

## “FEAR OF THE PEOPLE”

Polybius’s theory of how the three parts of the Roman constitution “check and balance” each other is well known<sup>1</sup>. Even in the field, a consul must aim at the approval of the Senate and People to achieve success and recognition for his military achievements<sup>2</sup>. And while in Polybius’s estimation the People are also «dependent on the Senate» (ὐπόχρεός ἐστι τῇ συγκλήτῳ) and must «have regard for the Senate both collectively and individually» (στοχάζεσθαι ταύτης ὀφείλει καὶ κοινῇ καὶ κατ’ ἰδίαν) for reasons that historians have generally found not terribly persuasive, the Senate on the other hand simultaneously «fears the multitude» (δέδιε τοὺς πολλοὺς) and «pays attention to the People» (καὶ προσέχει τῷ δήμῳ τὸν νοῦν ἢ σύγκλητος) because of their legislative powers and the veto wielded by the tribunes of the plebs, who «must always carry out the will of the People and zealously pursue their wishes» (ὀφείλουσι δ’ αἰεὶ ποιεῖν οἱ δήμαρχοι τὸ δοκοῦν τῷ δήμῳ καὶ μάλιστα στοχάζεσθαι τῆς τούτου βουλήσεως)<sup>3</sup>.

Polybius’s theoretical framework and fundamental perceptions about the dynamics of the Roman republican system are today more highly appreciated than they were when I was a graduate student (then typically dismissed as “pure abstraction”, “theoretical exercise”, “excessive schematism”), but this is not the place to discuss them as such. What is important for my purpose here is that interesting phrase about the Senate’s «fear of the multitude», which stands out from the

<sup>1</sup> Polybius’s language, however, is «to obstruct and cooperate with each other» ἀντιπράττειν βουλευθέντα καὶ συνεργεῖν ἀλλήλοις (6.15.1, 18.1).

<sup>2</sup> Plb. 6.15.3 προσδεῖται δὲ τοῦ δήμου καὶ τῆς συγκλήτου, καὶ χωρὶς τούτων ἐπὶ τέλος ἄγειν τὰς πράξεις οὐχ ἰκανός ἐστι. Examples are provided at 6.15.4-11, concluding with the observation that κατὰ μηδένα τρόπον ἀσφαλές εἶναι τοῖς στρατηγοῖς ὀλιγορεῖν μῆτε τῆς συγκλήτου μῆτε τῆς τοῦ πλήθους ἐννοίας.

<sup>3</sup> Plb. 6.16.5. Cf. the whole chapter, which of course focuses stringently on popular checks on the power of the Senate, thus omitting, for instance, its electoral power of (indirectly) selecting the Senate.

other words Polybius uses in his discussion of the institutional checks and balances exerted upon each other by the parts of the Roman *politeia*. More commonly he uses words and phrases that express less forcefully the institutional entities' need to anticipate the preferences of the others – especially how each one must *στοχάζεσθαι*, (lit.) «aim at» (sc. the approval or acquiescence of), or *προσέχειν* (τὸν νοῦν), «attend to», the others<sup>4</sup>. Thus, the Senate's «fear of the multitude» takes on a distinctive character in Polybius's important discussion of the “checks and balances” exerted upon each other by the opposing “parts” of the *politeia*.

Read in isolation, this reference to senatorial «fear» of the People can be easily overlooked. But it is not unique. The rest of this paper will show that the Senate's «fear of the People» was, in fact, a familiar idea, and that this was one way (though not the only way) to express the necessity in the Roman republican system for the Senate to respect the power of the People to impose their will, sometimes in direct conflict with the Senate's own desires and decisions.

Because it is a particularly clear example of the phenomenon, let us turn to the reaction of the Senate in 112 BC when news came of the killing of some Italians during Jugurtha's treacherous takeover of Cirta, the combination of which sparked the Jugurthine War<sup>5</sup>. Sallust claims that the Senate was disinclined to punish Jugurtha for his action because the king's agents had been hard at work using their in-

<sup>4</sup> Plb. 6.15.9 τοῦ γε μὴν δήμου στοχάζεσθαι καὶ λίαν αὐτοῖς ἀναγκαῖον ἐστὶ; 6.16.1 ἢ ... σύγκλητος ... πρῶτον μὲν ἐν τοῖς κοινοῖς πράγμασιν ἀναγκάζεται προσέχειν τοῖς πολλοῖς καὶ στοχάζεσθαι τοῦ δήμου; 6.17.1 ὁ δῆμος ὑπόχρεός ἐστι τῇ συγκλήτῳ, καὶ στοχάζεσθαι ταύτης ὀφείλει. See Christian-Friedrich Collatz, Melsene Gützlaf, Hadwig Helms, *Polybios-Lexikon*, Berlin, Akademie Verlag, 1956-2004, III.1, coll. 93-96, s.v. στοχάζομαι. Note however that at 6.17.7-8 Polybius describes the «fear» of «everyone» (evidently the whole People) of the uncertainties of contracts and possible litigation before senatorial judges (δεδιότες τὸ τῆς χρείας ἄδηλον), while at 6.18.8 he generalizes about the mutual «fear» entertained by all the parts about the others' possible reaction and interference (τὰ δ' ἐξ ἀρχῆς δεδιότα τὴν ἐκ τοῦ πέρας ἐπίστασιν).

<sup>5</sup> In general, see Robert Morstein-Marx, *The Alleged «Massacre» at Cirta and Its Consequences* (Sallust *Bellum Iugurthinum* 26-27), «Class. Phil.», 95, 2000, pp. 468-76. We have no idea how many Italians had actually been killed in what scholars often refer to as a “massacre”. The notorious “Boston massacre” of 1770 which sharply escalated the American confrontation with the British Empire involved five deaths. The soldiers and their commanding officer were subsequently acquitted of murder in an American court (though two were found guilty of manslaughter). Their defense counsel, the “Patriot” and future president John Adams, nevertheless later defended the use of the loaded term “massacre”, presumably because the victims were civilians, although they had participated in an armed riot.

fluence, persuasion and delay to soften outrage against the act<sup>6</sup>. He continues,

Ac ni C. Memmius tribunus plebis designatus, vir acer et infestus potentiae nobilitatis, populum Romanum edocuisset id agi ut per paucos factiosos Iugurthae scelus condonaretur, profecto omnis invidia prolatandis consultationibus dilapsa foret: tanta vis gratiae atque pecuniae regis erat. (3) Sed ubi senatus delicti conscientia populum timet, lege Sempronia provinciae futuris consulibus Numidia atque Italia decretae [...] (Sall. *Iug.* 27.2-3).

And had not the plebeian tribune-elect Gaius Memmius, an energetic man hostile to the power of the nobles, informed the Roman people that a few intriguers were making it their aim to have Jugurtha pardoned for his crime, undoubtedly all indignation would have faded with the protracted deliberations: so powerful was the king's influence and money. But when the senate from a consciousness of its misdeed began to fear the people, it decreed, in keeping with the Sempronian law, that the incoming consuls would have Numidia and Italy as their provinces.

