

## REINTERPRETATIONS OF THE STRUGGLE OF THE ORDERS

**REINTERPRETATIONS OF THE STRUGGLE OF THE ORDERS:  
RE-WORKING HISTORICAL MEMORY**

By  
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*La decapitazione di Spurio Cassio* by the Renaissance artist Domenico di Pace Beccafumi (1486-1551), in the Palazzo Pubblico (Siena, Italy)



## ABSTRACT

This is a study of how late Republican and early Imperial authors recast different elements of episodes from the Struggle of the Orders (509-287 BCE) based on the events and circumstances of their own times and their authorial aims. The study is divided into two parts. Part I focuses on portrayals of Sp. Cassius' third consulship in 486 BCE, when he sought to pass a *lex agraria*. Part II examines the treatments of Sp. Maelius' private frumentary distributions, which purportedly occurred in 439 BCE. Both episodes seem to have been treated briefly by earlier sources; the main thread of the stories centred around Cassius' and Maelius' desire to acquire *regnum*, which led to their suppressions and deaths. Over time, the stories evolved and became more detailed. Elements were exaggerated, added, or omitted, which often spoke to what was happening during the time at which a certain author was writing. By means of a comparison of the primary sources I examine the contemporary Roman historical realities contained within our surviving narratives on the patricio-plebeian conflicts of the early period. Late Republican authors frequently recast the patrician-plebeian struggle in the context of the recent political conflicts between *optimates* and *populares*, using the political idiom of their own times to describe the Struggle of the Orders. Cassius and Maelius became embedded in the political controversy surrounding the suppression of men (reportedly) seeking kingship by the state that began with the institution of the *SCU* and continued long into the first century BCE. I analyze the changes that take place in the accounts of Cicero, Livy, and Dionysius of Halicarnassus, our main sources on the episodes involving Cassius and Maelius. Different authors reinterpret, emphasize, and omit various elements of the events of 486 and 439 BCE. A single author might, as is the case with Cicero, reimagine the episodes differently at different times based on his immediate aims. While the ways by which the sources reimagine elements of these episodes has led to harsh criticisms of these authors, especially Livy and Dionysius, I argue that our sources were engaging with the material at their disposal and shaping it in ways that were acceptable to ancient audiences. This historical interpretation helped the Romans to make sense of their own past and derive meaning from it, which, in turn, helped them to engage with and make sense of their present.

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## **ABBREVIATIONS OF JOURNALS AND WORKS OF REFERENCE**

The following is a list of abbreviations for journals and reference works. Abbreviations for ancient authors and their works follow those of the *Oxford Classical Dictionary*. Abbreviations for journals follow the conventions used by *L'Année philologique*; abbreviations for reference works are those commonly used by modern scholars.

### **1. Journals**

<i>AJA</i>	<i>American Journal of Archaeology</i>
<i>AJAH</i>	<i>American Journal of Ancient History</i>
<i>AJPh</i>	<i>American Journal of Philology</i>
<i>BICS</i>	<i>Bulletin of the Institute of Classical Studies</i>
<i>CB</i>	<i>The Classical Bulletin</i>
<i>CJ</i>	<i>The Classical Journal</i>
<i>ClAnt</i>	<i>Classical Antiquity</i>
<i>CPh</i>	<i>Classical Philology</i>
<i>CR</i>	<i>Classical Review</i>
<i>CQ</i>	<i>Classical Quarterly</i>
<i>CW</i>	<i>Classical World</i>
<i>Historia</i>	<i>Historia: Zeitschrift für Alte Geschichte</i>
<i>HSPh</i>	<i>Harvard Studies in Classical Philology</i>
<i>JHS</i>	<i>The Journal of Hellenic Studies</i>
<i>JRA</i>	<i>Journal of Roman Archaeology</i>
<i>JRS</i>	<i>The Journal of Roman Studies</i>
<i>LCM</i>	<i>Liverpool Classical Monthly</i>

<i>LEC</i>	<i>Les études classiques</i>
<i>MAAR</i>	<i>Memoirs of the American Academy in Rome</i>
<i>MH</i>	<i>Museum Helveticum</i>
<i>PAPhS</i>	<i>Proceedings of the American Philological Society</i>
<i>PBSR</i>	<i>Papers of the British School at Rome</i>
<i>PCPhS</i>	<i>Proceedings of the Cambridge Philological Society</i>
<i>REL</i>	<i>Revue des études latines</i>
<i>RhM</i>	<i>Rheinisches Museum für Philologie</i>
<i>TAPA</i>	<i>Transactions and Proceedings of the American Philological Association</i>
<i>TAPhA</i>	<i>Transactions of the American Philological Association</i>
<i>ZPE</i>	<i>Zeitschrift für Papyrologie und Epigraphik</i>

## **2. Reference Works**

<i>ANRW</i>	<i>Aufstieg und Niedergang der römischen Welt</i>
<i>CAH</i>	<i>Cambridge Ancient History</i>
<i>FRHist</i>	T.J. Cornell (ed.), <i>The Fragments of the Roman Historians</i> (3 vols.), 2013, Oxford University Press
Lewis and Short	C.T. Lewis, C. Short, <i>A Latin Dictionary</i> , Clarendon Press (Oxford)
<i>MRR</i>	T.R.S. Broughton, <i>Magistrates of the Roman Republic</i> (3 vols.), 1951 [1986]
<i>OLD</i>	<i>Oxford Latin Dictionary</i>
<i>ORF</i>	<i>Oratorum Romanorum Fragmenta</i> , ed. E. Malcovati (4 <sup>th</sup> ed., 1976)
<i>RCC</i>	M.H. Crawford, <i>Roman Republican Coinage</i> (2 vols.), 1974, Cambridge University Press
<i>RE</i>	G. Wissowa <i>et al.</i> , <i>Paulys Realencyclopädie der klassischen</i>

*Altertumswissenschaft* (Stuttgart, 1893-1978)

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## INTRODUCTION

It has often been observed that all history is contemporary history. This dictum was coined by the philosopher of history Benedetto Croce,<sup>1</sup> and has subsequently been repeated by various scholars in numerous fields.<sup>2</sup> That is, Croce and his followers see historical writing as alive; the historian's work is shaped by his personal values and the circumstances of his own time. This is how the Romans, too, treated and conceived of their past.

This study is an examination of how our main sources for Rome's Struggle of the Orders adapt elements of the narratives regarding Sp. Cassius' agrarian proposal of 486 BCE and Sp. Maelius' grain distribution in 439 BCE. Throughout I analyze the ways in which authors writing about these figures changed, omitted, and repurposed elements of the narratives based on their personal, literary, and rhetorical aims. The original narrative tradition seems to have held simply that both Sp. Cassius and Sp. Maelius were seeking to acquire *regnum* ("kingship") and were using their popularity to pursue their goals. Over time, however, authors continued to adapt the episode by elaborating upon, omitting, or downplaying certain elements according to their own needs and the circumstances of their own times. Some of the reinterpretations are overt and substantial, such as the wholesale omission of certain aspects of an existing narrative; others are more subtle, such as a single author presenting elements belonging to the same episode in different ways in different works, making small adjustments in emphasis as needed.

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<sup>1</sup> Croce 1941, 19.

<sup>2</sup> E.g., Collingwood 1999, 140 (published posthumously); Agosto 1999 (on M. Cliff's novels, which focus on the mutations of the historical pre-revolutionary memory of colonial America); Hughes 1964, 94.

What did Roman authors in various genres think they were doing when they wrote about the past? How did the Romans try to understand their history, and how did they give meaning to stories of their past? It is clear that some embellishment of the narrative tradition of early Rome took place between one generation of authors and the next. Alterations and additions are more frequent in successive sources. Episodes regarding aspirants to kingship served a moral lesson, especially throughout the late Republic, and provided examples of steps taken to safeguard the state from a man aiming at *regnum*. Therefore, this method of alteration and retrojection was an organic process; that is, the author writes history that includes distortions of the past, which he uses to try to process and understand the events and circumstances of his own time.

