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TWO 'ALSO-RANS', 132–129 B.C.E.*

ABSTRACT

The electoral scene in the period from 133 to 129 B.C.E. was doubtless unpredictable, even in the centuriate assembly, and any prosopographical modelling based on the available data would be adventurous. The report that Appius Claudius Pulcher (cos. 143 and bitter opponent to Scipio Aemilianus) ran in 133 for a second consulship is not implausible, and the possibility of a thwarted candidature, whatever its duration and the reason for its termination, should be registered. The successful candidates were P. Popillius Laenas and P. Rupilius, the latter a close associate of Scipio. The unsuccessful consular candidacy of Rupilius' brother Lucius should be dated to 132, 131 or 130. The elimination of the first of those options by F.X. Ryan (CQ 45 [1995], 263–5) is challenged.

Keywords: Rupilius; Appius Claudius Pulcher; Scipio Aemilianus; Dio; consulship; elections; Gracchan; 'also-ran'

The purpose of this paper is twofold: to advocate for the addition of one item passed over by Broughton's valuable register of candidates for office who were defeated, withdrew or were prevented from competing;[1] and to affirm the range of dates that Broughton provided for the unsuccessful consular candidacy of L. Rupilius 'in some year between 132, when his brother, P. Rupilius ([*RE*] 5), was consul, and the death of Scipio Aemilianus in 129'. That range of dates was challenged by F.X. Ryan.[2] Both items revolve around the unusual (perhaps extraordinary) career of P. Rupilius, almost certainly a *nouus homo*, who rose from an engagement with commercial enterprise in Sicily to the consulship, at the relatively advanced age of fifty-two (or thereabouts), in which latter office he played a decisive role in the same province.[3]

* This paper derives from the Macquarie Dictionary of Roman Biography Project, initially funded by Dr Colleen McCullough-Robinson. Advice from an anonymous reader and from Samuel Wessels has been welcome.

[1] T.R.S. Broughton, *Candidates Defeated in Roman Elections: Some Ancient Roman "Also-Rans"* (*Transactions of the American Philosophical Society* 81.4) (Philadelphia, 1991). It is also absent from C.F. Konrad, 'Notes on Roman also-rans', in J. Linderski (ed.), Imperium sine fine: *T. Robert S. Broughton and the Roman Republic* (*Historia Einzelschriften* 105) (Stuttgart, 1996), 103–43; and G.D. Farney, 'Some more Roman Republican "also-rans"', *Historia* 53 (2004), 246–9—and from F. Pina Polo, '*Veteres candidati*; losers in the elections in Republican Rome', in F.M. Simón, F. Pina Polo and J. Remesal Rodríguez (edd.), Vae Victis! *Perdedores en el Mundo Antiguo* (*Collecció Instrumenta* 24) (Barcelona, 2012), 63–82, especially 66; 69 [Tables 1 and 2].

[2] 'The praetorship and consular candidacy of L. Rupilius', *CQ* 45 (1995), 263–5.

[3] Age: an *aequalis* of P. Scipio Aemilianus (Cic. *Amic*. 101). On his plausibly assumed *nouitas*, F. Münzer, *Römische adelsparteien und adelsfamilien* (Stuttgart, 1928), 259 (= *Roman Aristocratic Parties and Families* [Baltimore and London, 1999], 239); T.P. Wiseman, *New Men in the Roman Senate 139 B.C. – A.D. 14* (Oxford, 1971), 3; C. Nicolet, *L'Ordre équestre a l'époque républicaine (312–43 av. J.-C.)* (Paris, 1974), 1007 [305]. Cf. H. Simon, *Roms Kriege in Spanien, 154–133 v. Chr.* (Frankfurt, 1962), 190; A.E. Astin, *Scipio Aemilianus* (Oxford, 1967), 230; J. Briscoe, 'Supporters and opponents of Tiberius Gracchus', *JRS* 64 (1974), 125–35, at 131. The sources recording Rupilius' command in Sicily credit him with ending the servile insurrection in the 130s: Cic. *2 Verr*. 3.125; Diod. Sic. 34/35.2.20–3 [= Phot. pages 384–6 B]; [Livy], *Per*. 59; Val. Max.

