

world of the kind Plautus enjoyed bringing on stage. If it is not his work it could certainly have been a skilfully excuted imitation, sufficiently similar to Plautine style to cause it to be assigned to him by later grammarians.

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## CENSORINUS, SULLA, AND MARIUS

Upon his return from his promagistracy in Asia Minor in late 95 or early 94 BC, Sulla was prosecuted for extortion by a certain Censorinus, but his accuser failed to appear for the trial. Censorinus is identified as C. Marcius Censorinus, later a purported Marian partisan, and scholars have naturally seen the hand of Marius behind this abortive prosecution, which they have linked with the spate of political trials in 95. This episode is even alleged to have delayed Sulla's pursuit of the consulship for several years<sup>1</sup>). Unfortunately, the importance of the Censorinus episode has been vastly overblown and the alleged role of Marius in it is highly questionable.

Let us begin by examining how this incident came to be regarded as historically significant. In 1959 E. Badian drastically – and almost certainly correctly – altered the chronology of Sulla's career in the 90s by placing his urban praetorship in 97 and his promagistracy in Asia Minor in 96. One consequence of this revision was to place Sulla's return from Asia Minor and the Censorinus episode in late 95 – the year of the bitter court battles between the friends and enemies of Marius. Identifying Censorinus as “the later Marian adherent”, Badian logically saw his

1) Plut. Sulla 5.12. Identity: F. Münzer, RE s. v. Marcius, no. 43, 1550. On the date, see n.2 below. Delayed Sulla's career: see n.25 below. There is some doubt regarding the specific charge: Plutarch has Censorinus alleging that Sulla extorted money from an allied kingdom; Firm. Mat. Math. 1.7.28 gives the charge as *spoliatae provinciae crimen*; cf. Erich S. Gruen, Political Persecutions in the 90s B.C., *Historia* 15 (1966) 51 n.116; Arthur Keaveney, *Sulla: The Last Republican* (London 1982) 45 and 54 n.33.

prosecution of Sulla as one of these court battles, albeit one which was dropped when the Marians and their rivals reached an “uneasy *concordia*” in 94. Nevertheless, the charges were enough to force Sulla to forsake any attempt to seek the consulship until 89<sup>2</sup>). Badian’s views were essentially adopted by such scholars as T. F. Carney, Erich S. Gruen, and T. J. Luce<sup>3</sup>). The matter did not rest there, however, for in 1970 Badian rejected the traditional view of when the feud between Marius and Sulla began. Far from being driven by Marius’ jealousy to transfer to Catulus’ army in 102, as Sulla later claimed, he was sent by Marius to save Catulus from military catastrophe, Badian argued; he further noted how closely the political vicissitudes of Marius in the early 90s coincided with those of Sulla during the same period. It now became necessary to ascertain when the feud actually began, and Badian suggested Censorinus’ prosecution as the earliest indication that Marius and Sulla had parted company<sup>4</sup>). In 1982, Arthur Keaveney proposed a variation of Badian’s original view: Marius had his puppet Censorinus indict Sulla with no intention of actually prosecuting him; instead the aim was simply to throw enough mud at Sulla to keep him from winning the consulship<sup>5</sup>).

Yet those scholars who have attached such importance to the Censorinus episode have failed to examine the would-be prosecutor and Marius’ alleged front man. Censorinus was a mere *monetalis* in 88 – the year of Sulla’s first consulship – and moneyers were generally men in their twenties<sup>6</sup>). This would seem the

2) E. Badian, Sulla’s Cilician Command, *Athenaeum* 37 (1959) 279–303 = *Studies in Greek and Roman History* (Oxford 1964) 157–78, on the chronology; which is defended by Keaveney, *Deux dates contestées de la carrière de Sylla*, *LEC* 48 (1980) 149–57, against the objections of A. N. Sherwin-White, *Ariobarzanes, Mithridates and Sulla*, *CQ* 27 (1977) 173–83, and *Roman Foreign Policy in the East, 168 B.C. to A.D. 1* (Norman, Ok. 1984) 110–11. Regarding Sulla and Censorinus: Badian, *Studies* 170.

3) T. F. Carney, *A Biography of C. Marius* (Chicago <sup>2</sup>1970) 49; Gruen, *Prosecutions* 52, originally disputed Badian’s view of the Censorinus affair but he basically accepted it in *Roman Politics and the Criminal Courts* (Cambridge, Mass. 1968) 198; T. J. Luce, *Marius and the Mithridatic Command*, *Historia* 19 (1970) 171–2.

