

AMBITUS: ELECTORAL CORRUPTION AND
ARISTOCRATIC COMPETITION

AMBITUS: ELECTORAL CORRUPTION
AND
ARISTOCRATIC COMPETITION IN THE AGE OF CICERO

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ABSTRACT

The title of this thesis is *Ambitus*: Electoral Corruption and Aristocratic Competition in the Age of Cicero, and its purpose is threefold. First, it is an examination of documentary evidence concerning legislative action against electoral bribery in Rome during that last years of the republic. Second, it explores the rather creative responses to the legal restrictions those laws imposed on overzealous candidates and electioneers. Finally, it investigates the implications of electoral bribery in the wider context of Roman politics, what role it played in determining the electoral freedom of voters in Rome, and the main difficulty inherent in studies of *ambitus*; its ambiguity.

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TABLE OF CONTENTS

Abstract	ii
Acknowledgements	iii
Table of Contents	iv
Introduction	1
Chapter 1: Roman Abitus Legislation	5
i. <i>Lex de ambitu</i> 432 BC	5
ii. <i>Lex Poetelia de ambitu</i> 358 BC	7
iii. <i>Lex de ambitu</i> 314 BC	9
iv. <i>Lex de ambitu</i> 184 BC?	9
v. <i>Lex Cornelia Baebia de ambitu</i> 181 BC	13
vi. <i>Lex [Cornelia Fulvia] de ambitu</i> 159 BC	15
vii. <i>Quaestio de Ambitu</i> C. 149-116 BC	15
viii. <i>Lex Cornelia [Sulla] de ambitu</i> 81 BC	16
ix. <i>Lex Aurelia [de Ambitu]</i> 70 BC?	18
x. <i>Rogatio Cornelia de ambitu</i> 67 BC	19
xi. <i>Lex Calpurnia de ambitu</i> 67 BC	20
xii. <i>Lex Fabia de numero sectatorum</i> 67-63 BC	24
xiii. <i>Lex Tullia de ambitu</i> 63 BC	25
xiv. <i>Rogatio Aufidia de ambitu</i> 61 BC	28
xv. <i>Lex Licinia de sodaliciis</i> 55 BC	30

TABLE OF CONTENTS

xvi. <i>Lex Licinia de ambitu</i> ? 55 BC	33
xvii. <i>Lex Pompeia de ambitu</i> 52 BC	34
xviii. <i>Lex Iulia de ambitu</i> 18 BC	38
 Chapter 2: Ambitus: Forms and Organization	 40
i. <i>Ambitus</i> And Electoral Spending	40
ii. Games Shows and Banquets	45
iii. Gifts and Promises	50
iv. Electioneers	53
v. Conclusion	77
 Chapter 3: Ambitus and Political Ideology	 80
i. The Roman Political System	80
ii. Contemporary Theory and <i>Ambitus</i>	85
iii. Legal Munificence and the Blurred Line of <i>Ambitus</i>	100
iv. Conclusion	109
 Conclusion	 112
 Bibliography	 117

INTRODUCTION

The title of my thesis is *Ambitus*: Electoral Corruption and Aristocratic Competition in the Age of Cicero. The goal of this thesis is to recreate the history of republican *ambitus* legislation, to discuss the various ways in which candidates broke these laws and the agents they employed for the purpose and to examine how *ambitus* affects our understanding of political ideology and practice in Rome. First, however, it is necessary to qualify what *ambitus* was.

Electoral bribery was a phenomenon of the Roman republic; it did not exist in the regal period and ceased to be a factor in politics under the principate. It is possible to translate the political sense of the word quite accurately, but determining what constituted *ambitus* at any given time during the republic is not. Politically, *ambitus* is related to the verb *ambio* and the noun *ambitio*. *Ambio* is used often enough to indicate canvassing for support and seeking favour, although more generally it can mean to go around, to encircle, or to embrace. *Ambitio* has the sense of ambition and is used both with neutral or negative connotations in the ancient sources, particularly when describing political evils. This neutral aspect is used when describing someone willing to struggle for political advancement, an individual who either persevered in the end or gave up without pressing the existing system too far, while the negative describes individuals who allowed their ambition for advancement and office to run contrary to the good of the state. *Ambitus* is generally used as a pejorative. While it can denote competition, ambition and

a desire for advancement, it most often describes some manner of corruption and/or electoral bribery (sometimes involving ostentatious display or pretentiousness).¹

Ambitus as electoral corruption occurred when both the canvass and, by extension, the ambition of candidates went too far. This is confirmed by the presence of *ambitus* laws which set down the parameters for legal conduct during elections. Yet the precise definition of *ambitus* changed with each successive law, and it is perhaps the most limiting factor in the study of the evolution of Roman electoral corruption that we are so sadly uninformed of the particular details. That being said, understanding the desire to curtail electoral bribery through legislation, and the equally strong desire to circumvent that legislation, is fundamentally important to our understanding of *ambitus* in the Roman republic.

Thus, in chapter 1 I examine, in chronological order, the various *ambitus* laws passed throughout the history of the Roman republic. I also include the anachronistic *lex* of 432 BC and the *lex Julia de ambitu* of 18 BC for the sake of completeness, and draw attention to the possibility that another *ambitus* law existed because of testimony in Plautus' *Amphitruo*, passed no later than 184 BC. It has also proved helpful to include a number of *ambitus* laws which were proposed, but not passed, such as the *rogatio Cornelia de ambitu* of 67 BC and that of Aufidius Lurco in 61 BC. While I do not discuss related tracks of legislation, such as laws passed against violence or Clodius' reinstatement of banned *collegia* in 58 BC, these more accurately fall under the themes of subsequent chapters.

In chapter 2 I shall survey the restrictions placed on canvassing by these *leges de ambitu*, the varied venues and roles electioneers played in electoral bribery and the ways

¹ Varro *Ling. Lat.*, 5.22 and 7.30.

in which candidates broke or circumvented *ambitus* laws. Several activities normally permissible to wealthy Romans were forbidden when they ran for office. Beginning in at least 67 BC, games, shows, banquets and other forms of privately funded munificence were prohibited during the two years immediately prior to standing for any magistracy. These restrictions were progressively widened to include electioneers and attendants who accompanied candidates on the canvass, and the penalties for conviction grew ever more stringent. By identifying both the practices forbidden by law and how electioneers were involved in breaking those laws, it is possible to recreate, as much as possible, the process of *ambitus* and its organization. These I have organized thematically, beginning with restricted venues and practices and concluding with electioneers.

Chapter 3 is also organized thematically. I first explore traditional and modern interpretations of Roman republican politics in order to establish a proper context in which to insert the evidence of *ambitus*. Traditional portrayals of the Roman republic stress aristocratic solidarity and control through the ‘patron-client’ system, their united devotion to the preservation of the status-quo and their struggle to control popular leaders seeking to usurp their power. Modern interpretations have shifted focus onto the changing and unpredictable aspects of Roman politics which, on account of the secret ballot laws passed in the 130s BC, saw nobles and new men competing for a limited number of offices each year. Second, I consider briefly the popular aspect of Roman politics in the late republic, foreshadowed by three episodes in Livy and greatly altered by the ballot laws and new methods of electioneering. No one, in the last decades of the republic, could afford to ignore the crowd of Rome.

Finally, I comment on the nature of popular politics in Rome and on the identity of candidates and voters, and examine what was, for the Romans and in particular Cicero, a murky distinction between legal munificence and electoral corruption. Wherever the truth may lie, *ambitus* was a destabilizing force in the late republic; it affected elections and the conduct of the canvass. While it emerged as a problem in the early second century BC, it is only in the last century that we find bribery in such an exacerbated state that the *centuria praerogativa* was worth some 10,000,000 *sesterces*.

CHAPTER I:

ROMAN *AMBITUS* LEGISLATION*Lex de ambitu* 432 BC

The earliest example of *ambitus* legislation appears in Livy with an unnamed law passed by the tribunes in 432 BC which prevented those seeking the consulship from advertising their candidacy by adding white to their togas. Livy also mentions a *senatus consultum* that the senate passed after this law was carried in order to prevent the *plebs*, who were outraged by it, from electing one of their own candidates.² Nothing else is known of the law; there is no evidence that it was ever abrogated.³ Mommsen maintained that the *lex* was genuine, although of little help to the plebeians whom it was meant to control.⁴ It has more recently been suggested that this *lex* was not in fact a *lex*,

² Livy 4.25.13.

³ Berger, *RE* s.v. "Lex de ambitu," (1925), 2323-24; Andrew Lintott, "Electoral Bribery in the Roman Republic," *JRS* 80 (1990), 3. Lintott has said that abrogation 'must' have happened if this *lex* was followed by the *Lex Poetelia de ambitu* in 358 BC. However, it is perhaps more reasonable that the law fell out of use, was superseded by later legislation without ever being abrogated or was not a law at all.

⁴ Theodor Mommsen, *The History of Rome*, 1.2, trans. W. P. Dickson (Richard Bentley and Son: London, 1894), 377.

but rather a notice of some kind in the annals or a later addition inserted in order to provide a political precedent for *ambitus* legislation in general.⁵

Livy admits that he was working with scarce and imperfect records for the period before 397 BC and for much of the middle republic⁶, and that he knew full well that history, both in terms of mythical genealogy and legal precedent, could be invented.⁷ Indeed, Livy gives ample treatment to scandals and conspiracies which parallel those of the late republic before he even mentions the law.⁸ Particularly, Livy sets the stage of these secret meetings by borrowing heavily from the language of Cicero; no less than six similar constructions occur in the space of a few lines.⁹ Furthermore, his description of the law of 358 BC suggests that he was unconvinced that the *lex* of 432 BC was real, while our evidence shows that serious attempts to curtail canvassing began in the second century BC.¹⁰ Therefore, it is most probable that Livy found an obscure reference regarding 432 BC and set in a context quite familiar to him, and chose to include it in his history for the sake of completeness.¹¹

⁵ G. De Sanctis, *Storia Dei Romani II*² (Firenze, 1960), 222; R. M. Ogilvie, *A Commentary on Livy 1-5* (Clarendon Press: Oxford, 1965), 574-575.

⁶ Livy 6.1.2 and 4.23.2.

⁷ Livy *Praef.*, 6, 1.8.5, 8.6.3, 8.40.4, 38.56.5; Livy seems to have at times been content to assert that the truth was impossible to know or at least not worth discussing.

⁸ See Ogilvie, *A Commentary on Livy 1-5*, 574-575.

⁹ Compare, for example, Livy 4.25.9-12 with Cic. *Cat.*, 1.6 (*coetus indicere*); Cic. *Ad Brut.*, 2.3.5 (*secreta consilia*); Cic. *Sul.*, 14.36.39 (*purgare plebem*); Cic. *Verr.*, 2.49 (*culpam...vertere*); Cic. *Mur.*, 48 (*obsaeptum...iter*); Cic. *Mil.*, 47 (*respirare*).

¹⁰ Livy 4.25.13, 7.15.12-13 and 40.19.11; *Epist.*, 47.

¹¹ R. B. Steele, "The Historical Attitude of Livy," *AJPh* 25.1 (1904), 15-18.

***Lex Poetelia de ambitu* 358 BC**

The *lex Poetelia* was proposed by the tribune of the *plebs* C. Poetelius; it passed in the senate and was presented to the people shortly thereafter.¹² It was probably the first true *ambitus* law; certainly the first that the Roman *plebs* voted on.¹³ Nothing is known about its penalties for conviction. Livy suggests that the *lex Poetelia de ambitu* was meant to keep new plebeian candidates (*novi homines*) from securing the traditionally patrician consulship by preventing them from canvassing on market days and in public gathering places.¹⁴ Since the *lex Licinia Sextia* which allowed plebeian candidates one of the consulships each year had been passed in 367 BC¹⁵ and had created the patrician-only praetorship¹⁶, it is unlikely that the Roman *plebs* would have supported a law which would hinder popular candidates while giving free reign to more conservative patrician competitors. This seems especially true when one recalls that

¹² Livy 7.15.12; T. R. S. Broughton, *The Magistrates of the Roman Republic*, Vol. 1-2 and suppl. (APA: Cleveland, 1951, 1952 and 1986), 1.122.

¹³ Livy 7.15.13; R. W. Husband, "The Law of Poetelius on Corrupt Practices at Elections," *CJ* 10 (1914-5), 376.

¹⁴ Livy 7.15.13: *eaque rogatione nouorum maxime hominum ambitionem, qui nundinas et conciliabula obire soliti erant, compressam credebant.* ('And with this *rogatio* they thought they would greatly repress the ambition of new men, who were accustomed to going about on market days and into public gathering places.')

¹⁵ Giovanni Rotondi, *Leges Publicae Populi Romani* (Hildesheim, 1962), 218-220. In some years neither consul was plebeian.

¹⁶ Adolf Berger, *Encyclopedic Dictionary of Roman Law*, *TAPA*, New Series, 43.2 (Philadelphia, 1968), 556.

plebeians would struggle for another twenty-four years in order to make legal the election of two plebeian consuls in any given year.¹⁷

Livy's text makes clear that the patricians supported this law¹⁸ and that C. Poetelius was their willing accomplice,¹⁹ but it also states that the *plebs* did not eagerly adopt it. While it is possible that this tribune was a political 'stooge' for patrician interests, it is unlikely that the *lex Poetelia* would have passed in the plebeian assembly unless it contained some manner of benefit for plebeian candidates. If all candidates were barred from canvassing on market days and in public assemblies in and around Rome, it follows that the plebeians would not outright reject the proposal. Yet, this benefit would be dubious at best; the efforts of political newcomers would suffer the most under these restrictions, because politically established patricians would already be well known. Still, it is perhaps telling that the patricians avidly supported this legislation; the need to prevent plebeians from attaining the consulship implies that the plebeians were becoming increasingly successful at the polls.²⁰

¹⁷ Rotondi, *Leges Publicae*, 224-225.

¹⁸ Livy 7.16.1.

¹⁹ Livy 7.15.12. *et de ambitu ab C. Poetelio tribuno plebis auctoribus patribus tum primum ad populum latum est* ('and an *ambitus* law was then first presented to the people by C. Poetelius, a tribune of the *plebs*, [after being approved] by the senate').

²⁰ Husband, "The Law of Poetelius," 376-377. Husband suggests, *ex silentio*, that Livy was incorrect, and that in place of a patrician conspiracy, the people brought the annual problem of overzealous candidates to Poetelius. Poetelius would then have presented his measure to the senate, which approved it, being unwilling to upset the plebeians further. Cf. L. Lange, "Ueber das poetelische Gesetz de ambitu," *Rh. M.* 29 (1874), 500-505. Lange felt it was the most successful and wealthiest plebeians who sought, by this measure, to control the conduct of their less sophisticated peers.

***Lex de ambitu* 314 BC**

Livy mentions a *Senatus Consultum* passed in 314 BC by the dictator C. Maenius that attempted to address secret and dangerous compacts which were being formed by leading men at Rome. These compacts were helping certain office seekers to secure election by questionable means; Mannius feared that the groups which banded together were able to dominate elections by controlling or ‘stacking’ candidacy, and he established a *quaestio* to investigate the matter, over which he would preside. The patricians stonewalled him, however, convinced that such alliances were more likely to form among new men who were less remarkable and therefore less likely to succeed.²¹

***Lex de ambitu* 184 BC?**

Of particular interest to the study of Roman bribery legislation is a passage in Plautus’ *Amphitruo* which is generally considered to refer to an *ambitus* law:

*nunc hoc me orare a vobis iussit Iuppiter, ut conquaestores
singula in subsellia eant per totam caveam spectatoribus,
si cui favitores delegatos viderint, ut is in cavea pignus
capiantur togae; sive qui ambissint palmam histrionibus
sive cuiquam artifici, si per scriptas litteras sive qui ipse
ambissit seu per internuntium, sive adeo aediles perfidiose
cui duint, sirempse legem iussit esse Iuppiter, quasi magistratum
sibi alterive ambiverit. virtute dixit vos victores vivere, non
ambitione neque perfidia: qui minus eadem histrioni sit lex
quae summo viro? virtute ambire oportet, non favoribus.
sat habet favorum semper qui recte facit, si illis fides est
quibus est ea res in manu. hoc quoque etiam mihi <pater> in
mandatis dedit, ut conquaestores fierent histrionibus:*
(Plautus, *Amph.* 64-81)

Mercury begins the passage by introducing himself and explaining to the audience that Juppiter plans to petition them (17-37). He follows with a short argument about why Juppiter should be allowed to do so (38-49), a quick discussion of tragedy, comedy and

²¹ Livy 9.26.5-13. Münzer, *RE* s.v. “Maenius,” no. 9 (1928) 249-51; Broughton, *MRR*, 1.157; Rotondi, *Leges Publicae*, 233.

tragicomedia and the role of gods in plays (50-63), the parody of a *lex de ambitu* (64-81) and finally the petition for theatrical *conquistores* and Juppiter's interest in actors (82-96). Lines 65-81 do seem to be the most out of place in the entire prologue; they have little to do with the rest of the play and have been identified as a possible interpolation.²² However, if this passage is genuinely Plautine, it could allow an otherwise unknown *lex de ambitu* to be dated at 184 BC or some years earlier.²³ Thus, any attempt to construct another *ambitus* law based on the *Amphitruo* must begin by determining whether or not the passage in question is genuinely Plautine and, if so, reliable.

Some scholars have already attempted to address this issue. Forty years ago Mattingly questioned this very issue. His argument, however, was largely based on the silence of other sources. In the end, he concluded that lines 17-96 in the poem were not part of the original text.²⁴ Twenty years later McDonnell argued for a less extreme approach; he felt the interpolation could be confined to lines 65-81 and equally likely as an otherwise unrecorded *ambitus* law. Scullard, on the other hand, suggested that Plautus was referring to a law some years before it passed, possibly during its formative stages, at a time when the problem of bribery loomed large in public debate.²⁵ The latter hypothesis has been largely dispelled by Mattingly, who noted that the text is too specific

²² Galinsky, "Scipionic Themes," 209-211. Galinsky thought that lines 64-95 were out of place, but 82-95 can be salvaged.

²³ Plaut. *Amph.*, 68-74. Myles McDonnell, "Ambitus and Plautus' *Amphitruo* 65-81," *AJPh* 107.4 (1986), 564, n. 4. Cicero placed Plautus' death in 184 BC, which would make it the latest possible year for the poem's composition. See Cic. *Brut.*, 60.

²⁴ H. B. Mattingly, "The First Period of Plautine Revival," *Latomus* 19 (1960), 237-240.

²⁵ H. H. Scullard, *Roman Politics, 220-150 BC* (Clarendon Press: Oxford, 1973), 23, n. 3.

to refer to law not already in existence.²⁶ Scullard's scenario, in which Plautus not only parodied an *ambitus* law not yet formally passed and which is not otherwise recorded in our sources, but also expected his audience to know some of the particulars is unlikely and demands a great deal of caution. Still, the *lex Poetelia de ambitu* of 358 BC appears to be too far removed to provide a convincing example of relevant bribery legislation. Furthermore, there is no implication that middlemen were in any way punished by that law, as Plautus implies.²⁷

Livy is silent on the subject; this by itself demands some rationalization. His treatment of the decline of the Roman republic rests largely on the concept of *ambitio*, on the corruption of office holders and military men from the earliest days of the republic. The word is used to introduce bribery legislation twice (only three *ambitus* laws are recorded by him) and elsewhere is associated with attempted coups by famous Roman figures.²⁸ His use of annalist sources instead of Polybius for details *in urbe*, their general tendency to record examples of *ambitio* and the importance of corruption to Livy's

²⁶ Plaut. *Amph.*, 73-74 and 76-77 imply the law was already passed. Mattingly, "The First Plautine Revival," 237-240.

²⁷ Livy 7.15.12-13; G. K. Galinsky, "Scipionic Themes in Plautus' *Amphitruo*," *TAPA* 97 (1966), 209-211.

²⁸ The word *ambitio* introduces dangerous popular policies in the military (22.42.12 and 43.11.10), in politics (2.27.4, 2.42.8); it is used in connection with electioneering (7.39.13 and, possibly, 35.10.1 and 35.24.4) and associated with individuals seeking excessive power (1.35.2, 6, 2.41.8, 3.35.2-3, 28.40.2, 29.16.5, 45.36.8, and 43.14.3). The word generally has a strong derogatory flavour in Livy. Finally, he states twice that *ambitus* legislation was inspired by *ambitio* (4.25.12-23 and 7.15.12-13).

narrative would make it unlikely that any *ambitus* legislation was omitted by him.²⁹

However, it is not impossible that a bribery law went unrecorded in his sources.

McDonnell's argument for an interpolation is perhaps the most convincing. He saw the two almost identical indirect commands issued by Jupiter at lines 65 (*ut conquaestores singula in subsellia*) and 82 (*ut conquaestores fierent histrionibus*) as anomalies, but sought to explain their presence. Lines 65-81 add the parody of *ambitus* legislation, but the play still functions smoothly if they are omitted from the text. In fact, omitting these lines produces an acceptable conclusion to Mercury's conveyance of Jupiter's order and reconciles the prologue with what we know of the years immediately preceding 184 BC:

*nunc hoc me orare a vobis iussit Iuppiter, ut conquaestores
fierent histrionibus: qui sibi mandasset delegati ut plauderent
quive quo placeret alter fecisset minus, eius ornamenta et
corium uti conciderent.*³⁰

McDonnell's interpolation is attractive for three further reasons: First, we know that text has been inserted in a number of Plautus' other works during various revival periods.³¹

Second, the first of these revival periods (160s-150s BC) coincides nicely with the *lex*

²⁹ McDonnell, "Ambitus and Plautus' *Amphitruo*," 567-573 and 570, n. 26; A. Klotz, "Benutzung des Polybios bei Römischen Schriftstellern," *SIFC* 25 (1951), 245-265; J. Briscoe, *A Commentary on Livy Books 31-33* (Clarendon Press: Oxford, 1973), 8.

³⁰ McDonnell, "Ambitus and Plautus' *Amphitruo*," 573-576. Others have suggested interpolation at this point in the *Amphitruo* as well. Theodor Mommsen, *Römischen Strafrecht* (Leipzig, 1887), 866; H. D. Jocelyn, *The Tragedies of Ennius* (Cambridge University Press: Cambridge, 1967), 25, n. 5.

³¹ The prologue *Casina* 5-20 seems to be a later addition. Interpolation is also possible at *Poenulus* 121-123 and 124-128, and *Cistellaria* 125, 130-132 and 126-129. See McDonnell, "Ambitus and Plautus' *Amphitruo*," 573, n. 35 and 574.

[*Cornelia Fulvia*] *de ambitu* of 159 BC and it is this law which best provides an acceptable context for the insertion of lines 65-81.³² Third, the presence of the two indirect commands involving *conquaestores*³³ allows for a near seamless insertion of the *ambitus* parody and a bridge back to the original text.³⁴

However, it is perhaps likely that at least one *ambitus* law was passed between 358 and 181 BC. The second decade of Livy might have contained one or more such references, but that source material has been denied us. As it stands, the only possible evidence for any law after 358 BC and before 181 BC is in Plautus' *Amphitruo*, lines 68-74. However, it remains impossible to prove or disprove the existence of this *ambitus* law. The decision to accept or reject this text as genuine rests almost entirely on scholarly opinions of Livy; even McDonnell felt that arguments for the law were at least as likely as those for an interpolation or, in other words, vice versa.³⁵

***Lex Cornelia Baebia de ambitu* 181 BC**

Nothing is known of the *lex Cornelia Baebia de ambitu* except that it was passed by the consuls P. Cornelius Cethegus and M. Baebius Tamphilus³⁶ *ex auctoritate senatus*, and it is the first measure that we know of after the *lex Poetelia*.³⁷ Source material is scarce. The Cornelian law mentioned in the *Scholia Bobiensia*, which disqualified any candidate convicted of *ambitus* from office for ten years, was most likely passed by

³² Plaut. *Cas.* 5-20; Mattingly, "The First Plautine Revival," 239-240.

³³ See also Plaut. *Mer.*, 664-665; Cic. *Mil.*, 67; Livy 21.21.13.

³⁴ McDonnell, "Ambitus and Plautus' *Amphitruo*," 575.

³⁵ McDonnell, "Ambitus and Plautus' *Amphitruo*," 573.

³⁶ Berger, *RE* s.v. "Lex Cornelia Baebia de ambitu," (1925), 2344; Broughton *MRR*, 1.383-4.

³⁷ Livy 40.19.11.

Sulla.³⁸ Polybius may refer to this law in his comparison of the methods of office seeking in Rome and Carthage. While the Carthaginians, according to Polybius, bribed their way wholesale into office, at Rome that practice was punishable by death.³⁹ However, Polybius could just as easily have been referring to the *lex [Cornelia Fulvia] de ambitu* of 159 BC.⁴⁰ Because we are told that by 166 BC the *comitia* were being carried by the highest bribery,⁴¹ this may suggest that the *lex Cornelia Baebia* had become ineffectual by that time and more severe punishments were required.

Still, the death sentence was not often carried out against politicians or otherwise notable Romans in the middle republic.⁴² Despite Polybius and the penalties set out in a variety of other laws, citizens convicted of capital crimes were not generally put to death. Going into voluntary exile before the trial was over by renouncing citizen rights and the state's support and protection seems to have been the more attractive option. In a few cases Roman statesmen might choose to commit suicide to prevent their eventual condemnation.⁴³ If they did not, the capital sentence could be carried out by the state or another citizen as soon as the guilty verdict was given.⁴⁴ This practice must have been

³⁸ Sch. Bob. 78 Stangl; F. W. Walbank, A Historical Commentary on Polybius, Books 1-6 (Clarendon Press: Oxford, 1957), 741; see below.