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Ernst Badian asserted that Rupilius was 'the first attested consul from the ranks of the *publicani*'[4]—though his circumstances may have been even more remarkable than that. One source seems to indicate that he emerged from the ranks of the *publicani* (*qui quondam ex publicano factus consul postea*);[5] another that he had worked *for* them.[6] While it is not difficult to imagine that the second of those observations was circulated (if not originated) in hostile polemic aimed against the man during the campaigning for the consulship in 132 and that the same might be true of the first, neither datum need be disregarded simply on those grounds.

If certainty is demanded, only the names of the two successful candidates are known: P. Popillius C.f. P.n. Laenas and P. Rupilius P.f. P.n.[7] The elections had been conducted in the aftermath of unprecedented violence. Whether this muted or exacerbated political competition in the short term is not covered by the surviving evidence—and speculation cannot be reviewed at any length in this paper.[8] The suggestion of electioneering slander might presume that there was competition, but another item provides firmer ground. Cicero has 'Laelius' say that Rupilius had been elected with the support of Scipio Aemilianus; more than that, Scipio 'made' Rupilius consul (Cic. *Amic.* 73), implying that Scipio's *auctoritas* and *gratia*, albeit exercised from afar (Scipio was investing Numantia at the time), tipped the balance.[9] This clearly implies competition, if Scipio was to take any credit for the outcome—unless potential opponents had simply been 'encouraged' to leave the field.[10]

1.

Ancient testimony (Dio [24], fr. 83.8 = *Exc. Const.* V 72 [page 622]) supplies the identity of at least one potential contender: an old political antagonist of Scipio, and not one to have been easily 'dissuaded' by the latter:

6.9.8; Oros. 5.9.6–7 (misnamed 'Rutilius' in the last). He is strangely absent from the account of Florus (2.7.[3.19]7–8). For debate, see T.C. Brennan, 'The commanders in the first Sicilian slave war', *RFIC* 121 (1993), 153–84, at 167–73; cf. J. Rich, 'The Roman triumph in the Roman Republic: frequency, fluctuation and policy', in C.H. Lange and F.J. Vervaet (edd.), *The Roman Republican Triumph beyond the Spectacle* (Rome, 2014), 197–258, at 202 (especially n. 27); 233; 250 [no. 214]. His edict, or *decretum*, labelled *lex Rupilia* by the Sicilians (Cic. *2 Verr.* 2.32), was cited more than sixty years later: Cic. *2 Verr.* 2.32–44; 59; 90; 125; and 3.92.

[4] *Publicans and Sinners. Private Enterprise in the Service of the Roman Republic* (Oxford, 1972), 49; cf. 51; 97.

[5] Ps.-Ascon. on Cic. *2 Verr.* 2.32 (page 264 Stangl = page 212 Orelli).

[6] Valerius Maximus (6.9.8) 'reports' that Rupilius was *not* a tax farmer (*publicanus*) in Sicily, but that he worked *for* the tax farmers there; *sed operas publicanis dedit*. Cf. M.R. Cimma, *Ricerche sulle società di publicani* (Milan, 1981), 84–7, especially n. 110 (on Rupilius' status).

[7] Their names are well established, even if in only fragmentary fashion, by the *fasti Capitolini*, though Rupilius' name is frequently garbled: 'Calibo' in the Chronographer of 354, 'Rutilius' in the *Consularia Constantinopolitana* and the *Chronicon Paschale*, and 'P. Sulpicius' in Cassiodorus' *Chronica*. See further below, n. 22.

[8] The 'popular' reaction that Plutarch records (*Vit. Ti. Gracch.* 21.1) is not precisely dated. The communal division was, of course, profound; Cic. *Rep.* 1.31.