4) Badian, *Lucius Sulla: The Deadly Reformer*, *Todd Memorial Lecture* (Sydney 1970) 8–11. Political vicissitudes: Specifically, Sulla lost his first bid for the praetorship in 99 for 98, a disastrous year for Marian candidates, and won the praetorship in 98 for 97, when Marians secured both censorships and one consulship: cf. Luce, *Mithridatic Command* 174–183; Carney, *Marius* 45–50; Badian, *Studies* 34–70.

5) Keaveney, *Last Republican* 45.

6) Michael Crawford, *Roman Republican Coinage* (Cambridge, UK 1974)

case with Censorinus, for he was only a military tribune or cavalry prefect in 87 when he commanded the troop of cavalry sent to kill the consul Cn. Octavius, whose head he delivered to Cinna, and was apparently a legate in 82 when he was captured and beheaded in turn by Sulla after the battle of the Colline Gate<sup>7</sup>). He would thus seem a very young man when he indicted Sulla, but let us try to be more precise about his age. G. V. Sumner placed his year of birth at no later than 111 and probably somewhat earlier<sup>8</sup>). The latter is surely the case; a birth in 111 would make him a mere sixteen or seventeen in 95 or 94. One can also compare Censorinus with his fellow military tribune of 87, C. Flavius Fimbria. The latter was born in either 115 or 114, commanded the troop of cavalry that slew P. Licinius Crassus and, it now appears, was a quaestor in 86<sup>9</sup>). Since Censorinus and Fimbria held the same rank and performed similar duties in 87, they were probably of a similar age, which would square with Censorinus' moneyership in 88. Censorinus, as the killer of Octavius, also should have been rewarded for his crime with a quaestorship in 86 – indeed, he was probably Cinna's own quaestor. All these considerations suggest that Censorinus was probably about nineteen or twenty when he indicted Sulla.

Of course, there was nothing unusual about prosecutions being conducted by young men just beginning their careers<sup>10</sup>). It would have been far easier for an unproven young orator to obtain a case by nominating himself as a prosecutor than by having someone else choose him as defense advocate. But a young man who prosecuted and won an *important* case was much less common: Cicero praises L. Licinius Crassus' successful prosecution when he was only twenty-one of C. Papirius Carbo in 119 as highly unusu-

78, 357–61 (no. 346) and 710; Luce, *Political Propaganda on Roman Republican Coins circa 92–82 B.C.*, *AJA* 72 (1968) 27 and 29.

7) Censorinus in 87: App. BC 1.71. Military tribune: Broughton, *MRR* 2.49. Cavalry prefect: Jakko Soulathi, *The Junior Officers of the Roman Army in the Republican Period* (Helsinki 1955) 372. Actions and rank in 82: App. BC 1.88, 90, 92–3; Broughton, *MRR* 2.71.

8) G. V. Sumner, *The Orators in Cicero's "Brutus": Prosopography and Chronology* (Toronto 1973) 127.

9) Sumner, *Orators* 124; Broughton, *MRR* 2.56, 59; *MRR Suppl.* (1984) 3.92; A. W. Lintott, *The Offices of C. Flavius Fimbria in 86–85 B.C.*, *Historia* 20 (1971) 696–701.

10) Evidence collected in William V. Harris, *War and Imperialism in Republican Rome, 327–70 B.C.* (Oxford 1979) 19 and nn. 2–4. Lily Ross Taylor, *Party Politics in the Age of Caesar* (Berkeley and Los Angeles 1949) 99, speaks of prosecutors in their early twenties as being normal.