Modern scholars have become increasingly aware of the ways in which contemporary circumstances affected how ancient authors interpreted the remote past. For instance, Fox (1996) considers how Augustan authors reinterpreted the Roman regal period and shows how such reinterpretations reflected the politics and culture of their own times. Schwartz has demonstrated how Dionysius of Halicarnassus' account of the conspiracy of 500 BCE was influenced by narratives of the Catilinarian conspiracy.<sup>3</sup> Similarly, focusing on this interplay of past and present, Haehling (1989) has investigated the places in Livy's first decade in which the author describes his own times. This study includes those instances where Livy discusses events of his own day and passages about the remote past in which Livy interprets the past through the present.

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<sup>3</sup> Schwartz (vol. II) 1956, 337ff., based on DH 5.52.1 and 5.57. Contemporary events also influenced how our sources present episodes from the regal period (Fox 1996), and Ogilvie notes that Livy's portrayal of Tarquinius Superbus' bid for the throne is presented by the sources in ways that evoke treatments of the Catilinarian conspiracy (1965, 19).

A highly useful model for understanding the evolution of ancient narratives of the early Republic is that provided by Wiseman. Especially valuable is the second part of his *Clio's Cosmetics* (1979), where he treats stories regarding the patrician Claudii. Wiseman argues that the characterization of this family as arrogant, cruel, and staunch opponents of the plebeians relied on the hostile account of the Roman historian Valerius Antias, whose hostility seems to derive from a long-standing enmity between the *gens Claudia* and the *gens Valeria*. In his *Historiography and Imagination* (1994), Wiseman discusses how Roman history was handed down before Roman historical writing began—namely, through the development and diffusion of oral traditions. Such oral traditions may have included the episodes involving Sp. Cassius and Sp. Maelius, but we cannot know the exact nature of how these traditions influenced the Romans as they started to write about Rome's past.

In Raaflaub's edited monograph, *Social Struggles in Archaic Rome: New Perspectives on the Conflict of the Orders*, scholars discuss in detail the limitations of the ancient sources and the problems faced by the modern scholar in trying to reconstruct the past from these sources.<sup>4</sup> Of particular relevance to this study is Ungern-Sternberg's chapter, in which he analyzes changes to and evolution of the annalistic tradition (2005a). My methodological approach is similar to his. Ungern-Sternberg examines treatments of

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<sup>4</sup> Originally published in 1986, the volume was republished in 2005 with additions and updates. Although the work itself as a whole is extremely important, a few of the more relevant chapters for this study include the following: Raaflaub's two chapters, "The Conflict of the Orders in Archaic Rome: A Comprehensive and Comparative Approach" (Chapter I) and "From Protection and Defense to Offense and Participation" (Chapter VIII); Cornell's chapter, "The Value of the Literary Tradition Concerning Archaic Rome" (Chapter II); Ungern-Sternberg's two chapters, "The Formation of the 'Annalist Tradition': The Example of the Decemvirate" (Chapter III) and "The End of the Conflict of the Orders" (Chapter XIII); Richard's chapter, "Patricians and Plebeians: The Origins of a Social Dichotomy" (Chapter V); Momigliano's chapter, "The Rise of the plebs in the Archaic Age of Rome" (Chapter VII).

the Decemvirate by various authors over several generations and shows how these were adapted and repurposed in light of contemporary concerns and/or events. He follows the conclusions of other scholars who recognize that Gracchan events would have affected the narratives of those writing about the Decemvirate. More specifically, however, he sees the coalition of Cn. Pompeius, L. Licinius Crassus, and C. Iulius Caesar and the triumvirate of Octavian, M. Antonius, and M. Aemilius Lepidus as major influences on the treatments of the Decemvirate offered by Livy and Dionysius of Halicarnassus.

My investigation also builds on the work of scholars such as Lintott (1968, 1970) and Erskine (1991). Lintott examines stories of violence associated with the Struggle of the Orders, as well as the ways in which these events were handled by ancient authors before Cicero.<sup>5</sup> They, like Cicero, reshaped their narratives in light of contemporary violence. Similarly, Erskine has shown that the negative associations of the term *rex* were not motivated by a deep-seated Roman hatred towards Rome's own kings, but rather evolved as a reaction to Hellenistic monarchy.<sup>6</sup> Erskine's treatment of the relevant ancient sources, including Fabius Pictor, Plautus, Ennius, Livy, and Cicero, provides a useful model for my investigation of the Struggle of the Orders.

Mommsen was among the first to question the reliability of authors such as Livy and Dionysius; he argued that they were writing about Rome's earlier history in light of her more recent past, and were particularly influenced by Gracchan events.<sup>7</sup> Other authors followed Mommsen, and saw late Republican resonances within the narratives that dealt

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<sup>5</sup> Lintott 1970, 12.

<sup>6</sup> Erskine 1991, 114.

<sup>7</sup> Mommsen 1871.

with the three malefactors of early Rome—Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus.<sup>8</sup> His work, and similar analyses by later scholars, has been to point to fictitious elements in these narratives as a means of arguing that our sources are unreliable for the history of early Rome, thereby making the historicity of the early period difficult to access. This line of inquiry has been important, but I will focus on how the adaptations of these episodes speak to a particular author's own times and how contemporary Romans used the stories of their past to speak to their present.

My study will be concerned with the ways in which Roman authors reinterpreted or interpolated existing narratives on the Struggle of the Orders; the focus will be on how these stories changed over time and what this reveals about contemporary circumstances as opposed to what it reveals about the historicity of the early period and the reliability of the literary tradition. Scholars often point to the fact that Greek and Roman historians reinterpreted the Struggle of the Orders in the context of their own periods, but they tend to focus on fictitious elements that have been adopted by later Latin and Greek authors. Such work often connects these fictitious elements to larger debates about the reliability of the primary sources and the historicity of the events they describe.<sup>9</sup> By means of a comparison of the primary source material I plan to uncover the contemporary Roman historical realities embedded within our surviving narratives on the Struggle of the

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<sup>8</sup> These scholars will come up in Parts I and II where relevant, but the main contributors who focus specifically on one or more of the three malefactors are, e.g.: Gabba 2014 [1964]; Smith 2006b; Chassignet 2001; Mustakallio 1994; Cazanove 1989; Panitschek 1989; Valvo 1975; Pais 1905, 204-223.

<sup>9</sup> This debate has been going on for a long time, and is, for the most part, beyond the scope of this study. Where relevant, this issue will be raised. Woodman (1988) and Wiseman (1979a) represent one side of scholarship, the side that argues that the works of authors writing about Rome's history contain little historical content. In contrast to this, Cornell (esp. 1995, also, e.g., 2003) has presented an optimistic approach to the reliability of our sources for information about Rome. One of the main problems associated with the view of scholars who prefer the skeptical approach is that works produced by authors writing about Rome's past are both historical and literary documents.

Orders. That is, my study will examine the ways by which late Republican and early Imperial authors treated the information on the Struggle of the Orders based on their own needs and how the nature of their works played a role in their presentation of this period of early Roman history. In this way, one can examine how the layers in the historical narrative of particular episodes evolved over time according to the immediate needs of the individual author.

From the late sixth to mid-third century BCE, the Romans faced internal conflicts concerning the organization of their state. When the kings were expelled from the city around 509 BCE, their roles within the state were taken over by leading aristocrats. There was now a need for new magistracies, which were soon monopolized by the aristocrats, who came to form a relatively cohesive body known as the patriciate. Although the process and chronology of these developments is debated,<sup>10</sup> we know that the Roman patriciate came to dominate the state in the early Republic by maintaining a closed caste, defined by birth and maintained by strict intra-marriage. Patricians claimed that they alone could interpret the will of the gods and, therefore, only they could hold the *auspicia* granted to certain magistracies. This helped them monopolize state offices.

Non-patricians (the plebeians), however, were excluded from office, which led to strife. They had little say in Rome's government and were unable to protect themselves

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<sup>10</sup> Some scholars (e.g., Richard 2005, 111 and 1978; Momigliano 1963, 117-118) believe that the patriciate was organized into a semi-cohesive group during the Regal period (this appears to be based largely on Livy 1.8.7, where Romulus creates the patriciate and the senate), while others (e.g., Cornell 1995, 251; Ferenczy 1976, 17) argue that its formation was much more gradual and the closing of the patriciate did not occur until the years/decades immediately following the expulsion of the kings (perhaps even as late as around 451/450 BCE, when the first codification of Roman law occurred).

from the arbitrary rulings of patrician magistrates.<sup>11</sup> The resulting conflict between the patricians and plebeians lasted from 509 to 287 BCE and is referred to as the “Struggle of the Orders” by modern scholars.<sup>12</sup> An overview of important events attributed to this conflict can be found in Appendix 1.

