

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<sup>42</sup> Frier (1979) is cautious about uncritically accepting the ancient authors' accounts of the 'pontifical chronicle' and its real links with the annalistic tradition at Rome. This is, he argues, based on ignorance of the form and content of the original chronicle. See also Richardson (2011: 91-92).

<sup>43</sup> For history was nothing other than the compilation of annals, on which account, so as to keep the public record, from the beginning of Roman affairs down to the time of the *pontifex maximus* Publius Mucius, each *pontifex maximus* would commit to writing all the events of each year and record them on a white-washed tablet and affix it to his house, so that the people might be able to know of these things, and to this day these are known as the *annales maximi*.

*caligo aut quid obstiterit.* (*Noctes Atticae*, 2:28.6). ‘How often the price of grain went up, how often darkness blocked out the light of the moon or sun.’

Servius accords them an altogether more dignified role, much more in line with Cicero’s description:

ita autem annales conficiebantur: tabulam dealbatam quotannis pontifex maximus habuit, in qua praescriptis consulum nominibus et aliorum magistratum digna memoratu notare consueuerat domi militiaeque terra marique gesta per singulos dies. cuius diligentiae annuos commentarios in octoginta libros ueteres retulerunt, eosque a pontificibus maximis a quibus fiebant annales maximos appellarunt. (Servius 1: 373)<sup>44</sup>

Brennan (1990) is dismissive of Servius’ description of the *tabula* as:

a late, monstrous invention (Servius' own?), based ultimately on a misunderstanding of the one reliable account we do have of the *Annales Maximi*, that of Cicero *De Oratore* II 52.<sup>45</sup>

Although the time of Servius’ writing is considerably removed from that of his principal source, Brennan’s contention that the *Annales* were a late invention is unsustainable. It must

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<sup>44</sup> The annals used to be made in this way: the *pontifex maximus* had a whitened tablet for each year, on which he first wrote the names of the consuls and other magistrates and recorded events worthy of memory both at home and abroad, on land and sea, day by day. Thanks to his diligence, the ancients compiled these yearly commentaries into eighty books and called them the *annales maximi* after the *pontifices maximi* by whom they were made.

<sup>45</sup> Brennan, *Bryn Mawr Classical Review* <http://bmcr.brynmawr.edu/1990/01.02.15.html>

be admitted, however, that both the *tabulae* and the information they contained are difficult to conceptualise. Fraccaro (1957:61) alludes to the logistical impossibility of affixing a sufficiently large board to a comparatively small building like the *regia*. As we have said, the process whereby the details recorded on the *tabulae* were collated into the eighty books commonly referred to as the *Annales Maximi* is unclear. Cicero attributes the redaction to Publius Mucius Scaevola, who became *pontifex maximus* in 131 B.C. Some attempts have been made to suggest that Mucius was actually reworking an earlier edition of these documents but the standard view (for most of the 20th century at least) is that he was the first to collate the still extant tablets into a more accessible annalistic form (Crake, 1940: 386; Linderski, 2007: 300)<sup>46</sup> That said, if the exterior of the *regia* was an improbably restricted space for the display of a *tabula*, one wonders how its interior could have accommodated the preserved tablets so that Cato could have referred to them. An even more pertinent question (but no less intractable) is the relation of these *annales* to the other archives entrusted to the oversight of the *pontifex maximus* (the state archives, the *fasti* and the *commentarii* of the pontifical college). Mellor argues that the essential data of each year was added to the bronze tablets on display at the *regia*, but this suggestion seems to come up against the same logistical difficulties as the idea of maintaining an archive of *tabulae dealbatae* (Mellor, 1999: 13) A further layer of complexity is created by frequent confusion of terminology: ‘*haec tamen confunduntur licenter*’ (cf. Servius 1.373). Pighi equates the *album pontificale* with the *fasti pontificum*, to which are customarily added the *acta*, the *decreta* and the *responsa*. Confusingly, however, the annual digest would also have included the *fasti feriarum* (the calendar), the *fasti consulum* and the even more confusing titled appendix of the *fasti feriarum consulum triumphales* (Pighi, 1967: 53). Given the dearth of reliable epigraphic evidence, such reconstructions as Pighi’s remain speculative and at the mercy of

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<sup>46</sup> Drews takes the extreme position that ‘the *Annales maximi* were indeed never published and by the second half of the first century B.C. no longer existed’ (1988:289).

those ancient sources which mention only *fasti* without further elaboration. Smith (2011) argues that this process of piecing together information is not merely a current problem: the pontiffs themselves would have had to contend with reconciling conflicting (and some false) information in compiling their records, as would the *pontifex maximus* in collating his digest. The answer to this problem must, as Smith concludes, ‘make sense in the context of the degrees of competition and cooperation between elites within the Republic.’ (Smith, 2011: 27). By this we are meant to understand that these pontifical annalists might favour the interests of their own clans or associated families; if that is the case, then the chief pontiff would have even greater authority and influence.

### c) The Calendar

Perhaps the single most significant aspect of the *pontifex maximus*’ activity was his oversight of the Calendar. Mindful of the terminological grey areas which bedevil this field, we should note that we are in fact speaking of a number of different calendars (Adkins & Adkins, 1996: 36). These calendars (or *fasti*) were, as noted above, a collection of days and facts concerning the public life of Rome – both religious and political. Scrutiny of the Roman calendar shows up evidence of Rome’s gradual transformation from a tiny agrarian community, with a strong emphasis on sacralizing the rhythms of nature and the activities of agriculture, to the urban capital of Caesar and Cicero. As well as giving the fixed feasts of the gods (the *feriae stativae*), the pontiff would also indicate the dates on which the few movable festivals (*feriae conceptivae*) were to be celebrated (Ogilvie, 1969: 70). The calendar itself consisted of a twelve month lunar year, 355 days long, with intercalary months of 22 or 23 days being inserted every two years (Lewis & Reinhold, 1990: 68). Naturally the insertion of days and

months (as well as the abeyance of the procedure during the Civil War)<sup>47</sup> led to a calendar which was often ‘out of sync’ with the seasons, a situation which caused considerable misalignment in a system which was as much rooted in the soil as the forum. We will return to Caesar’s attempt to solve the problem of the calendar in due course.

In addition to this sacred chronology, later calendars also gave the designated locations for public celebrations, along with other pertinent historical facts such as the names of the consuls and other magistrates in any given year. Although this is not the place for an extended analysis of the development of the calendar, it is always worth remembering that the Roman conception of time was intimately bound up with the numinous. Perhaps the most important manifestation of this lay in the designation of days as *fasti* or *nefasti*:

The *dies fasti* are those which provide man’s secular activity with a mystical basis, *fas*, which assures him of the chance to be successful; the *dies nefasti* do not provide such a basis (Dumézil, 1996: 560).

It follows that the ability to determine which days are propitious and, just as importantly, what kind of events have the power to render a previously favourable day *nefas*, is one that confers great influence. The potential for abuse was certainly present and the subjection of religion to political chicanery has been a source of considerable preoccupation to writers both ancient and modern. Even the insertion of intercalary days or months could be used as a way of extending a friend or colleague’s term of office, providing a further opportunity for public

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<sup>47</sup> And indeed for substantial periods in the second century B.C.: the Ides of March of 190 fell on the 18<sup>th</sup> November 191 (Derow, 1973: 346).

service or preserving immunity from prosecution for just a little longer. Caesar, perhaps the figure most associated with the revision of Roman time, was able to use his status as chief pontiff to compel the *rex sacrorum* and the other pontiffs to cooperate in the intercalations necessitated by his calendar reform (Rüpke, 2011: 115). He was able to ensure that the ‘extra’ days were used to extend religious festivals without necessarily providing more opportunities for comitial business or other political activity. Yet while the calendar offers perhaps the most obvious illustration that the Roman understanding of the *saeculum* was not secular, the law also recognised the *pontifex maximus* and his colleagues as exerting real influence both in the prehistory and the development of Rome’s legal institutions.

#### d) The Law

MAXIMUS PONTIFEX dicitur, quod maximus rerum quæ ad sacra et religiones pertinent, iudex sit vindexque contumaciae privatorum magistratuumque. [Festus, *De verborum significatu*]<sup>48</sup>

What we have come to regard as Roman law developed through the jurisdiction of the *pontifices* (Thomas, 1976: 5) long before the distinction between private and public law could be made; the interpretation of the Twelve Tables remained the exclusive competence of the pontiffs for two centuries (Kunkel, 1966: 30). The *pontifices* were, not unreasonably, the experts on interpreting the *ius divinum*, but their competence extended well beyond that. This meant, according to Poma, that the preservation and interpretation of the *mores maiorum*, the fundamental social and religious practices of the ancestors, were entrusted to the *pontifices* (Poma, 2009: 35). It was this fact which accounted for the strict control of the priesthoods by the main aristocratic families until the ‘leak’ of the *legis actiones* by Flavius and the

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<sup>48</sup> The *pontifex maximus* is so-called because he is the chief judge of matters pertaining to sacrifices and religion and champion against the stubbornness of private individuals and magistrates.



implementation of the *lex Ogulnia* from 300 B.C. onwards. Before the promulgation of public codices, the recording and interpretation of the laws was reserved as a ‘pontifical secret’ and the real democratization of legal knowledge only really came with the election in 254 B.C. of the first plebeian *pontifex maximus*, Tiberius Coruncanius, who took the unprecedented step of dispensing *responsa* in public (Rüpke, 2011:80).<sup>49</sup> It could be argued, of course, that the pontiffs’ interest in law arose out of that (by now axiomatic) assertion that even private affairs had public and therefore religious consequences. As Stockton observes:

The office [of *pontifex maximus*] was important not only for its prestige but also because as chairman of the college of pontiffs and head of the state religion the *pontifex maximus* enjoyed considerable influence in the decision of questions of religious law, and at Rome such questions were frequently political questions (Stockton, 1971: 97-98).

Examples of this oversight included patrician marriage (*confarreatio*), adoptions (*adrogationes*), burials (*ius sepulchri*) and wills (*testamenta*). This large body of archaic – yet undoubtedly important – law came to be the province of both pontifical and civil law (Johnson, 2007: 39); the process by which this blurring came about was a matter of gradual evolution, but with a definite impetus during the period of this study. In Book II of *de Legibus* (written c. 52 or 51 B.C., by which time Cicero had finally attained the augurate) he freely recognises a particular responsibility for pontiffs in the meticulous preservation of *ius sacrum* but also the *development* of the law; and is especially deferential towards the influence of his old teachers, the Scaevolae.

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<sup>49</sup> Rawson notes that, by Caesar’s time, non-pontiffs were routinely writing commentaries on religious questions as well as the *ius civile*. (1985: 93).

Hoc ego loco multisque aliis quaero a uobis Scaeuolae, pontifices maximi et homines meo quidem iudicio acutissimi, quid sit quod ad ius pontificium ciuile adpetatis; ciuilis enim iuris scientia pontificum quodam modo tollitis. Nam sacra cum pecunia pontificum auctoritate, nulla lege coniuncta sunt. Itaque si uos tantummodo pontifices essetis, pontificalis maneret auctoritas; sed quod idem iuris ciuilis estis peritissimi, hac scientia illam eludistis. (*De Legibus* 2: 52)<sup>50</sup>

This reverence is, however, tempered with a measure of Ciceronian reproach, since their fusion of the categories of civil and pontifical law inevitably led to a subtle but inexorable undermining of the *ius pontificum*: the fact that many principles were no longer grounded wholly in pontifical law led to an increase in disputes as the meaning and implementation of certain aspects (such as funerary law). According to Santangelo (2013b: 24), this counter-intuitive objection rested not solely on the loss of pontifical jurisprudence to definitively resolve such disputes, but also a diminished *auctoritas* for the pontiffs themselves. By expanding the reach of pontifical law, there were actually fewer areas of unadulterated oversight reserved to the expertise of the college. By Cicero's day, their province of exclusive competence had receded to the proper application of *ius diuinum* and the more arcane elements of family law. Despite the contraction of pontifical powers, it should be noted that the chief pontiff's prerogatives remained intact.

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<sup>50</sup> On this question – and on many others – I ask you, Scaeuolas, chief pontiffs and, in my estimation, very learned men, why you add civil law to the pontifical law?; with knowledge of the civil law you, in a sense, do away with the pontifical law. Indeed these rites are associated with property only by virtue of your pontifical authority, not by any law. And so if you were only pontiffs, the pontifical authority would remain, but since you are also experts in civil law, you use this knowledge to get around the other.

As mentioned above, the *pontifex maximus* had a role to play in the oldest and, for the purposes of patrician families, most perfect form of marriage – *confarreatio*. Taking its name from the spelt cake which was consumed during the ceremony before the altar of Jupiter Farreus, marriage contracted by *confarreatio* was an absolute requirement for anyone who aspired to be *flamen Dialis* or *rex sacrorum* (Gaius, *Institutiones* 1.112; Thomas, 1976: 446). Although ‘quaint’, *confarreatio* was able to perpetuate itself as a badge of superiority since only those who were born of *confarreate* marriages were themselves eligible for this form of ceremony. The presence of Rome’s chief priest and Jupiter’s *flamen* indicated the religious import of such domestic arrangements. Rome’s future passed by way of its best families and the *pontifex maximus* can be seen as operating as the embodiment of the State as well as the guarantor of the *pax deorum*.

The other significant field of protected pontifical oversight was the ‘remarkably obscure process’ of *adrogatio* (Smith, 2006a: 213) or adoption, especially those involving a shift of status from patrician to plebeian. Even though it often remained a juridical fiction (as in the case of Cicero’s great enemy Clodius), the process of transferring an adult male from one *gens* to another involved some complex legal and religious manoeuvres. Since the adoptee was effectively abandoning his ancestral cult through the *detestatio sacrorum*, the *pontifex maximus* was involved in solemnising the transfer. Mindful of the public consequences of an ostensibly private arrangement, adoptions were transacted in the presence of the *comitia calata* which could only be convoked by the *pontifex maximus* on two days each year, 24 March and 24 May (Thomas, 1976: 438). According to the reconstruction we have received from Gaius, the *adrogatio* was effected by a threefold questioning: firstly, the *pontifex maximus* asked the *pater adrogans* if he wished to adopt the *adrogandus* as his legitimate son. Next the *adrogandus* was asked if he intended to fully submit himself to his new father’s

authority. Finally, with both parties having declared their willingness, the *comitia* was asked to give its assent on behalf of the people. After the declaration of *detestatio* by the *adrogandus*, the whole process was sealed by a solemn oath, perhaps composed by Quintus Mucius Scaevola (cf. Gellius, *Noctes Atticae* 5:19). The *pontifex maximus* had the additional power of circumventing the *detestatio sacrorum* if the cult of the adoptee's former family was threatened with extinction by the move.

### **Conclusion: The *pontifex maximus* in 141 B.C.**

In 141 when Scipio Nasica Serapio stood to give the funeral oration for his dead father, Nasica Corculum, he would have been able to record every step of the *cursus honorum*. Since Nasica Serapio will be the first of the *pontifices maximi* to feature in a substantive way in this thesis, it might be helpful to treat the career of his father – and predecessor – as a sort of *terminus ante quem*. Although Corculum led ‘an agitated political life that did not lack controversies’ (Candau, 2011: 130), it serves as a perfect example of a highly distinguished career which entered a more sedate final decade with the election to the chief pontificate.<sup>51</sup>

The *Cornelii Scipiones* were a family thoroughly assured of its aristocratic credentials and its traditions of military leadership and office holding;<sup>52</sup> like the other patrician clans, strategic alliances through marriage ensured that the major offices, including the principal priesthoods, were seldom beyond the reach of a Cornelius Scipio.<sup>53</sup> It is possible that Nasica Corculum

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<sup>51</sup> Cicero identifies Corculum as an *exemplum* of happy but fruitful old age (*de Senectute* 50).

<sup>52</sup> The *elogia Scipionum* bear witness to the achievements of those who reached the pinnacle of their careers, as well as those whose promising careers were cut short (see especially *CIL* VI. 1284-1296; also Millar, 1989: 139; Flower, 1996: 179-180).

<sup>53</sup> Briscoe (1974) mentions ‘evidence’ that Corculum had become estranged from other members of the *Cornelii Scipiones* for a substantial period before his death. The evidence in question is far from

had been a *pontifex* since as early as 176 B.C., replacing P. Cornelius Scipio Hispallus; such instances of lateral ‘succession’ were a common feature. A comparatively early priesthood would have been a useful stepping stone in the acquisition of subsequent higher political offices, especially the consulships of 162 and 155 and the censorship of 159 B.C. He became *princeps senatus* in 147.

His public career is bound up with the war against Carthage and his persistent opposition to the delectory rhetoric of Cato the Elder. Having argued for the salutary effects of fear of the other great Mediterranean power to keep Rome both moral and vigilant, he proceeded to decry the tide of luxury and laxity which swept over the city after its rival’s defeat.<sup>54</sup> Nothing is known of Nasica Corculum’s tenure as chief pontiff. Augustine committed a wholly understandable error in confusing father and son when he described the reception of the cult items of Cybele in 205 or 204 B.C.<sup>55</sup> (*Magna Mater*’s influence was credited with the defeat of Carthage in the second Punic war).<sup>56</sup> Corculum’s father was Rome’s *optimus vir* (Cicero, *de Finibus* 5.22.64) not her *pontifex maximus* – indeed not any kind of priest at all.<sup>57</sup> Perhaps Augustine’s conflation arose out of his expectation that a pontiff would exercise a role with such powerful religious associations.

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conclusive, however, and may only refer to Corculum’s activity in the third Macedonian war (Livy, 44.35.14; 44.36.9; 44.38.1; Plutarch, *Aemilius Paullus* 15; Briscoe, 1974: 134). How far his opposition to the war with Carthage would have alienated him from the rest of the gens is impossible to gauge; after all, his son, Nasica Serapio, was among those officers overseeing the Carthaginian surrender.

<sup>54</sup> Polybius 31.25.2-8.

<sup>55</sup> Augustine, *de Civitate Dei* 1.30: *Si Nasica ille Scipio uester quondam pontifex uiueret, quem sub terrore belli Punici in suscipiendis Phrygiis sacris, cum uir optimus quaereretur, uniuersus senatus elegit, cuius os fortasse non auderetis aspicere, ipse uos ab hac inpudentia cohiberet.*

If that former pontiff of yours Scipio Nasica were still alive, whom the senate unanimously chose as its best man to receive the sacred objects from Phrygia during the dreadful time of the Punic war, you would not be able to look him in the face, lest he deter you from your impudence.

<sup>56</sup> Burton (1996), argues that the summoning of the *Magna Mater* to Rome was not the outcome of an optimistic mood, rather the desire to enlist every avenue of assistance at a time of on-going crisis.

<sup>57</sup> On the arrival of *Magna Mater*, see Livy 29.14.10-14.

The other aspects of Corculum's life may well say something about the nature of the position of chief pontiff at this time. He understood the value of self-publicity: his self-laudatory account of his involvement in the battle of Pydna in 167 B.C. seems to have passed over into Plutarch's account of the event (*Aemilius Paullus*, 15-18), not least because it was written in Greek (Gratwick, 1982: 148). Corculum was clearly aware of the power of history and the control of an individual's imprint upon it. We may hypothesise that he took no less an interest in this aspect of his activity as *pontifex maximus*, even though it would have been the illustrious deeds of others – his son included – which were recorded in the *Annales Maximi*. The latter phase of Corculum's career would have been taken up with his religious and public duties. His presence being required at various functions, it is unlikely that he travelled very far from the city. The other area of expertise in which he was distinguished, the law, would also have sat well with his status as the chief interpreter of a substantial body of public and private law.

One other vignette will suffice: Appian records that Nasica Corculum, as consul in 155, intervened to halt the construction and order the subsequent demolition of what was probably Rome's first permanent theatre.<sup>58</sup> Campbell (2003) notes that, besides Appian's comment about his suspicion of a creeping Hellenism and its debilitating moral effects, other sources

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<sup>58</sup> Τῷ δ' αὐτῷ χρόνῳ Σκιπίων ὕπατος καθεῖλε τὸ θέατρον, οὗ Λεύκιος Κάσσιος ἤρκετο (καὶ ἤδη που τέλος ἐλάμβανεν), ὡς καὶ τότε στάσεων ἄρξον ἐτέρων ἢ οὐ χρήσιμον ὄλωσ' Ἑλληνικαῖς ἠδουπαθείαις Ῥωμαίους ἐθίζεσθαι. [Appian, *Civil Wars* I.4:28]

About this time the consul Scipio Nasica demolished the theatre begun by Lucius Cassius, and now nearly finished, because he considered this also a likely source of new seditions, or because he thought it far from desirable that the Romans should become accustomed to Greek pleasures.

state that the consul Nasica was renowned for his *severitas*.<sup>59</sup> His distaste for populism seems to have coupled with a sincere – if somewhat paternalistic - belief in the state’s responsibility to toughen the easily compromised moral fibre of the people.

So the *pontifex maximus* at this juncture of transition was, as I have argued, the only role which brought its holder the charism of stable public prominence in the Roman Republic. As well as a clear position among the influential priests of the state, he had a refined species of *auctoritas* which could easily, to the untrained eye, be confused with the *imperium* of the chief magistrates. With his retinue of *apparitores* in attendance, the high pontiff would have been a visible reference point for the *plebs* as much as the *élite*. While he had direct involvement in legal matters which were of particular importance to the *nobiles*, his direction of festivals, oversight of crossroad shrines and collation of the official record of events would have been of no less interest to the ordinary citizen: for at least a hundred years they had also had a say in his election. In other words, the office of *pontifex maximus* offered a commanding view of Rome and, in more benign times, it was as integral to the maintenance of the *mos maiorum* as any high office – if not more so. In the events which were soon to follow, this commanding position would be exploited as a position of command: a tribune’s provocation would result in an equally provocative counter-measure which would redefine Rome’s religious and political institutions.

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<sup>59</sup> E.g. Velleius Paterculus, I.15.3 (cf. Campbell, 2003: 68).

## CHAPTER TWO

### Publius Cornelius Scipio Nasica Serapio:

#### *absens pontifex maximus*

Hoc initium in urbe Roma ciuilis sanguinis gladiatorumque impunitatis fuit. Inde ius ui obrutum potentiorque habitus prior, discordiaequae ciuium antea condicionibus sanari solitae ferro diiudicatae bellaque non causis inita, sed prout eorum merces fuit. (Velleius)<sup>60</sup>

The impact of this violence, especially when understood in terms of religious transgression and pollution, can scarcely be overestimated. Meanwhile, Nasica's claim that the republican government was in mortal danger became a self-fulfilling prophecy. (Flower, 2010: 83)

Having surveyed the principal conceptual issues in the introduction, in this chapter I will consider the confluence of politics, religion and violence in what is rightly considered one of the most significant disputes in the late Republic: the murder of Tiberius Gracchus by the *pontifex maximus*, Scipio Nasica Serapio. I intend to demonstrate that the actions of Nasica definitively altered perceptions of the office at all levels of Roman society. The dense narrative of this crisis, constructed from a variety of accounts, throws up a number of complex religious issues which cluster around the involvement of the high pontiff in an

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<sup>60</sup> Velleius, 2.3.3. This was the beginning in Rome of civil bloodshed, and the sword went unchecked. From this time on right was crushed by might, the most powerful now took precedence in the state, the disputes among citizens which were once healed by amicable agreements were now settled by arms, and wars were now begun not for good cause but for whatever profit was to be had.



unprecedented chain of events. Indeed, as Flower suggests, the effects of this irruption of politically motivated killing are hard to exaggerate.

### **Life and Career of Scipio Nasica ‘Serapio’**

Publius Cornelius Scipio Nasica ‘Serapio’ was born in 176.<sup>61</sup> As one would expect of a scion of the Corneli Scipiones, he ascended the ladder of a public career by steady stages and at the earliest eligible age – with the notable exception of a misstep in his effort to reach the aedileship.<sup>62</sup>

He became *quaestor* at the age of 27 in 149. Appian recounts Nasica’s involvement in the surrender of the Carthaginian arms in 149:<sup>63</sup> this was an important moment for several reasons. Firstly, it placed Nasica in a very prominent position during a ceremony loaded with political, military and religious significance. Alongside the surrender of arms, there was also an implied religious submission – as represented by the Carthaginian priests – to the consuls. Such a gesture could be interpreted as recognition of the superior strength of the Roman pantheon compared with those of the vanquished Punic gods (as part of the *devotio hostis* of the city itself). Furthermore, these same gods had, in the course of a ritual *evocatio*, been ‘called out’ by the Roman general and offered a better cult.<sup>64</sup> Although the ritual itself will be discussed in greater detail later in this chapter, it is worth noting Nasica’s involvement in the additional ritual of surrender and the influence such exposure may have had on his attitude to public ‘liturgy’. In addition, this ceremony would earn him the prestige of a still closer

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<sup>61</sup> This is the chronology as reconstructed by Carcopino, (1967: 67). Mommsen places Nasica’s birth in 175.

<sup>62</sup> We will discuss this setback in connection with Nasica’s haughty temperament and ‘sharp tongue’.

<sup>63</sup> Appian, *Punic Wars* 12:80.

<sup>64</sup> Macrobius, *Saturnalia* 3.9.6-9.

association with his cousin, the victorious Scipio Aemilianus. It should also be noted that another cousin, Tiberius Gracchus, was on Aemilianus' staff at this time.

In 141 he became praetor at the age of 35. Yet the prestige of this year's praetorship was eclipsed – or perhaps we should say enhanced – by his probable acquisition of the Chief Priesthood in succession to his father, Scipio Nasica Corculum, who died that same year. Münzer (1999: 231) notes the unusual circumstances of the younger Nasica's elevation to the pontifical college. The prohibition of two members of the same *gens* belonging to the same college would normally have ensured that the son could only have been co-opted after his father's death and then rapidly promoted to the role of president. It is Münzer's contention that such a precipitate rise to prominence demonstrates not only the cachet of the *Scipiones Nasicae* but also the fact that prior experience as a pontiff was not a prerequisite for the *pontifex maximus*. A measured rejection of Münzer's theory lies at the heart of John North's discussion of family and priesthood in the late Republic (1990). North argues that the simultaneous presence of Nasica Corculum and Nasica Serapio in the college is 'the only likely exception' to the established practice (North, 1990: 533). He bases his thesis on Livy's account of the election of the *pontifex maximus* in 213:

comitia inde pontifici maximo creando sunt habita; ea comitia nouus pontifex M. Cornelius Cethegus habuit. tres ingenti certamine petierunt, Q. Fuluius Flaccus consul, qui et ante bis consul et censor fuerat, et T. Manlius Torquatus, et ipse duobus consulatibus et censura insignis, et P. Licinius Crassus, qui aedilitatem curulem petiturus erat. hic senes honoratosque iuuenis in eo certamine uicit. ante hunc intra centum annos et uiginti nemo praeter P. Cornelium Calussam pontifex maximus creatus fuerat qui sella curuli non sedisset.<sup>65</sup>

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<sup>65</sup> Livy 24: 2-4 The next thing was the election of the chief pontiff. The new pontiff, M. Cornelius Cethegus, conducted the election, which was very keenly contested. There were three candidates: Q.

The ‘numerical’ vacancy in the college is filled by co-optation (in the above instance Cethegus) and it is the new pontiff’s responsibility to oversee the election of the *pontifex maximus*. If this were the normal rubric for such events, North suggests that it would be impossible for one individual to accede to both positions and so considers it more reasonable to presume that Nasica ‘father and son’ were together as pontiffs. I find it hard to assent completely to North’s argument that it would be impossible for one man to be co-opted and subsequently elected as head: it would be *unusual* but, given some of the procedural intricacies, not beyond the realm of possibility.

The only voice which questions our certainty that he became *pontifex maximus* at this time is that of Velleius Paterculus and his curious comment that Nasica ‘*absens pontifex maximus factus est*’ (Velleius, 2.3.1). This is a unique assertion and one which, with Münzer, we should set aside; Münzer is dismissive of what he considers a habit of ‘clumsy incorporation’ on the part of Velleius, whereby biographical information becomes transposed and marginal annotations appear wrenched from their proper context (Münzer, 1999: 240). Nevertheless, the possible origin of Velleius’ problematic phrase will be further discussed in the wake of the event for which Nasica is chiefly remembered – the death of Tiberius Gracchus.

Although our attention is particularly directed towards the later stages of Nasica’s public life, his consulate (in 138) merits some examination. His youth – being only 38 during his year in office – was exceptional but not unique. By far the most striking feature of 138 was the

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Fulvius Flaccus, the consul, who had previously been twice consul as well as censor; T. Manlius Torquatus, who could also point to two consulships and the censorship; and P. Licinius Crassus, who was about to stand for the curule aedileship. This young man defeated his old and distinguished competitors; before him there had been no one for a hundred and twenty years, with the sole exception of P. Cornelius Calussa, who had been elected chief pontiff without having first sat in a curule chair.

imprisonment of the consuls, Nasica and his colleague Brutus, by the plebeian tribune Curiatus. Cicero leaves us in no doubt as to his estimation of the tribune's character, describing the man who threw the consuls in prison as 'homo omnium infimus et sordidissimus' and the action itself unprecedented (*de Legibus*, III: 20).

Although Livy's epitomator's account of the same incident is also relatively brief, it contains some illuminating details:

P. Cornelio Nasica, cui cognomen Serapion fuit ab inidente Curiatio trib. pleb. impositum, et Dec. Iunio Bruto coss. dilectum habentibus in conspectu tironum res saluberrimi exempli facta est: nam C. Matienius accusatus est apud tribunos pl., quod exercitum ex Hispania deseruisset, damnatusque sub furca diu uirgis caesus est et sestertio nummo ueniit. Tribuni pleb. quia non inpetrarent ut sibi denos quos uellent milites eximere liceret, consules in carcerem duci iusserunt.<sup>66</sup>

Curiatus is introduced as the originator of Nasica's mocking cognomen *Serapio*, marking his resemblance to a well-known sacrificial assistant by that name: while the tragicomic effect of this 'nick-name' can only be fully appreciated in the light of subsequent events, it is worth noting the hint at personal animosity underlying public debate. This particular episode seems to be a matter of military procedure and discipline arising out of the conscription of soldiers (*dilectus*). Livy reports a similar scenario in *Periochae* 48 in which the consuls Lucius Licinius Lucullus and Aulus Postumius Albinus were imprisoned by order of the tribune of

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<sup>66</sup> Livy, *Periochae*, 55

When the consuls Publius Cornelius Nasica, to whom the Tribune of the plebs Curiatus mockingly affixed the cognomen 'Serapio', and Decimus Junius Brutus were conducting the draft, something happened in full sight of the recruits which turned out to be a most helpful precedent. For Gaius Matienius was charged before the tribunes of the plebs that he had deserted from the army in Spain, and he was convicted, bound to a *furca* and flogged for a long time with rods and was sold for a *sestertius*. Since the tribunes of the plebs failed to obtain permission to acquire exemptions for the ten soldiers apiece they each wanted, they ordered the consuls to be thrown into jail.

the plebs for allowing no exemptions to the draft. If we are to trust Livy's chronology, then incarceration of the consuls was not, as Cicero maintained, an unprecedented sanction (since the incident with Lucullus and Albinus would have occurred during 151). That instance notwithstanding, imprisonment of the highest State officials (one of whom was also *pontifex maximus*) must be read as an extreme exercise of tribunician power. Earl goes so far as to describe it 'as revolutionary an act as any of Ti. Gracchus' (Earl, 1963:46).

Valerius Maximus offers a further example of strife between the consuls and Curiatus in which Nasica stamps his authority on a restive crowd. Due, in part, to the slave unrest in Sicily, the rising price of grain had led to an uneasy domestic situation:

annonae caritate increscente C. Curiatus tr. pl. productos in contionem consules conpellebat ut de frumento emendo adque id negotium explicandum mittendis legatis in curia referrent. cuius instituti minime utilis interpellandi gratia Nasica contrariam actionem ordiri coepit. obstrepente deinde plebe 'tacete, quaeso, Quirites', inquit: 'plus ego enim quam uos quid rei publicae expediat intellego'. qua uoce audita omnes pleno uenerationis silentio maiorem auctoritatis eiusquam suorum alimentorum respectum egerunt. (Valerius Maximus 3.7.3)<sup>67</sup>

Here Nasica's intervention seems to have worked because of a sufficiently diffuse sense – even among the *plebs* who stood to gain most from the measure - that the benefit of the *res publica* was the overriding concern of every true Roman (Hölkeskamp 2013: 25). The weight of his *auctoritas* is also cited by Valerius as enough to suppress the unrest of the crowd. This *auctoritas*, reflecting Nasica's status as consul as well as the cachet attached to

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<sup>67</sup> With the price of grain increasing, the tribune C. Curiatus had the consuls brought before a public meeting so that they should move the senate to buy corn and send envoys to arrange the sale. Nasica began to voice his opposition to this wholly proper measure. Then, with the people crying out in protest, Nasica said, 'Be silent, citizens, if you please. I understand better than you what is for the good of the republic.' When they heard this, all of them fell into an awed silence, paying more heed to his authority than their own need of food.

the name of a Scipio Nasica, may account for Curiatus' tactical use of mockery: he attacks Nasica directly on that ground from which much of his influence is derived – his name.

Valerius offers a further *exemplum*, this time with clear political consequences:

P. autem Scipio Nasica togatae potentiae clarissimum lumen, qui consul Iugurthae bellum indixit, qui matrem Idaeam e Phrygiis sedibus ad nostras aras focosque migrantem sanctissimis manibus excepit, qui multas et pestiferas seditiones auctoritatis suae robore oppressit, quo principe senatus per aliquot annos gloriatus est, cum aedilitatem curulem adulescens peteret manumque cuiusdam rustico opere duratam more candidatorum tenacius adprehendisset, ioci gratia interrogavit eum num manibus solitus esset ambulare. quod dictum a circumstantibus exceptum ad populum manavit causamque repulsae Scipioni attulit: omnes namque rusticae tribus paupertatem sibi ab eo exprobratam iudicantes iram suam aduersus contumeliosam eius urbanitatem destrinxerunt.<sup>68</sup>

Although Valerius has a tendency to conflate his *Nasicae*,<sup>69</sup> this would seem to be a clear reference to Serapio's arrogant disdain – at least in so far as people '*rustico opere*' were concerned. This instance of an ill-judged pleasantry is thought to have cost Nasica the

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<sup>68</sup> Valerius Maximus, 7. 9.2

P. Scipio Nasica was a brilliant luminary of civilian power. As consul he declared war on Jugurtha; he received in his purest hands the Idean Mother as she migrated from her Phrygian seat to our altars and hearths; by the strength of his authority he suppressed many harmful uprisings; for some years the senate gloried in him as their leader. Standing for the curule aedilship as a young man, after the manner of candidates he gripped somebody's hand, which had been hardened by farm labour, rather tightly, and asked him as a joke whether he was by way of walking on his hands. Bystanders caught the remark and it spread to the public and caused Scipio's defeat. For all the rustic tribes thought he had taunted them with poverty and vented their anger against his insulting wit.

<sup>69</sup> Valerius is somewhat confused in his description: the Cornelii Scipiones were not central to the beginnings of the Jugurthine war and the cult image of Magna Mater was received by Serapio's grandfather in 205/4. Valerius is not alone in this confusion. Cicero records how Metellus Scipio incorrectly identified more than one statue of his great-grandfather, Scipio Nasica (cf. *ad Atticum* 6:1); in reality they were statues of Scipio Aemilianus (Morstein-Marx, 2004: 80).

aedileship. Any ambiguity as to the identity of the Nasica seems to be resolved by Cicero's statement in *pro Plancio*:

auus uero tuus et P. Nasicae tibi aediliciam praedicaret repulsam, quo ciue neminem ego statuo in hac re publica fortioem (Cicero, *pro Plancio* 51).<sup>70</sup>

Cicero is offering examples of prominent men who had been unsuccessful in their campaign for the aedileship but who had gone on to win the consulship. Elsewhere, especially in his philosophical works, Cicero attests to the pungency of Nasica's speech:

illum Scipionem, quo duce priuato Ti. Gracchus occisus esset, cum omnibus in rebus ueumentem tum acrem aiebat in dicendo fuisse (Cicero, *Brutus* 108).<sup>71</sup>

Audivi ex maioribus natu, hoc idem fuisse in P. Scipione Nasica, contraque patrem eius, illum qui Ti. Gracchi conatus perditos vindicavit, nullam comitatem habuisse sermonis, ob eamque rem ipsam magnum et clarum fuisse (Cicero, *de Officiis* 1: 109)<sup>72</sup>

Dyck (1996: 278) considers Nasica's inflexibility to be the fruit of his Stoic leanings (cf. *Tusc.* 4.51) and, presumably, a further reason for Cicero's reverential allusions to him. Dyck also references the Valerian 'grain anecdote' in support of his depiction of Nasica as a man who could not be easily deflected from a principled stance.

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<sup>70</sup> Your grandfather could tell you also of the rejection of Publius Nasica, when he stood for the aedileship, though I am sure there has never been a greater citizen in this republic.

<sup>71</sup> ... that Scipio by whom as an unofficial commander T. Gracchus was killed, was not only a man of passion in all other respects, but sharp in his way of speaking.

<sup>72</sup> I have heard from my elders that this was true of P. Scipio Nasica, whereas the opposite was true of his father - the one who punished the desperate efforts of Ti. Gracchus - had no friendliness in his speech and for that reason became great and famous.

All this certainly seems consistent with the image of a man who is acutely aware of his *auctoritas*.<sup>73</sup> Although there is no indication as to precisely when this confrontation over the grain supply occurred – before or after Nasica’s imprisonment - the fact that it was choreographed by the tribune is surely significant. The mention of Curiatus and his involvement – either as defender of the people or as *provocateur* – may account for the tone of contempt in the consul’s response. Whilst Curiatus, perhaps through his association with Nasica, is one of the more conspicuous tribunes of this period, their recurring interference in the workings of the army and Rome’s external affairs with client peoples established a pattern which Tiberius and his brother were to follow (Taylor, 1962: 27).

No doubt the later accounts bear the distinct imprint of later events, but these anecdotes about Nasica’s early career do at least attest to a firmness of purpose, a solidly patrician view of the world and an exposure to tough tribunician politics.

### **The crisis of 133: mounting tensions**

As far as the extant records are concerned, Nasica retreats into obscurity after his consulship and only emerges once again in connection with Tiberius’ land reforms.

We know nothing of Nasica’s own circumstances and the presumption that he, like many of the other *nobiles*, had benefitted from the creeping appropriation of public land, remains a supposition.<sup>74</sup> It is significant that his opposition (at least in so far as the sources record) began not during the attempt to get the law passed but only after the commission had been

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<sup>73</sup> Scullard describes Nasica’s response and attitude as ‘high-handed’ (1960: 70).

<sup>74</sup> Only Plutarch suggests this (*Tiberius Gracchus* 13:3): possession of public land and the threat of being dispossessed is the sole motivation for all opposition to the *lex Sempronia* in Plutarch.



established. Although his distaste for the plebs is well documented, the commissioners were of robust aristocratic standing – including the *princeps senatus*, Appius Claudius: our search for a motive must lead beyond ‘class strife’ (Canali: 2004: 35). The roots of Nasica’s objection may lie, at least in part, in his rough treatment at the hands of a tribune while at the pinnacle of his career. Just as Curiatus had done nothing illegal, Tiberius’ actions could not be challenged on the grounds of their dubious constitutionality. There was nothing to say that a tribune could *not* be deposed for acting contrary to the will – or good – of the people. After all, no tribune had ever vetoed an agrarian bill (as Octavius had done).

Much of the ensuing debate and recrimination turns on this very question of *precedent*: unlike Curiatus’ actions, it was the unprecedented nature of Tiberius’ bold strategy which would occasion alarm among the *boni*. Lintott, while recognising the extreme course taken by Tiberius, acknowledges that it was proportionate to the provocation of his fellow tribune’s obstructionist tactic (1999b: 207). Seeing Octavius removed – perhaps physically, according to Plutarch - was also a sign that the traditional counter-ploy of using a ‘friendly’ tribune to block a colleague had failed.

Nasica let his hostility to the *lex Sempronia agraria* and its triumviral commission be known.<sup>75</sup> It was his involvement which led to Tiberius being denied the publicly funded tent which would act as his ‘office’ during the land redistribution. Again, it was his influence which induced the senate to vote the commissioners the derisory daily allowance of nine *asses*. In these interventions, Nasica was acting as the ‘head’ of the family (Earl, 1963: 92), but he would have powerful sympathisers beyond what Earl, from the perspective of 1960s scholarship, calls the ‘Scipionic faction’.

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<sup>75</sup> Plutarch, *Tiberius Gracchus*, 13:3.

That said, these high profile objections must have been a factor in determining Tiberius' next – and decisive – step: to stand for re-election to the tribunate. This decision, variously interpreted as a mark of radical opportunism or Tiberius' increasing desperation, is universally acknowledged as the trigger to the volatile chain of events which followed. It was not merely the notion of subsequent terms as tribune which proved alarming (and, surely, the possibility of a further term after that); the scope of Tiberius' manifesto, shifting from a rural to an urban power-base, may have suggested

an attitude more aggressive than defensive, one which sought to exploit the powers of the tribunate and assembly even further (Lintott, 1992: 69).

Discussions around the legality of Tiberius' candidacy certainly took on a more aggressive tone. On the first day of voting two tribes had cast their lots in favour of Tiberius before the vote was discontinued after a legal challenge was mounted. He made a carefully staged appearance in the Forum that evening, dressed in mourning garb and urging the crowd to care for his family should 'something' happen. Plutarch tells us that this display was enough to cause an improvised bodyguard to be set up around his house that night (*Tiberius Gracchus* 16) and that some elements of the crowd were primed for trouble. It has been suggested that Tiberius' success in mobilising support among the city's *uici* may have been a decisive factor in Nasica's actions (Flower, 2013: 98): were these 'grass-roots' pockets of support a buffer *against* violence or a means of fomenting and coordinating violent action by the urban plebs? According to Flower's analysis, fear of the mob at Tiberius' disposal was enough to set Nasica on the path to political murder.

*The pontifex maximus: dux privatus*

The death of Tiberius took place against the backdrop of an assembly. This was not, as Appian (and later Earl, 1963) argues an election to renew Tiberius' tribunate, so much as a vote on the legality of his tribunician re-election. Furthermore, Tiberius' supporters were gathered in the *area Capitolina* not as an occupying force holding some strategic position but in the place where tribunes customarily conducted their business (Kondratieff, 2009: 339). If anything, the location of the senate meeting was the more unusual.

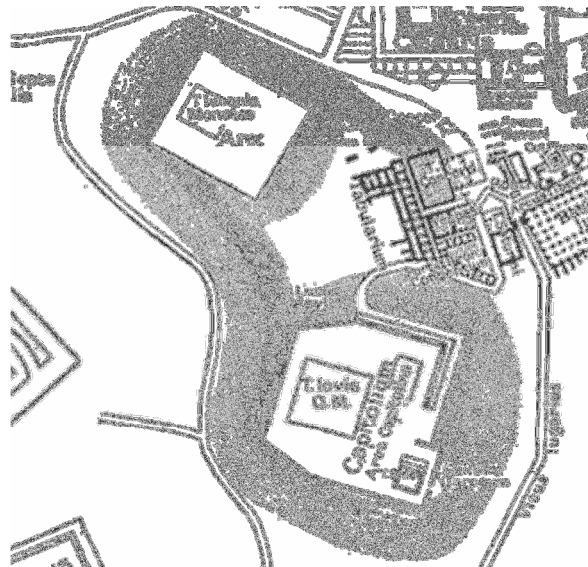


Figure 1 The Capitoline Hill (image from Wikipedia Commons) <sup>76</sup>

As the map shows, the Capitol was a fairly confined area and the key locations are all towards the southern eastern end of the hill – the *area Capitolina*, the Temple of Jupiter and the Temple of *Fides* (where the senate was meeting that day). The relationship between the Temple and the Senate merits some brief comment. Other than cursory mentions in Valerius Maximus and Appian, both referring to this episode, we have no other indications of the Temple being used as a meeting place for the Senate. As venues go, however, it certainly

<sup>76</sup> [http://commons.wikimedia.org/wiki/File:Map\\_of\\_downtown\\_Rome\\_during\\_the\\_Roman\\_Empire\\_large.png](http://commons.wikimedia.org/wiki/File:Map_of_downtown_Rome_during_the_Roman_Empire_large.png)

offered plenty of symbolic resonances, being the depository of international agreements and the diplomata of honourably discharged soldiers. Clark (2007) argues that the Temple, possibly the first instance of a civic shrine both to the *Fides* of the Republic and an individual family (the *Atilii*), ‘may well have constituted a space allowing and provoking discussion of ... *Fides*’ (Clark, 2007: 62). The notion of ‘sacred space’ shaping the kind of conversations that are carried out inside it is one which certainly merits further reflection in this context. For the Senate to meet in a space so redolent of the Republic’s political and military *bona fides*, we can more readily understand how much easier it was to represent Tiberius and his supporters as *extra fidem*. Perhaps its proximity to the Tarpeian rock, from which traitors were consigned to their deaths, underscored the duty of *Fides* toward the State and the consequences of betraying it. This topographical juxtaposition was also reflected in the rhetorical contrast of a sober ‘faith’ and a demagogue’s ‘treason’ which would feature in later reconstructions of the event.

Who determined the Temple of *Fides* as the Senate’s meeting place? The Senate was convoked by the ‘presiding magistrate’ (usually the consul) and had to meet in a *templum*, a space which had been officially designated by the augurs (and so not always a ‘temple’ in the formal sense). Bonnefond-Coudry (1989: 113) attributes the choice of venue to the consul Publius Mucius Scaevola. She sees no reason to think the Senate was playing ideological games in choosing *Fides*, arguing that the most common Capitoline setting, the Temple of Jupiter itself, was already occupied by Tiberius’ partisans and so the nearest available *templum* had to suffice.<sup>77</sup> That said, Bonnefond-Coudry does find herself musing about the shrine’s other uses as offering ‘une raison supplémentaire de choisir ce temple’ (1989: 115).