Sallust's insistence throughout the *Jugurtha* that every delay or hesitation on the part of the Senate in the confrontation with the Numidian king/usurper was due to bribery and widespread corruption has been shown to be at the least highly misleading: the Roman Senate had good strategic reasons not to want to leap into the fray and play "the world's policeman" at a time when Roman consular armies were fully engaged in different sectors of the northern frontier and had in fact recently suffered heavy defeats against both the Scordisci and the Cimbri; nor was it difficult to predict that the migration of the Cimbri and Teutones might ultimately turn toward Italy, as in fact, of course, it ultimately did. However, the precise motive or strategy of the senators is not very relevant here. What is important is that most senators were resistant to intervention in Numidia, but were ultimately pushed into war because a tribune took the question to the People and aroused such indignation among them that the Senate, "fearing the People", finally decided to assign one of the consuls to engage in military action in Numidia.

Now, what was the Senate's "fear" *of*, exactly? Surely not of riot or insurrection; rather, as some later examples will demonstrate, their fear is that Memmius the tribune would introduce legislation that would take the decision for war out of their hands, and that the Peo-

<sup>6</sup> Sall. *Iug.* 27.1.

ple would very likely pass this legislation with their votes. The most obvious precedent was the war-decision that triggered the First Punic War taken – according to Polybius – by the People<sup>7</sup>. At this date, a formal war-declaration no longer seems to have been needed (or was a mere formality ignored by Sallust), but only a law assigning Numidia as a province to one of the consuls. This too had been done before and of course was shortly to happen again in 108, after Marius's election to the consulship<sup>8</sup>. Seen in this light, then, the Senate after Cirta acts exactly as Polybius's model said it should: "fearing the People", that is, their ability to take matters decisively into their own hands by way of their tribunes, the Senate reconsiders and passes a decree which does not reflect its own preferences but anticipates and accommodates the manifest demands of the People, apparently to avoid the serious rebuke and blow to the Senate's claim of leadership that an outright defeat by means of a popular vote would constitute.

This "fear", then, was a somewhat abstract kind of *political* fear rather than a direct fear of physical harm<sup>9</sup>. Yet in Rome's republic,

<sup>7</sup> Plb. 1.11.1-3 (οἱ δὲ πολλοὶ ... ἐκρίναν βοηθεῖν), with Marianne Elster, *Die Gesetze der mittleren römischen Republik*, Darmstadt, Wissenschaftliche Buchgesellschaft, 2003, pp. 146-50, n. 66; Alexander Yakobson, *Public Opinion, Foreign Policy, and «Just War» in the Late Republic*, in *Diplomats and Diplomacy in the Roman World*, ed. Claude Eilers, Leiden, Brill, 2009, pp. 45-72: 54. Arthur Eckstein's reinterpretation of Polybius's wording (*Polybius on the Rôle of the Senate in the Crisis of 264 B.C.*, «Greek, Roman and Byzantine Studies», 21, 1980, pp. 175-90) has not won wide acceptance. See Bruno Bleckmann, *Die römische Nobilität im Ersten Punischen Krieg: Untersuchungen zur aristokratischen Konkurrenz in der Republik*, Berlin, Akademie Verlag, 2002, pp. 63-77.

<sup>8</sup> The first clear case appears to be the law which put Scipio Aemilianus in command of the war against Carthage in 147, after by a similarly remarkable wave of popular enthusiasm he was elected consul despite being a candidate only for the aedileship (Theodor Mommsen, *Römisches Staatsrecht*, 3 voll., Leipzig, S. Hirzel, 1887-88, I, p. 58; Elster, *Gesetze*, pp. 427-28, n. 203; Wolfgang Kunkel, Roland Wittmann, *Staatsordnung und Staatspraxis der römischen Republik*, Munich, C. H. Beck, 1995, II.2, p. 622, choose unconvincingly to assign the initiative for the assignment of the command to the Senate). Marius: Sall. *Iug.* 73.7, 84.1. It should be noted, however, that Marius was after all a newly-elected consul, which lessened the "revolutionary" character of the popular intervention to transfer a major military assignment from a proconsul to him.

<sup>9</sup> Similarly, see now Andrea Angius, *La Repubblica delle opinioni. Informazione politica e partecipazione popolare a Roma tra II e I secolo a.C.*, Milan, Le Monnier, 2018, pp. 327-28. This newly published work provides the first detailed examination of legislative initiative "from below" (esp. pp. 322-29) and thus should be read in close conjunction with this paper.

where as Alexander Yakobson has pointed out, politicians were not whisked to and fro in motorcades of black SUVs with dark-tinted windows but often forced to confront angry crowds face to face with no more protection than a handful of lictors (if they were magistrates), these two kinds of fear might merge together<sup>10</sup>. Take, for instance, the bill proposed in 67 by the tribune Aulus Gabinius to place in Pompey's capable hands extraordinary resources to eliminate the plague of piracy which had spread so widely over the Mediterranean that it was causing interruptions to the food supply in Rome, which was already precarious enough for the poor before the institution of free grain distributions by the *lex Clodia* of 58. We are told in this instance that the Senate as a whole was strongly opposed to the measure because of its concentration of power in the hands of Pompey, but that on the day of the vote, "fearing the People" or "the multitude", none of the opponents dared to speak against the law except the two tribunes L. Trebellius and L. Roscius (who were in fact silenced by the uproar) and, famously – for his performance under such pressure was apparently impressive – the senior senator, Lucius Catulus<sup>11</sup>. Here, however, the "fear" is clearly a more direct and quite concrete kind, not without some threat of physical violence. According to Dio, for instance, the senators had themselves threatened violence against Gabinius during an earlier meeting of their body, in response to which "the multitude" raised an uproar and made a rush against them, such that (so Dio) they would certainly have killed them if they hadn't fled. After the consul C. Piso himself had been caught

<sup>10</sup> Alexander Yakobson, *Popular Power in the Roman Republic*, in *A Companion to the Roman Republic*, ed. Nathan Rosenstein and Robert Morstein-Marx, Oxford, Blackwell, 2006, pp. 383-400: 391, with slightly different wording. For the lack of a police force which might have controlled violence in the assemblies, see also Id., *Political Stability and Public Order – Athens vs. Rome*, in *Stability and Crisis in the Athenian Democracy*, ed. Gabriel Herman, Stuttgart, Steiner, 2011, pp. 139-56.