Our evidence for this period comes from both Latin and Greek authors, all of whom wrote centuries later. Their histories, however, are (as Croce put it) contemporary ones. They created their narratives of the Struggle of the Orders in the image of the circumstances and opinions of their own times, which inevitably complicate our reconstructions of the period. My dissertation will consider accounts related to the Struggle of the Orders and investigate the extent to which they were re-configured by late Republican and early Imperial writers, how the biases of intermediate sources accumulated, and how these reinterpretations became proxies for more contemporary debates. In this way, authors such as Cicero, Livy, and Plutarch “modernized” the Struggle of the Orders, as did their sources for their own ages. Such active historical interpretation helped authors make sense of the past and derive moral lessons from it, which, in turn, also helped them make sense of their present.<sup>13</sup>

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<sup>11</sup> This is based on the narratives provided largely by Livy and Dionysius of Halicarnassus. The conflict is portrayed as far more complicated than this.

<sup>12</sup> This terminology is used for simplicity, to refer to this period as a whole. Much remains uncertain about the historicity of the early period, but scholars agree that social struggles did take place. On this controversy, with additional scholarship, see Raaflaub’s preface to the second edition (2005) of *Social Struggles in Archaic Rome*, p. xi-xii. Indeed, the end date assumed for the Struggle of the Orders is usually 287 BCE, when the passage of the *lex Hortensia* made plebiscites binding on all Roman citizens, including the patricians; this, however, is for convenience, and it has been argued that this was not a significant terminal date for the conflict (e.g., Ungern-Sternberg 2005b). Several scholars have noted that our sources depict the patricio-plebeian conflict as beginning during the regal period (e.g., Forsythe 2005, 158 and 1994, 266-268; Ungern-Sternberg 2005b; Vishnia 1996, 2-7).

<sup>13</sup> Cornell 1985, 84.



Late Republican authors frequently recast the patrician-plebeian struggle in the context of the recent political conflicts between *optimates* (“best men”) and *populares* (“supporters of the people”);<sup>14</sup> these authors often used the political idiom of their own times to describe the Struggle of the Orders. The Romans saw the conflicts between patricians and plebeians as analogous to the later struggles between *optimates* and *populares*; the patricians came to be associated with the *optimates*, and plebeians with the *populares*. Although there is debate concerning precise definitions of these terms, throughout this study I shall follow the conclusion reached by Robb, that the common characteristic of the models postulated by modern scholars is that the *optimates* represented the conservative, senatorial elite and the *populares* their political opposition.<sup>15</sup>

Lintott describes the accounts of both Livy and Dionysius regarding Sp. Cassius’ third consulship as “contaminated.”<sup>16</sup> This reveals the heart of the problem: discerning the historicity of elements in a given episode, such as that involving Sp. Cassius, is extremely difficult. Pinpointing the specific time at which one element became incorporated into a pre-existing tradition is a rather untenable proposition given the state of the sources available to the modern historian. Tracing the addition or evolution of elements contained within an episode over the course of several generations of authors, however, helps to

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<sup>14</sup> For a comprehensive overview of the meanings of these terms and the controversies surrounding their definition as presented by modern scholars, see: Robb 2010, 15-33; Tracy 2008/2009. Arena assess this succinctly: “Of these opposing alignments, composed of socially homogenous politicians, the latter [*optimates*] designated politicians who stood up in defence of the *status quo* and thereby resisted new reforming measures, whilst the former [*populares*] described those who advanced demands for change. However, they did not constitute firmly established political groupings, much less entities more or less akin to modern political parties” (2012, 8).

<sup>15</sup> Robb 2010, 33.

<sup>16</sup> Lintott 1970, 18.

elucidate the motives driving an author and how individual authors used certain elements to comment on contemporary circumstances. The treatments of Sp. Cassius offered by Livy and Dionysius are not contaminated, but rather reflect the opinions and concerns of the authors' own times.

My dissertation, therefore, aims to elucidate the ways in which the contemporary circumstances of later authors influenced their depictions of the Struggle of the Orders and to consider what this says about the Romans' conception of their past. Interpretative bias occurs naturally and subconsciously in all historical reporting. Greek and Roman authors, as all authors do, unconsciously present the past based on their own biases, but they also actively make choices about the material they report and the episodes they choose to emphasize or omit in order to fulfill deliberate literary or rhetorical goals, which in turn were bound up with their concern to use the past to speak to their own present. The aims of my dissertation, therefore, are literary as well as historical and historiographical, and focus on the means to better comprehend the decisions made by later sources to fulfill literary goals but also to better understand those sources as artefacts of and participants in the history of their own times.

Discussions of the nature and use of rhetoric, the art of persuasive speech, and oratory, the practice of delivering speeches, will form a prominent part of my work. Rhetoric came to dominate the education of the Roman elite from around the third century BCE as Rome's political institutions required one to possess a high level of oratorical ability in order to engage in conversations and debates at meetings of the senate

and *contiones*.<sup>17</sup> Rhetoric played a central role in Roman social and political life, and its impact also extended beyond the act of public speaking.<sup>18</sup>

Although the extent of the influence of rhetoric on historiography is hard to determine,<sup>19</sup> most scholars working on Roman literature accept the fact that rhetoric influenced how authors wrote history.<sup>20</sup> This is unsurprising, since most historians, the best according to Cicero (*De orat.* 2.62), obtained training in rhetoric. Many of the *loci* of political invective are found in the narratives of authors writing about Rome's past, such as Livy and Dionysius, and rhetorical models are, naturally, evident in the speeches they include in their narratives. The need to create a plausible narrative was common to both Roman rhetoric and historiography. As was the case with rhetoricians, if evidence was lacking, a Roman historian trained in rhetoric would be able to invent the evidence he needed with ease, and such a historian could also, if the circumstances required it, manipulate existing evidence in order to make it more plausible.<sup>21</sup> Moreover, just as the rhetorician and orator spoke to the moral code of Roman society through their use of certain *exempla*, Roman historians also used the same examples in their works and spoke to the moral code of their own times.<sup>22</sup> Roman authors, whether composing deliberative or forensic oratory, or, indeed, history, attempted to persuade their audience by

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<sup>17</sup> E.g., Connolly 2007; Morstein-Marx 2004.

<sup>18</sup> Dominik and Hall 2007, 3.

<sup>19</sup> E.g., Oakley 1997, I.7-10, I.73-76; Brunt 1993, 181-209; Woodman 1988, 78-94.

<sup>20</sup> The bibliography is extensive, and the following is by no means a comprehensive list, but provides recent, important scholarship on the subject: Laird 2009; Damon 2007; Fox 2007, 111-148 (on the interplay of history and rhetoric in Cicero's *De oratore* and *De legibus*); Cape 1997; Oakley 1997, I.72-98; Fox 1993 (on history and rhetoric in Dionysius of Halicarnassus); Wiseman 1993, 1979a; Woodman 1988 (esp. p. 197, where he states that historiography is a rhetorical genre); D'Arms 1972 (on Cicero's *Pro Murena*); Dunkle 1971; Ogilvie 1965, 19-20 (on Livy). These scholars provide additional scholarship on the subject.

<sup>21</sup> Oakley 1997, I.9.

<sup>22</sup> In order to achieve this end, it has been argued that Roman historiographers, like rhetoricians, "tampered with their evidence so as to facilitate such moralizing" (Oakley 1997, I.74).

assimilating the behaviour, good or bad, of certain individuals to that of earlier Roman figures.<sup>23</sup>

Of particular relevance to this study are rhetorical charges made against political opponents, many of which appear in the historiographical tradition. Craig has recently compiled a list of seventeen conventional loci of political invective of the late Republic.<sup>24</sup>

The allegations made against a political opponent include the following:

- embarrassing family origin;
- unworthy of one's family;
- physical appearance;
- eccentricity of dress;
- gluttony and drunkenness, possibly leading to acts of *crudelitas* and *libido*;
- hypocrisy for appearing virtuous;
- avarice, possibly linked with prodigality;
- taking bribes;
- pretentiousness;
- sexual misconduct;
- hostility to family (*misophilia*);
- cowardice in war;
- squandering of one's patrimony/financial embarrassment;
- aspiring to *regnum* or tyranny, associated with *vis*, *libido*, *superbia*, and *crudelitas*;
- cruelty to citizens and allies;
- plunder of private and public property;
- oratorical ineptitude.<sup>25</sup>

As the items in the list suggest, political invective focused on moral traits or attributes.