³⁹ Polyb. 6.56.

⁴⁰ Walbank, Commentary on Polybius, 741.

⁴¹ Iul. Obs. *Prodig.*, 12.

⁴² M. I. Henderson, "The Process '*De Repetundis*,'" *JRS* 41 (1951), 71ff.

⁴³ Michael Alexander, Trials in the Late Roman Republic 149 BC to 50 BC (University of Toronto Press: Toronto, 1990), no. 7, 30, 115, 116, 195.

⁴⁴ Cic. *Cael.*, 100. Cicero describes voluntary exile as a means of escape. See Rotondi, *Leges Publicae*, 277; J. L. Strachan-Davidson, Problems of the Roman Criminal Law, 2 (Amsterdam, 1969), 1-15;

repealed, discontinued or supplanted by later legislation. The next *ambitus* law which even came close to imposing a capital sentence was the *lex Tullia de ambitu* of 63 BC, which exiled those convicted by it. The *lex Pompeia* of 52 BC exiled the condemned for life.⁴⁵ In the interim, fines, disqualification from office and the loss of membership in the senate and the rights to display the *ius imaginum* were deemed sufficient.⁴⁶

Lex [Cornelia Fulvia] de ambitu 159 BC

The *lex [Cornelia Fulvia] de ambitu* was passed in the consulship of Cn. Cornelius Dolabella and M. Fulvius Nobilior. Its authors, restrictions and penalties are unknown.⁴⁷ The *lex Cornelia Baebia* must have been ineffectual by 166 BC at the latest, when the *comitia* were said to have been carried with the highest corruption.⁴⁸ This would certainly explain why new legislation on *ambitus* was needed a few years later, but it is unlikely to have enjoyed any greater success than its predecessors.

Quaestio de Ambitu C. 149-116 BC

The first permanent *quaestio* in Rome is largely held to be the *quaestio de rebus repetundis*, established in 149 BC.⁴⁹ It is also widely accepted that a permanent *quaestio*

M. I. Henderson, "The Process 'De Repetundis'," *JRS* 41 (1951), 72-73; Mommsen, *Straftrecht*, 730; A. N. Sherwin-White, "The Extortion Procedure Again," *JRS* 42 (1952), 43-55.

⁴⁵ See below.

⁴⁶ Rotondi, *Leges Publicae*, 361, 374. See below for the *Lex Cornelia (Sulla)* and the *lex Calpurnia*.

⁴⁷ Livy *Periocha*, 47; Berger, *RE* s.v. "Lex Cornelia Baebia de ambitu," (1925), 2344; Berger, *RE* s.v. "Lex Cornelia Fulvia de ambitu," (1925), 2344-45; Rotondi, *Leges Publicae*, 288.

⁴⁸ Iul. Obs. *Prodig.*, 12. *Comitia cum ambitiosissime fierent*.

⁴⁹ J. S. Richardson, "The Purpose of the Lex Calpurnia de Repetundis," *JRS* 77 (1987), 1. See also Andrew Lintott, "The Leges Repetundis and Associated Measures under the Republic," *ZSS* 98 (1981),

de ambitu was established by or before 116 BC because three trials can be dated to that year.⁵⁰ Nothing else is known of this *quaestio*.⁵¹

Lex Cornelia [Sullae] de ambitu 81 BC

The *lex de ambitu* law mentioned in the *Scholia Bobiensia* should be attributed to Sulla and his program of sweeping legislative reform in the later 80s BC.⁵² The passage reads:

Nec moverit nos quod ita loquatur de Sylla Cicero, quasi damnatus crimine ambitus habuerit Romae demorandi facultatem: habuit enim secundum legem Calpurniam. Nam superioribus <temporibus> damnati lege Cornelia hoc

162-212 and Duncan Cloud, "The Constitution and Public Criminal Law," in CAH 9² (1994) 515. Cf. L. Fascione, *crimen e quaestio ambitus nell' eta repubblicana* (Giuffrè; Milan, 1984), 55. Fascione is alone in positing the *quaestio* was established in 159 BC. See the reviews of F. Gnoli, Studia et Documenta Historiae et Iuris 51 (1985), 612-616 and W. Eder, Gnomon 60 (1988) 168-170.

⁵⁰ L. Fascione, *Crimen e Quaestio Ambitus*, 55; Mommsen, *Strafrecht*, 866-7; A. Greenidge, *The Legal Procedure of Cicero's Time* (Oxford University Press: Oxford, 1901), 422; Erich Gruen, *The Last Generation of the Roman Republic* (University of California Press: Berkeley, 1974), 212 and *Roman Politics and the Criminal Courts, 149-87 BC* (Harvard University Press; Cambridge, 1968), 124-5. For the trials of M. Aemilius Scaurus, P. Rutilius Rufus and C. Marius, see Cic. *Brut.*, 113; Cic. *Mur.*, 16, 36; Cic. *De Or.*, 2.280; Cic. *De Leg.*, 3.39; Asc. 23 C.; Plut. *Mar.*, 4-7; Val. Max. 6.9.14; E. J. Weinrib, "The Prosecution of Roman Magistrates," *Phoenix* 22 (1968), 32-56 and "The Prosecution of Roman Magistrates-Designate," *Phoenix* 25 (1971), 145-150; D. R. Shackleton Bailey, "The Prosecution of Roman Magistrates-Elect," *Phoenix* 24 (1970), 162-165; Rotondi, *Leges Publicae*, 318; Broughton *MRR* 1.530-531 and 1.555.

⁵¹ Mommsen, *Strafrecht*, 866-7; W. Kunkel, *RE* s.v. "Quaestio," (1963), 720-786, esp. 739.

⁵² Sch. Bob. 78 Stangl; Berger, *RE* s.v. "Lex Cornelia de ambitu," (1925), 2344; J. Ferrary, "La Legislation 'de Ambitu', de Sulla a Auguste," *Iuris Vincula, Studi in Onore di Mario Talamanca* (2002), 163. For Sulla's other legislation, see Rotondi, *Leges Publicae*, 349-364.

genus poenae ferebant, ut magistratum petitione per decem annos abstinerent. Aliquanto postea severior lex Calpurnia et pecunia multavit et in perpetuum honoribus iussit carere damnatos; habebant tamen licentiam Romae morandi.

Nor did Cicero change our opinion when he spoke about Sulla, having been condemned as it were, by the accusation of corrupt electioneering, he will have had the opportunity to remain in Rome. He had this right according to the Calpurnian law. For, in former times, those condemned by the Cornelian law suffered this kind of punishment: that they abstain from seeking magisterial office for ten years. Some time after the more severe *lex Calpurnia* both punished the condemned with a fine and ordered the loss of honors forever; however, they had permission to remain at Rome. (Sch. Bob. 78 Stangl.)

Of particular note, as the scholiast describes the more severe *lex Calpurnia de ambitu*, is his use of *aliquanto postea* (some time after).⁵³ This probably indicates a relatively short interval of time between the two laws, not one of a century give or take a decade which would be required if he were referring to the *lex Cornelia Baebia de ambitu* or the *lex Cornelia Fulvia*. It is also perhaps telling that when imperial sources mention *leges Corneliae*, they seem to refer exclusively to Sullan legislation.⁵⁴

Mommsen believed this law was Sullan, as did Greenidge, but Stangl thought the scholiast was referring to the *lex Cornelia Baebia* of 181 BC.⁵⁵ While it is possible that its penalty of ten years exclusion from office belonged to either of the laws of the second century BC, either before or after Polybius' reference,⁵⁶ the existence of a Sullan law is attractive precisely because he legislated on practically every other area of criminal

⁵³ Sch. Bob. 78 Stangl.

⁵⁴ R. W. Husband, "The Lex Cornelia de Ambitu," *CJ* 10 (1914-5), 378. See Rotondi, *Leges Publicae*, 356-360 and 362-363 for examples from Justinian's Digest.

⁵⁵ Mommsen, *De Collegiis et Sodaliciis Romanorum. Accedit Inscriptio Lanuvina* (Kiliae Libraria Schwersiana, 1843), 40 and *Strafrecht*, 423; Greenidge, *Legal Procedure*, 423; Sch. Bob. 78, Stangl.

⁵⁶ Polyb. 6.56. The matter is further complicated because it is impossible to attribute this passage to either the law of 181 or 159 BC.

activity⁵⁷ and because the ten year ban on office is similar to the *lex Cornelia de magistratibus*, which restricted an individual's ability to repeat an elected office to once a decade.⁵⁸ A conviction for *ambitus* under this *lex Cornelia* not only invalidated the defendant's election, but also prevented any offender from attempting the magistracy again until a proper period of ten years had passed.⁵⁹

As soon as Sulla stepped down and returned the running of Rome to the assemblies and the senate, whatever measures he had put in place against *ambitus* were undermined. Money seems to have been of great importance in politics in the post Sullan republic, if what we know of men like the election 'fixer', P. Cethegus, is true. Cethegus was, in the years after the death of Sulla, an extremely powerful man; he was popular with the people and appears to have been able to secure specific provinces for magistrates who courted him with money.⁶⁰ Certainly money had always been required for political success at Rome, but candidates had to secure massive wealth to make any serious bid for magistracies in the explosive political climate on the 70s BC.⁶¹

Lex Aurelia [de Ambitu] 70 BC?

The existence of a *lex de ambitu* passed by L. Aurelius Cotta, praetor in 70 BC, or by C. Aurelius Cotta, consul in 75 BC, or by another unknown Aurelius, has no support

⁵⁷ His other legislation attempted to curb senatorial corruption; he no doubt knew how elections were conducted. See Plut. *Sulla*, 5.2.

⁵⁸ Cf. Rotondi, *Leges Publicae*, 351 on the *lex Cornelia de magistratibus*.

⁵⁹ Ferrary, "La Legislation 'de ambitu,'" 163.

⁶⁰ Cic. *Parad. Stoic.*, 40, *Brut.*, 178; Plut. *Luc.*, 5.3-4; Ps. Ascon. 259 Stangl; Lintott, "Electoral Bribery," 7.

⁶¹ Ferrary, "La Legislation 'de Ambitu,'" 164.

in the ancient sources and rests only on a faulty interpretation of Paullus Manutius on Cic. Ad Q. Frat. 1.3.8. Manutius believed the text was referring to *ambitus* legislation, but it is more likely that Cicero was instead referring to the *lex Aurelia Iudiciaria*, passed in 70 BC.⁶² This law is sufficiently close to Q. Cicero's candidacy for the aedileship in 66 BC to have provided his opponents with a means of attack; Q. Cicero had probably opposed the *lex iudiciaria* when it had been promulgated, but was accused by false testimony of authoring it in the hopes of making him unpopular.⁶³ Dispensing with this *ambitus* law also helps simplify the prosecution of C. Calpurnius Piso, who was charged in 68 BC for *ambitus* under the *lex Cornelia* of 81 BC.⁶⁴ If the law did not exist, there is no need to explain why it was annulled in the space of two years.

Rogatio Cornelia de ambitu 67 BC

In 67 BC a *rogatio de ambitu* was proposed by the tribune C. Cornelius.⁶⁵ This *rogatio* attempted to assign harsher penalties (including, possibly, exile) to any candidates convicted of *ambitus*⁶⁶, as well as his *divisores*.⁶⁷ Although adopted by the

⁶² For the argument in support of this law, see Berger, RE s.v. "Lex Aurelia de ambitu," (1925), 2336; L. Lange, Rom. Alt. II³ (1879), 666 and III² (1876), 198; Rotondi, Leges Publicae, 369-370. For the deconstruction of this theory, see Ferrary, "La Legislation 'de Ambitu,'" 164; R. Tyrrell, The Correspondence of M. Tullius Cicero, I² (1885), 362; D. R. Shackleton-Bailey, "Notes on Cicero, ad Q. fratrem," JRS 45 (1955), 35.

⁶³ Cic. Ad Q. Frat., 1.3.8; Shackleton-Bailey, "Notes on Cicero," 35.

⁶⁴ Ascon. 66, C.

⁶⁵ Dio 36.38.4; Broughton, MRR, 2.144.

⁶⁶ Rotondi, Leges Publicae, 370.

people and later supported by Cicero⁶⁸, it was opposed by the senate. The consul C. Calpurnius Piso seems to have been called upon to effect a compromise between the popular tribune and more conservative elements.⁶⁹ The law that he framed tempered the Cornelian proposal and eventually took the form of the *lex Calpurnia de ambitu*.

***Lex Calpurnia de ambitu* 67 BC**

The *lex Calpurnia* was, according to Cicero, framed with the utmost severity.⁷⁰ It passed in 67 BC during the consulship of M. Acilius Glabrio and C. Calpurnius Piso after the *rogatio Cornelia de ambitu* was rejected by the senate⁷¹; it seems to have primarily been the work of Piso, since it is referred to in our sources only as the *lex Calpurnia*⁷², and a fragment of Cicero suggests Piso was its only author.⁷³ Dio, however,

⁶⁷ The term is problematic, although by the late Republic these men seem to be chiefly responsible for handing out bribes between tribes during elections. See Lintott, "Electoral Bribery," 7-8 and Alexander Yakobson, *Elections and Electioneering in Rome* (Franz Steiner: Stuttgart, 1999), 39-41.

⁶⁸ Cic. *Corn. Fr.*, 1.41; Ascon. 74-5, C; S. H. Rinkes, *Disputatio de crimine ambitus et de sodaliciis apud Romanos tempore liberae reipublicae* (E. J. Brill: Leiden, 1854), 87-90. In Cicero's defense of Cornelius he claimed his *rogatio* was superior to the *lex Calpurnia* because the latter had not been able to curb the corruption of 66 BC, but his motives were, as always, suspect. In his later defense of Murena, Cicero praised the *lex Calpurnia* and spurned his own law. See below.

⁶⁹ Dio 36.38.4-5.

⁷⁰ Cic. *Mur.*, 46. Cicero was defending Murena and attacking the prosecution at the time.

⁷¹ Dio 36.38.1-4; W. McDonald, "The Tribunate of Cornelius," *CQ* (1929), 201, n. 1.

⁷² Cic. *Corn. Fr.*, 1.23, 45; Cic. *Mur.*, 46, 67, 72-73; Sall. *Cat.*, 18.2; Ascon. 69, 75, 88, C.; Dio 36.38-39; Schol. Bob. 78 Stangl; cf. Cic. *Sull.* 74.

⁷³ Cic. *Corn. Fr.*, 1.46; Ascon. 75, C; Broughton, *MRR*, 2.142-3.

claims both consuls were involved in drafting it⁷⁴, but this assertion is probably false because Glabrio and Piso shared little reason to cooperate.

Glabrio was unsupportive of elitist political agendas on more than one occasion. He was Pompey's former *quaestor*, and this no doubt had created some link between the two during Glabrio's consulship. There is, however, no evidence in the policies of Glabrio that he was wholly supportive of Pompey or that he was one of Pompey's stooges. Indeed, we do not know how or even if the relationship between these men was affected by the death of Glabrio's pregnant ex-wife soon after being remarried to Pompey in 83 BC.⁷⁵ We cannot be sure what role the intervening years played in the softening or hardening of bitterness between the two, if any existed at all. Therefore, without evidence to support any Pompeian program, it may be prudent to suggest only that Glabrio and Pompey were from time to time united in a common cause, and that these causes were, as far as we know for this period, popular.⁷⁶ This would put him in opposition to Piso, who opposed popular politics and, by association, Pompey at every available turn.⁷⁷

It is more reasonable to suppose that Glabrio ignored the law when his colleague presented it because he did not wish to antagonize the majority of the senate, a place where he is unlikely to have had much support or, seeing that the law would curtail the

⁷⁴ Dio 36.38.5.

⁷⁵ Plut. *Sull.* 33; *Pomp.* 9.

⁷⁶ L. Hayne, "The Politics of M. Glabrio," *CIPh* 69.4 (1974), 280-282.

⁷⁷ Dio 36.24.3, 36.37.2-3; cf. Plut. *Pomp.*, 25. He attempted to block Pompey's extraordinary command against the pirates and, when that failed, his levying of troops in Gallia Narbonensis. For the enmity of Piso and Pompey, see: Erich Gruen, "Pompey and the Pisones," *CSAC* 1 (1968), 155-170.

excesses of the few, he may well have quietly approved.⁷⁸ In any event, he did not veto the decree which allowed Piso to draft and pass his legislation, nor the proposed law itself. Piso himself was unlikely to have proposed or even supported more severe bribery legislation after having been prosecuted under the *lex Cornelia* in 68 BC while consul elect. He was almost certainly guilty; he had to bribe his way out of it.⁷⁹ Thus, we must follow Dio when he informs us that Piso was compelled to write the law by the senate where its more moderate penalties had wide support.⁸⁰

The *lex Calpurnia de ambitu* was passed late in the year. Piso had proposed it after the elections for 66 BC had been announced, which made it impossible to ratify until after they were held unless a dispensation from the *lex Aelia et Fufia* was granted by the senate.⁸¹ The senate granted this dispensation and voted a *senatus consultum* in favor of passing the *lex Calpurnia* before the elections.⁸² What happened next is a difficult series of events to follow, largely confused by the disagreement in our two principle sources for this episode: Dio and Asconius. Asconius' is the more believable of the two, and I have favoured his sequence of events over Dio.⁸³ The tribune C. Cornelius opposed

⁷⁸ Hayne, "Glabrio," 280-282.

⁷⁹ Dio 36.38.3; Sal. *Hist.*, 4.81; Alexander, *Trials*, 96-97; D. R. Shackleton-Bailey, "The Prosecution of Roman Magistrates-Elect," *Phoenix* 24 (1970), 164.

⁸⁰ Dio 36.38.3.

⁸¹ Dio 36.39.1; Ferrary, "La Legislation 'de Ambitu,'" 165.

⁸² Dio 36.39.1.

⁸³ See M. Griffin, "The Tribune C. Cornelius," *JRS* 63 (1973), 196-203. For the opposite view, see McDonald, "The Tribunate of Cornelius," 196-208.

the decision because his proposed bribery legislation had been rejected⁸⁴, but like Glabrio he did not veto the decree or the *comitia* in which the vote was called. Instead, Cornelius seems to have roused popular opposition against the senatorial decree and proposed a bill which would make future exceptions to the law subject to popular approval.⁸⁵ The public reading of his proposed legislation by a herald was vetoed by another tribune, but Cornelius ignored him and he read the codex himself. When Piso and a number of senators stood against him the crowd rioted, the consul's *fasces* were broken and Cornelius dismissed the assembly.⁸⁶

This seems to have postponed the elections long enough for Piso to deliver his *rogatio*.⁸⁷ However, when he attempted to present his law to the people a number of tribunes goaded the crowd into rioting yet again.⁸⁸ They found fault with Piso's proposal and shouted support for Cornelius' bill, because the former prescribed penalties to convicted candidates, but did nothing to chastise their agents, the *divisores*. Piso must have quickly revised his bill to include penalties for bribery agents and again presented it to the people, because the *divisores* then forced him out of the forum.⁸⁹ A short time later

⁸⁴ Dio 36.39.2. His bribery legislation was only one of many of his proposed laws: most were vetoed by other tribunes, which is probably what happened to his *rogatio de ambitu*. See Griffin, "The Tribune C. Cornelius," 197-199.

⁸⁵ Ascon. 58, C.; Dio 36.39.2; Gruen, *LGRR*, 214.

⁸⁶ Ascon. 58, 60-61, C.; Dio 38.39.2-3.

⁸⁷ Cic. *Pomp.*, 2; cf. Cic. *Ad Att.*, 1.11.2.

⁸⁸ Cic. *Corn. Fr.*, 1.40-41.

⁸⁹ Ascon. 74-75, C.; Berger, *RE* s.v. "Lex Calpurnia de ambitu," (1925) 2338-39; Gruen, *LGRR*, 214-215; Lintott, "Electoral Bribery," 8-9.

he issued an *edictum*, gathered a bodyguard, returned and, calling upon all loyal Romans who wished for the safety of the *res publica*, managed to have the *lex Calpurnia* passed.⁹⁰

Candidates convicted by this law suffered loss of office and a permanent disqualification from holding any magistracy, permanent loss of the rights to display the *ius honorum*⁹¹ and a fine.⁹² In 63 BC M. Tullius Cicero proposed and got passed a *senatus consultum* which made the hiring of an indiscriminate retinue, the giving out of free seats by tribe at theatrical shows or gladiatorial games and the giving of indiscriminate dinners all violations of the *lex Calpurnia*.⁹³ Exile, which was probably included in Cornelius' *rogatio*, was not among the penalties for conviction; we know that P. Sulla was able to return to Rome on numerous occasions after he was convicted for *ambitus* in 66 BC under the *lex Calpurnia*.⁹⁴

***Lex Fabia de numero sectatorum* 67-63 BC**

An interesting law which attempted to restrict improper electioneering was the *lex Fabia de numero sectatorum*.⁹⁵ It was passed sometime between the *lex Calpurnia de ambitu* and the *lex Tullia de ambitu*, probably by M. Fabius Hadrianus, a tribune probably

⁹⁰ Cic. *Corn. Fr.*, 1.40-1; Ascon. 58, 69, 75, C.; Cf. Griffin, "The Tribune C. Cornelius," 196ff; Lintott, "Electoral Bribery," 8-9. This was *tumultus*: the formula of military crises.

⁹¹ Cic. *Corn. Fr.*, 1.40; Rotondi, *Leges Publicae*, 374.

⁹² Ascon. 69, C.; cf. Ascon. 88, C.; Cic. *Sul.* 17; Sch. Bob. 78-79, Stangl; Dio 36.38.1, 37.25.3.

⁹³ Cic. *Mur.*, 67; Michael Alexander, *The Case for the Prosecution in the Ciceronian Era* (University of Michigan Press: Ann Arbor, 2002), 124. This was done by *subrogatio*, the process by which further clauses were added to a previous law. See Scott Carson, "Asconius in Cornelianam 68.7-69.13 (Clark) and Roman Legislative Procedure: A Textual Note," *AJPh* 20 (1988), 539.

⁹⁴ Cic. *Sul.*, 74; Alexander, *The Case for the Prosecution*, 189.

⁹⁵ Cic. *Mur.*, 70; cf. Q. Cic. *Comm. Petit.*, 34-37.

of 66 BC.⁹⁶ A related *senatus consultum* was passed in the consulship of L. Caesar in 64 BC to strengthen the law, but it too was opposed by the people. Both limited the number of companions (*sectatores*) that could be paid to accompany a candidate during his canvass.⁹⁷ It was no doubt hoped that these measures would curtail the rise of political corruption, intimidation and violence in elections by removing from candidates the physical support of what were, in essence, large gangs.

***Lex Tullia de ambitu* 63 BC**

Appearing less than five years after the *lex Calpurnia* and reinforcing it⁹⁸, the *lex Tullia de ambitu* was proposed by M. Tullius Cicero during his consulship in 63 BC and was passed by the senate and the people of Rome.⁹⁹ It is perhaps the best attested example of *ambitus* legislation we have.¹⁰⁰ A more severe law had been proposed in the senate in 64 BC on account of the unrestrained bribery of Catiline and Antonius in their

⁹⁶ Lange, *Rom. Alt.* II³, 666; III², 224; Rotondi *Leges Publicae*, 378-379. J. Ferrary does not entirely reject this scenario, but he also suggests that the *lex Fabia* could have been relatively ancient, possibly a measure passed before the creation of the *quaestio de ambitu*, which fell out of use and was revived in the last century BC when the need arose. His argument is based largely on the silence of the *Commentariolum Petitionis* and inconsistencies in the behaviour of Cato regarding his use of *nomenclatores*. However, it is unlikely that this law placed restrictions on personal prompters, since we know from Plutarch that a law was passed against them during the slave war of 73-71 BC. See Ferrary, "La Legislation 'de Ambitu,'" 169-172 and the *lex Tullia de ambitu* below.

⁹⁷ Cic. *Mur.*, 71.

⁹⁸ Cic. *Mur.*, 67.

⁹⁹ Cic. *Mur.*, 3 and 47; Cic. *Vatin.*, 37; Dio, 37.29.1; Broughton, *MRR*, 2.165-6.

¹⁰⁰ Rotondi, *Leges Publicae*, 379.

bids for the consulship, but it had been blocked by a tribune's veto.¹⁰¹ The *lex Tullia* was composed in response to bribery during the consular elections of the following year, but Cicero was probably also seeking to obstruct Catiline, then in his second attempt for the office, in any way he could.¹⁰²

Apparently this *lex* was supported by both consuls¹⁰³, although Cicero had been critical the year before of any new law more severe than the *lex Calpurnia*. He may only have been won over by Ser. Sulpicius Rufus, a candidate in the consular elections in 63 BC whom he supported and who was the new law's principal supporter, after he knew the majority of the senate favoured harsher penalties.¹⁰⁴ These Cicero provided. The *lex Tullia* banned the giving of games in the two year period preceding candidature for office, except when demanded by a will, and added a penalty of ten years' exile to the *lex Calpurnia* for conviction.¹⁰⁵ Furthermore, any magistrate-elect who failed to show himself at his *ambitus* trial on account of sickness was to be fined.¹⁰⁶

¹⁰¹ Ascon. 83, C.; Broughton, *MRR*, 2.162. The tribune in question was Q. Mucius Orestinus.

¹⁰² Cic. *Mur.*, 67; Dio, 37.29.1.

¹⁰³ Sch. Bob., 79, 140, 151 and 166, Stangl.