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<sup>77</sup> Bonnefond-Coudry claims to follow Plutarch and Appian’s reading of the event in suggesting that the Gracchans were occupying the Temple; neither account actually says this and there seems to be no evidence to suggest that the ‘anti-Senatorial’ faction had gathered anywhere other than the ‘forecourt’ of the *area Capitolina*.

There are objections which may be made to her thesis: claiming that the choice of *Fides* was the unpremeditated result of fast moving events overlooks the fact that the fateful session took place on the *second* day of Tiberius' bid for re-election. This opens up the possibility that Scaevola's choice was not made on the spur of the moment but had been predetermined at the insistence of Nasica. Although the consul would scarcely have given way to a private citizen on such a matter, the *pontifex maximus* could have made a compelling argument to the college of pontiffs – including Scaevola - that the Temple of Public Faith was the most appropriate and auspicious place for the senate to gather and face down the challenge of Tiberius. Might Scaevola, having already shown that he was broadly sympathetic to Tiberius' reforms, have made this concession to establish his own *bona fides* with the rest of the college and the senate as a whole?

While the senate were meeting in the Temple of the *Fides*, an altercation outside the Temple of Jupiter had set the chain of violent events in motion. Appian mentions the crowd laying hold of the *fasces* of the lictors and using them to drive off 'the rich'. Why would the lictors have been there at all, unless they had been sent at the behest of one of the magistrates? To seize and break the *fasces* would have been little short of a revolutionary act in itself – symbolically deposing or rejecting the authority of that magistrate (Hölkeskamp, 2011: 169-170). Or, is it possible that these were *lictiores curiati* whom the *pontifex maximus* had decided to deploy for particular duties that morning? What if Appian's account is confused as to the seizing of the lictors' rods and that it was actually the senators who armed themselves with the *fasces*? Such a scenario is no less remarkable than the idea of Gracchus' supporters meekly handing over their makeshift weapons, only to be beaten with the same weapons moments later. Of course, the most controversial subtext to the latter reconstruction would be that the *pontifex maximus himself* had made preparations to arm his own 'partisans' - perhaps

not with the intention of killing anyone, but in full expectation of a violent confrontation. The use of wooden implements, rather than ‘iron’ swords or daggers (Plutarch, *Tiberius Gracchus*, 19) is also considered of significance (Rawson, 1974: 194): the fact that this absence of metal is specifically noted by Plutarch (who displays a refined religious sensibility) and that iron was forbidden in sacrifices, sits well with those analyses which are drawn to the ‘sacral’ allusions of these events and actors.

Of course the most prominent sacral allusion was Nasica’s decision to veil his head and lead the senators outside to deal with Tiberius. This use of the *cinctus gabinus* has generated an interesting discussion over the last decade. Even before this, Badian (1972) and Rawson (1974) both recognised the ritual significance of the arrangement of Nasica’s toga but draw back from any interpretation of his actions which would cast him in a sacrificial role. Rawson in particular finds it difficult to imagine Tiberius’ death as pre-meditated, let alone symbolically choreographed by his cousin. The fact remains, however, that Nasica’s vesture continues to pose a problem for us. Beyond conferring what Rawson describes as ‘some vague solemnity’, what sense are we to make of his decision to cover his head and, according to Plutarch, have the purple stripe of his *toga praetexta* in full view of the senators who were following and the mob swirling around him? It is Linderski (2002) who points out that the very fact he was wearing the *toga praetexta* at all is itself unusual: if Mommsen (I:3) is correct, we would expect Nasica to be wearing a *toga pura* since the pontiffs did not wear the *praetexta* in the Senate or at any time apart from the public exercise of their office.<sup>78</sup> To suggest that he emerged from the Temple of *Fides* drawing attention to his priestly office (and indeed his consular rank) would mean that, at some indeterminate point, he cast off the *toga pura* in favour of the *praetexta*. Appian makes no reference to the religious

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<sup>78</sup> Livy 33.42.1 notes with regard to the *tresviri epulones* that the privilege of the *praetexta* ‘*item ut pontificibus lege datum est*’ (Mitchell, 2005: 165).

connotations of Nasica's arrangement of his toga,<sup>79</sup> although he does invert the customary significance of the gesture: the *velatio capitis* was an act of concealment rather than an expression of *pietas*.

Approaching the symbolic weight of Nasica's appearance from a different angle, Clark (2007a) draws attention to a less scrutinised detail in Plutarch's account:

With these words he drew the edge of his toga over his head and strode out towards the Capitol. All the senators who followed him wrapped their togas over their arms and thrust aside anyone who stood in their path, with no one opposing them, because of their rank, but rather feeling and trampling upon one another (Plutarch, *Tiberius Gracchus* 19).

Valerius supplies the additional detail that the *pontifex maximus* had his left hand covered, while Velleius makes it his left arm. Clark finds Nasica's veiled hand more intriguing than his veiled head: is this an instance of an inverse 'liturgy' of *Fides*? (Clark, 2007a: 128). Instead of approaching the Temple of *Fides* in a carriage with right hands covered (as Livy describes the rites of *Fides*)<sup>80</sup>, Nasica leads the senators on foot, away from the Temple, with their left hands (or arms) covered.

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<sup>79</sup> This may have been to induce more of them to accompany him by the distinctiveness of his dress, or to fashion for the onlookers some symbol of war like a helmet, or to hide from the gods his shame at what he proposed to do. (Appian, *BC* I:16)

<sup>80</sup> Et (soli) Fidei sollemne instituit. Ad id sacrarium flamines bigis curru arcuato vehi iussit manumque ad digitos usque inuoluta rem divinam facere, significantes fidem tutandam sedemque eius etiam in dexteris sacratam esse. (Livy 1:21.4)

He also instituted a yearly sacrifice to *Fides* and ordered that the Flamens should ride to her temple in a covered chariot, and should perform the service with their hands covered as far as the fingers, to signify that Faith must be sheltered and that her seat is holy even when it is in men's right hands.

If we are to accept both Plutarch and Appian's accounts we must also recognise that they do lend themselves to those constructions of the event which suggest a deliberate action with a conscious appeal to its religious undertones. Indeed, although all the sources vary on many details, they are remarkably unified in recording something which looked very much like a ritual action under the direction of the high pontiff.

We also have an intriguing fragment attributed to Tiberius' brother Gaius which is preserved by the grammarian Charisius. In support of a *lex Papiria* to allow tribunician re-election, Gaius seemingly alludes to the kind of politician exemplified by his brother and contrasts this with the sort who would kill a man in the same way that one might slaughter a pig:

<<Communiter>> C. Gracchus ut lex Papiria accipiatur: <<qui sapientem cum faciet, qui et uobis et rei publicae et sibi communiter prospiciat, non qui pro suilla humanum trucidet.>><sup>81</sup>

The lacunae in this fragment lend themselves to nuanced readings of the author's intention. Badian reads Gaius as recalling the merits of his brother as a wise servant of the common good, 'not one to sacrifice a man as he would a pig' (2004:2 65); this interpretation leaves the making of connections with Nasica to the audience. Morgan (1974: 214) draws perhaps the clearest connections between the sacrificial language and Nasica's agnomen 'Serapio' which, as have seen, he is said to have acquired through his resemblance to a well-known *victimarius* (assistant at sacrifices).<sup>82</sup> Our reading of Gaius Gracchus' comment may well serve two

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<sup>81</sup> Charisius, *Artis Grammaticae* 5:

'Jointly' - as is used by G. Gracchus in speaking for the passage of the Papirian Law: the wise man is he who would jointly provide for you, the Republic and himself, not he who slaughters a human being like a pig.'

<sup>82</sup> A further barb, perhaps just as sharp for an aristocrat such as Nasica, would have been the lowly connotations of this name. 'Serapio' and other derivatives of 'Serapis / Sarapis' have been associated with the servile classes (Clarysse & Paganini, 2009: 80).



purposes: it may both sustain the idea that Nasica was invoking his chief priestly status and yet subvert his attempt to do so by evoking the lowlier status of his namesake.

Cicero, who revered Scipio as a precursor and missed no opportunity to act as encomiast for the Nasican cause,<sup>83</sup> is keen to emphasise that, although *pontifex maximus*, he was acting as a private citizen – i.e. *not* as a magistrate with any kind of *imperium*.<sup>84</sup> Roughly contemporary with Cicero, the *Rhetorica ad Herennium* is unambiguously hostile to Nasica, describing him as ‘sudans, oculis ardentibus, erecto capillo, contorta toga’.<sup>85</sup> This is, Várhelyi notes, typical of Latin invective and emphasises that Nasica has lost that most prized characteristic of Roman manhood: self-possession and control (Várhelyi, 2011: 127). Badian (2004: 269) is of the view that, beneath the rhetorical tropes, may lie an account which has been lifted from a contemporary speech charging Nasica with the murder or perhaps a letter of Gaius Gracchus levelling the same accusation (although it seems less likely that a letter would be read in a school of eloquence). Intriguingly, the *ad Herennium* account makes no mention of Nasica’s priestly office, although the arrangement of his toga does merit a brief nod: is the *contorta toga* anything more than the outward expression of a twisted mind? If anyone emerges as the epitome of religious probity in the *ad Herennium*’s account it is, perhaps predictably, Tiberius. He begins the *contio* with the prescribed invocation of the gods. It is almost as if Tiberius’ prayer becomes the provocation and the signal to attack.

The remaining Livian account, from the *Periochae* (58), eschews any religious commentary, although it does denote Nasica as the ‘auctor’ of Tiberius’ killing. Velleius Paterculus offers more by way of detail:

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<sup>83</sup> As e.g. Murray (1966) points out, however, Cicero was also capable of praising the Gracchi (and their land reforms) when it suited him.

<sup>84</sup> E.g. *in Catilinam*, 1.3; *de Officiis*, 1:76; *de Re Publica* 2.46.

<sup>85</sup> *Rhetorica ad Herennium*, 4:68 – ‘in a sweat, with eyes blazing, hair bristling, toga askew...’

... priuatusque et togatus, cum esset consobrinus Ti. Gracchi, patriam cognationi praeferens et quidquid publice salutare non esset, priuatim alienum existimans (ob eas uirtutes primus omnium absens pontifex maximus factus est), circumdata laeuo brachio togae lacinia ex superiore parte Capitolii summis gradibus insistens hortatus est, qui saluam uellent rem publicam, se sequerentur.<sup>86</sup>

As we have seen, Velleius is unique in suggesting that Nasica was the first to be elected *pontifex maximus* in his absence – a claim for which we have no other authority – and yet he draws no further conclusions about the nature of his actions that day.<sup>87</sup> His main concern seems to be the sounding of a solemn note about the evils of civil war: a theme which would chime with the still-fresh Augustan theme of civil strife being quelled by the *princeps-pontifex*.

### **Priest and victim**

Santangelo argues that Tiberius' death at the hands of the *pontifex maximus* created real problems for the Gracchan partisans and apologists (2005: 211): it also served to underscore the charges of impiety and disregard for legitimate omens (but as one might expect from a protégé of the sceptic Blossius). As part of their posthumous defence of the tribune, Várhelyi suggests that these sympathisers sought to emphasise Nasica's almost Bacchanalian frenzy:

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<sup>86</sup> A private citizen and clad in the toga, although the cousin of Tiberius Gracchus, he set his country before family connections, regarding as contrary to his private interests everything that was not for the common good (a quality which earned for him the distinction of being the first man to be elected *pontifex maximus* in his absence). Wrapping the fold of his toga about his left forearm and standing on the topmost steps of the Capitol, he summoned all those who wished for the safety of the state to follow him.

<sup>87</sup> As Wardle (1998) points out, Valerius' account has some lacunae, especially in Book I: we rely for supplementary detail on two epitomators, Julius Paulus and Januarius Nepotianus. Nepotianus is interesting in suggesting that it is Nasica himself who kills Tiberius (Wardle, 1998: 158).

this had little to do with the measured seriousness of Roman ritual, rather it bore comparison to ‘the excessive, mad outbursts of unacceptable religion’ (2011:127). That said, we cannot simply accept that the involvement of the chief priest *inevitably* led to religious interpretations of the *mêlée*. Part of the confusion arising out of Nasicca’s intervention centres around the blurring of roles and rituals we encounter in the complex Roman system. Although the *toga praetexta* and the *velatio capitis*<sup>88</sup> are characteristic of the chief pontiff in attendance at a sacrifice, he would not be the man wielding the knife.<sup>89</sup>

Jorg Rüpke (1992) alerts us to an interesting link between the *pontifex maximus*, the city and the phenomenon of sanctioned killing. As we have already noted, the execution of citizens was forbidden within the sacred boundary of the *pomerium*: even those dispatched from the Tarpeian rock were technically thrown *away* from the city, as civilian detritus. The only exception to this ban on killing within the urban boundary was reserved for the punishment of Vestals guilty of *incestum*. In this instance the *pontifex maximus*, who was regarded as the Vestal *paterfamilias*, was required with his own hand to beat the Virgin’s seducer to death with rods (Rüpke, 1992: 65). Although an exceptional penalty, the knowledge that one even had such emergency powers, must have influenced the way people regarded the chief pontiff – indeed it may even have affected how he saw his *own* actions. Rüpke observes a tendency from the period of the Gracchi towards ‘a sacralization of judicial and politically motivated murder’ (1992: 71). He does not attempt to make any explicit connections between the religious personnel of the City and this ‘sacralizing tendency’ but I think it throws up some fascinating questions about the way in which Nasicca and subsequent *pontifices maximi* legitimised violent actions by framing them in vaguely ritualised forms.

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<sup>88</sup> The covering of the head was also part of *ius fetiale*, whereby priests carried out the ritual preparations for war against an aggressor (Glinister, 2009: 195).

<sup>89</sup> In discussing the killing of Tiberius, Barton overstates matters in asserting that ‘the priest and executioner are both butchers’ (Barton, 2003: 356).

There is another element of the pontiff's 'repertoire' which might be implied in Nasicas's choice of words and posture during those crucial minutes. The relatively obscure (but symbolically rich) practice of *deuotio* has many points of congruence with the scene on the Capitoline that day. When confronted with a situation of seemingly irretrievable bleakness, a Roman general or consul-in-the-field could consecrate *himself* as an offering to the gods (McDonnell, 2006: 200). The best known examples of *deuotio* were the *Decii Mures*, father and son, whose bravery and self-sacrifice in the Samnite wars are recorded by Livy. In this most detailed account of the ritual and its preparatory rubrics, Livy records that the *pontifex maximus* recited a formula of *dedicatio* for Decius in which a variety of gods (both 'celestial' and 'infernal') were invoked. Then – and this, I think, is the most significant aspect – with his head veiled in the *cinctus gabinus*, the general plunged into the heart of the enemy forces.<sup>90</sup> Is it possible, then, to discern the outlines of a *quasi deuotio* in Nasicas's actions? Although it entails much of the same blurring of margins as the other theories we have so far encountered, I feel there is something worth exploring in this. He had, after all, been consul and, as both pontiff and a veteran of the Carthaginian campaign, he would have been familiar with the 'lore' of *deuotio*.<sup>91</sup> Appian's account certainly lends itself to such a reading: the veiled pontiff might just as easily be seen as a military figure (wearing 'some symbol of war like a helmet'). It is also, as Binot (2001: 194) points out, this military symbolism which Vergil alludes to in Book VII of the *Aeneid*.<sup>92</sup> In his celebrated survey of the killing of

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<sup>90</sup> Livy, 8.9.

<sup>91</sup> Macrobius (Sat. 3.9.9ff) relates an 'offensive' use of *deuotio* whereby the entire city of Carthage was 'devoted' to the gods of the underworld and its citizens designated substitutes for the Roman army. Cf. Versnel, 1996.

<sup>92</sup> *Aeneid*, 7: 611-614:

has, ubi certa sedet patribus sententia pugnae,  
ipse Quirinali trabea cinctuque Gabino  
insignis reserat stridentia limina consul,

Tiberius, Linderski brusquely dismisses the allusion to *deuotio* since Nasica ‘was not an *imperator*, and hence he was not entitled to perform this ceremony’ (Linderski, 2002: 355). I feel that a narrow focus on the classic *deuotio ducis* and its military application leads to an impoverished understanding of the metaphorical weight of this gesture. Andrew Dyck (2004) offers what is, in my view, a compelling argument that Cicero made use of the language and imagery of *deuotio* as part of his *post reditum* rhetoric. The *exempla* of the Decii and their exploits are referenced by Cicero in the *de Domo* 64. Elsewhere, Cicero rises to the challenge of making his decision to go into exile sound heroic by painting his exile as a kind of ‘living death’. He succeeds (to an extent) in dodging the religious objection that a *dux deuotus* who survived was technically *impius* by framing his decision to return and serve the Republic as the fulfilment of his vow.<sup>93</sup> His appeal to this kind of rhetoric should, of course, be understood against the backdrop of his role in the suppression of Catiline in which he was every bit the *dux togatus* (or *loricatus*). If one ‘saviour of the state’ could wrap himself in the cloak of just sacrifice unfettered by a scrupulous adherence to the details, could Nasica not be seen to do the same? Moreover, the rhetoric of *deuotio* was far more common than the practice itself (McDonnell, 2006: 200): the ‘battle’ could be symbolic as well as real (Heyman, 2007: 180) and later poetic renderings of the practice would even allow for ‘*deuotio* in reverse’. In his telling of the end-game at Pharsalus, Lucan (7.659-664) has Pompey deciding to *quit* the field of battle as a way of saving his soldiers (Bartsch, 1997: 79).

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ipse uocat pugnas; sequitur tum cetera pubes,  
aeraque adsensu conspirant cornua rauco.

When the final decision of the city fathers is for battle,  
the Consul himself, dressed in the Quirinal toga, folded  
in the Gabine manner, unbars these groaning doors, himself,  
and himself invokes the battle: then the rest of the men  
do so too, and bronze horns breathe their hoarse assent.

<sup>93</sup> According to Livy 8.10.12, a life-size effigy of the general would be buried in fulfilment of the vow (Beard *et al*, 1998a: 35).

There is nothing to suggest that Nasica could not have made use of this flexible trope to imbue his actions with religious legitimacy.

As mentioned above, Linderski leaps over *deuotio* in order to reach his preferred ritual exegesis of *sacratio*: declaring or ‘cursing’ someone as *homo sacer*. This practice probably dates from the very oldest phase of Roman law before any meaningful distinction could be made between sacred and secular codes and certainly before the veil was lifted on pontifical jurisprudence (Watson, 1992: 33). From this period onwards we encounter a series of prohibitions demanding capital punishment, from the archaic moving of boundary markers and beating of parents through to mistreatment of Tribunes and usurpation of monarchy. These rules, termed the *leges sacratae*, involved not just execution but other ancillary punishments such as the sale of the *homo sacer*’s property at the Temple of Ceres, Liber and Libera (cf. Livy III, 5:5). As the name *sacer* suggests, branding a man in this way rendered him the property of a god (often but not always Jupiter) and the only way to properly ensure this transfer was by killing. In its practical application *sacratio* introduced a curious element of liberalization into the killing of one man by another. If you kill a man and can subsequently prove that he was indeed *homo sacer*, then that killing was a valid execution rather than murder. Bennett (1930) makes a case for the concept of *sacer esto* simply being a religious embellishment of straightforward capital punishment carried out by various means. When secular law began to predominate (and indeed when capital punishment became comparatively rare), a corresponding shift towards secular execution became the norm. It is, I think stretching things too far to suggest that the sacred outcast simply mutated over time into the secular equivalent of *aqua et igni interdictus*. However rare its application may have been, *sacratio* was understood as the proper response to *adfectatio regni* throughout the Republic (Fiori, 1996: 532) and that sacralizing of politically motivated killing mentioned by

Rüpke may well have exerted some subliminal influence on Nasica. This is precisely how Linderski chooses to interpret his actions:

The old religious and public regulations of the Republic, the *leges sacrae*, prescribed that the heads of those who attempted to establish tyranny (*adfectatio regni*), and of those who injured the tribunes of the plebs be forfeited to Jupiter, the guarantor of the constitution. And who was better qualified to pronounce the curse than the *pontifex maximus, iudex atque arbiter rerum divinarum humanarumque?* (Linderski, 2002: 365)

Wiseman thinks it odd that Cicero makes no mention at all of the *sacratio* of Tiberius (2009: 186) but there is, nevertheless, an intuitive appeal in Linderski's interpretation: it offers a justification for Nasica's unusual posture / vesture and corresponds to the two charges, whether credible or spurious, being laid against Tiberius. Linderski himself also dismisses the possibility of Nasica 'sacrificing' Tiberius since, following Festus, the *homo sacer* could not be sacrificed:

At homo sacer is est quem populus iudicavit ob maleficium neque fas est eum immolari sed qui occidit parricidi non damnatur (Festus, 424 L)<sup>94</sup>

Roberto Fiori (1996:18) points out that the text of Festus is not without its share of difficulty (many scholars have asked why not '*immolare*'? Why is it '*sed*' and not '*et*'?). Macrobius went so far as to suggest that what Festus was describing was the exception rather than the rule (although Fiori is not convinced by this). Unlike Linderski, Fiori is not interested in a dissection of Nasica's gesture and vesture. For him, what lends weight to the *sacer esto*

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<sup>94</sup> But the *homo sacer* is one who has been judged by the people on account of a crime (nor) is it permitted for him to be sacrificed but whoever kills him will not be guilty of murder.

theory was the immediate aftermath of Tiberius' death and, in particular, the attitude of the consul, P. Mucius Scaevola. It was Scaevola who had firmly rejected Nasica's plea to intervene, stating that he would initiate no violent action and would not execute a fellow citizen without benefit of due process. This in turn forced (or gave Nasica the pretext) to declaim what sounds very much like the formula for summoning the emergency levy: '*qui rem publicam saluam esse uolunt me sequantur*'. Lintott describes Nasica's words as a 'usurpation' of the consul's role (1999: 91) but Fiori would seem to suggest that Scaevola was only too happy to allow the *pontifex maximus* this room for manoeuvre. As consul, he could not risk the illegality of such an action, but if Nasica were to declare Tiberius *homo sacer* then Scaevola had no power to intervene. The fact that the action brought against Nasica by M. Fulvius Flaccus came to nothing suggests that the consul (and foremost jurisconsult of his day) was prepared to seek a religious and political compromise – and one which kept him safely removed from the spectacle of a full trial of the *pontifex maximus*.<sup>95</sup> Confusion remains over the 'quip' recorded by Cicero in *de Oratore* as Nasica's response to Scaevola's nomination as a *iudex* :

Placet etiam mihi illud Scipionis illius, qui Ti. Gracchum perculit: cum ei M. Flaccus multis probris obiectis P. Mucium iudicem tulisset; "eiero," inquit "iniquus est"; cum esset admurmuratum, "ah," inquit "P. C., non ego mihi illum iniquum eiero, uerum omnibus." (*de Oratore*, 2. 285)<sup>96</sup>

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<sup>95</sup> Scaevola was nominated as a judge in Flaccus' *quaestio* (cf. Astin, 1967: 229); Plutarch, *Tiberius Gracchus* 21.4.

<sup>96</sup> I also like that remark of Scipio – the one who overthrew Ti. Gracchus : when M. Flaccus, after throwing many insults at him, proposed P. Mucius as a judge, Scipio said 'I reject him; he is prejudiced'. When there were murmurings about this he added, 'Senators, I do not reject him as prejudiced towards me, but towards everybody.'



How are we to understand Nasica's response? Badian (2004: 269) rightly identifies an inconsistency with other statements of Cicero regarding Scaevola's attitude and actions (*pro Plancio*, 88 and *de Domo* 91): did this exchange take place at the first meeting of the Senate after Tiberius had been killed? Nasica's objections to Scaevola as *iudex* met with rebuttals from many in the senate, suggesting that the consul had already endorsed Nasica's actions. Cicero can, of course, be ambiguous in his deployment of anecdote; and there was already enough ambiguity around the fatal events. Tiberius had fallen in a *melée* of jostling and rhetoric: perhaps untangling precisely who said and did what (*and* in what capacity) presented too taxing and divisive a prospect for the Senate.<sup>97</sup> Not that the senate could afford to ignore the matter. There was a keen sense that the violation of tribunician *sacrosanctitas* (whether that of Tiberius, Octavius or indeed both) had inflicted a religious wound on the Republic.

Flower (2006:70) is convinced that Nasica's status as *pontifex maximus* left a distinct imprint on the violence which marked a 'decisive rift in the life of the Roman community'. The flurry of show trials of Tiberius' surviving sympathisers resulted in a few more deaths and some more ended careers. Although, as we have seen, he was acquitted under the process brought by Flaccus, Nasica was perhaps the most prominent individual to experience a premature end to his career as a result of Tiberius' death.<sup>98</sup> Plutarch paints a grim picture of a public figure in terminal decline:

People made no secret of their loathing for him when they saw him in the streets: they shouted enraged insults at him, vilifying him as an accursed tyrant who had polluted the most holy and

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<sup>97</sup> It is the view of Briscoe (1974) that 'Scaevola, seeing that the majority of the senate were behind Nasica, may well have made some ambivalent remarks which Cicero chose to construe as indicating approval of the murder.' (1974: 129)

<sup>98</sup> Although it could be argued that, whatever the precise circumstances of his death, the career of Scipio Aemilianus was also ended by his response to the crisis.

solemn of the city's sanctuaries with the murder of a man whose body was sacred and inviolable. (21)

The increasing clamour for his formal prosecution grew so great that the Senate created the pretext for his discreet exit from the city. Valerius Maximus is our chief source for his appointment to the embassy to Pergamum, sent to oversee the settlement of Rome's latest inheritance. Although this is a more honourable discharge than Plutarch's account of a dejected outcast's meanderings, the words '*sub titulo legationis*' (V.3.2.) cannot entirely disguise the fact that this withdrawal from Rome was, as I have chosen to describe it above, something of 'a punitive embassy'. Flower (2006:100) is probably right in configuring Nasica's mission as a species of exile, drawing parallels with Cicero's fate under broadly similar charges. But it is Plutarch who alerts us to the most remarkable feature of this course of action. Although it was Nasica's misfortune to die before he, like Cicero, could be 'recalled', the very fact that he was sent away at all is of extraordinary import. We need not linger over Plutarch's description of him slinking away; where he is absolutely correct, however, is his mention of Nasica 'being duty-bound to remain, since as *pontifex maximus* he had vital religious rites to carry out' (21). This is the crucial element in Nasica's story and for which, more so than his direct or indirect involvement in Tiberius' death, makes him a figure of pivotal significance in Rome's religious and political history. While it was the *flamen Dialis*, the priest of Jupiter, who experienced the most severe restrictions on his freedom of movement, it was unheard of for the city's chief priest to be absent for an extended period *sine die*. In the course of the *Ab Urbe Condita* Livy offers other examples of *pontifices maximi*<sup>99</sup> who were constrained from leaving the city even when it was politically expedient for them to do so. No passing political or military advantage could justify breaking the sacred

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<sup>99</sup> Livy, 28.38.12; 28.44.11-12.

bonds between the high pontiff and the city: no amount of suitably qualified colleagues could replace the head of the college in the discharge of his most sacred duties.

As far as the extant records will allow us to determine, Nasica is the first *pontifex maximus* to die outside of the city. That curious (and unique) phrase of Velleius that he was the first to be elected chief pontiff *in absentia* must surely be a garbled reference to the fact that set Nasica apart from all his predecessors: that he was the first *absens pontifex maximus*.<sup>100</sup> He would not be the last of course. Indeed his immediate successor, Scaevola's brother P. Licinius Crassus Dives Mucianus, famously used his pontifical authority to constrain the *flamen Martialis* (and fellow consul) L. Valerius Flaccus from taking the prized command against Aristonicus in Pergamum. The fact that he could take his place at the head of the legions on the Pergamene campaign owes much, if not everything, to the fact that there was a precedent for the *pontifex maximus* leaving the city.<sup>101</sup> He too would die at Pergamum, not Rome.

### Further Analyses

Extraordinary threats to the safety of the Republic demanded an extraordinary response. Treves (1996: 1564-1565), following Cicero, distinguishes two kinds of *tumultus*: the *Italicus* and the *Gallicus*. Whenever the menace was directed at the city itself, even the conventions of military procedure could be set aside in an emergency call-to-arms, the *tumultarius dilectus* (Golden, 2013: 47). Although Nasica is sometimes anachronistically depicted as invoking the *senatus consultum ultimum*, the first proper deployment of the 'ultimate decree'

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<sup>100</sup> Badian (1996:399) takes Velleius at face value and conjectures that he may only have been elected PM as late as 132. If he did not succeed his father, P. Cornelius Scipio Nasica Corculum, in 141 this poses a significant challenge to both Broughton and Szemler's ordering of the pontifical lists.

<sup>101</sup> It was also, as Astin (1967:234) argues, an occasion which demonstrated the eclipse of Scipio Aemilianus. The *comitia tributa* was asked to resolve the dispute between the consuls, with entrusting the command to Scipio as an obvious way out of the *impasse*; only two tribes voted for him.

did not occur until 121 when it was directed against Tiberius' younger sibling and his supporters. What is most striking here is the way in which Nasica again maximises the opportunity presented by Scaevola's inaction to take a decisive step which, although unprecedented, nevertheless bore a strong resemblance to measures in keeping with *mos*.

Firstly, he could accentuate the gravity of the situation since the presiding consul had neglected to act. There is no want of drama in the three-way exchange between *pontifex maximus*, consul and senate: if Rome's chief magistrate could not bestir himself, who would be the guarantor of its laws and its defender in the face of Tiberius' depredations? Still, we can only wonder how Nasica felt as the moment of action finally arrived. He was, after all, proposing to deprive fellow-citizens (and a tribune) of their most basic rights, not only branding them as outlaws but reducing them to the status of foreign aggressors.

The contentious iteration of Tiberius' tribunate was probably enough to taint him with the charge of *adfectatio regni*, a step which legitimized the suppression of his civil rights and which consigned him to a status which was as much *sub-human* as sub-citizen. Precedent could be found for the disposal of would-be tyrants. As Smith (2006b: 50) notes, there is a strong connection between frumentary-agrarian intervention on the part of popular leaders and senatorial alarms of incipient tyranny. We should be conscious, however, of the retrospective shadow the Gracchi may have cast over the accounts of earlier *adfectatores regni*. Nasica would have known, however, that the credible taint of wishing to establish a *regnum* in Rome would lend both urgency and legitimacy to any ensuing action. He would also have been conscious of the religious sanctions attached to attempted tyrants both in terms of their own fate and the disposal of their property. In other words, Nasica was fully apprised of the constitutional and religious implications.

The extraordinary scope of the course undertaken by Nasica clearly challenges the perception of an *ad hoc* solution. We cannot, of course, be sure from whom he would have sought his legal advice but there remains a question mark over the consul's role in these decisive hours. It is hard to imagine that any consul would stomach such a public rebuke and meekly accept such an open challenge to his authority. The fact that Scaevola gave every impression of 'rolling over' to Nasica - offering no substantial resistance at the time and a form of tacit acceptance thereafter - makes his position problematic. Cicero, who is understandably fond of the Nasican motif, even suggests that the consul's response was laudatory:

Sed publicam causam contra uim armatam sine publico praesidio suscipere nolui, non quo mihi P. Scipionis, fortissimi uiri, uis in Ti. <Graccho>, privati hominis, displiceret, sed Scipionis factum statim P. Mucius consul, qui in gerenda re (publica) putabatur fuisse segnior, gesta multis senatus consultis non modo defendit, sed etiam ornauit.<sup>102</sup>

The next year's consuls presided over a number of *quaestiones extraordinariae* by way of a 'contained purge' of Gracchan sympathisers. These trials are best known for Blossius' response to the loaded question about setting fire to the Capitol if Tiberius had asked for it. Incendiarism on the Capitol was, as Nippel (1995: 62) observes, a fear which stalked the Roman imagination, especially in the early and middle Republic. As we have already seen, the Capitol provided a particularly suggestive *palcoscenico* for Nasica and his followers: not only would Tiberius be struck down in sight of the statues of the kings but it seems likely that

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<sup>102</sup> Cicero, *De domo*, 91.

But I was unwilling to take up the public cause against armed violence, without the protection of the people. Not that I disapproved of the forcefulness of P. Scipio, that bravest of men, against Tiberius Gracchus when he was only a private individual; but P. Mucius the consul, who was thought somewhat remiss in safeguarding the republic, immediately defended, and, what is more, extolled the action of Scipio in many resolutions passed by the senate.

a statue honouring the ‘tyrannicide’ was set up in these same precincts. Lintott (1992: 72) speculates that the remains of a statue of Aristogeiton, found at the base of the Capitol, ‘may be part of a monument set up later to commemorate the alleged imitation of the Athenian example.’ We know that, by Cicero’s time, there was at least one misidentified statue of Scipio Nasica Serapio; how this relates to the conversation in *De re publica* (VI.8) in which Laelius’ character bemoans the fact that no-one has erected a statue of Nasica is not clear. It may be that the incorrect inscriptions were added to statues already standing, whereas the Aristogeiton statue was a coded tribute to the controversial *pontifex* which needed no explicit dedication.<sup>103</sup>

As we have seen, either Nasica was spontaneously inspired to punctuate his outbursts against Tiberius with the impressive cadences of the *tumultus* and the symbolic vesture of the *pontifex-consul* or he had deliberately choreographed it. No matter the intention, the effect of the chief priest bearing down on the crowds has been variously described as one of ‘awe’ (Nippel, 1995: 58) or a ‘deferential giving way’ (Brunt, 1971: 81). Consciously or not, Lintott (1999: 183) suggests that the *pontifex* was indeed ‘making a bridge’ between the traditional execution of tyrants and the ultimate decree which would form the Republic’s last line of defence in times of civil emergency.

It seems likely that Nasica continued to be a figure of prominence in the immediate aftermath of the killings. Flower (2006: 70) thinks that it was Nasica himself who turned down the family’s request for Tiberius’ corpse, denying him the last rites – despite their promise of a discreet funeral. He was certainly unapologetic about his involvement and yet, on some level,

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<sup>103</sup> Flower suggests that it was Sulla who erected copies of both the Athenian Harmodius and Aristogeiton statues in celebration of his defeat of the Marians (2006: 109).

he must surely have sensed the magnitude of what had taken place. As the 'fall-out' gradually began to descend on Rome, perhaps he felt the need to cover his head once again.

It is worth considering in a little more detail the specifically religious response to Tiberius' death at the hands of Nasica.

### *Sacrum and expiation*

Unfavourable omens led the Senate to consult the Sibylline books so as to determine how best to undo the harm that had been done. The focus of the expiatory rites centred on Ceres, the goddess of the crops and the fields. There has been a suggestion that, since Tiberius' programme was one of agrarian reform, it was Ceres who had taken offence: whether offence was taken at the manner of his death or, as his opponents suggested, at his making the fields of Italy the turf of a pitched ideological battle, is a matter of interpretation. The fact that the expiation was carried out at the most ancient cult centre of Ceres, at Henna in Sicily, is a further intriguing detail. Was this a reflection of the gravity of the offence or merely part of a wider effort at damage limitation, removing the sanative rituals from the still-tense arena of Roman politics? The beauty of this scenario for our purposes is that we do not have to choose: it simply serves as a further demonstration of the religious aftershocks of the event itself.

Although Nasica was the prime-mover of the opposition to Tiberius, there is no absolute consensus as to the hand which dealt the fatal blow. The dubious distinction of actually

elling Tiberius usually belongs in the later literature to a fellow tribune, Publius Satureius.<sup>104</sup> This should give us pause. The traditional reading of the subsequent religious ceremonies accepts the conventional wisdom that Ceres, tutelary goddess of the plebs, had to be placated as a result of Tiberius' actions. He had deposed a tribune from office and, just possibly, allowed him to be subjected to rough handling, thereby violating his *sacrosanctitas*. Such a transgression was an impediment to the normal life of the state: a crucial threshold of order and right relations had been breached. Spaeth (1996: 73) argues that Ceres had special care of the 'liminal realities' of public life, as well as a particular connection with the laws on *sacrosanctitas* and *adfectatio regni*.<sup>105</sup> It would be misleading, however, to interpret the involvement of Ceres simply as a vindication of those who sought to blacken the name and the cause of Gracchus. The reality is, I think, more complex and ambiguous than that. There is, for example, an ambiguity in Cicero's account of the decision to carry out expiatory rites at the most ancient shrine of Ceres:

Itaque apud patres nostros atroci ac difficili rei publicae tempore, cum Tiberio Graccho occiso magnorum periculorum metus ex ostentis portenderetur, P. Mucio L. Calpurnio consulibus aditum est ad libros Sibyllinos; ex quibus inuentum est Cererem antiquissimam placari oportere.<sup>106</sup>

Cicero, who does not normally shy away from making his criticism of Tiberius explicit (Woolf, 2006:89), here seems to allow the precise cause of that 'most dreadful and trying

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<sup>104</sup> As we have seen, however, Cicero is unambiguous (and even proud of the fact) that it was Nasica himself who killed Tiberius.

<sup>105</sup> Wiseman doubts the historicity of these *leges sacratae*; he argues that they are more likely to be evidence of Nasica's impact on first century historiography (2009: 186).

<sup>106</sup> Cicero, *in Verrem*, 2.4.108

And so among our fathers during that most dreadful and trying time for the Republic, when, with Tiberius Gracchus killed, fear of great dangers was indicated by prodigies, in the consulship of P. Mucius and L. Calpurnius, recourse was made to the Sibylline books, from which it was found that it was necessary to placate the most ancient Ceres.



time for the Republic' remain somewhat obscure. It is just possible that he too was not immune to the disquieting thought that it was Tiberius' *own* inviolability which had been brutally compromised – and by a fellow tribune.

And so it may be that, although the ensuing recriminations and surviving accounts of the legal process seem not to mention it, Tiberius *had* acted in accordance with the law. Badian (1996: 196) is of the view that Tiberius' proposed dismissal of his colleague as tribune was not accompanied by a formal exauguration since 'Octavius had himself violated the terms of the *lex sacra* and thereby stripped himself of its protection.' Therefore, it was not Octavius' sacrosanctity which had been so egregiously trampled upon, but that of Nasica's enemy – or so the Gracchan partisans could argue. Still, it was Tiberius who had instigated a form of violence, albeit non-lethal, in the physical removal of Octavius (Flower, 2010: 83). No matter how this disturbance was dissected and examined, the fact remains that one tribune acting violently towards another constituted a serious infraction of that sacred balance so beloved of Ceres. That some *piaculum* was required is beyond doubt. As we have already noted, the choice of the 'mother shrine' of Ceres at Henna was less ideologically loaded than the Roman plebs' sanctuary on the Aventine. There may be another reason behind the choice.

Scaevola was left to steer a path through the crisis without the direct support of his consular colleague, Calpurnius Piso Frugi, who was otherwise detained in Sicily. Piso had taken the command against the slave revolt led by Eunus which, as Spartacus' insurrection would also prove some sixty years later, had been more than a match for Roman arms. The city of Henna and its sanctuary fell to the slave army and, after several unsuccessful attempts by other generals, Piso had just begun to meet with success when he had to return

to Rome. Eunus' grip had been weakened, however, and the revolt was finally put down in 132. Le Bonniec (1958: 368) is struck by the timing of the priestly delegation to Henna in that same year. He argues – correctly in my view – that the senate wished to erase any contamination of the cult of Ceres by the rebels and send out a message of solidarity to the people of this prized island at the conclusion of their own time of crisis. We might even suggest that there was an element of religious and political re-colonisation implicit in this undertaking. The death of Tiberius was certainly 'on the agenda' but it may not have been the whole of it and perhaps not even the real priority. The *real* expiation would take a different form and involve a different victim.

### **Spiriting Nasica from Rome**

The ancient sources are ambiguous about the timescale of Nasica's fall from grace: this has led to some widely divergent reconstructions of events. We get the sense that the *optimates*, Nasica included, regarded offence as the best form of defence and attempted to quickly assert their ascendancy. Those *quaestiones extraordinariae* which took place under the consuls of 132 are sometimes presented as being at the behest (or at least with the significant involvement) of Scipio Nasica. There is, in fact, little need to associate the events in which Nasica is shown playing a key role against Blossius, Diophanes and Villius (Plutarch, *Tiberius Gracchus* 20) with those later formal trials. Plutarch, for example, is exercised by the fact that these Gracchan sympathisers were disposed of *without* benefit of trial. Having Nasica as a prime mover in the *quaestiones* makes it difficult to reconcile the urgency of events in Rome with the more leisurely pace demanded by the protracted legal process which seems to have followed. Cicero gives Laelius the role which has been ascribed by later authors to Nasica:

Ti. quidem Gracchum rem publicam uexantem a Q. Tuberone aequalibusque amicis derelictum videbamus. At C. Blossius Cumanus, hospes familiae vestrae, Scaeuola, cum ad me, quod aderam Laenati et Rupilio consulibus in consilio, deprecatum uenisset, hanc ut sibi ignoscerem, causam adferebat, quod tanti Ti. Gracchum fecisset ut, quidquid ille uellet, sibi faciendum putaret. Tum ego: 'Etiamne, si te in Capitolium faces ferre uellet?' 'Numquam' inquit 'uoluisset id quidem; sed si uoluisset, paruissent.' Uidetis, quam nefaria vox! Et hercule ita fecit uel plus etiam quam dixit; non enim paruit ille Ti. Gracchi temeritati sed praefuit, nec se comitem illius furoris, sed ducem praebuit. Itaque hac amentia quaestione noua perterritus in Asiam profugit, ad hostes se contulit, poenas rei publicae graves iustasque persoluit. Nulla est igitur excusatio peccati, si amici causa peccaueris; nam cum conciliatrix amicitiae uirtutis opinio fuerit, difficile est amicitiam manere, si a uirtute defeceris.<sup>107</sup>

Valerius Maximus also adopts Cicero's version of events, making no mention of Nasica at this juncture. Such accounts are more in keeping with the notion that it was the *pontifex maximus* who was under fire and being threatened from various quarters. The plebs who had clamoured for an inquest got their way and part of the solution was to ensure that Nasica was shielded from the consequences by removing him from the city (sacred ties notwithstanding

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<sup>107</sup> Cicero, *de Amicitia*, 37

When Tiberius Gracchus attempted his revolutionary measures he was deserted, as we saw, by Quintus Tubero and the friends of his own standing. On the other hand, a friend of your own family, Scaeuola, Gaius Blossius of Cumae, took a different course. I was acting as assessor to the consuls Laenas and Rupilius to try the conspirators, and Blossius pleaded for my pardon on the ground that his regard for Tiberius Gracchus had been so high that he looked upon his wishes as law. "Even if he had wished you to set fire to the Capitol?" said I. "That is a thing," he replied, "that he never would have wished." "Ah, but if he had wished it?" said I. "I would have obeyed." The wickedness of such a speech needs no comment. And in point of fact he was as good and better than his word; for he did not wait for orders in the audacious proceedings of Tiberius Gracchus, but was the head and front of them, and was a leader rather than an abettor of his madness. The result of his infatuation was that he fled to Asia, terrified by the special commission appointed to try him, joined the enemies of his country, and paid a penalty to the republic as heavy as it was deserved. I conclude, then, that the plea of having acted in the interests of a friend is not a valid excuse for a wrong action. For, seeing that a belief in a man's virtue is the original cause of friendship, friendship can hardly remain if virtue be abandoned (translated by W. A. Falconer).

Lowrie, 2007: 49). Nagle (1971) argues that this was a fairly rapid process. She supports the ‘traditional’ position of Tiberius’ death sometime in June (according to the solar calendar) or in July (by the Roman reckoning). The *consultum* regarding Pergamum and its five-man commission would have been passed between mid-August and September and so ‘Nasica was out of Rome by the end of September’ (Nagle: 1971: 127).

No doubt the senators’ commission to Nasica was a way of avoiding the worrisome prospect of a *pontifex maximus* on trial, but also perhaps tacit recognition that there was enough evidence to find him guilty. No member of the senate is more emblematic of this uncertainty than Scaevola:

If one single man, and he holding the highest political office in the republic and an educated expert in the law, was unable to provide blanket approval or blanket disapproval of this conduct, how was the entire population, or even the ruling class of Rome supposed to decide? (Gaughan, 2010: 117)

## **Conclusion**

I have argued that Nasica’s actions set in motion a chain of events which fundamentally altered the office of *pontifex maximus* and the way it was perceived. Authorities both ancient and modern differ in the extent to which they accord any religious significance to these events. Knowing what we now know about the symbiosis of religion and public life in Rome, it is no longer sufficient to treat Nasica’s intervention as a purely political deed. It was (and not merely tangentially) a religious intervention by virtue of his office which lent him *gravitas* and *auctoritas*, if not *imperium*. Those who have argued against a pre-meditated act of lethal violence against a kinsman do so against virtually every source which records the

event or its consequences. Even if, to paraphrase Rawson, Nasica extemporised some vaguely solemn pastiche of pontifical sobriety as a cover for pent-up political passions, he must have had some idea that things could end badly and yet proceeded regardless of this. It was not as though he did not have ‘form’ as a vociferous opponent of his cousin. By appealing to religious principle he could, literally, attempt to cover himself against the immediate accusations of sacrilege which would later dog his every step. Just which religious principle or formula is a question beyond resolution. Although the idea of a human sacrifice is both unpalatable and rendered problematic by the implied confusion of roles (was he priest or *privatus*?), the same could be said of all attempts at unpicking the knot of words and deeds. Linderski’s dismissal of an improvised sort of *devotio* on the grounds that Nasica did not have *imperium* is no more logically robust than the claim that he was declaring Tiberius *homo sacer*. He was a private citizen because he had no *imperium* and yet a *privatus* had no power to declare any thing or one *sacer*; it is much more probable that was drawing attention to the fact that he was *pontifex maximus*, the *iudex atque arbiter rerum divinarum humanarumque*. And surely, if anyone had the power to recast an obscure rite in the heat of an unprecedented crisis it was this same *iudex atque arbiter*?