Invective allowed the rhetorician not only to label his opponent as morally depraved, but

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<sup>23</sup> Livy *Praef.* 10: There is this particularly beneficial and profitable advantage to be gained from knowledge of the past, examples of every kind for you to see are set in the clear record of history; from there you may adopt for yourself and for your state what behaviour to imitate, [and] from these [you may decide] what behaviour you wish to avoid, [behaviour] which is shameful from its inception and shameful in its result. *Hoc illud est praecipue in cognitione rerum salubre ac frugiferum, omnis te exempli documenta in inlustri posita monumento intueri; inde tibi tuaeque rei publicae quod imitere capias, inde foedum inceptu foedum exitu quod vites.*

<sup>24</sup> Craig's list is influenced by the work of Nisbet 1961 (in the appendix of which work there appears a list of political invective, which Craig has expanded upon).

<sup>25</sup> Craig 2004, 190-191.

also allowed him to assert his own moral superiority by comparison.<sup>26</sup> Moreover, the language used in true political invective, such as in several Ciceronian works (e.g., *In Pisonem*) varied depending on the audience. In general, Cicero's more openly hostile attacks are reserved for a senatorial audience.<sup>27</sup> Cicero varied his use of the elements of invective according to his audience in order to highlight certain issues of concern. Such rhetorical charges are also found within the works of Livy and Dionysius of Halicarnassus, and some of them appear in their treatments of the episodes involving Sp. Cassius and Sp. Maelius.

The use of *exempla* was a popular tool of rhetoricians and authors writing about Rome's past. Roller has done much work in the area of *exempla*, not just cataloguing them, as German scholars such as Bücher have done, but focusing on the ways in which later Romans, such as Cicero and Livy, writing about earlier figures created an "exemplary discourse" and how contemporary audiences were meant to interpret these accounts.<sup>28</sup> Roller schematizes this exemplary discourse, which involves four main components:

1. a deed that is considered to embody Roman social values important to the community as a whole;
2. an audience is required to witness the deed itself firsthand; this audience then categorizes the deed as ethically "good" or "bad";
3. the deed is commemorated in narrative and/or through the construction of (a) monument(s); this allows later generations of non-eyewitnesses of the deed to learn of it;
4. the deed is used to encourage the audience, whether primary or secondary, to act in a similar fashion; in the case of a positive *exemplum*, the audience is encouraged to perform a similar deed or to surpass the deed in question, in the

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<sup>26</sup> Arena 2007, 153.

<sup>27</sup> Arena 2007, 156.

<sup>28</sup> Roller 2009a and 2004 (esp. p. 9-10). Bücher's work will be discussed more below (p. 15n.36-38).

case of a negative *exemplum*, the audience is encouraged to avoid replicating the deed or acting in an ethically “bad” manner.<sup>29</sup>

The use of *exempla*, then, as Roller maintains, is central to Roman ways of treating and experiencing the past.<sup>30</sup> Each example is malleable, at least to a certain degree.<sup>31</sup> That is, an *exemplum* can be altered in order to fulfill, for example, an orator’s needs at a given moment.<sup>32</sup> Aspirants to *regnum*, including those figures with whom the present study is concerned (Sp. Cassius and Sp. Maelius), were recast as forerunners to the Gracchi and late Republican *popularis* politicians, including Clodius, Caesar, and Antonius.<sup>33</sup>

The ancient sources under consideration applied the political idiom of their own times to their descriptions of the agrarian reforms proposed during the Struggle of the Orders. By virtue of this, the conflicts between patricians and plebeians are seen to recur over the centuries in each subsequent social conflict. Indeed, even the conflicts between patricians and plebeians are redefined based on the earlier conflict between the kings and patricians. In our sources, then, we find a narrative of successive conflicts between kings and patricians, patricians and plebeians, senators and *equites*, and, by the late Republic, between *optimates* and *populares*.<sup>34</sup> Despite, for instance, Livy’s portrayal of the Romans’ ability to put an end to civil conflict during the Struggle of the Orders in order

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<sup>29</sup> Roller 2009a, 216-217 and 2004, 3-6.

<sup>30</sup> Roller 2004, 7.

<sup>31</sup> One could not, however, make up episodes or events. For instance, Livy criticizes Coelius Antipater, a second century BCE historian, for inventing a storm that supposedly occurred when P. Cornelius Scipio Africanus was sailing to Africa in 204 BCE (29.27.13-15; Coelius, fr. 40 [Peter]).

<sup>32</sup> *Inventio*, or “invention,” is included among the five functional activities of rhetoric. These five functional activities, as found in our two surviving rhetorical handbooks, Cicero’s *De Inventione* and the anonymous *Rhetorica ad Herrenium*, are: *inventio* (“invention”), *dispositio* (“arrangement”), *locutio* (“expression”), *memoria* (“memory”), and *pronuntiatio* (“delivery”); definitions of the activities are based on Gaines (2007, 169, 170).

<sup>33</sup> As we shall see in Part I, Chapter 1 and Part II, Chapter 2, Cicero often connected past aspirants to *regnum* with contemporary politicians, including Clodius, Caesar, and Antonius.

<sup>34</sup> Mitchell 2005, 129.

to deal with external threats, the overall picture that we are left with is one of continual internal strife at Rome from the time of the kings until the end of the Republic.

The following pages provide general background on our three main sources for the episodes involving Sp. Cassius (the focus of Part I) and Sp. Maelius (the focus of Part II)—Cicero, Livy, and Dionysius of Halicarnassus.<sup>35</sup> Because both parts of the dissertation are organized in a similar fashion and concern the works of the same authors, it will be both salutary and expedient to offer some general background discussion of these authors here rather than in individual chapters. Excluded from the present foregrounding discussion are the fragmentary historians, whom I have treated in their respective chapters.

### **M. Tullius Cicero**

Cicero, born in 106 BCE, produced many works over the course of his career (until his death in 43 BCE), including philosophical works and written versions of speeches given before the senate, people, or in court.

The volume of scholarship on Cicero, as well as on his individual works, is huge. Cicero tailored the elements contained within each work, such as his use of *exempla*, to suit his own aims in the present situation. Cicero mentions Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus in many of works, either as individual examples or as a trio of

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<sup>35</sup> This is done in the hopes of avoiding too much repetition (that is, one can refer back to these general background pages of the Introduction as one reads Part I and Part II). Of course, for Cicero specifically, the context of each work in which he mentions either Sp. Cassius or Sp. Maelius will be discussed in more detail where appropriate.

Where applicable, references to other, later authors who mention Sp. Cassius and Sp. Maelius will be made.



malefactors. The Ciceronian works that are relevant to this study will be discussed in the appropriate chapters, since they are too numerous to discuss here.

According to Bücher's recent work on the use of *exempla*, in his speeches Cicero uses 44 examples that date from the establishment of the monarchy to 287 BCE,<sup>36</sup> the year in which the *lex Hortensia* was proposed and the traditional date given by scholars for the end of the Struggle of the Orders. This number of *exempla* is small compared to the frequency with which Cicero uses more recent Romans or events as examples in his speeches—for the period from 287 to 43 BCE, Bücher's work shows that this number exceeds 300.<sup>37</sup> Of the limited number of *exempla* from the early period, Cicero mentions L. Iunius Brutus, Sp. Cassius, Sp. Maelius, C. Servilius Ahala, M. Manlius Capitolinus, and Tarquinius Superbus most frequently.<sup>38</sup> L. Iunius Brutus is clearly guided by contemporary circumstances. That is, Cicero mentions him almost exclusively following Caesar's assassination, in his *Philippics*, using him to parallel the recent action taken by his descendant against a tyrant.<sup>39</sup> Before Caesar's assassination, Cicero's use of *exempla*

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<sup>36</sup> This is based on Bücher 2006, Anhang I (electronic appendix), which lists Ciceronian *exempla* in chronological order. It should be noted that in his study, Bücher includes in his categorization of *exempla* not only people, but also laws, events, such as the war against Carthage and the war against Numantia, places, such as Capua and Cannae, and more abstract Roman conceptions, such as the *mos maiorum*.