<sup>11</sup> Plu. *Pomp.* 30.4 ἐνστάτως δὲ τοῦ καιροῦ, τὸν δῆμον φοβηθέντες ἐξέλιπον καὶ κατεσιώπησαν οἱ λοιποὶ, Κάτλος δὲ τοῦ νόμου πολλὰ κατηγορήσας; D.C. 36.24.4 καὶ αὐτῶν οἱ μὲν ἄλλοι φοβηθέντες τὸ πλῆθος οὐδὲν ἀντεῖπον, Λούκιος δὲ δὴ τις Τρεβέλλιος καὶ Λούκιος Ρώσκιος ἐτόλμησαν μὲν, οὐκ ἠδυνήθησαν δὲ οὔτ' εἰπεῖν τι ὧν ὑπέσχητο οὔτε πράξαι. Robert Morstein-Marx, *Mass Oratory and Political Power in the Late Roman Republic*, Cambridge, Cambridge University Press, 2004, pp. 179-80. The debate has frequently been reexamined of late: Barbara Saylor Rodgers, *Catulus' Speech in Cassius Dio 36.31-36*, «Greek, Roman and Byzantine Studies», 48, 2008, pp. 295-318; Yakobson, *Public Opinion*, pp. 49-54; Valentina Arena, *Libertas and the Practice of Politics in the Late Roman Republic*, Cambridge, Cambridge University Press, 2012, pp. 186-87, 194-200.

by the crowd and was about to be killed, Gabinius interceded to save him, and “the powerful” (leading senators) were satisfied simply to be left alive<sup>12</sup>. The Roman “multitude” could be a fearsome thing and standing up to its surge and uproar was no small test of *constantia*<sup>13</sup>.

In this case therefore the two kinds of “fear” come together. This was, to be sure, an extreme case; the “multitude” would presumably not have threatened to kill the consul and leading senators over Cirta in 112. The threat to the food supply had clearly put the urban plebs in a truculent mood. Yet every senator would also have known that under the right circumstances this was also not beyond the realm of possibility, and very likely his usual instinctive reaction would have been, like the senators of 112, to accommodate the strongly-expressed demands of the People rather than risk a far more dangerous defeat in the Forum, whether by votes or by clubs and stones.

A remarkably similar scenario, though without much in the way of senatorial resistance, played out in early September, 57, after Cicero’s return to Rome from exile. A severe grain shortage had been prompting riots and demonstrations since early July; then, within days of Cicero’s arrival in the City, a sudden intensification of the scarcity aroused popular anger and panic. Rioting ensued, beginning in the theater where the *Ludi Romani* were being celebrated, then sweeping to the Forum and the Temple of Concord, where the Senate was meeting about the situation. The crowd blamed Cicero for the scarcity and began throwing stones, striking even the consul, Metellus Nepos; they threatened to kill the senators with their bare hands and to make the

<sup>12</sup> D.C. 36.24.2-4 ὑπεκδράντος [sc. τοῦ Γαβινίου] δ’ οὖν πη αὐτοῦ μαθόντες οἱ πολλοὶ τὴν τῶν βουλευτῶν γνώμην ἐθορύβησαν, ὥστε καὶ ἐπ’ αὐτοὺς συγκαθημένους ἐφορμῆσαι· καὶ εἴ γε μὴ ἐξεκεχωρήκεσαν, πάντως ἂν αὐτοὺς διεφθάρκεσαν. (3) οἱ μὲν δὴ οὖν ἄλλοι σκεδασθέντες διέλαθον, Πίσωνα δὲ τὸν Γάιον τὸν ὕπατον ... συλληφθέντα καὶ μέλλοντα καὶ ἀντὶ τῶν ἄλλων ἀπόλλυσθαι ὁ Γαβίνιος ἐξητήσατο. ἐκ δὲ τούτου οἱ δυνατοὶ αὐτοὶ μὲν τὴν ἡσυχίαν ἤγον, ἀσμενίζοντες ἂν τίς σφας ζῆν εἴση .... Plu. *Pomp.* 25.9 seems to refer to the same incident. This Piso had a taste for provoking unpleasant and even violent confrontations with the crowd in this year: Val. Max. 3.8.3 (a menacing showdown with tribunes), D.C. 36.39.3 (threat of dismemberment again); Ascon. 58C (broken *fasces* and *lapidatio*).

<sup>13</sup> For a comprehensive list of instances where physical violence was threatened or actually inflicted upon senators or consuls as a form of intimidation, see Cyril Courrier, *La plèbe de Rome et sa culture*, Rome, École Française de Rome, 2014, p. 502, note 281. Cf also Sallust’s vivid description of the tribune Bacbius facing down an angry crowd (*Jug.* 34.1; Courrier, *La plèbe de Rome*, p. 757, n. 17). *Constantia*: Morstein-Marx, *Mass Oratory*, pp. 167-70.

temple itself into their funeral pyre<sup>14</sup>. The Senate's response, quite understandably under the circumstances, was to assuage the People's anger and not this time to prattle on as they had in 67 about the inadvisability of putting the job in the hands of one person<sup>15</sup>. Cicero was summoned from his home (he had claimed to be unwell, but clearly it was dangerous for him to go out in public) and the mood of the mob now turned; they began to chant his name, calling upon him to propose a motion to put Pompey in charge of the grain supply<sup>16</sup>. On his arrival Cicero delivered a «full-dress speech» (Shackleton Bailey)

<sup>14</sup> Cic. *dom.* 11 *Nam cum ingravesceret annona, ut iam plane inopia ac fames, non caritas timeretur, concursus est ad templum Concordiae factus, senatum illuc vocante Metello consule* (cfr. *Att.* 4.1.6, blaming Clodius for incitement against Cicero); D.C. 39.9.2 ἐν χερσὶν αὐτοῦ ἀποσφάξειν τοτὲ δὲ καὶ καταπρήσειν αὐτοῖς τοῖς ναοῖς ἀπειλοῦντος. Stoning (*lapidatio*): Cic. *dom.* 12-14 (cfr. Catherine Virlouvet, *Famines et émeutes à Rome des origines de la république à la mort de Néron*, Rome, École Française de Rome, 1985, p. 76, note 104). At least 8 other instances of *lapidationes* are known from 103 BC onward (Cic. *Sull.* 15, *dom.* 54, *Sest.* 77, *Pis.* 23, 28, *Mil.* 41, *de orat.* 2.197; *Ascon.* 58C; *Plu. Cat. Mi.* 28.2L, 44.3L; *App. BC* 2.126/527); for more generalized crowd violence see the comprehensive list compiled by Courier, *La plèbe de Rome*, p. 502, note 281. As in July (*Ascon.* 48C), the rioting had begun at the theater during the celebration of the *Ludi* (Cic. *Att.* 4.1.6). *Turbulento illo die*: Cic. *dom.* 5. Paul J. J. Vanderbroek, *Popular Leadership and Collective Behavior in the Late Roman Republic (ca. 80-50 B.C.)*, Amsterdam, Gieben, 1987, pp. 249-50, n. 60 (cfr. p. 247, n. 55) and Courier, *ivi*, pp. 796-98 (nn. 86, 87) collect the facts; for context see W. Jeffrey Tatum, *The Patrician Tribune: Publius Clodius Pulcher*, Chapel Hill, University of North Carolina Press, 1999, pp. 182-87; Thomas N. Mitchell, *Cicero: The Senior Statesman*, New Haven, Yale University Press, 1991, pp. 158-59. David R. Shackleton Bailey, *Cicero's Letters to Atticus*, 6 voll., Cambridge, Cambridge University Press, 1965-67, II, p. 167 (followed by Tatum) and Mitchell (*ivi*, p. 158, n. 50) differ slightly in chronology and topography; I incline toward Mitchell, but this is irrelevant for present purposes. For the wild fluctuations of the price of grain in 57, see Virlouvet, *ivi*, pp. 15-16.