[9] 'Laelius' observes that Scipio was able to make Rupilius consul (*Scipio P. Rupilium potuit consulem efficere*), while he could not effect the same outcome in the case of Rupilius' brother. Münzer (n. 3), 259 [= 239] suggested that *both* consuls of 132 owed their elections to the support of the Scipiones; cf. K. Bilz, *Die Politik des P. Cornelius Scipio Aemilianus* (Stuttgart, 1936), 71; H. Volkmann, 'Popilius' 28, *RE* 22.1 (Stuttgart, 1953), 63. *auctoritas* exercised from afar: Münzer (n. 3), 259 [= 239]; *pace* Simon (n. 3), 190.

[10] On Scipio as an effective dissuader, see Cic. *Brut.* 97.

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ἐπεχείρησε καὶ ἐς τὸ ἐπιὸν ἔτος μετὰ τοῦ ἀδελφοῦ δημαρχῆσαι **καὶ τὸν πενθερὸν ὕπατον ἀποδεῖξαι**, μηδὲν μήτ᾽ εἰπεῖν μήθ᾽ ὑποσχέσθαι τισὶν ὀκνῶν.

[Tiberius Gracchus] attempted also to be a tribune in the following year [*sc.* 132] with his brother, **and to appoint his father-in-law consul**, not refraining from saying or promising anything to anybody.

The father-in-law was, of course, the high-profiled Appius Claudius Pulcher, patrician, *consularis* of ten years standing (cos. 143), *censorius*, *triumphator* and *princeps senatus*, but this thwarted second consulship on the part of one of Rome's leading political actors at that time—whether frustrated by withdrawal, disqualification or failure at the polls—is not listed in any of the relevant registers of 'also-rans'. Friedrich Münzer accepted the item without hesitation, and was followed cautiously by Donald Earl and Alan Astin:[11] reason enough, one would have thought, for the possibility of a frustrated candidature to be registered, even if open to challenge (as this item is). If Appius had run for office, his failure must have been viewed as quite an 'upset'. John Briscoe tentatively suggested that Appius may have been disqualified by virtue of a law putatively in place at the time (and interdicting the tenure of a second consulship) and that he *may* have failed to secure the requisite special dispensation—though if such legislation was in nominal existence at the time, it had been lifted in favour of Scipio Aemilianus when the latter had been elected, *in absentia* no less, to the consulship of 134.[12] This matter had been dealt with by Earl, and, as Gianpaolo Urso rightly pronounces, the Claudian candidacy (whether or not it was a fact) 'is not in itself improbable'.[13]

The item is rejected (by some) for a number of reasons—among them, that (i) Dio's fragmentary account is (according to them) unreliable (and jarring with other accounts), (ii) its transmission is suspect, and/or (iii) it derives from hostile polemic. All of these issues have been covered by others and need not be rehearsed here, but the number of apparent anomalies allow critics, all too easily, to dismiss as 'highly improbable' the data Dio apparently recorded,[14] a judgement reinforced (in some minds) by the fact that the material surviving from Dio's third decade has been transmitted through a Byzantine filter, more often than not in the form of extracts conveyed in the *Excerpta*

[11] Münzer (n. 3), 259 [= 239]; D.C. Earl, *Tiberius Gracchus. A Study in Politics* (*Collection Latomus* 66) (Brussels, 1963), 112–13; Astin (n. 3), 351; cf. F. Münzer, *RE* 'Sempronius' 54 (= *RE* IIA, 2 [Stuttgart, 1923], 1419, lines 34–52). Unfortunately, Münzer had not added that to his succinct profile of Appius (*RE* 'Claudius' 295 = *RE* III [Stuttgart, 1899], 2848). Further discussion: G. Urso, *Cassio Dione e i sovversivi: La crisi della repubblica nei frammenti della «Storia romana» (XXI–XXX)* (Milan, 2013), 87–111, especially 107–8.

[12] Briscoe (n. 3), 131 n. 86. For this legislative curb (*c.*151?) and its circumvention, see G. Rotondi, *Leges publicae populi Romani* (Hildesheim, 1966), 290–1; 298; J.S. Richardson, *Appian: Wars of the Romans in Iberia* (Warminster, 2000), 171 (on App. *Hisp*. 84.364); J.-L. Ferrary, 'Loi attribuant à P. Cornelius Scipio Aemilianus le commandement de la guerre contre Numance? (*pl. sc.*)', in *Lepor. Leges Populi Romani* <http://www.cn-telma.fr/lepor/notice317/> [updated: 23/05/2014]. For the putative problems that the law posed (if still operational) for Appius' candidature, see, for example, Earl (n. 11), 112.