<sup>37</sup> Bücher 2006, Anhang I (electronic appendix).

<sup>38</sup> This is based on Bücher 2006, Anhang II (electronic appendix), which lists Ciceronian *exempla* based on their frequency of use. The order given here (L. Iunius Brutus, Sp. Cassius, Sp. Maelius, C. Servilius Ahala, M. Manlius Capitolinus, and Tarquinius Superbus) reflects the decreasing frequency rates provided by Bücher 2006, Anhang II (L. Iunius Brutus [8 times] appears the most frequently, Tarquinius Superbus less frequently [5 times]).

<sup>39</sup> Except for a reference in the *Pro Plancio* (§60), dated to 54 BCE, a decade before Caesar's assassination, L. Iunius Brutus is used as an *exemplum* in Cicero's speeches largely in the *Philippics* (1.13, 2.26, 2.114, 3.9, 3.11, 5.17). Another exception is a reference to the Bruti generally as liberators, although at the time of the publication of the *Pro Sestio* in 56 BCE, there was only one from this family: Cic. *Sest.* 134. Cicero also mentions L. Iunius Brutus at *Rep.* 2.46, but here we are only considering speeches.

differs. Among early episodes it is the examples of Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus that he favours in exhortation of the slaying of the would-be tyrant.

Cicero does not mention Sp. Cassius, Sp. Maelius, or M. Manlius Capitolinus in speeches delivered before the people; they are only mentioned in speeches given before the senate, in his philosophical works, or during judicial proceedings.<sup>40</sup> This stands in contrast to his use of late Republican figures. The Gracchi and L. Appuleius Saturninus, for instance, are mentioned in speeches before the senate *and* people, in his written works, and during judicial proceedings.<sup>41</sup> The force of the examples, however, varies according to the audience. One cannot help but think of Cicero's rather infamous use of the Gracchi, whom he portrays as tyrants before an elite, senatorial audience,<sup>42</sup> but as champions of the masses before the people.<sup>43</sup> L. Opimius, who, as consul in 121 BCE, used the newly created *senatus consultum ultimum* (*SCU* hereafter) to kill Gaius Gracchus and his supporters, is never mentioned before the people except in one instance unrelated

<sup>40</sup> This is discussed further in Part I, Chapter 1 (on Cicero's treatment of Sp. Cassius).

<sup>41</sup> Speeches (those in bold are speeches that were delivered before the people, those not in bold were delivered before the senate, before *iudices*, or, in the case of the *De domo sua*, before the pontifices):

Ti. Gracchus (tr. pl. 133): *Ver.* 2.1.151, 2.4.108; *Caec.* 87; *Leg. agr.* **2.10**, **2.31**; *Cat.* 1.3, 4.4, 4.13; *Dom.* 91; *Har. resp.* 41, 43; *Prov. cons.* 18; *Sest.* 103; *Planc.* 88; *Mil.* 8, 14, 72; *Phil.* 8.13. C. Gracchus (tr. pl. 123, 122): *Font.* 39; *Cluent.* 151; ***Rab. perd.*** 12-15; *Leg. agr.* **2.10**; *Cat.* 1.4, 4.4; *Dom.* 24, 82, 102; *Har. resp.* 41, 43; *Sest.* 101, 103, 140; *Mil.* 14; *Phil.* 8.14. The Gracchi: *Leg. agr.* **2.31**, **2.81**; *Cat.* 1.29; *Sest.* 105; *Vat.* 23; *Phil.* 1.18. L. Appuleius Saturninus (tr. pl. 100): *Ver.* 2.1.151; ***Rab. perd.*** 9, 18-20, 22, 26, 28, 31, 35; *Cat.* 1.4, 1.29; *Dom.* 82; *Har. resp.* 41, 43; *Sest.* 37, 39, 101, 105; *Vat.* 23; *Balb.* 48; *Planc.* 27; *Mil.* 14; *Phil.* 8.15.

Philosophical works:

Ti. Gracchus: *De orat.* 2.106, 2.170, 2.280, 3.214; *Rep.* 2.49, 3.41; *Brut.* 95, 96, 103, 107, 212; *Tusc.* 4.51; *Nat. d.* 1.106; *Div.* 1.56; *Lael.* 37, 39, 41; *Off.* 1.76, 1.109, 2.80; *Leg.* 3.20, 3.24. C. Gracchus: *De orat.* 2.106; *Rep.* 1.6; *Brut.* 99, 109, 128, 222; *Div.* 1.56; *Lael.* 41; *Off.* 2.72; *Leg.* 3.20, 3.26. The Gracchi: *Brut.* 104, 224; *Nat. d.* 1.106; *Off.* 2.80; *Leg.* 3.24. L. Appuleius Saturninus: *Brut.* 224; *Leg.* 2.14, 3.26.

<sup>42</sup> E.g., *Leg. agr.* 1.21 (an interesting reference given that in the second speech, before the people, Cicero takes the opposite stance, see the footnote below); *Cat.* 1.3-4; *Har. resp.* 41, 43; *Amic.* 41.

<sup>43</sup> There are several instances when Cicero praises Tiberius and Gaius Gracchus before the people. Tiberius and Gaius as illustrious men: *Leg. agr.* 2.10. Tiberius as just and modest: *Leg. agr.* 2.31. Gaius ensures the rights of the people: *Rab. perd.* 12; Gaius' loyalty to his brother: *Rab. perd.* 14. The Gracchi consider what is best for the Roman Republic: *Leg. agr.* 2.81. On the flexibility of the Gracchi as *exempla*, see: van der Blom 2010, 103-107.

to the suppression of the Gracchans.<sup>45</sup> As van der Blom points out, the people might not have been favourable to recollections of a consul who killed a champion of the popular cause,<sup>46</sup> and it seems likely that it is for the same reason that Sp. Cassius, Sp. Maelius, and M. Marcus Capitolinus were never mentioned by Cicero before the people.

Roller has shown “the *exemplum*’s capacity for historical decontextualization in the service of ethics.”<sup>47</sup> Using Publius Horatius Cocles (fl. late sixth to early fifth century BCE) as his case study, Roller argues that this early Roman figure was dissociated from his historical context: that is, the Romans told the story as a “stand-alone.”<sup>48</sup> Within a few years of the establishment of the Republic, the exiled Tarquinius Superbus and his new ally, Porsenna, king of an Etruscan town (Clusium), attacked Rome. Upon seeing the Etruscans approaching the Pons Sublicius, the Romans retreated, except for Horatius, who ordered some of his comrades to destroy the bridge while he held off the enemy. According to some versions, Horatius, once the bridge was destroyed, threw himself into the river, committing suicide;<sup>49</sup> in other versions, he successfully swam across the river to safety.<sup>50</sup> The episode was used as an example of positive behaviour to be emulated by future Romans. Just as Horatius was used as a stand-alone story, so, too, was Sp. Cassius, in particular, by Cicero himself, who, unlike Livy, was not writing annalistic history.

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<sup>45</sup> Van der Blom 2010, 208-213 (on L. Opimius as an *exemplum*). Ciceronian speeches in which L. Opimius is mentioned: *Cat.* 1.4; *Sest.* 140; *Pis.* 95; *Planc.* 69-70, 88; *Mil.* 8, 83; *Phil.* 8.14. The reference to L. Opimius before the people comes from Cicero’s *Post reditum ad populum* (§11).

<sup>46</sup> Van der Blom 2010, 209.

<sup>47</sup> Roller 2004, 2.

<sup>48</sup> Roller 2004; in this article, Roller (p. 1-28) also shows how the story of Horatius fits into his four components of exemplary schematization (a discussion of which occurs in the Introduction of this work).

<sup>49</sup> Polyb. 6.55.3.

<sup>50</sup> Livy 2.10.11; DH 5.24.3; Val. Max. 3.2.1; Sen. *Ep.* 120.7; Serv. *in Aen.* 8.646.