There is just as much legitimacy in proposing a course of action which drew upon elements of *devotio* as well as *sacratio*; the rigid categories of ‘normal’ religious ceremony must yield to the exceptional circumstances we are addressing in 133. To a real degree, these circumstances were just as much the result of religious conflict as they were political (and not merely as religious interpretations worked out after the fact): the very issue of *sacrosanctitas* at the heart of this crisis is as germane as the details of agrarian policy or popular assemblies. This is why Nasica was not only uniquely placed to become the *auctor* of this sacro-political solution, but in a sense, obliged to be. As Connolly (2004) observes, ‘ritual emerges as a

fiction created – and written – by the aristocracy as a prop for and instantiation of their power’ (2004: 165). Nasica was more than capable of creating a new ritual, a dramaturgical fusion of those categories of sacred action I have discussed precisely because the power of the senate was being so openly subverted. Is the prospect of a pontiff-executioner really so untenable when his opponent can be cast in the role of tyrant, abuser of the tribunate – even one who tampers with Rome’s key boundary markers?

Politically and religiously speaking, Tiberius’ death marks a watershed. Although a decade of normal ‘competition and compromise’ among the *nobiles* followed (Lutz & Lutz, 2006: 500), something profound had changed in the discourse of public life in Rome. Nasica’s achievement of stable prominence meant that he was also a conspicuous and controversial figure after the death of Tiberius. He was *known* to have incited the senatorial group and indeed had clearly *been seen* doing so: as a consequence, the *pontifex maximus* was now perceived in a new light.

As a result of the popular and (delayed) senatorial reaction to Nasica’s deed, there came about the sundering of the vital link between *pontifex* and *urbs*. By his action, Nasica *absens pontifex*, became not merely the *predecessor* but the *enabler* of subsequent absent pontiffs, most notably Julius Caesar. Moreover, his actions provoked anguished debate on the lawfulness of what his *dilectus* had accomplished. Under the guise of archaic religious forms, Nasica brought ‘the sword’ into the public square and it was not to be sheathed until such time as another *pontifex maximus*, with an equal eye for the grand gesture, saw fit to do so.

## CHAPTER THREE

### Quintus Mucius Scaevola *Pontifex*

Tiberius had unleashed an *exemplum* whose force was uncontainable; it was to be repeated in the late Republic until Augustus put an end to civil discord. Custom was not only more powerful than the law to begin with, but in the face of the law's insufficiency, exceptional behaviour became the *mos maiorum* and was subject to repetition (Lowrie, 2007: 54).

The interventions of Tiberius Gracchus and Scipio Nasica demonstrated just how flexible (or vulnerable) the concept of *mos* had become. Both had improvised courses of action which, as Lowrie correctly argues, demonstrated the inability of the law to cope with the increasing incidence of 'exceptional behaviour'. In this regard, the *pontifex maximus* would come to be in a strong position: strong in the sense that he was able to behave exceptionally and still invoke the categories of *mos* to justify it. But where was the law in all this? What developments were taking place within the law and what was the involvement of the *pontifex maximus* in this process? In answering these questions, our attention in this chapter will focus on Quintus Mucius Scaevola whose intellectual activity had consequences – not only for legal and religious discourse – but for Scaevola himself. Indeed, Scaevola's own character (as well as his pursuits) had a bearing on the development of the office of chief pontiff and, I would argue, help to account for his vulnerability when the next wave of civil discord swept upon Rome. To this end, we need to consider his career in some detail.

Although the sources relating to Scaevola are comparatively abundant, there is a sense in which he is no less elusive than his quasi-mythical ancestor.<sup>108</sup> Much, though not all, of what we know of his life and thought reaches us through the filter of Ciceronian hagiography - replete with superlatives. Scaevola comes to exemplify all that is best about Roman virtue and integrity; he embodies 'good faith', both at an individual and at a societal level (Harries, 2006: 25). This can, however, result in his becoming 'a stock character, stereotypical and without dimension, whose virtue is a literary *topos* of Cicero' (Tuori, 2004: 247). Although Cicero exalts a number of *exempla*, some particular features of Scaevola's life do cause him to stand out from the ranks of illustrious *principes ciuitatis*. The aim of this chapter is to explore what we *can* know of him and what distinct imprint he left on the events of his time and the office of the *pontifex maximus* before he too was caught up in the murderous politics of the 80s B.C.

Before undertaking this analysis, however, we must briefly survey the careers of the men who preceded him in the office. It was through their pontificates that the legacy of Nasica was absorbed, negotiated and exploited.

### ***Pontifical predecessors***

Scaevola enjoyed a unique perspective of close kinship with the men who followed Nasica as head of the college. As we have seen, Nasica's absence from Rome set the precedent which his successor, Publius Licinius Crassus Mucianus, would exploit to the full. More open in his Gracchan sympathies than his brother, the consul of 133, Mucianus may well have benefited from the public backlash against Tiberius' senatorial enemies: he was appointed to the land

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<sup>108</sup> Livy, 2.12



commission in place of Tiberius. Whether or not the pontifical election was seriously contested by those candidates aligned with the opponents of the Gracchi, he successfully laid claim to the office at a time and in such a way that he was able to use it to further his own ambitions. The best known instance of this was the conflict with fellow consul Flaccus over the command against Aristonicus. Inspired, as we have seen, by similar past interventions, Mucianus adroitly nominated his colleague to the archaically prestigious post of *flamen Martialis* (Cicero, *Philippic* 11.18). Although not quite so career-crippling as the flamine of Jupiter, the priest of Mars was constrained by his key role in some of Rome's most important religious rites. To have no *flamen* present at these ancient ceremonies was unthinkable, even if the priest were to embark on a military enterprise – and Mucianus understood and exploited this fully. His manoeuvre in appointing Flaccus would ensure that his colleague was effectively neutralised as a general while Mucianus, liberated by the precedent of Nasicus's recent embassy, could absent himself from Rome indefinitely on military campaign. The power struggle which ensued was illustrative of the territory into which the political-religious nexus had shifted. The *pontifex maximus* levied a fine against the flamen-designate and he, in turn, appealed to the *populus*. It was the people's view that the fine should be waived – provided that Flaccus gave way to the chief pontiff's decree. Thus the distinction between pontifical jurisdiction, whereby the *captio* of the *pontifex maximus* should be honoured, and the legitimate disputation of the financial penalty, was maintained (Thomas, 2005: 124). Mucianus' victory was of brief duration: he was killed by Aristonicus in 130 and was succeeded as chief pontiff by his brother, P. Mucius Scaevola, the consul at the time of the first Gracchan crisis.

The ambiguity of Publius Scaevola's allegiances continues to perplex: although he no doubt feared the potentially disastrous consequences of hasty intervention, his apparent

endorsement of Scipio Nasica's actions and conciliatory overtures towards the *optimates* may only have served to isolate him, even if it did ensure his political survival (Gaughan, 2010: 112). Perhaps, as Gruen suggests, estrangement from his old sympathisers and a *rapprochement* with the Scipiones forced him to rely upon the friendship of the Metelli and the Aurelii Cottae (Gruen, 1965: 330). Elsewhere,<sup>109</sup> Cicero lists Scaevola among those consuls who have lent support to *popularis* causes or subsequently been adopted by these *seditioni cives* (Duplá, 2011: 283): and so the ambiguity remains. Scaevola tends to disappear from the front-line of political life thereafter. He briefly re-emerges from obscurity to make two interventions, both of them grounded in his office as *pontifex maximus*. In 123 he ruled against the Vestal Licinia, decreeing that her dedication of a shrine to *Bona Dea* was invalid owing to lack of popular authorisation.<sup>110</sup> Two years later we have his final publicly recorded act: after the death of the younger Gracchus he attempted to secure the return of his niece Licinia's dowry. This was more than simply avuncular concern: the harsh treatment meted out to the wives of the fallen transgressed both sacred norms and the *mos maiorum*.<sup>111</sup> His purported role in the discontinuation of the *tabulae dealbatae* (Frier, 1979: 83) and compilation of the *annales maximi* (Manca & Vio, 2010: 69) has been discussed in Chapter One.

Two other *pontifices maximi*, Metellus Delmaticus and Domitius Ahenobarbus, interrupted the tenure of the chief priesthood by the Mucii Scaevolae. Lucius Caecilius Metellus Delmaticus, *pontifex maximus* from c. 114 (Rüpke, 2008: 580) is a relatively obscure figure. He had been consul in 119 and *triumphator* in 117: as far as we can tell, he spent his term as chief pontiff in the city and, like his predecessor, is only really remembered for his

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<sup>109</sup> Cicero, *Lucullus*, 13.

<sup>110</sup> Cicero, *de Domo*, 136. The same Licinia would fall foul of another *pontifex maximus*: her acquittal for *incestum* was overturned by Metellus Delmaticus.

<sup>111</sup> Justinian, *Digest*, 24.3.66.

involvement in the trial of the Vestals Marcia, Aemilia and Licinia. According to Asconius (*pro Milone*, 32), Metellus and the whole pontifical college were accused ‘male iudicasse de incesto virginum Vestalium’. The retrial in 113, at the behest of a nervous populace, found all three guilty (originally only Aemilia had been convicted). This represents something of a sad end for Licinia, who had already been guilty of improper consecration of the Bona Dea shrine. Wildfang (2006: 93) argues that Licinia had been trying to assert her order’s independence from ‘the dictates of the people’. If so, it was an assertion too far: the *pontifex maximus*, not long in office, had had his judgement overturned and been compelled to preside at the ritual execution of his ‘daughters’ and their paramours. One can only imagine the effect of such direct involvement in an event characterised by what Plutarch describes as δεινῆς κατηφείας ‘a dreadful sorrow’ (Plutarch, *Numa*, 10:6). There had not been a similar spectacle for a hundred years, also coincidentally at a time of defeat for Roman armies.<sup>112</sup> Beyond this, we know nothing of Metellus’ pontificate. Perhaps this is, in itself, an eloquent silence. After the dramatic posturing of Scipio Nasica and Crassus Mucianus – to say nothing of the manner of their deaths on foreign soil – it may have been considered prudent to recalibrate the pontificate along more traditional (and less dangerous) lines.

We know more of Q. Scaevola’s immediate predecessor Domitius Ahenobarbus, at least his career before becoming *pontifex maximus*. Together with Crassus, he was appointed as a commissioner to oversee the establishment of the new colony of Narbo Martius in Transalpine Gaul in 118. As we shall see, this early collaboration with Crassus would not be characteristic of later relations between the two men. Domitius is perhaps best known for his tenacity in seeking entry to the pontifical college after the death of his father. As a prodigiously active tribune of the *plebs* in 104, he prosecuted the *princeps Senatus* M.

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<sup>112</sup> The previous instance was in 216, after the defeat at Cannae; in 113 the Cimbri and Teutones had defeated the Roman army sent by the senate to the aid of the Taurisci (Rawson, 1974: 199).

Aemilius Scaurus who had apparently blocked his cooptation into *one* of the priestly colleges.<sup>113</sup> While Asconius refers to the college of augurs<sup>114</sup>, Suetonius (and most modern scholarship) maintains that he was frustrated in his attempt to become a *pontifex*.<sup>115</sup> A difficulty arises from the fact that Scaurus was himself an augur<sup>116</sup> and what mechanisms, official or informal, existed for inter-collegial interference are hard to determine. Given that Domitius joined the *pontifices* so soon after this, the scholarly consensus has tended to flow in this direction. It might be possible, however, that Domitius' initial overture to a priestly college was to the *augures* and that this was to be the first of two unsuccessful bids in fairly quick succession.<sup>117</sup>

Although it was Scaurus' *veto* which prompted Domitius' suit, the charge that was officially brought against him was of negligence in observing a religious ceremony. Carlsen (2006), following Asconius, identifies these rites as pertaining to the *penates publici* at Lavinium. Gruen (1964: 108) notes that this 'obscure' charge not only fails to resolve the pontifical / augural question but might just as easily refer to some religious infraction dating from Scaurus' consulship or even earlier. It is Szemler's contention that the cult of the *penates* was entrusted to the pontiffs (1972: 124), whereas Lucan seems to suggest that senators were regularly charged with sacred vigils in compliance with a decree of Numa.<sup>118</sup> No matter what

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<sup>113</sup> Drummond suggests that Scaurus' objection to Domitius' appointment may have been interpreted as ingratitude; Scaurus had been appointed *princeps senatus* during the elder Domitius' censorship and might have been expected to show more warmth towards the son (Drummond, 2008: 388).

<sup>114</sup> Asconius 21.

<sup>115</sup> Suetonius, *Nero*, 2.1.

<sup>116</sup> Rüpke (2008: 518) is unambiguous; Szemler (1972), is less certain – cf. pp. 123-124.

<sup>117</sup> Sumner (1973: 100) attempts to argue the 'double vacancy' position (i.e. in the augural and pontifical colleges) and it seems to me that Carlsen's dismissal of this as 'very unsound' is somewhat perfunctory (cf. Carlsen, 2006: 44).

<sup>118</sup> Lucan, *Pharsalia*, 7. 391-396:

tunc omne Latinum  
fabula nomen erit; Gabios Ueiosque Coramque  
puluere uix tectae poterunt monstrare ruinae  
Albanosque lares Laurentinosque penates,

the substance of the charge may have been, the people acquitted Scaurus and Domitius set his sights upon another target, M. Junius Silanus. Although this action does not appear to be directly connected with his pontifical aspirations, we may be sure that Domitius' pursuit of Silanus was part of his campaign to raise his profile. Once again, his prosecution of Silanus failed.

After his unsuccessful attempt to *litigate* his way in, he decided, as tribune, to *legislate* a path by proposing a substantial change to the method of recruiting new members of the *amplissima collegia*. Domitius reworked a failed bill that had been proposed more than a generation earlier by the tribune C. Licinius Crassus in 145 (Cicero, *de Amicitia* 25). Crassus' law, which certainly enshrined some recognition of the sovereignty of the people in determining the make-up of the priestly colleges, may have been part of a wider interest in codifying solutions to religious questions (Rüpke, 2012: 118). Cicero's description implies that the basic intent of the *lex Licinia* was preserved by Domitius: the main thrust of his new law was giving the *minor pars populi* the right to elect all priests in the same manner as the *pontifex maximus*. One element of novelty, highlighted by Scheid (1985: 68), was the clustering of these four distinct colleges on the same procedural basis. Each member of the *pontifices*, *augures*, *decemviri* and *tresviri epulones* was obliged to nominate one candidate, with a cap of two nominators for each candidate. Clearly intended to strike a balance between priestly freedoms and legitimate popular involvement, Domitius' bill was, as Beard *et al.*

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rus uacuum, quod non habitat nisi nocte coacta  
inuitus questusque Numam iussisse senator.

Then all of the Latin name will be but legend;  
ruined roofs covered in dust will  
scarce be able to point to the site of Gabii and Veii  
and Cora, the lares of Alba and the penates of  
Laurentum — an abandoned countryside, where no one dwells  
except the senator forced to spend  
the night there by Numa's law which they resent.

(1998a: 136) maintain, a more sophisticated instrument than the legal crowbar it is sometimes made out to be. North (1990) argues that the prohibition of more than one member of a *gens* being present in a college at any one time also originates in Domitius' proposed law - although he does not make a convincing argument as to *why* it should have been so (North, 1990: 527 ff). More recently, Drummond has explored the precise meaning of *gentiles* (and the notion of 'control' of a priestly college) to offer a more satisfying account of the mechanisms which may have been involved in the prohibition (Drummond, 2008). North himself has revisited (but not substantially altered) his earlier position: he regards Domitius' law as more of a compromise than is sometimes portrayed, ensuring that the *pontifices* still retained some influence through nomination of candidates, even if they could no longer directly coopt them (North, 2011: 40).

After his failed lawsuits, and perhaps reaping the rewards of a busy year as the tribune, he was successful and the *lex Domitia* of 103 became one of the landmarks of pontifical history. It is worth noting that while Domitius was investing considerable time and effort in his attempt to enter the college (and then, within a few months, lead it), Quintus Scaevola was already in the college and had been for over ten years. It would not have been unreasonable to suppose that *he* might be the natural successor to Metellus Delmaticus. Attempts to recreate the circumstances within the college at the time of Domitius' accession will always be conjectural. It can be assumed that he had at least one *inimicus* among their number (otherwise cooptation would have been fairly automatic).<sup>119</sup> Even if we allow for Scaurus

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<sup>119</sup> Rüpke's reconstruction of the pontifical college in 104 is problematic (2008: 111-112): as well as Servius Sulpicius Galba, Quintus Mucius Scaevola and Gaius Julius Caesar Strabo, Rüpke names Quintus Servilius Caepio as *pontifex maximus* (from 107). For a discussion of this – and the argument for setting aside Caepio's pontificate – see Appendix A. Sulpicius Galba's pontificate is also inferred, since his younger brother was an augur (Rüpke, 2008: 910) and Caesar Strabo's priesthood is only certain from 99. Here too Rüpke speculates that he was coopted in tandem with his appointment to an agrarian commission in 103 (2008: 738), although Rüpke places him in the college in 105 (2008: 111).

exerting external pressure to block the cooptation, we are still left with the question of who the obstructive member was within. Where there other channels of influence feeding into the discussions from outside the college? Bauman reads into the remark attributed to Crassus in Suetonius –

in hunc dixit Licinius Crassus orator non esse mirandum, quod aeneam barbam haberet,  
cui os ferreum, cor plumbeum esset <sup>120</sup>

– that some unspecified hostility between Crassus and Domitius increases the likelihood that it was indeed Scaevola who blackballed the enemy of his ‘friend’ (Bauman, 1983: 381). Scaevola’s sympathies are hard to pin down at this time; his ‘repeated collegiality’ (Rüpke, 2012: 121) with Crassus and increasing identification with optimate causes is perhaps an indication that Scaevola would have been prepared to block Domitius. What Bauman has termed the ‘irruption’ of Domitius into the college is, of course, only half the problem.<sup>121</sup> For an incomer to be elected *pontifex maximus* after such a short interval throws up a procedural question. If we follow Livy’s statement about the newest pontiff conducting the election of the chief pontiff,<sup>122</sup> this naturally creates a scenario similar to that of Scipio Nasica Serapio. Could Domitius’ rapid ascent be attributed to his ability to influence the tribes, or was there some other mechanism to ensure a fair and seemly transition? Cicero writes to Marcus Brutus about a consul convening the priestly *comitia* in 43,<sup>123</sup> but we cannot be certain if a similar procedure could have been invoked in 103.

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<sup>120</sup> Suetonius, *Nero*, 2: It was of this man that the orator Licinius Crassus remarked that it was no wonder he had a bronze beard, since he had a face of iron and a heart of lead.

<sup>121</sup> Bauman, 1983: 380.

<sup>122</sup> Livy, 25.2-4.

<sup>123</sup> Cicero, *ad Brutum*, 1.5.4 :

omnino Pansa uiuo celeriora omnia putabamus. statim enim conlegam sibi subrogauisset, deinde ante praetoria sacerdotum comitia fuissent. nunc per auspicia longam moram video. dum enim unus erit patricius magistratus, auspicia ad patres redire non possunt. Magna sane perturbatio.

The fairly detailed knowledge we have, both of Domitius' entry to the pontifical college and election as *pontifex maximus*, makes the lack of information about his career thereafter all the more incongruous. He was consul in 96 and censor in 92 (along with Crassus), but beyond a few meagre facts we have little or no detail about his career: it is perhaps telling that Suetonius finds more to say about the *lex Domitia* than anything else (Suetonius, *Nero* 1).<sup>124</sup> This may well indicate that the unobtrusive pontificate of Metellus Delmaticus had come to represent something of a template for his successor. No doubt such a pattern of tranquility would have suited the man who would, in turn, succeed Domitius as high pontiff in 89: the eruption of all-out civil war would deprive Scaevola of that. Even in the year in which Scaevola became *pontifex maximus*, the urban praetor Sempronius Asellio had been cut down by a mob while performing a sacrifice in a temple at the heart of the forum (Barlow, 1980: 213).<sup>125</sup> That such violence could be perpetrated against the urban praetor himself – and in a sacred space – is a sign of how much things had changed since the murder of the Gracchi. That the instigators went unpunished (Steel, 2013: 102), is even more telling.

### **Quintus Mucius Scaevola: *Cursus honorum***

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I thought everything would have moved altogether faster if Pansa were alive. He would have had his colleague elected straight away and then the priestly elections would have preceded the praetorian ones. Now I foresee a long delay for the auspices: for as long as there is one patrician magistrate, the auspices cannot revert to the patricians. There is a great deal of confusion.

[Cicero is writing in the context of a vacancy in the pontifical college which he hopes will fall to his son: clearly this letter to Marcus Brutus is meant to elicit his support since Brutus is a *pontifex*.]

<sup>124</sup> Suetonius confuses Domitius with his homonymous father, who defeated the Allobroges and Avernus c. 121 B.C.; this deprives us of the only other colourful anecdote attributed to Domitius Ahenobarbus, that he rode an elephant in triumph.

<sup>125</sup> The murder took place in the Temple of Castor and Pollux (Appian, *Civil War* 1.54; Livy *Periochae*, 74; Valerius Maximus, 9.7:4).



Quintus Mucius Scaevola (born c. 140 B.C.) became chief pontiff in 89 and his promotion marked the culmination of his public career. Finding a reliable chronology for Quintus' life is problematic. Following the indications in Broughton, we may tentatively reconstruct the major events of his career as: quaestor in 110/109, *tribunus plebis* in 106, curule aedile by 100, praetor by 98, consul in 95, governor of Asia during or after either his praetorship or his consulship, *pontifex* from 115/4 and *pontifex maximus* from 89 until his murder in 82 (Broughton, 1952: 593).<sup>126</sup>

His term as a tribune seems to have passed quietly (Russell, 2013: 105); Cicero can think of nothing to report.<sup>127</sup> To all intents and purposes, Scaevola really emerges fully into the record as consul in 95, alongside his colleague and (then) friend L. Licinius Crassus. Their association has been cemented through two pieces of legal activity<sup>128</sup>. Most famous – and consequential – was the *lex Licinia Mucia* of 95. The *lex* established a *quaestio* to address the issue of Latins and Italians who had illegally registered as Roman citizens. Their action is often characterised as a straightforward expulsion of non-citizens from the city (Kahn, 1986: 20), but the moderate consensus is that it merely overturned these erroneous registrations. Indeed Cicero explicitly rules out the expulsion interpretation in *de Officiis* 3.47 on the grounds it would be '*inhumanum*'. That said, Cicero (and certainly Asconius) was of the opinion that the law *did* contribute to the outbreak of the Social War (Tweedie, 2012: 123).<sup>129</sup> Those simmering resentments against the high-handed and frequently ungrateful treatment of the Italians were given juridical form in the *lex Licinia Mucia*. It may be that what was most injurious was not the law itself but the motivation of some of its proponents and the manner

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<sup>126</sup> See also Bauman, 1983: 341.

<sup>127</sup> Cicero, *Brutus* 161.

<sup>128</sup> The other legal matter, the *Causa Curiana*, will be discussed later.

<sup>129</sup> Asconius 67-8C.

of its application. Cicero alludes to the influence of Scaurus,<sup>130</sup> whose attitude towards the Italians typified Roman arrogance. Elsewhere the *quaestio* itself is described as *acerrima*.<sup>131</sup> In *pro Balbo* Cicero briefly relates the trial of Matrinius who was granted citizenship by Marius and is the only individual known to have been prosecuted under the *lex*. Gruen construes the prosecution as an attack on Scaevola, Crassus and Marius whom, he argues, were confederates at this time (1966a: 48). Although ending in acquittal, it would seem more plausible to see the trial as a simple rebuke to Marius who had issued several grants of citizenship under a *lex Appuleia de coloniis deducendis*. This view would be more consistent with the tenor of the relationship between Marius and Scaevola we can observe (in its downward spiral) from this point onwards.

Marcus Aemilius Scaurus, who certainly impressed Cicero<sup>132</sup> and may have indeed inspired the *lex Licinia Mucia*, was to have another significant influence on Scaevola's career. Scaurus spent part of the nineties on an embassy to Asia (probably during 96) with a view to curbing Mithridates.<sup>133</sup> It was during this *legatio Asiatica* that he observed much that was going awry in the province together with indications of Marius' lingering influence – the two were synonymous as far as Scaurus was concerned. It was probably for this reason that he pressed for Scaevola's appointment as governor. There is also the fact that the Mucii Scaevolae, through two earlier governorships, had acquired three decades' worth of expertise and local knowledge.

### Scaevola in Asia

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<sup>130</sup> Cicero, *de Oratore*, 2.257.

<sup>131</sup> Cicero, *pro Balbo*, 48.

<sup>132</sup> Cicero, *pro Scauro* 1; *de Officiis* 1.108, *ad Familiares* 1.9; Asconius 21c.

<sup>133</sup> Valerius Maximus 3.7.8.

In becoming governor of Asia Scaevola was following in the footsteps of his (second) cousin, Quintus Scaevola the Augur, who presided over the province in 120-119.<sup>134</sup> The younger Scaevola's administration was distinguished as much by its brevity as its probity: *solos novem menses Asiae praefuit*, writes Cicero to Atticus.<sup>135</sup> This timeline would also appear to be borne out by his returning to Rome in time to spoil Crassus' plans for a triumph at the conclusion of his governorship of Cisalpine Gaul (Cicero, *in Pisonem* 62).<sup>136</sup>

An early indication of a new style of leadership was his decision to meet the expenses of his administration out of his own resources. He also expected his staff to emulate this new spirit of restraint and, one presumes, those involved in profiteering were made aware of the governor's parsimony. This could hardly have been welcomed. Thanks to the provision made by Gaius Gracchus in 123 for gathering its provincial revenue, Asia had one of the most competitive (and therefore savage) tax markets in the Roman world. But the ubiquitous practice of bleeding a province, rapacious governors in tow with unscrupulous *publicani*, was not to be a feature of Scaevola's watch. Indeed the *publicani* were to find themselves the targets of an aggressive 'clean hands' policy instigated by the governor. Diodorus writes enthusiastically of the opportunities for popular redress against the tax-farmers and records that every complaint was upheld and compensation ordered.<sup>137</sup>

Scaevola's philosophy of just governance was given its most enduring and far-reaching expression in his provincial edict (Balsdon, 1937: 8). The edict resonated with the more noble

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<sup>134</sup> Relations between the Mucii Scaevolae are hard to establish: Scaevola Augur is usually taken to be the very much younger cousin of Quintus Scaevola's father and uncle.

<sup>135</sup> Cicero, *Ad Atticum*, 5.17.5.

<sup>136</sup> Although Asconius' commentary – which explicitly names Scaevola – is by no means uncontroversial (c.f. Kallet-Marx, 1989).

<sup>137</sup> Diodorus Siculus, 37.5

aspirations of the Senate and it was quickly established as binding for all subsequent governors of that province.<sup>138</sup> Beyond Asia, Brennan (2000: 464) notes that the edict was soon adopted (perhaps almost in its entirety) for Sicily and, most famously, proved to be a mine of both style and substance for Cicero in his own Cilician edict some forty years later (Marshall, 1964: 189; Richardson, 1994: 590). What set Scaevola's edict apart from other such provincial decrees was the fact that it was drawn up as a response to the real circumstances of the province. The actual condition of the provincials had a direct influence on the priorities and policies identified in Scaevola's edict. In contrast, most edicts seem to have been put together before the governor had even set foot in his province and tended, therefore, to focus on generalities. Brennan finds that Scaevola's attention to the fine detail of people's lives, while admirable, runs the risk of absurd micro-management. Among the initiatives meeting with Diodorus' approval was Scaevola's self-appointment as tutor to children and women without a guardian, prompting Brennan to ask what they were meant to do after he had left the province (2000: 480).

According to Harries (2006: 20), what Cicero found most useful in the original Scaevolan edict was the principle that locals should be allowed to deal with their own private disputes according to their own laws. His implementation of this policy is demonstrated in the agreement he successfully brokered between Ephesus and Sardis. A jurist to his fingertips, Scaevola crafted this civil compact between the cities so that should a citizen of either *polis* be accused of harming a citizen of the other, the legal process would be carried out in the defendant's jurisdiction. Riders to this agreement committed both cities to peaceful

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<sup>138</sup> Valerius Maximus 8.15.6: Ac ne Q. quidem Scaeuolae, quem L. Crassus in consulatu collegam habuit, gloria parum inlustris, qui Asiam tam sancte et tam fortiter obtinuit, ut senatus deinceps in eam prouinciam ituris magistratibus exemplum atque normam officii Scaeuolam decreto suo proponeret.

Nor is the glory of Q. Scaevola, whom L. Crassus had as his colleague in the consulship, any less bright; he governed Asia so uprightly and so firmly that the senate in its decree proposed Scaevola as an example and benchmark of administration for magistrates going to that province from then on.

negotiation of unresolved disputes through the arbitration of neutral third parties (Magie, 1975: 174). For such a basic policy of respect and fairness to be hailed as groundbreaking is a measure of what a relatively rare phenomenon good provincial government was. Cicero's application of similar principles was regarded as emancipatory and assured him similar demonstrations of good will to those which greeted Scaevola.<sup>139</sup> Underpinning this liberality seems to have been a genuine conviction on Scaevola's part that laws are intrinsic to a people's identity and dignity. Such a conviction also invites a more nuanced reading of the *lex Licinia Mucia*: the usurpation of citizenship is not just an infringement of Roman laws but a denial of those laws and customs which sustain the identity and dignity of other *civitates*. The *lex* becomes not the blunt assertion of Roman isolationism but rather an affirmation of civil pluralism.

Another aspect of Scaevola's edict which made its way into Cicero's own was that clause which invalidated those contracts which were not *ex fide bona*. Bauman underscores the significance of this:

The introduction of the *exceptio doli* into the provincial edict... is the most dynamic illustration that we possess of the ideology of Q. Scaevola in action on the political front (Bauman, 1983: 383).

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<sup>139</sup> Cicero, *Ad Atticum*, 6.1.15: ego tamen habeo ἰσοδυναμούσαν sed tectiorem ex Q. Muci P. L edicto Asiatico, EXTRA QVAM SI ITA NEGOTIVM GESTVM EST VT EO STARI NON OPORTEAT EX FIDE BONA, multaue sum secutus Scaeuolae, in iis illud in quo sibi libertatem censent Graeci datam, ut Graeci inter se disceptent suis legibus.

I have a clause to the same effect, only more guarded, from the Asian edict of Q. Mucius the son of Publius: 'except the transaction was such that in good faith it ought not to stand'. I have followed Scaevola in many provisions, including that one which the Greeks consider their grant of liberty, that matters between Greeks should be dealt with according to their own laws.

What it most clearly illustrates is Scaevola's esteem for *bona fides* as the key characteristic of social and political behaviour. While his contemporary Bibulus had included a much more explicit version of the clause in his Syrian edict, Cicero preferred the emollient phraseology of Scaevola's version. Anything which assuaged the unease and hostility of the *equites* was desirable in Cicero's eyes. The *publicani* were, of course, *equites* themselves and although Cicero gravitated towards the *boni* (the 'right thinking' nobility) throughout his career,<sup>140</sup> he could not renounce his own equestrian origins. Moreover, he was only too aware of the extent to which the entire Roman project relied on these 'contractors'. Even when castigating Verres, the 'anti-Scaevola', he pulled his punches with the *publicani*. Much later, in the *pro Plancio*, he goes so far as to endorse them as *ornamentum ciuitatis et firmamentum reipublicae*.<sup>141</sup> Yet Scaevola's intervention, however exemplary, would not be an enduring legacy: ten years after his prosecution of Verres, Cicero was reluctantly siding with the *publicani* of Asia who had pleaded for a reduction in their original bid for the tax contract. In their enthusiasm – or greed – they had overstretched themselves: Cicero's advocacy failed, however, to prevent a rift between the senate and the *equites*.<sup>142</sup>

No matter how the *publicani* regarded Scaevola at that time (and we can presume they did not share Diodorus' enthusiasm), the rest of the populace venerated him as a hero. The Ephesians instituted - or at least appended to an existing festival - quadrennial games in his honour, known as the *Mucieia*. Still extant is a letter of thanks in which Scaevola records his gratitude but also displays appropriate humility (*OGIS* 437). We do not know his reaction to the setting up of a statue at Olympia but the conferral of semi-divine status was not without precedent in

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<sup>140</sup> Morstein-Marx, 2004: 122.

<sup>141</sup> Cicero, *pro Plancio*, 9:23. Cicero's fulsome praise of Plancius' background is part of a rhetorical balancing act between two supporters, one of whom is prosecuting the other for *ambitus* (Craig, 1990: 77-79).

<sup>142</sup> Cicero, *ad Atticum*, 1.17:8-9. cf. Stockton, 1971: 164-165; Tatum, 2006: 198.

the Greek cities (Price, 1996: 1338). It had, in fact, been regarded as politically expedient to allow the provinces to celebrate *viri illustres* in ways that could not have been countenanced at home. Even those who became enemies of Rome appreciated the necessity of respecting Roman virtue – especially if it served to cast their current opponents in a less favourable light. Brennan (2000) notes that one of the barbs directed by Cicero against Verres was that, while Mithridates had not dared tamper with the *Mucieia*, Verres had supplanted the established Marcellan games with his own ‘Verria’ (Cicero *in Verrem*, 2.2.19; Brennan, 2000: 550; also Santangelo, 2007: 34). Elsewhere in the province, Mithridates had also thought it wiser to leave inscriptions to Scaevola intact.

The striking – and one presumes sincere – lionization of Scaevola stands in sharp contrast with the treatment received by his *legatus*, Rutilius Rufus. After his decision to withdraw from the province after only nine months, the interregnum between Scaevola’s return to Rome and the arrival of his unnamed successor was entrusted to Rutilius. This left him exposed to the hostile attention of those less enamoured with the government of the province.

Cicero reminds us (and more immediately, Lentulus Spinther) of the risks of alienating the *publicani* and of their hostility to Scaevola during his time in Asia.<sup>143</sup> And yet it was not Scaevola who suffered their wrath: it was Rutilius who would be the lightning rod for the policy of fiscal restraint, being prosecuted for extortion during his time in the province. There are several possible reasons for this: in the first instance, we must disregard Badian’s assertion that the counter-attack was aimed at the *legatus* since ‘the *pontifex maximus* might have overawed any jury’ (Badian, 1972b: 91).<sup>144</sup> Badian is, however, on surer ground with his contention that Rutilius’ vulnerability was increased by the fact that he stayed on for three

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<sup>143</sup> Cicero, *ad Familiares*, 1.9.26.

<sup>144</sup> Scaevola was not *pontifex maximus* until 89.

months after the governor's departure. He became a sitting target for the *publicani* and it is easy to see how his emergence as a separate figurehead made it all the easier to strike at him without impugning the virtuous Scaevola.<sup>145</sup> As the supply lines of tax revenue flowed back to Rome, so too did the mounting sense of grievance and plans for a reckoning. The business interests of a significant proportion of the *equites* had been affected and Rome's middle class were in an unforgiving mood; Rutilius' conviction for extortion, despite a measured speech in his defence by Scaevola<sup>146</sup>, shocked many. Ancient sources tend to portray it as an injustice and there are many modern writers who seem to concur with their analysis.<sup>147</sup>

There are, of course, difficulties which remain. Bauman (1983: 389) notes that it deals a heavy blow to our perception of Rutilius to imagine one of the architects of the 'model edict' showing such practical disregard for its most praiseworthy ideals. We are also left wondering what Scaevola himself was doing while his deputy was supposed to have been lining his own pockets. Or are we to presume that Rutilius waited until Scaevola had left the province before engaging in the behaviour he had previously sought to extirpate? Just how much should we read into Scaevola's 'exemption' from prosecution?

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<sup>145</sup> It was the influential *publicanus* Apicius who brought a charge of debauchery and bribe-taking against Rutilius. We do not know much about Apicius but there have been theories that he was persuaded by Marius to undertake the prosecution. Marius certainly belonged to and maintained good relations with the 'old *equites*' whose support would have needed for such an assault. It is also a possibility that his brother-in-law, Gaius Julius Caesar (senior), was the *praetor de repetundis* that year and sympathetic to Marius' argument. Cassius Dio suggests that Marius was only too glad to see Rutilius suffer, since he was affronted by his loyalty to Metellus and irked by his reputation as a military reformer. (Cassius Dio, 28:97.3)

<sup>146</sup> Cicero, *Brutus*, 115: et Q. Mucius enucleate ille quidem et polite, ut solebat, nequaquam autem ea ui atque copia, quam genus illud iudici et magnitudo causae postulabat.

Quintus Mucius also spoke with his customary attention to detail and refinement, but, however, without the force and elaboration which the nature of the trial and the gravity of the case required.

Cicero, *de Oratore* 1:229: dixit item causam illam quadam ex parte Q. Mucius, more suo, nullo apparatu, pure et dilucide.

Likewise Quintus Mucius argued his part of the case according to his habit, without adornment of speech, but directly and crisply.

<sup>147</sup> E.g. Alexander, 2007: 246 and Bringmann, 2007: 178.



One factor which merits consideration is the fact that Scaevola was a *pontifex*: were he to be found guilty he would have been expelled from the College. Such a penalty would have been of sufficient gravity to merit extreme caution on the part of praetors and prosecutors. According to Cicero, the condemnation of C. Sulpicius Galba was the first time this had happened to a priest.<sup>148</sup> After his term in Asia Scaevola Augur was prosecuted *de repetundis* and Bauman speculates what role, if any, his priesthood may have played in his acquittal (1983: 398). Even if Scaevola *Pontifex did* benefit from his priestly status, he would not have been the first magistrate to enjoy the protection of his office and he would not be the last. It is curious, however, to note that the ‘ideological immunity’ of the priesthood – especially the chief priesthood – seems to have worn a little thin by the age of Caesar. Perhaps Caesar’s moves to prosecute his fellow *pontifex*, Quintus Lutatius Catulus in 62 (for misappropriation of funds in the Capitoline restoration project), had a part to play in this.<sup>149</sup>

Thus far the discussion of Scaevola’s legal interventions has been connected with the wider events which had driven them. Given that he enjoyed the greatest renown for his contribution to the law - and indeed sometimes been credited with the invention of ‘legal science’ as a distinct discipline – we should consider his career as a lawyer at greater length.

### **Scaevola the lawyer**

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<sup>148</sup> Cicero, *Brutus*, 127: hic, qui in conlegio sacerdotum esset, primus post Romam conditam iudicio publico est condemnatus.

Since the foundation of Rome, this man was the first member of the college of priests to be convicted in a criminal trial.

See also Badian, 1993: 208.

<sup>149</sup> Suetonius, *Divus Iulius* 1.15.

The modern word ‘lawyer’ proves too constrictive a term for the spheres of activity in which Quintus Mucius was engaged: the giving of *responsa*, the instruction of younger men in the laws and legal institutions of the State, public advocacy, jurisprudence. It is in this last category that he really excelled – although he was more than accomplished in the others. He is the earliest jurist to feature in the *Digest* and his opinions are cited on 46 occasions (Tuori, 2004: 251). In the absence of extant legal works, we rely on the abstractions and epitomes of (mostly) late writers. Beyond this, there are anecdotal references which may shed a little light on his reputation among contemporaries and record something of his ‘real’ activity.

Naturally we rely heavily upon Cicero’s estimation of his former teacher. His association with the Scaevolae brought him social as well as intellectual opportunities (Narducci, 2009: 34). He had initially studied under Scaevola *augur* but, after the old man’s death, he passed to the tutelage of the younger Scaevola.<sup>150</sup> In the *pro Caecina*, both *augur* and *pontifex* are praised for their wisdom in matters of law; such allusions in a speech attest to their influence on Cicero as well as their *auctoritas* (van der Blom, 2010: 181).<sup>151</sup> Harries notes that, while Scaevola *pontifex* would have an enduring influence on Cicero (especially in the latter phase of his life and career), his greatest debt to the *pontifex* lay in Scaevola’s articulation of ‘the ideal of Law itself’ (Harries, 2006: 18) and, flowing from this, the very idea of what is *lawful*. This notion of lawfulness would be cast into sharp relief by the

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<sup>150</sup> Cicero, *de Amicitia*, I.1:

ego autem a patre ita eram deductus ad Scaeuolam sumpta virili toga, ut, quoad possem et liceret, a senis latere numquam discederem; itaque multa ab eo prudenter disputata, multa etiam breviter et commode dicta memoriae mandabam fierique studebam eius prudentia doctior. Quo mortuo me ad pontificem Scaeuolam contuli, quem unum nostrae ciuitatis et ingenio et iustitia praestantissimum audeo dicere.

After I had put on the toga virilis, I was taken by my father to Scaevola with the intention that, so far as I was able and he would allow, I would never leave the old man’s side. And so I committed to memory many points skilfully expounded by him and his brief and well-expressed opinions. After his death I took myself to Scaevola the pontiff, whom I dare declare the most distinguished man in our state in ability and justice.

<sup>151</sup> Cicero, *pro Caecina* 53.

increasingly lawless turn of events in the late 80s and the early 40s. Cicero attempted to navigate the perilous straits of the civil war with the aid of the intellectual and moral compass of Scaevola's legal philosophy. He may, ultimately, have forced the needle somewhat by attempting to project his own course of action onto Scaevola by claiming to follow his lead in similarly trying circumstances. Beyond the expected *encomia*, we do not obtain a clear picture from Cicero of his real merits as a teacher. One anecdote suggests he was a rigorous taskmaster. Pomponius, writing in the second century, records his brusque treatment of Servius Sulpicius. When the younger man repeatedly failed to understand some legal advice given by Scaevola, he was upbraided in the most forthright terms (*Digest* I.2.2.43). The stern rebuke was supposedly the spur which prompted Servius' serious application to the law and it is Servius - not Scaevola - who actually occupies first place in Cicero's reckoning of legal genius (Syme, 1981: 421). In an extended reflection in the *Brutus*, Cicero contrasts the two: while Scaevola's grasp of the law was second to none, it is Servius who elevated it to the status of *ars*.<sup>152</sup> Cicero, who had been planning a treatise to systematize the civil law, deferred to Servius who had already embarked on a similar project (Fantham, 2004: 112). Servius also felt competent to critique some of Scaevola's *oeuvre* in his *Reprehensa Scaevolae capita*, a response to Scaevola's most sustained piece of jurisprudential writing, the *Libri XVIII de iure civili* (von Albrecht, 1997: 636).

Before commenting on his contribution to 'legal science' (however that is construed), his activity before the courts merits some discussion. Scaevola combined erudition with eloquence, as Cicero repeatedly attests. What insight we have into his style suggests that he was true to his Stoic formation, which inculcated a disdain for excess in speech as in other

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<sup>152</sup> Cicero, *Brutus*, 150-156, especially 152.

things.<sup>153</sup> This terseness would have been especially apparent when contrasted with the style of other luminaries. The section of the *Brutus* referred to above does precisely that: comparing the skill and accomplishments of Scaevola with his contemporary, Crassus. We have already noted the relationship between these two men. After - even during - their joint consulship in 95, relations between the two appear somewhat strained. It is possible to detect signs of rivalry in public exchanges between the two men and, in these debates, Crassus is credited with a more strategic approach. He eschewed the practice of consultation, since Mucius would clearly be his superior in the field,<sup>154</sup> and played to his strength which was, crudely put, his ability to win a case. The *locus classicus* of this contrast was the famous *causa Curiana* of c. 92 which pitted *jurisprudens* against *orator* – indeed the most celebrated and gifted ‘lawyers’ of the day: *eloquentium iuris peritissimus Crassus, iuris peritorum eloquentissimus Scaevola*.<sup>155</sup> Our knowledge of the case relies mostly on Cicero’s repeated references, although it is possible that Crassus published a written version of his speech on which Cicero based his account (Steel, 2006:15). It is even conceivable that a young Cicero was actually present in court and jotted down notes from the *viva vox* of the participants.<sup>156</sup> Crassus was briefed by Scaevola the *augur*, to some an indication of the Mucii Scaevolae’s powers of detachment and impartiality (Bauman, 1983: 348). The augur was, of course,

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<sup>153</sup> The description of his speech as ‘*satis ornate et pereleganter*’ (*Brutus* 197) does not imply a florid style.

<sup>154</sup> Cicero, *Brutus*, 155: Itaque ut Crassus mihi uidetur sapientius fecisse quam Scaevola—hic enim causas studiose recipiebat, in quibus a Crasso superabatur; ille se consuli nolebat, ne qua in re inferior esset quam Scaevola —, sic Servius sapientissime, cum duae civiles artes ac forenses plurimum et laudis haberent et gratiae, perfecit ut altera praestaret omnibus, ex altera tantum adsumeret, quantum esset et ad tuendum ius civile et ad obtinendam consularem dignitatem satis.

And just as Crassus acted more prudently than Scaevola – for Scaevola eagerly took on cases in which he was bettered by Crassus – while Crassus did not give consultations, lest he should be Scaevola’s inferior: so Servius, seeing that these two civil and courtroom arts led to both fame and favour, ensured he was ahead of all his rivals in the first and from the other bothered so much as was necessary to safeguard the civil law and gain for him the dignity of the consulship.

<sup>155</sup> Cicero, *Brutus*, 145.

<sup>156</sup> Cf. Rawson, 1971: Rawson argues that greater prominence should be accorded the formative role played by Crassus in Cicero’s development.

Crassus' father-in-law. As far as the ultimate outcome was concerned, the eloquence of Crassus bested the literalism of Scaevola (Dugan, 2013: 220).

Although the timeline is hard to determine with absolute certainty, it is likely that the other celebrated trial in which Scaevola participated took place after losing the *causa Curiana*. We have already mentioned his speech in defence of Rutilius: his words were few, carefully chosen and kept to the point at issue (Cicero, *Brutus* 115; *de Oratore* I: 229). The Curian defeat clearly did not prompt a change of style: an embrace of artifice for the sake of it would not sit well with the principles in which he had himself been schooled. While Cicero can make this attitude sound less than an enhancement - *ista oscitans et dormitans sapientia Scaeuolarum* (*de Oratore* 2: 145) – it accords fully with the best traditions of his family. In fact the sleepy wisdom of the Scaevolae is not averse to innovation, albeit 'within the confines of an overall conservatism' (Bauman, 1983: 350).