<sup>15</sup> See Cicero's review and rebuttal of Clodius's (probably partly imagined) criticisms of the appointment of Pompey to yet another "extraordinary command": *dom.* 3-4, 18-27. These were, of course, the standard arguments which would have been in many, perhaps most, senators' minds. But under the circumstances even the *boni* were calling for Cicero and Pompey: Cic. *dom.* 16, *flagitabar bonorum expostulatione, improborum convicia sustinere non poteram*; *Att.* 4.1.6 *sermone non solum plebis verum etiam bonorum Pompeius vocaretur*.

<sup>16</sup> Cic. *Att.* 4.1.6 *ad eius procurationem [sc. de annona] sermone non solum plebis verum etiam bonorum Pompeius vocaretur idque ipse cuperet multitudoque a me nominatim ut id decernerem postularet... dom.* 16 *nominabar ... a populo Romano universo, qui tum in Capitolium convenerat ... in senatum nominatim vocabar. Veni exspectatus...* Cicero in *dom.* 6-7 claims that Clodius's armed gangs of criminals and desperadoes had been suddenly replaced by the *populus Romanus universus (tanta multitudo civium)*, which I regard as a rhetorical sleight of hand to excuse his own

and on his motion the Fathers passed a decree calling upon the consuls to promulgate a law that would give Pompey sole supervision of the grain supply for five years with proconsular *imperium* and all necessary resources, including the power to name fifteen legates to assist him<sup>17</sup>. When the decree was read out to the People immediately after the meeting, as was customary, the crowd applauded at the mention of Cicero's name (Cicero pretends to be embarrassed by this in his letter to Atticus); in a great show of consensus, nearly all the magistrates except for Clodius's brother and two tribunes invited him to address the People in an assembly (*contio*)<sup>18</sup>. It was a love-fest, or so it was made to appear. Perhaps already the very next day the consuls drafted a law to put the proposal into action<sup>19</sup>.

Here we have considerable density of circumstantial detail and it is pretty clear what was going on. Unbearable popular pressure was brought to bear on the senators while they met, forcing them to set aside their usual reflexive hostility to such special assignments and to go along with what the *plebs*, now instantiated by the assembled crowd, demanded. Particularly interesting is how Cicero traces the motion that eventually passed back ultimately to *populi sermo*, «the talk of the People».

But what was the opinion which I did express? It was, in the first place, the opinion which popular discussion had for long past embedded in our minds; in the second place, it was the opinion which had been weighed in the senate during the previous days; and, in the third place, it was the opinion which a full meeting of the senate had adopted at the time when it expressed itself in agreement with me<sup>20</sup>.

arguably “demagogic” intervention at this point and to blame the earlier rioting as much as possible on Clodius. Cicero is forced to acknowledge later that at most Clodius had only exacerbated the crowd's authentic fear of starvation (11-12). See also Virioutet, *Famines*, pp. 40-41.

<sup>17</sup> Cic. *Att.* 4.1.6, *accurate sententiam dixi; dom.* 16, *Veni exspectatus: multis iam sententiis dictis rogatus sum sententiam: dixi rei publicae saluberrimam, mihi necessariam.* The decree: D.C. 39.9.3 ἔπεισέ σφας ἐπιμελητὴν τοῦ σίτου τὸν Πομπήιον προχειρίσασθαι, καὶ διὰ τοῦτο καὶ ἀρχὴν αὐτῶ ἀνθυπάτου καὶ ἐν τῇ Ἰταλίᾳ καὶ ἔξω ἐπὶ πέντε ἔτη δοῦναι; *Att.* 4.1.7 (15 legates).

<sup>18</sup> Cic. *Att.* 4.1.6, *quo senatus consulto recitato continuo, <cum multitudo> more hoc insulso et novo plausum meo nomine recitando dedisset, habui contionem. <eam> omnes magistratus praesentes praeter unum praetorem et duos tribunos pl. dederunt.*

<sup>19</sup> Cic. *Att.* 4.1.7 (Postridie) ... *legem consules conscripserunt qua Pompeio per quinquennium omnis potestas rei frumentariae toto orbe terrarum daretur.*

<sup>20</sup> Cic. *dom.* 9, *At quam sententiam dixi? Primum eam quam populi sermo in animis nostris iam ante defixerat, deinde eam quae erat superioribus diebus agitata*



Here, even though no doubt rhetorically simplified and perhaps to some extent tendentious, we have an implicit model of popular "input", starting with *populi sermo*, which gives rise to senatorial debate and was finally "put over the top" by Cicero's advocacy.

The crowd reciprocated, and concord was restored. On its face, the Senate's magnanimous concession was a fine example of what Livy later would suggest was the way political leaders *should* handle discord arising from popular distress in the Roman Republic<sup>21</sup>. But Cicero's speech cannot completely suppress the reality of the situation. Critics – apparently now including none other than P. Clodius Pulcher, here assuming the "optimatus" political stance for a senatorial audience! – complained that the Senate had been intimidated and robbed of its freedom of decision (*at enim liberum senatus iudicium propter metum non fuit*)<sup>22</sup>. Cicero cannot really offer much of a defense other than a dazzling but, to our ears, rather stale rhetorical dilemma<sup>23</sup>. Of course, Cicero could hardly admit that his motion was prompted or carried by "fear of the People", but it seems undeniable that, in the sense of the phrase we have been exploring, that is exactly what happened.

It will already be evident that in all of these instances, "the Peo-

*in senatu, denique eam quam senatus frequens tum cum mihi est adsensus secutus est. Cf. Att. 4.1.6, sermone ... plebis* (quoted *supra*, note 16). See Cristina Rosillo-López, *Public Opinion and Politics in the Late Roman Republic*, Cambridge, Cambridge University Press, 2017, pp. 75-97 for the role of "talk" and rumors in the construction of Roman public opinion. This instance might be added to Angius's list of popular initiatives at *La Repubblica delle opinioni*, pp. 325-27.

<sup>21</sup> See now Ann Vasaly, *Livy's Political Philosophy. Power and Personality in Early Rome*, Cambridge, Cambridge University Press, 2015, p. 136: «The exemplum of which Livy approves and which he depicts again and again in the first pentad is provided by the achievement of unity through an act of will by the individuals and groups that make up the Roman state to put the welfare of the collective before narrow self-interest – those transient but repeated moments of *concordia* in which the *principes* demonstrate their fitness to rule by generosity and justice and the masses reward them by their loyalty, forbearance, and discipline».