### **T. Livius (Livy)**

Livy, who was born in 59 BCE and died in 17 CE, was a contemporary of Augustus (63 BCE - 14 CE) and wrote a historical work entitled *Ab urbe condita* (*From the Foundation of the City*). The work comprised 142 books, of which only 35 are extant, including the first ten (from the origins of the city down to the year 293 BCE).

The nature of Livy's relationship with Augustus and his attitudes towards him have long been a matter of controversy, and involve questions about the date of composition of Livy's first pentad. Earlier scholars argued for a date of composition of between 27 and 25 BCE because of passages in which Livy uses the name "Augustus" and makes reference to events of that period, and some recent scholars have followed suit.<sup>51</sup> In the 1950s, Syme was among the first to argue for an earlier date of composition proposing a date of shortly after the Battle of Actium.<sup>52</sup> Subsequent scholars have tended to follow Syme's earlier dating, proposing that Livy was likely writing the first pentad in the late 30s BCE.<sup>53</sup> This scholarship has shown that the few references Livy makes to Augustus in his first pentad appear to be later additions.<sup>54</sup> Based on the findings of these scholars, an earlier date of composition is to be preferred.

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<sup>51</sup> Dessau 1906, 142-144, 149; Taylor 1918, 159; Petersen 1961, 451n.61; Walsh 1961, 5, 8, 8n.2 and 1955, 369-370; Laistner 1963, 77; Janson 1964, 73; Ogilvie 1965, 2; Korpanty 1983, 68; Miles 1995, 92-93 and 1988, 206. These references to Augustus or contemporary events occur at 1.19.3 (Augustus closed the doors of the Temple of Janus, which took place in 25 BCE) and 4.20.5-11 (the *spolia opima* of A. Cornelius Cossus, which dates to around, or shortly after, 28 BCE).

<sup>52</sup> Syme 1959 (esp. p. 50).

<sup>53</sup> Stem 2007, 438n.14; Burton 2000 (esp. p. 441-442); Oakley 1997, I.109-110 (he argues for a compositional date of between 35 and 30 BCE, and also argues that Books 6-10 were written between 30 and 25 BCE); Woodman 1988, 132; Luce 1965, 209-240 (Livy 9.19.15, 9.19.17: the civil wars were recent and Augustus' rule was still new [Luce 1965, 231]).

<sup>54</sup> E.g., Sailor 2006, 332 (and 332n.2); Oakley 1997, I.109-110; Luce 1965; Petersen 1961, 440; Syme 1959, 43. The argument for the insertions of these passages was originally based on a comment in Soltau 1894, 611-612.

Livy had endured the chaos of the civil wars; his hometown, Patavium, did not escape the civil turmoil of this period. Cicero tells us that Patavium sided with the senate against Marcus Antonius (tr. pl. 49, cos. 44, 34).<sup>55</sup> Unsurprisingly, the strife of this period does not go unmentioned, and Livy alludes to present times throughout his work, and, on several occasions, uses imagery that recalls that used in his *Praefatio*, where he mentions that Rome is in need of a remedy (*remedium*), because of the terrible state of affairs, but at the same time she cannot bear the remedy, the situation being too far gone.<sup>56</sup> The scene that Livy sets in his *Praefatio* regarding the situation at Rome during his own day is negative, and attributed to the recent civil wars; this language appears in his descriptions of Rome's past. For instance, in the context of the events of 460 BCE, Livy states:

The state was so sick that it could not be cured by customary remedies (*remediis*); the state needed a dictator.<sup>57</sup>

Livy repeats this sentiment in Book 22:

...so, at that time, whatever adverse thing happened to the sick and weakened state, had to be weighed not by the magnitude of events but by the diminished strengths [of the state], which were not able to endure anything which might aggravate it. And so the citizenry had recourse to a remedy (*remedium*) that for a long time had neither been wished for nor employed—the creation of a dictator.<sup>58</sup>

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<sup>55</sup> Cic. *Phil.* 12.10.

<sup>56</sup> *Praef.* 9: ...up until these times in which we are able to endure neither our vices nor the remedies to prevent them. ...*donec ad haec tempora quibus nec vitia nostra nec remedia pati possumus perventum est*).

<sup>57</sup> 3.20.8: *Non ita civitatem aegram esse, ut consuetis remediis sisti posset; dictatore opus esse rei publicae.*

<sup>58</sup> 22.8.4-5: ...*ita tum aegrae et adfectae ciuitati quodcumque aduersi inciderit, non rerum magnitudine sed uiribus extenuatis, quae nihil quod adgrauaret pati possent, aestimandum esse. Itaque ad remedium iam diu neque desideratum nec adhibitum, dictatorem dicendum, ciuitas confugit.*

The use of terminology referring to illness would not have escaped the understanding of Livy's readers,<sup>59</sup> since he uses such terminology in his *Praefatio*. Livy's use of terminology referring to "sickness" or a "remedy" was used to allude to contemporary circumstances and the degeneration of the state down to his own times; the reader was invited to see recent events in his descriptions of Rome's early history. Moreover, at 3.20.8 and 22.8.5, the appointment of a dictator in both cases seems to suggest Livy's belief that the current tumultuous situation at Rome can only end with the establishment of autocratic rule—at this time, either Antonius or Octavian.<sup>60</sup> The idea that the internal strife that characterized the end of the Republic was the cause of Rome's current sickness is a common *topos* throughout Livy's history. It is not surprising, therefore, to see contemporary concerns and themes inserted into his treatments of Sp. Cassius and Sp. Maelius; like authors before him, he recast the past based on the present, and was trying to understand his own turbulent and violent times. The triumviral period was formative for his understanding of Rome's past and present.

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<sup>59</sup> Woodman discusses this imagery at greater length, including the use of the terms *remedium* and *vitia* (1988, 132-134). He also provides references to other authors who use this imagery in the same way, including Sallust, Seneca, and Tacitus.

<sup>60</sup> Woodman 1988, 133. This may echo Cicero's opinion in 53/52 BCE that Pompeius should be given the power necessary to restore order at Rome (*Rep.* 6.12.4); although Cicero and the senate were opposed to talk of making Pompeius dictator in 54 BCE (*Q. fr.* 3.4.1, 3.8.8), a few short years later the situation at Rome had become more tumultuous, due to the clashes between Clodius and Milo, and a compromise was made to make Pompeius sole consul. For the passage at *Rep.* 6.12.4, which refers to possible appointment of Scipio Aemilianus (cos. 146) as dictator during the Gracchan crisis of the 130s BCE, as an allusion to Pompeius' sole consulship in 52 BCE: Zetzel 1995, 229; Geiger 1984, 42. Cf. Stevenson 2005, 148-149 (Cicero supports Pompeius being a temporary autocrat of some kind).

As Geiger notes, this passage is the only evidence we have of a possible plan to make Scipio Aemilianus dictator (1984, 41). The passage at 6.12.4 makes up part of the famous *Somnium Scipionis* contained within Book 6 of the *De republica*. For an excellent, and recent, discussion and analysis of the reference to Scipio's possible dictatorship at *Rep.* 6.12.4, see Stevenson 2005. For a treatment of the Roman constitution as portrayed by Cicero in his *De republica*, see Asmis 2005.

In his article on Livy and Augustus, Sailor rightly notes that some scholars have consistently tried to minimize the connections between Livy's descriptions of early Rome and his present.<sup>61</sup> In his preface, Livy tells us that he wants to provide his readers with examples of the exploits of Roman figures to be emulated or avoided, but he also mentions another reason for writing his history:

I shall, in opposition to this, seek another reward for my labour so that I may avert my gaze from the evils which our age has witnessed for so many years; indeed, for as long as I am recalling those ancient deeds it is possible to free the historian's mind from every care which, even if it was not possible to divert it from the truth, might nevertheless cause it anxiety.<sup>62</sup>

One of Livy's aims, then, is to write about the past as a way of escaping the troubles of the present day. Inevitably, however, the turmoil of the triumviral period influences Livy's narrative of earlier Roman events, thereby providing us with a reflection of his present in his account of the past.