Pontiffs had, as we have seen, a particular association with the origins, development and systemizing of Roman law. The very notions underpinning the Roman legal system, from the law of persons to the definitions of *res* and ownership, were derived from religious distinctions (Watson, 1968: 2). For much of the Republic's history, the closest thing to a caste of lawyers were the *pontifices* themselves: legal development was entrusted to them in the first instance, before passing to 'lay' jurists (Thomas, 1976: 4). As Patricians, they could be trusted to maintain the proper order in every sense (Watson, 1992: 63). It was, according to Livy, the 'promethean' action of Gnaeus Flavius in 304 which snatched the *ius ciuile* from the secretive stewardship of the pontiffs and brought it out into the public domain (Livy, 9.46). If not directly caused by this, the *lex Ogulnia* of 300, which opened to the pontifical college to plebeians, certainly cemented the effects of this revolutionary step. One of

Scaevola's predecessors, Tiberius Coruncanius (*pontifex maximus* 254-c.243), the first plebeian *pontifex maximus*, took the definitive step of publicly issuing *responsa* on matters pertaining to both civil and sacred law. Thereafter the relationship between these bodies of law became complicated by those elements of civil law and public life which involved some degree of pontifical oversight: will-making, *confarreatio*, certain forms of adoption *etc.* Even the disputed temple dedication of Gnaeus Flavius, mentioned by Livy,<sup>157</sup> illustrates the complex relationship between the sources of authority and expertise. Recent scholarship has attempted to clarify this relationship and offer new definitions of pontifical law (Johnson, 2007: 46-48; Linderski, 1985: 216).

Cicero records some of the most famous – and contentious - *dicta* associated with the Scaevolae, touching upon the relationship between pontifical and civil law and illustrating an attitude which finds little sympathy with Cicero. Firstly, there is Quintus' observation 'saepe ex patre audiui, pontificem bonum neminem esse, nisi qui ius civile cognosset' (Cicero, *de Legibus*, 2: 47).<sup>158</sup> Johnson observes that Atticus' comments about the *sacra perpetua* (the ancestral religious rites to be observed in perpetuity) and the *ius Manium* (the forms pertaining to the propitiation of the departed) frame the discussion which follows: these are the questions which pertain to pontifical *and* civil law (Johnson, 2008: 33; Dyck, 2004: 379). The suggestion is *not* that pontiffs need to know the civil law because they have a direct (or indirect) influence upon it; merely that they are conversant with the *quantulum* which is

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<sup>157</sup> Livy 9.46

<sup>158</sup> Cicero, *de Legibus*, 2. 47:

(Marcus) 'Saepe' inquit Publi filius 'ex patre audiui, pontificem bonum neminem esse, nisi qui ius civile cognosset.' Totumne? Quid ita? Quid enim ad pontificem de iure parietum aut aquarum aut luminum nisi eo quod cum religione coniunctum est? Id autem quantulum est! De sacris credo, de uotis, de feriis et de sepulcris, et si quid eius modi est.

'I often heard my father say that no one makes a good pontiff unless he knows civil law. The whole of it? Why so? What has a pontiff to do with laws about shared walls or water supply or anything not connected with religion? And what a small area that is! It concerns, I think, rituals, vows, festivals, tombs and other such things.

bound up with religion. Knowing the lines of demarcation and the areas of overlap would be essential to the correct interpretation and application of *ius pontificium*. We have to be conscious of the different capacities in which the same person could speak; Cicero records the distinction made by the *pontifex* M. Terentius Varro Lucullus in the matter of his house.<sup>159</sup> Lucullus clearly satisfies the Scaevolan criterion for the *pontifex bonus*.

Elsewhere in *de Legibus*, Cicero revisits his complaint against the Scaevolae and expands it.<sup>160</sup> He reveals that these *homines acutissimi* used their knowledge of the civil law to circumvent the demands of the pontifical law. By a shrewd interpretation of the legal requirements of a bequest, Scaevola shows the *extraneus* how to avoid the *sacra* incumbent on the estate. The text breaks off at this point, but we know enough from the preceding conversation to grasp Cicero's strength of feeling (Cicero, *de Legibus*, 2: 48). That such brilliant minds – and *pontifices maximi* – should somehow conspire against their own *auctoritas* and use their art for the creation of (frankly) irreligious loopholes is the cause of Cicero's indignation (Santangelo, 2013b: 25). We cannot really ascertain whether or not the effect on the transmission of *sacra* was his main preoccupation. Bauman thinks it was and agrees with Scaevola; he goes too far, however, in stating that Scaevola wanted 'to free the

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<sup>159</sup> Cicero, *ad Atticum*, 4.2.4:

tum M. Lucullus de omnium conlegarum sententia respondit religionis iudices pontifices fuisse, legis esse senatum; se et conlegas suos de religione statuisse, in senatu de lege statuturos cum senatu.

Then M. Lucullus replied on behalf of his colleagues that the pontifices had been judges of the religious question, but that the senate was judge of the law; he and his colleagues had given their response to the religious issue, they would decide on the law as senators, in the senate.

<sup>160</sup> Cicero, *de Legibus*, 2:52-53

(Marcus) Hoc ego loco multisque aliis quaero a uobis Scaeuolae, pontifices maximi et homines meo quidem iudicio acutissimi, quid sit quod ad ius pontificium ciuile adpetatis; ciuilis enim iuris scientia pontificium quodam modo tollitis. Nam sacra cum pecunia pontificum auctoritate, nulla lege coniuncta sunt. Itaque si uos tantummodo pontifices essetis, pontificalis maneret auctoritas; sed quod idem iuris ciuilis estis peritissimi, hac scientia illam eludistis.

Touching this matter and many others, I would like to ask you Scaevolae, high pontiffs and, in my view, very shrewd men, why you want to add a knowledge of civil law to that of pontifical law, for you tend to reduce the latter by doing so? The sacred rites are transferred with the inheritance by the authority of the pontiffs, not by any law. So if you were only pontiffs, the pontifical authority would remain, but, being at the same time great experts in civil law, you use that skill to circumvent that authority.

law of succession from the dead hand of the *sacra*' (Bauman, 1983: 350). The withering of Roman religion, especially with regard to her rites and rituals, is something of a *leitmotiv* in deciphering this part of *de Legibus* but it makes our reading of Cicero's intent all the more difficult. For Cicero such ideas of the archaic and pure forms of religious, legal and social order are intrinsic to Rome's nature – and survival. He will always tend towards the 'integralist' position. Perhaps it was the pollution of pontifical law by the unwarranted import of strategies from the *ius civile* which was the real cause of offence. But that does not exhaust the interpretations of this question. It has been argued that Scaevola was actually acting in the best interests of Rome's ancient religious practices by ensuring their transmission to those most likely to honour them (Dyck, 2004: 386). Even putting matters of intention aside, it may be observed that 'the reasoning behind the dodge was very pontifical' (Watson, 1992: 80-81).

Scaevola's interventions in explicitly religious legal questions are less numerous, but nonetheless significant. A key principle elucidated by Scaevola touches upon the expiation of religious offences (Richardson, 2011: 102); Varro refers to an instance whereby a praetor ignores the taboo on *dies nefasti* to issue judgement or make a decision.<sup>161</sup> If he was unaware of the status of the day, then his decision stood but required a propitiatory sacrifice; if, however, he was fully conscious of the prohibition, but proceeded anyway, then he was *impius* and his transgression could not be expiated. Scaevola's approach, according to Scheid (2006: 21), is consistent with his approach to questions of civil law: when consulted, he frames a *regula* by way of response.

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<sup>161</sup> Varro, *de Lingua Latina*, 6:30.



Scaevola is described in the *Brutus* as one committed to conserving the civil law.<sup>162</sup> To this end, perhaps his singular contribution was in the production of a written work. In the *Enchiridion* Pomponius identifies Scaevola as a pioneer in this regard: *Post hos Quintus Mucius Publii filius pontifex maximus ius civile primus constituit generatim in libros decem et octo redigendo.*<sup>163</sup> Just how pioneering Scaevola actually *was* is impossible to determine, but the debt owed to him by subsequent legal historians is scarcely in doubt. Our knowledge of those aspects of private law omitted from the Twelve Tables is due largely to his commentary in the *Ius Ciuile* (Watson, 1992: 15). So too, the modifications introduced by the Praetor's Edict were also incorporated in an organised manner. It was not, of course, the first attempt to produce a text on the corpus of civil law: Sextus Aelius had composed his *Tripertita* at the turn of the second century (Tuori, 2004: 255). The element of novelty consists in the term *generatim*. Scaevola was the first, according to Pomponius, to organise the laws according to category. As a result he was able to offer both normative definitions and equivalent terminology for use in similar but not identical situations (Frier, 1985: 161-162). The work is far from exhaustive: marriage and divorce, dowry, *cura* and slavery do not feature in the XVIII libri. While justly celebrated, the *Ius Ciuile* may suffer from the lack of a clear rationale: its omissions may be attributable to its intended purpose as a handbook for court practitioners rather than a systematic exposition (Watson, 1974: 156). Although Cicero makes some (one?) oblique reference to it, he does not seem to accord particular significance to the *opus*.<sup>164</sup>

Perhaps the true measure of Scaevola's stature and influence as a juriconsult can be gleaned from one of Cicero's less magniloquent references to his old teacher. In the course of a light-

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<sup>162</sup> Cicero, *Brutus*, 197.

<sup>163</sup> *Digest* 1.2.2.41.

<sup>164</sup> Cicero, *ad Familiares*, VII.22

hearted missive to Trebatius, he dispenses advice on surviving the harsh British winter and counsels the use of blankets. This opinion, he adds, is consistent with the Mucian position.<sup>165</sup>

To mimic one's master – even touching life's trivialities – is a sure mark of Ciceronian esteem.

### **Scaevola *pontifex maximus***

We have already touched upon the relationship between Marius and Scaevola, noting the former's potential role in the fall of Rutilius. Although Scaevola's tenure in Asia was fairly brief, much of the emergent dynamic between these figures centres on that province. It may be true that Scaevola owed his appointment as governor to that old antipathy between Scaurus and Marius, but there is no reason to suppose that Marius regarded Scaevola personally as an enemy – at least not at that juncture. As was so often the case, the flipped coin of alliance or alienation by dint of one's connections was a determining factor in many a career. In many respects this holds true for Scaevola: he fell victim to the bitter rivalry between Marius and Sulla which was to claim so many others. The death of Domitius Ahenobarbus in 89 meant that he moved – at last - into a position of real prominence just as the storm was about to break. There would be no discreet margins to which the *pontifex maximus* could withdraw in these dangerous times.

The tug-of-war between Marius and Sulla over the Mithridatic command resulted in that defining moment in 88 when Sulla, the consul that year, snatched Rome from the hands of its

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<sup>165</sup> Cicero, *ad Familiares*, VII.10

Marian defenders. Marius himself and eleven others were declared *hostes publici*, although only the tribune P. Sulpicius suffered the sanction of being killed on sight. Although the decree outlawing Marius and his confederates was issued by the senate, it was most definitely at Sulla's behest. Valerius Maximus suggests that the sole voice raised in opposition to Sulla's will was Quintus Scaevola the Augur, who refused to betray the saviour of both Rome and Italy.<sup>166</sup> His refusal to give an opinion suggests a firm rejection of Sulla's spiteful *relatio*, no doubt conscious of the unwelcome parallels with the fate of the Gracchi. Valerius' phrase *solus Scaevola* underscores the friendship which had endured for many years between the Augur and Marius, leaving him as sole defender.<sup>167</sup> But it also implies that the other Scaevola, the *pontifex maximus*, had fallen in line with the other senators in their acquiescence. Yet it is perilous to read too much into Valerius' choice of words: he may be emphasising the Augur's heroic isolation so as to cast his words into even sharper relief. It may be that the chief priest found some pretext to be absent at the session and that Sulla could not bring himself to subject such a figure to rough handling. That said, so prodigious was Sulla's capacity for revenge that it is hard to imagine anyone of standing being excused a part in such a stage-managed exercise in political humiliation.

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<sup>166</sup> Valerius Maximus 3.8.5: *dispulsis prostratisque inimicorum partibus Sulla occupata urbe senatum armatus coegerat ac summa cupiditate ferebatur ut C. Marius quam celerrime hostis iudicaretur. cuius uoluntati nullo obuiam ire audente solus Scaevola de hac re interrogatus sententiam dicere noluit. quin etiam truculentius sibi instanti Sullae 'licet' inquit 'mihi agmina militum, quibus curiam circumsedisti, ostentes, licet mortem identidem miniteris, numquam tamen efficies ut propter exiguum senilemque sanguinem meum Marium, a quo urbs et Italia conseruata est, hostem iudicem'.*

'Having scattered and struck down the party of his enemies, Sulla occupied Rome and in arms called together the senate, passionately desirous that C. Marius be declared a public enemy with all speed. None dared oppose his will except only Scaevola, who when the question was put to him refused to give an opinion. More, when Sulla truculently insisted, this is what he said: 'You may show me your troops of soldiers with which you have surrounded the senate house, you may threaten and threaten me with death, but you will never get me for the sake of my small stock of aged blood to judge Marius, who saved Rome and Italy, a public enemy.'

<sup>167</sup> Could Scaevola have used his role as an augur to make some religious intervention in Marius' favour?

If our Scaevola did indeed give his assent to the declaration that Marius was an enemy of the people, it would explain the curious turn of events that were to follow. Although Sulla was master of Rome, his preferred candidates for the consulship (one of them his nephew) were unsuccessful. The pressing nature of the Mithridatic campaign was such that he had to leave Rome in the hands of the new consuls, having extracted a promise from L. Cornelius Cinna to leave his improvements to the state untouched<sup>168</sup>. The consul's blithe disregard for this undertaking was to fuel further strife in Rome.<sup>169</sup> He quickly moved to implement Sulpicius' intended measure of enrolling new citizens among all the tribes. Opposition to this step, fomented by his colleague Octavius, quickly became violent and Cinna was forced to flee the city.<sup>170</sup> A supine senate was coerced into deposing Cinna<sup>171</sup> and the *flamen Dialis* L. Cornelius Merula was hastily (and given the strictures of his office, somewhat ridiculously) made *suffectus*, possibly without any kind of popular vote (Morstein-Marx, 2011: 266). Katz argues that the acceptance of the consulship by 'this conscientious and unobjectionable priest' more or less legitimised the senate's disposal of Cinna (Katz, 1979: 165). It may certainly account for his ultimate fate, as he was swallowed up in the unprecedented spate of *iudicia populi* instigated by Cinna's pliant tribunes.<sup>172</sup> An interesting sidebar to the deposition of Cinna is that the *decemviri* found legitimating authority in the Sibylline books – no doubt at the behest of Octavius.<sup>173</sup> Although the custodians of the Sibylline verses were largely autonomous of the *pontifex maximus*, only the senate could authorise their consultation: what part did Scaevola play in this process – as senator, consular, jurist and chief priest?

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<sup>168</sup> Plutarch, *Sulla* 10.3-4; *Sertorius* 4.4.

<sup>169</sup> Cassius Dio, 30/35.102.3-4.

<sup>170</sup> Livy, *Periochae* 79.

<sup>171</sup> For the grounds of his removal, see Appian, *BC* 1.65; Velleius argues that Cinna's character justified the illegality of the senate's action: Velleius, 2.20.3.

<sup>172</sup> Weinrib, 1968: 43.

<sup>173</sup> Katz, *ibid.*

Benefiting from his ‘living martyr’ status for the *novi cives* (Appian, *BC* 1.63-64; Katz, 1976: 328), the ousted consul succeeded in securing the loyalty of a Sullan legion at Nola. From there he levied throughout Italy, ultimately laying siege to Rome itself. The stranglehold was tightened further thanks to Marius who had just returned from his refuge in Africa to drum up support for his next throw at power and revenge. An offer of relief from the Samnites was scuppered by the senate’s refusal to grant them citizenship, an offer which Cinna and Marius were only too happy to make – along with other inducements to the slave population of the city.<sup>174</sup> No doubt realising their previous missteps and collective peril, the senate at last showed some independent initiative in dealing directly with the besiegers. For once Octavius was eclipsed by Merula, who not only ‘cooperated’ (Konrad, 2006: 180) but seems to have taken the initiative in resigning the consulship and attempting to mediate (Seager, 1992: 178). Several parleys later, most of which seem to have concerned in which capacity – combatant or consul – Cinna was being addressed by the senate, terms of surrender were agreed. The newly-restored consul entered the city with very mixed results: Octavius was butchered on his curule chair, Merula committed suicide before the *iudicium populi* could convict him (Mackay, 2004:126)<sup>175</sup> and Marius was formally recalled from his species of exile. Although Octavius and Merula, as consuls, were the most prominent victims of this purge (Octavius was the first ‘sitting’ consul to meet such fate), several other leading men of the senate lost their lives.<sup>176</sup> Seager (1992: 178) notes that, apart from two exceptions, we cannot hold Marius directly responsible for the choice of these unfortunates and no clear link with Sulla can be made.<sup>177</sup> Sulla himself suffered the remote reprisals of being branded a *hostis*, having his property confiscated and his houses burned, his acts overturned and, according to

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<sup>174</sup> Appian, *BC* 1.68.

<sup>175</sup> Are we to assume that he chose not to flee the city because his office forbade it?

<sup>176</sup> Fourteen are known to have been killed – according to Appian’s reckoning; Livy, *Periochae* 80.

<sup>177</sup> The exceptions were M. Antonius and Q. Ancharius.

Keaveney (1984: 118), being stripped of a priesthood.<sup>178</sup> They were keen to establish these actions as being in the public interest: bringing about the restitution of order and freedom, not settling scores (Nippel, 1995: 66).

Cinna and Marius were elected consuls for 86 – Marius’ seventh consulship – and almost certainly unopposed. This crowning achievement of Marius’ career, apparently by divine ordinance, lasted only seventeen days.<sup>179</sup> According to Plutarch his final days were spent deliriously waging the Mithridatic campaign on his bed, deprived at the last of this much-coveted prize.

What was Scaevola doing at this time? Apart from his pontifical duties, Scaevola seems to have devoted much of his time to legal study and writing. The concept of *bona fides*, which formed the conceptual pivot of his provincial decree, became a key preoccupation in his jurisprudential output during this period.<sup>180</sup> As to politics, we do not know if Scaevola himself was considered for the suffect consulship but we may assume that Merula could not have been appointed without his blessing. As the *flamen*’s superior, the *pontifex maximus* must have had some involvement in the process, although whether or not an explicit dispensation was required remains speculation. It is also possible that Scaevola had some part in the events leading up to Merula’s death, specifically his resignation of the flaminiate. It may be that Merula, caught between his cultic ties to the city and his desire to escape an ignominious execution, confided to the *pontifex maximus* his intention to open his veins. Aware of the consequences of such a deed, the chief pontiff was within his rights to force the

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<sup>178</sup> Keaveney argues that this was perhaps a pontificate, or another minor priesthood – not the augurate, which he probably attained in 82. It is Rüpke’s hypothesis that this priesthood was the decemvirate and it is to this that Appian is referring when he mentions Sulla’s request for the priesthood to be restored in 84. (Appian, *BC* 1.79). cf. Rüpke, 2008: 645.

<sup>179</sup> Plutarch, *Marius*, 46.

<sup>180</sup> Scaevola’s *magnum opus*, the *Libri XVIII de iure civili*, is also often dated to this period.

abdication of the flamen: prior instances of forced abdication were based on neglect of duty,<sup>181</sup> but Merula's intent to neglect his duties (in the most extreme way) may have prompted such a preventative measure. We may assume that such intervention was as much the result of compassion for the man's plight as strict concern for the *ius sacrum* on the part of the chief pontiff.

Those who record these events are keen to emphasise the religious dimension of Merula's final moments. He lays aside his flamen's *apex* (Appian *BC* 1.74.342) and, according to Valerius, escapes the mockery awaiting him by ending his life in the shrine of Jupiter itself.<sup>182</sup> Velleius juxtaposes the prayers he had frequently offered for the wellbeing of the state with the curses he rains down on Cinna and the pack following him.<sup>183</sup> Várhelyi wishes to underscore the link between the ritual of *devotio* and the *execratio* uttered by Merula (Velleius 2.22.2); he is, according to her analysis, sacrificing himself and 'leaving the ritual logic unharmed' so that his enemies would be rendered *homines sacri* (Várhelyi, 2011: 132). Várhelyi is clearly influenced by the *sacratio* reading of Tiberius Gracchus' murder, and seeks to apply it to Merula's self-sacrifice. The elision of *devotio* and *sacratio* seems less plausible in this context and Várhelyi's designation of Merula as 'priest and victim' perhaps owes more to seeing these events through a theological rather than a ritual lens. Still, it is

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<sup>181</sup> Livy 26.23.8; Valerius Maximus 1.1.4

<sup>182</sup> Valerius Maximus 9.12.5: Qua tempestate rei publicae L. quoque Cornelius Merula consularis et flamen Dialis, ne ludibrio insolentissimis uictoribus esset, in Iouis sacrario uenis incisus contumeliosae mortis denuntiationem effugit, sacerdotisque sui sanguine uetustissimi foci maduerunt. In that stormy time for the Republic, L. Cornelius Merula too, consular and flamen Dialis, lest he exposed to the mockery of insolent victors, slit his veins in Jupiter's sanctuary, thereby escaping the verdict of a shameful death. The ancient hearth was drenched with the blood of its priest.

<sup>183</sup> Velleius 2.22: Merula autem, qui se sub aduentum Cinnae consulatu abdicaverat, incisus uenis superfusoque altaribus sanguine, quos saepe pro salute rei publicae flamen Dialis precatus erat deos, eos in execrationem Cinnae partiumque eius tum precatus optime de re publica meritum spiritum reddidit.

Merula, however, who had resigned his consulship just before the arrival of Cinna, having opened his veins and drenched the altars with blood, begged the gods to whom, as flamen of Jupiter, he had often prayed for the safety of the state, to curse Cinna and his lot; then did he yield up the life which had served the state so well.

interesting to note that some well established ritual categories can lend themselves to blurred interpretations – precisely as I have suggested in the actions of Nasica almost half a century previously.

Even if Merula had taken the precaution of setting aside his priesthood, the impact of the ex-flamen's suicide in Jupiter's sanctuary would have been considerable and not easily erased. Even if a lustration were carried out, the religious and political consequences would reverberate for some time. And it is likely that Scaevola had some role to play in this. As we know, the *pontifex maximus* had a degree of influence in the selection of the *flamen Dialis* – although we cannot be entirely sure of the fine detail of the process. It is probable that the *flamines* were not affected by the provisions of the *lex Domitia* and relied instead on the traditional system of *captio* (Bodel, 2004: 306).<sup>184</sup> While he could reject two of the 'terna' of names proposed by his colleagues, the *pontifex maximus* could not impose other candidates of his own choosing and had to accept one of the list of nominees. Even if he were pressurised by the other members of pontifical college to accede to the *captio* of a candidate, he could still decline to convoke the *comitia calata* to oversee the formal *inauguratio*. This meant that the flamine would be filled from a technical standpoint but that the flamen-designate remained just that: Jupiter's priest in name only.

It may be that Scaevola pursued such a course in 86 (or thereabouts) when it came to the vacancy caused by Merula's death. It is doubtful that the pontifical college got the opportunity to mull over a list; it is far more likely that Rome's powerbrokers made the identity of their preferred candidate abundantly clear – a youth of the *gens Iulia* who happened to be son-in-law to Cinna and Marius' nephew. Although the young Caesar will be

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<sup>184</sup> Taylor (1941), argues for a *flamine* election; her argument is based on somewhat suspect chronology.



of considerable importance in shaping future events, his personal significance here is somewhat tangential. What is more intriguing is the dynamic between Scaevola, Cinna and Marius over the office itself. Marius is said to have died shortly after Caesar's nomination, although it is just as probable that it was Cinna himself who oversaw the process of selecting Merula's successor. It is curious, therefore, that the *pontifex maximus* seems to have held out for the duration of the *dominatio Cinnae* in refusing to inaugurate the new *flamen*. Linderski attributes this to the fact that Scaevola had been wounded at Marius' funeral (2007: 637), but this would not have been sufficient to delay the *inauguratio* indefinitely; the *pontifex maximus*' inaction looks more like a stubborn refusal than a result of frailty. This obduracy may have been procedural (a single candidate may have been proposed), religious (protesting such mistreatment of the *flamen Dialis* or questioning Caesar's *confarreate* status) or political (Scaevola wished to signal, albeit in muted form, his disapproval of the wider situation). We will discuss Caesar's relationship with the flaminiate in the next chapter, but for our purposes it is sufficient to note that no other *flamen Dialis* was appointed until Augustus was in a position to fill the office.

### **Scaevola the Target**

As we have mentioned, Marius' funeral was 'enlivened by an attempt on the life of Q. Mucius Scaevola, the *pontifex maximus*, made by Marius' quaestor, C. Flavius Fimbria' (Seager, 1992: 179). No doubt it would be expected for the chief pontiff to attend the funeral rites for a man of Marius' standing, no matter how disagreeable he found aspects – or even the entirety – of his politics. This makes Fimbria's actions all the more shocking: although funerals could be boisterous occasions (Nippel, 1995, p. 39), what kind of man would try to kill the *pontifex maximus* during a funeral?

What little we know of Fimbria suggests such actions as being wholly consistent with his career and disposition, both of which could be characterised as bloody and reckless. His father, also C. Flavius Fimbria, had served as Marius' consular colleague in 104. We know nothing of the son until the fraught events of 87. Granius Licinianus, never a terribly reliable source,<sup>185</sup> states that it was Fimbria who bargained with the Samnites on Cinna's behalf and successfully brought them over to his side.<sup>186</sup> After the capitulation of the city, he played a part in the bloodletting which followed, although we cannot be sure which of the victims were his 'handiwork'. Undoubtedly one of Cinna's henchmen by this stage, Fimbria would have been useful to both partners in the new regime. As a result, it is hard to determine at whose behest the attack on Scaevola was carried out or if it was simply a piece of freelance madness on Fimbria's part. Cicero, who offers us an account of this remarkable episode, is in no doubt that Fimbria was a dangerous man to be around.<sup>187</sup> As Lintott (1971) observes,

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<sup>185</sup> Kragelund, 2001: 58; Scardigli & Berardi, 1983.

<sup>186</sup> Granius Licinianus 35.

<sup>187</sup> Cicero, *pro Roscio*, 33: Hominem longe audacissimum nuper habuimus in ciuitate C. Fimbriam et, quod inter omnis constat, nisi inter eos, qui ipsi quoque insaniunt, insanissimum. Is cum curasset, in funere C. Mari ut Q. Scaeuola uolneraretur, uir sanctissimus atque ornatissimus nostrae ciuitatis, de cuius laude neque hic locus est, ut multa dicantur, neque plura tamen dici possunt, quam populus Romanus memoria retinet, diem Scaeuolae dixit, postea quam comperit eum posse uiuere. Cum ab eo quaereretur, quid tandem accusaturus esset eum, quem pro dignitate ne laudare quidem quisquam satis commode posset, aiunt hominem, ut erat furiosus, respondisse: "Quod non totum telum corpore recepisset." Quo populus Romanus nihil uidit indignius nisi eiusdem uiri mortem, quae tantum potuit, ut omnis occisus perdidit et adflixerit; quos quia seruire per compositionem uolebat, ipse ab eis interemptus est.

We lately had a most audacious man in this city, Gaius Fimbria, a man, as is well known among all except among those who are mad themselves, utterly insane. He, when at the funeral of Gaius Marius, had contrived that Quintus Scaevola, the most venerable and accomplished man in our city, should be wounded; (a man in whose praise there is neither room to say much here, nor indeed is it possible to say more than the Roman people preserves in its recollection) he, I say, brought an accusation against Scaevola when he found that he might possibly live. When the question was asked him, what he was going to accuse that man of, whom no one could praise in a manner sufficiently suitable to his worth, they say that the man, like a madman as he was, answered, for not having received the whole weapon in his body. A more lamentable thing was never seen by the Roman people, unless it were the death of that same man, which was so important that it crushed and broke the hearts of all his fellow-citizens; for endeavouring to save whom by an arrangement, he was destroyed by them.

Valerius basically repeats Cicero in his account although is less acerbic in his description of Fimbria (Lintott, 1971: 696).<sup>188</sup> The *actus reus* seems to be in little doubt: he clearly intended that there should be two corpses at Marius' funeral. Although the *mens rea* would also appear to be beyond question, what factors motivated his deadly intent are less clear.

Bauman dissents from Gruen's argument that Marius had been protecting Scaevola up to this point.<sup>189</sup> The grounds for *adfinitas* between the two men are never very solid: the warmth of the relationship between Marius and Scaevola Augur would be a more realistic reason to extend his protection to his relative. Yet would Marius have done so if he knew that Scaevola Pontifex had tacitly joined with the senators who declared him a public enemy? Knowing that the *pontifex maximus* had facilitated both Merula's installation as consul and had foreknowledge of his suicide, would he have been so benevolent towards him? If he was aware that it was the chief priest's stalling tactics which prevented his nephew from being inaugurated as *flamen Dialis*, would he have seen any merit in keeping him alive?<sup>190</sup> Then there was also the matter of the overturning of citizenship grants made by Marius. I doubt there was much to commend Scaevola to him, either politically or personally. The fact

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Cicero draws parallels between the prosecution of Roscius and the attempt on Scaevola's life: this was, at least in part, to dissociate his defence from the *popularis* cause in the civil war (Dyck, 2003: 244).

<sup>188</sup> Cf. Valerius Maximus, 9.11.2:

Non tam atrox C. Fimbriae est factum et dictum, sed si per se aestimetur, utrumque audacissimum. id egerat, ut Scaevola in funere C. Marii iugularetur. quem postquam ex uulnere recreatum conperit, accusare apud populum instituit. interrogatus deinde quid de eo secus dicturus esset, cui pro sanctitate morum satis digna laudatio reddi non posset, respondit obiecturum se illi quod parcius corpore telum recepisset. licentiam furoris aegrae rei publicae gemitu prosequendam!

The deed and saying of C. Fimbria is not so atrocious, but considered in themselves, both are extremely daring. He had planned that Scaevola should be murdered at C. Marius' funeral. Afterwards, when Fimbria learned he had recovered from his wound, he set about prosecuting him before the people. Then, asked what he was going to say against one whose blameless character could not be praised highly enough, he replied that he would charge him with scarcely receiving the weapon in his body. What extravagance of madness, to be followed by the groans of an ailing Republic!

<sup>189</sup> Bauman, 1983, p. 412. Cf. Gruen, 1968, p. 235.

<sup>190</sup> It should be noted that, *mutatis mutandis*, all these 'motives' apply to Cinna as well.

remains, however, that he was not just *any* citizen. Having the priest of Jupiter<sup>191</sup> hurried to death had already opened up a kind of wound in the Republic, a wound which Scaevola was deliberately or incidentally keeping open by his refusal to inaugurate Caesar. But to kill the *pontifex maximus* as well would have been an unprecedented step – and marked a new low in this cycle of decline. Marius probably had too much respect for the office to sacrifice the man who held it.

It might be argued, therefore, that some residual *pietas* did act as a shield for Scaevola, even though his recent sympathies and actions demanded otherwise. Once he was gone, however, Scaevola was fully exposed to the ire of someone like Fimbria who seems to have shared little of these more elevated sensibilities. Moreover, as we have already noted, those actions of Scaevola which were disagreeable to Marius were scarcely more palatable for Cinna. All these factors combine to suggest a scenario in which the attack, even if it had not been sponsored by Fimbria's master, would not have excessively grieved him either.

Although one might think it impossible to surpass the provocative impact of attempted murder, his subsequent decision to prosecute Scaevola does precisely that. The stated charge levelled against the *pontifex maximus* was that he had been 'insufficiently stabbed' and was therefore culpable. Lintott notes that Cicero, who is careful with his forensic terminology, uses the term '*diem dicere*' which suggests a public hearing brought by a magistrate (Lintott, 1998a: 132). The real problem lies in determining which magistracy Fimbria held in 86: the tribunate and aedileship are, at least in Lintott's analysis, ruled out because of their close links with the city and the fact that Fimbria left for Asia that same year. Some sort of quaestorship seems the likeliest solution, although Lintott goes out on a limb somewhat with

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<sup>191</sup> Given his conviction that Jupiter himself was steering his star, Marius must surely have experienced a moment of scruple, however quickly suppressed.

his suggestion that the basis for the prosecution may have been financial (Lintott, 1971: 697-698). Surely the spectre of financial impropriety – the revenant shadow on his governorship of Asia – would have been more widely recorded and more likely to proceed? There is a sense in which trying to restructure Fimbria's actions based on known procedures and practices is a futile exercise. To exclude the possibility of a tribunate, for example, *solely* on the grounds that leaving the city before the expiry of his term 'would have been a complete betrayal of his office' (Lintott, 1971: 697) is to argue that Fimbria is the sort of man who *cared*. We know that the prosecution itself came to nothing: once again we are left not knowing whether this was due to the intervention of a sympathetic tribune or simply because the accuser had (literally) decided to move on. Fimbria's contribution to the Mithridatic campaign – as legate or *praefectus equitum* to the consul Lucius Valerius Flaccus – would be mutiny and his own death by suicide. Sulla had made use of Scaevola's old friend Rutilius to negotiate with Fimbria, but Fimbria preferred death to surrender.

No doubt Scaevola was relieved to hear that his persecutor was no more but the news that Sulla was victorious and, more importantly, coming home, would have overshadowed the other news drifting back from the East. That said, if word of Rutilius' involvement as a Sullan agent also reached Rome at this time, would it not have prompted speculation about Scaevola's own sympathies? As someone who had never abjured his friendship for Rutilius and indeed had made strenuous efforts to make his friend's exile comfortable, would he not now be regarded as one of the *Sullani* in Rome? As the curtain began to fall on the *dominatio Cinnae*, the objectives and preoccupations of the leadership may have been focused elsewhere but it is the attitude of the 'next generation' which may be most significant in determining what was to follow.

## Scaevola the Theologian

It is to this phase which Bauman (1983) attributes the *pontifex maximus*' sole (surviving) contribution to the field of public theology, the so-called '*theologia tripertita*'. Before exploring Bauman's argumentation, a restatement of the outlines of this theology is necessary. Broadly speaking, Scaevola is credited with the elaboration of a 'civic theology' which, as the term implies, regards the gods of Rome as being bound by the same duties to the city as its mortal citizens. The *deditio noxae*, the surrender to divine justice of those who had knowingly and wilfully rendered themselves *impius*, is a perfect example of this civic theology in practice (Scheid, 2006: 32). Just how much of this theology is Scaevola's own contribution is harder to ascertain.

Scaevola's theological ideas come down to us by a somewhat circuitous route: we rely on Augustine's account in Book IV of the *de Civitate Dei*, which in turn drew extensively on an earlier presentation by the religious encyclopaedist Varro:

Relatum est in litteras doctissimum pontificem Scaeuolam disputasse tria genera tradita deorum: unum a poetis, alterum a philosophis, tertium a principibus ciuitatis. Primum genus nugatorium dicit esse, quod multa de diis fingantur indigna; secundum non congruere ciuitatibus, quod habeat aliqua superuacua, aliqua etiam quae obsit populis nosse. De superuacuis non magna causa est; solet enim et a iuris peritis dici: Superflua non nocent. Quae sunt autem illa, quae prolata in multitudinem nocent? "Haec, inquit, non esse deos Herculem, Aesculapium, Castorem, Pollucem; proditur enim ab doctis, quod homines fuerint et humana condicione defecerint." Quid aliud? "Quod eorum qui sint dii non habeant ciuitates uera simulacra, quod uerus deus nec sexum habeat nec aetatem nec definita corporis membra." Haec pontifex nosse populos non uult; nam falsa esse non putat. Expedire igitur existimat falli in

religione ciuitates. Quod dicere etiam in libris rerum diuinarum Varro ipse non dubitat. Praeclara religio, quo confugiat liberandus infirmus, et cum ueritatem qua liberetur inquirat, credatur ei expedire quod fallitur. Poeticum sane deorum genus cur Scaeuola respuat, eisdem litteris non tacetur: quia sic uidelicet deos deformant, ut nec bonis hominibus comparentur, cum alium faciant furari, alium adulterare, sic item aliquid aliter turpiter atque inepte dicere ac facere; tres inter se deas certasse de praemio pulchritudinis, uictas duas a Venere Troiam euertisse; Iouem ipsum conuerti in bouem aut cygnum, ut cum aliqua concumbat; deam homini nubere, Saturnum liberos deuorare: nihil denique posse confingi miraculorum atque uitiorum, quod non ibi reperiatur atque ab deorum natura longe absit. O Scaeuola pontifex maxime, ludos tolle, si potes; praecipe populis, ne tales honores diis immortalibus deferant, ubi crimina deorum libeat mirari et quae fieri possunt placeat imitari. Si autem tibi responderit populus: Vos nobis importastis ista pontifices: deos ipsos roga, quibus instigantibus ista iussistis, ne talia sibi iubeant exhiberi. (Augustine, *de Civitate Dei*, IV, 27.)<sup>192</sup>

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<sup>192</sup> It is recorded that the most learned *pontifex* Scaeuola distinguished three kinds of gods handed down to us — one by the poets, another by the philosophers, another by the leading citizens. He declares the first kind to be trifling, because many unworthy things have been made up by the poets concerning the gods; the second is not suited to states, because it contains some things that are superfluous, and some, too, which it would be harmful for the people to know. The superfluous things do not matter much, for it is a common saying of skilled lawyers that ‘superfluous things do no harm’. But what are those things which do harm when brought before the people? These, he says: that Hercules, Aesculapius, Castor and Pollux, are not gods; for it is declared by learned men that they were only men, and suffered the fate of mortals. What else? That states do not have true images of the gods; because a true god has neither sex, nor age, nor defined bodily parts. The *pontifex* does not wish the people to know these things; but he does not think they are false. But he thinks it expedient that states should be deceived in matters of religion; the same thing that Varro himself does not hesitate to say in his books on ‘Divine Matters’. What an excellent religion! Wherein the weak, in need of deliverance, may seek refuge; and when he seeks for the truth by which he may be set free, it is considered best for him to be deceived. And, truly, in these same writings, Scaeuola is not silent as to his reason for rejecting the gods of the poets—namely that they so misrepresent the gods that they could not bear comparison even with good men, when they make one to commit theft, another adultery; or, again, to say or do something else crudely and foolishly; that three goddesses competed with each other for the prize of beauty, and the two who lost out to Venus destroyed Troy; that Jupiter turned himself into a bull or swan that he might have his way with someone; that a goddess married a man, and Saturn devoured his children; that, in sum, there is nothing that could be imagined, either wonderful or wicked, which may not be found there, and yet is far removed from the nature of the gods. O *pontifex maximus* Scaeuola, do away with these games if you can; instruct the people not to offer such honours to the immortal gods, whereby they admire the misdeeds of the gods, and, if it so please them and it can be done, copy them. If the people answer, ‘But you, priests, have brought these things to us’, then ask the gods themselves at whose prompting you have ordered them, that they do not command such things to be performed.

The natural wariness of dealing with a third-hand account is heightened by our knowledge of Augustine's purpose which was both polemic and apologetic: he sought to discredit the 'old religion' of Rome and dismiss those charges which had been levelled against the new.<sup>193</sup> Although he is clearly taking aim at the religious policy of Scaevola (as far as he understands it), his real targets were 'the perfumed gentlemen of Rome' who treated the god of the Christians with such disdain (O'Donnell, 2005: 183). It is impossible to ascertain whether much of Scaevola's religious and philosophical output was extant beyond what was recorded by individuals such as Varro. There is also debate as to how much of this can be attributed to the real *pontifex maximus* as opposed to a philosophical cipher 'co-opted' into a Varronian dialogue (Beard, North and Price, 1998(a): 151-152). Scheid remains circumspect with his allusion to 'a traditional definition popularised by Varro' (Scheid, 2003: 175). The origins of some sections of the argument are certainly ancient; we may discern the recognisable outlines of this theology in the writings of Xenophanes of Colophon in the 6<sup>th</sup> century (Kahn, 2003: 1682). Certainly a critique of poetic anthropomorphism is very much in the tradition of Xenophanes, who took Homer and Hesiod to task for their less-than-noble depiction of the gods (Brunt, 1989: 178). It is a feature of the late Republican intellectual landscape that such Greek influences came to be embedded in Roman discourse albeit with a discernibly Latin accent. After Scaevola's day, both Latin and Greek scholars (such as Dio Chrysostom's 1<sup>st</sup> century *Olympian Oration*; Becker, 1993: 67) continued to work on the *theologia tripertita* so that a scholar such as Augustine need not have relied solely on Varro's formulation. It is not beyond the realms of possibility that Scaevola was the genuine originator of this *dictum*. His knowledge of Aelius' juristic *Tripertita*, along with his own *generatim* treatment of the *Ius Civile*, lends weight to the theory that the learned *pontifex maximus* approached a religious

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<sup>193</sup> Augustine finds 'civil' and 'mythical' theologies unworthy of the name 'theology' (Osborne, 2009: 122).



matter in his preferred idiom. There is the further tantalising possibility that, together with his juridical writings, Scaevola composed a work of theology in which this specific question would have been read in its proper context.<sup>194</sup>

Attempts to determine the veracity of the Varronian-Augustinian account are helped (to an extent) by the generally Stoic flavour of its argument. Although, in the absence of more substantial evidence, Scaevola remains ‘Stoic by association’, it is fairly likely that he assimilated the philosophical views of his father and the cultural *milieu* of his circle. The *theologia tripertita* was essentially the product of a Stoic refinement of those questions raised by thinkers like Xenophanes several centuries earlier. Rawson (1985: 300) interprets Scaevola’s intervention as building on the Stoic *divisio* by importing a negative moral evaluation of both poetic *and* philosophical renderings of the gods. Perhaps the most problematic aspect of the Scaevolanic *theologia* is the semantic space it allows for readings which run perilously close to deception of the *infirmus*. Augustine certainly mocks the *pontifex maximus* with charges of complicity in duping the credulous for the purposes of civic utility. But we should be aware that at least some of those phrases which hint at the ‘expediency of ignorance’ seem to be part of Augustine’s own apologetic interpretation (although there are other late Republican voices which treat the religion of Numa in a similar manner, notably Lucretius). There is, of course, an aspect of this discourse which is more in keeping with the Stoic and, by extension, Scaevolanic attitude – namely the lack of enthusiasm for shocking people out of their social and religious ‘comfort zones’ simply for the sake of it.<sup>195</sup> Nevertheless, the Stoic would not be reluctant to criticise the excesses of religious practice when necessary. Fortin accuses Augustine of ‘grievously’ – perhaps deliberately –

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<sup>194</sup> Velleius, II.26: ‘Scaevolam Mucium, pontificem maximum et divini humanique iuris auctorem celeberrimum’ – ‘Mucius Scaevola, the pontifex maximus and a very famous authority on divine and human law.’

<sup>195</sup> Unlike the Cynics, cf. Brunt, 1989: 179.

misconstruing Scaevola's intention to suit his own rhetorical agenda (Fortin, 1980: 243).<sup>196</sup> After all, Scaevola did not consider the intuitions of natural theology to be 'false', merely incongruent with the requirements of political reality. After all, the state religion was 'a political artefact exactly like the secular machinery of government, and it came into existence after the state' (Liebeschuetz, 1979: 37). It may be inferred, therefore, that the religion transmitted to the people should, in Scaevola's view, be 'a creature of the state' (Watson, 1992: 13).

In a significant and, in Rawson's view, distinctively Roman inflection, these political realities are determined by the *principes ciuitatis* – not 'the lawgivers' as we might expect in a Greek treatment of the same issue (Rawson, 1985: 300). Might we go so far as to suggest that this is a distinctively *Scaevolan* inflection which offers the hermeneutic key to this passage's real meaning? Who are these *principes ciuitatis*? Most translators identify them merely as 'statesmen' or 'politicians'. I have opted for 'leading citizens' because I concur with the view that Scaevola is referring to a particular class of statesmen and not some undifferentiated herd of politicians. There is, of course, a sense in which Scaevola himself is the quintessence of these *principes*: his personal credentials would place him in the highest stratum of public life. What is striking about this particular phase of the Republic is the extent to which many of its leading citizens were not statesmen in the mould of preceding generations. Even though they had pursued the *cursus honorum*, certainly the new generation of Roman leaders were not schooled in the traditions of political and civic engagement which had (more or less) successfully shaped their grandfathers.<sup>197</sup> The irruption of civil conflicts and bloodletting had

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<sup>196</sup> Fortin goes on to invoke Scaevola's legal '*habitus mentis*' in accounting for this intervention but ends up indulging in too much special pleading: 'False but plausible arguments are therefore preferable to true but implausible ones, which is just a more polite way of saying that, whether he likes it or not, the orator must frequently resort to lies.' (1980: 246)

<sup>197</sup> Cicero discusses these ideas in his treatment of the *princeps* and *principes civitatis* in *de Republica* 1:43-44, 65; 2:55 ff.

brought about a ground shift which, in turn, dislocated action from its traditional influences in speech, thought and persuasion. This meant that not only was violence more likely to be deployed in place of rhetoric (as we shall see), but that other practices, hitherto alien to the *mos maiorum*, threatened to become a reality in Rome itself. Although the younger Marius is a striking example of this (con)fusion, it is perhaps better illustrated in the life of his cousin, M. Marius Gratidianus. This younger man's rise to prominence coincided with Scaevola's pontificate and, I would argue, not only illustrated the pontiff's theology but also fed into the narrative of religious murder which would also claim the *pontifex maximus*.

Gratidianus made good use of the tribunate and, more particularly, the praetorship to heighten his profile among the urban *plebs*. He is perhaps best known for appropriating the edict to re-stabilise the relative value of the *as* and the *denarius*, stealing a march on the tribunes and his fellow praetors who had collectively decided upon the measure and intended to promulgate it as a body from the *rostra*. His forthright handling of a problem which had long bedevilled the finances of ordinary citizens as much as it had weakened the state coffers earned him a particular kind of popular devotion. Grateful Romans set up statues to Gratidianus in every *vicus* and these monuments became a focus for cult practices such as the offering of libations, incense and candles.<sup>198</sup> Although Cicero harboured no great philosophical or theological misgivings about the posthumous worship of great men, Scaevola had probably regarded the practice as dangerous (Rawson, 1973: 346).<sup>199</sup> Moreover this was an altogether different

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<sup>198</sup> Cicero, *de Officiis*, 3:80

omnibus vicis statuae, ad eas tus, cerei.

In every neighbourhood there were statues and before these burned incense and candles.