<sup>22</sup> Cic. *dom.* 10.

<sup>23</sup> «If you say those who left [the meeting] were afraid, then you have to concede that those who stayed weren't afraid; but if (you say) that there was no freedom of decision without those who were then absent, (I say that) when all were present the consuls began to make a referral to the House about introducing a decree of the Senate, and the whole Senate shouted in favor.» Curiously, Robert G. Nisbet in his student's edition gravely misconstrues (*M. Tulli Ciceronis De domo sua ad pontifices oratio*, New York, Arno Press, 1939/1979, p. 75); Watts in the Loeb is correct.

ple” inspiring the Senate’s “fear” are not specifically identified. The situation exactly reflects that of *contiones*, whose audiences may be respectfully addressed as the *populus Romanus* and their responses validated as the “verdict and judgment of the Roman People” or dismissed and disrespected (usually not by a speaker addressing them, of course) as mere claque and hirelings beholden to rival politicians whose noise and clamor warrant no regard. Speakers, and to some extent historians, typically adopted the interpretation that would support their agenda, although this was done with greater and lesser plausibility depending on circumstances: surely the larger the crowd, the less credible it was to minimize its claim to impersonate “the Roman People”, whereas on the other hand the presence of known dependents of a politician such as P. Clodius at the forefront of a restive crowd and other signs could suggest a “minimalist” interpretation of its significance<sup>24</sup>. So, when in late December, 57, during a vigorous senatorial debate that might have struck a serious blow against P. Clodius’s political position, a great roar arose from the very steps of the Curia and the adjacent Graecostasis apparently directed against Clodius’s enemies, it caused such panic among the senators that the meeting immediately broke up<sup>25</sup>. Cicero, writing to his brother Quintus, states as simple fact that the crowd consisted of Clodius’s *operae*, which seems perfectly plausible; but we may be fairly sure that Clodius would have described them as nothing less than “the Roman People”<sup>26</sup>. Ultimately, the Senate refused to give the necessary backing to Clodius’s enemies and permitted him to escape trial by being elected aedile for 56 with strong popular support; so perhaps in the larger context the Senate actually yielded not so much to fear only of

<sup>24</sup> Morstein-Marx, *Mass Oratory*, pp. 148-58. See *supra*, n. 16.

<sup>25</sup> Cic. *ad Q. fr.* 2.1.3 *tum Clodius rogatus diem dicendo eximere coepit. Furebat a Racilio se contumaciter urbaneque vexatum. Deinde eius operae repente a Graecostasi et gradibus clamorem satis magnum sustulerunt, opinor, in Q. Sextilium et amicos Milonis incitatae. Eo metu iniecto repente magna querimonia omnium discessimus.*

<sup>26</sup> Courrier, *La plèbe de Rome*, pp. 781-82 (n. 57), 802-803 (n. 95). Tatum, *The Patrician Tribune*, pp. 211-13 suggests that the riot at the Megalesia in 56 prompted the Senate’s supplementary funding of Pompey’s activities in behalf of the grain supply to the tune of HS 40 million (Courrier, *ivi*, pp. 801-802, n. 93). For interested crowds surrounding the Curia, consider the well-known example of the “Catilinarian” meetings of Dec., 63 (Plu. *Cic.* 19.4; Cic. *Catil.* 4.14); for their interruption with a demand to be addressed, consider the meeting in the Temple of Tellus on Mar. 17, 44 (App. *BC* 2.130-32/542-54); and for their actual intervention with blood-curdling threats see the near-riot during the electoral disputes of 56 (D.C. 39.28-29).

Clodius's *operae*, as Cicero would have it in the letter to Quintus, but to a more generalized "fear of the People"<sup>27</sup>.

Another noteworthy example of the phenomenon arises in Caesar's first consulship (59 BC). His colleague M. Bibulus, having been prevented from disbanding the assembly when Caesar's first agrarian law was being put to the vote, called a meeting of the Senate the next day to seek to have the vote annulled on the analogy of what had been done with Saturninus' legislation, but we are told that the august council declined to do so: «all [sc. of the senators] kept quiet since they were enslaved to the enthusiasm of the multitude»<sup>28</sup>. What exactly does this mean? Although here the language of "fear" is eschewed in favor of that of "servitude", the idea of the senators' submission to the overwhelming desire of the People, construed here as their "master", is perfectly clear<sup>29</sup>. (Indeed, "fear of the multitude" is explicitly invoked by Dio when describing Cesar's *contio* shortly before the vote)<sup>30</sup>. In this case, what is in question is the result of an actual decision, a vote of the People taken just the day before, not a mere expression of popular enthusiasm in *contiones* or demonstrations, and this was always treated as final (except for the extraordinary, and extraordinarily rare, cases of annulment) in the institutional conflicts which not uncommonly arose in the middle and late Republic<sup>31</sup>. Thus, the Julian agrarian law survived the senators' displeasure because they declined to oppose the overwhelming support of the People, as ex-

<sup>27</sup> Tatum, *The Patrician Tribune*, pp. 196-98 for the context and details. Cfr. Courier, *ivi*, pp. 799-800 (n. 91).

<sup>28</sup> D.C. 38.6.4 τῆ γὰρ τοῦ πλήθους σπουδῆ δεδουλωμένοι πάντες ἡσύχαζον (For ἡ τοῦ πλήθους σπουδῆ see also D.C. 40.51.1). For annulment, see further *infra*, n. 30.

<sup>29</sup> Dio's usage here is echoed at 74.11.6, where the soldiers τῆ τε γὰρ ὑπερβολῆ αὐτοῦ [sc. Didius Julianus in his bidding war for the Empire] δουλωθέντες. The "slave" metaphor for senators was not in fact unknown to contemporaries: see L. Crassus's famous cry, *Nolite sinere nos [senatores] cuiquam servire nisi vobis universis, quibus et possumus et debemus* (Cic. *de orat.* 1.225, with Morstein-Marx, *Mass Oratory*, pp. 235-36). Alexander Yakobson, *Aristocratic Dignity and Indignity in Republican Public Life*, in *Institutions and Ideology in Republican Rome: Speech, Audience and Decision*, ed. Henriette van der Blom, Christa Gray, and Catherine Steel, Cambridge, Cambridge University Press, 2018, pp. 15-34: 27-8.

<sup>30</sup> D.C. 38.4.2 ἤλπιζε [sc. ὁ Καῖσαρ] μετεγνώκῃ τε αὐτοῦ καὶ πῃ καὶ τὸ πλῆθος φοβηθήσεσθαι.

<sup>31</sup> As Loretana De Libero observed (*Obstruktion. Politische Praktiken im Senat und in der Volksversammlung der ausgehenden römischen Republik (70-49 v. Chr.)*, Stuttgart, Steiner, 1992, p. 90), annulment of a law depended politically on popular support for the move (as had occurred most notably with Saturninus' legislation). Not even T. Gracchus's land law was annulled after his death by a Senate θεραπεύουσα τὸν δῆμον ἐκ

pressed in their vote and refusal (for their part) to yield to Bibulus's and a few tribunes' attempted obstruction.