¹⁰⁴ Cic. *Mur.*, 43-48; Gruen, *LGRR*, 220-221. Sulpicius originally directed his opposition at Catiline, stressing the dangers if that man succeeded at the polls. This is unsurprising since Cicero was aiding Sulpicius in his candidacy for the consulship. After Catiline fled Rome, Sulpicius had little choice but to challenge Murena in court.

¹⁰⁵ Cic. *Mur.*, 47, 89; Cic. *Sest.*, 133; Cic. *Planc.*, 83; Dio, 37.29.1; Schol. Bob., 79 Stangl.; Cic. *Vatin.* 37: Cicero claims he carried the law without violence, with due consideration of the auspices and the *lex Aelia* and *Fufia*.

¹⁰⁶ Cic. *Mur.*, 47; Schol. Bob. 79, Stangl.; Gruen, *LGRR*, 220. This fine may also have been directed at jury members and witnesses who failed to present themselves.

The *lex Tullia* was reinforced later in 63 BC by a *senatus consultum* proposed by Cicero at the request of the consular candidates which reminded candidates that the hiring of an indiscriminate retinue, the giving out of free seats at theatrical shows or gladiatorial games by tribe and the giving of dinners to the mob violated the *lex Calpurnia*.¹⁰⁷ These conditions applied only to the candidates themselves, albeit imperfectly, while friends could act on their behalf with little risk.¹⁰⁸ Candidates might get around the provisions of the *lex Tullia* with the help of an inventive defence lawyer. At Murena's trial Cicero attempted to allay suspicion of his client by demonstrating that Murena's actions had not been in violation of any law,¹⁰⁹ and that he had been generous towards the crowd in an established and entirely acceptable way.¹¹⁰

The *lex Tullia* and *senatus consultum* were probably directed primarily at Catiline.¹¹¹ He had been bribing the populace like his competitors,¹¹² and this must have

¹⁰⁷ Cic. *Mur.*, 67; Berger, *RE* s.v. "Lex Tullia de ambitu," 2416; Alexander, *The Case for the Prosecution*, 124. This was apparently done by *subrogation*, on which, see no. 92 above.

¹⁰⁸ Cic. *Mur.*, 72-73.

¹⁰⁹ Cic. *Mur.*, 67-69.

¹¹⁰ Cic. *Mur.*, 77. *Qua re nec plebi Romanae eripiendi fructus isti sunt ludorum, gladiatorum, conviviorum, quae omnia maiores nostri comparaverunt, nec candidates ista benignitas adimenda est quae liberalitatem magis significant quam largitionem.* ('Therefore, neither should the Roman *plebs* be deprived of the enjoyment of games, gladiatorial shows and dinners, all of which were provided by our ancestors, nor should that benevolence, which represents liberality rather than largess, be taken away from the candidates.') Cf. Cic. *Planc.*, 45.

¹¹¹ Cic. *Cat.*, 1 is an example of unmatched invective. There are some further remarks in Cic. *Cat.* 2.7-9.

¹¹² Cic. *Mur.*, 49-50; Yakobson, *Elections and Electioneering*, 95.

drawn the attention of the consul and his chosen candidate. By 63 BC defeated candidates were undertaking the prosecution of rivals in order to attain the offices that they had failed to win in the elections¹¹³; there is little doubt that Sulpicius and Cicero would have prosecuted Catiline for *ambitus* had he won a consulship and his conspiracy not been uncovered.¹¹⁴ Other matters intervened. Cicero was provided with an ideal opportunity to get rid of Catiline when he learned of Catiline's secret meeting the day before the vote. Cicero called an emergency session of the senate, but was only able to secure a short postponement of the elections.¹¹⁵ He then produced his first oration against Catiline and Catiline fled from Rome.

***Rogatio Aufidia de ambitu* 61 BC**

By 63 BC bribery had become a widespread problem in elections. Cicero's law, despite his pride in it¹¹⁶, did not get off to a strong start. He helped Murena circumvent his own legislation. Even Cato, who promised to prosecute anyone for *ambitus* that year, was willing to admit bribing the populace could serve the public good two years later.¹¹⁷ It was in this context that the tribune M. Aufidius Lurco proposed his *rogatio Aufidia de ambitu* in 61 BC.¹¹⁸ He did so after the elections for the following year were announced,

¹¹³ Alexander, *The Case for the Prosecution*, 121; Michael Alexander, *Trials*, nos. 34, 200, 201.

¹¹⁴ Cic. *Mur.*, 7, 48-50.

¹¹⁵ Cic. *Mur.*, 50-52; David Stockton, *Cicero: A Political Biography* (Oxford University Press: London, 1971) 105-107.

¹¹⁶ Cicero mentions it many times: Cic. *Mur.* 3, 47, 67, 89; Cic. *Sest.* 133; Cic. *Planc.* 83; Cic. *Vatin.* 37.

¹¹⁷ Suet. *Caes.*, 19.

¹¹⁸ Cic. *Ad. Att.*, 1.16.13; Broughton, *MRR*, 2.179.

like the *lex Calpurnia de ambitu*¹¹⁹, and required a dispensation from the *lex Aelia et Fufia* in order to attempt to carry his law. A *senatus consultum* granted him the dispensation he required, the electoral *comitia* were postponed and he promulgated his legislation with the proper auspices.¹²⁰ Lurco's *rogatio* passed the senate, but apparently was not voted by the people because of the tense political climate.¹²¹

It seems fitting to mention here a pair of related *senatus consulta* successfully passed that year in the senate. Amongst rumors that the consul M. Pupius Piso Frugi Calpurnianus had *divisores* in his home, the younger Cato and L. Domitius Ahenobarbus demanded two unpopular decrees and succeeded in getting them put in place. One allowed the searching of magistrates' houses, while the other made anyone found with *divisores* in his house guilty of treason.¹²² This could not have sat well with the candidates for office that year, who were no doubt using *divisores* in their own canvasses.

Lurco's proposed law took a different approach. It would have allowed a candidate to promise gifts of money to tribes in return for support at the polls. No penalty would be incurred if he did not pay, but if he did, he would be liable to give 3,000 *sesterces* to every living member of every tribe.¹²³ Cicero apparently remarked that P.

¹¹⁹ See above.

¹²⁰ Cic. *Ad. Att.*, 1.16.13; McDonald, "The Tribune of Cornelius," 201 no. 3. The *comitia* were postponed until the 27th of July. Cicero notes particularly that Lurco was able to do so despite being a 'cripple;' no small feat.

¹²¹ Cic. *Ad. Att.*, 1.18.3; Berger *RE* s.v. "Lex Aufidia de ambitu," (1925), 2335. According to Cicero, the senate was being harassed, and the Roman *equites* alienated by the people.

¹²² Cic. *Ad. Att.*, 1.16.13.

¹²³ Cic. *Ad Att.*, 1.18.3; cf. Cic. *Ad Att.* 1.16.13.

Clodius, who in the coming years would control the gang violence in Rome, had obeyed Lurco's proposal by anticipation because he was accustomed to promise, but not to pay.¹²⁴ It is not known whether this penalty took the form of a one time payment, a sum new members could claim upon their entrance into a tribe or an annual gift the tribes were entitled to.¹²⁵ In any case, the amount of money required to pay all 35 voting tribes just once would have been astronomical, and, for lack of a better word, impossible.¹²⁶

Lex Licinia de sodaliciis 55 BC

M. Licinius Crassus and Cn. Pompeius Magnus had campaigned for and won the consulships of 55 BC; political necessity had driven both men to break more laws, perhaps, than was usual, but neither wished to see similar methods rule successive elections either.¹²⁷ In order to prevent powerful opponents from using the same techniques later Crassus proposed his *lex Licinia de sodaliciis* to control electoral corruption by *sodalitates*.¹²⁸ His legislation was foreshadowed in 56 BC, by a *senatus consultum* proposed by C. Hortensius during the violent disturbances of February and passed in the *curia*.¹²⁹ It ordered the dissolution of *sodalitates* and their *decuriati*¹³⁰, and

¹²⁴ Cic. *Ad. Att.*, 1.16.13.

¹²⁵ Lintott, "Electoral Bribery," 8.

¹²⁶ Cf. Suet., *Aug.* 40.2. Augustus himself paid only 1000 *seterces* to each member of the Fabian and Scaptian tribes.

¹²⁷ Dio 39.27.1-39.32.2; Gruen *LGRR*, 230; Broughton, *MRR*, 2.214-5.

¹²⁸ Cic., *Planc.*, 45-48; Sch. Bob., 152, Stangl.

¹²⁹ Cic. *Cael.*, 16; Cic *Ad Q. Frat.*, 2.3.5; Gruen, *LGRR*, 229-230; J. Linderski, "Ciceros Rede Pro Caelio und die Ambitus – und Vereinsgesetzgebung der Ausgehenden Republik," *Hermes*, 81 (1961), 106-119.

made any which refused to disband punishable *de vi*.¹³¹ There is no evidence this decree was ever made into law. Its failure is a near certainty, because both Pompey and Crassus were no doubt using such groups in their canvasses to secure themselves favor and were unwilling to part with their services. Likewise Cicero successfully defended Caelius in April of 56 BC against the charge of using *sodales* and *sequestres* for bribery.¹³² It was Crassus who passed similar legislation the next year, although his law probably codified the earlier *senatus consultum* after he was safely in office.¹³³

This was not the first law directed at organized groups involved in dubious dealings. The *lex* kept with the character of earlier legislation, from a *senatus consultum* of 64 BC which outlawed certain *collegia* seen to threaten the security of the state, to

¹³⁰ These were members of *sodalitates* organized into *decuriae*. What these *decuriae* were and how they were organized across tribes is a problematic subject. For the most reasonable conclusions, see J. Linderski, "Ciceros Rede Pro Caelio," 106ff. For a different view see S. Treggiari, *Roman Freedmen During the Late Republic* (Clarendon Press: Oxford, 1969), 169ff, esp. 175-176. She largely follows the earlier work of F. M. De Robertis, *Il diritto associativo romano dai collegi della repubblica alla corporazioni del basso impero* (Bari, 1938), 107, no. 38.

¹³¹ Cic. *Ad. Q. Frat.*, 2.3.5

¹³² Cic. *Cael.*, 16, 26.

¹³³ They both announced their intention to stand for the consulship after the date for announcing candidature had passed, but, when blocked, forced the elections to be delayed so they would be eligible. See Dio 39.27.1-39.31.1. Bribery and violence were also rife in the elections of lesser magistrates. See Plut. *Pomp.*, 52-53; Plut. *Cat. Min.* 42; Dio 39.32.2-3; Livy *Periocha*, 105; Val. Max. 7.5.6; Sen. Dial. 1.3.14, 2.1.3, 12.13.5; Ben. 5.17.2; Quintil. 9.2.25; Cic. *Ad Q. Frat.*, 2.7.3. Cicero mentions a proposal on bribery passed in the senate on the 11th of February, 55 BC. However, when an attempt was made to amend it to make prosecution easier, Pompey and Crassus refused to allow it.

further decrees and laws in the following years which concerned other suspicious social clubs and associations.¹³⁴ Among other things, these clubs could be used to solicit votes during elections and failing that to bribe or intimidate voters.¹³⁵ These laws and decrees were overturned during Clodius' tribunate of 58 BC. At that time he restored the previously illegal *collegia*, sanctioned the formation of new ones and protected them from further legislation with the *lex Clodia de collegia*.¹³⁶

All that is known about the particulars of the *lex Licinia de sodaliciis* is that it outlawed a particular group of electioneers (*sodalitates*), it allowed the prosecutor to choose four tribes to function on the juries, one of which the defence was able to reject,¹³⁷

¹³⁴ Cic. *Pis.*, 8; Ascon. 7, 75, C.; Gruen, *LGR*, 228. On *collegia*, see, F. M. De Robertis, *Il diritto associativo romano*, 71-162; L. R. Taylor, *The voting districts of the Roman Republic: the thirty-five urban and rural tribes* (Rome, 1960), 76-77; Andrew Lintott, *Violence in Republican Rome* (Clarendon Press: Oxford, 1968), 78-83; Treggiari, *Roman Freedmen*, 168-177; J. M. Flambard, "Clodius, les colleges, le plebe, et les enclaves. Recherches sur la politique populaire au milieu du 1er siècle," *MEFR*, Antiquité 89 (1977), 115-156; R. Macmullen, *Roman Social Relations 50 BC to AD 284* (New Haven, 1974), 73-87; and especially J. Linderski, in M. N. Andreeve, et al., *Gesellschaft und Recht im Griechisch-Römischen Alterum* (Berlin, 1968), 94-132. Linderski believed that *plures leges* (Ascon. 75, C.) referred to measures passed from 64 BC down to the time of Asconius.

¹³⁵ Cf. Q. Cic. *Comm. Petit.*, 30. For *sodalitates*, see Q. Cic. *Comm. Petit.*, 19; Cic. *Planc.* 37. *Collegia* were not usually malicious in nature; many were composed of workmen, slaves, and freedmen, and functioned as social clubs and trade guilds.

¹³⁶ Cic., *Sest.*, 34, 55; Cic., *Pis.*, 9; Cic., *Dom.*, 54, 129; Cic., *Ad Att.*, 3.15.4; Ascon. 7-8, C.; Dio 38.13.2, Plut. *Cic.*, 30.1; cf. Cic., *P. Red. in Sen.*, 33; Gruen, *LGR*, 228; Andrew Lintott, "P. Clodius Pulcher. Felix Catalina?" *Greece & Rome* 14 (1967), 157-169.

¹³⁷ Cic. *Planc.*, 36-37; Sch. Bob. 152, 160, Stangl.; Weiss, *RE* s.v. "Lex Licinia," no. 3 (1925) 2394.

and its general contents seem to have owed a great deal to Hortensius' *senatus consultum* of 56 BC.¹³⁸ If this is the case, then the *lex Licinia* may have punished those convicted by it for violence (*vis*), although we cannot know what alterations were made by Crassus.¹³⁹

The *lex Licinia* seems to have largely replaced the *lex Tullia de ambitu* because its jury selection process favored the prosecutor. Its penalties were probably equal to or more stringent than those of previous laws. This would explain why in 54 BC P. Vatinius was prosecuted for, among many other things, violating the *lex Tullia de ambitu*, he was charged under the *lex Licinia de sodaliciis*.¹⁴⁰ Cicero's law, however, was not abrogated. In 52 BC Milo was condemned *de vi* by Pompey's *quaestio*, and *de ambitu*, *de sodaliciis* and *de vi* by three other *quaestiones*, while a year later M. Valerius Messalla, after a successful defence against *ambitus*, was prosecuted *de sodaliciis*.¹⁴¹ Thus, it would seem that the *lex Licinia* added another, more favorable avenue of attack for those who wished to prosecute political rivals.

***Lex Licinia de ambitu?* 55 BC**

In the pro Plancio Cicero uses *leges* when referring to Licinian legislation¹⁴², the reference implies the existence of a *lex Licinia de ambitu* because Cicero was defending

¹³⁸ Cic. *Planc.*, 37; Gruen, *LGR*, 229-230. The *lex Licinia* probably developed from Hortensius' *senatus consultum*. See J. Linderski, "Two Speeches of Q. Hortensius. A Contribution to the Corpus Oratorum of the Roman Republic," *PP* 79 (1961), 304-311.

¹³⁹ Cic. *Ad. Q. Frat.*, 2.3.5.

¹⁴⁰ Cic. *Vatin.*, 37; See Alexander, *Trials*, no. 292 for sources.

¹⁴¹ Ferrary, "La Legislation 'de Ambitu,'" 182.

¹⁴² Cic. *Planc.*, 44, 49.

Plancius from just such a charge.¹⁴³ However, the argument that Crassus passed it in 55 BC along with his *lex de sodaliciis* has long been abandoned.¹⁴⁴ There is no reason to assume the existence of another *lex de ambitu* passed by Crassus because his *lex de sodaliciis* already covered electioneering. Furthermore, until 52 BC, subsequent prosecutions for *ambitus* were conducted under either the *lex de sodaliciis* or the *lex Tullia de ambitu*.¹⁴⁵

***Lex Pompeia de ambitu* 52 BC**

Cn. Pompeius Magnus promulgated two laws *ex senatus consultum* three days after assuming the consulship for the third time in 52 BC, the *lex Pompeia de vi*, and another *de ambitu*.¹⁴⁶ While the date of his appointment is difficult to determine, we know it occurred near the end of an intercalary month between February and March which had an unknown number of days, it is known that neither law was passed until at least mid-March.¹⁴⁷ The latter of the two was similar in character to the *lex Tullia* of 63 BC, although its penalties were probably more severe than Cicero's or those of the *lex Calpurnia*.¹⁴⁸ Conviction invalidated any office attained by bribery and removed the

¹⁴³ Lange, *Rom. Alt.* III², 341.

¹⁴⁴ Rotondi, *Leges Publicae*, 407.

¹⁴⁵ Alexander, *Trials*, 285, 289, 292, 293, 298, 299, 300, 301, 304.

¹⁴⁶ Ascon. 36, C; Berger, *RE* s.v. "Lex Pompeia," no. 2 (1925), 2403-04.

¹⁴⁷ Broughton, *MRR*, 2.233-4; R. Seager, *Pompey The Great*, 2nd Ed., (Blackwell Publishers: Cornwall, 2002), 135; B. Marshall, *A Historical Commentary on Asconius*, (University of Missouri Press: Columbia, 1985), 177 for a summary and bibliography.

¹⁴⁸ Ascon. 37, C.; App. *BC*, 2.23-24; Plut. *Cat. Min.*, 48.3; Tacit., *Dial. De. Orat.*, 38; Cic. *Ad Att.*, 13.49.1 and 10.4.8; Rotondi, *Leges Publicae* 410-11.

condemned's right to stand for office thereafter by exiling him.¹⁴⁹ There was probably some confiscation and sale of property as well, judging from what befell Milo.¹⁵⁰ Furthermore, both *leges* specifically allowed retroactive prosecution for *vis* and *ambitus*¹⁵¹; the allotted period was limited to just under twenty years: the time between Pompey's first and third consulships.¹⁵²

Pompey's legislation overhauled the *quaestio de ambitu*. He demanded that the date of any trial had to be fixed in advance, so everyone involved could duly present themselves.¹⁵³ Incentives were offered to successful prosecutors, while informers who turned were given immunity.¹⁵⁴ The time allowed for proceedings was shortened to five days. During the first three days witnesses were questioned, all of whom had to present themselves at the trial because Pompey had banned the use of written testimony from absent advocates and character witnesses.¹⁵⁵ Speeches were restricted to a specific length, and one need only think of Cato's extraordinary long-windedness to see the logic in this decision.¹⁵⁶ On the fourth day the prosecution and defense were given equal time

¹⁴⁹ See the *lex Calpurnia de ambitu* and *lex Tullia de ambitu* above.

¹⁵⁰ Ascon. 54, C.; Andrew Lintott, "Cicero and Milo," *JRS* 64 (1974), 77.

¹⁵¹ Ascon., 36, C.; App. *BC*, 2.23; Plut., *Cat. Min.*, 48.3.

¹⁵² App. *BC*, 2.23.

¹⁵³ Cic. *Ad. Att.*, 13.49.1.

¹⁵⁴ App. *BC*, 2.24.

¹⁵⁵ Ascon. 39, C.; Plut. *Pomp.*, 55; Plut. *Cat. Min.*, 48; Dio 40.52.2. Pompey perhaps also limited the number of *patroni* which could appear on either side. See Dio 40.52.1.

¹⁵⁶ Tacit. *Dial. De Orat.*, 38. For Cato's day long speech in opposition to Caesar in 60 BC, see Plut. *Cat. Min.* 31.

to present their respective arguments.¹⁵⁷ On the fifth and final day there took place a selection of jurymen from an *album* drawn up by Pompey himself, and these men would pronounce the verdict. Pompey would select eighty-one jurors in all, twenty-seven from each order,¹⁵⁸ of which both the prosecution and the defense could reject five from each order for a total of thirty. The remaining fifty one jurors gave their decision after the final speeches were delivered.¹⁵⁹

In order to prevent any postponement or cancellation of new trials, Pompey stationed soldiers next to the *iudices* and was often present a short distance away at the treasury.¹⁶⁰ His willingness to use these soldiers against the people of Rome was tested when a crowd disturbed the trial of M. Aemilius Scaurus.¹⁶¹ He first proclaimed that the people should wait for the decision of the *iudices*, but when they turned to violence a second time, his soldiers charged the unruly crowd and some were killed. Would be agitators seem to have submitted to Pompey's forced order thereafter.¹⁶²

Pompey is said to have thought bribery and corruption were the cause of the era's instability¹⁶³, which may help to account for some of the severity of his *ambitus*

¹⁵⁷ Ascon. 39, C.; Marshall, *A Historical Commentary on Asconius*, 187; Gruen *LGRR*, 238, n. 116.

¹⁵⁸ These orders were composed of senators, equestrians and the *tribuni aerarii*.

¹⁵⁹ Ascon. 38-39, C. Pompey allotted the prosecution no more than two hours to speak, while the defense counsel was given three.

¹⁶⁰ Cic. *Mil.*, 3, 71; Ascon. 30, C.; App. *BC*, 2.89; His precautions at the trial of Milo appear to have been extraordinary. See Seager, *Pompey*, 135-7 for a concise retelling of events.

¹⁶¹ Alexander *Trials*, no. 319.

¹⁶² App. *BC*, 2.24.

¹⁶³ App. *BC*, 2.23.

legislation, but his political agenda must have loomed large as well. This law provided him another avenue with which to attack his political enemies, and considering the nature of politics in the late republic, crimes long ignored were not difficult to find. While those on trial were usually as guilty as anyone else, it was Pompey's adversaries that felt the law's brunt and suffered his presence at or near their trial.¹⁶⁴ At the same time, he was quite willing to directly affect the decision of the *iudices*¹⁶⁵ or forestall any prosecution he particularly disagreed with.¹⁶⁶ He interceded personally in a number of cases when friends or relatives were put on trial and granted reprieves to most of them. This willingness to act did not, however, always prevent a conviction, nor was he able to prosecute whomever he wished. There were a few notable Romans that Pompey couldn't touch. Cato was one, and he was enough of a problem at Rome that Pompey offered him the governorship of Cyprus just to get rid of him.¹⁶⁷

It is pointless to speculate about this law's long term effectiveness, suffice it to say *lex Pompeia de ambitu* was the last republican *ambitus* law, and could have done no worse than previous legislation, although Pompey no doubt exerted influence on its use.

¹⁶⁴ Cic. *Mil.*, 3, 71; Ascon. 30, C.; App. *BC*, 2.89.

¹⁶⁵ App. *BC*, 2.24; Plut. *Cat. Min.*, 48.4-5. Pompey wrote a panegyric, a speech of praise, on behalf of Plancius. He does not seem to have suffered for it, despite having made panegyrics illegal with his *lex de ambitu*. However, Cato was a jurist at the trial and would have none of it, and the scandal was so damaging that Plancius was convicted even after Cato was removed from the jury.

¹⁶⁶ App. *BC*, 2.24. He certainly scoffed at the idea of prosecuting Caesar.

¹⁶⁷ Plut. *Cat. Min.*, 48 and *Pomp.*, 55. Cato had opposed the inclusion of retroactive prosecution, because it was ridiculous to punish men who had broken a law which hadn't existed at the time. Moreover, he called unwanted attention to Pompey's inconsistency in enforcing his own law.

There is no evidence that the law was ever abrogated. It seems to have been in service until the *lex Julia de ambitu* was passed in 18 BC, but early in 49 BC Pompey recalled from exile all those convicted by it to fight against Caesar.¹⁶⁸ The impending demise of the republic had by then made his law a moot point.

***Lex Iulia de ambitu* 18 BC**

Corrupt practices of seeking office did not disappear with the fall of the Roman republic. However, with Augustus in control of Rome and choosing who held high magistracies, the traditional usefulness of *ambitus* was extremely limited. Still, Augustus included the *lex Iulia de ambitu* in his moral legislation of 18 BC.¹⁶⁹ It was the first law to lighten penalties for *ambitus*. The exile and permanent disqualification from office of earlier laws were lessened to, as far as we know, a five year disqualification from office and a fine.¹⁷⁰ The younger Pliny tells us that a third of a defendant's *patrimonium* was to be given over as security; presumably this would be confiscated upon conviction, or returned upon acquittal,¹⁷¹ while a fine of a hundred *aurei* is mentioned in Justinian's Digest.¹⁷²

¹⁶⁸ Cic. *Ad. Att.*, 10.4.8. We are informed of this fact on the 14th of April, 49 BC, while Pompey's proclamation was made at some point in the previous week.

¹⁶⁹ Dio 54.16.1; Suet., *Aug.*, 34.1.

¹⁷⁰ Dio 54.16.1; Berger, *RE* s.v. "Lex Julia de ambitu," (1925), 2365-2368. Berger rightly questions whether the fine has been recorded correctly.

¹⁷¹ Pliny. *Ep.*, 6.19.4.

¹⁷² Iust. *Dig.*, 48.14.1.1 and 48.14.1.4.

Based on its continued use in the time of Theodosius¹⁷³, and its apparent neglected existence under Justinian¹⁷⁴, the *lex Iulia de ambitu* is certainly the longest lived example of *ambitus* legislation. However, this law cannot be considered in the same way as the republican bribery laws examined above precisely because it was passed by Augustus after the establishment of the principate. Republican politics had much changed by then.

¹⁷³ Theo., Codex, 9.26.1-4.

¹⁷⁴ Iust. Dig. 48.14.1. *Haec lex in urbe hodie cessat, quia ad curam principis magistratuum creatio pertinet, non ad populi favorem.* ('This law is inactive in the city today; because the appointment to the office of magistrate concerns the *princeps*, not the favour of the people.')