<sup>199</sup> Cicero, *de Legibus*, 2:27-28

Quod autem ex hominum genere consecratos, sicut Herculem et ceteros, coli lex iubet, indicat omnium quidem animos immortalis esse, sed fortium bonorumque divinos. Bene uero quod Mens, Pietas, Virtus, Fides consecrantur humanae, quarum omnium Romae dedicata publice templa sunt, ut illas qui habeant — habent autem omnes boni — deos ipsos in animis suis conlocatos putent.

Now the law which determines the worship of those mortals who have been deified, such as Hercules and the rest, states that, while the souls of all people are immortal, the souls of the bravest and and

proposition. Purcell observes that, although such honours were bestowed upon the Gracchi after their deaths, extending such quasi-divine favours to a still-living individual was a radical novelty (Purcell, 1994: 678). After all, this was Rome not Asia. It has been argued, however, that Gratidianus was preceded down the path of divinity by his uncle, the elder Marius, some twenty years earlier (Beard, 1992: 752). Valerius Maximus records the public libations offered by the people after his defeat of the Cimbri *tamquam dis immortalibus*.<sup>200</sup> There is, however, both a qualitative and a quantitative distinction to be made in the nature of the kind of honours paid to both men. Valerius' account is suggestive of a relatively spontaneous – and collective – act of thanksgiving on the very day of a decisive victory. The setting up of Gratidianus' statues and the (presumably sustained) nature of the acts of piety carried out there indicate an intensification of the 'hero worship' lavished on popular and successful figures. We must assume that the beneficiary himself posed no objection to the proliferation of statues and the paraphernalia of divinity.<sup>201</sup> Mouritsen suggests that the erection of these monuments was the fruit of *his* 'cultivation' of the *vici* and not the other way around (Mouritsen, 2001: 83). Even if we dissent from Cicero's description and accept Flower's argument that the cult foci were actually the shrines of the *lares compitales*, this still constitutes a significant projection of *genius* veneration from the domestic plane to the city and beyond (Flower, 2006: 94). Flower does acknowledge the special status of Gratidianus in the manner of his death which, according to the accounts, was choreographed as a pastiche of sacrifice or presented as such in the lurid retellings (Flower, 2006: 95). His death, situated by Purcell (1994) in its 'context of the popular spectacle and the institutionalization of violence',

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best are divine. It is agreed that Intellect, Piety, Virtue and Faith should be deified and in Rome temples have been dedicated to them by the state so that those who have these virtues – and all good men do – should think that the gods themselves were seated in their own souls.

<sup>200</sup> Valerius Maximus, 8:15

postquam enim Cimbros ab eo deletos initio noctis nuntius peruenit, nemo fuit, qui non illi tamquam dis immortalibus apud sacra mensae suae libauerit.

For after the news came through at nightfall of his destruction of the Cimbri, everyone offered a libation to him, as if to the immortal gods at their sacred banquet. Cf also Plutarch, *Marius*, 27.

<sup>201</sup> However, Williamson (2005: 391) argues that such treatment was 'neither expected nor sought'.

seems to have been directly related to the quasi-divinization he had enjoyed before Sulla's emphatic return to the city (Purcell, 1994: 678).

Although the death of Gratidianus was so shocking that even embellished accounts must surely record something of its brutality, the fact that he had been elevated to this particular form of hero status in the first place would have been just as disturbing to Scaevola. Although the cult practices of *tribus* and *vicus* lay beyond his strict purview, Gratidianus' case may well have been referred to Scaevola in an official capacity. This is certainly the view of Schiavone, who sees the *theologia tripertita* originating as an oral *dictum* (1974: 46) in response to a matter referred to him by the senate (Wolf, 1980: 20). When making an intervention on behalf of the pontifical college, the *pontifex maximus* was, following Cicero's line of argument, the *princeps publici consilii*.<sup>202</sup> Bauman goes even further, suggesting that Scaevola may have engineered the senate's referral of the matter to the pontiffs in the first instance. It was in this capacity that Scaevola made his views on the 'deification' of Gratidianus known and that this particular question prompted his reflection on the gods of the *principes ciuitatis* (Bauman, 1983: 359ff). It is certainly the case that Gratidianus' ascent coincides with Scaevola's tenure as chief pontiff. Although deprived of the consulship, we know of the immediate iteration of his praetorship. Perhaps a consolation prize for Gratidianus (Sumner, 1973: 118), such iteration was considerably more unusual for the praetorship than the consulship and would have been interpreted as a clear extension of the Marian-Cinnan consolidation of power. Gratidianus certainly had mass appeal and it was, according to Bauman's analysis, that manipulation of popular affection which violated the determination by the *principes ciuitatis* of 'additions to the pantheon' (Bauman, 1983: 360). The conferral of quasi-divinity by the people was, of itself, harmful to the people since it

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<sup>202</sup> Cicero, *de Domo*, 102.

brought the very notion of the gods into disrepute. Quite apart from the discussion about the images of the gods, the idea that Gratidianus could be ‘invoked’ in the same breath as Romulus or Hercules threatened to devalue their currency also – an ironic twist on his fiscal masterstroke. If Scaevola’s intervention was indeed occasioned by Gratidianus’ living apotheosis, its success lay in its subsequent influence on philosophy and theology, not on its immediate effect on the situation in Rome. It was Sulla’s actions, not Scaevola’s words, which halted the rise of this Marian star. No sooner were Gratidianus’ statues overthrown than the images of Sulla took their place.

Both Scaevola and Gratidianus were to meet their deaths in 82, the year of Sulla’s return. The Lucan scholiast traditions offer brief accounts of both murders. In the *Adnotationes super Lucanum*, the death of Gratidianus is briskly - but luridly - recounted with the breaking of his limbs and the gouging out of his eyes *ut per singulos artus expiraret* (*Adn.* 174); the Berne *Commenta* are even more detailed, mentioning the tomb of the Catuli ‘across the Tiber’ and recording the view, held by some, that Catiline carried out the execution at the behest of Sulla.<sup>203</sup> It is the mention of the tomb in the latter *commentum* which emphasises the religious gloss applied to an act of considerable brutality (and which features in other accounts). A tomb was a sacred object – indeed virtually all matters relating to them pertained to the *ius pontificium* (Crook, 1984: 134) and the deliberate choice of the tomb of the Catuli would provide not only a fitting scene of vengeance but a religiously meaningful one at the same time.

### **Scaevola the Martyr**

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<sup>203</sup> For an analysis of the death of Gratidianus and the scholiast traditions, see Marshall (1985) and Rawson (1987).

Although – as we shall see - the accounts of Scaevola's death do not entirely agree on the location of his murder – here too there is an even stronger evocation of sacred space. But before we consider the circumstances, we must briefly consider the events leading up to it.

The motive for Scaevola's continued presence in the city remains opaque. Rawson rightly critiques the temptation to assume that 'anti-Marian meant Sullan' and yet this may have been precisely the facile conclusions drawn by Scaevola's contemporaries (Rawson, 1987: 166). It was true that many of his political (and religious) positions were consistent with a lack of sympathy for the Marian cause; this does not mean, however, that he was ideologically hitched to Sulla's chariot. Although he had endorsed Flaccus' attempts to maintain the prestige of the senate and reach some accommodation with Sulla the year before, that decision had more to do with his personal convictions about the senate than his estimation of Sulla. It would of course have been eminently sensible to withdraw from the city to sit out the storm of retribution that was waiting to break upon Sulla's return. Perhaps Scaevola carried out a risk assessment and decided that quitting was just as dangerous as staying: either course of action could have been interpreted as an indication of one's loyalties. Then there was the matter of his office: he was *pontifex maximus*. Although the link between priest and city had been unintentionally broken by Nasica and more deliberately severed by his uncle, Mucianus, Scaevola had shown himself the sort of man who cared about such things. His awareness of duty may have been the determining factor in his decision to remain at the centre, no matter how perilous that centre now was. Added to this fractured state of affairs was the calamitous destruction by fire of the temple of Jupiter in July of 83. As Flower rightly suggests, the ruin of Rome's chief cult centre, which had withstood the threats and near-misses of centuries past, must have been a cause for dread among the populace

(2010:171). Given that there was no priest of Jupiter, perhaps the *pontifex maximus* saw it as his unique responsibility to offer reassurance by staying behind.

Keaveney argues that Cinna's former policy of conciliation towards the senate had effectively been Scaevola's shield, but that the extreme elements of the younger guard had no such preoccupations. Even though he had elected to remain at the centre, there was a sense in which there was *no* central point in the rapidly unfolding events – at least not the senate:

(They) were attempting to defend a position which had long been rendered meaningless by the development of events. Rather than march in arms by the side of Sulla against their country, they preferred to stay in Rome and continue with Flaccus' dated policy of maintaining, against all sides, the dignity and authority of the body to which they belonged (Keaveney, 2005: 118).

We learn of Scaevola's reluctance to set himself 'against the walls of his native city' in a letter of Cicero to Atticus, even though he must have had some idea of the outcome (Morstein-Marx, 2011: 274).<sup>204</sup> Cicero sees his own predicament, against the backdrop of the civil strife of 49, in exactly the same terms as Scaevola's dilemma (van der Blom, 2010: 240). It is surely a bitter irony that the agent of Scaevola's death was the urban praetor, the city's 'minister of justice', L. Iunius Brutus Damasippus. Cornered in Praeneste, the younger

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<sup>204</sup>Cicero, *ad Atticum*, 8, 3.6:

at si restitero et fuerit nobis in hac parte locus, idem fecero quod in Cinnae dominatione (L.) Philippus, quod L. Flaccus, quod Q. Mucius, quoquo modo ea res huic quidem cecidit; qui tamen ita dicere solebat se id fore uidere quod factum est sed malle quam armatum ad patriae moenia accedere. aliter Thrasybulus et fortasse melius. sed est certa quaedam illa Muci ratio atque sententia, est illa etiam Philippi, et cum sit necesse seruire tempori et non amittere tempus cum sit datum. sed in hoc ipso habent tamen idem fasces molestiam.

If I stay behind and find a place in this party, I will be doing what Lucius Philippus, Lucius Flaccus and Quintus Mucius did during the domination of Cinna – however it turned out for the last of those; yet Mucius used to say that he foresaw his fate as it turned out to be but that he preferred it to marching in arms against the walls of his native city. Thrasybulus did otherwise and perhaps better so. But there is certainly something in Mucius' thinking and point of view, as with Philippus: make the most of things and not to missing out on the opportunity when it arises. But there too these same fascies get in my way.



Marius sent word to Damasippus to deal with his enemies: chief among these were Scaevola, C. Papirius Carbo Arvina, L. Domitius Ahenobarbus and P. Antistius. The other three men had some connection with Scaevola and could be said to have shared congruent views on many of the same issues, although he would easily have been the most prominent.<sup>205</sup> To what extent this decision was made by the younger Marius alone is also open to interpretation: the other consul might have had a reason to find the death of the only surviving ‘insitigator’ of the Social War politically expedient. Was Cn. Papirius Carbo, by then on his third (virtually) consecutive term, using the fate of Scaevola to definitively signal his commitment to the ‘new Italians’ and the scarcely enfranchised freedmen (Livy, *Periochae* 84)? If most Italians were indeed suspicious of Sulla (Frier, 1971: 589), the sacrifice of someone who had opposed the extension of their rights *and* may have been about to side with Sulla might well bolster Carbo’s position.

In the consuls’ absence, the urban praetor convoked a meeting of the senate which may have had no substantive purpose beyond bringing the intended victims together in one place. It is possible that a vote was carried out to bring a *hostis* declaration against these men. This would certainly be consistent with the speed of their execution and the disposal of their bodies afterwards. Sources conflict as to the praetor’s advertising his intent: some choose to mention a ring of soldiers around the *curia*, others do not. Livy suggests that the list of ‘enemies’ extended beyond these named individuals to other members of the nobility, although the surviving account in the *Periochae* no doubt exaggerates the scope of the massacre.<sup>206</sup> According to this version, Scaevola was pursued across the forum to the

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<sup>205</sup> According to Ernst Badian, they ‘seem to have been preparing to join Sulla’ (2003: 1109).

<sup>206</sup> Livy, *Periochae* 86:5-6.

L. Damasippus praetor ex uoluntate C. Marii cos. cum senatum contraxisset, omnem quae in urbe erat nobilitatem trucidauit. Ex cuius numero Q. Mucius Scaeuola pont. max. fugiens in uestibulo aedis Vestae occisus est.

entrance to Vesta's shrine which adjoined the sacral complex of the *regia* and *domus publica*. According to Appian, Carbo and Antistius were killed in the senate house, Domitius was felled by the door and Scaevola was run to ground just outside.<sup>207</sup> The other accounts tend to accord with Livy's mention of the shrine of Vesta. Lucan emphasises the religious dimension – and the sacrilege – of the murder in a way which may incorporate elements of another tradition:

te quoque neclectum uiolatae, Scaeuola, Vestae  
ante ipsum penetrale deae semperque calentis  
mactauere focos; paruom set fessa senectus  
sanguinis effudit iugulo flammisque pepercit.

(Lucan, *Pharsalia*, II:136)<sup>208</sup>

Lucan deploys the language of sacrifice and juxtaposes it with the resulting desecration of Vesta's sanctuary, the goddess herself being violated in this act. There are layers of resonance here: the *pontifex maximus* was Vesta's only male 'priest' and he exercised a particular role over the household attached to her cult. For him to be cut down in the inner-shrine is a double outrage. Lucan may also be playing with the symbolism of the 'proto-Scaevolan' myth in which flames also loom large.

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At the wish of the consul Gaius Marius, the praetor Lucius Damasippus convened the senate and massacred every man belonging to the nobility living in Rome. Among these was Quintus Mucius Scaevola, the *pontifex maximus*, who was murdered, as he fled, in the entrance to Vesta's shrine.

<sup>207</sup> Appian, *BC* 1:88.

<sup>208</sup> You too, Scaevola, they sacrificed, unheeded, before  
the very inner shrine and ever-burning hearths  
of desecrated Vesta: your weary old age poured from your throat  
a trickle of blood and allowed the flames to live.

Brief mention is also made by Cicero in *de Oratore*, in which he refers to *neque... pontificis maximi, sanguine simulacrum Vestae respersum esse vidit*.<sup>209</sup> Here the cult image of the goddess is spattered with blood, perhaps suggesting – at least in Cicero’s rhetorical imagination – the *pontifex* reaching out to claim sanctuary. The same image bleeds through into the Lucan scholiasts. The *Adnotationes* are constrained by a wrong reading of Lucan (*dextrae* instead of *Vestae*) and attempt to square the reference with Scaevola’s famous forebear, also conflating the elder and the younger Marius in the process. Preserved, however, is the image of the pontiff smearing Vesta’s image with his bloody hand. Both the *Adnotationes* and the *Commenta Bernensia* locate the killing *in templo Vestae*, leaving Appian the sole voice situating the deed away from the Vestal complex. There is a sense in which this disputed placement is entirely fitting: Scaevola’s death takes place within the precincts of the forum and the spaces he inhabited in his various public personae: consul, jurist, *pontifex maximus*. It is also ironic that one whose allegiances were so hard to pin down could not have eluded his executioners: if not those pursuing him on foot, then certainly those who sent them.

Did Scaevola suspect that his end was imminent? After all, he had a scar to remind him of his vulnerability; but he did not remove himself from the reach of those who stood to gain from harming him. We may perhaps detect something of his Stoicism in accepting the inevitable and even suggest that there was an element of what would later be termed *ambitiosa mors*: political suicide achieved through an ‘ostentatious death’ (Hill, 2004: 9). It could be argued that Scaevola collaborated with his executioners and ended up surrendering his life in a way

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<sup>209</sup> Cicero, *de Oratore*, 3:10: ‘Neither... did he behold the image of Vesta spattered with the blood of his colleague the *pontifex maximus*’.

There are also strong parallels with the accounts of Merula’s suicide in the Temple of Jupiter: *sacerdotisque sui sanguine uetustissimi foci maduerunt* (Valerius Maximus 9.12: ‘the ancient hearth was drenched in the blood of its priest’); *incisis uenis superfusoque altaribus sanguine* (Velleius 2.22: ‘having opened his veins and drenched the altars with blood’).

which was not so very different from Merula. Instead of fleeing the city, or staying within the *domus publica* (with perhaps a squad of curiate lictors in prominent defensive positions), he took the decision to venture out and make whatever ensued a spectacle for all to see. Even the public humiliation of his body, dragged to and cast into the river Tiber (Kyle, 1998: 220), would have made a clear statement about his killers.

Although Scaevola was, in almost every sense, the personal antithesis of Julius Caesar - who dominates the next chapter<sup>210</sup> - his demise mirrors the death of Caesar in several ways. The slain pontiff becomes a symbolic victim of *impietas*. The fact that he was the first *pontifex maximus* to be cut down in his own city by his own people provoked shock and lasting revulsion. It was probably the trigger for Cicero's definitive abandonment of his familial ties to the Marians and his alignment with Sulla (Lintott, 2008: 422). Thereafter, Cicero's own construction of Scaevola's life is, legal activity aside, overshadowed by the manner of its ending. It furnishes him with a theological problem: how could the gods allow that *temperantiae prudentiaeque specimen* to be butchered before the statue of Vesta?<sup>211</sup> Cicero puts the perennial question of evil on the lips of Cotta, the *pontifex*, not so much as a theological authority but as the representative of Rome's religious traditions. It is the Stoic Lucilius Balbus who makes the rejoinder that the pontiffs surround the city with a protective cordon of religious rites, more so than the walls themselves.<sup>212</sup> This is a curious note on

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<sup>210</sup> Indeed there are many more similarities between Gratidianus and Caesar.

<sup>211</sup> Cicero, *de Natura Deorum*, III.80

cur temperantiae prudentiaeque specimen ante simulacrum Vestae pontifex maximus est Q. Scaeuola trucidatus..?

Why was that model of restraint and wisdom, the pontifex maximus Q. Scaevola, butchered in front of the statue of Vesta?

<sup>212</sup> Cicero, *de Natura Deorum*, 3.94

Est enim mihi tecum pro aris et focus certamen et pro deorum templis atque delubris proque urbis muris, quos uos pontifices sanctos esse dicitis diligentiusque urbem religione quam ipsis moenibus cingitis; quae deseri a me, dum quidem spirare potero, nefas iudico.

which to conclude since ‘altars, hearths, temples, shrines and even walls’ have not been spared by these observances. And yet, even though the efficacy of these prayers is in doubt, Balbus vows not to commit the sacrilege of deserting these places. Perhaps Cicero is making a statement of his own ideal position, one clearly modelled on his mentor – the martyred Scaevola. Although Cicero bemoaned both Scaevolae’s diminution of the *auctoritas* of the priests, Quintus Scaevola may actually have enhanced it. By that I mean that, while Nasica blurred boundaries by *action*, Scaevola blurred them by careful intellectual *exposition*. The distinction between pontifical and civil law, as well as the boundary between the mechanics of priesthood and the articulation of theology, were uniquely and permanently altered by him. Perhaps the modifications he made to these systems deprived him, at least in part, of their traditional protection. Fimbria’s prosecution of the *pontifex maximus* on the grounds of being ‘insufficiently stabbed’ conjures up a scenario in which the failure of both laws and gods (as formerly understood) is mockingly exploited in a changed world.

## Conclusion

As we mentioned at the outset, it is perhaps inevitable that discussion of Scaevola’s death will continue to borrow the tropes of Cicero’s rendering of his mentor as an *exemplum*. It is perfectly possible, of course, that he already possessed something of this symbolic character during his lifetime. Scaevola is regarded as the first to develop the idea of *societas* in the abstract (Schiavone, 1987: 63-68 in Arena, 2012: 163); the matrix of roles and responsibilities created by society - and on which society itself relied – was sustained by the idea of *fides* (Burckhardt, 1990: 94). We have already noted that Scaevola embodied *bona*

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For I have to struggle with you on behalf of our altars and hearths, of the temples of the gods and shrines and for our city walls which you pontiffs declare to be sacred and more carefully cordon the city with religious ceremony than fortifications; and I reckon it a sacrilege to abandon them while I still have breath.

*fides* (Harries, 2006: 25), making it the central construct of his provincial decree in Asia; it could be argued that the very concept of *societas*, which underwent such a brutal revision in the '80s B.C., also rendered *fides* an ideologically compromised virtue. Ideals of 'integrity', 'right dealing' were less current and prominent in the wake of the struggles between Cinna, Marius and Sulla than the loaded connotations of *fides* and the *principes civitatis* ('loyalty to, and trust in, our social superiors', Rüpke, 2007: 55). In other words, Scaevola's identification with a particular 'vision' of the *res publica* was enough in itself to make him an enemy. His consistency and fidelity to those ideals, rooted in law and religion, would make him a conspicuous and easy target. The metastasis of political murder was such that none of Rome's *templa* could any longer be considered a sanctuary, not even for the *pontifex maximus*.

## CHAPTER FOUR

### Pontiff and Dictator

Sulla's victory was achieved through a strange mix of butchery and clemency, with enemies proscribed yet strategic converts welcomed (Steel, 2013: 106). He quickly engineered the revival of the dormant office of dictator and embarked upon a programme of recalibrating the state according to the ancient provisions of the dictatorship (Arena, 2012: 94) but without the usual expiry date of six months. It would not have been difficult to claim that Rome had endured a period of unparalleled lawlessness – Quintus Scaevola's murder being a lurid illustration of this disorder – and the range of Sulla's activities attest to the scope of his freedom as *dictator legibus scribundis et rei publicae constituendae* (Vervaet, 2004: 38). As well as addressing 'direct' political issues, Sulla also made modifications to the priestly colleges. By virtue of his personal *auctoritas*, he also made a contribution to the wider landscape of Roman religious life (Orlin, 2010: 200) An augur and a man of heightened religious sensibility,<sup>213</sup> he ensured (in that Sullan way) that a trusted ally was chosen to fill the vacancy at the head of the pontifical college: Metellus Pius. He also, in a way that he could not have foreseen (despite the prescient utterances attributed to him<sup>214</sup>), singled out the man who would succeed Metellus as chief pontiff and become the last dictator of Rome. The period of Sulla's domination and the working out of his legacy raises some important

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<sup>213</sup> Plutarch, *Sulla*, 6; Appian, *Civil Wars*, 1:97.

<sup>214</sup> Plutarch, *Caesar*, 1:4.

questions about the position of the *pontifex maximus* when one man has unrivalled power in the state and exercises that influence in matters of religion. The careers of Metellus Pius and Caesar might broadly be characterised as instances of the ‘passive’ and ‘active’ voice in the post-Sullan grammar of sacro-political power.

## Metellus Pius

By the time of his death in 63, Quintus Caecilius Metellus Pius was arguably ‘the most distinguished man in Rome’ (Münzer, 1999: 290).<sup>215</sup> His standing among his contemporaries, however, is not matched by his imprint on history: whenever he does feature in an *index personarum*, the likelihood is that he will be eclipsed by his forebears or his adopted son. The *Caecilii Metelli* were among the most celebrated Roman dynasties, reaching the zenith of their influence during the careers of the brothers Metellus Macedonicus and Metellus Calvus and their sons in the latter half of the second century B.C. (Beagon, 2005: 335). The variety of triumphal *cognomina* – Macedonicus, Delmaticus, Baliaricus, Numidicus, Creticus – associated with this branch of the *gens Caecilia* attests to the high profile of their achievements in the military sphere.

Unlike his relatives, Metellus Pius acquired his cognomen for a display of filial piety – although he was not without some measure of military success during his comparatively long life. He had early experience of war, serving with his father during the Jugurthine campaign alongside Marius. According to Sallust’s account, it was during this campaign that relations between the elder Metellus and the rising star Marius began to undergo strain. Marius had petitioned Metellus for leave to stand for the consulship but was put off with the reply that he

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<sup>215</sup> Possibly following Valerius Maximus’ estimation (cf. 8.15.8 and 9.1.5).



could stand in the same year as his son. Given that Metellus' son was only about twenty at this time, we can imagine how this rebuff played with the ambitious Marius.<sup>216</sup> Plutarch retells the episode as a more calculated humiliation of Marius, since the two had already become enemies over the fate of Turpilius (Plutarch, *Marius*: 8). No matter what the precise occasion of estrangement was, there is no doubt that enmity between these men would come to have a direct influence both on the fate of Numidicus and on his son's subsequent political choices.

His father, Metellus Numidicus, had fallen foul of Saturninus (whom, as *censor*, he had previously sought to have expelled from the senate), going into voluntary exile in 100. This same year is the earliest putative date for Pius' election to the pontifical college (Rüpke, 2008: 581)<sup>217</sup>. It was his repeated efforts to ensure his father's recall which bolstered his reputation for devotion and led to his being named '*pius*'. The reputation of the Metelli and, one presumes, the popularity which secured his pontifical election, would have helped keep up the pressure on his father's opponents. No doubt he was able to use his extensive family connections to coordinate behind-the-scenes efforts to bring his father home. Alongside these subtle efforts were the opportunities for public entreaty. We know that the young Metellus, not yet a member of the senate, was not averse to maximising whatever dramatic displays came to hand – such as tearfully throwing himself at a tribune's feet before the *concilium plebis* (Appian, *BC* I.33; Kelly, 2006:85). Ultimately, it took the death of Saturninus and the eventual acquiescence of Marius to allow the recall motion to be carried late in 99. Metellus Pius did not forget those who had supported him, just as those who had impeded him were

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<sup>216</sup> Sallust, *de Bello Iugurthino* 1.64.

<sup>217</sup> The RE dates his entry to the pontifical college to 97.

called to account for it.<sup>218</sup> After his return from exile, Numidicus withdrew from public life and it is his dutiful son who plays a part in the disturbed years that were to follow.

In the Social War Metellus Pius commanded a pro-praetorian army in the successful campaign against Venusia but was then ordered by the senate to deal with the Samnites, first militarily and then diplomatically (Appian, *BC* 1.68).<sup>219</sup> The conditions set by the Samnites were too much for Metellus, who rejected them as insulting to the dignity of Rome. Although not quite the outcome they had hoped for, the senate recognised and supported his principled stance.<sup>220</sup> Fimbria, acting on Cinna's behalf, was only too happy to accede to these terms, thereby ramping up the pressure on the consuls Octavius and Merula. As a result, Metellus could only bring a fraction of his army to the relief of the city and the remainder of his troops soon fell prey to the Samnites who had flocked to Cinna's standard (Keaveney, 1987: 182). Octavius had been haemorrhaging men for some time and the remaining soldiers begged Metellus to take the command from the consul. With what seems a characteristic sensitivity to the 'proper order', he refused their offer – a move which only prompted further desertions. The parlous state of morale even induced him to consider his own overture to Cinna, offering to recognise him as consul (Diodorus Siculus, 38/39.3-4.1, Granius Licinianus, 35.47-48; Seager, 1992:177). Given his recent exertions both in the Social War and as the senate's military agent, this is, on the surface at least, a perplexing *volte-face*. It is probable that he stopped short of the further endorsements heaped upon Cinna or extracted at his command. Metellus chose instead to draw upon the reserves of goodwill attached to the family of Numidicus by removing himself to Africa. From there, he could contemplate the progress –

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<sup>218</sup> Metellus Pius returned the support of Q. Calpurnius by campaigning for him in the praetorship (Valerius Maximus 5.2.7); the tribune who had spurned his theatrical supplication, P. Furius, was indicted for his part in prolonging his father's exile but lynched before coming to trial (Appian *BC* 1.33).

<sup>219</sup> According to Granius Licinianus 35.23, the senate sent the Catuli (consuls of 101 and 78) as their envoys to Metellus.

<sup>220</sup> Cassius Dio, 30/35.102.6-7.

or deterioration – of the situation and monitor the weathervane politics of several leading citizens. Curiously, he was not immediately stripped of his *imperium*; according to Keaveney, this formal stripping of command only came in 83 or 82 as part of the outlawing of the *Sullani* (1987: 212).<sup>221</sup>

His relations with Pompeius Strabo and Magnus are typical of his career. During the Cinnan stand-off of 87, Strabo had initially supported the beleaguered consul Octavius but later opted to soften his stance towards Cinna. According to Saeger's analysis, this was due to his fear of being outshone by Metellus Pius should he gain the consulship for 86 (Seager, 2002:23). Sulla had already indicated that Strabo no longer enjoyed his favour and the elder Pompey demonstrated just how mercenary he could be when his shifting loyalties were tested.<sup>222</sup> Despite his temporary relinquishing of his proconsular command (while his troops murdered Sulla's nominee as his replacement), he moved quickly to reassert himself once again. Strabo's sporadic realignments came to an end with his death that same year. Metellus did not stand for the consulship (wisely, considering Marius and Cinna were both standing), preferring to sit out the approaching storm. When news of Cinna's death reached him, Metellus made an unsuccessful attempt to wrest control of the province from the governor, C. Fabius Hadrianus. Once Sulla had landed in Italy in 82, Metellus Pius was among the first to put his own troops – what remained of his expeditionary army of 89<sup>223</sup> - at Sulla's disposal; others, such as the young Pompey, followed suit. Still in his early twenties, Pompey had, with this move, demonstrated as much boldness as skill. Henceforth Metellus and Pompey would

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<sup>221</sup> Plutarch, *Sulla* 27.6; Appian, *BC* 1.86.

<sup>222</sup> Livy, *Periochae* 79; Velleius 2.21; Granius Licinianus, 35.12-13; Orosius, 5.19.10.

<sup>223</sup> Cassius Dio, 30/35.106.1; Appian, *BC* 1.80; Carcopino, 2005: 97.

be regarded as key figures in the new regime, with the younger man showing due deference to his senior.<sup>224</sup>

As dictator, Sulla made a shrewd choice in giving Metellus Pius a place of singular honour in his new entourage. Metellus had done much to bolster the Sullan cause by association, despite his temporary vacillation over Cinna. He soon experienced a notable success in his career as a Sullan deputy: he defeated the praetor Carrinas in Cisalpine Gaul and was spared direct confrontation with Carbo, who withdrew before joining battle.<sup>225</sup> These military successes were exceeded by the honour of becoming *pontifex maximus* in 81 and, perhaps as early as mid-July of that same year, Sulla's consular colleague for 80. One can presume that the support of the dictator was a factor in both promotions.

Among the numerous constitutional reforms set in place during his dictatorship, Sulla turned his attention to three of the *collegia amplissima* and their recruitment. Mirroring his expansion of the senate, he increased the numbers of pontiffs, augurs and *decemviri sacris faciundis* to fifteen and removed the people's right, given in the *lex Domitia* of 104, to elect the members of the priestly colleges (Livy, *Periochae* 89; Keaveney, 2005:148). The weakening of popular influence meant a return to the opaque practice of cooptation by the members of each college; this did not, however, extend to the *pontifex maximus* – although there is much confusion around the issue. Some have speculated that, in light of Sulla's abrogation of the *lex*, Metellus Pius' route to the chief pontificate may have taken a different path (Münzer, 1999: 329). There is, however, no evidence that the dictator interfered with what was a more ancient right of the *populus* than that which was accorded to them by Domitius Ahenobarbus (Taylor, 1942:421). Indeed Cicero's second speech against Servilius

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<sup>224</sup> Plutarch, *Pompey*, 8.

<sup>225</sup> Appian, BC 1.89; Livy, *Periochae* 88; Velleius 2.28.1.

Rullus' agrarian bill (which predated the *lex Labiena* of 63) describes the *comitia pontificis maximi* as a 'going concern' and not some defunct feature of the constitution.<sup>226</sup>

So, while Metellus Pius' elevation to *pontifex maximus* was enacted by traditional means, it is almost certain that he was the dictator's preferred candidate. It is conceivable that his anointing by Sulla would have been enough to thin out or even wholly deter the competition: Metellus may well have become chief pontiff by a form of election by acclamation. The rapid succession of chief priesthood and consulship-elect (although we cannot be entirely sure which was first) complicates the attempt to form a clear opinion of what kind of pontiff Metellus would have been. His two immediate predecessors, his uncle Metellus Delmaticus and Quintus Mucius Scaevola, had served their consulships and proconsular terms before becoming chief pontiff. Thereby they avoided the potential conflict of interests between their political duties and the religious obligations of the pontificate, namely the requirement to attend to Rome's principal cult observances in person. Metellus Pius did not have the luxury of separating these realms of activity into discreet career phases. While Metellus could, in

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<sup>226</sup> Cicero, *de Lege Agraria*, 2:18-19

'Item,' inquit, 'eodemque modo,' capite altero, 'ut comitiis pontificis maximi.' Ne hoc quidem uidit, maiores nostros tam fuisse popularis ut, quem per populum creari fas non erat propter religionem sacrorum, in eo tamen propter amplitudinem sacerdoti uoluerint populo supplicari. Atque hoc idem de ceteris sacerdotiis Cn. Domitius, tribunus plebis, uir clarissimus, tulit, quod populus per religionem sacerdotia mandare non poterat, ut minor pars populi uocaretur; ab ea parte qui esset factus, is a conlegio cooptaretur. Videte quid intersit inter Cn. Domitium, tribunum plebis, hominem nobilissimum, et P. Rullum qui temptauit, ut opinor, patientiam uestram, cum se nobilem esse diceret. Domitius, quod per caerimonias populi fieri non poterat, ratione adsecutus est, ut id, quoad posset, quoad fas esset, quoad liceret, populi ad partis daret.

'Also and in the same way', it says in the second chapter, 'as with the election of the *pontifex maximus*'. He did not even see that our elders had such concern for the people that, while for religious reasons it was considered improper for it to confer such an office, nonetheless in this matter they decided, given the high status of the priesthood, that they should humbly ask the people to do so. And with regard to the other priesthoods, Gnaeus Domitius, tribune of the people, a most distinguished man, passed a similar law which, because the people could not confer priesthoods on religious grounds, provided for the calling together of the lesser part of the people and that the one chosen by that group should be coopted by the college. See what a difference there is between Gnaeus Domitius, tribune of the people, a most noble fellow, and Publius Rullus who, in my opinion, tried to test your patience when he called himself a nobleman. That which was not permitted on religious grounds to be done by the people as a whole, Domitius, as far as he could, as far as was lawful and permissible, ensured could be done by entrusting it to a part of the people

theory at least, indefinitely prorogue a proconsular posting, it seems unlikely that Sulla would fail to deploy an able deputy in a time of necessity. Moreover, we cannot underestimate the attraction of a renewed *imperium* for a fifty year old still hungry for military success.<sup>227</sup>

Metellus Pius was allocated *Hispania Ulterior* as his province. Spain was the conspicuous exception to Sulla's powers as dictator. The renegade Marian 'proconsul' Quintus Sertorius had led the Lusitanian and Celtiberian tribes in revolt and the senate hoped that the official incumbent would end the rogue status of this important province. Hopes of a speedy resolution were soon dashed. Pius made several attempts to dislodge Sertorius, who had the advantage of being at the head of a native army. Plutarch offers a detailed account of Metellus' frustrated campaign. Outmanoeuvred and mocked by his opponent – he was even challenged to single combat by Sertorius – he eventually called for help.<sup>228</sup> It was Pompey who came to his assistance. Yet not even Rome's military prodigy could prosecute a swift end to Sertorius' campaign of humiliating incursion. Both Metellus and Pompey were to complain of a lack of resources and support from Rome.<sup>229</sup> Sertorius, on the other hand, was supplied by the Cilician pirates and may even have had access to the resources of Mithridates. The campaign rumbled on, with some very close calls for Pompey: after the battle of Sucro Sertorius boasted that 'were it not for the old woman Metellus turning up, he would have thrashed the boy and sent him back to Rome'.<sup>230</sup> In the end it was not so much Rome's eventual gift of reinforcements (two fresh legions, money and supplies), so much as the older man's frustration which led to Sertorius' demise. Wearing by a seemingly interminable campaign, Metellus put a hefty price on his enemy's head; this served to amplify the growing disaffection among Sertorius' Spanish forces and a successful plot to dispatch him was

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<sup>227</sup> This is certainly the Plutarchian view, as we have seen above (cf. Plutarch, *Pompey* 8).

<sup>228</sup> Plutarch, *Sertorius* 12.

<sup>229</sup> Sallust, *Epistola Cn. Pompei ad Senatum*, 9.

<sup>230</sup> Plutarch, *Sertorius*, 19.

devised by Perperna, his closest ally (Seager, 1992:219; Southern, 2002:48). Alongside the promise of money and land, Metellus' offer included amnesty to those 'in exile'.<sup>231</sup> Just who would be in the category of 'exile' is unclear; it is possible that Plutarch, on whom we rely for the details of the reward, has confused the status of *hostes* and *proscripti* (Konrad, 1988:257). Perperna certainly stood to benefit, but chose to fight on instead. In the end, it was Pompey who captured and executed him. After their scant resourcing of the war in its earlier phases, the senate was more generous at its end; an agrarian bill was passed to reward the homecoming soldiers with grants of land (Cicero, *ad Atticum*, 1.18.6; Gruen, 1995:37). Such a hard-won victory (of sorts) gave Metellus and Pompey an opportunity to request a triumph; by recognising the Spanish war as a *bellum externum*, the senate set aside the technical issue of Sertorius' Roman status (and that of the many supporters and Cinnan sympathisers who had defected to his cause). Although the victory was shared, it is certain that the two *triumphatores* decoupled their interests at this point. Appian records that Metellus returned to Italy after Pompey (1.121), and Eutropius lists their triumphs as chronologically separate (6.5).

Posterity, however, has given Pompey the lion's share of the glory. In his speech supporting Pompey's Mithridatic command, Metellus is pointedly absent from Cicero's account of the campaign against Sertorius: Pompey is undoubtedly the hero of the episode (Cicero, *pro Lege Manilia*; Seager, 2002: 50). It is fair to say that Cicero had nothing against Pius as such; his real aim was to dismiss the Metelli who had opposed the *lex Gabinia* and who were attempting to derail the proposed *lex Manilia*. Later accounts of the Spanish campaign are less sympathetic, if not positively scathing, towards the habitually 'irreproachable' Metellus (Seager, 1992: 212). He strays into Valerius Maximus' treatment *de luxuria et libidine* for his

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<sup>231</sup> Plutarch, *Sertorius*, 22.

alleged acceptance of semi-divine honours in the thick of the Spanish campaign.<sup>232</sup> This may have been part of a strategy of contrasting his supposed demerits with the qualities of his father, or the result of a campaign to exalt the role of Pompey (Gruen, 1971:7). Gruen is sceptical of a tendency of ancient historians and past scholarship to schematise the relationship between the two men and their supporters as emblematic of social or political rivalries.

Given that he was a *pontifex* for nearly 40 years, it is tempting to look for indications of ‘piety’ in a more overtly religious sense. Of these, there are few and even fewer which depart from what might be expected of any prominent Roman of his day. During his term as *pontifex maximus* he is thought to have built the Iseum Metellinum (Vout, 2003: 191); the construction of a cult centre for Isis within the *pomerium* would be an unusual project for the chief pontiff but less so for a wealthy consular. If Ovid is correct and Metellus Numidicus did indeed restore the temple of *Magna Mater* after the fire in 111 (*Fasti* 4.347-352),<sup>233</sup> then we

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<sup>232</sup> Valerius Maximus 9.1.5.

Quid enim sibi uoluit princeps suorum temporum Metellus Pius tunc, cum in Hispania aduentus suos ab hospitibus aris et ture excipi patiebatur? cum Attalicis aulaeis contactos parietes laeto animo intuebatur? cum inmanibus epulis apparatissimos interponi ludos sinebat? cum palmata ueste conuiuia celebrabat demissasque lacunaribus aureas coronas uelut caelesti capite recipiebat? et ubi ista? non in Graecia neque in Asia, quarum luxuria seueritas ipsa corrumpi poterat, sed in horrida et bellicosa prouincia, cum praesertim acerrimus hostis Sertorius Romanorum exercituum oculos Lusitanis telis praestringeret: adeo illi patris sui Numidica castra exciderant. patet igitur quam celeri transitu luxuria affluerit: nam cuius adulescentia priscos mores uidit, senectus nouos orsa est.

What was the purpose of Metellus Pius, the leading man of his time, when he allowed his comings to be marked by his hosts in Spain with altars and incense? When he gazed with contentment on walls decked with curtains of cloth of woven gold? When he permitted complex games to be held between enormous feasts? When he attended dinner parties in palm-emblazoned robes and received gilded wreaths lowered from the ceiling on his head as though from heaven? And where did all this occur? Neither in Greece nor Asia, whose lavishness could corrupt the very spirit of restraint, but in a tough, warlike province, and that while a bitter enemy, Sertorius, was blinding the eyes of Roman armies with Lusitanian spears – so completely had his father’s Numidian campaign faded. It is clear how quickly a love of opulence had swept in: his youth saw the old ways, his old age gave rise to the new.

<sup>233</sup> Ovid, *Fasti* 4: 347-352:

templi non perstitit auctor:

Augustus nunc est, ante Metellus erat.'

substitit hic Erato. mora fit, si cetera quaeram.



might discern a family tradition of catering for recently imported but highly popular cults. This religious eclecticism may also have borne the imprint of the architect of the new political and religious dispensation, Sulla himself: as part of his symbolic refounding of the city, Sulla was as keen to draw upon 'foreign' religious ideas as he was to restore the traditional structures of the Capitol (Santangelo, 2007: 219). It is not inconceivable that the *pontifex maximus* bowed to the prevailing religious wind. Sulla was, by all accounts, genuinely interested in religious matters and this runs counter to the view (still held by many) that the last generation of Republican leaders was attentive only to the public utility of religion. Metellus may, therefore, have been charged with the repristination of Rome's religious life.

His public persona seems to have capitalised on his reputation for *pietas*, as well as his association with religious power. A coin issued early in his career as *pontifex maximus* clearly evokes these qualities and makes a robust statement of how he intends to be perceived.

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'dic' inquam 'parva cur stipe quaerat opes.'  
 'contulit aes populus, de quo delubra Metellus  
 fecit' ait; 'dandae mos stipis inde manet.'

The name of her temple's founder is lost:  
 Augustus has re-dedicated it, and, before him Metellus.'  
 Here Erato ceased. There was a pause for me to ask more:  
 I said: 'Why does the goddess collect money in small coins?'  
 She said: 'The people gave coppers, with which Metellus  
 Built her shrine, so now there's a tradition of giving them.'



Figure 2: denarius of Metellus Pius

The head of *pietas* on the obverse is accompanied by the stork, thought by the Romans to care for its parents: clearly a reference to that much vaunted filial piety. Clark interprets the religious symbols on the reverse – the *lituus* and the jug - as an accompanying motif to signify reverence towards the gods (Clark, 2007:154). Just as striking, however, is the inclusion of IMPER: either a reference to his claim to have maintained his Samnite command throughout the civil war (dating it to the end of the 80s) or the acclamation of his soldiers during the Sertorian campaign (placing it in the mid 70s). The purpose of the religious symbols has been a subject of some debate. Taylor interpreted both as being symbols of the augurate; she excludes the possibility that the jug is a pontifical *capis* (sacrificial pitcher) as this interferes with her central thesis that they refer to Pius' father Numidicus (Taylor, 1944:353). There is no evidence that Numidicus was an augur; Taylor surmises that, in view of his personal status and his family's standing among the pre-eminent *gentes* of Rome, it was most *likely* that he was. Few would find this a convincing line of argument: there were other scions of the clan who had an equal 'right' to a place in the senior priestly colleges. There are, of course, other interpretations of the coin which merit more serious consideration.

Firstly, there is the possibility that Metellus Pius was making a statement both of filial piety and political loyalty. While the head of *pietas* and the accompanying stork were a Metellan innovation, the pairing of ritual symbols had first been coined by Sulla some two years

previously at most (Crawford, 1974:359). The recycling of numismatic devices is a common feature of Roman coinage, but the repetition of what was a recent feature of Sullan monetary propaganda is surely significant. Given the extraordinary measures which had been taken to wrest back control of Rome, Sulla would have been anxious to invoke the iconographic shorthand of religious authority and legitimation (Crawford, 1964:148). For Stewart, Sulla's purpose was clear:

These rituals jointly sanctioned the actions of elected officials, suggesting an intelligible, political significance for the occurrence of the paired symbols. The *pontifices* and augurs sanctioned the ritual preliminaries to all public business, and their general jurisdiction was particularly important at the ceremonies of investiture which identified the authority of elected officials themselves as legitimate. (Stewart, 1997:178).

He needed the stamp of respectability which these allusive symbols could confer: the juxtaposition of religious objects and military insignia is a deliberate statement. The issue of Metellus Pius' coin is, she argues, part of a similar quest for legitimacy, especially in light of the military claims which are also being made at the same time (Stewart, 1997:180).<sup>234</sup> There is, however, a sense which Metellus' use of these devices may go beyond appropriating the symbolism of the new dispensation or obtaining religious sanction after the carnage of civil war. He was, by this time, *pontifex maximus*: he was nominally responsible for the proper exercise of those same religious functions which are being referenced on his coins. Metellus succeeds in advertising family position, personal virtue, military achievement and religious office without recourse to anything so vulgar as a name-check. Incidentally, Caesar will

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<sup>234</sup> Cf. Crawford, 1964:149.

deploy the same *lituus* and jug motif on a coin issued after Pharsalus, with perhaps some of the same aims in mind.<sup>235</sup>

By the time Metellus was chief priest, the taboo of prolonged absence from the city had been definitively broken. It could be argued that Metellus' own seldom equalled absence from Rome was occasioned more by the uncertain political situation than an express desire to relegate his pontifical duties. He was no sooner *pontifex maximus* than he was elected consul; and it was in the exercise of his proconsular command that he became embroiled in the seemingly endless Spanish campaign. The destabilising effect of Sertorius' presence in Spain, acting as a magnet for some respectable opponents of the new regime, should not be underestimated.

While he was away from Rome, the priestly colleges could maintain their own affairs but certain functions were reserved for him alone. Despite the intervening five centuries, one such function, the inauguration of the *flamen martialis*, is related by Macrobius in surprising detail – not least the bill of fare.<sup>236</sup> He refers to the banquet following the inauguration of Lentulus Niger, helpfully listing the members of the pontifical college in attendance.

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<sup>235</sup> Crawford RRC 467/1. Caesar explicitly draws attention to his status as 'pont max' and 'augur'.