[13] Urso (n. 11), 108.

[14] A.H. Bernstein, *Tiberius Sempronius Gracchus. Tradition and Apostasy* (Ithaca and London, 1978), 216; cf. 246. David Stockton, highly critical of these Dio 'fragments' (*The Gracchi* [Oxford, 1979], 73), clearly saw no need to register Appius' tilt at a second consulship at all. E. Badian, 'Tiberius Gracchus and the beginning of the Roman revolution', *ANRW* 1.1 (1972), 668–731, at 724 n. 163 suggested that Dio confused the membership of the triumviral agrarian commission with inappropriate magisterial aspirations. Cf. the dismissive remarks on Dio 24.83.7 by B. Simons, *Cassius Dio und die Römische Republik. Untersuchungen zum Bild des römischen Gemeinwesens in den Büchern 3–35 der Romaika* (Berlin, 2009), 284.

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Constantiniana; in this specific case, the Περὶ ἀρετῆς καὶ κακίας (= *De uirtutibus et uitiis*). On that body of work, scholarly opinion is divided, some characterizing the contents as 'not really fragments but crudely condensed excerpts', others seeing near verbatim extracts;[15] such morsels as these anthologies convey require individual critiques.[16]

Doubts as to the soundness of the information will remain, but do not authorize exclusion. A firmer basis for omission would be supplied if the datum could be shown to be a fabrication; Erich Gruen suggested, as had Plinio Fraccaro, a tendentious tradition (arguing that a rumour to the effect may have circulated as part of 'anti-Gracchan propaganda').[17] This is plausible, though Gruen's observation that 'success in either of these [candidatures of C. Gracchus and Ap. Claudius] would have been a constitutional anomaly' is, of course, neither technically applicable to the Roman Republic nor a convincing argument that it could not have been a part of contemporary political strategies.[18] The question to be asked is not whether what we have of Dio's account compels belief, but whether it is *in*credible. It is not.[19] This is a consular candidacy (of whatever duration) attested by an ancient source that is not contradicted by any ancient source; nor is it implausible (as noted above).[20]

2.

We come now to our second item, which derives from Cicero's advice on the electoral support due to friends (Cic. *Amic*. 73):

tantum autem cuique tribuendum, primum quantum ipse efficere possis, deinde etiam quantum ille, quem diligas atque adiuues, sustinere. non enim tu possis, quamuis excellas, omnes tuos ad

[15] Stockton (n. 14), 73. For a more appreciative appraisal: C.T. Mallan, 'The rape of Lucretia in Cassius Dio's *Roman History*', *CQ* 64 (2014), 758–71, at 760; C.T. Mallan, 'The regal period in the *Excerpta Constantiniana* and in some early Byzantine extracts from Dio's *Roman History*', in C. Burden-Strevens and M. Lindholmer (edd.), *Cassius Dio's Forgotten History of Early Rome: The* Roman History*, Books 1–21* (Boston and Leiden, 2019), 76–96, especially 83–8.

[16] Urso's commentary (n. 11) points the way. Cf. Simons (n. 14), especially 284–5 (on Dio's treatment of Tiberius Gracchus); and the essays in C. Baron and J. Osgood (edd.), *Cassius Dio and the Late Roman Republic* (Leiden, 2019).

[17] E.S. Gruen, *Roman Politics and the Criminal Courts, 149–78 B.C.* (Cambridge, MA, 1968), 57; cf. P. Fraccaro, *Studi sull'età dei Gracchi I. La tradizione storica sulla rivoluzione graccana* (Città di Castello, 1914), 155–6; E. García Riaza, 'Ap. Claudio C. F. Pulcher (cos. 143)', *Hispania Antiqua/ Revista de Historia Antigua* 21 (1997), 279–99. Cf. M. Sordi, 'La tradizione storiografica su Tiberio Sempronio Gracco e la propaganda contemporanea', *MGR* 6 (1978), 299–330 [= *Scritti di storia romana* (Milan, 2002), 271–95], at 311 (arguing that Dio may have preserved contemporary allegations); and Urso (n. 11), 107–8.