"Fear of the People" is also evidently the larger reason why a few years later in 56, during the discussion of the consular provinces in which Caesar's Gallic provinces offered a tempting target for some, Cicero emphasizes the great difficulty of taking away from Caesar the province of Cisalpine Gaul which, granted by a law of the Roman People (the *lex Vatinia*), «has a defender», that is, was likely to face a determined tribunician veto buttressed by strong popular support. Thus, both of the authoritative motions by *clarissimi viri* that preceded Cicero's intervention took care to respect the *lex Vatinia*, evidently out of fear that were the Senate to try to defy that law a tribunician veto would certainly ensue – which might even take the matter entirely out of the hands of the Senate<sup>32</sup>.

Elsewhere I have calculated that between 140 and 50 BC, no fewer than 30 laws were passed by the People despite significant, sometimes manifestly fierce, opposition from the Senate. This is inconsistent with

τῶν παρόντων (Plu. *TG* 21.1). The change in the People's mood toward Saturninus due to his riot and insurrection in 100 was strong, and explains the nearly unique vulnerability of his legislation in the aftermath of his death; but even in this case, the Senate submitted at the time of the voting (see App. *BC* 1.29, Plu. *Mar.* 29) and did not dare to annul until Saturninus was dead and his movement was crushed. Thus retroactive annulment of laws was (predictably) exceedingly rare, and known cases are almost exclusively confined to the period between Saturninus's first tribunate and the Sullan-Marian Civil War (De Libero, *ivi*, p. 88 n. 7; the only known example in the Ciceronian period was the *lex Manilia de libertinorum suffragiis*). Christoph Lundgreen, *Regelkonflikte in der römischen Republik. Geltung und Gewichtung von Normen in politischen Entscheidungsprozessen*, Stuttgart, Steiner, 2011, pp. 152-57 exaggerates to my mind the likelihood of success, but acknowledges that «der Senat ... konnte eine Aufhebung häufig politisch auch nicht durchsetzen» (p. 154). So why exactly would this be?

<sup>32</sup> Cic. *prov.* 36: *ostendit* [one of the two motions] *eam se tenere legem quam esse legem neget, et, quae pars provinciae sit cui non posset intercedi* [sc. Transalpine Gaul], *hanc se avellere, quae defensorem habeat* [sc. Cisalpina], *non tangere; simul et illud facit, ut, quod illi a populo datum sit, id non violet, quod senatus dederit, id senator properet auferre. Alter belli Gallici rationem habet, fungitur officio boni senatoris, legem quam non putat, eam quoque servat...* See Luca Grillo, *Cicero's De provinciis consularibus Oratio*, New York, Oxford University Press, 2015, pp. 245-49, who not unreasonably suspects Bibulus behind one of the motions. Grillo's statement that «[t]he senator's proposal for assigning Transalpine Gaul, however, was not in fear of the people» (p. 249) is confusing, however, since the very point is that this province, unlike Cisalpina, can be reassigned without inviting the intervention of a tribune and is in fact immune from a tribunician veto because of the *lex Sempronia* (*quae pars provinciae sit cui non posset intercedi*). For fuller discussion, see Morstein-Marx, *Julius Caesar* (forthcoming), Chap. 3.

the still rather common view that the techniques of obstruction and the ideological foundations of such obstructionism were far stronger than any "merely formal" powers the People in theory possessed. If that were the case, it is hard to see how "popular" laws like Tiberius Gracchus's agrarian bill or the *lex Gabinia* of 67 were ever passed – not to mention much earlier examples such as the *lex Flaminia* of 232 BC for the distribution of the ager Gallicus, the *lex Claudia de nave senatorum* of 218 BC, the law conferring full citizenship on Formiae, Fundi, and Arpinum in 188, or indeed the laws exempting Scipio Aemilianus from the *lex annalis* so that he could be elected consul for 146 and then conferring upon him the command against Carthage<sup>33</sup>. This last instance is especially interesting in our connection. Scipio had declared his candidacy for the aedileship, but the People insisted on electing him consul directly contrary to the minimum age laid down by law. The Senate was appalled at the illegality, and the consuls (probably on the Senate's instruction) had the law read out to the People in a *contio*. They in turn, far from deterred, pressed all the more importunately, crying that «according to the laws of Tullius and Romulus the People were masters of the elections and could ratify or abrogate whatever they wished of the laws about them»<sup>34</sup>. One of the tribunes actually declared that he would take away from the consuls the power to hold the election unless they supported the People<sup>35</sup>. How was the crisis resolved? The Senate conceded the central point, demanding only that the tribunes avoid blatant illegality by formally having the law abrogated and then passed again in the next year: «Let the laws sleep today», Appian editorializes, recalling the Spartan decision to ransom those who had surrendered at Sphacte-

<sup>33</sup> Robert Morstein-Marx, «Cultural Hegemony» and the Communicative Power of the Roman Elite, in *Community and Communication: Oratory and Politics in Republican Rome*, ed. Catherine Steel and Henriette van der Blom, Oxford, Oxford University Press, 2013, pp. 29-47; for the middle-republican examples see Elster, *Gesetze*, pp. 171-75 (n. 77), 187-90 (n. 83) (with Hans Beck, *Karriere und Hierarchie. Die römische Aristokratie und die Anfänge des cursus honorum in der mittleren Republik*, Berlin, Akademie Verlag, 2005, pp. 247-51), 328-29 (n. 156), and 425-28 (nn. 202-3). Kunkel, Wittmann, *Staatsordnung*, II.2, pp. 611-14.

<sup>34</sup> App. *Pun.* 112 τὸν δῆμον εἶναι κύριον τῶν ἀρχαιρεσιῶν, καὶ τῶν περὶ αὐτῶν νόμων ἀκυροῦν ἢ κυροῦν ὃν ἐθέλοιεν. Kunkel and Wittmann, *Staatsordnung*, II.2, pp. 65-66, n. 41.

<sup>35</sup> App. *Pun.* 112, ἔφη τοὺς ὑπάτους ἀφαιρήσεσθαι τὴν χειροτονίαν, εἰ μὴ σύνθοιντο τῷ δήμῳ. Presumably the reference is to delaying the election by means of vetoes and other obstruction until the next year, not some kind of new legal restriction on consuls' powers.

ria<sup>36</sup>. Appian does not explicitly mention “fear of the People” here, but it is obvious that this is another example of the very phenomenon we have been tracking so far. Yet the Senate’s nightmare was not yet over. To prevent Scipio from having to cast lots with his colleague for the Punic command, a tribune promulgated a law to entrust the war directly to Scipio, which was then duly passed by the votes of the People in what may have been the first such instance of the assignment of a consular *provincia* by popular vote<sup>37</sup>.