CHAPTER II:

AMBITUS: FORMS AND ORGANIZATION

Having sketched the history of Rome's reaction to the growing problem of *ambitus* from the annalistic notice of 432 BC to Augustus' law of 18 BC and the various penalties prescribed for a conviction, it is now necessary to determine what exactly *ambitus* was and how the process was organized. The purpose of this chapter is to explore these two aspects of *ambitus* in Rome during the last decades of the republic. In order to accomplish this, I shall first discuss the various venues for which wealth could be used in elections, and then I shall examine the various agents employed for the purpose of distributing gifts to the electorate.

AMBITUS AND ELECTORAL SPENDING

One question immediately comes to mind when one considers electoral spending during the last decades of the Roman republic; what was legal and what was *ambitus*? Our sources provide us with very little evidence; the first chapter illuminates only eight restrictions which can be attributed to that period. Three other references are known: two in Livy, one in Dio. The first, from 432 BC, restricted candidates from whitening their togas during the canvass and by our period was largely considered anachronistic.¹⁷⁵ The second, from the *lex Poetelia* of 358 BC, forbade candidates from canvassing at meetings

¹⁷⁵ See *Lex de ambitu* of 432 BC, 4-6.

and in marketplaces.¹⁷⁶ It does not concern me here whether one or both of these restrictions were genuine; neither had any bearing on the late republic. This can be shown not only by their temporal remoteness, but also by good evidence that candidates routinely broke these restrictions in the first century BC and suffered nothing for it.¹⁷⁷ The third, from the *lex Julia* of 18 BC, forbade candidates to pay voters, but this constraint was established after the Roman republic was replaced by Caesar and then Augustus and shows only that the *princeps* had some concern for the matter.¹⁷⁸

The remaining eight restrictions regarding the electoral conduct of candidates do, however, directly concern the period under discussion.¹⁷⁹ Briefly, these are:

1. Tentatively a *Lex Aurelia* of 70 BC¹⁸⁰: *nomenclatores* are forbidden. (Plut. *Cat. Min.*, 8.)
2. *Lex Calpurnia de ambitu* of 67 BC: it became illegal to assign seats at games and theatrical shows by tribe. (Cic. *Mur.*, 67.)
3. *Lex Calpurnia de ambitu* of 67 BC: it became illegal to provide open public banquets. (Cic. *Mur.*, 67; cf. Cic. *Mur.* 71)

¹⁷⁶ See *Lex Poetelia de ambitu* of 358 BC, 7-8.

¹⁷⁷ Cic. *Ad. Att.*, 1.1.2; *Phil.*, 2.76; Hirtius, *Bellum Gallicum*, 8.50; E. S. Staveley, *Greek and Roman Voting and Elections* (Cornell University Press: Ithaca, 1972), 202; Taylor, *VDRR*, 126ff. On the other hand, candidates routinely broke every restriction on candidacy and more than a few escaped unscathed.

¹⁷⁸ Dio 54.16.1.

¹⁷⁹ Ellen Baurle, *Procuring an Election: Ambitus in the Roman Republic, 432-49 BC*, PhD Dissertation (University of Michigan Press: Ann Arbor, 1990), 8. She has outlined these restrictions in much the same way.

¹⁸⁰ See chapter 1.

4. *Lex Calpurnia de ambitu* of 67 BC: men could not be hired to follow any candidate. (Cic. Mur., 67.)
5. *Lex Calpurnia de ambitu* of 67 BC: men could not be paid to meet (*obviam*) any candidate.¹⁸¹ (Cic. Mur., 67.)
6. *Lex Tullia de ambitu* of 63 BC: it became illegal to provide games and theatrical shows within two years of candidacy, unless in fulfillment of a will. (Cic. Mur., 47 and 89; Cic. Sest., 133; Cic. Planc., 83; Dio, 37.29.1; Schol. Bob., 79 St.; Cic. Vatin., 37.)
7. *Lex Licinia de sodaliciis* of 55 BC: *sodalicia*, that is, groups of young aristocrats originally attached to specific cults but in the late republic had become vehicles of bribery, could not be deployed during an election. (Cic. Planc., 36 and 45.)
8. *Lex Licinia de sodaliciis* of 55 BC: *divisores*, men involved in distributing gifts throughout the tribes, could not be deployed during an election. (Cic. Planc., 55.)

Because *ambitus* as a practice was defined by *ambitus* law, it evolved each time any particular action was legally classified as corrupt electioneering. It is clear that any practice as yet unclassified was fair game, although these were often regarded as unethical and had to be curtailed in subsequent laws. Three facts are clear. First, the continued need to pass legislation against an ever wider variety of electioneering practices must mean that some practices were abandoned as penalties were created

¹⁸¹ Baurle, Procuring an Election, 8. Baurle is uncertain whether restrictions 4 and 5 are the same. Cicero clearly differentiated between them because he mentioned them separately. It stands to reason that attendants and ‘meeters’ were different groups, just as *salutares* and *sectatores* were, although a certain level of overlap is to be expected. Cf. Q. Cic. Comm. Petit., 34.

against their use, if only to be replaced by clever alternatives. Second, recurring trials under *ambitus* law show that some illegal practices could never be done away with entirely. Third, candidates did not respect *ambitus* law or fear a trial for the crime sufficiently to halt corrupt electioneering; the rate of conviction was low, trials were political, proof was difficult to come by for the prosecution and judges and juries, some of whom had themselves committed the crime of *ambitus* and escaped punishment, could be bribed by either side.¹⁸²

Because it is impossible to illustrate the practice of *ambitus* fully, reconstructing the financial transactions of candidates during their candidacy is absolutely crucial to understand its workings. Our evidence is slight; we have only allusions in our sources which offer far too little to build any perfect model. There is no treatise on *ambitus* for us to study. While such a work would be extremely useful, attempting to construct a universal paradigm for *ambitus* approaches the problem from the wrong direction. It is unlikely that candidates organized their illegal electioneering in the same way at any given time; it is equally unlikely that *ambitus* in general functioned in any static way over time. Indeed, this might explain the failure of legislation against it because, although there were common methods of bribing the populace (public dinners, games and

¹⁸² Baurle, *Procuring an Election*, 293-296. Of 48 known cases of *ambitus* 37 went to trial, 18 were convicted and 17 acquitted, while 2 have unknown verdicts. In another 11 incidents of *ambitus*, 6 amount to rumours, while the remaining 5 men were indicted, but escaped trial. This list includes Pompey and Crassus, who both campaigned aggressively for the two consulships of 55 BC and may have blocked anti-corruption legislation during their canvasses. From what we know of trials, the rate of conviction was about half, but for overall incidents of *ambitus* this must be significantly lower, since relatively few offenders could be brought before the *quaestio*.

donatives), each candidate would have his own methods for providing and distributing them. Therefore, it is necessary to examine what candidates spent their money on and how these actions were defended to get a proper sense of corrupt electioneering.

The *Commentariolum Petitionis Consulatus*, almost undeniably written by Q. Cicero to his brother at some point in 65-64 BC,¹⁸³ offers valuable insight into the development and maintenance of general goodwill and the techniques by which a disadvantaged candidate for the consulship might discredit and, if that failed, surpass his opponents.¹⁸⁴ Apart from stressing the need for M. Cicero to preserve suitable appearances, such as a personal image and identity which were politically viable and publicly praiseworthy,¹⁸⁵ it also spends the bulk of its fourteen chapters focusing on the need for liberality; the key to acquiring the requisite plebeian retinues and supporters for his canvass.¹⁸⁶

A few consuls were reputed to have won the office without resorting to mass bribery, but for the vast majority of candidates paying tribute to the crowd was a political necessity, if only to keep abreast of their opponents. Games and theatrical shows,

¹⁸³ On the issue of its authenticity, see M. I. Henderson, "De Commentariolo Petitionis," *JRS* 40 (1950), 8-21; R. G. M. Nisbet, "The Commentariolum Petitionis: Some Arguments against Authenticity," *JRS* 51 (1961), 84-87; J. P. D. Balsdon, "The Commentariolum Petitionis," *CQ New Series* 13.2 (Nov., 1963), 242-250; and most convincingly, D. Nardo, *il commentariolum petitionis: la propaganda elettorale nella ars di quinto cicerone* (Lavinia Editrice: Padova, 1970), 3-137, esp. 129-137.

¹⁸⁴ Q. Cic. *Comm. Petit.*, 1-58.

¹⁸⁵ Not to mention the unsuitability of his rival candidates for the office. See Q. Cic. *Comm. Petit.*, 7-9.

¹⁸⁶ Q. Cic. *Comm. Petit.*, 16-38, 41-53.

dinners, electioneers, strong arms, retinues and supporters had to be provided. Still, the crowd was not the only focus; powerful, but normally neutral, men had to be actively recruited in return for promises, favours and/or cash, while enemies might be bought off in much the same way.¹⁸⁷

GAMES, SHOWS AND BANQUETS

The cost of providing games and theatrical shows was immense, especially when we factor in the temporary facilities which had to be constructed to hold them and the importance of production values.¹⁸⁸ We can assume the more opulent, extravagant and colossal the event (and the theatre or amphitheatre it took place in), the better it was received by the masses who were watching. Politicians *had* to provide memorable games and shows, those who did not risked being eclipsed by their competitors or rebuffed by the crowd.¹⁸⁹ Further, it was not until 55 BC that Pompey built the first permanent Roman theatre. One permanent structure could not possibly have satisfied the needs of consular candidates who wished to exploit shows, legal or not, for electoral benefit in any

¹⁸⁷ Livy 39.41; Plut. Cat. Mai., 3; Plut. Cic., 10; and, if we can believe Q. Cicero, Comm. Petit., Passim. Cf. Plut. Cat. Min., 49. These expenses must be taken on top of all other costs incurred by a senatorial lifestyle, necessarily inflated for some time before the canvass began.

¹⁸⁸ After they were demolished, materials were no doubt salvaged and reused, which would have lessened the expense considerably.

¹⁸⁹ For example, the three levelled theatre of Scaurus built in 58 BC (Val. Max. 2.4.6-7; Pliny NH 34.36, 35.127, 36.113-116; I Shatzman, Senatorial Wealth and Roman Politics, Collection Latomus, Vol. 142 (Bruxelles, 1975), 290. In 53 BC Scribonius Curio had a back to back theatre which could be turned into an amphitheatre (Cic. Ad Fam., 2.3, 8.2.1; Pliny NH 36.116-7), the mechanism was popular and seats so hard to get that audience members refused to get up from their seats during the changeover.

given year. No doubt prospective candidates who were not friends of Pompey had to make their own arrangements.¹⁹⁰

Prior to candidacy for the consulship, it was in every politician's interest to provide games and shows as often as possible, but legal opportunities for such displays were limited. The aedileship offered politicians an excellent opportunity to cultivate the general goodwill of the commons; aedilician games were state funded and this sum could be and almost always was supplemented by an aedile's own capital.¹⁹¹ Subsequent opportunities and excuses, that is, opportunities which arose out of office or in close proximity to an election, were not always held in a similar light. It was only the right to celebrate funerals and fulfill the demands of a will which was held sacrosanct to the end of the republic.¹⁹²

We know that strict limits had been set on funeral celebrations by Numa and later by the twelve tables. Expenditures were restricted only to three veils, a purple tunic and ten flute players, while garlands won in war or competition were permitted. Wakes, *sumptuosa respersio* and perfumes were restricted, worked wood could not be used in pyres and secondary funeral rites were forbidden except for men who had died in foreign

¹⁹⁰ Asc. *in Pis.*, 1 C; Vell. 2.48; Tac. *Ann.*, 4.45, 14.20; Cic. *Pis.*, 65; Pliny *NH* 7.158, 8.20, 24.39, 36.115; Plut. *Pomp.*, 52; Mon. *Anc.*, 4.9; Suet. *Tib.*, 47; Suet. *Claud.*, 21; Suet. *Nero* 13; Mart. 4.9, 10.51.11, 14.29.1, 166.1; Flor. 2.13.91, 13.8; Cic. *Ad Att.*, 4.1.6; Hor. *Carm.*, 1.20.3; Dio 50.8.3; cf. Tac. *Ann.*, 13.54; Plin. *NH* 33.54; Dio 39.38, 62.8.

¹⁹¹ Staveley, *Greek and Roman Voting*, 203; Shatzman, *Senatorial Wealth*, 290; A. Yakobson, "Petitio et Largitio: Popular Participation in the Centuriate Assembly of the Late Republic," *JRS* 82 (1992), 39-41.

¹⁹² See *Lex Tullia de Ambitu*. Staveley, *Greek and Roman Voting*, 203, no. 382.

lands. Slaves could not anoint the bodies; women were prohibited from scratching their faces and the *lessum*, and no gold but gold teeth could be buried with the dead.¹⁹³ Except for a brief period after the battle of *Cannae*,¹⁹⁴ these restrictions appear to have remained largely unchanged until Sulla passed his *lex funeraria* in 81 BC. The particulars of Sulla's legislation are unknown except that he established a maximum price for funerals and funerary monuments and imposed a fine equal to the excess spent for the latter.¹⁹⁵

Despite these restrictions, funeral games and celebrations were generally opulent affairs in the late republic. It is interesting to note that the tragedy of death could be a political boon for any candidate wealthy enough to take advantage of it. Others might not have the resources to do so, and if a funeral came at an inconvenient time a candidate of modest means might find himself weighing the benefits of holding large and expensive celebrations immediately, but at a time so far removed from his next election canvass that they were rendered ineffective, or of holding less opulent celebrations for the deceased and using the money saved for larger celebrations to some other advantage. Any candidate who did so risked having public opinion toward him sour if such motivation was detected.¹⁹⁶ Still, celebrations could technically be put on at any time by anyone; it

¹⁹³ Cic. *Leg.*, 2.59-60; Only three veils, a purple tunic and ten flute players were deemed acceptable. For specific restrictions, see Cic. *Leg.*, 2.58-60; Cic. *Tusc.*, 2.23.54. See also C. Eilers, *Roman Republican Sumptuary Legislation*, MA Thesis, (McMaster University: Hamilton, 1989), 5-6.

¹⁹⁴ Livy, 22.55.6 and 22.56.4; Plut. *Fab.*, 18.1.

¹⁹⁵ Plut. *Sull.*, 35.4; Cic. *Ad Att.*, 12.35-36.

¹⁹⁶ The Stoic Quintus Tubero, when asked to help with the funeral celebrations of his mother's brother, Publius Africanus, spread goatskins on Punic stools and set out Samian crockery instead of silver

was only when they took place too close to a provider's canvass or when the distribution of seats was considered too political that he risked an *ambitus* charge.¹⁹⁷

Banquets were a staple of the canvass in the last decades of the republic and, like games and shows, were subject to legislative control. During the first half of the first century BC at least two sumptuary laws, *leges cibariae*, were passed to set limits on the luxury of banquets hosted by Rome's most affluent citizens.¹⁹⁸ Among his other legislative reforms in 81 BC, Sulla passed at least one such law, but broke the very limits he set on feasts and drinking parties when his wife Metella died; his followers did the same for Sulla's funeral a few years later.¹⁹⁹

The second law was passed in 68 BC by an Antius Restio, probably a tribune of the *plebs*, which not only fixed a maximum allowance for meals on regular and special days (as had the *lex Cornelia* and many *leges sumptuariae* before it), but also made it illegal for magistrates and magistrates-elect to accept dinner invitations except under specific circumstances laid down by the law. These exceptions are unknown, although attendance at funeral banquets was probably deemed acceptable. The law failed spectacularly; Antius Restio is said never to have dined out again lest he see it being ignored with impunity.²⁰⁰

plate. The Roman people, according to Cicero, were disgusted by this display; he subsequently lost his bid for the praetorship. See. Cic. *Mur.*, 75-76.

¹⁹⁷ Cic. *Mur.*, 72-73.

¹⁹⁸ The *lex Cornelia sumptuaria* in 81 BC (Rotondi, *Leges Publicae*, 354-5) and the *lex Antia sumptuaria* in 68 BC (Macrob. *Sat.*, 3.17.13; Gell. 2.24.13).

¹⁹⁹ Plut. *Sull.*, 35.3-4; App. *BC*, 1.106; *Comp. Lys. Sull.*, 3.2.

²⁰⁰ Macrob. *Sat.*, 3.17.13; Gell. 2.24.13.

Five years later a *senatus consultum* of Cicero's was passed, accompanied shortly thereafter by his *lex de ambitu*, which made the giving of indiscriminate banquets by a candidate to the people during an electoral canvass a violation of the *lex Calpurnia de ambitu*. This measure was no more successful; candidates were able to circumvent the clause by having friends put on the banquets for them, a loophole Cicero himself defended that very year at the trial of L. Murena.²⁰¹ A third measure was proposed in 55 BC by Pompey and Crassus, but nothing came of it. Dio tells us that Hortensius convinced them such a measure would do no good and, fearing unpopularity and its ineffectiveness, the two consuls let the matter drop.²⁰²

Obviously banquets were indispensable to candidates despite the legal inconvenience, no doubt candidates were highly visible and inherently approachable at these events, certainly more so than at games or shows. Such generosity provided an excellent opportunity to win favour with the 'indiscriminate' commons; banquets also allowed candidates to target specific tribes, although in those cases the host must have been very carefully chosen.²⁰³ Nor can the impact of distinguished guests be overlooked; the *commentariolum* specifically stresses that Cicero ensure as many of his friends as possible be present with him at any public function. Q. Cicero obviously felt that their backing would help strengthen his brother's image and win him further support.²⁰⁴

²⁰¹ Cic. *Mur.*, 67.

²⁰² Dio 39.37.

²⁰³ Q. Cic. *Comm. Petit.*, 44-45.

²⁰⁴ Q. Cic. *Comm. Petit.*, 44.

GIFTS AND PROMISES

Cicero would have us believe that the giving of gifts to would be supporters during an election season was *ambitus* only if a campaigner or his representatives demanded a favourable vote in return. Otherwise a gift, or rather the rendering of practical assistance (*opera*), should not only be allowed, but encouraged.²⁰⁵ This line of reasoning is naturally quite blurry; the letter of the law was no doubt somewhat stricter. Cicero defended more than a few magistrates-elect against *ambitus* charges; in his surviving speeches his purpose is always to secure an acquittal for his client whether or not that client was guilty. Cicero was also a politician, and a shrewd and successful one at that. Yet, as much as Cicero was exceptional as an advocate and a *novus homo*, he was bound by the rules and laws of republican Rome. Cicero had to function within set limits; indeed he seems to have been largely reluctant to go beyond what was legally permissible, personally at any rate.²⁰⁶ For those he represented, he was never above skewing his interpretation of legal and social issues or lying outright if doing so served his or their interests. In order to be successful, however, his defence had to always maintain the respectability and innocence of his clients, façade or not, lest they be convicted.²⁰⁷

Thus, Cicero has shown us an interesting problem. Giving assistance to social inferiors, either through personal or financial aid, was a tradition in Rome and it did not simply stop during election season. It is not surprising that the aid some candidates gave

²⁰⁵ Q. Cic. *Comm. Petit.*, 44; Cic. *Mur.*, 67-67, 77.

²⁰⁶ He took great pains to protect himself when he had the Catilinarians executed without trial, but he did accept full responsibility for his actions later. See Gruen, *LGR*, 281-2 and no. 76-79.

²⁰⁷ For *ambitus* trials see the *pro Murena* and *pro Plancio*.

manifested itself in an illegal way; in fact this was probably a relatively common occurrence. Q. Cicero handles the issue of gifts at length in the *commentariolum*, although he sidesteps the problem of legality by restricting himself to the subject of promises of future assistance, while silently leaving the choice of what kind of immediate and potentially illegal gifts his candidate brother might provide.²⁰⁸ His lessons are illustrative. Except for opponents and their partisans, candidates had long learned that they could not afford to openly insult anyone during their canvasses²⁰⁹, nor could they ignore anyone who came seeking their help.²¹⁰ It was Cicero's duty to actively recruit supporters from every corner of Rome, from every class, order and tribe. While some support would be found among those he had already helped, either by having provided service for or assistance to any number of people, more could be gained from those he promised to help during his canvass:

qua re hoc quidem facile praeceptum est, ut quod facturus
sis id significes te studiose ac libenter esse facturum; illud

²⁰⁸ Q. Cic. *Comm. Petit.*, 44-45. Practical gifts might take the form of money or food; the latter could be provided in a bowl inscribed with the responsible candidate's name or that of a supporter acting on his behalf and a petition for support at the polls.

²⁰⁹ Val. Max. 7.5.2: P. Scipio Nasica failed in his first bid for the aedileship after he asked a farmer whether he walked on his hands, because they were so work-hardened. Bystanders overheard, the rumour made its rounds, and the urbane candidate was rejected. Still, there was no guarantee that 'shaking hands' with the commons, even a year in advance, would confer a successful bid for office. Cf. Cic. *Ad Att.*, 1.1.

²¹⁰ Q. Cic. *Comm. Petit.*, 16-49. cf. Cynthia Damon, *The Mask of the Parasite: A Pathology of Roman Patronage* (University of Michigan Press: Ann Arbor, 2000), chapter 7, esp. 252-258. An open face and house during elections did not preclude harsh feelings towards the masses, as Cicero's writings readily illustrate.

difficilius et magis ad tempus quam ad naturam accommodatum
tuam, quod facere non possis, ut id <iucunde neges>²¹¹
quorum alterum est tamen boni viri, alterum boni petitoris.

Indeed with respect to this matter, it is an easy rule, that what you are about to do [for someone], you show him that you will do it eagerly and agreeably; it is more difficult and more an adaptation to the times than of your nature, and what you are unable to do, <refuse it gently> of the two one marks a good man, the other a good candidate.
(Q. Cic. Comm. Petit. 45)

This kind of political expediency is reinforced later by Q. Cicero with the story of C. Cotta. Cotta was a master of electioneering; he would accept any reasonable request from anyone during his canvass so long as that request was not contrary to his moral duty (*officium*). He would keep the promises most advantageous to him, while intervening circumstances often made little of the rest; some became obsolete, others proved insignificant or easily granted, while others still might never be claimed. The remainder Cotta could refuse if need be, since he risked only a wronged man's anger for doing so.²¹²

Two facts are immediately apparent from the preceding discussion. First, candidates could not refuse many appeals for aid or openly snub members of the electorate, lest they become unpopular. Second, there were political advantages for granting some requests during the electoral season, not the least of which was the establishment of a candidate's trustworthiness and the bolstering of his personal support. Still, no candidate could grant every request that came his way, even if he had the means to do so; this type of goodwill was risky precisely because it had to be public to be effective; he would be providing his opponents with well known examples of *ambitus* with which to prosecute him. According to Cicero this would have been *ambitus* only if

²¹¹ Q. Cic. Comm. Petit., 45, ed. W. S. Watt, M Tuli Ciceronis epistulae, vol. III (Oxford Classical Texts), 1958. Watt takes the text *iucunde neges* as genuine, although this has been disputed.

²¹² Q. Cic. Comm. Petit., 47.

the candidate required a vote in return for the assistance he gave.²¹³ Yet this definition must also have been subject to interpretation; it was for the advocates to prove or disprove wrongdoing. Cicero was simply better than most.

ELECTIONEERS

The term 'electioneer' can only be used in the broadest sense when referring to Roman elections; I use it to refer to anyone who actively helped a candidate procure votes, a very large and indistinct group. Since most electioneers were involved in illegal activities, it is not surprising that our sources lack many specific details about exactly who they were or what they were doing; these networks were secretive for obvious reasons. However, the names of some of the types of agents and associations a candidate could employ have been preserved, along with something of their functions, and these shall be discussed below. For the purposes of this thesis, these have been confined to the period of 80-49 BC.

Candidatus

The principal electioneer in any canvass was the candidate himself. The candidate was the organizer of and, more importantly, the bankroller for his bid for office. The success necessary to rise through the *cursus honorum* demanded a strong political base and continued sources of capital; ideally, a candidate's ability to secure both would test his suitability for high office. In reality not all politicians were gifted with the same status and connections at the beginning of their careers. While a distinguished pedigree was of great help to some, those who had one did not always

²¹³ See Chapter 1: *Lex Tullia de ambitu*.

succeed. More telling is the ability of some Romans to either maintain or create that status and those connections for themselves, both in Rome and throughout Italy.²¹⁴

A bid for the consulship began years in advance; it took time for candidates to send agents throughout Italy and travel widely themselves and money to organize the provision of games, shows, dinners and other incentives for voters. During the canvass of Rome, which sometimes began a year or so in advance of the elections,²¹⁵ it was the candidate's task to actively seek out support in order to succeed at the polls and to fully mobilize of his vast network of family, friends, political allies, tribesmen, clients, electioneers and other well wishers, and to set them to work on the voters of Rome and Italy.²¹⁶ It was imperative that he win over as many men of importance as he could and that he actively promote himself as impressively and liberally as possible to the crowd. A clever candidate would balance popular and conservative politics in order to maintain the good will of both sides, to this effect Q. Cicero advised his brother not to undertake legislative causes while a candidate, since abstaining would leave him free and anger neither group.²¹⁷

²¹⁴ For example, see Broughton, MRR, 1.523 for Marius' election to the praetorship and 1.547 and 1.549 for his connection to Metellus. For Sulla and his connections to Marius see Broughton, MRR, 1.551, 1.554, 1.556, 1.561, 1.564, 1.573, 2.14 and 2.39-40. For Cicero and his connections to Pompey, Caesar and Crassus, see Broughton MRR, 2.98, 2.152 and 2.165-166. For M. Acilius Glabrio and his connections to Pompey, see Broughton MRR, 2.127 and 2.142-143 and for L. Afranius, see Broughton, MRR, 2.182-183.