al<sup>11</sup>). True, L. Sempronius Atratinus prosecuted M. Caelius Rufus when he was only seventeen, but he did not win his case and his principal aim was to forestall Caelius' attempt to prosecute his father for a second time; he was also assisted by two *subscriptores*<sup>12</sup>). Caelius himself was twenty-two when he entered public life with his successful prosecution of C. Antonius Hybrida, but Antonius lacked support among the elite; this and his manifest guilt made him an easy target<sup>13</sup>). It would make more sense, however, to compare Censorinus with the prosecutors of the important trials of 95. Q. Servilius Caepio was prosecuted apparently by T. Betutius Barrus, a rather obscure figure of uncertain age whose oratorical skills received high praise from Cicero<sup>14</sup>). C. Norbanus, however, was prosecuted by P. Sulpicius, who was either twenty-eight or twenty-nine at the time<sup>15</sup>). T. Matrinius was prosecuted by a certain L. Antistius; the prosecutor is sometimes identified as L. Antistius Reginus, tribune of the plebs in 103, who would have been close to forty in 95<sup>16</sup>). Censorinus does not fit in very well with this company, but he does come much closer to Q. Hortensius Hortalus, who began his long oratorical career in 95 at age nineteen with a spectacular yet unsuccessful prosecution, possibly of L. Marcius Philippus and probably for extortion<sup>17</sup>). Censorinus' indictment of Sulla at a similar age and on a similar charge looks more like an attempt to copy Hortensius than the product of some Marian conspiracy. If Marius were foolish enough to entrust the prosecution of an enemy of Sulla's caliber to such a young and apparently untried orator, then we have all grossly overestimated him.

Further, there is no evidence of Censorinus doing anything

11) Cic. De off. 2.47, Brut. 159. Crassus' age: Sumner, Orators 94.

12) Cic. Cael. 2; see also the discussion in R. G. Austin (ed.), M. Tulli Ciceronis Pro Caelio Oratio (Oxford 1960) 154-6.

13) Austin, Pro Caelio Or. p. vi; Gruen, The Last Generation of the Roman Republic (Berkeley and Los Angeles 1974) 288-9.

14) Cic. Brut. 169; for discussion and modern references, see Sumner, Orators 102, noting also his remarks on p. 101.

15) Cic. De Or. 2.89; see Badian, Studies 36, 50, 66 n. 15; Gruen, Criminal Courts 196. Age: Sumner, Orators 109-10.

16) Cic. Balb. 48-9; on prosecutor's identity, see Badian, Studies 48-9, 67 n. 134. Disagreeing with Badian is Gruen, Prosecutions 49 n. 100, who mentions another L. Antistius, a famous prosecutor who in his old age fell victim to Sulla's proscriptions (Cic. Rosc. Am. 90). In either case, Antistius would certainly have been much older than Censorinus in 95.

17) Cic. De Or. 3.228-9, Brut. 229; see Gruen, Prosecutions 49-50, and Criminal Courts 198; Sumner, Orators, 122.

specifically in the interest of Marius in 87 – Cinna was the man who most wanted the death of Octavius and it was to Cinna that Censorinus delivered the consul's head. Cinna would have entrusted the murder of Octavius to a very close partisan indeed. The case of Sertorius ought to be sufficient warning against making every follower of Cinna automatically a Marian as well; the Mario-Cinnan alliance was very much a shotgun marriage<sup>18</sup>). In 82, Censorinus served under Cn. Papirius Carbo, Cinna's close collaborator and consular colleague in 85 and 84, not under Marius the Younger<sup>19</sup>). True, he also led an army in an attempt to relieve the younger Marius at Praeneste, managing to lose most of his men to desertion in the process (App. BC 1.90), but any committed anti-Sullan would have tried the same. F. Münzer nominated Censorinus as one of the twelve men whom Sulla declared *hostes* in 88 after the march on Rome, but this is sheer speculation and he could have just as easily been one of those expelled from Rome along with Cinna in 87<sup>20</sup>). The latter would better explain his alacrity in killing Octavius. Even if Censorinus had been one of the *hostes* of 88, however, he still would not have necessarily been a Marian: he could have just as easily been a follower of Sulpicius (which would fit his later loyalty to Cinna), or he may have prudently and understandably fled Rome in 88 for fear that Sulla would exact personal vengeance against the would-be prosecutor of 95/94. In any case, there is no warrant to state flatly that Censorinus was an adherent of Marius, either in the 90s or at any other time.

As if all this were not enough, there are two additional points worth noting. First, Censorinus never pressed his case, and this alone should reveal the absence of Marius in the matter: Marius would have had too great a personal interest in the conviction of Sulla, the ingrate who had turned against him, and would have pursued the case to the end. Second, if Marius had been behind Censorinus, then Sulla waited a long time before paying his old commander back: their clash over the monuments of Bocchus, which publicly humiliated Marius, only occurred in late 91<sup>21</sup>).