[18] Gruen (n. 17), 57, hovering between acceptance and rejection (nn. 57–9).

[19] If Appius had been a contender at any stage in the lead-up to the consular elections of 133 and if he had been seen as squaring off against a *nouus homo* with the publican connections from which Rupilius presumably derived some benefit, such a contest may offer a tempting backdrop to Gracchus' reported programme of greater civic engagement for that sector of the community that was soon to be recognized as the *ordo equester*, viz. the proposed inclusion of *hippeis* in the jury panels (Plut. *Vit. Ti. Gracch.* 16.1–2; Dio [24], fr. 83 [= *Exc. Const.* V 72].7), a contentious item which need not be pursued here.

[20] Note that the catalogue in Broughton (n. 1), 34 (no. 14) lists another possible 'loser' *without* 'direct evidence of candidacy or defeat'. In passing, note also that Gaius Gracchus is unregistered as an 'also-ran' in 133. Nor, for that matter, is Tiberius Gracchus, though the thwarting of the latter's second tribunate might have rated an entry given that the lethally terminated candidatures of A. Nunnius in 101 and C. Memmius in 100 are registered (46–7 [no. 7]; 28 [no. 19]).

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honores amplissimos perducere; ut Scipio P. Rutilium potuit consulem efficere, fratrem eius Lucium non potuit.[21]

In the first place, moreover, you must render to each friend as much aid as you can, and, in the second place, as much as he whom you love and assist has the capacity to bear. For however eminent you may be, you cannot lead all your friends through the various grades to the highest official rank, as Scipio was able to do when he made P. [Rupilius] consul, though he could not accomplish this result in the case of his brother, Lucius (transl. W.A. Falconer, modified).

If the conventional emendation of that passage is followed,[22] this is a reference to the divergent fortunes of the Rupilian brothers, indicating that L. Rupilius sought the consulship unsuccessfully within a few years of his brother (since Scipio died in 129). And if the customary amalgamation of *testimonia* (Cic. *Tusc.* 4.40, citing Fannius' *Annales*, fr. 5 Cornell [= fr. 6 Peter and Chassignet] coupled with Plin. *NH* 7.122) holds good (once again, with the texts duly emended),[23] the news of his brother's electoral loss in a consular election prompted P. Rupilius' sudden death.[24]

When did these two episodes occur? Robert Broughton dates them to 'some year between 132, when … P. Rupilius was consul, and the death of Scipio Aemilianus in 129'.[25] Ryan finetuned the *terminus ante quem*. The consular elections in which L. Rupilius was disappointed, he argues, could not have been those held in 129, his reasoning being that 'Scipio died in the first half of the year' and that '[the] elections are likely to have been held later in the year at that time'—and, with qualifications, Ryan's point can be taken.[26] That leaves the consular elections held in 132, 131 and 130. Ryan wishes to tighten that timeframe by eliminating the first of those years, which he judges to be the most supported in modern scholarship but 'the least likely'. Scholars tentatively subscribing to that date would see L. Rupilius aiming to succeed his

[21] The text is that of J.G.F. Powell (Oxford, 2006), except on a crucial point of nomenclature where we have replicated the manuscripts. See following note.

[22] All manuscripts have the name Rutilius here, but in our translation we follow the correction suggested by Halm (1861), endorsed by Powell (n. 21). We see no suitable alternative.

[23] The coincidence of circumstances and names would seem compelling, though another aspect of correlation is unsettling: the 'error' in nomenclature. The manuscript traditions of both Cicero and Pliny support the reading *Rutilius*. Emendation seems, however, unavoidable and has a long history. Cf. R. Schilling, *Pline l'ancien. Histoire naturelle livre VII* (Paris, 1977), 190 and M. Beagon, *The Elder Pliny on the Human Animal.* Natural History *Book 7* (Oxford, 2005), 316 (both of whom rightly leave the name as Rutilius in their texts, but offer correction in their commentaries). The name *Rupilius* was, it seems, easily confused; see n. 7 above, to which we add Oros. 5.9.7. This slippage can also be spotted occasionally in modern scholarship. The *nomen* seems to have given copyists problems at Cic. *Amic*. 69.