²¹⁵ Cic. Ad. Att., 1.1.

²¹⁶ Q. Cic. Comm. Petit., 17, 29-33; Yakobson, Elections and Electioneering, 78. For the sake of his public reputation, Cicero is advised to ensure that even his freedmen and household slaves think well of him, lest he suffer at the polls.

²¹⁷ Q. Cic. Comm. Petit., 53.

Competition was fierce; every year there were more than two candidates for the consulship and more than two of those would be suitable for the office. No matter how good a candidate was the element of chance, that is the unpredictability of the crowd and the potential for prosecution, was never far away.²¹⁸ A candidate had to undermine the canvassing efforts of his competitors and protect himself against similar tactics. To accomplish the former, the *commentariolum* prescribed slander and scandal, advising Cicero to criticise the personalities, lifestyles and failings of his competitors in order to highlight his own good character; while drumming up new embarrassments could serve as an important windfall.²¹⁹ Further, it reminds Cicero to keep an eye out for illegal electioneering because he was such a successful advocate, and to make it known that any such corruption would be the subject of a most zealous prosecution once the elections were over.²²⁰

Winning over active detractors took an almost unattainable finesse, although it was at times possible to mollify some with a suitable explanation for past attacks and the provision or promise of service.²²¹ While Cicero seems to have loathed the idea of using organized electioneering in an openly illegal way, other candidates had no such scruples. Yet, to protect against prosecution or, failing that, conviction, those candidates had to

²¹⁸ While Cicero had other motives than the truth for saying so, he no doubt struck a nerve with his audience. See Cic. *Planc.*, 11, 15; Cic. *Mur.*, 35-36.

²¹⁹ Q. Cic. *Comm. Petit.*, 25-45 and 52.

²²⁰ Q. Cic. *Comm. Petit.*, 54-57.

²²¹ Q. Cic. *Comm. Petit.*, 39-40.

hide the actions of their electioneers and maintain that any suspected wrongdoing was perfectly legal, if somewhat hard to explain.²²²

Nomenclatores

It was absolutely crucial that candidates could greet every potential voter they happened to meet by name; a *nomenclator* was the slave who accompanied his owner on his canvass and was responsible for knowing and providing those names and any other specific details he knew as needed.²²³ Their use in elections was forbidden by law during the war with Spartacus; Plutarch tells us that Cato the younger, while seeking his military tribuneship, was the only candidate who obeyed the new limitation.²²⁴ However, by 63 BC and no doubt a few years earlier, Cato did employ a *nomenclator*. Cicero harshly criticized him and his devotion to stoicism when he brought one to the trial of Murena. Yet, despite the ferocity of his attack, Cicero employed one as well.²²⁵

The failure of the law is not surprising; *nomenclatores* were a political necessity for those seeking office in the late republic. It would have been a monumental task, if not an impossible one, for any candidate to acquaint himself with the names of every potential voter in a city the size of Rome, while at the same time conducting his canvass. Instead, with a *nomenclator* close at hand, candidates could be confident that the names

²²² See Baurle, *Procuring an Election*, ch. 2 for a functional catalog of men involved in *ambitus*.

²²³ Cic. *Ad Q. frat.*, 1.2.9; Hor. *Ep.*, 1.6. 49-54; Pliny *Epist.*, 2.14.6; Bernert, *RE* s.v. 17.1 (1936), 817-818.

²²⁴ Plut. *Cat. Min.*, 8 and *Caes.*, 13.

²²⁵ Cic. *Ad. Att.*, 4.1.5; Cic. *Mur.*, 77.

of strangers would be whispered in their ears at just the right moment. His efforts would be better spent ingratiating himself to the men pointed out to him.²²⁶

Deductores, Salutatores and (Ad)sectatores

In sections 34-38 of the *commentariolum petitionis*, Cicero is advised to ensure he has sufficient attendants to call on him at home and to escort him throughout the city and in the forum. He was to ensure that these attendants, who served as his visible and audible support in Rome, were made up of every order and class. We are told that his ability to draw a wide variety of supporters would allow him to guess how much support he would have at the polls.²²⁷ These supporters are divided into three groups: the *deductores*, the *salutatores* and the *adsectatores*.

Deductores seem to have been the personal friends of a candidate, probably of similar or slightly greater social status, who formed a core of peer-support around him. There are three reasons to believe this. First, *deductores* are referred to as separate from two other accompanying groups, the *salutatores* and the *adsectatores*. Second, their role was more important than the morning greeters (*deductorum officium quo maius est quam salutorum*). Further, there is a sense that some *adsectatores* were obligated (*debent*) to serve as escorts or to provide proxies if their age and/or business concerns (*per aetatem ac negotium*) interfered. This implies a subordinate social position precisely because they should serve the candidate who had helped them in the past despite their age and the needs of their businesses. Finally, Pliny the younger in his *Epistles* praises a Corellius Rufus, a man of superior social status who had been a *deductor* of his, for showing him

²²⁶ Q. Cic. *Comm. Petit.*, 32.

²²⁷ Q. Cic. *Comm. Petit.*, 34-38.

such good will despite his youth and for aiding him in his political advancement by recommending him personally to the emperor.²²⁸

If *deductores* were in fact the personal friends of a candidate, of similar or greater social and political status and, especially, in good standing with the senate and the people of Rome, then they must have added considerable prestige to their chosen canvass. Indeed, they are instructed to go with their candidate to the forum at set times each day so that by their presence and numbers they could bring him great dignity.²²⁹ In a sense they would have served as a personal political party, inasmuch as they were allied for one specific election and their support was tied to a single individual and what he was likely to do as an elected magistrate. Yet this type of support was fluid, faces changed from year to year as positions and circumstances also changed; a candidate might find one of his staunchest supporters during a previous election actively helping an opponent, for a wide variety of reasons, in a subsequent one.²³⁰

Salutatores were greeters who gathered at the homes of candidates during the day in order to show their support and, no doubt, with the hope of collecting some manner of donative for doing so. The social makeup of this group must have varied, although the majority would undoubtedly have been quite poor; these men would gain the most from small gifts. Still, some *salutatores* may well have been better off, visiting each candidate

²²⁸ Q. Cic. *Comm. Petit.*, 34, 36; Pliny *Epist.*, 4.17.6.

²²⁹ Q. Cic. *Comm. Petit.*, 36.

²³⁰ Brunt, *Fall*, 443-502.

in turn to decide which was worth supporting; lining one's pockets was simply an added bonus.²³¹

Of the three groups of attendants described, *salutatores* are certainly considered to be the least helpful. As individuals they were not tied to any one candidate except by choice; Cicero had to court their favour as a candidate, despite the knowledge that many were in the habit of courting his opponents at the same time, calling on each for maximum personal gain. Yet Q. Cicero is adamant: Marcus must win over as many as possible, he must know the names of every *saluator* who comes to his house and appear to be pleased with all of them and ensure that those men hear of it as often as possible from his friends and their own. He must also pretend not to have noticed any double dealing and reassure any who seek to absolve themselves of it that he never doubted their devotion. Q. Cicero assured his brother that such attention to detail would win him the good will of many of the unattached, especially if other candidates lacked such insight, and that in time those men would emerge as his true supporters, no longer a promiscuous crowd.²³²

Adsectatores provided candidates with the bulk of their daily escort, meeting them at their homes and accompanying them on their rounds and to the forum. They were

²³¹ Q. Cic. *Comm. Petit.*, 34; J. J. Vanderbroeck, *Popular Leadership and Collective Behavior in the Late Republic (ca. 80-50 BC)* (Amsterdam, 1987), 25-26. There had to be some tangible reason for men to visit more than one candidate; many must have been given something, such as a bite to eat or some small amount of money. Even this support had to be won over or bought; these men cannot represent the 'lent' clients mentioned by L. Taylor, *Party Politics in the Age of Caesar*, (Berkeley: University of California Press, 1949), 43. Cf. Yakobson, *Elections and Electioneering*, 72.

²³² Q. Cic. *Comm. Petit.*, 34-35.

composed partly of volunteers, partly of men who owed candidates some debt and partly of men who were paid for their trouble. With three possible sources of *adsectatores*, groups of them were probably composed of quite a variety of people. Volunteers could potentially be from a range of social strata; in essence anyone interested in cultivating Cicero's good will. Those who owed him service would have had at least some property, while those who had to be paid to show up probably had very little or none. The fact that the poorest members of the community, men who could serve only as a visible and physical presence attending to a candidate, had to be paid and diligently won over by Cicero strongly suggests that they represented some manner of political strength, even if they rarely or never actually got to vote.

The volunteers were probably mostly men seeking Cicero's notice and future favour; certainly they were not beholden to him in any way, and indeed Cicero is advised to tell them all directly that he is forever in their debt. Some *salutatores* must have fallen into this classification as well, after they had decided Cicero was the candidate to back. For those who owed him this service, among them those he had defended and saved, he could demand it of them; reminding each that their continued good fortune was the result of his intervention, and that they might never have another chance to repay him. If any could not fulfill this duty on account of age or business obligations, they were to provide proxies instead.²³³ Still, as Yakobson has noted, there was little recourse for Cicero if any failed to show up.²³⁴

²³³ Q. Cic. *Comm. Petit.*, 36-38; cf. *Comm. Petit.*, 19; Cic. *Mur.*, 68-73.

²³⁴ Yakobson, *Elections and Electioneering*, 74.

Adsectatores could also be hired; this despite laws against the practice. The *lex Fabia numero sectatorum* and a *senatus consultum* of 63 BC, and most probably the *lex Calpurnia de ambitu*, made it illegal for candidates to pay their entourage. The *lex Fabia* was unpopular in this regard, but it is unlikely that the limitation was universally ignored without consequence; the accusations against Murena at his *ambitus* trial included the payment of a large crowd who greeted him on his return from his province.²³⁵

Sequestres

Sequestres appear to have been depositors for bribery money, both for corrupting the *iudices* and the electorate. In the *pro Cluentio* and the Verrine orations the word refers to the person who had accepted the bribery money and kept it on his own property.²³⁶ While their methods of bribery are unknown, certainly one must doubt Cicero's simplified version of a certain Staienus's clumsy attempts to bribe 16 judges with 40,000 *sesterces* each in the *pro Cluentio*. It is difficult to envision a *sequester* personally approaching each judge and asking him plainly to acquit the defendant in return for a bribe.²³⁷ Agents (possibly an *interpres*) in his employ were surely sent first to establish contact, to make overtures and to ascertain the disposition of each potential recipient.²³⁸

²³⁵ Cic. *Mur.*, 67, 71; See Chapter 1.

²³⁶ Asc. 83 C; Cic. *Verr.*, 1.36; 2.2.108; Cic. *Cluent.*, 25, 71-72, 87. cf. Cic. *Planc.*, 38, 44-48; Sen. *Ep.*, 118.3, Val. Max. 9.1.7; Front. *Strategmata*. 1.4.132; Lintott, "Electoral Bribery," 8; Mommsen, *Strafrecht*, 869. cf. Cic. *Cael.*, 30: By 56 BC the word was akin to *adulter et impudicus*.

²³⁷ Cic. *Cluent.*, 71.

²³⁸ Cic. *Verr.*, 1.12; 1.36, 2.54, 2.108, 3.37, 4.58, 5.55, 5.56; Cic. *Cluent.*, 101; Cic. *Ad Fam.*, 10.17.3, 13.54; Plaut. *Curc.*, 3.64; Plaut. *Mil.*, 3.1.203, 3.3.36, 4.1.6.

Cicero has provided us with another important detail in the *pro Cluentio*: *si quis eum forte casus ex periculo eripuerit, nonne reddendum est?* If some powerful chance snatches him (Oppianicus) from danger, must (the money) not be returned?²³⁹ The need for sureties implies that a *sequester* who, for whatever reason, did not succeed in his allotted task had to return the money on deposit, even if it had already been spent. Also, the *lex Cassia* of 137 BC made the casting of votes by *iudices* secret, rendering it impossible to know who voted in what way. These two factors help explain why *sequestres* would try to withhold the bribe until after a trial had concluded, although this was not always possible.²⁴⁰

The duties of a *sequester* in an election were probably similar; to hold the money and secure votes, although of necessity on a much larger scale. Candidates could not afford to withhold largess from the *plebs* of Rome, regardless of how they might vote. It is unlikely that a *sequester* would be required to pay back the money in the event of a failed election; success at the polls was impossible to ensure. It has been suggested instead that *sequestres* acted as campaign fund managers responsible for outlays made on the behalf of a candidate with the candidate's own money.²⁴¹ The sums of money mentioned in association with *sequestres* are always quite large;²⁴² naturally these

²³⁹ Cic. *Cluent.*, 70.

²⁴⁰ Cic. *Cluent.*, 72. Plut. *Cic.*, 29.

²⁴¹ A. M. Stone, "A House of Notoriety: An Episode in the Campaign for the Consulate in 64 B. C.," *CQ* 48.2 (1998), 487.

²⁴² Cic. *Cluent.*, 71: 640,000 *sesterces*; Cic. *Verr.*, 2.4.45: 80,000 *sesterces* during an election and 300,000 more to have charges dismissed. Cic. *Verr.*, 1.22-23, 25: 500,000 *sesterces* were deposited against Cicero's campaign for the aedileship in 59 BC.

amounts of money could only have been entrusted to men of equestrian or senatorial rank, no doubt friends or supporters of candidates who had the appropriate connections.²⁴³ It is interesting that Plancius in his trial *de ambitu* in 54 BC was accused of being his own *sequester*, that is, he did not deposit funds for his aedilician campaign with a third party, but kept the money in his own home and organized its distribution personally.²⁴⁴

Divisores

The term *divisor* pops up most copiously in the works of Cicero, who, in the context of elections, is always referring to inter-tribal agents of bribery. Traditionally *divisores* seem to have been much less sinister. Each of the thirty five tribes of Rome maintained its own *divisores*. These men were well known to and respected by their fellow tribesmen; they were responsible for dividing their tribes into *decuriae* and distributing the gifts of any benefactors eager to gain goodwill or repay some debt of gratitude to their members. This practice was a perfectly acceptable and long standing custom. However, these gifts were not supposed to conveniently coincide with any election in which the benefactor was a candidate, nor were they to be given across many tribes at the same time or in return for the promise of favourable action at the polls, since any of these three examples constituted electoral malpractice.²⁴⁵

²⁴³ Cic. *Verr.*, 1.36; Cic. *Planc.*, 38, 44-45, cf. 47, 48; Cic. *Cluent.*, 23, 87; Ascon. 83 C; P. A. Brunt, "Three Passages from Asconius," *CR*, New Series, 7.3 (1957), 193-195.

²⁴⁴ Cic. *Planc.*, 38, 44-49. Admittedly, Plancius can hardly be expected to have repaid himself.

²⁴⁵ Lintott, "Electoral Bribery," 8; Staveley, *Greek and Roman Voting*, 203; C. Ambrosone, "Note sull'illecito nell elezioni romane," *AAN* 94 (1983), 228; Mommsen, *Staatsrecht* III³, 196.

The actions of *divisores* were closely monitored by a number of private political intelligence networks during the annual elections in Rome by at least the third decade of the last century BC and probably earlier, since they are traceable to about 100 BC; certainly by 71 BC there was a negative connotation attached to the word; Cicero flung it at Verres, whose father was a *divisor*, as an insult.²⁴⁶ Naturally, prosecutors had to know how candidates had employed them during elections in order to construct a compelling case. Further, prosecutors could benefit greatly from any knowledge a friendly *divisor* was willing to share.²⁴⁷ Yet we do not know whether or not simply being a *divisor* was at any point in time during the republic a criminal offence; certainly *divisores* were subject to restrictive legislation, but we cannot determine whether they were outlawed entirely or merely subject to a penalty if they distributed a candidate's money during an election.²⁴⁸

By 71 BC *divisores* were being used as bribery agents in elections and trials. Cicero tells us that Verres was willing to circulate about ten chests of Sicilian gold against his canvass for the aedileship, while the 'bold' Quintus Verres Romilius, a *divisor* himself, would undertake to prevent Cicero's success only if 500,000 HS were made available to him for the purpose.²⁴⁹ Verres also distributed 80,000 HS while seeking the praetorship and bribed his prosecutor with another 300,000 HS when he was accused of wrongdoing after the elections were over.²⁵⁰

²⁴⁶ Cic. *Verr.*, 1.23, 1.25: Cicero accused Verres of the same profession. See Lintott, "Electoral Bribery," 8.

²⁴⁷ Cic. *Verr.*, 23; cf. Cic. *Mur.*, 54.

²⁴⁸ Ps. Ascon. 212 Stangl.

²⁴⁹ Cic. *Verr.*, 1.22-23.

²⁵⁰ Cic. *Verr.*, 4.45.

In 67 BC there was an attempt to restrict the *divisores* in both the *rogatio Cornelia* and the *lex Calpurnia de ambitu*. When the latter was promulgated, after Piso had included some measures against the *divisores*, they rioted and forced him out of the forum, but were unable to prevent Piso from returning and having his law passed.²⁵¹ Cicero was advised shortly thereafter by his brother to threaten his opponents with prosecution should bribery be detected during the canvass; if he could instill fear in their *sequestres* and in some additional way control the *divisores*, he could limit the effectiveness of bribery.²⁵² Sulpicius attempted to use *divisores* as evidence at the trial of Murena in 63 BC, but was unable to furnish irrefutable proof of wrongdoing.²⁵³ In 61 BC two decrees of the senate were passed which allowed the searching of the houses of candidates and made the harbouring of *divisores* at such houses an act of treason (*adversus rem publicam*).²⁵⁴ Still, Cicero condemned Clodius for murdering *divisores* at his home in 57 BC. Thereafter, Cicero used the word as a pejorative to describe a certain Numonius whose name was something of a joke and when he demanded at the trial of Plancius in 54 BC that the prosecution prove his client had employed agents to distribute money to the tribes during his canvass.²⁵⁵

²⁵¹ Ascon. *Corn.*, 59 Stangl.; Cic. *Corn. Fr.*, 1.41 Puccioni; Cic. *Mur.*, 45. See Chapter 1, *rogatio Cornelia de ambitu* and *lex Calpurnia de ambitu*.

²⁵² Q. Cic. *Comm. Petit.*, 57. Having the *sequestres* watching over their shoulders must have affected how well *divisores* were able to conduct their business.

²⁵³ Cic. *Mur.*, 54.

²⁵⁴ Cic. *Ad. Att.*, 1.16.12.

²⁵⁵ Cic. *De Orat.*, 2.257; Cic. *Planc.*, 45, 48, 55.

It seems that as the last century BC wore on, the role of *divisores* was more and more restricted to the illegal distribution of money during elections. Candidates called groups of *divisores* from many tribes to secret meetings in order to lay the groundwork for electoral bribery; *divisores* then functioned as they always had; they distributed gifts to their own tribe. However, after 67 BC there were probably penalties for *divisores* who were caught during elections and refused to testify as witnesses against their employers, but it is unclear what those punishments were.²⁵⁶

Collegia and Operae

In Rome, *collegia* were recognized organizations of tradesmen and artisans, priests, magistrates and many other groups which shared some sort of connection, be it a common profession, religion or location.²⁵⁷ Some trade *collegia* had existed in Rome for centuries; those of smiths, carpenters, horn players and trumpet players were of sufficient military importance to have centuries in the *comitia centuriata* assigned to them²⁵⁸, while others, like the *Capitolini* who lived on the Capitoline hill and the merchant *Mercuriales*, were dedicated to the worship of particular cults. Yet new *collegia* developed at an increasing rate in the *vici* and *pagi* in and around Rome and among the freedmen and

²⁵⁶ See *lex Calpurnia de ambitu*.

²⁵⁷ Bert Lott, *The Neighbourhoods of Augustan Rome* (Cambridge University Press: Cambridge, 2004), 52.

²⁵⁸ Plut. *Numa*, 17.1-4, Dion. Hal. *AR* 4.16-17, 4.20.3-5 and 7.59.2-8; Cic. *Rep.*, 2.39-40; Livy 1.43.1-8; Lintott, *The Constitution of the Roman Republic* (Oxford University Press: Oxford), 58 and 177.

slaves scattered throughout the city in the last century BC.²⁵⁹ Indeed, there were so many that Horace poked fun at them,²⁶⁰ as did graffiti artists in Pompeii.²⁶¹ In this way, the poor came to comprise the majority of members in *collegia* in Rome. Of utmost importance, however, is that these new *collegia* were largely organized by neighborhood and, as such, transcended tribal lines.²⁶² Further, those ties extended beyond the four urban tribes and included others throughout Italy.²⁶³ Nor did membership in one *collegium* preclude membership in another; Cicero informs us that M. Furius Flaccus, a Roman knight of poor character, was expelled from both the *Capitolini* and the *Mercuriales* at the same time.²⁶⁴

For these reasons, access to the personal and political networks established and maintained by *collegia* of both high and low standing was extremely important for candidates. Certainly Cicero was instructed to win over as many *collegia*, *pagi* and *vici* as he could during his canvass for the consulship. He was also reminded that his position had been considerably strengthened by the support of *collegia* already attached to him.²⁶⁵ It is not entirely surprising that by the mid 60s BC some established *collegia* had adopted

²⁵⁹ Cic. *Ad Q. Frat.*, 2.6.2; Livy, 2.27.5 and 5.50.4; Dion Hal. *AR* 4.14.2-4 and 4.15.2-6; Cic. *Dom.*, 74; Q. Cic. *Comm. Petit.*, 30; ILLRP 696; ILS 2676; Lintott, *Constitution*, 178; Lott, *Neighborhoods*, 28-60.

²⁶⁰ Horace, *Sat.*, 1.2.1ff.

²⁶¹ *CIL* 4.575-6 and 581; ILLRP 110.

²⁶² Lott, *Neighborhoods*, 52-53.

²⁶³ Q. Cic. *Comm. Petit.*, 30; Lintott, *Violence*, 86-7; Lintott, *Constitution*, 178 and no. 53; Taylor, *VDRR*, 132ff.

²⁶⁴ Cic. *Ad Q. Frat.*, 2.5.1.

²⁶⁵ Q. Cic. *Comm. Petit.*, 3, 30 and 32.

practices of illegal electioneering, while still others were formed specifically for that purpose. This impropriety drew the attention of legislators who felt that *collegia* which had been formed to break the laws of *ambitus* had no right to exist. The result was a *senatus consultum* passed in 64 BC which ordered such groups to disband and prevented new *collegia* from being created.²⁶⁶

In 61 BC a tribune attempted to have these outlawed *collegia* re-established, but his effort failed against the consul-designate Metellus Celer.²⁶⁷ Only after Clodius became tribune in 58 BC and passed his *lex de collegiis* were new colleges recognized and those which had been disbanded reinstated. The protection afforded by this law and the subsequent re-organization of *collegia* by Clodius into agents of electioneering has been discussed in detail elsewhere;²⁶⁸ suffice it to say here that his actions gave him in return a wide variety of extremely useful connections. These spread ever outward during the 50s BC; through them Clodius was largely able to control the streets.²⁶⁹

Collegia formed only part of the bands of *Clodiani* which so dominated the public spaces of Rome during electoral canvasses in these years. Clodius had spent time in the forum during the mid-sixties; he had learned firsthand that the recruitment of gangs could be politically advantageous. Catiline, P. Sulla, Autronius and even Manilius had all recruited bands of gladiators to include in their public retinues and had used them on various occasions, although not always to great effect. Catiline failed in his canvass and

²⁶⁶ Ascon. 7, 65 C; Lintott, *Violence*, 80.

²⁶⁷ Cic. *Pis.*, 8; Ascon. 7 C.

²⁶⁸ J. Tatum, *The Patrician Tribune* (University of North Carolina Press: Chapel Hill, 1999), 1-31 and 114-149.

²⁶⁹ Brunt, *Fall*, 306 no. 57 and 434-5 no. 137 and chap. 6.

his plot for rebellion, indeed little enough support from the people was found by his adherents when planning a prison break before his trial.²⁷⁰ P. Sulla and Autronius were still found guilty of *ambitus* even after the latter's gangs (Sulla appears to have withheld his own) rioted during his trial.²⁷¹ Still, the *operae* of Manilius managed to cause enough disruption that, when he ceased being tribune in 66 BC, it was impossible to bring him to trial.²⁷² Apart from disrupting public affairs and preventing opponents from speaking or promulgating legislation, the threat of violence must also have been, for voters, a powerful motivator.

Clodius first used gangs in 62 BC when on trial for the *bona dea* scandal, although Cicero believed these to have been composed of young aristocrats previously attached to Catiline.²⁷³ In the following decade his gangs had much changed. His restoration of the *collegia* had earned him their goodwill; we are told that on days when Clodius needed a crowd the shops closed and he got it.²⁷⁴ He made use of gladiators, slaves and freedmen as well, taking advantage of their organization within districts to form them into gangs.²⁷⁵ All of these he used to eliminate undesirable voters from the forum and to coerce and bribe the rest to vote his way, both on legislation and during

²⁷⁰ Sal. *Cat.*, 50.1; Cic. *Cat.*, 4.16-17.

²⁷¹ Cic. *Sull.*, 11, 49-50, 81 and 91; Cic. *Fin.*, 2.62; Sall. *Cat.*, 18; Livy *Per.*, 101; Ascon. 75 and 88 C; Suet. *Iul.*, 9; Dio 36.44.3-5; Schol Bob. 78-79 Stangl.

²⁷² Dio 36.44.1-2; Plut. *Cic.*, 9.4-6; Ascon. 66 C; John Ramsey, "The Prosecution of C. Manilius in 66 BC and Cicero's Pro Manilio," *Phoenix* (1980), 323-336.