<sup>236</sup> Macrobius, *Saturnalia*, 3.10-11:

Refero enim pontificis uetustissimam coenam quae scripta est in indice quarto Metelli illius pontificis maximi in haec uerba: Ante diem nonum Kalendas Septembres, quo die Lentulus flamen Martialis inauguratus est, domus ornata fuit: triclinia lectis eburneis strata fuerunt: duobus tricliniis pontifices cubuerunt, Q. Catulus, M. Aemilius Lepidus, D. Silanus, C. Caesar, rex sacrorum, P. Scaeuola Sextus, Q. Cornelius, P. Volumnius, P. Albinouanus, et L. Iulius Caesar augur qui eum inaugurauit: in tertio triclinio Popilia Perpennia Licinia Arruntia uirgines Vestales et ipsius uxor Publicia flaminica et Sempronia socrus eius.

I refer to a very ancient pontiff's dinner which is described in these terms in the fourth index of Metellus who was high pontiff: 11 on the ninth day before the Kalends of September, on which day Lentulus was inaugurated as *flamen Martialis*, the house was decked out: the dining rooms laid out with ivory couches: the pontiffs reclined in two dining rooms, Quintus Catulus, Marcus Aemilius Lepidus, Decimus Silanus, the *rex sacrorum*, Publius Scaevola the sixth, Quintus Cornelius, Publius Volumnius, Publius Albinouanus and the augur who inaugurated him, Lucius Julius Caesar: in a third dining room were the Vestal Virgins Popilia, Perpennia, Licinia and Arruntia and his (Lentulus') wife the *flaminica* Publicia and his mother-in-law Sempronia.

Attempts have been made to determine the exact date of the banquet, given that Macrobius offers an exact date (22 August) but uses an enigmatic formula ‘*in indice quarto Metelli illius pontificis maximi*’ for the year. Taylor constructed a plausible case for the years 70 or 69 (since the *pontifex C. Caesar* is mentioned as being in attendance).<sup>237</sup> Later revisions of her thesis have suggested that 70 is the likeliest year since the inauguration of the priest of Mars, vacant for some years, would be considered a priority for the returning *pontifex maximus* (Tansey, 2000:243).

There is little to be said for Metellus Pius hereafter: the remainder of his life and pontificate has faded into relative obscurity. We have no evidence of him leaving the city after his triumphant return in 70 – by which time he would have been approaching or in his 60<sup>th</sup> year. Based on Macrobius’ comments, he seems to have kept up an *index* - perhaps the *commentarii* by another name - which formed part of the broader annalistic activities of the college (Rüpke, 2008: 33; 581). We know that he joined with other distinguished consulars in testifying against Pompey’s quaestor Cornelius in 65.<sup>238</sup> This trial, at least in part an attempt to strike at Pompey himself, resulted in the acquittal of Cornelius and a victory for Cicero. In his final years he would no doubt have observed the consolidation of Pompey’s influence with some concern and, with greater satisfaction, the burgeoning promise of his adopted son Metellus Pius Scipio. Ironically, it was in the Pompeian cause that Metellus Scipio would play a decisive role and against Caesar that he would strike the first real blow of the civil war of the 40s – albeit in the form of the senate’s ultimatum of 49 that Caesar should disband his legions.

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<sup>237</sup> Taylor, 1942b, 400.

<sup>238</sup> Valerius Maximus, 8.5.

In the intervening years, the *pontifex* who reclined at the first couch at that inaugural banquet had, against the odds, succeeded Metellus Pius as head of the state religion. ‘The most distinguished man in Rome’ had been replaced by someone who would change Rome and the pontificate for ever. However, we should not leap over Metellus Pius’ tenure as *pontifex maximus* in order to reach the culmination – or *nadir* – of the Republican office in the person of Julius Caesar. By dying (we presume) in his bed, Metellus successfully embodied a style of *pontifex maximus* which combined a protracted military career, occasionally impervious to prevailing senatorial winds, with a keen sense of the symbolic power of his priestly office. The fact that Metellus knew, like Sulla before him, that military success could not be divorced from the proper observance of religious ritual makes Caesar’s subsequent appropriation of the trappings of the *pontifex-imperator* less mould-shattering. Metellus Pius had, by the simple fact of longevity and survival, set the seal of pontifical *gravitas* on a life of political and military engagement.

## **Gaius Julius Caesar**

Caesar is more than a historical figure: thanks, in part, to his own genius for self-promotion and self-preservation, he has become something of a *motif* which runs through most areas of scholarship on the late Republic. This is hardly a recent phenomenon, of course; the gradual evolution of the Augustan principate relied on the flexibility of Caesar’s memory to offer occasions for both opportunistic celebration and selective denigration of his ‘achievements’ to further the interests of the new order (Ramage, 1985: 224). It is my contention, however, that he not only symbolically represents, but actively brings about, the fusion of *cultus* and *cultura* which becomes the dominant motif of the *Gottkaisertum* of much of Rome’s imperial

narrative. Of course, we must also reckon with the *culter*, the role of the knife, in Caesar's story.

The religious dimensions of his public life are key factors in this assessment. It is, of course, impossible to reconstruct Caesar's own views of religion. Some fairly recent presentations of Caesar continue to emphasise the Suetonian portrait of a man indifferent to religion.<sup>239</sup> We would do well, however, to heed more nuanced opinions. Wardle, referring to an essay by Paladino, warns of attempting to access Caesar's 'thought life' and his understanding of himself in religious terms (Wardle, 2009:100; Paladino, 1994:191). We will not repeat the earlier discussion of the content of Roman religion, save to say that its performative elements, hallowed by tradition, do not correspond neatly with modern notions of a 'belief system' (Feeney, 1998). In this light, Caesar is no different from his contemporaries: he does the right thing, the socially and religiously sanctioned thing – more often than not (Tatum, 2008: 64). That does not mean that we should regard Caesar's (or anybody else's) religious activity as simply 'going through the motions' as we would understand that phrase today (*contra* Dando-Collins, 2010:78). We should also be mindful that the old orthodoxy which characterised this phase of the declining Republic as intellectually disengaged from matters of religion has ceded to a more balanced view. Indeed the writings of Cicero, Lucretius and Varro attest to a lively interest in religious questions (Crawford, 1992:178).

### **Early career, early priesthoods?**

Before we discuss Caesar's term at the helm of Roman state religion, it is worth considering his first serious contacts with the priestly institutions of the Republic. Entry to one of the

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<sup>239</sup> Suetonius, *Divus Iulius*, 59; cf. Hall, 1998:19.

priestly colleges was a significant avenue of career advancement for the sons of Rome's aristocracy and it could also, as with Caesar, offer promising 'outsiders' a mechanism of association with the senior establishment.

Rüpke, following Crawford, argues that Caesar was a *salius* (Rüpke, 2008:734; Crawford, 1974:735). The *salii* were juvenile priests to whom were entrusted the shield(s) of Mars and who, during the month dedicated to the god, performed a leaping ritual dance around the city to mark the recommencement of the war season. They were an exclusively patrician priesthood dating, according to Livy, to Numa's ordering of the city's religious functions.<sup>240</sup> Although their relation to the other priestly colleges is not clear, their function was regarded as essential to Rome's collective security and wellbeing (Beard, 1990:44-45). Crawford's argument is based on the appearance of an *ancile* (the divine shield) on a *quinarius* issued by Caesar in 48/47. The positioning of the shield mirrors that of a pontifical symbol on a corresponding denarius of the same issue, leading Crawford to argue that Caesar was making a statement of his priestly credentials as *pontifex* and *salius*. This in turn leads Rüpke to construct a chronology whereby Caesar would have been adopted into the *salii* before the death of his father, since the *salius* had to be *patrimus matrimus*, i.e. with both parents living (Dionysius of Halicarnassus, *Antiquitates* 2.71.4). While this is, on the surface at least, a plausible hypothesis, I am not convinced by the weight of this numismatic evidence. Why Caesar should choose to focus on such a minor priesthood at that late stage of his career is not convincingly demonstrated by Crawford. Would it not be just as plausible that the *ancile* acts as a reminder that the shields of Mars were housed in his *regia* (Alföldi, 1959: 3)? So, while evoking the success of the Gallic campaign in the middle of the civil war with Pompey, Caesar was restating his position as head of the pontifical college.

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<sup>240</sup> Livy, 1:20.4.



Although solidly patrician, Caesar's immediate family had not been able to boast of a consulship for several generations, and recent proscriptions had robbed him of many of those supporters who might have pushed his candidature. Yet it would be thanks to the patronage of men outside his family that he would first rise to prominence. At the unusually youthful age of sixteen (Velleius 2.43 puts him at thirteen or fourteen), his future father-in-law Cinna nominated him for the highly prestigious but potentially constrictive flamine of Jupiter which had fallen vacant in 87 with the suicide of Merula (Suetonius, *Divus Iulius* 1.1; Taylor, 1941: 113). As Kamm points out, the *flamen Dialis* could sometimes be ranked alongside the *rex sacrorum* and the *pontifex maximus* in the hierarchy of *honor* (Kamm, 1995: 92). Although he would have revelled in the precocious distinction which such an office would have conferred upon him, Caesar may well have struggled with the foreclosing of other avenues in public life which came with that particular priesthood (Matyszak, 2006: 40). Gellius lists these restrictions in exhaustive detail,<sup>241</sup> but the prohibition on horse riding, absences from the city of longer than three days and the diminished likelihood of consular career (to name but a few) would have been enough to make an ambitious young Roman think twice. Inevitably the Roman genius for flexible interpretation of arcane ritual allowed some individuals to combine the priesthood with a career at the highest levels. Meier notes that Caesar was nominated to succeed Merula who had, in fact, risen to the rank of consul – albeit in fraught and extraordinary circumstances (Meier, 1995b: 85). The religious and

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<sup>241</sup> Gellius, *Noctes Atticae*, 10:15. Caerimoniae impositae flamini Diali multae, item castus multiplices, quos in libris, qui da sacerdotibus publicis compositi sunt, item in Fabii Pictoris librorum primo scriptos legimus. Unde haec ferme sunt, quae commeminimus: Equo Dialem flaminem uehi religio est; item religio est classem procinctam extra pomerium, id est exercitum armatum, uidere; idcirco rarer flamen Dialis creatus consul est, cum bella consulibus mandabantur...

Many ceremonies are imposed upon the flamen Dialis, and also many prohibitions, of which we read in the books written by the public priests and also in the first of the books of Fabius Pictor. These are more or less the ones I recall: it is forbidden for him to travel by horse; in the same way it is forbidden for him to look upon the citizen force mustered outside the sacred boundary, that is to say an army ready for battle; for that reason the flamen Dialis is rarely made consul, since the conduct of wars was entrusted to the consuls... See also Plutarch, *Moralia* (Roman Questions) 40.

political implications of Merula's consulship and suicide have been discussed in the previous chapter.

Before he could accede to the priesthood, Caesar and his equally young bride Cornelia would have to go through the stipulated marriage ceremony of *confarreatio*. As we have already noted, this ancient ceremony would have been presided over by the *pontifex maximus* himself and, in the normal course of events, the *flamen Dialis*. Marriage by *confarreatio* was a significant step for two reasons: firstly, the presence of such high-profile priests would suggest that the event had not only a sacral but also a very public character. This form of marriage was required for those whose offspring were destined for the higher orders of priestly and civic life.<sup>242</sup> Given that the possession of a wife was intrinsic to the office (the *flamen's* wife became the *flaminica* and the loss of his wife meant the forfeiting of the priesthood) the marriage was of considerable importance to all parties.<sup>243</sup> Having satisfied this ritual requirement, the way should have been clear for the young Caesar to accede to his sacred office. Yet it is on this precise count that Taylor (1941) argues for the ineligibility of Caesar. He did not qualify for the ceremony since his own parents could not have entered upon a *confarreate* marriage, his mother Aurelia's family being plebeian. This, according to Taylor, is one of the reasons why the flamine was not officially conferred on Cinna's nominee.<sup>244</sup> Although most ancient and modern authorities agree on this lack of official conferral, there are differing opinions as to why the promotion did not take place. Suetonius, attributes it to the direct intervention of Sulla. He also refers to a further complicating factor

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<sup>242</sup> Warde Fowler, 1916a: 187 - 'in order to be eligible for the great priesthoods, the *flamines maiores* and the *rex sacrorum*, or even to serve as acolytes (*camilli*, *camillae*) in their early years, children must be born of a marriage celebrated by *confarreatio*'.

<sup>243</sup> Scheid, 1993: 72.

<sup>244</sup> Elsewhere (Taylor, 1957: 12), she argues that his 'grooming' for 'this unwarlike priesthood' kept Caesar out of the heat of the mounting conflict between Sulla and Marius. The nomination to the flamine was, in a sense, a lifeline for the young Caesar.

in the person of Cossutia who may (or may not) have been Caesar's first wife.<sup>245</sup> Her moneyed but non-aristocratic origins would have been incompatible with the status of *flaminica* and so, even if we agree with those authorities who hold that Cossutia was wife to the young Caesar and not simply betrothed (Deutsch, 1917: 94), this would have implications for *his* eligibility for the office. Tacitus and Dio mention Merula as the last flamen of the Republic, noting that Caesar was never formally inaugurated.<sup>246</sup> Velleius Paterculus is a lone voice in observing that Caesar was actually *stripped* of his priesthood and not merely impeded from assuming it in the first place.<sup>247</sup> It is the contention of Goldsworthy that there were a variety of constitutional factors which would have prevented Caesar from taking up the priesthood: his age, Aurelia's plebeian origins and the possible hostility of the incumbent *pontifex maximus*, Quintus Mucius Scaevola, towards Cinna and his 'party' (Goldsworthy, 2006: 51-52). From what we know of his character, it is likely that Scaevola would have resisted pressure from Cinna, a resistance which seems to have hardened after the attempt on his life by Fimbria. Cinna himself was to die in the year of Caesar and Cornelia's marriage, whatever form it took.

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<sup>245</sup> Suetonius, *Divus Iulius*, 1: Annum agens sextum decimum patrem amisit; sequentibusque consulibus flamen Dialis destinatus dimissa Cossutia, quae familia equestri sed admodum diues praetextato desponsata fuerat, Corneliam Cinnae quater consulis filiam duxit uxorem, ex qua illi mox Iulia nata est; neque ut repudiaret compelli a dictatore Sulla ullo modo potuit. quare et sacerdotio et uxoris dote et gentilicis hereditatibus multatus diuersarum partium habebatur.

During his sixteenth year he lost his father; in the next consulate, having been selected as flamen of Jupiter, he put away Cossutia, whose family was of equestrian rank but very wealthy and who had been betrothed to him before he put on the toga of manhood, and married Cornelia, daughter of Cinna who was four times consul, by whom Julia was born presently; and the dictator Sulla could by no means force him to divorce her. For that reason, besides the forfeit of his priesthood, his wife's dowry, and his family inheritances, Caesar was held to be one of the opposite party.

<sup>246</sup> Tacitus, *Annales*, 3:58; Dio 36:1.

<sup>247</sup> Velleius, *Hist. Rom.* 2.43: Idem mox ad sacerdotium ineundum (quippe absens pontifex factus erat in Cottae consularis locum, cum paene puer a Mario Cinnaque flamen dialis creatus uictoria Sullae, qui omnia ab iis acta fecerat irrita, amisisset id sacerdotium).

Not long afterwards he was hastening to enter upon the priestly office (he had been made pontiff in his absence in place of the ex-consul Cotta; while scarcely more than a boy he had already been made priest of Jupiter by Marius and Cinna, but all their acts had been annulled as a result of Sulla's victory, and he had lost this priesthood.)

An attempt has been made to square the conflicting language (*destinatus* or *creatus*) by arguing that Caesar's accession to the flaminiate had been interrupted during the formal process. His nomination had (in theory) come from the pontifical college and the *pontifex maximus*, Scaevola, had gone as far as the *captio* but, crucially, stopped short of the formal inauguration in the *comitia calata* (Wardle, 2009:101). This was a way of honouring the will of the college (albeit as directed by Cinna) but keeping his man waiting indefinitely. In such a scenario, Scaevola's qualified 'yes' was tantamount to a procedural 'no'. Others, such as Rüpke, contend that not only was Caesar 'captured' by the *pontifex maximus* but that he was also inaugurated as well (Rüpke, 2008:734). Basing his argument on the contributions of Leone (1976) and Liou-Gille (1999) but going further than either of them, Rüpke presents a scenario in which Caesar was stripped of his priesthood as part of Sulla's programme of religious reforms in or around 81. By this stage Sulla would have the help of a sympathetic (if not pliant) *pontifex maximus* who could be relied upon to exploit any technical *vitium* in Caesar's priesthood to achieve Sulla's aims. Rüpke further suggests that a *provocatio*, successfully used by other *flamines* in conflict with chief pontiffs (Gladigow, 1970:374), failed owing to Sullan pressure on the assembly. Although the surviving evidence is scant and contradictory, I find Rüpke's reconstruction, while intriguing, leaves us with too great a time frame for such a substantial priesthood to disappear without trace. Surely a three or four year period during which Caesar was at least *technically* the *flamen* of Jupiter would have left a more substantial imprint in his subsequent self-presentation?

Although it seems more likely that he did not emerge from this protracted process as *flamen*, Caesar would have gained considerable experience of the deeply enmeshed worlds of *religio* and *res publica*. He would have seen for himself – and at close quarters – the influence of the high pontiff in the political as well as the sacral sphere.

Something of a veil of silence falls over the next few years. There is some confusion attached to Plutarch's mention of Caesar standing for an unspecified priesthood and being obstructed by Sulla.<sup>248</sup> Taylor is correct in challenging the view that this is simply another reference to the flamine since the priest of Jupiter was not appointed by popular election (Taylor, 1941: 116). It seems more prudent to read this page of Plutarch as an interpolation designed to 'talk up' Caesar's determination to advance in spite of Sulla's enmity. We are on surer ground with Velleius' reference to a priesthood in 74 or 73. Zecchini follows Suetonius in attributing Caesar's rehabilitation and priesthood to the good offices of his relatives, the Aurelii Cottae (Zecchini, 2001: 36). This vacancy in the college was probably created by the death of his uncle, Gaius Aurelius Cotta (Honoré, 2009:30). Of course Caesar needed more than family favours: to have acquired priestly office required the support of the Sullan majority within the expanded *collegium pontificum*. Quintus Metellus Pius was Sulla's nominee as *pontifex maximus*; other esteemed deputies were Publius Servilius Isauricus, Quintus Lutatius Catulus and Marcus Lucullus. All these men had served as consul (almost consecutively in fact) and the fact that a man in his early twenties was joining such an élite group is an indication both of Caesar's precocity and of his success in ingratiating himself with the dictator's inner circle. He had already undertaken military service under Isauricus and cut his forensic teeth before Lucullus. So although Caesar was hardly an unknown quantity, he had successfully managed to display his talents in an unthreatening way. Even his prosecution of Gnaeus Dolabella and Gaius Antonius, Sulla's trusted aides, would have been understood as standard practice for an ambitious young aristocrat (Gruen, 1966: 387); any potential damage had been minimised by Sulla's restoration of senatorial juries.

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<sup>248</sup> Plutarch, *Caesar*, 1.2.

### From Subura to Regia

If one were scrutinising the earlier stages of Caesar's public career for signs of his later dispositions, then his decision to run for *pontifex maximus* in 63 B.C. is a glaring instance of *temeritas Caesaris*.<sup>249</sup> Although the office stood somewhat apart from the *cursus honorum* and did not have a minimum age threshold,<sup>250</sup> the fact that Caesar announced his candidacy before holding even a praetorship was a mark of his readiness to take risks. Caesar might in fact be accused of playing a long game of political opportunism with regard to this ancient office. As has already been discussed, the *lex Domitia* (104 B.C.) giving the special assembly election rights over all the priestly colleges, was suppressed by Sulla. The death of Sulla's chosen man, Metellus Pius, gave the Caesarian tribune Titus Labienus the opportunity to revive popular control over these elections without the undue influence of a Sulla (Cassius Dio, 37.37).<sup>251</sup> When Cicero spoke against the *rogatio Servilia agraria* (in the early days of 63), he chose to mention Domitius Ahenobarbus' law and, while the chronology suggests that Labienus' plebiscite had yet to be given approval by the *concilium plebis* (*de Lege Agraria*, 2.18; Vallocchia, 2008: 233), it is possible that the restoration was already being discussed and that this Ciceronian mention is a signal of his support for Labienus.

Perhaps fired by the success of his lieutenant in enfranchising the people in the election of pontiffs (or, as his detractors would suggest, instigating and manipulating it), Caesar promptly forwarded his own name for election as head of the *collegium pontificum*.<sup>252</sup> As we have already discussed, it is commonly but wrongly assumed that the election of the chief

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<sup>249</sup> Cicero, *de Officiis*, 1.26.

<sup>250</sup> At the time of their election his predecessors were generally consulars in their fifties.

<sup>251</sup> Cicero, *de Legibus*, 2. 18-19.

<sup>252</sup> This is perhaps the most clearly 'populist' move Caesar took with regard to the priesthoods. As Lintott (1999: 184) suggests, the *plebs* had a vested interest in those priesthoods with a measure of political clout - in that they could vote for them and even aspire to them. Removing the popular vote had been a real blow.

pontiff was also covered by the *lex Domitia* and that Sulla's religious reforms had expropriated the people of this office (Étienne, 1997:46). In a more recent work, Canali perpetuates this assumption but does make the valid point that Caesar would have had only the most slender of chances of obtaining the office under the Sullan dispensation (Canali, 2006: 23). Apart from the fact he was scarcely half way up the *cursus honorum*, he stood out from the field for the wrong reason. Compared with the *gravitas* and experience of the other two contenders, Servilius Isauricus and Quintus Lutatius Catulus, both of whom had served as consul some fifteen years previously, Caesar must have appeared hopelessly optimistic in rating his chances of success.<sup>253</sup>

While most sources are in agreement about the asperity of the election, there are differing accounts of the outcome and the extent to which bribery played a part in it. Plutarch suggests that Catulus, having just the edge over Isauricus in terms of seniority (and therefore most to lose in terms of face) took the initiative in offering Caesar a financial incentive to withdraw his candidature. If true, this would have been a shrewd tactic, given the considerable debts the junior candidate had already amassed. Caesar however was not for deferring, especially if he judged the tide of popular support to be turning in his direction. Emboldened by this, he seems to have plunged himself still further into debt to meet the expenses of the campaign. Suetonius is unambiguous in attributing his subsequent victory to prodigious expenditure:

Deposita provinciae spe pontificatum maximum petit non sine profusissima largitione; in qua reputans magnitudinem aeris alieni, cum mane ad comitia descenderet, praedixisse matri osculanti fertur domum se nisi pontificem non reuersurum. Atque ita potentissimos duos

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<sup>253</sup> Catulus was also *curator restituendi Capitolii* (in succession to Sulla): Cicero, in *Verrem* 2.4.69; Gellius. *Noctes Atticae* 2.10.2

competitores multumque et aetate et dignitate antecedentes superavit, ut plura ipse in eorum tribus suffragia quam uterque in omnibus tulerit.<sup>254</sup>

Although Cassius Dio makes no reference to financial inducement, he takes an even more antipathetic stance towards Caesar, attributing his success to a readiness to abase himself through flattery.<sup>255</sup> It is impossible to gauge the extent to which Caesar may have resorted to bribery. *Accusations* of corruption and the actual *practice* of it were perennial features of Roman political life and so provoked less opprobrium than they would today. Dumézil suggests that this particular office of Chief Priest had long been tainted by ‘cabal and corruption’ (Dumézil, 1996: 543). The logistical feasibility of widespread corruption is a further challenge to the traditional accounts of electoral impropriety. Given that the seventeen ‘elector tribes’ were chosen just before the vote itself, there seems to have been little opportunity for collusion unless we are to believe that Caesar suborned all thirty-five tribes. Although his parting quip to his mother is almost universally read as a reference to his parlous financial status, it could equally be interpreted in terms of the social capital he had spent on the campaign trail. Much had been made of his Julian ancestry, especially the unverifiable claim that his mythical forebear Iulus had been *pontifex maximus* of Alba Longa (Taylor, 1961: 93). Despite Cassius Dio’s suggestion that Caesar was frequently prepared to compromise his *dignitas*, one imagines that conspicuous failure would have wounded Caesar as much as penury. Amidst all the voices, both ancient and modern, who voice their opinion on the reason for Caesar’s victory, it is good to pick out the dissenting voice which may in

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<sup>254</sup> Suetonius, *Divus Iulius*, 13: After giving up hope of the special commission, he announced his candidacy for the office of *pontifex maximus*, resorting to the most lavish bribery. Thinking on the enormous debt which he had thus contracted, he is said to have declared to his mother on the morning of his election, as she kissed him when he was starting for the polls, that he would never return except as pontiff. And in fact he so decisively defeated two very strong competitors (for they were greatly his superiors in age and standing), that he polled more votes in their tribes than were cast for both of them in all the tribes.

<sup>255</sup> Cassius Dio, 37: 37.



fact come closest to common sense and reality. Gruen attributes Caesar's success to the support of Pompey and his agents, who would have pulled out all the stops to undermine the candidacy of their old adversary, Catulus. Far from being the *enfant prodige* or the corrupt demagogue, Caesar simply benefited from being in the right place at the right time (Gruen, 1995: 81).

The breadth of Caesar's margin of victory is another matter of ambiguity. Plutarch argues for a narrow win (*Caesar* 7) while Suetonius suggests that Caesar's support dwarfed that of the other two candidates (*Divus Iulius*, 13). No matter how the votes fell, the fact remains that Caesar emerged the victor and assumed a position of enduring civic prestige. Although it took only a few minutes to walk from his home neighbourhood of the Subura to his new residence in the *Domus Publica*, the symbolic journey Caesar had made to the heart of Roman life was not to be underestimated. This new address was a prime indicator of his elevated *dignitas* (Meier, 1995a:24). He now lived and exercised his official duties in a physical setting which, more than any other in the city, was redolent of Rome's regal past (Richardson, 1994). Unlike the other key offices of the state, the *pontifex maximus* was not encumbered by equal colleagues who were entitled to 'a turn' of presidency. Furthermore, given the *ad vitam* nature of the pontificate – barring extreme circumstances - Caesar had found himself an unassailable platform from which to campaign for the other magistracies. Unsympathetic commentators might find this precocious and heady experience of *potestas sacra* a key factor in explaining his desire for sole control of the state, as Cicero<sup>256</sup> did and others continue to do today.<sup>257</sup>

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<sup>256</sup> Cicero, *de Officiis*, 1.26: Declaravit id modo temeritas C. Caesaris, qui omnia iura diuina et humana peruertit propter eum, quem sibi ipse opinionis errore finxerat, principatum. Est autem in hoc genere molestum, quod in maximis animis splendidissimisque ingeniis plerumque existunt honoris, imperii, potentiae, gloriae cupiditates.

The effrontery of Gaius Caesar proved this recently, he who overturned all laws of gods and men to gain the sole power which had set upon in his misguided fancy. But the trouble about this matter is

Once he was installed as *pontifex maximus*, Caesar had the opportunity to influence the composition of the college. He nominated a member of the Claudian family to the prestigious but career-crippling post of *rex sacrorum*.<sup>258</sup> Taylor finds it significant that Caesar did not move to fill the 15-year vacancy in the flamine of Jupiter (Taylor, 1942b: 398). Was this a pointed omission, registering protest at his own abruptly terminated association with the office? He also demonstrated uncharacteristic animus towards his defeated rival Catulus. Perhaps smarting from the allegations of bribery, as praetor in 62 B.C. Caesar accused Catulus of embezzling funds for the rebuilding of the temple of Capitoline Jupiter. Despite a concerted effort, his attempt to have Catulus' name struck from the dedicatory inscription failed.<sup>259</sup>

### **Caesar as *pontifex maximus***

As has already been noted, Caesar himself has little to say about the discharge of his priestly duties. This relative silence has led many to suggest that he wore this new role lightly. In the estimation of some commentators, attaining the office of chief pontiff - like much of Caesar's wardrobe - was merely a fashionable accessory: the real substance of his plans lay elsewhere. Canfora (2005) asserts that Caesar's Epicurean sympathies would have made him sceptical of the state religion. Quoting Polybius, who considered 'a superstitious fear of superior beings'<sup>260</sup> as the cement which bound the *res publica* together, Canfora opines that Caesar must have

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that it is in the greatest souls and in the most brilliant minds that ambitions for civil and military authority, for power, and for glory, rise up.

<sup>257</sup> Spinosa (1994: 85) argues that the *cachet* of the Chief Priesthood both suited and shaped Caesar's style: he did not have to give an account of his actions and could be judged by no-one (c.f. Dionysius of Halicarnassus, *Antiquitates* 2.73.2).

<sup>258</sup> Cicero, *de Domo*, 127.

<sup>259</sup> Cassius Dio, 37.44.

<sup>260</sup> Polybius, 6. 56.7.

derived no small measure of amusement from operating the machinery of state religion (Canfora, 2005: 26). Others, such as Weinstock (1971), argue that Caesar took a keen and genuine interest in all things religious, so meriting greater consideration as an innovator in the field. Warde Fowler is even more emphatic. He sees repeated glimpses of a deep fascination with religious *caerimonia*, the more arcane the better: the prosecution of Rabirius gave Caesar the opportunity to revive the symbol of the *infelix arbor* in the Campus Martius (Warde Fowler, 1916: 68). Some might attribute the increase in Caesar's religious interests to cynical motives. It was, after all, 63 B.C. and there was an election for *pontifex maximus* in the offing.<sup>261</sup> Yet earlier still, in 69, his celebrated funeral oration for his aunt Julia was replete with references to his ancestors' cultivation of the gods through due attention to the sacred rites (Suetonius, *Divus Iulius* 6.1; Plutarch, *Caesar* 5.2; Schmidt, 2005:48).

As we have seen, the dearth of contemporary sources makes modern attempts to reconstruct Caesar's religious outlook problematic and often over-simplistic. The few existing references to the gods or cultic practices tend to bear contradictory interpretations and those who portray him as a cynical agnostic often over-simplify the complex phenomenon of Roman religion.<sup>262</sup> Varro dedicated *Antiquitates rerum divinarum*, his treatise on Roman religion, to Caesar as *pontifex maximus*. This may, of course, be nothing more than typical academic etiquette; it might, however, be a reflection of Caesar's interest in the roots of religious beliefs and practices which he revived in various shapes and forms. Indeed, Varro encouraged Caesar to do precisely that (Tatum, 2008:74). Not that his interest was confined merely to the religion of the *patria*: Caesar seemed genuinely fascinated by the Druidic religion he encountered

<sup>261</sup> Metellus Pius had probably died in 64 B.C. Cf. Taylor, 1942a: 422.

<sup>262</sup> A good example of the difficulties encountered in squaring Caesar's conflicting religious sensibilities may be found in Garland (2003: 3) - 'Despite being head of the college of pontiffs (*pontifex maximus* – a title of uncertain origin meaning 'chief-bridge-maker'), Caesar probably did not believe in the gods – at least not in the gods as they were conventionally conceived by the Romans of his time. Indisputably he employed religion for his own aggrandisement... though we should be wary of labelling him a cynical manipulator of religious sentiment.'

during the conquest of Gaul.<sup>263</sup> The presence of Diviciacus, archdruid of the Aedui, among his retinue of counsellors suggests that Julius was open to the fruits of a convergence between the pantheon of Rome and that of Gaul. Zecchini (2001:44) takes it yet further by speculating that Caesar sought to impose himself on the vanquished Gauls by virtue of his cultic status as *pontifex maximus* and archdruid. Although the Gallic commentaries come closest to offering some – but not many – religious details, there may be a sense in which in the whole process of commentary writing had a religious colour. There was something genuinely innovative in publishing these collated reports on a yearly basis in a widely accessible format. It is Wiseman's contention that Caesar, who had already ensured that the written record of the senate's deliberations was publicly available, was continuing in this recently established tradition in order to engage with the people (1998:3). Moreover, it could be argued that Caesar was simply introducing a secular (and admittedly self-serving) equivalent of the *annales maximi* which his pontifical predecessors had also drawn up on an annual basis until the time of P. Mucius Scaevola. While debate continues as to the ultimate fate of these pontifical records - and some suggest that they 'disappeared' around the mid-first century B.C. (Drews, 1998:295) – we have no reason to think that the pontifices ceased to maintain some kind of public record.

In most respects Caesar emerges as a man typical of his age. Like most Republican generals he found it wisest to appease the gods and regularly besought the favour of his particular patrons, Venus and Mars. The regia, his priestly centre of operations, was home to the spears of Mars and the Province of Asia voted him special honours as the son of Ares. His grandmother was descended from the *Marcii Reges* who claimed Mars as their mythical ancestor (Wiseman, 1974:153; Étienne, 1997:71). After his victory over the Pompeian forces,

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<sup>263</sup> Caesar, *de Bello Gallico*, 6: 13-14.

he honoured his promise to build a temple to *Venus Victrix* (Appian, *BC* 2.68). However, with one eye on emphasising his divine origins, the dedication was altered to the more suggestive *Venus Genetrix*. Besides, *Venus Victrix* had already been the dedication of the temple in the *Theatrum Pompeianum* (Ulrich, 1993:53). Orlin argues that Caesar had wooed *Venus* over to his side before the decisive engagement at Pharsalus, ‘almost in the manner of an *evocatio*’ (Orlin, 1997:197); the nomenclature of the temple would have been a way of emphasising all that distinguished him from Pompey. Moreover, it was commonly understood that his rival’s temple dedication was a pretext for building the ‘theatre-like’ complex which formed its impressive forecourt. The construction of a comparatively tiny temple was clearly a way of circumventing the various prohibitions on theatre building in the city. It was much more in keeping with his *pietas* and *magnanimitas* for Caesar to endow a temple to his divine ancestress for no other reason than the honour of the goddess.

When it came to augury and the auspices, it must be admitted that Caesar did exhibit a selective attitude as to which signs he would lend credence. He dismissed the singularly inauspicious lack of a heart in one sacrificial beast as nothing out of the ordinary.<sup>264</sup> In the same anecdote, Suetonius relates how quick thinking enabled him to ‘spin’ another ill omen, falling over while disembarking his ship on the shores of Africa, into an assertive seizing of the land that would soon be subdued. The tragic-comic spectacle of Caesar and Bibulus’ consulship in 59 B.C. yielded another instance of Caesar’s pontifical acumen. When Bibulus - either through obstructionism or an incipient mental collapse -<sup>265</sup> retired to his house and invoked auguries to invalidate his colleague’s acts, Caesar blithely invoked his higher priestly rank to nullify his fellow consul’s interventions. Bibulus’ daily interventions, incorrectly

<sup>264</sup> Suetonius, *Divus Iulius*, 77. Cicero also considers this episode in the *de Divinatione* (2.16): as Santangelo points out, Cicero is at liberty to discuss Caesar (‘vestitu purpureo’) and his attitudes to haruspicy in the wake of the Ides (Santangelo, 2013: 32).

<sup>265</sup> It is Gray-Fow’s contention that, although Cato and like-minded friends may have praised Bibulus’ tactics, the consul’s actions were actually symptomatic of a breakdown. Cf. Gray-Fow, 1990.

referred to as *obnuntiationes*, were not delivered in person and so failed to satisfy augural procedure (Linderski, 1965: 425). No matter how petty their respective behaviour might seem, Cicero questioned the constitutionality of Caesar's actions on the basis of his disregard for Bibulus' watching the heavens.<sup>266</sup> To modern eyes, Caesar's actions might simply lend weight to the characterisation of a ruthless politician usurping religious status for the furthering of his own agenda and a wider failure in the Roman religious system. Beard, however, cautions against this interpretation: it is hardly surprising that established religious principles were, with difficulty, being stretched to resolve unprecedented challenges (Beard, 1994: 740). Nor would it be fair to apportion blame exclusively to Caesar. Taylor (1961: 95) regards a lack of cohesion and amity within the college of augurs during the 50s (especially between Lucullus and Pompey) as the factor which enabled Caesar and his tribunes to bypass their scrutiny of his laws. The augurs were just as divided by personal antipathies and conflicting loyalties as the senate as a whole. Who could blame Caesar for steering his policies clear of such obstacles?

### ***Pontifex maximus and demagogue***

Perhaps the blurred margin between Caesar's priestly and political roles is best exemplified in his dealings with Publius Clodius Pulcher. Clodius, rakish scion of the noble Claudii,

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<sup>266</sup> Cicero, *de Domo*, 40-41: Tua denique omnis actio posterioribus mensibus fuit, omnia quae C. Caesar egisset, quod contra auspicia essent acta, per senatum rescindi oportere; quod si fieret, dicebas te tuis umeris me custodem urbis in urbem relaturum. Videte hominis amentiam ... per suum tribunatum Caesaris actis inligatus teneretur. Si et sacrorum iure pontifices et auspiciorum religione augures totum euertunt tribunatum tuum, quid quaeris amplius?

In the following months your language constantly was, that everything which Caius Caesar had done ought to be annulled by the senate, because they had been done in disregard of the auspices; and if they were rescinded, you said that you would bring me back on your own shoulders into the city as the guardian of the city. See now the insanity of the man when by means of his tribuneship he was connected to such an extent with the acts of Caesar. If the priests, deciding according to the law relating to sacrifices, and the augurs according to the religious observance due to the auspices, upset your whole tribunate, what more do you ask?

On Pompey's manipulation of the auspices in 55 B.C., see Plutarch, *Cato Minor* 42.1.4-5.

presents the historian with a knot of contradictions and, for the student of Caesar in particular, a timeline of fluctuating prominence.<sup>267</sup> He first comes into focus in the wake of what was perhaps the most tumultuous event of the sixties, the Catilinarian conspiracy of 63 B.C. When, at the height of the crisis, Cicero appeared in the Senate conspicuously sporting a breastplate, Clodius was numbered among the retinue of young nobles who acted as his bodyguard.<sup>268</sup> Yet in his later treatment of the episode, Cicero was keen to suggest long-standing collusion between the young Clodius and the fallen enemy of the State. Caesar only enters the drama somewhat after the fact, standing out as a dissenting voice against the passing of the *senatus consultum ultimum*. Although his intervention might be interpreted as a pitch to his *popularis* support base, there is a view that Caesar's appeals to law and precedent were a genuine manifestation of his ethical and juridical sensibilities as *pontifex maximus* (Zecchini, 2001: 38). Similarly, in 58 B.C., Clodius was to echo Caesar's high-minded concerns, basing his legislative assault on Cicero for his use of the ultimate decree to bring the crisis to a speedy end (Tatum, 1999: 153).

Clodius' next brush with notoriety involved Caesar's public and private lives much more directly. The *Bona Dea* scandal of 62 B.C. not only involved the violation of sacred rites being held in the *domus publica* but also cast a shadow of impropriety over Caesar's wife, Pompeia. As the wife of the urban praetor, that year it had fallen to Pompeia to make the arrangements for this gathering which, by its very nature, precluded any male presence. Whatever possessed Clodius to transgress the ceremony, whether the prank of a delayed adolescent or an assignation with the hostess, the upshot was a very public scandal. Moreau argues against reading too much into these events as an assault on 'priestly *nobilitas*' and 'the

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<sup>267</sup> It is uncertain at which point Clodius became a *XVvir*, although possibly as early as 60 B.C. (Rüpke, 2008: 625); referring to Clodius, Cicero uses the term *sacerdos* with more than a hint of mockery in *ad Atticum* 2.4.2.

<sup>268</sup> For Clodius' role as Cicero's bodyguard, see Plutarch, *Cicero* 29.

religion of the *patres*' (Moreau, 1982:25). Regardless of motive or consequence, the uproar surrounding the *Bona Dea* violation proved to be an inauspicious start to Caesar's tenure as Chief Priest. The fact that a particularly important sacrifice had been interrupted meant that the apparatus of Rome's political and religious authority was brought to bear on the matter. In a famous letter, Cicero recounts the process and the personalities involved in coming to a decision about what to do about Clodius.<sup>269</sup> Alongside the prosecution which, if successful, might have deprived Clodius of his sight,<sup>270</sup> the senate passed the matter on to the pontifical college for their view on the religious implications. The Vestals were then charged with making good the polluted ritual since all interrupted sacrifices required repetition and the circumstances of this disruption were exceptionally grave. We do not know if Caesar recused himself from these deliberations or whether he guided the college and their Vestal *consorores* in reaching their decision. It has been suggested that the unanimous declaration that the act was *nefas* and that the accused should indeed answer before a special *quaestio* implies that the religious 'court' fully expected a conviction in the civil forum (Wildfang, 2006:98). Nevertheless, Caesar's attitude remains problematic. His decision to divorce Pompeia followed on from the consuls' decision to promote a *senatus consultum* on the issue. There has long been a degree of speculation over Caesar's motives. Plutarch (*Caesar*, 10) suggests that Caesar's decision to put aside Pompeia was as much a political judgement in Clodius' *favour* as a statement of his own domestic probity. We are left with the impression that the full facts of the case were not allowed to emerge. This may have been a result of pressure within the senate or a sense of foreboding about the 'gangs' which were beginning to appear. Tatum is somewhat understating things when he suggests that Cicero did not make overt political comment at the time (Tatum, 1999: 108). He is most definitely focused on Clodius'

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<sup>269</sup> Cicero, *ad Atticum* 1.13.

<sup>270</sup> Cicero, *de Haruspicum Responso* 17.37.



actions and contacts, even if he does reserve his most explicit invective for later.<sup>271</sup> Men like Cicero, who had little love for Caesar and less still for Clodius, were apt to recall how such a singularly nefarious act was allowed to unfold at the very heart of Roman religious institutions and on Caesar's watch. After this storm, Clodius withdraws from the Caesarean narrative until 59 while Caesar himself undertook his first prolonged absence as *pontifex maximus*, as governor in Hispania for 61.

Apart from the unedifying spectacle of Caesar and Bibulus' war of mutual obstruction,<sup>272</sup> this was also the year in which Caesar, by means of a *lex curiata*, sanctioned Clodius' plebeian adoption. Clodius took this bold step to secure the plebeian tribunate, but the move may also have served the Triumvirate's intention to isolate Cicero (Tatum, 1999: 108). Wiseman links Caesar's 'fast-tracking' of the transfer with Cicero's defence of C. Antonius on extortion charges and his criticism of the 'political situation' (Wiseman, 1994: 372). We have already described this particular process of adoption in the Introduction. In his capacity as consul, Caesar convened the thirty lictoral representatives of the curiae and proposed the *adrogatio* which would transfer Clodius from his formerly *sui iuris* status to the *potestas* of Publius Fonteius (who was twenty years his junior). The adoption still required the formal approval of the *pontifex maximus*, conveniently the same Caesar, with Pompey fulfilling the role of augur. No sooner had Clodius undergone the transition to plebeian than he attempted to assert his independence by distancing himself from Caesar and eventually threatening to annul laws passed by him – his own adoption excepted.<sup>273</sup> Naturally he relied on the support of Bibulus' omen-watching to substantiate his claims.

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<sup>271</sup> Cicero, *ad Atticum* 1.16.

<sup>272</sup> For a treatment of Caesar and Bibulus' *inimicitiae*, cf. Epstein (1987).

<sup>273</sup> Cicero, *ad Atticum*, 2.12: 1-2.

Clodius' prosecution – or persecution - of Cicero led to that contentious dedication of the shrine to *Libertas* on the site of Cicero's house. Writing in the *de Haruspicum Responso*, Cicero gives a list of those members of the pontifical college who ruled on the matter of his house in 57.<sup>274</sup> Conspicuous by his absence was the head of the college, Caesar himself – although he was not to be exempt from the 'indiscriminate blame' Cicero cast on those who had abandoned him or connived against him (Sabben-Clare, 2002: 26). Although he was in Gaul, Caesar must have been kept informed of the increasingly erratic behaviour of Clodius and the running skirmishes in which he seemed habitually involved.

Given that both Caesar and Clodius had exhibited broadly pro-Catilinarian sympathies and both had performed adroit distancing exercises after the scope of the conspiracy became apparent, there is debate as to the precise nature of their relationship. Did Caesar make allowances for the younger man's excesses because they were, at heart, cut from the same cloth? Was he trying to cover up his own political miscalculation over Catiline with a series of (apparently) magnanimous gestures? The line taken by Lintott<sup>275</sup> is that Caesar (as well as Crassus, who bankrolled them both) realised that Clodius could not be controlled and so had to be mollified. Whatever the motive behind his actions, Caesar kept a safe distance from

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<sup>274</sup> *de Har. Resp.* 12: At uero meam domum P. Lentulus, consul et pontifex, P. Servilius, M. Lucullus, Q. Metellus, M. Glabrio, M. Messalla, L. Lentulus, flamen Martialis, P. Galba, Q. Metellus Scipio, C. Fannius, M. Lepidus, L. Claudius rex sacrorum, M. Scaurus, M. Crassus, C. Curio, Sex. Caesar flamen Quirinalis, Q. Cornelius, P. Albinovanus, Q. Terentius, pontifices minores, causa cognita, duobus locis dicta, maxima frequentia amplissimorum ac sapientissimorum ciuium adstante, omni religione una mente omnes liberauerunt.

But Publius Lentulus being both consul and pontiff, and Publius Servilius, and Marcus Lucullus, and Quintus Metellus, and Marcus Glabrio, and Marcus Messala, and Lucius Lentulus, the priest of Mars, and Publius Galba, and Quintus Metellus Scipio, and Caius Fannius, and Marcus Lepidus, and Lucius Claudius, the king of the sacrifices, and Marcus Scaurus, and Marcus Crassus, and Caius Curio, and Sextus Caesar, the priest of Jupiter, and Quintus Cornelius, and Publius Albinovanus, and Quintus Terentius, the minor pontiffs, having investigated the case after it had been argued before them on two separate occasions, in the presence of a great number of the noblest and wisest of the citizens, all unanimously pronounced my house free from all religious obligation.

<sup>275</sup> Lintott, 1967.

Clodius (at least in public). Julius was soon immersed in his Gallic campaign and, while 52 B.C. was infamous in Rome for Clodius' bloody end, Caesar's thoughts were firmly set on the taking of Alesia.