[24] Pliny understood a prompt death (*ilico expirauit*); Cicero introduces the causative grief as excessive and potentially blameworthy. Badian (n. 14), 729 envisaged P. Rupilius, after his brother's electoral failure, killing himself, thus reading Cicero's *a uita recesserit* (cf. *OLD* s.v. *recedo* 7a); but, more circumspectly, in the *OCD*^{2} (1970), 940: '[Rupilius] died soon after his return [from Sicily]', which remains in following editions of the *OCD*. It may transmit, however, another challengeable assumption. Rupilius may not have returned (see below).

[25] Broughton (n. 1), 16 (no. 31). For a similar formulation, H.G. Gundel, *Der Kleine Pauly* (Munich, 1972), 4.1469.

[26] Ryan (n. 2), 264; 265. Neither of Ryan's assertions should be contested—though he perhaps too quickly makes the *terminus* Scipio's death. Scipio's ineffective endorsement of Rupilius might have been reckoned as extending from the Elysian Fields (if he had earlier and publicly made known his approval of the candidate), in a not dissimilar way to the manner in which his imprimatur of P. Rupilius had been effective *in absentia* (see above, n. 9). The point is—confirming Ryan's argument—that the elections in which L. Rupilius was unsuccessful had occurred before the dramatic date of the *De amicitia* which is set only a few days after Scipio's death (*Amic.* 3), by which stage—it must surely be conceded—the consular elections of 129 had not taken place.

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brother as consul and remark on the significance of his failure against P. Licinius Crassus Mucianus the avowed Gracchan (and member of the agrarian commission).[27] This scenario would project a significant swing in the mood of the *comitia centuriata*.[28] Ryan's argument for the elimination of this option is that Pliny's account has the forlorn brother dying promptly on receipt of the news of the *repulsa*, presumably within the same year (a fair assumption), which in turn would mean that P. Rupilius (cos. 132) died in office, 'an accomplishment [Ryan notes] not among those recorded [for] P. Rupilius'. This is surely asking too much of the patchy evidence that survives for the man, but Ryan offers more: 'In the fasti lapidei his name is not followed by the tag "in m. m. e."'—by which he refers to the formula *in mag*(*istratu*) *m*(*ortuus*) *e*(*st*). Of such documentary evidence, only the *fasti Capitolini* are relevant (surviving at this point in fragments), and the line drawing and photograph of the surviving stones show that here there is a considerable lacuna, more than enough to accommodate the formula.[29] The year 132, along with 131 and 130, ought to be retained as a possibility for Scipio's failure to secure a consulship for his friend's brother, and for the death of P. Rupilius (who may have died in office).[30]

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[27] Ryan (n. 2), 264 and n. 7; Gruen (n. 17), 82–3; and Badian (n. 14), 729.

[28] Badian (n. 14), 729 in fact tied L. Rupilius' *repulsa* (which he firmly placed in 132) to a political climate that saw his brother deprived of what should have been an assured triumph (or at least an *ouatio*) for conclusive victories in Sicily. See Flor. 2.7.[3.19]7–8, where the celebration is awarded to M. Perperna (cos. 130), otherwise unmentioned with regard to the Sicilian campaign. This issue is vexed and cannot be treated here, but see n. 3 above for references.

[29] A. Degrassi (ed.), *Inscriptiones Italiae* XIII *Fasti e Elogia*, fasc. i, *Fasti consulares et triumphales* (Rome, 1947), 52, fr. XXX (with tab. XXXVII). Unfortunately, the fragment of the *fasti Oenipontani*, which came to light after Ryan's publication, though covering 132, does not preserve Rupilius' registration; F. Kränzl and E. Weber, *Die römerzeitlichen Inschriften aus Rom und Italien in Österreich* (Vienna, 1997), 13–14.

[30] This might explain why P. Rupilius did not return to an *ouatio*.

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