²⁷³ Cic. *Ad Att.*, 1.14.5; Lintott, "Felix Catilina," 160.

²⁷⁴ Cic. *Dom.*, 6 54, 79, 89; Cic. *Sest.*, 34; Cic. *Ad Att.*, 4.3.2.

²⁷⁵ Lintott, "Felix Catilina," 163.

elections.²⁷⁶ Yet, it was not bribery but violence which was the primary function of these groups, a crime punishable *de vi* and not *de ambitu*. One must note that, for all his ingenuity, Clodius was not always successful, nor was he the only man in Rome who could mobilize large gangs. However, that Clodius and others took gang warfare to this new level represents a shift in Roman politics; certainly gangs had always been used, but never so profusely.

Sodalitas and Sodalitium

In the *pro Caelio* of 56 BC, Cicero is concerned about ‘those accusations of bribery, the *sodales* and even the *sequestres* (*de ambitu et de criminibus istis sodalium ac sequestrum*).’²⁷⁷ Cicero was defending a man accused of using organized groups to corrupt the electorate. Yet, in Cicero, *sodales* are invariably friends, although not always his own. They usually share a similar social background and are closely connected, sometimes by family and sometimes by more general bonds of friendship. He refers to *sodales* as most familiar friends, brothers and equals; he fears for their wellbeing and actively helps them whenever possible. Indeed, he describes a duty to be worthy of *sodales* and theirs in turn to be worthy of him or his clients; he attacks his opponents for

²⁷⁶ He besieged Pompey’s house and further harried the man, with varying degrees of success, for another 3 years. See Cic. *Dom.*, 54ff; Cic. *Sest.*, 35, 75-76, 109; Cic. *Ad Att.*, 3.8.2-3; Ascon. 47 C; Lintott, “Felix Catilina,” 166-7.

²⁷⁷ Cic. *Cael.*, 16.

betraying or failing them and he implores prosecutors with whom he shares this bond to forgive him for standing opposite them.²⁷⁸

Traditionally, *sodales* were members of *sodalitates* or *sodalicia*, associations or coteries comprised of the elite and concerned with the worship of a particular cult.²⁷⁹ By the late republic this was still nominally true; a tie of *sodalitas* indicated a special or particular friendship and, more often, membership in the same club. Yet the activities of the *sodalitates* had by this time expanded beyond their religious aspect.²⁸⁰ *Sodalitates* were by then composed of young aristocrats or other influential men who were responsible for supporting their own members or those to whom they owed some favour in the courts and during electoral canvasses.²⁸¹ Thus, Cicero was not only urged to win the support of men who were part of these clubs, but also benefited from the efforts of four such *sodalitates* already indebted to him.²⁸²

²⁷⁸ Cic. *Verr.*, 1.91, 1.94, 1.158, 2.49, 3.85; Cic. *Cat.*, 1.19, 2.9, Cic. *Planc.*, 29; Cic. *Ad Att.*, 2.9.3, 13.13.1, 13.13-14.1; Cic. *Ad Fam.*, 7.11.2, 12.14.7; Cic. *Cael.*, 16, 26; Cic. *Mur.*, 56; Cic. *Phil.*, 13.2.3; Cic. *De Or.*, 2.197, 2.200, 3.42, 3.228; Cic. *De Har.*, 45; Cic. *Sul.*, 7.

²⁷⁹ As early as Plautus' *Mostellaria* we hear of *sodalitates* acting as friends. See Plautus, *Mostel.* 1126-27. See also, J. Linderski, "Ciceros Rede Pro Caelio," *Hermes* 89 (1961), 106-119; Lintott, "Electoral Bribery," 1990, 9; C. M. Stibb et al., *Lapis Satricanus*, *Arch.Stud.Neder.Inst.Rome: Scripta Minora V*, (1980), *passim*.

²⁸⁰ Cic. *Cael.*, 26.

²⁸¹ Cf. Q. Cic. *Comm. Petit.*, 1.3, 1.5, 5.16-19, 6.24, and especially 8.29-30. While none are explicitly called bribery agents, it is reasonable to suggest that at least the *principes*, local men of good repute, functioned in this capacity.

²⁸² Q. Cic. *Comm. Petit.*, 16, 19; Lintott, "Bribery," 9.

They also appear to have bribed and intimidated voters during elections and engaged in street violence with rival groups attempting to do the same.²⁸³ Yet *sodalitates* do not appear to have been regularly tasked with intimidating or doing violence upon voters or opponents. When they rioted in 56 BC, the *sodalitates* were under extreme pressure. At the time, two social magnates were seeking to attain the consulship while Hortensius was attempting to pass legislation against them. When the threat of legislation seeking to restrict their electioneering efforts materialized at a time when they were most active, they did what the *divisores* had done in 67 BC. The *senatus consultum* which demanded their dispersal was a reaction against that outburst of violence.²⁸⁴

Despite the apparent similarities between the *collegia* of Clodius and the *sodalitates*, they did not originally fulfill the same roles. The *senatus consultum* of 64 BC and subsequent legislation had not applied to them, nor did they fall under the protection of Clodius' reforms in 58 BC.²⁸⁵ Thus, their methods of persuasion were open to attack in 56 BC. Cicero wrote to his brother Quintus that on February 10th a *senatus consultum factum est ut sodalitates decuriatique discederent lexque de iis ferretur, ut qui non discessissent ea poena quae est de vi tenerentur* ('that a S.C. was passed that the *sodalitates* and the *decuriati*²⁸⁶ be dispersed and the law carried, and that those who did

²⁸³ Q. Cic. *Comm. Petit.*, 19; Cic. *Planc.*, 37; Gruen, *LGRR*, 228-9; Ferrary, "La Legislation 'de Ambitu,'" 184-185.

²⁸⁴ Linderski, "Ciceros Rede Pro Caelio," 110-112. See Taylor, *PP*, 210, for the opposite opinion.

²⁸⁵ See *Collegia* above. See also Linderski, "Ciceros Rede Pro Caelio," 110-112. The exemption of the *sodalitates* in 64 BC may partly explain Caesar's desire to obtain the position of *pontifex maximus*.

²⁸⁶ Here Cicero probably means gang units. See Cic. *Sest.*, 34 and F. Millar, *The Crowd in The Late Republic* (University of Michigan Press: Michigan, 1998), 137.

not leave would be held by the penalty which was concerned with violence’).²⁸⁷

According to the senate’s view *sodalitates* were associations created for the express purpose of breaking *leges de ambitu and de vi*. As such they had no right to exist.²⁸⁸

Crassus codified the *senatus consultum* by passing the *lex Licinia de Sodaliciis* in 55 BC, after he was safely elected and probably with some revision.²⁸⁹ In 54 BC Cicero defended Plancius against a charge of breaking it. Yet he accused the prosecution of citing the *lex Licinia de Sodaliciis* solely because of its favorable jury selection process and asked why, if his client had bribed the electorate, they had not made use of the relevant *lex de ambitu*. He here implies that the *sodalitates* became increasingly involved in violent demonstrations in elections during and after 56 BC.²⁹⁰ Before the turbulence of 56 BC, in addition to their religious roles, *sodalitates* appear in the courts and elections only as associations of supporters and agents of bribery.²⁹¹

Coitio

It is useful to mention here one last aspect of electioneering in the late republic. Candidates for the same office sometimes engaged in the practice of *coitio*, pooling their resources and efforts in order to achieve the election of, in the case of the consulship, two chosen candidates or, conversely, the exclusion of one or more in particular.²⁹² A second

²⁸⁷ Cic. *Ad Q. Frat.*, 2.3.5.

²⁸⁸ Cic. *Ad Q. Frat.*, 2.3.2-5.

²⁸⁹ See Chapter 1, *lex Licinia de Sodaliciis*.

²⁹⁰ Cic. *Planc.*, 36-37, 46-47.

²⁹¹ Q. Cic. *Comm. Petit.*, 16, 19. cf. Cic. *Verr.*, 1.94.

²⁹² M. Gelzer, *The Roman Nobility*, trans. R. Seager (Oxford University Press: Oxford, 1969),

kind of *coitio* might also occur when wealthy magnates fed money into the canvasses of office seekers. While Mommsen and Taylor, among others, felt that *coitio* was an illegal electoral activity,²⁹³ it does not seem to have been so. Certainly no laws were ever passed against it, nor were candidates who took part ever tried for that reason under the laws of *ambitus*.²⁹⁴ As such *coitio* holds a unique position in the electoral arts of the Roman republic.

According to Cicero, candidates cooperating with one another flew in the face of established practice; candidates were supposed to run against each other independently, each on the basis of personal value and with an isolated support network. Indeed, he used the word as an insult on many occasions.²⁹⁵ Yet, in 184 BC candidates for the censorship attempted to bar the elder Cato from the office, fearing a harsh year. This is the only example of *coitio* in the republic which was undertaken precisely to exclude only one candidate, no doubt the other candidates felt that anyone was better than the extraordinarily frugal Cato. Still, Cato was elected despite the *coitio* formed against him, along with the only patrician candidate who abstained.²⁹⁶

Further examples prove illustrative. In 70 BC M. Caecilius Metellus was backed in his bid for the praetorship by Verres and his money.²⁹⁷ Apparently, so too were the

²⁹³ Mommsen, *Strafrecht*, 872ff; Taylor, *PP*, 84.

²⁹⁴ See U. Hall, "Voting Procedure in Roman Assemblies," *Historia* 13 (1964), 301-306 for a convincing argument that *coitio* was legitimate.

²⁹⁵ Cic. *Planc.*, 36-37, 46-47; cf. *Ad Att.*, 1.16.2, 1.18.5, 1.20.5.

²⁹⁶ Livy 39.40-41; cf. Broughton, *MRR*, 1.374.

²⁹⁷ Cic. *Verr.*, 1.26, 28-29.

successful consular candidates Q. Hortensius Hortalus and Q. Caecilius Metellus.²⁹⁸ In 64 BC Catiline and C. Antonius Hybrida joined forces against Cicero, although only Antonius proved successful at the polls.²⁹⁹ While not strictly *coitio*, the consul for 60 BC, L. Afranius, was helped to the office by Pompey's reputation and distribution of money on his behalf. Apparently Pompey was giving gifts to voters in his own garden.³⁰⁰ Cicero felt he owed his success to the magnate's efforts, since he had not been otherwise notable in either the military or political spheres.³⁰¹ Julius Caesar and L. Lucceius united in their canvasses for the consulships of 59 BC, although only Caesar was returned. Caesar felt his chances against M. Calpurnius Bibulus were poor, but was able to secure the financial backing of Lucceius, who required that any money they distributed was in both their names.³⁰² Bibulus himself was rigorously supported by a wide variety of friends and associates in order to prevent both Lucceius and Caesar from winning the consulships. Even the younger Cato came out to support Bibulus, the same Cato who had stood against the corruption of Murena in 63 BC and who would require in 54 BC deposits of 500,000 *sesterces* from all tribunician candidates as insurance for their good

²⁹⁸ Cic. *Verr.*, 1.18-19, 26, 33, 2.2.192; Cic. *Cluent.*, 127; Ascon. 216 Stangl.; Quintil. 10.1.23.

²⁹⁹ Ascon. 82-3 C. It is unlikely that Crassus and Caesar were involved with the efforts of these two. See P. A. Brunt, "Three Passages from Asconius," *CR* 7 (1957), 193-195; B. A. Marshall, *Historical Commentary to Asconius* (University of Missouri Press: Columbia, 1985), 284-285; Shatzman, *Senatorial Wealth*, 221 and no. 41.

³⁰⁰ Plut. *Pomp.*, 44.34; Plut. *Cato Min.*, 30.5.

³⁰¹ Cic. *Ad Att.*, 1.16.2, 1.18.5, 1.20.5; Plut. *Praec. Rei Pub. Ger.*, 11.6.

³⁰² Suet. *Div. Jul.*, 19.1; Cic. *Ad Att.*, 1.17.11.

behaviour, felt that in this case bribery was an acceptable course of action.³⁰³ Little need be said about Pompey and Crassus except that they were surely involved in *coitio* during their second run at the consulships; both were returned for 55 BC.³⁰⁴ P. Vatinius, praetor of 55 BC, was also helped to this office by the efforts of Pompey and Crassus. He was indicted for electoral corruption after his term ended in 54 BC, but it does not seem that the machinations of his benefactors were at issue; Vatinius had given games in violation of the *lex Tullia de ambitu*.³⁰⁵ Finally, the consuls of 54 BC, L. Domitius Ahenobarbus and Ap. Claudius Pulcher, joined in *coitio* with two candidates for the consulship for 53 BC, Cn. Domitius Calvinus and C. Memmius, in an attempt to secure the two offices for them. In return, the consuls of 54 BC would have received a statement by the two consuls that a *lex curiata* had been passed in their favour, for which three augurs would be produced as witnesses. It was on this occasion that a bribe of as much as 10,000,000 *sesterces* was offered for the vote of the *centuria praerogativa*. The electoral canvass of Memmius floundered and he was convinced by Pompey to tell the senate of the deal. No prosecution seems to have resulted for either L. Domitius Ahenobarbus or Ap. Claudius Pulcher on account of this scandal; Cn. Domitius Calvinus became consul in 53 BC.³⁰⁶

³⁰³ Suet. *Div. Jul.*, 19.1; Cic. *Mur.*, 62; Cic. *Ad Att.*, 1.16.2 and 4.15.7.

³⁰⁴ Cic. *Ad Att.*, 4.8.1-2; Cic. *Q. Frat.*, 2.7.2; Vell. 2.46; Plut. *Crass.*, 15; Plut. *Pomp.*, 51.4- 52.2; Plut. *Cat. Min.*, 41-42; App. *BC*, 2.17; Dio 39.27-31; cf. Plut. *Caes.*, 21.3-4; Broughton, *MRR*, 2.214.

³⁰⁵ Livy *Periocha*, 105; Val. Max. 7.5.6; Plut. *Cato Min.*, 42; Plut. *Pomp.*, 52.2; Dio 39.32.1-2; Cic. *Ad Fam.*, 1.9.19; Cic. *Ad Q. Frat.*, 2.7.3.

³⁰⁶ Cic. *Ad Att.*, 4.15.7, 4.17.2-3; Cic. *Ad Q. Frat.*, 2.14.4, 3.1.16, 3.2.3; G. Sumner "The Coitio of 54 BC, or Waiting for Caesar," *HSPH* 86 (1982), 133-139.

From these examples a number of further conclusions can be drawn. First, the usefulness of *coitio* was limited; agreements between candidates did not always have the desired outcome. The patrician candidates of 184 BC were unsuccessful in keeping the elder Cato from censorship. Second, pacts between two candidates did not always result in both being returned at the polls. Only two of the known pairs (Crassus and Pompey and Hortalus and Metellus) were elected, for the rest only one was successful. This must have been excruciatingly frustrating for the unsuccessful candidates, especially for L. Lucceius, who had supported Caesar so well that the latter attained office in his stead, and for Catiline, whose end was particularly unfortunate.

CONCLUSION

In this chapter I first explored in what ways candidates might bribe the electorate during the canvass. This highlighted a most striking similarity between electoral bribery and traditional forms of munificence, one which must have made *ambitus* practically impossible to prevent. Indeed, games, shows, banquets and handouts provided across tribal lines were only restricted to the period prior to and during an election season, and only if they were directly paid for by a candidate running for office. Competition was fierce and the laws lent themselves to certain abuses. Friends and benefactors might provide the capital and location for an event on behalf of a candidate without fear of infringing upon the law, although the candidate himself might face prosecution. Also, as we have seen, conviction rates for electoral corruption were low, even though *ambitus* trials were usually undertaken by a defeated candidate, possibly guilty of the very same crime, who hoped either to attain the office by stripping the victor of it or by forcing a

second election.³⁰⁷ Certainly the number of men who suffered the consequences of breaking *ambitus* law was not very large in comparison to those who were suspected of or prosecuted for it. Fear of conviction was not a compelling reason not to bribe except under rare circumstances; candidates who did not have willing and capable supporters to provide gifts in their names might well risk everything, if only to keep apace.

In the second half of this chapter I discussed the roles played by electioneers involved in the political campaigns of the late republic. Some of these groups were composed of men whose traditional offices had been involved with the legal distribution of gifts throughout the tribes (*divisores*), the worship of particular cults (*sodalicia*) and the organization of tradesmen (*collegia*), but which had acquired a new corruptive function. Others were composed of friends (*deductores*) and followers (*salutatores* and *adsectatores*) whose presence was not illegal unless they were paid to attend upon a candidate. Bankers (*sequestres*) most likely held bribery money for candidates until it could be divided amongst numerous agents for widespread distribution, prompters (*nomenclatores*) ensured candidates always had the right names ready when greeting people during their canvass and gangs (*operae*) could be organized to provide physical force against a rival's supporters when needed.

In the 60s and 50s BC corruption was so severe that various groups were forcibly disbanded and dispersed by *senatus consultum* and later by law when violence threatened to completely overturn public order. Virtually every division of electioneer that we know of was legislated against, except the *sequestres*. This is not entirely surprising; the only individuals capable of functioning as depositors for bribery money would have been senators or very wealthy businessmen. Agents and supporters, however, were

³⁰⁷ Alexander, *The Case for the Prosecution*, 121-122.

presumably subject to some form of punishment if they played an illegal role in an election; certainly this was true for the candidate. This must mean that *ambitus* and its consequences were well known to the senate and that it was deemed sufficiently troublesome to demand frequent and repetitive legislation against it. Still, the senate and the assemblies were unable or unwilling to stamp electioneers out entirely; Clodius was able to reinstitute and reorganize the *collegia* while tribune in 58 BC and used his gangs to rule the streets until his death.

CHAPTER III

***AMBITUS* AND POLITICAL IDEOLOGY**

In the previous two chapters I have outlined the laws associated with electoral bribery in the Roman republic and sketched the organizations and electioneers responsible for breaking them. My final chapter shall examine how the evidence of *ambitus* fits into modern interpretations of Roman politics, that is, how *ambitus* affects traditional views of the Roman political system in terms of popular participation and aristocratic control, and the social identity of both candidates and voters. Lastly, I shall discuss the blurred line between legal munificence and illegal electioneering.

THE ROMAN POLITICAL SYSTEM

The Roman republic has been described as everything from a narrow oligarchy of closely knit ruling families with a stranglehold on money, power and the populace,³⁰⁸ to a not-quite democracy with a (more or less) open ruling elite and a commonality very

³⁰⁸ M. Gelzer, The Roman Nobility, 62, 139; Cf. M. Gelzer, Die Nobilität der römischen Republic, ed. J. von Ungern-Sternberg (Stuttgart: 1983), chapter 2; E. S. Staveley, Greek and Roman Voting, 193; L. R. Taylor, PP, 63, 71; Gruen, LGRR, 121-161, esp. 127-128, 155, 161; Ronald Syme, The Roman Revolution (Oxford University Press: Oxford, 1939), 10-27; L. Burckhart, "The Political Elite of the Roman Republic: Comments on the Recent Discussion of the Concept of *Nobilitas* and *Homo Novus*,"

much aware of its own political influence.³⁰⁹ Thus, a brief overview of traditional and contemporary scholarly opinion concerning the political system of the late Roman republic is necessary in order to put the evidence of electoral bribery compiled in the first two chapters into proper context. Critical to any modern interpretation of the Roman republic is the importance assigned to three Latin words, these are, of course, *patronus*, *cliens*, and *factio*. It is not my intent to here discuss the political significance of patron-client relationships and political factions or what role these played in determining the results of Roman elections. Indeed, such an examination requires far more space and time than is currently available.³¹⁰ It is, however, beneficial to sketch in broad strokes how scholars have dealt with these most difficult terms; doing so will help reveal in what ways the evidence for *ambitus* and *ambitus* legislation influences our understanding of Roman politics.

Traditionally, scholars have maintained that the theory of a patron-client ‘system’ best fit the evidence of our primary sources. Wealthy members of Roman society were seen to act as leaders, patrons of the masses, who managed all aspects of the state, voted

Historia 39 (1990), 77-99, esp. 90; Robert Morstein-Marx, Mass Oratory and Political Power in the Late Republic (Cambridge University Press: New York, 2004), 279-287.

³⁰⁹ Lott, Neighborhoods, 46-47; P. A. Brunt, The Fall of the Roman Republic and Related Essays (Clarendon Press: Oxford, 1988), 20-92; P. A. Brunt, Social Conflicts in the Roman Republic (W. W. Norton and Company: New York, 1971), 42-59 and 74-147; Andrew Lintott, Constitution, 199-213; Millar, Crowd, 197-226; John North, “Politics and the Aristocracy in the Roman Republic,” CJPh, 85. 4 (Oct., 1990), 277-287; John North, “Democratic Politics in Republican Rome,” PP 126 (1990), 3-21; Yakobson, Elections and Electioneering, 228-233; Cf. Paul Vanderbroek, Popular Leadership and Collective Behavior in the Late Roman Republic (ca. 80-50 BC) (J. C. Gieben: Amsterdam, 1987), 161-163.

³¹⁰ Brunt, Fall, 383-442.

on legislation, ran for public office and served as officers in the army. The poor were relegated to client status; they were loyal to their individual patrons and essentially disenfranchised. They were to do as their betters commanded, and while they seceded in rare cases, such as during times of extreme stress, this occurred only in the early and middle republic.³¹¹ This oligarchic class structure was closed and largely static. After the kings were expelled from Rome, patrician land owners who would found the great consular families held the uppermost social tier, followed by the wealthiest plebeians and then by the various lower levels of society; tradesmen, shopkeepers, labourers, freedmen and, last of all, slaves.³¹² However, a variety of changes took place between the fifth and second centuries BC that changed the structure of the Roman nobility, yet maintained the oligarchy. The most stressed aspect of this change is the so called 'struggle of the orders.'³¹³

The financial success of the merchants at Rome contributed to the rise of new plebeian political interests which were dissatisfied with a near total exclusion from public office and a minimal role in the assemblies. They have been commonly described as social climbers, not so much interested in establishing a democracy or helping the disenfranchised as they were to enter into the ranks of the old aristocracy and share the

³¹¹ Livy 2.31-33; 3.39; 3.50-54; 7.38-41; 21.14.

³¹² Richard Mitchell, Patricians and Plebeians: The Origin of the Roman State (Cornell University Press: Ithaca, 1990), 2-5; Staveley Greek and Roman Voting, 123-132.

³¹³ Eg. Endre Ferenczy, From the patrician state to the patricio-plebeian state, trans. G. Dedinsky (A. M. Hakkert: Amsterdam, 1976).

privileges of statecraft.³¹⁴ They demanded magistracies and membership in the senate. Their success in attaining them was limited, but what this plebeian aristocracy lacked in distinction it made up in quantity; patrician families were slowly being eclipsed because their numbers were shrinking. However, patrician families which remained were able to slow this erosion of power to a centuries spanning crawl, although intermarriages and adoptions could unite some patrician and plebeian families in the face of dying out.³¹⁵ In any case, the distinction of patrician ancestry was still important in the political arenas of the late republic.³¹⁶

Thus, old senatorial families whose numbers were in decline as a result of the ‘struggle of the orders’ were reinforced by a new plebeian gentry, families which had had less restrictive opportunities for enrichment, at least until inducted into the senate. But, according to the traditional interpretation of Roman history, these new members, for all their wealth, did not simply ‘break in’ to the established aristocracy. They were chosen for elevation by members of that aristocracy who, acting in concert as part of a family coalition or *gentes* spanning faction, no doubt favoured more conservative newcomers, presumably from a pool of eligible men, and were granted the privilege as a kind of bribe,

³¹⁴ T. J. Cornell, The Beginnings of Rome: Italy and Rome from the Bronze Age to the Punic Wars, 1000-264 BC (Routledge: New York, 1995), 252-344.

³¹⁵ Richard Mitchell, Patricians and Plebeians, 127-130; T. P. Wiseman, New Men in the Roman Senate, 139 BC- AD 14 (Oxford University Press: London, 1971), 57-59; Brunt, Fall, 37-39, 453-454; Cf. P. A. Brunt, Italian Manpower 225 BC - AD 14 (Oxford University Press: Oxford, 1971), 141-143.

³¹⁶ P. A. Brunt, “Nobilitas et Novitas,” JRS 72 (1982), 5-6, 16-17; Cf. Münzer, Roman Aristocratic Parties and Families, trans. Therese Ridley, (John Hopkins University Press: Baltimore, 1999), 126-127 and D. R. Shackleton Bailey, “Nobiles and Novi Reconsidered,” AJPh 107.2 (Summer 1986), 255-260.

a reward for service or to prevent them from further divisive political action.³¹⁷ While some might aspire to supersede the old nobility, it generally took generations of political success before any plebeian knight could attain curule office and his descendants earn the right to call themselves *nobiles*.³¹⁸

This notion of absolute oligarchy, *gentes* wide political alliances and immutable vertical social ties has allowed Roman historians to recreate a host of obscure political factions and ‘parties.’ Politicians were able to field armies of compliant clients for their own or their friends’ interests; by this means factions of the rich fought one another on legislative issues and in elections, sometimes for generations where feuds were inherited.³¹⁹ Voting in the centuriate assembly where the higher magistrates were chosen was stacked in favour of the wealthy property classes; here the lower strata were rarely, if ever, given the opportunity to affect the elections.³²⁰ Lower magistrates were elected and tribunician legislation was passed in the *comitia tributa* and the *concilium plebis*, but here too lower-class client voters were expected to display the appropriate loyalty to their patrons’ chosen candidate or law, not to the promises or political platforms of candidates, no matter how beneficial they might be. The internal power struggles between hopeful aristocrats would culminate on election day; the results were, if not entirely

³¹⁷ Syme, *Roman Revolution*, 11-27.