The upshot of our discussion thus far, then, is that just as Polybius suggests, the Senate was constrained in its freedom of action by the political reality of popular opinion, above all when this opinion had already been turned into a political fact by a vote, but also when a vote was merely in the offing. The People expressed their sovereignty with their ballots, and although it was not perhaps very common (a relative term, of course) for them to reject the authoritative opinion of their senatorial leaders, when they did this was decisive<sup>38</sup>. Similarly, I have argued elsewhere that at least after Tiberius Gracchus’s answer to Octavius’ sustained veto in 133, tribunes’ use of their veto power was fundamentally dependent on a perception of popular support: when it was strong, veto-threats could be sustained, when it was weak, they were dropped<sup>39</sup>. A sense of the state of “popular opinion”, then, moderated and largely determined the use of institu-

<sup>36</sup> Ivi, «κοιμάσθων οἱ νόμοι τήμερον». This seems likely to be a Polybian touch: below, n. 37. For the legal mechanism, see Kunkel and Wittmann, *Staatsordnung*, II.2, pp. 50-51, n. 56.

<sup>37</sup> For the whole episode, see App. *Pun.* 112 with Elster, *Gesetze*, pp. 425-28, nn. 202, 203, and *supra*, n. 8. Liv. *perioch.* 50 and Val. Max. 8.15.4 support the general tenor of the Appianic account, which is likely to have derived from Scipio’s comrade Polybius (see Frank W. Walbank, *Historical Commentary to Polybius*, 3 voll., Oxford 1957-79, III, pp. 656, 678). *Supra*, n. 8.

<sup>38</sup> Morstein-Marx, «*Cultural Hegemony*», pp. 42-46; *Persuading the People in the Roman Participatory Context*, in *A Companion to Greek Democracy and the Roman Republic*, ed. Dean Hammer, Oxford, Wiley Blackwell, 2015, pp. 294-309; 304-306.

<sup>39</sup> Morstein-Marx, *Mass Oratory*, pp. 124-26; and (forthcoming) *Julius Caesar*, Intro. The fundamental dynamic is clear: bills were usually (though not always) dropped when their prior reception in *contiones* made clear that they would not pass. (Cf. now also Courrier, *La plèbe de Rome*, pp. 454-55.) After Gracchus’s deposition of Octavius (reinforced by the threat of repetition in 67) the “optimate” tactic of putting up a tribune to veto popular legislation was no longer tenable in the last resort: for, as Polybius had already said, «the tribunes must always do what the People think best, and aim closely at their will» (ὀφείλουσι δ’ αἰ ποιεῖν οἱ δῆμαρχοι τὸ δοκοῦν τῷ δήμῳ καὶ μάλιστα στοχάζεσθαι τῆς τούτου βουλήσεως, 6.16.5; cfr. Plu. *TG* 15.2-3 and Cic. *Corn.* I 31 Crawford).

tional powers against the People that otherwise might appear to be absolute.

It is likely that none of this will seem very surprising to anyone who has spent much time studying the *assidua senatus adversus plebem certamina* of the Late Republic (which were certainly not unheard of even in the third and second centuries)<sup>40</sup>. Yet it is quite inconsistent with the "elitist" models of republican politics championed in recent years by (in particular) Henrik Mouritsen and Karl-Joachim Hölkeskamp. According to the former, even duly executed votes of the People's assemblies were merely "symbolic" performances of consensus with elite actors; the latter, on the other hand, while attributing much more weight and significance to the popular political role, tends to stress popular "obedience" and its subordination to the "meritocratic" needs of the nobility<sup>41</sup>.

If this much be granted, it is reasonable to divine the senatorial "Fear of the People" behind a series of otherwise surprising abdications by the Senate of any claim to practical political "dominance" even where the language characteristic of that fear, which we have examined above, does not explicitly appear. The precise motives, modes, and manner of popular interventions that forced the Senate to yield at times to the People's fundamental sovereignty cannot be pursued in detail here and deserve further scholarly attention. A start might be made by comparing the list compiled by Cyril Courier of the types of issues that prompted popular mobilization in the form of demonstrations, riots, and the like, and my own list of the kinds of laws that the People insisted on passing by means of their votes in the teeth of stong senatorial opposition. Courier's typology of «causes de mobilisation» is as follows:

<sup>40</sup> Tac. *dial.* 36.3. See *supra*, n. 33.

<sup>41</sup> See respectively Henrik Mouritsen, *Politics in the Roman Republic*, Cambridge, Cambridge University Press, 2017 and Karl-Joachim Hölkeskamp, *Reconstructing the Roman Republic: An Ancient Political Culture and Modern Research*, Princeton, Princeton University Press, 2010. For my own view, see Morstein-Marx, *Persuading the People*, and *Julius Caesar* (forthcoming), Introduction. Yakobson has long emphasized the interdependence of the "oligarchic" and "democratic" aspects of the Roman republican system: see most recently *Aristocratic Dignity and Indignity in Republican Public Life*, in *Institutions and Ideology in Republican Rome: Speech, Audience and Decision*, ed. Henriette van der Blom, Christa Gray, Catherine Steel, Cambridge, Cambridge University Press, 2018, pp. 15-34. Courier, *La plèbe de Rome*, esp. pp. 427-603, makes a strong case that the urban Roman plebs was «profondément mobilisée par la politique» (p. 443).

- 1) Agrarian problems
- 2) Problems with the food supply
- 3) Remission of debts or other economic measures (e.g. rents)
- 4) Questions of "foreign policy"
- 5) Powers of the Senate
- 6) Extension of citizenship or voting rights<sup>42</sup>.

Compare this to my grouping of the broad categories of laws passed against strong senatorial resistance;

a) Laws that constrained the senate's discretionary power (especially those that reassigned command of major wars or punished senatorial corruption, crimes, or incompetence) (these make up almost *one half* of the total)

b) Laws that created or (ostensibly) restored material benefits to the *plebs* (e.g. land laws, grain laws, etc.) (about *one third* of the total)

c) Laws that defended fundamental popular rights and powers (e.g. powers of the tribunes) (the remainder, roughly *a quarter* of the total)<sup>43</sup>.

Courrier's nn. 1-3 fall under my category (b); nn. 4 and 5 fall under (a), and n. 6 relates to my category (c). (This is of course not meant to imply that each of the popular mobilizations noted by Courrier issued in a law passed against senatorial resistance, which of course they did not; so readers should not expect a one-to-one correspondence between constituents of the two lists, although there is of course considerable intersection between the two sets)<sup>44</sup>.

<sup>42</sup> Courrier, *La plèbe de Rome*, pp. 477-80, here restricting himself to pre-Augustan cases. Full catalog of «Lieux et expression de la volonté plébéienne» (including almost as many imperial instances as republican) at pp. 745-916. Courrier's catalog revises and updates Vanderbroeck, *Popular Leadership*, pp. 218-67.

<sup>43</sup> Morstein-Marx, «*Cultural Hegemony*», 39, with notes 52-54.