18) Plut. Sert. 5.1–2. Cf. Harold Bennett, *Cinna and His Times* (Menasha, Wis. 1923) 10–11; C. M. Bulst, 'Cinnanum Tempus': a reassessment of the 'Dominatio Cinnae', *Historia* 13 (1964) 309; Gruen, *Criminal Courts* 230.

19) Broughton, *MRR* 2.57, 60, 71. Carbo close to Cinna: Gruen, *Criminal Courts* 241–2.

20) F. Münzer, *RE* s.v. Marcius, no. 43, 1550–51; B. R. Katz, *The First Fruits of Sulla's March*, *AC* 44 (1975) 112–3. But see the observation of Bulst, 'Cinnanum Tempus' 315 n. 51.

21) Plut. Sulla 6.1–2, Mar. 32.4–5. Cf. Badian, *Foreign Clientelae* (Oxford

None of this makes much sense if Censorinus had been Marius' instrument.

It makes even less sense if one accepts Badian's heterodox view that Marius and Sulla continued their association into the 90s, as the present author frankly does. Marius and Catulus became enemies after the Cimbric War, yet Sulla, during his praetorship, was insulted by C. Julius Caesar Strabo, Catulus' half-brother, which suggests Sulla was still a Marian in 97<sup>22</sup>). If so, then why would Marius have supported Censorinus' prosecution of Sulla only two years later? It is easier to believe that Sulla broke with Marius when the rest of the latter's noble friends did, after Marius had incurred the odium of engineering the unjust conviction of P. Rutilius Rufus in 92<sup>23</sup>). The monuments of Bocchus would then represent Sulla's public abandonment of Marius' apparently sinking ship and his attempt to work his passage with the enemies of the great *novus homo*<sup>24</sup>).

It is also doubtful whether Censorinus did any real harm to Sulla's career, as has been alleged<sup>25</sup>). Sulla's later importance should not blind us to his true status in 95: an ex-praetor from a family that had risen no higher than the praetorship for several generations and a man whose military achievements had been greatly overshadowed by those of Marius. Consequently, few would have seen him as a viable consular candidate until his splen-

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1958) 231 n. 4, Deadly Reformer 10–12; Keaveney, Last Republican 45–6 and 54 n. 34.

22) Plut. Sulla 5.5. Caesar Strabo identified: Keaveney, A Note on Plutarch, Sulla 5.5, LCM 2 (1977) 151. Strabo Catulus' half-brother: Cic. de Or. 2.44, Off. 1.33. Marius and Catulus: Badian, Studies 37–9. One should note, however, P. F. Cagniat, L. Cornelius Sulla's Quarrel with C. Marius at the Time of the Germanic Invasions (104–101 B.C.), Athenaeum 67 (1989) 139–49, where it is argued that Sulla's military tribuneship in 103 was a mark of Marius' displeasure, Sulla having been a legate in 104. But the author dismisses too lightly the possibility that Sulla was an elected military tribune, seeing no reason why he would have stood for the office. Sulla, however, had not stood for office since the quaestorship in 108 for 107; in 104, he could have stood for the aedileship, but a city magistracy would not have been wise under the circumstances. To place his name before the electorate again yet remain with the army, Sulla had to seek the military tribuneship instead, probably in absentia as Marius did with his third consulship.

23) Carney, Marius 50 and n. 231.

24) Worked his passage: during the first year of the Social War, Sulla served with men who had once been *Mariani* but had since broken with him, such as Catulus, P. Cornelius Lentulus, P. Licinius Crassus, and M. Claudius Marcellus. See Badian, Studies 52–4.

25) Badian, Studies 170; Gruen, Prosecutions 52, and Criminal Courts 198; Keaveney, Last Republican 45.

did military feats in 89 made it glaringly obvious<sup>26</sup>). Further, having seen a flurry of completed trials amount to nothing in 95, the electorate would not have been impressed with mere accusations, especially when the accuser himself did not even bother to press the issue. Indeed, if anyone's reputation was harmed by this episode, it was that of Censorinus, for Cicero describes him as lazy and hating legal business (*Brut.* 237), a judgment perhaps based on the abortive prosecution of Sulla.