³¹⁸ Brunt, “Nobilitas et Novitas,” 1-3; Cf. Münzer, *Roman Aristocratic Parties and Families*, 59. Brunt, following Mommsen, argues that all patricians and descendents of patricians who had made the transition to plebeian status, and all plebeians who held curule office were *nobiles*.

³¹⁹ Friedrich Münzer, *Roman Aristocratic Parties and Families*, 345-363. cf. David Epstein, *Personal Enmity in Roman Politics 218-43 BC* (Croom Helm: New York, 1987), 30-63, 80-89 and 90-126.

³²⁰ Yakobson, *Elections and Electioneering*, 20, n. 1.

predetermined by the highest social order, very nearly so. In other words, *amicitia* and its opposite were the guiding forces of republican politics. Policy and legislative programs were only factors when patrons decided they were. Election promises affected nothing at all; those with the most influence and the strongest faction, not to mention the largest network of clients, won.³²¹

The clear advantage of this theory is that a strict oligarchy allows the Roman aristocracy to be portrayed as a united body during the early, middle and much of the late republic. Only with the rising dominance of social magnates in the late republic did this system begin to break down. Thus, the paths to power are clearly discernible for most of the period between 510 and 49 BC, and a ready explanation can be provided for any new men who managed to attain high honour and any nobles who suffered humiliation and expulsion: the ruling families wished it.³²²

CONTEMPORARY THEORY AND *AMBITUS*

A number of landmark studies have been conducted in the last twenty years which cast serious doubt on the static and elitist political ideology of an absolute oligarchy. Each has challenged what has been called a 'frozen waste' theory of Roman politics,³²³ and while they are not always in agreement on particular issues, their respective works

³²¹ Gelzer, *The Roman Nobility*, 139; Staveley, *Greek and Roman Voting*, 193.

³²² Gelzer, *The Roman Nobility*, 50-53 and 70-86; Münzer, *Roman Aristocratic Parties and Families*, 345-363. Interpretations varied; Gelzer stressed individual achievement and strong competition among the Roman elite, while Münzer believed that family ties and long term cooperation ensured the success of the nobility. Both, however, agreed that the nobility was bound together by social station and jealously guarded that privilege.

³²³ North, "Politics and Aristocracy," 278.

portray a drastically different Rome than that described above. The question as is simple as its relation to my argument: Did a small cross section of the aristocracy, the *nobiles*, have a stranglehold on all aspects of Roman statecraft? Does the evidence support such an interpretation and is that evidence reliable and unbiased enough to remove any reasonable doubt? For the period between the Gracchi and Caesar's crossing of the Rubicon, the consensus, if not the answer, shows that our doubts cannot be easily disposed of. Indeed, a number of episodes and individuals appear in our sources during these years which seem to directly contradict any notion of absolute aristocratic control over statecraft. Only those related to elections and corrupt electioneering shall be mentioned here.

Setting the Stage: Popular Politics in the 'Early' Republic

It is generally accepted that Livy's interpretation of early republican politics is heavily steeped in late republican political realities, that is, while describing the mechanisms of the government of the early republic, Livy 'filled in' what details were unknown to him with ideology contemporary with himself. Three examples from the fifth and fourth centuries illustrate this most clearly. These are, of course, Sp. Cassius (486 BC), Sp. Maelius (439 BC), and M. Manlius (385 BC).³²⁴

These three anecdotes presuppose that plebeians and patrician senators were seeking high office in the early republic *with* the help of popular support and, although sometimes disposed of, were able to cultivate power in this way. Patricians had certainly courted the commons in the elections of the *decemvirate*, if we take Livy at his word,

³²⁴ For Cassius, see Livy 2.41.1-9, Dion. Hal. AR 8.69-70; for Maelius see Livy 4.13.2-3 and 10, Dion. Hal. AR 12.1-4; for Manlius see Livy 6.11-20; Andrew Lintott, Constitution, 35-36.

when candidates among even the greatest of Rome's citizens canvassed the *plebs* in order to secure the posts, even though they had opposed the office and the *plebs* up to that point.³²⁵ Livy believed that these *primores civitatis* feared lesser men might dominate the magistracy if they were not elected, and so were willing to submit to the humiliation of the canvass because of necessity.³²⁶ It would appear that Livy has here implied that the patricians could not count on the votes of their clients and the *plebs* for the *decemvirate*.

Yet, Cassius, Maelius and Manlius are all three depicted as would be tyrants precisely because they courted the people.³²⁷ The achievements of Cassius and Maelius are well known. Cassius, while consul for the third time, attempted to share out the state's conquered lands to the *plebs* and Rome's allies, and to give out public land occupied by the patricians as well.³²⁸ His proposed agrarian bill, the first ever, was resisted vehemently by the senate. His opponents managed to turn popular opinion against him by advertising his supposed regal ambitions; so suspected by the *plebs* on account of his generosity, his food dole and monetary refund for grain were rejected wholeheartedly.³²⁹ On the other hand, Maelius, a very wealthy man, sought the support of the people with his free gifts of food and unequalled generosity in the hope of securing a consulship for himself.³³⁰ He was not elected, however, and was further pressed when

³²⁵ Livy 3.35.2.

³²⁶ Livy 3.35.2-3.

³²⁷ Lintott, *Constitution*, 36. Maelius is perhaps the most likely would be tyrant, as he is said to have collected weapons in his house. See Livy 4.13.9.

³²⁸ Livy 2.41.1-2.

³²⁹ Livy 2.41.3-9.

³³⁰ Livy 4.13.2-3.

L. Municius was assigned to the grain markets and did with state money as Maelius had done with his own. Maelius is then supposed to have entertained higher ambitions and attempted to establish himself as a king in Rome.³³¹ Both Cassius and Maelius were killed.³³²

The story of M. Manlius Capitolinus is somewhat different. In 385 BC, Livy tells us that he not only ‘went over’ to the plebeians in an attempt to increase his influence among his patrician contemporaries, but also that he was the first patrician to do so. He is said to have adopted the stance of plebeian magistrates, that is, he supported and proposed radical legislation on land ownership and debt. In this way he sought to undermine Rome’s system of credit and, in so doing, attack the wealthiest Roman citizens.³³³ His actions were seen as dangerously revolutionary at a time when Rome was at war,³³⁴ and after having been imprisoned, mourned by the people, freed and at last failing to accomplish anything at all, he was killed and his house demolished.

While none of these stories can be considered strictly historical,³³⁵ Livy has

³³¹ Livy 4.13.4-9.

³³² For Cassius see Cic. *Rep.*, 2.60, Livy 2.41.10-12, Dion. Hal. *AR* 8.77-9; for Maelius see Livy 4.13.11-15, Dion. Hal. *AR* 12.2.1-4.

³³³ Livy 6.11.8.

³³⁴ Livy 6.11.2.

³³⁵ Cornell, *Beginnings of Rome*, 1-30. Roman history can accurately be described as a tapestry of truth, historical anachronisms and a great deal of propaganda. See also Emilio Gabba, “True History and False History in Classical Antiquity,” *JRS* 71 (1981), 50-62; J. P. V. D. Balsdon, “Some Questions about Historical Writing in the Second Century BC,” *CIQ*, New Series, Vol. 3, No. 3/4. (Jul. - Oct., 1953), 158-164; T. P. Wiseman, “Legendary Genealogies in Late-Republican Rome,” *Greece & Rome*, 2nd Ser. 21.2 (Oct., 1974), 153-164.

presented us with an interesting political picture. Cassius, a patrician, attempted to help the dispossessed, while Maelius, a plebeian, rose above his station. Both had to be fought off and, because they were popular figures, discredited by the established aristocracy before that popularity could wane.³³⁶ It is interesting that Livy recorded such compelling challenges to the established order of things while discussing the oligarchy of early Rome. That the aristocracy was able to channel popular discontent back at these would be demagogues and dispatch them with some efficiency cannot be denied.³³⁷ However, this does not change the fact that these three men were able to win over a significant portion of the *plebs*, much less provoke sufficient concern for their removal. In a strict and stable oligarchy, this would have been impossible. In an evolving political forum in which the desires and hopes of the people represented a tangible source of power, this is expected. More, it is often a point overlooked in examinations of these episodes.³³⁸

What is particularly noteworthy is that Livy felt this interpretation of events would be acceptable to his audience; an audience which would have been familiar with the stories of the late republic and, more specifically, the writings of Cicero.³³⁹ It is perhaps ironic that Livy, while examining a time of aristocratic and senatorial solidarity, not only listed precursors of the demagogues who would prove so fatal to the republic, but also showed his readers the weapon which would deliver the final blow. At the very

³³⁶ Cf. R. Olgilvie, A Historical Commentary on Livy Books 1-5 (Clarendon Press: Oxford, 1965), 1-22, 337-342, R. B. Steele, "The Historical Attitude of Livy," AJPh Vol. 25.1 (1904), 15-44.

³³⁷ Lintott, Constitution, 35-36.

³³⁸ Andrew Lintott, "The tradition of violence in the annals of the early Roman republic," Historia 19 (1970), 12-29.

³³⁹ Robin Seager, "Populares in Livy and the Livian Tradition," CQ 27.2 (1977), 377-390.

least we must accept that Livy has here effectively foreshadowed the extraordinarily competitive and unpredictable climate of the late republic by inserting those same tendencies into what he saw as a stricter political 'structure' of the fifth and fourth centuries.³⁴⁰

Popular Politics and Bribery in the Late Republic

Ambitus seems to have become a serious problem in Rome during the early second century. Bribery laws were passed in 181 and 159 BC, and possibly at some time around 184 BC, in response to the exponential growth of wealth from foreign conquests and its use in electoral competitions in Rome.³⁴¹ Polybius tells us the penalty for conviction was death, although this was generally substituted with exile in capital cases involving Rome's ruling class. Little else is known of those convicted for *ambitus* in the second century under these laws; we have only one passing reference to a Q. Coponius, who may or may not have been a legate by 150 BC, who had given a voter an amphora of wine and was convicted for *ambitus* as a result.³⁴² It has been argued that this particular bribe was aimed at a well-to-do Roman, but the evidence does not necessarily support this conclusion. It is unlikely that a single amphora of wine, regardless of its quality, would convince any man of means to support any particular candidate, especially when the *comitia* were being carried by the highest corruption in the 160s BC.³⁴³

³⁴⁰ Robin Seager, "Populares in Livy and the Livian Tradition," 381-384.

³⁴¹ See Chapter 1: *Lex Cornelia Baebia de ambitu* of 181 BC, the *lex Cornelia Fulvia* of 159 BC and the unknown *lex de ambitu* of 184 BC.

³⁴² Pliny, *NH*, 35.162; Broughton *MRR*, 2.482.

³⁴³ Jul. Obs. *Prodig.*, 12; *contra* Baurle, *Procuring an Election*, 115.

Several other examples of *ambitus* occurred in the late second century, but these take place in or after the year 116 BC; after a permanent *quaestio* was established for the crime and after the first voting law, *lex Gabinia* of 139 BC, made the ballot secret at elections.³⁴⁴ Before 139 BC it is possible that the ruling class in Rome was able to control, to some degree, the electorate because of the practice of open voting. While it is impossible to tell what level of influence fear or the threat of reprisal played in Rome's choice of magistrates, it does not seem to have drastically affected how many new men were able to found noble lines.³⁴⁵ While this may be taken as evidence that voting laws played little part in the elections of Rome, the presence of bribery overrides this consideration. No one bribes anyone if he does not have to.³⁴⁶

Whatever the case may be for the prior period, elections after 139 BC were much changed. Eliminating the oral vote and, consequently, the record of who was voting for whom must have greatly affected Roman electoral procedure. New, more personal methods of bribery and coercion would have been frantically adopted, since only under the most exceptionally rare circumstances would candidates ever attain office in the late republic without resorting to these tactics.³⁴⁷ With no way to control the electorate, candidates began to employ electioneers in ever increasing numbers. These groups, some violent and some not, became all important political tools. Supporters would cluster together and loudly and publicly proclaim support for their candidate, accompany him during the canvass and support him on election day. Gangs might threaten and intimidate

³⁴⁴ Cic. *Leg.*, 3.33-39; Yakobson, *Elections and Electioneering*, 126-133.

³⁴⁵ Brunt, "*Nobilitas et Novitas*," 12.

³⁴⁶ Brunt, *Fall*, 104; Yakobson, *Elections and Electioneering*, 22-23.

³⁴⁷ For example: Cicero and Cato Uticensis. See Broughton, *MRR*, 2.165 and 2.221.

voters during the canvass or at the polls in an attempt to influence voter choices, or try to bar the supporters of rival candidates from the forum in organized eruptions of violence. Agents might distribute donatives to the electorate or engage in last minute petitions for support from the crowd at the polls.³⁴⁸

At least some of these reasons seem to have guided Marius' decision to narrow the voting *pontes* in 119 BC, this move may have helped prevent any last minute canvassing or intimidation from corrupting ballot holders.³⁴⁹ The success of this measure was evidently short lived; subsequent legislators had to pass a number of *leges de vi* in order to discourage dangerous outbursts from political supporters³⁵⁰ and I have already described in detail the various laws passed against electoral bribery in chapter 1. Suffice it to say here that none proved particularly successful.

Candidates were aware that violence was not enough to ensure any desired outcome on election day; no one candidate until Clodius, and arguably not even then, was able to control a significant majority of the gangs in Rome.³⁵¹ Competing canvassers would regularly field competing groups of supporters, be they companions, bribery agents or thugs. Therefore, it is only natural that these canvassers offered voters

³⁴⁸ See Chapter 2: Electioneers.

³⁴⁹ Cic. *De Leg.*, 3.38; Plut. *Mar.*, 4.2-4; Wiseman, *New Men*, 5; L. R. R. Taylor, *Roman Voting Assemblies* (University of Michigan Press: Ann Arbor, 1966), 39.

³⁵⁰ Rotondi, *Leges Publicae*, 361, 377, 410.

³⁵¹ Lott, *Neighborhoods*, 28-60, esp. 45ff; Tatum, *The Patrician Tribune*, 239-240. Clodius was, after all, killed in an altercation with a gang of Milo's.

incentives for a favourable ballot; in this way the methods of bribery enjoyed unrivalled success and massive proliferation.³⁵²

Candidacy and Electoral Success

Candidacy was restricted in two ways in the last decades of the republic. First, only men who had the requisite political connections and wealth could ever hope to be successfully elected. Indeed, there is good evidence that the late republic was the most expensive political period in pre-imperial Rome. Second, Sulla codified the *cursus honorum* in 82 BC. He expanded on the *lex Villia annalis*, which had in the second century BC introduced the minimum ages for holding curule offices, by establishing the formal order of advancement of quaestor to praetor to consul. He also reinstituted a ten year disqualification on repeating any magistracy.³⁵³ Only the most influential citizens were ever able to sidestep this measure; the majority of Roman political hopefuls were forced to fill the proper offices in the proper order and at the proper times before they could even qualify for an attempt at the highest magistracies. Success was by no means guaranteed to anyone; even the most powerful men in Rome had to canvass aggressively and make significant financial outlays in order to ensure they attained desired magistracies.³⁵⁴

³⁵² See chapter 2: Electioneers.

³⁵³ Rotondi, *Leges Publicae*, 278-279 and 351.

³⁵⁴ Baurle, *Procuring an Election*, 128-203, cf. 111-127; Wiseman, *New Men*, 92-93; cf.

Yakobson, *Elections and Electioneering*, 137-138.

Still, it has often been suggested that Sulla's reforms, particularly the crippling of the tribunate and expansion of the senate with men of questionable background,³⁵⁵ further cemented the political control of a narrow group of, depending on the date, *nobiles*, *patres*, *boni*, *optimates*. These men would have been extremely wealthy and politically successful, well known to the people and, consequently, able to maintain the greatest number of clients.³⁵⁶ The generational dominance of magistrates from the same *gens*, like the Aemilii, the Fabii, the Cornelii and the Valerii in the earlier republic, has often been used to support such claims of aristocratic dominance later and has tempted scholars to see each successful candidate produced by one or another *gens* as part of united familial or factional political agenda.³⁵⁷ Ostensibly, these ruling families would have welcomed the opportunity to control a tribunate which was no longer able to pass legislation independently and would have been able to bar political 'outsiders' thrust into the senate from making any significant political gains against them.³⁵⁸

Yet, great care must be exercised in positing links between men with an identical *nomen*, but not *cognomen*.³⁵⁹ Lacking evidence of familial or friendly ties, we cannot

³⁵⁵ H. Hill, "Sulla's New Senators in 81 B. C." *CQ* (1932), 170-177. Hill presents an interesting argument, although not one with which I can wholly agree. It is more likely that Sulla did in fact elevate some political 'nobodies' into the senate; men who had served him well and loyally and were rewarded with a senatorial seat were likely to continue to do so.

³⁵⁶ Gruen, *LGRR*, 127-128.

³⁵⁷ Eg. Münzer, *Roman Aristocratic Parties and Families*, 54-61, 94-96, 144-166 and 191-192; R. Develin, *Patterns In Office Holding 366-49 BC*, Collection Latomus, Vol. 161 (Bruxelles, 1979), 31-57 and 81-101.

³⁵⁸ Gruen, *LGRR*, 23-28 and 190-210.

³⁵⁹ Brunt "Nobilitas and Novitas," 2-4.

construe links between one member of a particular *gens* and any other, regardless of political success or similarity in political stance. Indeed, several examples in the republic clearly indicate that the political fortunes of different branches of the same *gens* were largely independent of one another.³⁶⁰ That being said, political success in Rome *was* often tied to direct family lineage; a descendant's connection to one or more consular ancestors made reaching that office more likely. This is not surprising; families which had attained political success had, by virtue of that success, more opportunity for financial and political gain.³⁶¹ But these family lines were small and relatively isolated from one another; certainly the evidence of their breadth does not support *gentes* wide factions, even when links of friendship, kinship and marriage were involved.³⁶² Further, it has been remarked that a Roman nobleman's chances of political success were increased by an ancestor's accomplishments only when he enjoyed a close proximity to them.³⁶³ Many noble families failed to produce magistrates for a number of generations, and while this lapse did not necessarily endanger that status, subsequent office seekers in these lines could not generally expect the reputation of men decades gone from the public sphere to lend them much help at the polls. Oratorical and political skills, not to mention money, had to compensate.³⁶⁴

³⁶⁰ Brunt, *Fall*, 36-45 and 443-502.

³⁶¹ Shatzman, *Senatorial Wealth*, 67-70 and 177-212; Keith Hopkins, *Death and Renewal* (Cambridge University Press: Cambridge, 1983), 66-69.

³⁶² Brunt, *Fall*, 443-458.

³⁶³ Cic. *Mur.*, 15-16; Asc. 23. C.; Yakobson, *Elections and Electioneering*, 200; Wiseman, *New Men*, 106.

³⁶⁴ Yakobson, *Elections and Electioneering*, 200.

Nor is it surprising that the number of new men who reached consular office was slightly smaller than in previous periods. Brunt lists only 8 between 79 and 50 BC, compared to 11 between 199-170, 12 between 169-140, 12 between 139-110 and 13 between 109-80 BC.³⁶⁵ The fact which is most often glossed, however, is that the number of *nobiles* who attained curule office in this period, and in particular the consulship, represents only a small fraction of the total who were available to do so and who attempted it.³⁶⁶ We must add to this number at least some of those men who were eager to regain membership in the senate after having been expelled from its ranks in 70 BC. Having previously courted the electorate and enjoyed political success, many of these men would have had a greater chance of being elected and readmitted into the governing body than total newcomers or lapsed *nobiles*.³⁶⁷ Lastly, the late republic was a period of great instability and violence and a near constant struggle for dominance among social magnates; that 8 new lines of *nobiles* were established by new men in the uncertain years after Sulla is, against this backdrop, remarkable.³⁶⁸

The Voters

If Roman political power was in the hands of a largely united oligarchy, candidates would need only the votes of those men who mattered most. Because the first

³⁶⁵ Brunt, "Nobilitas et Novitas," 12.

³⁶⁶ Hopkins, *Death and Renewal*, 31-119, esp. 55-69. Indeed, there is no way to tell how many *novi homines* or *nobiles* attempted and failed to attain office in Rome during these years.

³⁶⁷ Cic. *Verr.*, 2.5.15; Cic. *Cluent.*, 117-134; Cic. *Flac.*, 45; Cic. *Dom.*, 124; Pseudo-Ascon. *Verr.*, 150 Or.; Plut. *Pomp.*, 22.4; Livy, *Periocha*, 98; Ascon. *In Tog. Cand.* 75; Robert Cram, "The Roman Censors," *HSPH* 51, In Honour of William Scott Ferguson, (1940), 110.

³⁶⁸ Lintott, *Violence*, 175-208 and 209-219.

voting class controlled 88 of the 193 centuries in the *comitia centuriata* and the second class 20, a unified vote in both groups would have provided candidates with the necessary majority needed to be elected to office, thus ending the elections and denying the vote to the remainder of the centuries.³⁶⁹ They would have attempted to ingratiate themselves with the first two voting classes, although, in reality, victory would lie in the hands of the most influential senators in the first class, a necessarily small circle. This inner circle could then command clients distributed throughout the rest of the first two centuries to support a chosen candidate; success simply belonged to whoever had convinced the most of these ‘shadow bosses.’

Yet, in the case of bribery, the seemingly small amounts given to individual voters do not lend themselves to the rich and powerful; such donatives would have little to no meaning for men whose wealth insulated them from the hardships of simple survival.³⁷⁰ Recently it has been suggested that the act of bribing the poor (*tenues*) won the favour of local notables (*principes*); by helping these clients of a variety of patrons, candidates would have gained their support at the polls.³⁷¹ Certainly, this is an interesting paradox; in it patrons dominant in Rome’s social hierarchy would be influenced by gifts given to their social inferiors. This is not, strictly speaking, impossible, but neither is it attested in the sources. If, on the other hand, we see bribing the *tenues* as having some tangible benefit, such as the possibility that their votes would mean something if the first classes

³⁶⁹ Staveley, *Greek and Roman Voting*, 125-129, 139.

³⁷⁰ Shatzman, *Senatorial Wealth*, 11-46 and 88-90. Notwithstanding the bid of 10,000,000 *sesterces* for the vote of the *centuria praerogativa* in 54 BC, yet this immense sum of money was offered in addition to widespread bribery. See Cic. *Ad Q. Frat.* 2.14.4.

³⁷¹ Lintott, “Electoral Bribery,” 11.

votes were split, and there is good reason to believe this happened on occasion, then the evidence we have of electoral bribery makes a great deal more sense.³⁷²

Further, it is generally accepted that the minimum qualification for membership in the first property class was roughly 40-50,000 sesterces by the middle of the second century BC, but this figure is by no means definitive or universally accepted. It has been suggested that as little as 25,000 sesterces were required. Thus, estimates range between 1/10 and 1/20 of the census rating of an *equus* during the republic, and 1/20 to 1/40 of that established by Augustus.³⁷³ There is some uncertainty as to who exactly would have had this amount in property, but it is relatively safe to say that men who lived moderately above the level of bare subsistence would fit into this category. Landed veterans, modest farmers who managed to produce a surplus with some regularity, successful shopkeepers and anyone else who managed to convince the censors that they possessed the requisite wealth seem the most likely candidates.³⁷⁴

It is unlikely that any one candidate, competing against others of similar background and for the same office, would have been able to secure an easy majority in the first two centuries of voters; the presence of widespread bribery, not to mention

³⁷² Yakobson, Elections and Electioneering, 23-24 and 48-53.

³⁷³ Livy 1.43; Dion. Hal. AR 4.16-18; Polybius 6.19.3 and 23.15; Taylor, Roman Voting Assemblies, 149; Yakobson Elections and Electioneering, 44. Cf. Millar, Crowd, 202-203. Millar has gone as far as calling the first class, a large group whose wealth was by no means substantial, the Roman middle class.

³⁷⁴ U. Hall, "Greeks and Romans and the Secret Ballot," in "Owls to Athens" - Essays on Classical Subjects Presented to Sir Kenneth Dover, (Oxford: 1990), 197; E. Badian "Tiberius Gracchus and the Beginning of the Roman Revolution, ANRW 1.1 (1972), 717.

violence, during elections in the late republic certainly lends support to this view; clearly the Romans felt that the stakes were high, that the electorate had to be courted, won over or intimidated, and no matter how well prepared a candidate might be, his chances were dicey at best.³⁷⁵ It is doubtful that there was an overriding unity within a first class whose members ranged from the wealthiest Roman senators and *equites* to men of quite modest means. Yakobson has noted that, “there is no reason to suppose that the 18 centuries of knights and the 70 centuries of the first class (together almost half of the voting units in the assembly) would as a rule vote together at the elections.”³⁷⁶ A split vote in the first two centuries would ensure at least the partial involvement of the lower classes, potentially even to the centuries of the destitute. That being said, Roman elections could hardly have been representative of the population. Only those men who could travel to the city or who were able to ‘take the day off’ in the city would have been able to present themselves for voting, a somewhat restricted number, since the days on which the *comitia centuriata* could be called were severely curtailed and never included market days. Considering the population of Rome in the late republic, limiting the number of outsiders who could or would travel to the city on an election day may well have prevented (or attempted to prevent) a dangerous influx of people from upsetting the fragile balance of the empire’s civic center.³⁷⁷

The unpredictability of such a mob, potentially politically polarized from the many canvassers who travelled throughout Italy, would have taxed the city’s

³⁷⁵ Cic. *Planc.*, 11, 15; Cic. *Mur.*, 35-36.

³⁷⁶ Yakobson, *Elections and Electioneering*, 43.