### **The Civil War and its Aftermath**

The convulsive events of 49-47 B.C. and the ensuing uneasy peace offer some of the most interesting insights into Caesar's understanding of the role of *pontifex maximus*. Ancient sources offer differing interpretations of the events leading up to the decisive crossing of the Rubicon (Tucker, 1998:247), but we may infer that Caesar fully understood the religious as well as the legal import of this particular boundary transgression. His decision to enter Italy may or may not have been preceded by the taking of auspices – the sources are unclear. Suetonius does however mention a dedication or consecration of horses (which were to feature among the *prodigia* portending Caesar's death).<sup>276</sup> Even if the gods chose to turn a blind eye, he would have known full well how his unprecedented action would play with those unsympathetic elements in the senate. It is really against this *factio paucorum*, not the senate as a whole, that Caesar was advancing in defence of his *dignitas* (Morstein-Marx, 2009:139). Although only numbering some twenty-two senators, the faction had successfully manoeuvred Caesar into a position of extreme recklessness or vulnerability (Wiseman, 2009:192). According to the best available reconstruction of the chronology, scarcely seven days elapsed between the crossing of the Rubicon and Pompey's withdrawal from the city, with the consuls and like-minded senators in tow (Balland, 2002; Malye, 2007: 424). Although we cannot know the actual scale of this tactical withdrawal, we do get a sense of the unease it brought Cicero. Whilst bemoaning a lack of decisiveness on Pompey's part, he

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<sup>276</sup> Suetonius, *Divus Iulius*, 81.

seems even more unsettled at the symbolic desertion of ‘altars and hearths’ (*ad Atticum*, 7:11.3). Perhaps it is on this precise count that Caesar’s advance on the city might be re-evaluated: while Cicero’s letter waspishly suggests that Caesar’s guiding divinity is ‘sole power’, we should not overlook some of the religious implications of his actions during the ensuing campaigns.

We have already noted that the *pontifex maximus* was absent from the city for the preceding nine years; while he was able to influence some of the nominations to the *collegium pontificum*, his political opponents were also at liberty to press for their own candidates. The college appears to have been at or near its full complement at the time of Caesar’s departure. Cicero gives us the names of thirteen pontifices who were involved in the deliberations over his house in 57.<sup>277</sup> The absent pontifex maximus brings the number to fourteen, leaving us with one absence, omission or vacancy. We do know of one other *pontifex* around this time: L. Pinarius Natta was Clodius’ brother-in-law and directly involved in the original consecration. He may have absented himself from the hearing or, as is also possible, he may have died in 57 (although most place his death in 56). Brutus, the future assassin, was added to the college during this period. While Szemler (1971:135) is more conservative in his dating, c. 51, Rüpke (2008:126) places Brutus in the college as early as 55 B.C. C. Scribonius Curio, a loyal Caesarian, must also have been added sometime between his father’s death in 53 and meeting his own at the battle of Bagradas in 49. By the time of Caesar’s entry into Italy, we can name twelve members of the college.

The Pompeian-senatorial withdrawal from the city must have occasioned a parallel split in the pontifical college itself. Though he shared Cicero’s political views, P. Servilius Vatia

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<sup>277</sup> Cf. n. 246.

Isauricus did not follow him in the exodus. Aemilius Scaurus, a former lieutenant of Pompey, was already in exile by this point.<sup>278</sup> We do know that at least four *pontifices* vacated the city – either with Pompey or shortly afterwards: Domitius Ahenobarbus, Metellus Scipio, Lentulus Spinther and the young Brutus. Domitius and Lentulus had initially gone north to take the fight to Caesar, but they soon found that they could not match the level of support for Caesar and his commitment to Italian enfranchisement (Billows, 2009: 206). Lentulus eventually took refuge with Domitius at Corfinium and, after a week’s siege, both men surrendered to Caesar. This was Caesar’s first meeting with the men in nearly ten years and it gave him an opportunity to exercise his famed clemency towards them, particularly Domitius, who was allowed to go to Pompey without surrendering the six million sesterces he had brought to pay his men. This was the same Domitius who, as praetor in 58, had sought to overturn Caesar’s consular *acta* as a consequence of his disregard for the auspices (Suetonius, *Nero* 2.2; Burns, 1966:76).<sup>279</sup>

We do not know if, in addition to the treasury, the departing Pompeian and senatorial forces gave consideration to removing the key symbols of the city’s religious life such as the palladium or the Sibylline books. This would certainly have addressed some of Cicero’s concerns: what was being left to Caesar would have been, in religious terms, something less than Rome. But what *was* left in the city? Did the split in the pontifical college bring about a caesura in the religious functions of the state? On one level this seems unlikely; at least Isauricus would still have been in Rome and some other public duties could be delegated to the *rex sacrorum* and the *pontifices minores*. Yet while the essential functions could be maintained during the senate’s evacuation, there was a serious depletion of personnel to carry

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<sup>278</sup> We cannot exclude the possibility that exile also deprived Scaurus of his priesthood (Taylor, 1942b: 405).

<sup>279</sup> For Domitius’ subsequent threat to Caesar, see Suetonius, *Divus Iulius* 24.1.

out the necessary religious functions, from dedications to the priestly *comitia*. A religious and political crisis of this kind was without precedent, even during the struggles of Sulla and Marius. Even the decision to uproot the senate would have had religious consequences and it is possible that the senate sought the formal opinion of its priestly members before acting: after all, this was precipitate action in need of some moral authority. Van Haepere notes that the office of a pontifical *promagister*, who presided in the absence of the chief pontiff during the Empire, may have had its informal origins during this period (2002:197-198). We do not know if Isauricus ruled on behalf of the college in the matter of Cicero's house or if he offered an authoritative opinion on the senate's actions in January 49, but it may have fallen to this elder statesman (and Caesar's rival for the chief priesthood in 63) to do so.

Perhaps it was precisely because he had lost the respectability of senate-sanctioned authority that Caesar chose to emphasise his sacral functions: it was the faithful servant of Rome – and its high pontiff – who was returning to the city, not some aggressor. As we have seen, Crawford (1974) notes that the coin Caesar minted by way of a campaign statement played heavily on his priestly functions. In particular, the reverse of the coin features priestly implements, specifically the *aspergillum* with which the priest would ritually cleanse the troops before battle. We know that Caesar himself undertook the *lustratio* in 48 B.C. before the decisive battle of Pharsalus. No doubt the potency of this image of the *imperator-pontifex* sprinkling his troops was carefully calculated: Pompey might have had that retinue of Roman nobility at his back, but Caesar had the gods. This demonstration of *pietas* would also have a galvanizing effect on the faith his soldiers reposed in *him* (Zecchini, 2009:183). With what looks in hindsight like tremendous presumption, we now know that while Caesar was carrying out these priestly tasks his senatorial opponents were busy discussing who should

succeed him as *pontifex maximus* (Goldsworthy, 2002: 48). Caesar laconically remarks on this ‘conduct unbecoming for a Roman senator’ (Batstone & Damon, 2006: 24):

Iam de sacerdotio Caesaris Domitius, Scipio Spintherque Lentulus cotidianis contentionibus ad gravissimas verborum contumelias palam descenderunt, cum Lentulus aetatis honorem ostentaret, Domitius urbanam gratiam dignitatemque iactaret, Scipio affinitate Pompei confideret.<sup>280</sup>

Given the remarkable nature of the victory at Pharsalus, against considerable odds, it would seem that Caesar’s confidence-boosting ritual paid off. He chose to repeat it, personally carrying out the *lustratio* before the successful engagement with the forces of Cato and Scipio at Thapsus in March of 46 B.C. (*de Bello Africo*, 75). The decision to preside at the ritual himself may have been influenced by the mutiny which followed Pharsalus when a significant contingent of his soldiers demanded their pay and overdue discharge. Although his famous ‘citizens speech’ had the desired effect in terms of discipline, there may have been a lingering doubt even in Caesar’s mind as to whether the damage had been assuaged and purged by the symbolic cleansing.

### **The Primacy of Caesar**

After the remnants of the Pompeian and Catonian forces had been mopped up, it could be said that Caesar had attained his oft-quoted ambition: to be first man in Rome (Plutarch, *Caesar*, 11). Even before the war had ended he had begun that process of accumulating

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<sup>280</sup> Caesar, *De Bello Civili*, 3.83.

Already Domitius, Scipio and Lentulus Spinther in daily bickering over Caesar’s priesthood openly descended to the most grievous insolence of speech, Lentulus parading his distinction of age, Domitius boasting of his influence and reputation in the city, Scipio trusting in his ties with Pompey.

offices which so antagonised and discomfited his contemporaries – even as they voted for them. In 48 he was awarded the consulship for a five-year period, a year-long (second) dictatorship and tribunician *potestas*. Setting aside the provisions of the *lex Domitia* which prohibited the concurrent possession of major priesthoods, he became augur in 47 B.C. and used his position in both colleges to impose order and unity. As Taylor observes:

The symbols of the pontificate and the augurate on his coins, one of his chief media of propaganda, attest the importance of the official religion in his reorganisation of the state (Taylor, 1961: 97).

Caesar would indeed bring the full weight of religious authority to bear on his drive to overhaul the Republic. As we have seen, he was not above conflating religious ritual and military discipline to make his point – however unsettling the product. In the midst of the revels accompanying his triumphs and the long-delayed funeral games for his daughter Julia<sup>281</sup> (again, it is not clear which), some of his veterans grumbled at his lavish generosity towards the urban populace and rioted. They complained that such wealth should have flowed to the veterans, even though Caesar had probably given his soldiers more than they had been promised (Goldsworthy, 2006: 471). To quell the mutiny before it got a grip, he had one of the ringleaders executed; a further two were publicly sacrificed in the Campus Martius before the *flamen Martialis* and the other pontiffs, their heads displayed at Caesar's official residence as *pontifex maximus*. Although human sacrifice was not a Roman custom (Kamm, 2006: 132) - at least not one that was commonly or lately practised - the initial shock seems

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<sup>281</sup> For Julia's burial in the Campus Martius, see Plutarch, *Caesar*, 23.5-7; for the opposition of Domitius Ahenobarbus to the funeral rites, see Cassius Dio 39.64, Appian *BC* 2.64; on the funeral games themselves, Suetonius *Divus Iulius* 26.2-3.



to have been quickly absorbed in the ongoing festivities.<sup>282</sup> He had judged the mood and the moment well. Yet, despite the fact that this incident is scarcely discussed (if at all),<sup>283</sup> it seems a curious course of action. Why resurrect an ancient religious practice to dispatch troublemakers, when the standard procedure of the Legions was more than adequate? Does the answer lie in the connection between the funeral games and the religious ceremonies attached to them (remembering that human sacrifice had originally played a part and indeed continued to do in the more formalised ‘sacrifice’ of gladiators)? Was Caesar’s action a glimmer of that seldom mentioned but deeply-rooted fascination with religious ceremonial so doggedly argued by Warde Fowler?<sup>284</sup> Is Bennet Pascal correct in connecting the deaths of these soldiers with the sacrifice of the October Horse (1981: 262-263)? The *Equus October* ritual probably started off as an agricultural sacrifice and then, because of its proximity to the formal end of the war season, was gradually imbued with military significance (Scullard, 1981:193). Certainly the date of the October sacrifice (the Ides) falls within the known time frame of Caesar’s celebrations. There are also some clear parallels in what we are told of the circumstances of the ‘sacrifice’: the location, the presence of the *flamen Martialis* and the pontiffs, the *exhibitio capitis* at the *regia*. It is hard to conceive how Caesar could have inflicted such an unusual punishment were he not also at the head of the religious establishment (Freeman, 2008: 332). All this seems to chime with the view, expressed by Scullard (1981: 194), that the October horse had become associated with the cleansing of the army and that Caesar, looking to warn as well as purify his men, hit upon this particularly gruesome hybrid. In any event, Southern argues that his actions successfully appealed to

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<sup>282</sup> The practice was only formally suppressed in 97 B.C. (Pliny, *Historia Naturalis* 30.12; Drews, 1988: 297).

<sup>283</sup> Only Cassius Dio reports it (cf. 43.24). He finds himself at a loss to explain the incident since there is no Sybilline prescription to ratify such a ‘sacrifice’. The sacrificial reading of this episode is increasingly contested in current scholarship (Várhelyi, 2011: 133).

<sup>284</sup> Warde Fowler, 1916b.

popular religious sentiment but also served as a reminder that, *clementia* aside, Caesar was not a man to cross (Southern, 200: 136).

We have already mentioned the dedication of the temple to *Venus Genetrix* during Caesar's season of triumphs in 46 B.C. Rives (1994) notes that in elevating his domestic cult to public status he was not only exalting his own lineage but demonstrating his unique status in society:

Caesar vowed a temple as a general during a battle, dedicated it as a Roman magistrate, and presumably entered an annual sacrifice into the civic calendar as *pontifex maximus* (Rives, 1994: 294).

This religious intervention takes on particular significance when we consider Caesar's policy of exporting the cult to his veteran colonies overseas. This aspect of Caesar's activity is frequently overlooked and yet, in his assiduous attention to detail and the careful replication of Roman priesthoods in these new foundations, he showed himself more than marginally engaged in religious questions.<sup>285</sup>

Caesar now embarked upon what, with hindsight, we know as the final stage of his life. As Momigliano notes, while Cicero's writings attest to an increasing scepticism, 'Caesar and his direct entourage were becoming more religious or at least more concerned with religious questions' (Momigliano, 1984: 210). Once he was in effective control of the legislative machinery of the Republic, Caesar began a dizzying programme of legal activity and public reforms. Of these, we will briefly mention two: the *lex Julia de sacerdotiis* and the reform of the calendar.

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<sup>285</sup> Caesar's *colonia* at Urso is a good example (cf. Beard *et al.*, 1998a: 157).

The *lex Julia de sacerdotiis* (47 B.C.) is *thought* to be the measure by which Caesar increased the numbers of the pontiffs, augurs and *quindecimviri* by one: the only contemporary reference is a mention of the most recent priestly legislation in a letter from Cicero to Brutus.<sup>286</sup> Yavetz (1983) displays impressive argumentative legerdemain in suggesting that Caesar's intervention was not a demonstration of his clout so much as an expression of his failure as *pontifex maximus*. Since he could not wield sufficient influence over his pontifical colleagues

the only reason for the increase in the priestly offices was to make room for the followers to whom Caesar felt he had an obligation (Yavetz, 1983: 110).

Gordon offers a slightly more plausible motive for this enlargement: when Caesar became augur (and also *Quindecimvir*) in 47 B.C., his sense of fairness prompted him to open up these new spaces in the colleges by way of compensation (Gordon, 1990: 182). The timing of the measure would at least lend some credibility to Gordon's construction. Although Caesar had amply demonstrated his *popularis* credentials throughout his career, it is significant that he did not use this *lex Julia* to broaden the composition of the colleges beyond senators (Várhelyi, 2010:62). Perhaps he felt that his additions to the senate itself rendered such a change unnecessary. Either way, this was another modest (but significant) way of going 'one better' than the dictator Sulla.

By far the most celebrated innovation of Caesar's last phase of activity was the reorganisation of the Roman calendar which came into effect on January 1<sup>st</sup> 45 B.C. We have noted the particular connection between the pontiffs and the reckoning of time. The politically-

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<sup>286</sup> Cicero, *ad Brutum*, 2,5.

motivated abandonment of the practice of inserting intercalary months had brought about a substantial misalignment of months and seasons (Fantham, 2009:153; Suetonius, *Divus Iulius*, 40:1). In redressing this disorder – for which he was partly responsible - Caesar enlisted the help of the Alexandrian astronomer Sosigenes, whose acquaintance was an added benefit of his sojourn at the court of Cleopatra (Kamm, 2006: 135). This new ‘Julian calendar’ attested to Caesar’s intense pragmatism and his readiness to fix what was so obviously broken. In the process he set his imprint on both the seasons of nature and government. Yavetz argues that Caesar implemented this reform by virtue of his office of Dictator, not as *pontifex maximus* whose authority, he contends, extended purely to intercalation (Yavetz, 1983: 114). To support his assertion he relies on a fifth century account of the Calendar reordering by Macrobius (I.14.2) who refers to Caesar as ‘*dictator*’ not ‘*pontifex*’. Whilst the new calendar was imposed by an edict (and Caesar happened to be in a position to issue such an edict), it requires a somewhat contrary mindset to maintain that he was undertaking this project in any capacity other than that of *pontifex maximus*.<sup>287</sup> Commenting on a pungent celestial witticism attributed to Cicero (that the constellation of the Lyre was rising by Caesar’s decree)<sup>288</sup> Feeney observes

Cicero’s joke captures very well the intuition that Caesar’s revolutionary reform is part of a larger revolution of systematizing and personal control in many departments of Roman life, by which Caesar’s name and presence were made indispensably central (Feeney, 2007: 197).

It should also be remembered that this reform effectively ended one of the key pontifical privileges: intercalation (Wardle, 2009:104). Under different leadership, such a move might

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<sup>287</sup> Cf. Lewis & Reinhold, 1990: 553; Dillon & Garland, 2005: 134; Feeney, 2007: 197. Although antique, Warde Fowler’s effusiveness is no less accurate: ‘He probably little thought at this time that he would live to make his pontificate the most famous and fruitful in Roman history, by reforming the calendar, and laying a new and solid basis for chronological calculations.’ Warde Fowler, 189: 78.

<sup>288</sup> Plutarch, *Caesar*, 59.3

have provoked outrage and resistance among the pontifical college; the fact that this was not some diktat imposed from above but a measure introduced by the head of the college may go some way to explaining the lack of opposition.

The remaining phase of Caesar's life seems to have witnessed a curious tension between his old role as pontiff and his newer and more controversial role as the recipient of divine favours. Kahn (1986) suggests that the pressures of reshaping or replacing the Republic were beginning to stretch his much vaunted ability to do several things at once. He would now meet with advisers to determine which of his public duties, especially pontifical and augural ceremonies, could be delegated to colleagues (Kahn, 1986: 427). This need not be interpreted as a repudiation of his religious responsibilities, more an acceptance of the reality of being simultaneously (and seemingly permanently) at the head of the State's political and religious institutions.

### **The Cult of Caesar**

Perhaps the most religiously controversial aspect of the dictatorship was the blurring of the margins between Caesar the man and Caesar the god. Beard correctly argues that this 'blurring' had been a feature of Roman politics for at least a generation – as we have seen with his uncle Marius and Marius Gratidianus – and that Caesar merely represents the high point of this tendency (Beard, 1994: 751). Besides, it is more accurate to speak of 'assimilation' to the gods rather than divinisation (Beard, 1994: 750); Rome had a rich mythology of mortals who had undergone such an apotheosis. More unusual was the dedication of a temple to *Clementia Caesaris*, again voted by the senate. Caesar set great store by his clemency – even when it provoked the indignation of those towards whom he

was mercifully disposed (Mackay, 2009: 301). Of all individuals, it is Cicero who has been proposed as the unlikely ‘architect’ of this temple. Weinstock has plausibly suggested that it was Cicero’s fulsome praise of this very quality which legitimised – indeed rendered inevitable – the senate’s action (Weinstock, 1971: 241). There may be some validity in Clark’s suggestion that Cicero (and the senate) would have seen the worth of such a measure (Clark, 2007: 248). Creating a public space and dedicating it to this most desirable quality in a dictator was a way of keeping it foremost in his mind: in other words, it was a perennial invitation to Caesar to be as forebearing as this dedication suggested. In what appears a reference to this temple, Appian (*BC* 2.106) describes statues of Caesar and *Clementia* reaching out to each other (although it is impossible to say if the commissioned cult statues were ever completed - Zanker, 2009: 294).<sup>289</sup>

The status of Caesar’s public cult is difficult to disentangle from the question of his regal aspirations. A common feature of political controversy, the charge of *adfectatio regni* certainly attached itself to Caesar’s name both in the conspiracy to end his life and its dramatic aftermath (Gabba, 2003: 189). Some have argued that the Hellenistic fusion of divinity and monarchy had been imported to Rome via Alexandria: Caesar would have found the prospect no more of a strain on his credulity than any other aspect of his priestly activities.<sup>290</sup> Perhaps the designation of his own *flamen* – Mark Antony - would have occasioned both murmuring and alarm: this was a genuine novelty in Rome’s evolving religious milieu. It has been observed that such developments shaped subsequent religious discourse. Varro’s *de gente populi Romani* of 43 included a discussion of divinised mortals, clearly with Caesar in mind (Crawford, 1992:186).

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<sup>289</sup> The temple itself may be depicted on a coin of 44 B.C. (c.f. Crawford, RRC 480/21).

<sup>290</sup> After all, as Lintott (1993: 180) observes, from 100 B.C. onwards Roman governors had routinely been the recipients of cult honours and temple dedications in their provinces, gaining significant exemptions under the *lex Cornelia de repetundis*.

It would be wrong to suggest that Caesar himself instigated the process of ‘divinisation’ more than any of the other honorific measures passed by the senate in what Carson describes as ‘a not very edifying rush’ (Carson, 1957: 46).<sup>291</sup> He did not, in his official capacity as *pontifex maximus*, do anything to implement any of these honours – such as inaugurating his own *flamen* (Wardle, 2009:106);<sup>292</sup> indeed it has been argued that this torrent of senatorial obsequiousness was designed precisely to embarrass and alienate Caesar (Lintott, 2009:76). His thwarted attempt to have the name of Catulus struck from the entablature of Capitoline Jupiter was finally realised when the senate voted to excise ‘Catulus’ and put ‘Caesar’ in its place.<sup>293</sup> Statues with flattering dedications proliferated throughout the sacred precincts of Rome. His house, in which Cicero had pleaded in defence of Deiotarus and litanised the *regiae laudes* to Caesar’s face (Ehrenberg, 1964: 153), was embellished with a pediment in the manner of a temple.<sup>294</sup> Along with the title of *pater patriae*, the senate took the unprecedented step of making all his priestly offices – including the chief priesthood - hereditary, so that any son of Caesar would also be *pontifex maximus* (Cassius Dio 44.5.3; Kamm, 2006: 142). In some ways this move is altogether more astonishing than the supposed deification of the living Caesar: the senate was choosing to make what was essentially a quasi-magistracy – albeit one of particular prestige – the personal possession of one man and his descendants. The line of Caesar would become a line of priests in perpetuity, a detail Octavian would later exploit.

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<sup>291</sup> Suetonius, *Divus Iulius* 45; Appian, *BC* 2.106; Cassius Dio 43.42.2-43.1.

<sup>292</sup> Várhelyi perpetuates the view that Caesar ‘sought’ the award of divine honours (2011: 133); Hamlyn overstates matters with the suggestion that Caesar was in some way ‘a patron god of Rome’ (2011: 92).

<sup>293</sup> Cassius Dio, 43:14.

<sup>294</sup> Perhaps to make the *domus publica* resemble the *regia*. Cf. Rees, 1996: 585.

The death of Caesar somehow manages to take up some of the *motives* of earlier outbreaks of violence, while remaining in itself a moment of decisive transition. The watchword of *Libertas* and the overthrow of a tyrant by a band of the Roman élite (whose loyalty he failed to secure: Woolf, 2006: 49) stands in continuity with the murder of Tiberius Gracchus. But this was another *pontifex maximus* whose blood spattered the image of Pompey, just as the statue of Vesta was supposed to have been polluted by the blood of Scaevola. Attempts have been made to read Caesar's covering himself with his toga as a *velatio capitis*: a *devotio* for the good of the people (Perea, 1998: 9).<sup>295</sup> This apotropaic gesture is seen, then, not as an effort to shield himself from his inevitable fate but rather to underscore his *pietas* against the charge of being an *adfectator regni*.

Whether or not Caesar intended to become *rex* (or *divus* for that matter) need not detain us at this point. What *is* of importance is that, by the dawn of the Ides of March, Caesar had constructed his pontifical persona in such a way that the office of *pontifex maximus* changed forever. A key tactic in the 'cold war' of rhetoric which followed his murder<sup>296</sup> was the ability of Caesar's followers to answer those shouts of 'Liberty' with the cry of 'sacrilege'. Although they bear the unmistakable imprint of the Augustan regime, these words of Ovid capture something of the highly charged polemic that followed Caesar's death:

Praeteriturus eram gladios in principe fixos,  
 cum sic a castis Vesta locuta focus:  
 'ne dubita meminisse: meus fuit ille sacerdos;  
 sacrilegae telis me petiere manus.  
 ipsa virum rapui simulacraque nuda reliqui:

<sup>295</sup> Suetonius, *Divus Iulius* 82.2; Plutarch, *Caesar* 66.12.

<sup>296</sup> Although he makes no reference to Caesar as *pontifex maximus*, Mahy's 2009 thesis offers interesting perspectives on this question.



quae cecidit ferro, Caesaris umbra fuit.<sup>1</sup>  
 ille quidem caelo positus Iovis atria vidit,  
 et tenet in magno templa dicata foro;  
 at quicumque nefas ausi, prohibente deorum  
 numine, polluerant pontificale caput,  
 morte iacent merita: testes estote, Philippi,  
 et quorum sparsis ossibus albet humus.  
 hoc opus, haec pietas, haec prima elementa fuerunt  
 Caesaris, ulcisci iusta per arma patrem.<sup>297</sup>

This was a crime against the civil, natural and supernatural orders: assassination, parricide (Gaughan, 2010: 86) and sacrilege. Not only had these senators broken their solemn oath to protect Caesar's life, they had taken up arms against someone whose person was sacrosanct. There was even the possibility that Caesar's body might be subject to the indignities usually visited upon fallen tyrants.<sup>298</sup> Antony and Piso managed to win support for a public funeral during a heated session in which Piso complained that the conspirators were preventing him from burying the *pontifex maximus* (not the perpetual dictator).<sup>299</sup> By all accounts the funeral was unlike anything Rome had ever seen, surpassing even the *exsequia* of Sulla. The journey

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<sup>297</sup> Ovid, *Fasti*, III 697-71

I was about to neglect those daggers that pierced  
 Our leader, when Vesta spoke from her chaste hearth:  
 Do not hesitate to recall them: he was my priest  
 And those sacrilegious hands sought me with their blades.  
 I snatched him away, and left a naked semblance:  
 What died by the steel, was a shadow of Caesar.'  
 Placed in heaven he saw Jupiter's halls,  
 And his is the temple in the mighty Forum.  
 But all the daring criminals who in defiance  
 Of the gods, defiled the high priest's head,  
 Have fallen in merited death. Philippi is witness,  
 And those whose scattered bones whiten its earth.  
 This work, this duty, was Augustus' first task,  
 Avenging his father by the just use of arms.

<sup>298</sup> Suetonius, *Divus Iulius*, 82:4.

<sup>299</sup> Appian, *BC* 2:136.

of the bier from the *domus publica* to the *rostra* was a short one and the pressing crowds ensured that the whole ceremony, including the cremation, took place in the heart of the Forum.

There is something fitting in this improvised change to the plan. It meant that the last act of Caesar's life was played out in the square he had come to dominate. The journey began and, if the archaeological evidence is correct, ended at the residence of the *pontifex maximus*. In this way it closely reflected his public career (Sumi, 2011: 210).<sup>300</sup> Of course Caesar had become something more than *pontifex maximus*, or perhaps he had made the office of 'greatest pontiff' greater than it had been. Like no other pontiff before, he had exercised unparalleled influence over virtually every facet of life in the Republic. The porous membrane between the worlds of religion and politics was effectively absorbed in his person. That is why it is so difficult to separate his actions into clear cut categories or competences. In a way that surpassed Scaevola, whose murder shocked the world of Caesar's youth, he had become the embodiment of the *res publica* with all its attendant contradictions. Even after a bloody half century, his murder felt different: the difference he made would still be asserting itself long after his funeral. One of the most notable changes would be in the nature of the office of high pontiff itself. Caesar had so completely inhabited the role that it would, after an interlude caused by the circumstances of his own death, become unthinkable for anyone to be *pontifex maximus* who was not *also* Caesar.

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<sup>300</sup> Sumi acknowledges, but does not accept, a politicised reading of the location (being at the eastern 'plebeian' end of the Forum).

## CHAPTER FIVE

### Lepidus and Augustus

The foregoing chapters have argued that the office of *pontifex maximus* underwent a series of transformations stemming from the character of the holder and the political circumstances of his day. A key idea is that, by the end of the republic, the office had become so ideologically and politically associated with ‘Caesar’ that the titles would eventually become synonymous. It is here that the thesis must confront two issues: one conceptual, the other evidential. The conceptual difficulty is common to much scholarship on the late republic; namely, where precisely do we locate the ‘end’ of the republic? The death of Caesar is an obvious point of rupture, but the break is less clean from our perspective. Perhaps more so than most aspects of the Augustan programme, the defining characteristics of Rome’s religious culture were scrupulously preserved and restored by Augustus; he could point to the traditional forms of the republic as being safe in his hands. If we are to do justice to the office of the *pontifex maximus* in the late republic, we must take account of its absorption into the principate (itself a term which would not be recognised by its architect). This brings us to the challenge of the evidence: if we are to examine the high water mark of the chief priesthood, how do we explain Lepidus? If, as has been argued, the death of Caesar had left the office in a position of almost unrivalled prestige, what can be said of Lepidus’ ‘lame-duck’ pontificate? Does the

marginalisation of the ‘tarnished triumvir’ (Weigel, 1992) actually demonstrate that the office was really only as significant as the man who held it? Or did the meticulous process of restoring tradition under Augustus, with all its accompanying rhetoric, mean that even the usurper had to be given even token respect?

In addressing these questions, this chapter necessarily bears the names of both Lepidus and Augustus; we cannot discuss the tenure of either one as chief priest without recognising the presence – or shadow – of the other. This in itself makes Lepidus a figure of unique significance in our survey of the *pontifices maximi*.

### **‘Finding’ Lepidus**

A recurring difficulty in any discussion of Lepidus is the extent to which we rely on Augustus and Augustan sources. The purge of the triumviral records at Augustus’ behest in 36 (Appian, *BC* 5.132.) means that we are dependent on Cicero for our information about Lepidus’ movements in 44/43 B.C. and thereafter we are at the mercy of reconstructions based on officially sanctioned accounts. As Gowing has observed, Augustus’ claim to restore the Republic was inextricably bound up with a habit of ‘controlling memory’ (Gowing, 2005:18). Perhaps the best example of this is the *Res Gestae*, which, from the very first line, establish Augustus not as a usurper but as the saviour of Rome (Yavetz, 1984:8). It goes without saying that individuals (such as Lepidus) who complicated this programme of salvation do not do well by this account – if they even merit inclusion in the first instance. Although he is pointedly not named, an emblematic reference point is the tenth chapter:

pontifex maximus ne fierem in vivi conlegae locum, populo id sacerdotium deferente mihi, quod pater meus habuerat, recusavi. quod sacerdotium aliquot post annos, eo mortuo demum qui civilis tumultus occasione occupaverat, cuncta ex Italia ad comitia mea conflente multitudine, quanta Romae nunquam fertur ante id tempus fuisse, recepi, P. Sulpicio C. Valgio consulibus.<sup>301</sup>

The telling phrase is *civilis tumultus occasione occupaverat*, recalling the immediate aftermath of Caesar's murder. 'Occupare' embraces both 'seizing' as well as an opportunistic 'stealing a march on someone'; there has been some debate as to the extent of the unrest which allowed Lepidus to appropriate the office. Taylor (1942a: 423) envisaged a more protracted window of opportunity, perhaps as long as eight months between nomination and inauguration; more recent attempts at reconstruction take Augustus' own narrative, albeit composed fifty years after the fact, at face value and locate it in the tense days following the Ides (Weigel, 1992:4). Such a compressed timescale does, in fact, tend to emphasise Antony's role in the process. As surviving consul, Antony was understandably keen to defend his own position, as well as divert the flow of any credit from the conspirators. His initial policy exemplifies a conciliatory approach, especially with regard to Caesar's memory and the divine honours which had been accorded him. While Octavian pressed for these honours to be paid in full, Antony preferred a different tactic. His first coin issue after the assassination makes prominent use of Caesar's status as *pontifex maximus* (not as dictator). As well as recording Caesar's longest-held office, this may be read as a subtle attempt to scupper any prospect of Brutus succeeding the man he had murdered as the next head of the

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<sup>301</sup> I rejected the proposal that I become *pontifex maximus* in place of my colleague who was still living, even though the people were offering me the priesthood which my father had held. After some years, after the death of the man who had seized the opportunity of civil unrest to obtain it, did I accept this priesthood; from the whole of Italy a crowd – such as it is said has never been at Rome before this time – flooded in for my election, when Publius Sulpicius and Gaius Valgius were consuls.

pontifical college. It certainly suited Antony to have a Caesarian in the post and, despite the cumulative detractions of later historians, Lepidus was by far the strongest candidate. His pedigree was beyond question: the Aemilii Lepidi were a ‘pontifical’ family, and his namesake, the consul of 187 and 175 B.C., was chief priest between 180 and 152. To underscore this connection, in 61 Lepidus issued a denarius which recalled his ancestor’s role as tutor to Ptolemy V; the tutor’s future designation as *pontifex maximus* appears almost a prescient anachronism.



Figure 3: denarius of M. Aemilius Lepidus, Rome c. 61 B.C.

(Crawford *RRC* 419.2)

Lepidus himself had already been a member of the college for nearly twenty years, co-opted in 63 or shortly thereafter (Rüpke, 2008:515). In addition, his role as Caesar’s *magister equitum* and the part he played in the pacification of the city made him an obvious choice for Antony. Furthermore, as Brutus’ brother-in-law, Lepidus also represented something of a helpful compromise. Appian’s account suggests that the offer of the priesthood actually came from the crowd outside the senate house, since Lepidus had spoken so movingly about his fallen friend that they naturally began to associate him with ‘Caesar’s priesthood’.<sup>302</sup>

Appian’s isolated mention of the crowd’s involvement draws our attention to the factor which has caused much of the controversy attending Lepidus to this day: namely, that he was

<sup>302</sup> Appian, *BC* 2:132.

Antony's choice. The reasons for Antony's apparent circumvention of the *comitia* are opaque. Removing the people's right to elect the *pontifex maximus* would clearly expose Lepidus to charges of being *furto creatus* (Velleius 2:63.1). If, however, Antony did set aside the proper assembly, he could claim that his actions were consistent with the oldest form of selecting the chief pontiff, at least as it was practised in the third century (Ridley, 2005:293). Cicero, who would have been quick to identify any subversion of the state by Antony, is conspicuously silent on any irregularity surrounding Lepidus' claim to the chief priesthood. On the contrary, consul Antony could claim that he had simply overseen the smooth transfer of the office from its prior occupant to his trusted deputy; in his additional capacity as augur, he had ensured that the ritual requirements had been observed.<sup>303</sup> Indeed Cicero seems to have been more than happy to work with Lepidus and was keen to maintain good terms with him, moving the senate in January 43 to vote him their thanks for the successful negotiations with Sextus Pompey; in addition, the gilded equestrian statue voted by the senate was an unprecedented gesture. No objection was forthcoming when Lepidus addressed a letter to the senate in May 43 as 'imperator for the second time, *pontifex maximus*' (Cicero, *ad familiares*, 10.35); on the contrary, Cicero places great emphasis on Lepidus' pontifical credentials in the Thirteenth Philippic (Cicero, *Philippica*, XII.15; Weigel, 1992:55). No-one, least of all the nineteen-year-old Octavian, would have been able to mount a serious challenge.

From where, then, does Augustus' sense of entitlement to the chief priesthood come? The *Res Gestae* refers to the events of 36 B.C., when Lepidus effectively went into exile and Augustus was offered the office which 'his father' had held. Something important is in play here: besides being a statement of his own family connection with the highest religious office (albeit through adoption), it also alludes to the controversial suggestion that in 46 the senate

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<sup>303</sup> Antony's brother, Gaius Antonius, had also been recruited to the pontifical college a year earlier.

had given Caesar's heirs the right to succeed to all his priesthoods in perpetuity (Cassius Dio 44.5.3). Although Mommsen dismissed the reliability of such a claim, others, such as Meyer, have argued that a senatorial decree of that nature exactly mirrored Caesar's own preoccupations at the time (Fraschetti, 1988:943); this was precisely the period in which Caesar was emphasising his own descent from Iulus and his family ties with the Alban priesthood. It is not beyond the realm of possibility that the senate, aware of how the Dictator's mind was working, duly obliged by formalising the status of the Julian *gens* as Rome's priestly clan. After all, it is to such rhetoric that the Augustan writers would return, time and again, after Augustus became *pater patriae* and *pontifex maximus*; it was also to be a major iconographic motif in the buildings and adornments of the forum of Augustus (Price, 1996b:833-834). Levick is one of the more recent opponents of this 'hereditary priesthood' decree, arguing that had such a provision existed, Octavian would have insisted on its implementation from the outset (Levick, 2010:153). But such a forthright dismissal is not necessarily supported by the circumstances of Lepidus' accession. Firstly, Octavian's status as Caesar's heir was not formally confirmed until quite some time later: an appearance and declaration before the urban praetor would have been sufficient to secure his share of Caesar's inheritance (Toher, 2004:184). In order, however, to effect his adoption (since he was *sui iuris*) and acquire the all-important name of Caesar, the whole procedure of *adrogatio* had to be observed.<sup>304</sup> It is here that Octavian encountered his own issue of form: the *comitia curiata* in 43 was convoked in the absence of the *pontifex maximus*, who was its sole president (Lepidus was with his army: Cassius Dio, 46.47.4). Perhaps he felt it wiser not to raise procedural objections at such a delicate stage in his career, given that Lepidus could equally point to irregularities in the young triumvir's adoption. If he were not, from a

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<sup>304</sup> Crook (1954: 152) maintains that the *populus* could dispense with some of the formalities of the adoption process. Furthermore, since Caesar was *pontifex maximus*, could he not claim to have had some powers to effect a testamentary *adrogatio*?



technical viewpoint, Caesar's *legitimate* heir, then his claim to the vacant priestships was unsound anyway. One irregularity balanced out the other, as it were. Augustus' sense of having been deprived may have grown over the years, but it is unlikely that it held sway over his early plans. By the time a realistic opportunity to 'unseat' Lepidus presented itself – in 36 – Augustus probably felt that forbearance sat better with the image he was creating for himself. It has been suggested that he was also checked by a 'law' which prohibited the replacement of a living *pontifex maximus*; Appian and Dio are the sources for this view, but it is not mentioned elsewhere.<sup>305</sup> It seems just as – or rather more – plausible that Augustus understood the prize which was the office of chief pontiff. This is a mark of his 'continuing self-interest' which gave him every reason to maintain the prestige of the office (Simpson, 2006: 633).



Figure 4: Triumviral denarius of 42 B.C.

(Crawford, RRC 495/2)

Ironically, one of the earliest artefacts of Lepidus' tenure as *pontifex maximus* comes in the form of a denarius issued in 42 B.C. Ostensibly an affirmation of mutual loyalty between triumvirs, the coin features Lepidus as 'PON(T). MAX.' on the obverse, with Caesar 'IM(P).' on the reverse. Lepidus' mature profile is accentuated by the boyish features of the young

<sup>305</sup> Appian, *BC* 5.131; Cassius Dio 49.15.3.

imperator; the denarius represents a curious symbol of the relationship which will endure, after a fashion, for the next thirty years. How, then, did Caesar effectively reverse their roles?

It is commonplace to regard Augustus as *pontifex maximus* in all but name, but such a view grossly oversimplifies many important issues. First of all, although Lepidus went from being the honorific senior colleague<sup>306</sup> to the least powerful of the Three Men, for the better part of ten years his position had been relatively secure – even strong by some measures. As Everitt (2006:149) has observed, the war in Sicily had considerably strengthened the proconsul of Africa's position and his optimistic estimation of his chances led to what was perhaps the pivotal decision of his career: to lay claim to Sicily. It was this political miscalculation which enabled Octavian effectively to neutralise Lepidus thereafter; the offer of the chief priesthood in 36 simply demonstrated the extent of his rival's weakness. Octavian's refusal, albeit studied, made him look all the stronger. But that was about all that he refused. The accumulation of priesthods by Caesar's heir during this period is remarkable: in addition to his pontificate, he became an augur in 41, *XVvir* by 32, a *fetial* by 21, *epulo* by 16 and *sodalis Titius* at an undetermined point (Price, 1996b:824). Ridley (2005:295) echoes the view, held by Pierre Gros and others, that this steady accumulation of the priesthods was a protracted exercise in self-compensation for not having the glittering prize of the chief priesthood. Beyond assuaging the need for the senior position, his virtual omnipresence in the priestly colleges also brought him the practical advantage of exercising unparalleled influence over religious matters. According to Dio, in 29 B.C. he received the privilege of nominating candidates to all vacant priesthods, even beyond the established limit (Dio 51:20); compared

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<sup>306</sup> When the triumvirs returned to the city in a staggered ceremonial entry over three successive days in November 43, Lepidus came last, being greeted by Octavian and Antony. This order follows that of their first edict, which listed the triumvirs according to age and priority of consulships (cf. Sumi, 2005:187).

with the *pontifex maximus*, this would appear to be something of a ‘super-prerogative’. Although it is not clear, the implication is that these were effectively single candidate elections (a sign of things to come) or straightforward appointments. Whatever the mechanics of the process, this new privilege underscored the importance of the priestly colleges as centres of power, made up of men who had been on different sides in the civil wars (Scheid, 2000: 50). Over the years, Augustus would have the power to restock the colleges with loyal or grateful younger men; given the gradual foreclosure of other routes to prominence for the *nobiles*, such appointments would become increasingly valued. Other aspects of his intense religious activity at this time merit closer examination: the year 29 also saw the reconstitution of the *fratres aruales* and either the revival or the creation of the *sodales Titii*; the *augurium salutis* was also enacted for the first time since 63 (Linderski, 2003: 214). These (mostly archaising) interventions have been associated with the privileges he granted to the public priesthoods, as well as the aforementioned expansion and reorganisation of the senior priestly colleges which also occurred during this period (Scheid, 2005:182). It must be remembered, however, that Augustus carried out these changes in his capacity as *ensor*. He was therefore able to instigate a policy of substantial religious reform without reference to the chief priest or the rest of the pontifical college; this was typical of his approach throughout Lepidus’ tenure.

### **A restrained pontificate**

Although he most certainly coveted the chief priesthood, Augustus demonstrated a quite remarkable ability to cordon off the functions of the *pontifex maximus*, without causing institutional inertia within the *collegium pontificum*. As the senate’s principal adviser on religious matters, the chief pontiff could be consulted at any time; therefore Augustus had to

ensure that Lepidus was kept far from the senate. His attempt to have Lepidus struck from the senatorial roll failed, but he ensured that his appearances in the house were few, tightly managed and, by asking his opinion last, occasions of carefully orchestrated insult. With head and body kept in stasis, day-to-day priestly activities – vows, dedications, the giving of uncontroversial advice - could be carried out without interruption. An example of this concerned Augustus very intimately: Cassius Dio records that in 38 an anxious Octavian consulted the priests as to the licitness of marrying the heavily pregnant Livia (Cassius Dio, 48.44.2). Scheid (2005:189) observes that the last pontifical decrees date from 38 and 37 B.C.; is it coincidence that the *pontifices* appear not to have been approached for a ruling after the ‘containment’ of Lepidus in 36? In other areas Augustus was to carry out a range of religious activity in ways which did not need the involvement or sanction of the chief pontiff. The celebration of the secular games in 17 B.C. is a case in point: his role as senior *XVvir* gave him all the necessary powers to resurrect the games and subtly revise their form and content.

And yet these decisive actions on Augustus’ part only serve to emphasise his conspicuous lack of action in other areas of Rome’s religious life: those privileges which did indisputably belong to the *pontifex maximus*. The *domus publica*, official residence of the chief pontiff, seems to have remained pointedly vacant. We have no evidence that Lepidus ever took up residence there, but for short periods in the late 40s, he may have used it. Of greater symbolic importance was the *regia*, the pontiff’s office, which formed part of the same complex of religious buildings at the east end of the forum; as the name implies, the *regia* evoked memories of Rome’s royal past and the most archaic phase of the city’s religious development. As with the *domus publica*, there was little opportunity for Lepidus to make much use of this venerable building. If Augustus had really wished to be chief pontiff ‘in all

but name', he could easily have found some pretext to take over the office; as it stood, he did not. If the symbolic vacancy of the *regia* suited him to some degree, it might be argued that the fire which destroyed it during Lepidus' *annus horribilis* of 36 actually suited him *more*. The gutted shell of the chief priest's office would have appealed to his eye for symbolism and his ability to 'spin' events for his own purposes. Here, surely, was a golden opportunity for the *restitutor* to repair the damage which had been done to Rome's highest religious office? Yet for all his prodigious building work, it is especially striking that Augustus did not try to initiate and fund the restoration himself. This fell to Domitius Calvinus, a former consul and *pontifex* under Julius Caesar – perhaps as a reward for his shift in allegiance (Rüpke, 2008: 660). It may have been at Calvinus' house on the morning of the Ides that Caesar performed his last duties as *pontifex maximus* (Valerius Maximus 8.11.2; Suetonius, *Julius* 81.4). While it has been argued that Augustus ordered his fellow pontiff to undertake this rebuilding work, - and Calvinus may have already been carrying out some of the tasks normally entrusted to the chief pontiff<sup>307</sup> - there is a suggestion that he had little fear of Augustus and no great interest in currying favour (Simpson, 1993:69). Dio mentions Calvinus' refusal to return the statues loaned by Octavian for the adornment of the *regia* (48.42.5-6). As we have said, given the ideological weight he attached to building projects and the restoration of temples, to forego direct involvement in repairing the ruined *regia* untouched is little short of startling; indeed, there is no record of Augustus' restoring the *regia* at any point during his reign (Boatwright, 1987:105). There is only one other clear indication of another general restoring a temple – that of Saturn by Munatius Plancus sometime after 27<sup>308</sup> – but the sheer resonance of the chief priest's office for Augustus was so great that the decision to leave it can only have been deliberate calculation.

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<sup>307</sup> At whose behest and in what capacity is not clear: during the 50s Caesar enjoyed the support of Lepidus as an agent both within the College and externally (Welch, 1995: 446); perhaps it gratified Octavian to think of Calvinus as his *promagister*.

<sup>308</sup> cf. Suetonius, *Augustus* 29.