The Censorinus episode seems a case of too many scholars making too much out of too little evidence. If one wishes to turn it into an incident in a great factional struggle, one could just as easily have Censorinus a Metellan adherent who was attacking Sulla, an as-yet-unreconstructed Marian partisan<sup>27</sup>). But the most likely explanation behind Censorinus' actions is this: rather than furthering the schemes of Marius, he was simply a very young man trying to make a name for himself, the usual motive for a prosecutor of his years<sup>28</sup>). He was probably inspired by the example of Hortensius, a man of a similar age who immediately achieved oratorical fame despite losing his case. He may well have picked Sulla as the target of his publicity stunt simply because no one else was prosecuting him – and because Sulla seemed unlikely to rise any higher and thereby become a threat to his later career. Censorinus could have hardly anticipated the later importance of Sulla – or his capacity for vengeance. Why he failed to press his case is somewhat harder to fathom. Lack of evidence, the sheer fact that the juries had acquitted all the defendants of 95, even a bribe from Sulla have all been suggested<sup>29</sup>). The first two of these may have played a role, but more likely Censorinus, not seriously thinking

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26) Ancestry: The best stemma of Sulla's family is to be found in W. Drumann and P. Groebe, *Geschichte Roms* (Hildesheim<sup>2</sup>1964), 2.360–61; see also Keaveney, *Last Republican* 6–7; Badian, *Deadly Reformer* 4–5. Overshadowed: Keaveney, *Last Republican* 35. Military feats made him viable candidate: *Livy Per.* 75; *Vell. Pat.* 2.17.3; cf. Carney, *Marius* 53 n.247.

27) This would have the virtue of suggesting why Censorinus would have been a moneyer the same year when Sulla, now also a Metellan, was consul; Censorinus then would have broken with the rest of the *factio* along with P. Sulpicius in 88 and, consequently, become a follower of Cinna in 87.

28) Harris, *War and Imperialism* 19.

29) Lack of evidence suggested by Gruen, *Criminal Courts* 198, though in *Prosecutions* 52, he raised the specter of juries demonstrating unwillingness to convict; bribery suggested by J. Carcopino, *Sylla ou la monarchie manquée* (Paris 1931) 25; but see the comments of Gruen, *Prosecutions* 52 n.120. If there were anything to the idea of bribery, which is doubtful, one could then suggest that Censorinus only indicted Sulla in order to shake him down.

of securing a conviction, realized that his best efforts would compare too poorly with those of Hortensius and so dropped the case. If not, perhaps Cicero's assessment was correct and Censorinus indeed was lazy and did hate legal business. In any case, two things are clear: there is no evidence that Censorinus was acting in Marius' interest when he indicted Sulla, and he lived to regret his youthful folly of making such a dangerous enemy.

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## ZUERST AVARITIA ODER ZUERST AMBITIO? Zu Sallust, Cat. 10,3 und 11,1

In der ‚Archäologie‘ des *Catilina* gibt Sallust einen knappen Überblick über die römische Geschichte, dessen erste Hälfte eine idealisierte Darstellung der früheren Vergangenheit enthält (Cat. 6–9), während die zweite Hälfte dem moralischen und politischen Niedergang in der jüngeren Vergangenheit und Gegenwart gewidmet ist (Cat. 10–13)<sup>1</sup>). Im Hinblick auf die Datierung und Begründung des Niedergangs (Cat. 10,1) birgt der Text verschiedene Schwierigkeiten, die sich auf zwei ineinander verschlungene Fragen reduzieren lassen. Erstens geht es darum, ob Sallust hier im *Catilina* so wie bald danach im *Iugurtha* (41,2 ff.) mit der Zerstörung Karthagos ein Epochendatum angibt, das sowohl den Beginn der Weltherrschaft als auch, bedingt durch die Beseitigung des *metus hostilis*, den gleichzeitigen Beginn des Niedergangs markiert, oder ob, wie der Wortlaut des Textes es nahelegt, die Eroberung von Karthago nur den Beginn der Weltherrschaft symbolisiert, die dann zu einem nicht genau datierten Zeitpunkt allmählich den Verfallsprozeß herbeigeführt hätte. Die zweite Frage, die sich aus der Formulierung ergibt, mit der Sallust die historische Wende vom Aufstieg zum Niedergang umschreibt (*saevire fortuna ac mis-*

1) Der Text wird zitiert nach der Sallust-Ausgabe von L. D. Reynolds, Oxford 1991.