³⁷⁷ Taylor, *PP*, 74-75; Lintott, *Violence*, 67-73, 180-203.

infrastructure to the limit; its presence alone would have posed serious logistical challenges for the food and water supplies, not to mention the preservation of order.³⁷⁸

Voting areas such as the forum had limited space, and with crowds of rival supporters in attendance doing everything possible to obstruct their opponents, it could only have been a chaotic, oftentimes violent, arena; certainly not the safest place to be.³⁷⁹

LEGAL MUNIFICENCE AND THE BLURRED LINE OF *AMBITUS*

Success in Roman elections did not hinge directly on violence and corruption. Only those candidates who were otherwise acceptable to the electorate and who already had significant support, that is, candidates who conformed with or fulfilled the expectations of the Roman people at large were most likely to be returned at the polls. There were legal alternatives to illegal electioneering, although generally these were not employed exclusively by anyone. *Ambitus* was an attractive option because, in addition to relatively low conviction rates, legal munificence was usually detached from candidacy and provided little guarantee on its own of voter loyalty.

Games, shows, dinners, donatives and practical assistance were all acceptable aspects of public life, providing (after 63 BC at any rate) the host was already a magistrate or did not stand for office before two years has passed (unless the celebrations and gifts were ordered by a will).³⁸⁰ Other opportunities were rare; triumphs were voted only to returning generals of sufficient rank and who had enough support in the senate, while funerals were not always conveniently timed and large scale distributions of food

³⁷⁸ Brunt, *Italian Manpower*, 36; Wilfried Nippel, "Policing Rome," *JRS* 74 (1984), 20-29.

³⁷⁹ Lintott, *Violence*, 67-88, 209-215.

³⁸⁰ See Chapter 2.

were expensive. Even state sponsored donatives resulted in questionable political benefit for those who oversaw them. The *frumentationes* (corn doles) revived in the late republic perhaps best illustrate this point. Managing the food supply for the city's poor must have played some role in a politician's subsequent elections; no doubt the stewardship of the *cura annonae* was an immensely popular position. Yet, as we shall see, this did not always manifest itself in any positive way.

Frumentationes begin in the late republic with Gaius Gracchus, who as tribune in 123-122 BC, instituted a grain distribution at a reduced cost and had public granaries constructed in Rome.³⁸¹ His death did not cancel the dole, but the effectiveness of his measure was in some way reduced near the turn of the century by a *lex Octavia*, which may have raised grain prices or limited the number of recipients who could claim the discount. Some years later, Sulla abolished the practice altogether. In 73 BC a limited dole was re-instituted by an unknown author, followed in 62 BC by the proposal of Cato the Younger's which, once passed, greatly enlarged the number of recipients. Clodius as tribune in 58 BC went even further; he passed a law which made the corn dole free.³⁸²

Both Cato the Younger and Clodius proposed their individual measures while tribunes; Cato would eventually attain the praetorship and Clodius would remain a popular figure among the urban poor until his death.³⁸³ Yet neither Cato nor Clodius reaped much immediate benefit from their involvement with *frumentationes*. Cato was

³⁸¹ Liv. *Epist.*, 60; Appian, *BC*, 1.21; Plut. *C. Grac.*, 5; Vell. Pat. 2.6; Cic. *Sext.*, 48.

³⁸² Cic. *Dom.*, 25; Cic. *Sest.*, 55; Plut. *Cat. Min.*, 26.1; *Caes.*, 8.6; Ascon. 8 Cl.; Dio 38.13; Schol. Bob. 132 Stangl; Brunt, *Fall*, 75-76 and 244-245; Broughton, *MRR*, 2.176 and 2.195-196; Tatum, *The Patrician Tribune*, 119-125.

³⁸³ Broughton *MRR* 2.221-222; Tatum, *The Patrician Tribune*, 241-246.

sufficiently odious to both Pompey and Caesar that he was sent to govern Cypress in 58 BC; he did not attain the praetorship until 54 BC and failed to win the consulship in 51 because, we are told, he spoke out against electoral bribery.³⁸⁴ Clodius fell victim to circumstances; a poor harvest in 57 BC rendered his promises of free grain moot, and the riots he organized as a result led to Pompey's appointment over grain distribution in the city. Clodius' reputation must have suffered as a result; no small part of the *plebs'* loyalty was tied to the food he had promised, but failed to provide.³⁸⁵ Pompey, on the other hand, was awarded the *cura annonae* for five years and extended the privilege of the dole to those who had not formerly been on the census rolls. Yet, even he had to canvass aggressively with Crassus for his second consulship in 55 BC.³⁸⁶

The most limiting factor for an aspiring politician who wished to involve himself in the *frumentationes* was the need either to attain office first, because only magistrates could propose the necessary legislation. Further, the implementation of the grain supply could be quite costly or impossible to maintain, especially if the Roman treasury did not subsidize the purchase of the requisite food stores, if harvests were poor or if wars and pirates got in the way. Tribunes might propose and pass legislation, but their tenure lasted only a single year. Only the richest and most influential men in Rome could ever

³⁸⁴ Plut. *Cat. Min.*, 44 and 49; cf. Dio 40.58.1-2; Broughton *MRR* 2.221-222; Gruen, *LGRR*, 156; Yakobson, *Elections and Electioneering*, 216-217.

³⁸⁵ Tatum, *Patrician Tribune*, 186-187.

³⁸⁶ Dion. Hal. *AR* 34.24; G. Rickman, *The Corn Supply of Ancient Rome* (Oxford University Press: Oxford, 1980), 174f.

hope to be appointed to the role, as Pompey was, much less hope to bear the expense personally or convince the senate to allocate more funds to it.³⁸⁷

Still, the act of overseeing legal munificence had its advantages, even if opportunities arose years from candidacy. Aediles generally seem to have enjoyed better chances of attaining higher office if they gave magnificent games; opulent funeral celebrations gave the younger generation of political hopefuls a highly visible opportunity to remind the public of noteworthy family accomplishments; privately funded *largitiones* stressed the benevolence and wealth of the donor. In other words, any excuse for public display was a good excuse, legal or not. Popularity gained from these displays, however, had to be jealously guarded and maintained. Circumstances might intervene; perhaps Cato and Clodius would have enjoyed greater benefits from the corn dole had Cato not cursed illegal electoral spending and Clodius not promised food in a low yield year.

In this context, several appealing aspects of *ambitus* can be identified. A candidate who had previously been generous to the crowds of Rome could use *ambitus* to bolster his support while canvassing; potentially this would reinforce his popularity and place as public benefactor, providing he met the crowd's expectations. *Ambitus* took place on and during the period immediately prior to election days; this proximity diminished the chances of unforeseen problems interfering and voter favour shifting onto an opponent. Moreover, electoral bribery was a requirement for candidates for the simple reason that others running for the same office were likely to make use of it. Keeping up was all important.

³⁸⁷ Cic. *Ad Q. Frat.*, 2.5.1; Brunt, *Fall*, 244; Tatum, *Patrician Tribune*, 212.

One final aspect of *ambitus* was particularly tempting; overall the rate of conviction was low. Less than half of those who were prosecuted for the offence, almost always magistrates elect, were found guilty; we have no way to know how many other men committed this crime and were not prosecuted, either for failing at the polls or for some other unknown reason.³⁸⁸ This could not have gone unnoticed, nor could political hopefuls have missed the fact that what constituted *ambitus* was a matter of some debate among their peers and, more importantly, superiors.

Our sources are frustratingly unclear as to what exactly *ambitus* meant. Generally it refers to any act contrary to bribery law; the restriction of various electioneers (*nomenclatores, divisores, sodales* and *sectatores*) and limitations imposed on when and under what circumstances *largitiones* could legally be provided to the public.

Ambiguities in our sources make further specification impossible. Yet, these ambiguities are intriguing precisely because of their presence. Some late republican writers, most specifically Cicero, made a conscious effort to blur the line between the legal and illegal aspects of electioneering. This is unsurprising, Cicero functioned as a defence advocate in a vast majority of his cases; he was a highly skilled third speaker, whose function was primarily to sway the presiding jury. This he did most blatantly while consul in 63 BC; it is in the *pro Murena* that we find an inherent problem with prosecutions for electoral malpractice and, potentially, a reason why the laws were so ineffective.

³⁸⁸ Baurle, *Procuring an Election*, 296 and 114-203; cf. Alexander, *Trials*, No. 34-36, 58, 83, 95, 107, 161, 175, 196, 199, 200, 202, 224, 238, 265, 268-270, 274, 279, 285, 292-293, 298-301, 304, 310-311, 319-323, 329-333, 345.

In that year, Cicero passed a *lex de ambitu* at the request of the consular candidates for 62 BC; he widened the scope of previous legislation and reminded candidates that certain activities were prohibited. Some months later Cicero defended one of those very candidates against a charge of *ambitus*; the defendant, Lucius Murena, was almost certainly guilty. Murena was prosecuted for *ambitus* by M. Porcius Cato Uticensis, C. Postumus, Ser. Sulpicius Rufus, and another Ser. Sulpicius who was an *adulescens* and possibly the other prosecutor's son.³⁸⁹ Cicero defended Murena with two distinguished colleagues: Q. Hortensius Hortalus and M. Licinius Crassus.³⁹⁰ The prosecution's argument, according to Cicero, was that Murena was not the sort of man who could attain the consulship in any honorable way.³⁹¹ Sulpicius was, according to the prosecution, the more suitable candidate and had previously been elected before Murena as quaestor and praetor.³⁹² Thus, Murena *must* have bribed the population to vote for him if Sulpicius had failed to win the consulship.³⁹³

It was Cicero's responsibility in the *Pro Murena* to secure the jury's support by stressing Murena's innocence and the importance of his acquittal.³⁹⁴ This he did by comparing the careers and characters of Sulpicius and Murena, diminishing the former

³⁸⁹ Cic. *Mur.*, 46, 62.

³⁹⁰ Cic. *Mur.*, 10; Alexander, *The Case for the Prosecution*, 121-124. Cicero's position was not, however, entirely without complication. He had to devote some time to justifying his presence at the trial (Cic. *Mur.*, 2-10).

³⁹¹ Cic. *Mur.*, 11-14.

³⁹² Cic. *Mur.*, 18, 35.

³⁹³ Cic. *Mur.*, 15-53. Cicero devoted a large portion of his speech to refuting this charge.

³⁹⁴ Cic. *Mur.*, 48, 54, 67.

and praising the latter³⁹⁵, and by reminding the jury that not only had Murena's veterans played a large role in the elections, present in the city as they were,³⁹⁶ but also that the crowd had always been fickle.³⁹⁷ Furthermore, Cicero called attention to the fact that Sulpicius had begun preparing his prosecution even before the elections had taken place, while Murena had been actively canvassing for the office against D. Iunius Silanus and Catiline.³⁹⁸ Since Sulpicius had already as much as admitted defeat, voters chose Murena in order to keep the scoundrel Catiline out of office.³⁹⁹

In Cicero's oratory, however, other specific charges can be identified. Murena was accused of providing seats at shows for his tribesmen, of paying a large crowd to accompany him during his campaign and of giving out invitations to public dinners indiscriminately, clearly violations of *ambitus* law.⁴⁰⁰ Also, the prosecution may have found money that was to be used for bribing the electorate and agents who had admitted to this.⁴⁰¹ Cicero's colleagues would have already dealt with these charges in the first two speeches for the defense, although we know nothing of their arguments, but Cicero felt it necessary to reply to them in his own way. He demanded Sulpicius prove

³⁹⁵ Cic. Mur., 15-42.

³⁹⁶ Cf. Plut. Pomp., 51; Cic. Ad Att., 4.16.6; See Taylor, PP, 69 on the role of Pompey's troops in his canvass for the consulship in 71 BC.

³⁹⁷ Cic. Planc., 11, 15; Cic. Mur., 35-36.

³⁹⁸ Cic. Mur., 43-48.

³⁹⁹ Cic. Mur., 48-53.

⁴⁰⁰ Cic. Mur., 73.

⁴⁰¹ Cic. Mur., 54.

(*convince, doce*) them.⁴⁰² According to Cicero, it was Murena's many friends who had provided for him the escort of *sectatores*, shows and dinners during his campaign. This, far from being illegal, was in fact a well established tradition and his friends should suffer no harm from fulfilling their duty to him.⁴⁰³ His comments on the *nomenclatores*, whose actions had been restricted at some point during the war with Spartacus in 73-71 BC, were similar. Cicero even attached some stigma to Cato's having employed one, although he made use of one himself. It is Plutarch who tells us that Cato was the only candidate who ever obeyed the law to any degree at all.⁴⁰⁴

Sulpicius certainly had difficulty proving his charges against the defendant in front of the *quaestio*. Indeed, this must have been extraordinarily difficult for prosecutors in general, especially after the results of the elections were published.⁴⁰⁵ Sulpicius began gathering evidence against Murena, and presumably the other candidates as well, before anyone was elected, but only evidence gathered on the victor would be useful. Further, it must have been difficult for him to get reliable witnesses to come forward and admit to having given or accepted a bribe.⁴⁰⁶ Murena was acquitted,⁴⁰⁷ and while he may have owed part of his exoneration to the ongoing threat of Catiline and the consul Cicero's

⁴⁰² Cic. *Mur.*, 73.

⁴⁰³ Cic. *Mur.*, 68-73.

⁴⁰⁴ Cic. *Ad Att.*, 4.1.5; Cic. *Mur.*, 77; Q. Cic. *Comm. Petit.*, 32; Plut. *Cat. Min.*, 8 and *Caes.*, 13; Bernert, *RE* s.v. 17.1 (1936), 817-818.

⁴⁰⁵ Cic. *Mur.*, 73; Yakobson, *Elections and Electioneering*, 91.

⁴⁰⁶ Cic. *Mur.*, 44-46.

⁴⁰⁷ Cic. *Flac.*, 98. Unanimously according to Cicero, although it is unlikely that his speech, the last of the defence and perhaps the least relevant to the charges, was entirely responsible.

defense, the jury may not have felt bound to condemn a defendant for crimes some panel members had committed themselves. This is especially true if he was being prosecuted by a close relative of Silanus, who may well have been equally guilty.⁴⁰⁸

It may be that the fear of civil war and the moral duplicity of the prosecution played a part in the Roman jury's decision to spare Murena. Even if Cicero was exaggerating the danger of Catiline, he did have a point when he called Murena a tested military leader.⁴⁰⁹ Murena as consul, rather than Sulpicius who had only ever been a lawyer, would have a better chance of defeating any group led by Catiline, dangerous or not to the safety of the state.⁴¹⁰ Sulpicius may well have intended to attack Catiline as consul-designate, but when Catiline left Rome and Murena won instead, he was probably more inclined to attack him; the other consul-designate was, by virtue of his connection to Cato, a more difficult target.⁴¹¹

It is evident in Cicero's speech that there was, even to the Romans themselves, some question as to what exactly constituted *ambitus*. Cicero essentially calls it a matter of interpretation, practically indistinguishable from traditional and acceptable practices. Circumstances, according to Cicero, dictated the correct action. He believed that the state

⁴⁰⁸ Plut. *Cat. Min.*, 21.2-3. Cato's sister was married to Silanus. Although Cato had promised to prosecute anyone for *ambitus* who had been too liberal with the crowd in 63 BC, he made an exception of his brother in law.

⁴⁰⁹ Cic. *Mur.*, 15 and 32. He did, however, grossly misrepresent the prior military genius of Murena's family.

⁴¹⁰ Cic. *Mur.*, 4-5, 22-34, 78-79.

⁴¹¹ Plut. *Cat. Min.*, 21.2. Cato's relation to D. Iunius Silanus, the other successful candidate, made his prosecution impossible.

was in danger, he felt that his friend Sulpicius did not have the relevant military experience to deal with that threat and he had at his disposal a man who had returned from a military campaign in the provinces and had conducted that campaign with some success.⁴¹² Clearly law, in Cicero's mind, could fall victim to political expediency. Therein lay its weakness.

CONCLUSION

It is a fundamental truth that electoral bribery is focussed only on those whose votes matter. Candidates do not make expenditures which are or seem to be unnecessary to them; yet neither can they afford to ignore even the potential benefits of unforeseen outlays in very close contests. Bribery in Roman elections was no different; it was focussed on a wide spectrum of people, and *ambitus* laws sought to prevent the division of gifts indiscriminately throughout the tribes and to secure the punishment of those who sponsored such unlawful distribution.

According to the traditional interpretation of Roman politics, these gifts were targeted at the first and perhaps second property classes, largely composed of men of senatorial and equestrian rank and their immediate social inferiors. Yet the bonds of *amicitia* had more bearing on electoral results; bribery, as a matter of course (convention or peculiarity) was aimed at only the most influential men in Rome, men who could call on their clients' support. Thus, bribery would only help those candidates with already extensive ties of friendship *and* the goodwill of powerful political organizations, be they family factions or *gentes* spanning 'parties.' In the late republic political favourites were backed either by three social magnates, Caesar, Crassus and Pompey or by conservative forces in the senate.

⁴¹² Cic. *Mur.*, 15 and 32.

Modern interpretations vary; some posit slight modifications on the previous theme or none at all, while others call for large scale change and revision. Our evidence, however, supports a wider concept of voter freedom in the Roman state than implied above. Episodes from Livy show both that the senate was unable to control the *plebs* at will and that what control they did hold over them could be directly challenged from time to time. Aristocratic competition led to a wide variety of strategies, culminating in the late republic when the availability of wealth and the use of that wealth in elections drastically affected Roman politics.

The composition of the first and second property classes probably included men who had a total amount of property valued between 25-50,000 *sesterces*, a sum far below the minimum qualifications of the *equites*. Secret ballot laws and several procedural reforms protected voters against direct forms of manipulation and coercion, while the rise of violence and *ambitus* point to much changed political realities. Bribery of the Roman citizenry at large implies that even the poorest centuries played some role in electing the highest magistrates; split votes could and did ensure this.

Voters were limited to choosing candidates who not only qualified for specific magistracies, but who could also afford the costs of canvassing for them. Political careers in the last decades of the republic were extraordinarily expensive and entailed significant risks. More '*nobiles*' secured election to high offices than '*novi homines*' precisely because they had political backgrounds; successful ancestors lent respectability to younger political hopefuls and, in many cases, wealth taken in foreign conquests and provincial governorships. New men were able to succeed, but some political pedigree

was necessary; Roman voters were unwilling to support men seeking high office who had few or no notable ancestors.

Ambitus was both a useful political tool and a dangerous liability. Candidates had to bribe, not only to ensure they kept apace with their competitors, but also because spurning voters risked rejection at the polls. Conversely, magistrates-elect were often targets for *ambitus* prosecutions by failed candidates wishing to overturn election results and assume the office themselves, or by those seeking new elections. Conviction resulted, after 63 BC, in exile from Rome and permanent disqualification from holding office. Yet, in general only successful candidates were prosecuted for *ambitus* and less than half of those were found guilty. Cicero's arguments in the pro Murena show that *ambitus* was practically indistinguishable from customary practices of philanthropy, except in terms of proximity to elections. Clearly the definition of *ambitus* changed, dependent as it was on the magistrate presiding over the *quaestio*, those who composed the jury and the identity of the not only the prosecutors and defendants, but of the advocates as well.⁴¹³ Politics, it seems, ran the courts of Rome.

⁴¹³ Cic. Planc., 45.

CONCLUSIONS

In the preceding chapters I have outlined the various *leges de ambitu*, the legal and illegal practices and organizations which were used to counter them and discussed how electoral bribery affects our understanding of the political climate of the late republic.

In chapter 1 I examined the various bribery laws passed in the Roman republic. The earliest *ambitus* law dates from the fifth century BC, but it may very well be anachronistic. Midway through the fourth century the *lex Poetelia* was passed, probably the first true *ambitus* law, in an effort to prevent ‘new men’ from attaining the traditionally patrician consulship. This is perhaps an excellent testament to the rising influence of wealthy plebeians and the steady erosion of patrician power in early Roman politics. In any case, it is not until the early second century, after the conclusion of the second Punic war, that *ambitus* laws sought to prevent all men from attempting to buy magistracies in Rome. The *lex Cornelia Baebia* of 181 BC seems especially concerned with individuals who had acquired extensive assets, either during their wartime conquests or in the provinces, and were attempting to buy votes with them during their canvasses. The law proved ineffective, and another was passed in 159 BC. One or the other, according to Polybius, prescribed the penalty of death to a man convicted of it, but many influential Romans substituted death with exile. We know practically nothing of the establishment of a permanent *quaestio* for *ambitus* sometime in the next forty years or so.

Sulla's subsequent law of 81 BC established a ten year ban on office, upheld by Piso's measure in 67 BC, but toughened to exile by Cicero in 63 BC. An unknown *lex* prohibited the use of *nomenclatores* during electoral canvasses at some point during the war with Spartacus, while the *lex Fabia de numero sectatorum* (67-63 BC) and the *lex Licinia de sodaliciis* of 55 BC extended restrictions to attendees and other groups of electioneers. Lastly, Pompey's *lex de ambitu* made retroactive prosecution possible for *ambitus* crimes dating as early as 70 BC.

In chapter 2 I discussed the both the venues and agents employed for bribe distribution. Candidates were willing to spend a great deal of money on the electorate in the late republic; they used games, shows and banquets to impress voters with their generosity and public splendour. These were also highly visible opportunities for supporters, both wealthy and not, to show a potentially unattached electorate which candidate had their backing. Candidates might also offer gifts and promises to those supplicants who approached them during the canvass, men whose votes might count for relatively little in and of themselves, but whose word of mouth support might win a great many more. Certainly they could not afford to turn many away, lest their reputation suffer from their penny-pinching.

A wide variety of agents played an integral part in bribery during Roman elections. We are told that agents were sent to every corner of Italy, and that candidates usually began their canvass for high office as much as a year in advance, travelling to outlying communities and seeking support from rural citizens. In Rome, candidates sought out *sequestres* to hold their money and groups of *divisores*, *sodalitates* and *collegia* to distribute it throughout the tribes and perhaps coerce or intimidate men who

accepted the money but were hesitant to pledge their support. Organized gangs fought for control of the streets and the canvass, at the polls they might attempt to control the forum and prevent the supporters of rival candidates from voting or even seek to attack and kill those rivals. *Salutatores* gathered at candidate residences and greeted them in the early hours of the morning, *deductores* and *(ad)sectatores* accompanied candidates on their rounds and *nomenclatores* provided their candidates with the names of voters they met in the streets.

In Chapter 3 I explored the effect of *ambitus* on Roman political ideology and practice. *Ambitus* was, by its nature, a destabilizing force on politics. Popular tendencies in Roman politics, despite a monopoly on candidacy by the wealthy, had been exacerbated in a number of ways by the late republic. The passage of ballot laws prevented candidates from tracking votes and loosened whatever control individuals had previously held over the electorate. They had to adopt new ways to entice or force voters to support them, if only to keep up with less scrupulous colleagues aggressively seeking election. The amounts of money pumped into elections constantly grew, as did the stakes and the social repercussions of continual bribery. The power of the people was a recognized force in Roman politics, but the mob was an expensive and fickle tool.

Ambitus laws represent an attempt by the senate to control the burgeoning field of illegal electioneering. The laws concerning bribery became more numerous, the penalties more stringent and their focus growing progressively wider, targeting not only the man ultimately responsible for fronting the money, but also those agents involved in distributing it. Despite a permanent *quaestio* to judge *ambitus* trials, no law proved successful in reducing or eliminating the effects of bribery on elections. This is

unsurprising, since the burden of prosecution laid not with an independent judiciary, but on concerned citizens, men who were involved in politics and had an active interest in seeing their opponents removed from Rome. Also, judges were drawn from the ranks of annually elected magistrates and the juries from the equestrian and senatorial orders and from the *tribuni aerarii*. Some men were convicted, but many members of the highest social strata were personally acquainted with or partial to members of the prosecution, defence or both, and some had also committed the same crimes, yet never suffered prosecution or conviction for them.

Because of the political nature of Roman *ambitus* trials, it stands to reason that, in principle, it was possible for anyone with enough money and/or political clout to secure a favourable verdict. Even so, a civic minded judge, jury or a very good lawyer might frustrate these efforts. *Ambitus* laws failed to deter bribery precisely because the Roman state was unable to enforce them in any consistent way. More telling, however, is the blurred line between legal munificence and illegal electioneering; the difficulties prosecutors encountered securing adequate proof that a particular candidate had broken *ambitus* law made prosecution immensely difficult. This ambiguity has come down to us in a simple way: there is, as yet, no satisfactory definition for *ambitus*.

An inordinate number of stresses were at work in the political arena of the late republic. Social magnates vied for dominance; lesser men fought for places within that dominance, seeking to capitalize on this struggle for their own personal gain. Yet some men strove to stem the tide and stop the destructive forces busily demolishing a fragile system of government. Bribery was a recognized problem, as were its destabilizing effects, but no one was willing to dispense with the practice; the competition for high

office was extreme and the potential rewards for success were lucrative and, for some, essential. Problems in Rome which had arisen on account of events in the Aegean and in Asia from the late 80s to the 60s BC, that is, vastly increased debt, fluctuating interest rates and the near collapse of Rome's system of credit on more than one occasion, were only exacerbated by this competition. Further, the incredible amounts of money being pumped into the populace for their votes were, by the 50s BC, accompanied by armed and increasingly violent and politically polarized gangs whose business was coercion and intimidation, riots and murder. To this unpredictable mix we add the sprawling foreign conquests of Caesar and Pompey and their relentless quests for the control of the center of the empire.

Rome was indeed a tightly packed powder-keg by 49 BC, with many a match burning round its splitting walls.

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