<sup>44</sup> E.g., Courrier's nn. 2-3 (in his group 1) and the *lex Sempronia agraria*, an important member of my category (b), or nn. 42-44 (*lex Gabinia*, in his group 2), which I placed in (a), although of course a case can also be made for (b), since the grain supply was the underlying problem. A more clear-cut example of linkage of Courrier's groups with (a) would be the turnout for the election of Marius (n. 18, group 4), the *lex Manlia* or the riot at the trial of Caepio (n. 19, unattached by Courrier but perhaps fitting his group 4) and the law enabling that court. A surprising omission from Courrier's categories is one corresponding more or less to (c), «defense of popular political rights and powers», to which might be assigned the popular signs of favor for the *lex Pompeia Licinia* restoring the rights of the tribunes (nn. 38-39), demonstrations against Cicero in connection with the passage of the *lex Clodia* on the execution of Roman citizens (nos. 73-75), or the popular acclamations for the tribunes deposed by Caesar and the "graffiti campaign" directed at Brutus early in 44 (nn. 134, 136).



The combination of the two lists and even the contrasts between them cast some intriguing light both on the contours of political popular opinion and the dynamics of political action, including the feature that we have been examining in this paper, namely that of the Senate's political prudence in the face of an alert and readily mobilized populace. First, in a broad sense there is a notable overall similarity and consistency between the two lists. A recognizable "family" of interrelated issues prompted popular interest and action in the Late Republic<sup>45</sup>. I remain as impressed as I was before with how many laws were passed of an essentially "political" nature, that is, ones that are *not* connected directly with the material benefits – land, grain, rents – that are so often treated by scholars as the only strong motivators of the urban plebs. That conception comes too close to traditional and still-present elitist prejudices about the base, animalistic demands of "the rabble" to be accepted uncritically, especially in view of the fact that category (a) above, constituting almost half of all known laws passed against strong senatorial resistance, outnumbers category (b), vastly so if one adds as well the related category (c). This bespeaks a more self-consciously politicized Roman People than has frequently been assumed, although it is very much in keeping with Courier's recent nuanced characterization of the urban plebs – not a "Lumpenproletariat" but a (for the most part) adequately provisioned and employed urban populace cross-cut by wealth and status hierarchies, the higher echelons of which enjoyed sufficient freedom from the pursuit of their daily necessities to express themselves with political action in the City that was necessarily the focus of all republican decision-making<sup>46</sup>. While it is true that Courier's groups 1-3 (material *commoda*, essentially) appear to bulk largest in his cat-

<sup>45</sup> Morstein-Marx, «*Cultural Hegemony*», pp. 39-41. A comprehensive but somewhat unwieldy list of "popular" goals founded on known initiatives is provided by Christian Meier, *Populares*, *RE* Suppl. 10, 1965, coll. 599-612. Cf. Claudia Tiersch, *Political Communication in the Late Roman Republic: Semantic Battles between Optimates and Populares?*, in van der Blom, Gray, Steel, *Institutions and Ideology*, pp. 35-68: 45-47.

<sup>46</sup> Courier, *La plèbe de Rome*. His interesting though controversial conception of a well-off *plebs media* notwithstanding, he makes a persuasive and interesting argument that the *plebs frumentaria* constituted a relatively high-status group whose relative freedom from want due to the grain distributions supported a much higher degree of involvement in urban political action than has usually been supposed, esp. by e.g. Henrik Mouritsen, *Plebs and Politics in the Late Roman Republic*, Cambridge, Cambridge University Press, 2001. On the pernicious "Lumpenproletariat" preconception, see already Morstein-Marx, *Mass Oratory*, pp. 68-70.

alog of “manifestations”, this may be because they were more apt to result in rioting and the like than were more “political” disputes in the sense defined above. It is unsurprising that grain-shortages should be more apt to spark riots than, say, perceived senatorial incompetence or corruption in pursuing a major war (“foreign policy”)<sup>47</sup>.

Yet the first instance we dealt with in this paper – the senatorial war-decision against Jugurtha late in 112 – shows that in some less dramatic fashion “the People” could still apply irresistible political pressure upon the Senate on a matter of foreign policy through its tribunes. Some of the discrepancies between the two lists in the weighting of issues is doubtless a function of the fact that laws are a product of a formal, institutionalized political process which would tend to dampen the immediate fear and anger of the moment<sup>48</sup>. Finally, and most important for the theme of this paper, the prudential “respect” or indeed even “fear of the People” evinced by the Senate comes through clearly both in Courier’s long catalog of popular “manifestations” and the record of legislation passed over the Senate’s strong objection. This was not a republic in which popular participation was merely “symbolic”.

ROBERT MORSTEIN-MARX

University of California, Santa Barbara  
morstein@ucsb.edu

### *Abstract*

Vari riferimenti alla “paura del Popolo” del Senato sono trascurati negli studi sulla tarda Repubblica. Sebbene tale “paura” possa ricomprendere la paura di violenze fisiche, in questo contributo si difende l’ipotesi che

<sup>47</sup> The plebs’ interest in “foreign policy” is too narrowly defined by Courier, *La plèbe de Rome*, pp. 480-97, who tends to interpret it solely or largely as a consequence of its natural concerns about the grain supply (see esp. pp. 483-85, curiously explaining the People’s mobilization to transfer the Numidian command from Metellus to Marius as motivated by their concerns for the grain supply «dans une région qui commençait à jouer un rôle dans le ravitaillement de Rome en blé»). This is to overlook the manifest popular outrage against noble incompetence and/or corruption in the prosecution of the Jugurthan and Cimbric Wars which gave such an impulse to Marius’s rise. Similarly, a larger motive clearly lies behind the *lex Gabinia* and especially *lex Manilia* of 67-66.

<sup>48</sup> These too, of course, could still lead to legislation, as is shown by the case of Pompey’s assignment to the *cura annonae* discussed above. Notably, on that occasion the Senate prudently conceded so there was no significant senatorial resistance.

l'espressione sia più spesso usata nell'accezione politica già fissata da Polibio: la concreta necessità del senato di assecondare il volere popolare manifestato con fermezza, specialmente se esso si esprimeva pubblicamente in dimostrazioni di massa, *contiones*, o, più di tutto, un voto formale. La "paura del Popolo", correttamente interpretata, ci ricorda che il Senato era tutt'altro che incline a confidare in una presunta predisposizione del popolo all'ubbidienza e che al contrario era spesso costretto quantomeno a mostrare una prudente deferenza nei confronti delle aspettative popolari.

Various references to the Senate's "fear of the People" in the late Republic have not prompted much attention. Although such "fear" may extend to fear of physical violence, this paper argues that the phrase is most often used in the political sense already defined by Polybius: the Senate's pragmatic need to accommodate the strongly held desires of the People, especially when these were publicly expressed in mass demonstrations, *contiones*, or, above all, a formal vote. The "fear of the People," properly understood, reminds us that the Senate, far from relying on a natural assumption of popular "obedience," frequently was forced to show at least prudent deference to the People's wishes.