Some scholars have posited that Livy consulted very few sources, all of whom wrote much later than the events they described, that he was indiscriminating in his use of them, and that he only knew of the early annalists Q. Fabius Pictor (fl. late third or early second century BCE) and L. Calpurnius Piso Frugi (cos. 133) through his use of the works of later authors, including Valerius Antias (first century BCE), C. Licinius Macer (tr. pl. 73), and Q. Aelius Tubero (first century BCE).<sup>63</sup> Livy has consequently been

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<sup>61</sup> Sailor 2006, 359-361.

<sup>62</sup> *Praef. 5: Ego contra hoc quoque laboris praemium petam, ut me a conspectu malorum quae nostra tot per annos vidit aetas, tantisper certe dum prisca [tota] illa mente repeto, auertam, omnis expers curae quae scribentis animum, etsi non flectere a uero, sollicitum tamen efficere posset.*

<sup>63</sup> Ridley 1990, 130; Ogilvie 1965, 6-7 (Ogilvie goes so far to say that Livy did not consult histories in Greek because he did not know the language [p. 7]); Walsh 1961, 115, 119-120, 125. On the controversy surrounding the identity of Q. Aelius Tubero, see Ogilvie 1965, 16-17; it seems, according to Ogilvie, that this Q. Aelius Tubero was the father of the consul of 11 BCE with the same name.

portrayed by some as an indifferent and thoughtless historian.<sup>64</sup> More recently, some have argued for a more positive assessment of Livy's work and methodology.<sup>65</sup>

*Quellenforschung* has had an important influence on scholarship concerned with authors writing about Rome's past for a long time. It has provided scholars with invaluable insight into the sources used by particular authors. For instance, this source criticism revealed that Livy, for Books 31-45 of his history, was using Polybius as a primary source for his description of events.<sup>66</sup> Source criticism prompted close readings of authors writing about the Roman past. I will draw on this scholarship as it relates to the evolution of the narratives involving Sp. Cassius and Sp. Maelius.

### **Dionysius of Halicarnassus**

Dionysius was a Greek from the city of Halicarnassus in Asia Minor. He tells us that he came to Rome shortly after Octavian's victory over Marcus Antonius; he was, therefore, Livy's contemporary.<sup>67</sup> Although he wrote several rhetorical works, the work most relevant to the present study is his *Antiquitates Romanae* (*Roman Antiquities*).

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<sup>64</sup> E.g., Collingwood uses the term "scissors-and-paste" to talk about the methodology of the ancient sources, including Livy and Dionysius (e.g., 1993 [1956], 36). Discussing Livy and Dionysius, Wiseman says that the "limitations of their historical thinking made them glib, vulnerable to the plausible invention" (1979a, 50). In his discussion of Livy's *Ab urbe condita*, Ogilvie states that if Livy "had been interested in history as it is conceived today he would indeed have collated his material. But Livy was not interested in research" (1965, 6).

<sup>65</sup> Forsythe 1999, 7-9, 12; Oakley 1997, I.16-19; Miles 1995, 1-7; Moore 1989, 149-151; Lipovsky 1981, 1-28; Luce 1977 (esp. p. 139-184); Briscoe 1973, 1-12; Goodyear 1966, 62; Burck 1964, ix-xxviii.

Miles points out that even Luce succumbs to traditional scholarship on source criticism, and cites a large passage from his work. Only part of the passage shall be quoted here, but it reveals some of the engrained thoughts held by scholars about Livy as an author: "Livy was an uneven writer, capable of great care and great carelessness in almost the same stroke of the pen" (Luce 1977, xxvi, cited by Miles, 1995, 4).

<sup>66</sup> Briscoe and Rich in *FRHist* I.85 (a comprehensive discussion of this discovery).

<sup>67</sup> DH 1.7.2: Dionysius explains that he came to Rome in the 187<sup>th</sup> Olympiad, after Octavian put an end to the Civil War.



Dionysius reports that he began writing this work in 30 BCE and completed it in 7 BCE.<sup>68</sup> The work originally consisted of 20 books, but only the first 11 are fully extant; lacunae appear in the remaining books.

Although there is some debate, scholars generally agree that Livy and Dionysius were consulting the same source or sources, and that Dionysius was not relying upon Livy for his material (which the chronology makes unlikely).<sup>69</sup> Like Livy, Dionysius had endured the chaos of the civil wars and his hometown too had not escaped the upheavals of this period.<sup>70</sup> In his preface, Dionysius says that he will begin from the foundation of the city, since previous authors treated the earlier period in a cursory fashion (1.5.4, 1.6.1, 1.6.3), and that his work will end just before the outbreak of the First Punic War (1.8.2). This is the year in which Polybius began his narrative, and Dionysius was seeking to fill a gap in knowledge about early Roman history.

Like Livy, who believed that the Roman state was currently “sick” due to the recent civil wars, Dionysius also suggests that Rome’s deplorable state is the result of a long process of moral degeneration. He refers more generally to a decline in the greatness of Romans over time (1.6.4), and, more specifically, to the tribunate of C. Gracchus as the

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<sup>68</sup> At 1.3.4, Dionysius mentions the consuls of the year 7 BCE.

<sup>69</sup> Oakley in *FRHist* I.323-324, III.421 (the use of C. Licinius Macer by Livy and Dionysius); Rich in *FRHist* I.298-299 (the use of Valerius Antias by Livy and Dionysius); Gaertner 2008, 32-33, 35, 36; Stem 2007, 445n.30; Forsythe 2005, 67-68, 1999, 12, 59, and 1994, 298-299; Ungern-Sternberg 2005a, 89-90; Schultze 2000, 9n.11; Cornell 1995, 2, 7; Gabba 1991, 20, 95.

There is some scholarly debate regarding Dionysius’ possible use of Livy as a source, but most scholars believe that this was not the case (e.g., Gaertner 2008, 32-33; Ungern-Sternberg 2005a, 89n.73; Cornell 1995, 2). Gabba points out that Dionysius’ preface contains possible references to Livy’s work (1991, 213) and that Dionysius, although he never cites Livy, knew his work (1991, 95; so, too, Luce 1995, 235, who also argues that Dionysius is intentionally ignoring Livy’s work). Burck has seen possible allusions to Livy in Dionysius’ work (1964).

<sup>70</sup> Dionysius’ town of origin, Halicarnassus, did not escape the turmoil unscathed (Gabba 1991, 2; for extensive bibliography on Halicarnassus during the civil wars: Gabba 1991, 2n.3).

moment at which Rome's ultimate decline began for it represented Rome's descent into civil strife and bloodshed (2.11.3). Unlike Livy, however, Dionysius' primary aim in writing his *Antiquitates Romanae* does not stem from a desire provide his readers with examples to be emulated or to be avoided. Although he castigates the moral degeneration of the present and provides examples of virtuous men (1.5.3), Dionysius' main concern is to provide his readers with a "universal history" (1.2.1), by means of which he will reveal the "complete life of the city" (1.8.2). In particular, Dionysius states that he is concerned to examine external wars, internal seditions, forms of government, best customs, and most remarkable laws of the Romans (1.8.2). He will not present his material in an annalistic framework, but rather will use a combination of forms, including forensic, speculative, and narrative (1.8.3).

Dionysius' Greek origins factor significantly in his *Antiquitates Romanae*. He reports that another of his goals is to show to his Greek audience how all Romans were originally Greeks (e.g., 1.5.1-2, 1.89.2, 1.90.1-2, 2.1.4) and that Rome itself was a Greek city (1.89.1).<sup>71</sup> He states that many Greeks are, even at the time at which he is writing, ignorant of early Roman history and that many of the things they do believe about Rome in this period are based on false stories and rumours:

For the early history of the Roman city is still not known to all but a few Greeks, and certain opinions are not true, but they, having been received by means of chance reports, deceive many [Greeks].<sup>72</sup>

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<sup>71</sup> For the unusual treatment adopted by Dionysius in Book 1, in order to show the Greekness of the Romans, see Schultze 1986, 128-129.

<sup>72</sup> DH 1.4.2: Ἐτι γὰρ ἀγνοεῖται παρὰ τοῖς Ἑλλησιν ὀλίγου δεῖν πᾶσιν ἢ παλαιὰ τῆς Ῥωμαίων πόλεως ἱστορία, καὶ δόξαι τινὲς οὐκ ἀληθεῖς, ἀλλ' ἐκ τῶν ἐπιτυχόντων ἀκουσμάτων τὴν ἀρχὴν λαβοῦσαι τοὺς πολλοὺς ἐξηπατήκασιν.