Another conspicuous lack of activity on Augustus' part concerns the replacement of key religious personnel: the Vestals and the *flamines*. The pseudo-familial connections between the *pontifex maximus* and the Vestals have been described elsewhere. At this point it is sufficient to note that the chief priest had a unique role in the *captio* of new Vestals. As this *captio* was a literal 'seizing' of the candidate, the physical absence of the chief pontiff rendered the process impossible and so, to the best of our knowledge, no new Vestals were inducted during the three decades of Lepidus' tenure. Wildfang (2006:101) observes that the Vestals also 'largely disappeared from view' during this period, but this is not to say that they were not considered important from a symbolic viewpoint.<sup>309</sup> They (however many they were) played a prominent role in the public rituals attending Augustus' return to the city after Actium in 29; the senate, no doubt with the approval of the *triumphator*, ensured that the Vestals headed the procession out of the city to greet him. As we can see from his subsequent attitude to the cult of Vesta and its associations with the religious life of the city, Augustus took a particular interest in them. Although their numbers must have dwindled over these years, Augustus' decision not to intervene is another of those measured omissions which says as much about the priesthood as it does about him. A scrupulous refusal to overstep his powers, even when doing so would be explained away by the demands of *pietas*, is a mark of the powers of the office he desired and his own power to derive benefit from the circumstances. Even if Lepidus had been hindered from giving the house of the Vestals new blood, he could not have publicly said so. It would appear that, weakened by the events of 36, he was definitively undermined by the plot engineered by his son against Octavian in 30 (Suetonius, *Augustus* 19.1; Livy, *Periochae* 133). Although he seems to have had nothing to do with the conspiracy (and the intended victim was still away from Rome at the time of its discovery), the resonances of the plot against Caesar were clear (Woolf, 2006:97) and, from

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<sup>309</sup> cf. Horace, *Odes* 3.30.

Augustus' viewpoint, politically useful in further marginalising Lepidus (Stepper, 2003:115). After his post-Actium return to the city, we can detect a distinct phase of consolidation on Augustus' part.

The value of his status as *divi filius* took on greater significance at this time. By the time of his return the temple of Caesar had been completed and the way was clear to initiate properly the cult of his divine father. The *aedes* itself was dedicated on 18th of August 29, sufficiently close to the anniversary of his consulship (19 August 43) to allow the celebratory games to be conflated into a celebration of both events (Sumi, 2011:221). One issue remained to be addressed, however: the now vacant flaminiate of Julius. With Antony's death, the recently established priesthood required a new appointment to oversee the cult of the deified Julius. We know that Augustus appointed Sextus Appuleius to succeed the triumvir (not, as some have argued, the brother-in-law of Augustus, but his son) and that it is in this capacity that he is depicted on the frieze of the *ara pacis Augustae* (Pollini, 1986:457; Rüpke, 2008:540). This appointment challenges the thesis that Augustus scrupulously avoided encroaching on the *pontifex maximus*' prerogatives – especially the selection of *flamines*. On the one hand, it has been argued that Augustus did indeed make such appointments (Bowersock, 1990:393) and that the complement of *flamines* on the *ara pacis* is evidence of this. It should be remembered, however, that the altar of Augustan peace has long ceased to be read as a 'snapshot' of an actual event in the life of Augustus: figures and offices are gathered together in an idealised religious context. The *flamen* of Julius, while classified by later imperial sources as one of the *flamines maiores*, may not have enjoyed this status from its inception. As the creation of the senate, and the first *flamen* associated with the cult of a *divus*, it may be that the senate's religious authority was used to sanction this appointment without prejudice to the *pontifex maximus*' traditional powers. In addition, Augustus' own personal association

with the object of the divine honours may also account for his own involvement in the process. Bowersock contends that Augustus also appointed a *flamen Dialis* in 14 B.C., basing this on the Medicean manuscript of Tacitus which gives the date of 14 instead of 11 (Bowersock, 1990:392-393; Tacitus, *Annales*, 3:58). In this, although courageous, he is surely mistaken. It is much safer to remain with the otherwise unchallenged established chronology and consider the appointment of the new *flamen* as part of the conspicuous range of reforms and amendments which accompanied Augustus' own accession to the chief priesthood.

The issue of chronology, finally, brings us to that other 'neglected' field of oversight: the calendar. Caesar's revision, while ostensibly reducing to near zero the *pontifices'* control of the calendar, did leave the intercalation of the leap year in their hands. In the aftermath of the upheavals following Caesar's assassination and the power struggles which ensued, the pontiffs had been inserting the extra day every *third* year instead of the intended four year cycle. After 36 years of haphazard adjustment, the Julian calendar was in dire need of correction. Once again, it is significant that Augustus, who was a member of the pontifical college throughout this period, made no move to re-establish the proper running of the calendar until 8 B.C. Old attempts to saddle Lepidus with the blame – Merivale (1882:3.456) attributes the priests' error to their 'inefficient chief' – now appear typical of a lingering nineteenth century Augustanism. It seems more reasonable to detect a concentrated burst of 'calendar activity' in the period following the death of Lepidus. Scheid (2005:190) notes that the senate-decreed *feria* for Augustus' birthday (from 30 B.C. onwards) does not appear on calendars until after his accession to the chief priesthood; the same is true of the renaming of the month of Sextilis to Augustus which, although decreed in 27, was not officially ratified and entered into the calendar until 8 B.C. Finally, as if to signal the definitive restoration of



order to time and to the associated rhythms of life in the city and the empire, Augustus commissioned his great sundial in the Campus Martius. The gnomon for the meridian was an obelisk (now in Piazza Montecitorio) which had been brought to Rome among the spoils of the Egyptian conquest. This *solarium*, part of the same monumental complex as the *ara pacis* and the mausoleum, unambiguously affirmed Augustus' sway over the Graeco-Roman military and cultural world (Feeney, 1998:127). Even though doubt has been cast on the purported scale and precise nature of the *horologium Augusti* (Heslin, 2007:16), there is little doubt that its meridian represented something of an ideological dividing line between the old, perilous dispensation and the renewed *saeculum aureum*.

### *Pontifex Maximus at last*

The death of Lepidus, around the age of seventy-five, can only have been greeted by Augustus with a sense of relief: the decision to wait for this natural termination to his old rival's presidency had demonstrated the extent of his patience. His election as *pontifex maximus* marks something of a new beginning for Augustus: the convergence of enthusiastic tribes recorded in the *Res Gestae* (*cuncta ex Italia ad comitia mea conflente multitudine, quanta Romae nunquam fertur ante id tempus fuisse*, RG 10) allowed him to lay claim to popularity as well as legitimacy. Van Haepere is among those who regard the great friezes on the *ara pacis* as representing a *supplicatio* for this long-anticipated event rather than the *princeps*' homecoming (Van Haepere, 2002: 418) and we are free to imagine an infinite number of joyful participants celebrating this religious victory. The date of Augustus' election – March 6 – became something of a touchstone for his imperial successors, who, with a handful of exceptions, dated their own priesthoods from this date. Augustus himself allowed the anniversary to be marked by an annual festival which, as Ovid's description in

the *Fasti* demonstrates, neatly captures the essential features of Augustus' religious ideology:

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Sextus ubi Oceano clivosum scandit Olympum  
 Phoebus et alatis aethera carpit equis,  
 quisquis ades castaeque colis penetralia Vestae,  
 gratare, Iliacis turaque pone focis.  
 Caesaris innumeris, quos maluit ille mereri,  
 accessit titulis pontificalis honor.  
 ignibus aeternis aeterni numina praesunt  
 Caesaris: imperii pignora iuncta vides.  
 di veteris Troiae, dignissima praeda ferenti,  
 qua gravis Aeneas tutus ab hoste fuit,  
 ortus ab Aenea tangit cognata sacerdos  
 numina: cognatum, Vesta, tuere caput.  
 quos sancta fovet ille manu, bene vivitis, ignes:  
 vivite inextincti, flammaque duxque, precor. [Ovid, *Fasti*, 3.415-428]<sup>311</sup>

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<sup>310</sup> Millar regards Ovid as 'the prime exponent of Augustan ideology', more so than Vergil, Livy and Horace (Millar, 2000: 2).

<sup>311</sup> When the sixth sun climbs the slope of Olympus from the ocean  
 and through the air makes his way on winged steeds,  
 all you, whoever you are, who worship at the sanctuary of chaste Vesta,  
 wish her joy and offer incense on the Ilian hearths.  
 To Caesar's countless titles, which he has preferred to be worthy of,  
 has been added the pontifical honour.  
 Over the eternal fires, the divine powers of Caesar preside:  
 you see the pledges of empire as one.  
 You gods of ancient Troy, most worthy trophy for the one who carried you,  
 whose weight kept Aeneas safe from the enemy,  
 a priest sprung from the line of Aeneas handles the kindred divinities:  
 Vesta, guard his kindred head.  
 You fires, tended by his sacred hand, live well:  
 live on undying, flame and leader both, I pray.

The *pontificalis honor* is thoroughly enmeshed with the *numina Caesaris*; here too we are reminded of the Julian claim of descent from Iulus and, through him, to Aeneas and Troy. There is a tone of intimacy in the way in which the priest is described as handling the ‘kindred divinities’, as well as in the plea to Vesta to safeguard the ‘kindred head’ of Augustus. This is, of course, deeply characteristic of what Ovid is expected to do; after the military exploits of Augustus have been duly praised, this later phase of his life is devoted to restoring peace and order: the *pax romana* is the *pax deorum*. Habinek (2002:58) observes that ‘the tension between the Caesar of the arms and Caesar of the altars is implicitly explained with the immediate juxtaposition of Romulus and Numa’. Augustus synthesises these two constituent principles of the Roman character – skill in arms and dutiful cultivation of the gods – and so becomes the ‘bridge builder’ between Rome’s past and the golden age which is to come. And it was the decisive appropriation of the cult of Vesta which best exemplified how Augustus the *pontifex maximus* went about this.

We have already observed that the Vestals had entered a phase of relative obscurity during the pontificate of Lepidus which may have something to do with a relative decline in their numbers. It is uncertain at what point after his accession Augustus decided to intervene as chief priest: he moved relatively quickly to fill the significant vacancy of the *flamen Dialis* (after a 76-year vacancy) in 11 B.C., but we have no mention of recruitment of Vestals until AD 5. Suetonius attributes the dwindling numbers to a reluctance among aristocratic families to put their daughters forward (*Augustus*, 31.3), an attitude which led Augustus to exert moral pressure as well as allow *libertinae* to enter the college for the first time (Dio 55.22). In addition, enhanced privileges were bestowed on the Vestales, another feature of Augustus’ ‘reforming innovations’ which ensured a closer association with his own person as *pontifex maximus* and first citizen. Although primarily charged with the cult of Vesta, they had

increasingly become involved in the public rituals attached to the *ara pacis Augustae* and the *ara numinis Augusti*. By far the most significant piece of religious realignment, however, came almost immediately after Augustus' election to the chief priesthood. It began scarcely two months later when a new shrine to Vesta was dedicated within his own house (*Insc. Ital.* 13.2). This represented a decisive shift away from the traditional religious heart of the city, the *Via Sacra* and the Capitol, to the Palatine.

The process had begun in the late 30s when Augustus vowed a temple in thanksgiving for his victories at Naulochus and Actium; after surviving a lightning strike on his house – an intervention he attributed to Apollo – this new temple was dedicated in 28 to a god who technically belonged outside the *pomerium* (Adkins, 1996:13). This translation of Apollo to the Palatine reflects not only Augustus' attachment to the god as his tutelary deity, but also his readiness to redraw the boundaries of religious life in Rome. Although it is inaccurate to claim that any of this was intended as a slight to Jupiter, or even, as Feeney (1998:31) suggests, that Apollo was 'encroaching on the prerogatives of his father',<sup>312</sup> it does indicate Augustus' determination to broaden traditional practices for his own ideological purposes. Hall notes the inclusion of Apollo in the rites for the Secular Games in 17 B.C., a novelty, and suggests that Augustus was further underscoring a link between the *gens Iulia* and Apollo: it was a Cnaeus Iulius who dedicated the first (and only) temple of Apollo in the city in 481 (Hall, 1986:2584). The iconography of Augustus' Palatine temple, replete with vivid allusions to righteous killing (the Danaids) and Apollo's punishment of the disobedient, invited reflection on the social and political attributes most conducive to peace and prosperity in the Rome of Augustus (Beard et al., 1998a:199). It was the building of this temple which

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<sup>312</sup> Price (1996b:834) notes that Augustus rebuilt the Capitol and bestowed 'lavish offerings' on Jupiter; c.f. Suetonius, *Divus Augustus*, 30.2.

first led to the partial designation of Augustus' house – since the *aedes* was merely an extension of it – as a *domus publica*. After a fire in AD 3 led to its rebuilding by subscription, the whole thing became a *domus publica*. As to the other buildings associated with the functions of the chief priest, an oblique reference in Suetonius - in which he quotes Augustus' description of a snatched lunch '*dum lectica ex regia domum redeo*' (*Augustus*, 76) - suggests that he made some use of the chief priest's traditional office, at least initially. Indications are that this too was given to the Vestals by Augustus on account of its proximity to their own house (Festus, 279). If this is true, it prompts the question as to how Augustus envisaged the future of the chief priesthood: if he could dispose of its property, was this because he envisaged the future holders of the office to be associated with the *domus Augusti*?

This meant that Augustus' house took on the threefold function of the *atrium Vestae*, the *regia* and the *domus publica*; the presence of the temple of Apollo added a further element of sacrality:

aufer, Vesta, diem: cognati Vesta recepta est

limine; sic iusti constituere patres.

Phoebus habet partem: Vestae pars altera cessit:

quod superest illis, tertius ipse tenet.

state Palatinae laurus, praetextaque quercu

stet domus: aeternos tres habet una deos. [Ovid, *Fasti* 4.949-954]<sup>313</sup>

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<sup>313</sup> Take the day, Vesta: Vesta has been received at the threshold of her kinsman; thus the just Fathers have decreed. Phoebus has one part, another part has gone to Vesta; he himself occupies the third part, which is left over from them.  
Stand, Palatine laurels: and let the house stand, bordered with oak:  
the one house holds three eternal gods.

Apollo has become *domesticus Phoebus* (Fraschetti, 1988: 951).

Ovid's verses allude to the fact that Apollo's residence in the house of Augustus preceded the arrival of Vesta. The precise details of Augustus' resettlement of the cult of Vesta are sometimes opaque. It is clear, however, that he regarded the relationship with the cult of Vesta as central to his refashioning of the chief priesthood. The *pontifex maximus* had, as we have seen, a particular jurisdiction over the Vestals, but the notion of the chief priest as *sacerdos Vestae* is an Augustan innovation. Although this was, as Price (1996: 826-827) rightly points out, part of the deliberate 'confusion' of the public hearth of Rome and the private hearth of Augustus, the emphasis on the Vestal priesthood was also part of his laying claim to the ideologically purged memory of Caesar. Once again Ovid's commentary on the 12<sup>th</sup> May, anniversary of the vow to Mars *Utor*, is illustrative of this campaign [*Fasti* 5.570-578]. The young Caesar takes his authority for war from *pater...Vestaeque sacerdos*, as Vesta herself had called him in Book Three. A subtle elision of paternity and priesthood may be detected here, one which will become established as a leitmotiv in subsequent propaganda, most enduringly in the *Res Gestae*. This is indicative of Augustus' whole approach: a clever and, more importantly, plausible, retrojection of aspects of the new settlement onto figures and institutions from the past.

The links between Augustus and the Vestals came to be more widely disseminated, the *Feriale Cumanum* noting the required supplication of Vesta on the anniversary of his accession to the chief priesthood. Precisely where this *supplicatio* took place is uncertain: the shrine of Vesta in the forum was maintained throughout antiquity, even though a cult statue – there being no statue of the goddess in the *aedes* - and an altar had been erected in Augustus'

house on 28<sup>th</sup> April 12 B.C.<sup>314</sup> The *Feriale Cumanum* also records similar *supplicationes* for the birthdays of the male members of the Augustan household, Tiberius, Germanicus and Drusus Caesar (Gradel, 2002:96). This signals a further stage in the colonisation of Roman religious life, both at the conceptual and physical level, by the house of Augustus with *Caesareos penates* and *Caesarea Vesta* (Ovid, *Metamorphoses* 15.864-865). The utility of this Caesarian expansion for Augustus' own dynastic purposes is well documented.

So within months of his attaining the position as high pontiff, Augustus had created a sacral complex on the Palatine, with a new *domus publica* and replicas of the *penates* and the *Palladium* installed in the new shrine of Vesta.<sup>315</sup> While all this was redolent of the regal period (Fishwick, 1990:478), the heir of Caesar had both absorbed the lessons of history and attained a key role in reshaping it. His clear-sighted programme of innovation, restoration and replication throws other aspects of his activity into sharp relief.

In whatever capacity - although Suetonius clearly associates it with his freshly acquired powers as chief priest in 12 B.C. (Suetonius, *Divus Augustus* 31.1) - Augustus embarked on a campaign of purging the vast body of religious texts which were in circulation. A considerable number of Greek and Latin prophecies, including, according to Suetonius, some of the Sibylline verses were expunged.<sup>316</sup> It could be argued that control of prophecy and the activities of freelance diviners merely served the interests of public order (Rives, 2007:189),

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<sup>314</sup> A relief of Augustus as *pontifex maximus*, surrounded by the Vestals and making an offering before the cult statue of Vesta has been found in Sicily. This clearly depicts the shrine of Vesta on the Palatine (Pollini, 2012: 77).

<sup>315</sup> It is unlikely that Augustus would have translated the original artefacts to the Palatine, although some, such as Augusto Fraschetti, believe otherwise (Fraschetti, 1998:66). It was also after becoming pontifex maximus that he associated himself with the cult of the ancilia, the shields of Mars (Littlewood, 2002: 181).

<sup>316</sup> See also Cassius Dio 57.18.

but the timing of this intervention suggests that Augustus regarded this sifting of Rome's religious writings as part of his pontifical jurisdiction. Such a perception is only underscored by his decision to relocate the remaining Sibylline books to the temple of his 'domestic Phoebus'.

Augustus' subsequent attitude to the pontificate as bound up with his own ideas of succession may be guessed at in his decision to appoint Gaius Caesar, his grandson and presumed heir, as a pontiff upon his coming of age in 5 B.C. (Richardson, 2012:153). His younger brother, Lucius, was named an augur on his assumption of the *toga virilis* three years later. His stepson Tiberius had been a pontifex since the late 20s B.C. (Rüpke, 2008:615) and it surely not a coincidence that those most closely concerned with Augustus' long-term plans were associated with him in the pontifical college – although he was present in most of the other *collegia* as well.

The centrality of the chief pontificate in Augustus' religious activities owes a great deal to its usefulness in the wider project of what has come to be known as 'the Augustan cultural revolution'. Religion is key to Roman self-understanding and it is hardly surprising that it constitutes a central motif in the restoration of the Republic by the *princeps*. The whole edifice of Roman public religion, its rites and personnel, can be reassumed under the acronym 'P.M.' on the coins issued by Augustus and his successors (Belloni, 1986:1853). The other widely diffused image of Augustus, that of the dutiful servant of the gods, *capite velato*, was to become the model for honorific statues around the empire. Augustus' determination that he should be represented in this way is seen as a mark of his shrewdness in (literally) veiling his power in an attitude of piety (Zanker, 1988:127). Octavian had already experimented with



this in the coin depicting the temple of Divus Julius, issued in 36, which depicts the divinised *pontifex maximus* in that same ritualised posture.<sup>317</sup> Later coins, altar reliefs and frescos would further elide this iconographic shorthand with the *genius Augusti* and the *lares Augusti*. Augustus was able to carry out something of a cultic revolution by ensuring that the worship of his own hearth gods extended throughout the city and the empire. It seems he approached the promotion of this nuanced restoration with the meticulous eye of an expert town planner: beginning with the restoration of the temple of the *lares* on the Sacra Via, he ensured that the fourteen *regiones* and 265 *vici* were part of a matrix of city-wide religious observance and Augustus was able to set himself at the heart of this ‘religion of the crossroads’. By encouraging and patronising the plethora of altars throughout the city and seeing to it that the *lares compitales* were effectively indistinguishable from the *lares Augusti*, he was, as Galinsky puts it, the author of ‘a triumph of *theologia civilis* (Galinsky, 1996: 308). Although the élite maintained its monopoly of the main priesthoods, Augustus successfully ‘coopted’ all ranks of society, both men and women, into this project of collective piety. To what extent this facilitated the personal cult of Augustus and paved the way for his own (some would say inevitable) apotheosis, is not of pressing concern here. More interesting is the extent to which Augustus’ far-reaching religious policy was self-consciously referred to the colonies and provinces of Rome.

The fact that he was so anxious to emphasise the unprecedented crowds of people ‘*ex cuncta Italia*’ (*Res Gestae* 10) who were present at his election as *pontifex maximus*, hints at Augustus’ self-perception as chief priest of Rome in the broadest sense. It is probably only coincidence that the first inscription mentioning *magistri Augustales* dates from the year of the accession to the chief pontificate, 12 B.C. Its place of origin, Nepet (Nepi), is perhaps a

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<sup>317</sup> RRC 540/2.

first marker of a pattern of disseminating such images throughout the provinces which will continue throughout the remainder of Augustus' life (Taylor, 1914:235). Soon all the principal towns of the empire would have their own colleges of Augustales with the *pontifex maximus* as their nominal colleague.

Analysts of the Roman revolution have been paying particular attention to the place of knowledge and science in the subtle but substantial shifts taking place during the early principate. Wallace-Hadrill uses the paradigm of 'priestly control of time' as a signifier for other, less obvious, realignments in Roman culture. Augustus, like Caesar before him, intervenes in a way which ostensibly diminishes the influence of the *pontifices* while leaving his own power intact - indeed enhanced. A process of rationalisation, whereby the expertise of mathematicians, astronomers and astrologers becomes a point of reference for the whole of society, is also a mechanism of control (Wallace-Hadrill, 1997: 17). It is by the authority of the *pontifex maximus* that these new specialists are allowed to reassert order to the passing of time. Elsewhere Wallace-Hadrill also identifies a trend in late Republican intellectual life which might serve as a justification for Augustus' symbolic and practical strengthening of the chief pontificate. While augury suffered something of a decline during this period, other 'predictive sciences' apparently more rooted in rational practices (such as astrology) were gaining a higher profile (Wallace-Hadrill, 2008:251). The *pontifices*, and more especially the *pontifex maximus*, were directors of religious affairs rather than practitioners in the strict sense. Rome's high pontiff was the collator of expert opinions and his own promulgation of such opinions rendered him something of an expert-in-chief. No threat was posed to his office or his prestige by these new academic and scientific currents. Of course religion itself had become an object of scientific scrutiny and research: Varro's dedication of his work to

the then *pontifex maximus* is a sign that this intellectual role was well established and not merely Varro's pandering to Caesar's presumed antiquarian instincts.<sup>318</sup>

### **Conclusion: The Trajectory of Augustan Religion**

It has been argued that Augustus' religious innovations were not as revolutionary as some have claimed and that, in particular, there is scant evidence for Augustan 'religious revivalism' beyond a few notable instances such as restoring the *flamen Dialis* (North, 1986:254). In that analysis, it is the notion of 'religious revival' which is problematic: we have seen that Roman religion did not require resuscitation in the way that has sometimes been described. Certainly what Octavian *did* do, especially once imbued with a title steeped in the sacral vocabulary of Rome (Klauck, 2003:299), was to deftly exploit the possibilities created for him by previous incumbents of the office.

Although the recurrent issue of Lepidus almost certainly influenced the development of Octavian's religious policy, we should not overlook the fundamental tension which existed between his own identity and the man to whom he owed so much: Caesar himself. We have already discussed the ambiguities around the use of Caesar's memory. In 41 B.C. Octavian subjected three hundred of the surrendered élite of Perusia to a form of sacrificial execution at an altar dedicated to the deified Caesar.<sup>319</sup> In its fusion of religious forms with a cruel punishment for opposing him, Octavian echoed many aspects of Caesar's own ritualistic treatment of his mutinous soldiers. Várhelyi reads this as an instance of 'pushing the notion

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<sup>318</sup> Although, as Green correctly acknowledges, Caesar (and Augustus) were beneficiaries of this climate, she is incorrect in describing this 'theological concept of Rome grounded in her inherited civic, intellectual and religious traditions' as a 'creation' of Varro (2002: 73). We have already demonstrated Scaevola's contribution to this culture.

<sup>319</sup> Suetonius, *Augustus* 15; Cassius Dio, 48.14.3-4.

of sacrifice to its limits' (2011: 137), but it is unlikely, as she suggests, that he was attempting to act as a priest of his adopted father.<sup>320</sup> What it may suggest, however, is the extent to which the younger Caesar learned important lessons from the elder in terms of the scope of religious forms being adapted – or even created – for political ends. The fact remains that Caesar's memory was as much a constraint as an enhancement. One of the principal tasks for the apologists of Augustus would be to effect the surpassing of Caesar by his heir: despite the obstacles and the near-misses, *he* was the beloved of the gods (Powell, 2009: 193). In the midst of this process of exaltation and distinction, Augustus' role as high pontiff would be crucial. The autocracy of Caesar was bound up with his position as chief pontiff. As Steel observes, this 'potent mix' of personal power and religious authority could not be yet be controlled by any one of the contenders in the power struggle following Caesar's murder (Steel, 2013: 253). Ultimately, Octavian's encroaching monopoly was, in part, rendered less threatening because so much of it was blended with his pontifical persona (Stepper, 2003: 44). This pervasive autocracy was mirrored, I believe, by the spread of buildings around the house of Augustus on the Palatine. As we have seen, Vesta and Apollo were neighbours and, in a sense, guests of in house of the *princeps*: the distinction between the *sacra privata* of this ostentatiously simple house and the *sacra publica* was, in another instance of a pattern we have been discerning for a century, blurred. That is why this office was so crucial to Augustus: as the father was in the family, so the *pontifex maximus* would be in the life of the restored Republic: an inviolable figure of authority, discipline – indeed the power of life and death – but also a symbol of *pietas*, stability and respectful love. Now every almost every street in the city was an extension of the *lararium* of Caesar and his house was Rome.

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<sup>320</sup> Syme considered these to be judicial executions which were subsequently conflated with sacrifices by the opponents of Augustus (1939: 212).

## CONCLUSION

We tend to think of chaos as the opposite of order. Fixity is a benevolent static situation; its loss results in chaos. But in Rome of the Republic, the principles of order and disorder were the same. Reciprocity and satisfaction created society's strongest bonds – but also threatened to bring about their destruction. In healthy conditions, fluctuations were small and capable of being balanced; in civil war they became the extreme ends of a pivot. Both sacrifices and executions occupied the dangerous space between the small reciprocities of everyday life and the violent reciprocities of the vendetta. (Barton, 2003: 359)

Barton offers, correctly in my opinion, a way of understanding one of the main causes of the disintegration of the Republic: the 'small town' framework of the Roman system relied so heavily on maintaining a balance between competing interests. A relatively stable accommodation between the political élite and those dependent upon them, as well as between the senate and the people, had held good for centuries. As I have discussed in the Introduction, this accommodation upheld the city's social stratification as well as providing a focus for unity during periods when the safety of the republic was endangered. Such a system simultaneously inhabited what we would now term 'political' and 'religious' dimensions. As a consequence, this civic balance was reflected in – and maintained by – the structures of Roman religion: the gods discharged their responsibilities, like any other good citizen. The priests of Rome, especially the chief pontiff, were engaged in serving and promoting this *pax* through the performance of sacred rites and the application of laws which governed the transaction of public and private affairs.

In Chapter Two I argued that a *pontifex maximus* deliberately used his authority and the ‘veil’ of his office to carry out one of the most revolutionary acts the city had yet seen. By lending the weight of religious forms, no matter how improvised these were, to the destruction of a tribune, Scipio Nasica not only initiated a cycle of political murder, but plunged Rome into a disquieting period of recrimination and uncertainty as to what (and who) was sacred any more. The logic of reciprocity and satisfaction meant that there had to be victims on both sides – even the high pontiff himself could not stay in his own city. Efforts to reset the balance would only be partially successful and of brief duration. I believe that the underlying damage was essentially irreparable because of the nature and novelty of the transgressions involved. This was a clash of sacrosanct persons, the rewriting of the language of the *mos maiorum* and all of it in full view of gods and men.

Yet what is central to this thesis is that Nasica’s actions made the *pontifex maximus* a qualitatively different office from the one held by his father before him and that this difference was perceived by all. Partly on Nasica’s own initiative and partly due to the decisions made by the senate in the wake of Tiberius’ death, the *pontifex maximus* could do what others could not. Of course there had always been prerogatives attached to his office, but Nasica achieved two things: firstly, he redefined the boundaries of sacred violence and, secondly, caused the chief pontificate itself to be exposed to politically motivated killing.

We have seen that, from its origins, this priesthood already had qualities and prerogatives which distinguished it, even subtly, from the collegiality which usually characterised Rome’s institutions: as Scaevola would have it, he was the *pontentifex* – ‘the priest with power’ (c.f. Varro, 5.83). A *pontifex maximus* enjoyed a stable prominence in the life of the Republic

which no other position could equal. The constitutional changes which came to bear on the office, especially the tense relationship between co-optation and election, ensured that the perception of the office among both the aristocracy and the people could undergo shifts in emphasis. As we saw, the *lex Ogulnia* in 300 B.C. had legislated for the inclusion of plebeian pontifices and the first plebeian *pontifex maximus*, Tiberius Coruncanius made his *responsa* public. In 104 B.C. a future chief pontiff, the plebeian tribune Domitius Ahenobarbus extended the system of election of the *pontifex maximus* by the *minor pars populi* to all the other *pontifices* and so it remained until Sulla revoked the *lex Domitia*, restoring co-optation. It would require the *lex Labiena* to wrest the right of election back to the people. Despite these vagaries of electoral procedure, the chief pontiff was left in a position of comparative stability and this most certainly brought advantages to the incumbent. This is especially true of the extent to which, as we have seen on a number of occasions, the *kind* of power the high pontiff possessed could be represented as somehow analogous to that of consuls and praetors, with the accompaniment of lictors. Indeed the lictors offered the *pontifex maximus* not just some vague allusion to the power over life, but to a connection with Rome's earliest form of democracy. It is such archaic resonances as these which led Mommsen to make a case for a 'high' conceptualisation of the office, replete with a species of *imperium* and other powers. While the intervening scholarship has rolled back from this emphatic position – some, like the extreme ends of Barton's 'pivot', have gone too far in the opposite direction – the underlying thesis of Mommsen is, I believe, sound in its essentials. There is more to the office than has been recently claimed.

This 'more' has been arrived through a process of change which is both tidal and incremental: the murder of the tribune 'by' the chief pontiff and its consequences constitute a forward surge which opened up all sorts of possibilities for the next to occupy the office.

Chapter Three described how, after the misadventure of Crassus Mucianus, the pontificate appears to enter into a recessive phase under Publius Scaevola and the pontiffs up to and including his son, Quintus. But the office has been changing both from outside and from within: the dynamic of popular election for the priesthoods, the collation of the *Annales Maximi* and the various intellectual innovations of the Scaevolae had a discernible effect. The chief pontiffs were performing important tasks of systematising and ordering broad areas of history, law and theology just as the wider ‘system’ of society was plunged into disorder. The coincidence of Quintus Scaevola’s tenure with one of the most violently disrupted periods in Rome’s history<sup>321</sup> meant that the office took on an ever more symbolic profile, as murder and (self) sacrifice intruded upon places and people once considered sacrosanct.

In Chapter Four I showed how Civil war and the politics of vendetta did certainly influence the styles of Metellus Pius and Julius Caesar, whom I have described as ‘passive and active voices’ in the articulation of their priestly office. But even Metellus, who might be regarded as another ‘quiet’ *pontifex* was showing how this ancient priesthood, the creation of a monarchy, could work within the constraints of dictatorship. Of course it helped that the dictator in question, Sulla, was respectful both of the office and the man he helped to fill it.<sup>322</sup> That Caesar was able to combine the chief priesthood with his own exercise of sole power demonstrates how unlike Sulla he was: Caesar had no scruples about being in both the pontifical and augural colleges. It is that same relationship between priesthood and autocracy which ultimately defines what became of the office under Augustus. As Chapter Five made clear, for the *princeps*, this office would be one of the main conduits for restoring order after

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<sup>321</sup> Cinna displayed the severed head of the murdered consul Octavius on the *rostra*, the first time such an indignity would be inflicted on a consul – but not the last (Appian Civil Wars, 1: 7; Blits, 2011: 123). Since the *rostra* constituted a *templum*, Cinna took the pollution of consecrated spaces to a new level.

<sup>322</sup> I believe that Sulla’s membership of the college of Augurs (from around 88 B.C.) explains why he himself did not assume the vacant pontificate in 82.



the chaos of the previous century, both through his own persona as high pontiff and through the ‘respectful’ containment of the man who had followed Caesar. The *imperator-pater-pontifex* was conspicuously successful in bringing the previous century of ‘blurring’ to a conclusion by once again ensuring that sacrifices and executions were no longer confused. This legacy of clear boundaries may be seen in that oath of Titus, acceding to the chief priesthood after the death of his father Vespasian, ‘to be the cause of no man’s death’ (Suetonius, *Titus*, 9). Although such an aspiration has more to do with rhetoric than realism, nevertheless it demonstrates how the *pontifex maximus*, protagonist of so much of the violent upheaval of the Republic, was now synonymous with benign autocracy.

As I stated at the beginning, the trajectory of this ‘benign autocracy’ of Augustus should be traced – not from the calculated acquisition of the chief pontificate by Julius Caesar – but to the gamble taken by his predecessor Scipio Nasica. Alongside the conventional hermeneutics, I believe that the transition from republic to principate can (and should) be read through the ways in which such disparate figures embraced the *pontificalis honor* and the *auctoritas* which came with it.

## APPENDIX A

### Q. Servilius Caepio: *pontifex maximus*?

The compilation of priestly *Fasti* is an imprecise science. The normally *ad vitam* duration of priesthoods means that according to these men their proper place in the timeline can often be a matter of best guesswork and inserting question marks after terminal dates. Even with the list of *pontifices maximi*, the head of the pontifical college, we are not on entirely solid ground – at least not before the first century B.C. Little attention has been given to the appearance of one ‘newcomer’ to the list of chief pontiffs – Q. Servilius Caepio. Jorg Rüpke, in his lapidary *Fasti Sacerdotum* 2005/ 2008), inserts Caepio between *Metellus Delmaticus* and *Domitius Ahenobarbus* (Rüpke, 2008: 889). In this respect he parts company with the judgement of Szemler (1972: 125), who considers that even ‘his membership of the pontifical college remains questionable’ and Broughton (1951), who does not even list a priesthood for Caepio. The only mention we have of Caepio in this regard is in a contested passage of Valerius Maximus:

Crassum casus acerbitate Q. Caepio praecurrit: is namque praeturae splendore, triumphii claritate, consulatus decore, maximi pontificis sacerdotio ut senatus patronus diceretur adsecutus in publicis uinculis spiritum deposuit, corpusque eius funestis carnificis manibus laceratum in scalis Gemoniis iacens magno cum horrore totius fori Romani conspectum est.

(Valerius Maximus, 6.9.13)<sup>323</sup>

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<sup>323</sup> Q. Caepio surpassed Crassus in the bitterness of his lot: for, by the distinction of the praetorship, the glow of his triumph, the adornment of his consulship, the priesthood of chief pontiff, he was declared protector of the senate. Yet he breathed his last in public chains and his body, gouged by the fell hands of the executioner, was seen lying on the Gemonian steps to the great revulsion of the whole Roman forum.

Rüpke is of course within his rights to argue, as he does, that solitary authorities are not unheard of and of course we should not dismiss them simply because they challenge the *communis opinio*. He does seem to be on less solid ground in attempting to justify the fantasy of Valerius' version of Caepio's demise, complete with its detail of the butchered corpse on the Gemonian steps. The mundane fact appears to be that Caepio disappears into exile and thereafter we hear no more about him. Why should we push back Metellus Delmaticus' tenure to accommodate a period between '107 and about 103' (Rüpke's estimate) when Servilius Caepio was *pontifex maximus*?

107 was certainly an auspicious year for Caepio, as he celebrated a triumph after his campaign against in Hispania and it no doubt established a strong platform for his successful bid for the consulship of 106. Thereafter, however, things went precipitously wrong for him: charges of military misjudgement and the claim that he had misappropriated the treasure of Tolosa led to an ignominious termination of his *imperium* and the sentence of exile. There is no mention of a priesthood being terminated, still less of his being stripped of the chief pontificate. Only tangentially might we argue that such a calamitous end to Caepio's public career might also have included the position of chief pontiff. Although conjecture, it is consistent with Rüpke's view that *Domitius Ahenobarbus* might well have predicated his law to radically alter the mechanism of entry to the pontifical college upon the demise of Caepio; so rather than acting to assuage bruised pride (at being unsuccessful in his own attempt to be coopted in his father's place) the *lex Domitia* was a public-spirited attempt to restore the prestige of the college, which could only have been damaged by the unprecedented treatment

of the *pontifex maximus*.<sup>324</sup> In this hypothesis, not only was there a mood to introduce elections to the college, but a willingness to elect Domitius directly to the vacant presidency.

There are, however, many more reasons to question Rüpke's defence of Servilius Caepio and have him struck from the list. Firstly – and most directly – who benefits from this meddlesome insertion in the *Fasti*? It is not as though there is a troubling gap in the chronology which would be conveniently filled by this overlooked incumbent: there is simply no need to find someone to bridge the pontificates of Metellus Delmaticus and Domitius Ahenobarbus. Moreover, one would imagine that Cicero, a child of the consulship of Q. Servilius Caepio, would have had more to say about him (even as a cautionary exemplum) of a chief pontiff had forfeited his office in such unprecedented circumstances. Such a fall would indeed have been without precedent. It is widely known that P. Cornelius Scipio Nasica Serapio, incidentally a hero of Cicero, was sent into a species of exile after his involvement in the killing of his cousin Tiberius Gracchus. Yet, for all the unusual circumstances which attended Nasica's removal from the city, there had been no suggestion that he would have been deprived of his office.

Such treatment of Caepio would undermine the unique nature of the office and seriously compromise its status as an *ad vitam* office without parallel in the Republic. It is less likely that Caesar would have gambled everything on his election to the chief priesthood if its limits had been so clearly exposed in the treatment of Caepio scarcely two generations before; by the same measure, how likely is it Lepidus, the thorn in Augustus' priestly side, would have been left with that coveted title if Caepio had been so easily divested of it?

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<sup>324</sup> Or, equally probable, is the scenario whereby the pontifical college was so low on members that the tribune could claim to be attempting to bypass this constitutional inertia and ensure fresh blood. The college of Augurs was in slightly better health at this point (Rüpke, 2008: 111).

## APPENDIX B

### Case Study: Cicero, Clodius and the *pontifices*

Publius Clodius Pulcher has already featured quite extensively in the analysis of Caesar's pontificate and his political career serves a helpful focus to demonstrate the inextricable links between political and religious realities. I think it is worthwhile abstracting Clodius' activity during 63 B.C. (and immediately afterwards) as a specific 'case study': in this way we can better understand the way in which the competence of the *pontifices* was invoked, debated and understood by Clodius and his great enemy, Cicero.

The *Bona Dea* scandal, in which Clodius Pulcher – disguised as a woman – profaned the female-only rites of the Good Goddess provoked outrage and necessitated the involvement of the Vestals and the pontiffs. Cicero recounted the process for Atticus:

postea rem ex senatus consulto ad virgines atque ad pontifices relatam idque ab iis nefas esse decretum; deinde ex senatus consulto consules rogationem promulgasse; uxori Caesarem nuntium re misisse. In hac causa Piso amicitia P. Clodi ductus operam dat, ut ea rogatio, quam ipse fert et fert ex senatus consulto et de religione, antiquetur. (*ad Atticum* 1.13)<sup>325</sup>

The *instauratio* of the rites would be sufficient to undo the damage done by Clodius' impiety. Addressing the action which had vitiated the ceremony was the limit of the pontiffs' recommendation: they did not stand in judgement over Clodius as in a trial and his subsequent prosecution had nothing to do with them (Tatum, 1990: 204). In this instance, it was not the pontiffs' task to forensically seek out the facts, rather to make an evaluation

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<sup>325</sup> It was then referred back to decree of the senate to the vestals and the college of pontiffs, who found that this occurrence did constitute a sacrilege. Then by a decree of the senate the consuls brought forward a bill; and Caesar sent his wife a writ of divorce. In this matter Piso, on account of his friendship with P. Clodius, is working for the rejection of the bill which he himself is proposing – and proposing on the back of a senatorial decree on a matter of religion.

based on whatever was put before them (Watson, 1992: 6). We do not know if the *pontifex maximus* in this instance would have recused himself from presiding over the investigation: although Caesar was deeply – and embarrassingly - involved in the circumstances of the *Bona Dea* scandal, it would have been politically risky to allow someone else to act as judge over matters of religious propriety, as well as the ability of the urban praetor to secure his own house.

The *incestum* trial of Clodius resulted in an acquittal. This was in spite of Cicero giving testimony which undermined Clodius' alibi (Mackay, 2009: 244), ensuring that the formerly friendly relations would be irreparably damaged. This hostility would eventually lead to the confiscation and destruction of Cicero's house on the Palatine, while the ex-consul was sent into exile in 58 B.C. With calculated irony, Clodius had a temple to *Libertas* erected on the site of his opponent's house and it was to address the questions of compensation and 'deconsecrating' the space that Cicero made his famous speech to the *pontifices* (North, 2000:31). In his opening sentences Cicero gives not only a flavour of religious rhetoric but also offers a helpful summary of the legal purview of Rome's priests.

Cum multa divinitus, pontifices, a maioribus nostris inventa atque instituta sunt, tum nihil praeclarius quam quod eosdem et religionibus deorum immortalium et summae rei publicae praeesse voluerunt, ut amplissimi et clarissimi cives rem publicam bene gerendo religiones, religiones sapienter interpretando rem publicam conservarent. Quod si ullo tempore magna causa in sacerdotum populi Romani iudicio ac potestate versata est, haec profecto tanta est ut omnis rei publicae dignitas, omnium civium salus, vita, libertas, arae, foci, di penates, bona, fortunae, domicilia vestrae sapientiae, fidei, potestati commissa creditaque esse videantur. [2] Vobis hodierno die constituendum est utrum posthac amentis ac perditos magistratus improborum ac sceleratorum civium praesidio nudare, an etiam deorum immortalium religione armare malitis. Nam si illa labes ac flamma rei publicae suum illum pestiferum et funestum

tribunatum, quem aequitate humana tueri non potest, divina religione defenderit, aliae caerimoniae nobis erunt, alii antistites deorum immortalium, alii interpretes religionum requirendi; sin autem vestra auctoritate sapientiaque, pontifices, ea quae furore improborum in re publica ab aliis oppressa, ab aliis deserta, ab aliis prodita gesta sunt rescinduntur, erit causa cur consilium maiorum in amplissimis viris ad sacerdotia deligendis iure ac merito laudare possimus. (*Cicero, de Domo* 1)<sup>326</sup>

Cicero wished to challenge the decision to consecrate his house, literally making it a *templum*. Only the pontiffs had the power to rescind the consecration and Cicero is applying some moral leverage in his speech, alluding to the fact that many of them sat in the senate and did little to counteract the vendetta waged by the tribune of the plebs. Gildenhard offers a novel and plausible analysis of the process which exemplifies the relationship between religious and political power in Rome (2011:299-325). In the *de Domo*, Cicero addressed his audience, the pontiffs who were judging the case as citizens and senators: but, as Gildenhard observes, ‘role differentiation was highly developed’ (2011:307). Cicero shrewdly appealed to them both as *pontifices* and senators, since this served to emphasise the double distinction

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<sup>326</sup> Among the many ordinances which our forebears decreed and set out through divine inspiration, o pontiffs, none is more illustrious than the decision to entrust to the same people the worship of the immortal gods and the highest interests of the State, so that the most notable and prominent citizens might look after our religion through the good governance of the State and look after the State through the wise interpretations of religious laws. And if ever an important case were submitted to the judgment and power of the priests, this truly is of such import that the prestige of the entire State, the safety, life, freedom, altars, household hearths and gods, the goods, fortunes and homes of all its citizens might be seen to be handed over and entrusted to your wisdom, faith and power. [2] Today you are called upon to decide if you wish from this moment onwards to strip these insane magistrates who have been corrupted by the support of the lowest and meanest citizens or whether you prefer to arm them with the sacred authority of the immortal gods. For if that disaster, if that firebrand of the State will succeed in defending his pestilential and deadly tribunate by means of divine religion, which human justice could not begin to defend, then we must seek other rites, other servants of the immortal gods, other interpreters of religion; if however, o pontiffs, by your authority and wisdom the consequences of these actions are to be annulled, actions which were only carried out because of the fury of the wicked while the Republic was oppressed by some, deserted by others, betrayed by yet more, then we shall excellent reasons to praise the decision of our ancestors to select for the priestly tasks men of the highest renown.

of their position; it was also helpful as a leverage strategy: the suggestion that *religio* had compromised *ius* (in this instance, ‘justice’) would be a cause of personal dissonance. For all their ‘highly developed role differentiation’, this struck at the heart of their competence as arbiters of the *sacra (publica et privata)* and guardians of the *res publica*.

He pointedly refuses to name those who most directly abetted Clodius by sanctioning his bid for the plebeian tribunate, but everyone knew that one of the most prominent individuals was the *pontifex maximus* himself, Julius Caesar.<sup>327</sup>

As we have seen, Cicero called into question the competence of the junior pontiff who had supervised the dedication of the shrine: by drawing attention to his less than secure *auctoritas* – not to mention his personal connections to the tribune.

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<sup>327</sup> Cicero (*pro Sestio*, 16) refers to Caesar’s action as consul (‘solvit subito lege curiata consul’) not *pontifex maximus* – although the text may be corrupt (Ridley, 2005: 283).



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### A Note on Primary Sources

With the exception of the texts stated below, the primary sources cited in this Thesis have been adapted from the Perseus Digital Library (<http://www.perseus.tufts.edu>): to ensure consistency, the consonantal ‘u’ has been used in place of ‘v’. Unless otherwise stated in the text, the translations are my own.

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