Dionysius, as Schultze observes, is eager to claim that he is the first Greek author to provide a reliable account of early Roman history.<sup>73</sup> Schultze notes that three themes can be seen throughout the *Antiquitates Romanae*:

- i) the Greek origins of the Romans;
- ii) the development of the Roman constitution;
- iii) the remarkable avoidance of stasis, attributed chiefly to the virtues of the constitution and, to an extent, to Roman character.<sup>74</sup>

Providing models for imitation, though they are present in the *Antiquitates Romanae*, is not Dionysius' primary goal.<sup>75</sup>

Scholarship has focused on examining the ways by which he presents the Romans as Greeks.<sup>76</sup> Let us consider a few examples of how Dionysius accomplishes his task.<sup>77</sup> Dionysius had to reshape traditional narratives concerning the origins of the Romans in order to claim Greek descent for them. Linderski has shown how Dionysius rejected the theory of Roman autochthony and the etymology of *ab origine*, which had been proposed by Varro.<sup>78</sup> In so doing, Dionysius claimed that the Aborigines came from Greece.<sup>79</sup> Dionysius discusses the various sources and their opinions regarding the origin of the Aborigines and comes to his own conclusion (1.11.1). The beginning of Dionysius' work

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<sup>73</sup> Schultze 1986, 138

<sup>74</sup> Schultze 1986, 128.

<sup>75</sup> Schultze 1986, 128, 138-139. Jonge places too much emphasis on models for imitation, listing it as one of only two aims of Dionysius' *Antiquitates Romanae* (the other aim according to Jonge is to provide the real origins of Rome for a Greek readership) [2008, 19-20]. It should also be noted that most of Jonge's 2008 monograph is dedicated to Dionysius' rhetorical works, not his *Antiquitates Romanae*, which receives minimal treatment.

<sup>76</sup> Especially, e.g., Peirano 2010; Fox 1996a; Schultze 1996, 1986; Linderski 1992; Gabba 1991 *passim*; Hill 1961. There is a perceptible void in scholarship on Dionysius and his works, and Gabba's 1991 monograph is the first such publication to attempt to fill the void on Dionysius' *Antiquitates Romanae*.

<sup>77</sup> A detailed examination of this cannot be undertaken here as it extends beyond the scope of this dissertation. It is necessary, however, to say a few things about it due to its relevance to Dionysian portrayals of Roman disputes over agrarian reforms and the distribution of land.

<sup>78</sup> Linderski 1992, 4.

<sup>79</sup> Linderski 1992, 4. Linderski points out that Vergil does not even mention the Aborigines (1992, 4). On the Aborigines, cf. also Gabba 1991, 107-108, 113-115.

is full of such instances of Greek emigration to Italy. The Pelasgians, Dionysius reports, came from Thessaly, but were originally from the Peloponnese (1.17.1-3).<sup>80</sup> In his discussion of the arrival of the Trojans in Italy, Dionysius similarly makes it clear that they represented another group of Greeks (1.45-62), which was in sharp contrast with the opinions of Vergil (e.g., *Aen.* 8.134-142) and the Romans of the Augustan era.<sup>81</sup> In addition to claiming the Greek origins of immigrants to Italy, Dionysius also ties Rome to Greece in other ways. As Fox has argued, Rome's war with Alba Longa is depicted in a manner that resembles the first ten years of the Spartan attacks against Athens.<sup>82</sup> In speeches given by Roman figures, Athens and Sparta are repeatedly referred to as precedents,<sup>83</sup> and Dionysius even includes an imitation of Pericles' funeral oration in his narrative (3.11.1-11).<sup>84</sup> Forsythe has likewise pointed out that both Livy (2.50) and Dionysius (9.20-21) depict the disaster at Cremera in 478 BCE using the fate of the 300 Spartans at Thermopylae as their model.<sup>85</sup> Political processes at Rome, too, are treated in ways that evoke Greek practices: as we shall see, the patricians and plebeians come to stand for the *oligoi* and *demos*, and Roman stasis seems more reminiscent of Greek precedents.<sup>86</sup> Dionysius' Romans are presented as embodying Greek virtues and values.<sup>87</sup> Peirano argues that Dionysius presents the Romans as the inheritors of Greek values and virtues, but this inheritance is threatened because the Romans have lost the ability to stay

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<sup>80</sup> On the Pelasgians: Linderski 1992, 8; Gabba 1991, 108.

<sup>81</sup> Linderski 1992, 9-10; Gabba 1991, 109.

<sup>82</sup> Fox 1996a, 84.

<sup>83</sup> At 2.30.5, Romulus refers to Greek custom as a means of explanation for the seizure of the Sabine women. On references to Greek precedents, cf. Fox 1996a, 89.

<sup>84</sup> Fox 1996a, 86.

<sup>85</sup> Forsythe 2005, 196.

<sup>86</sup> *Oligoi* and *demos*: Fox 1996a, 92; Schultze 1986, 130-131. *Stasis*: Schultze 1986, 131.

<sup>87</sup> Peirano 2010, 44.

true to their Greek heritage.<sup>88</sup> In particular, the political tendency towards tyrannical behaviour, which first consumed the Greeks, now threatens to topple the Romans' supremacy.<sup>89</sup>

The bibliography on Dionysius is by no means as long as those for Cicero or Livy. Some scholars have pointed out his inability to interrogate the sources at his disposal and to provide accurate reconstructions of events. Wiseman, for example, portrays Dionysius, as well as Livy, as a mindless writer who simply copied what other sources had recorded and lacked the ability to analyze the material he was using.<sup>90</sup> Unlike Wiseman, Schultze takes into consideration Dionysius' methodology and aims as an author; she posits that Dionysius was much more deliberate in his writing than other scholars would have us believe.<sup>91</sup> Jonge similarly argues that Dionysius was not merely an "unintelligent collector" and that this view had led him to be unfairly neglected.<sup>92</sup> Gabba, too, provides a positive assessment of Dionysius as a source, pointing out that his knowledge of Latin allowed him to consult Roman literature extensively.<sup>93</sup> In fact, in his introduction, Dionysius provides a list of the sources that he consulted while writing his *Antiquitates Romanae*, these included: Porcius Cato, Fabius Maximus, Valerius Antias, Licinius Macer, family histories of the Aelii, Gellii, and Calpurnii, and many other sources of note

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<sup>88</sup> Peirano 2010 (but esp. p. 51-53).

<sup>89</sup> Peirano 2010, 52-53.

<sup>90</sup> Wiseman 1979a, 51 (Dionysius was a "much less gifted artist than Livy"), 72 (Dionysius' use of speeches in his treatment of Sp. Cassius were taken from other sources), 74 (Dionysius and "all his faults"), 74-75 ("Dionysius...had at least two rolls open on his desk as he worked on this episode [that involving Sp. Cassius]"), 103 (Dionysius "borrowed speeches" from another source). For an overview of the negativity with which Dionysius has been viewed by scholars, particularly in relation to his rhetorical works, see: Jonge 2008, 3-5; Gabba 1991, 5-9.

<sup>91</sup> Schultze 1986, 124, 128, 129.

<sup>92</sup> Jonge 2008, 5.

<sup>93</sup> Gabba 1991, 3. For Gabba's positive assessment of Dionysius, see 1991, 1-5, 20-22.

(1.7.3). These, Dionysius affirms, were “approved Roman authors.” On several occasions, Dionysius makes clear his care in selecting the material he is using (e.g., 2.24.1, 2.63.1, 7.2.5), making choices that suit his own aims as an author.<sup>94</sup> As Schultze points out, Dionysius’ knowledge of Roman authors was extensive,<sup>95</sup> and as his many rhetorical works, such as *The Art of Rhetoric*, *The Arrangement of Words*, *On Imitation*, and *On Thucydides*, make clear, he was well versed in Greek rhetoric and historiography.<sup>96</sup> Like Thucydides and Polybius, Dionysius says that he spent a great deal of time collecting material, talking to important statesmen, and dedicating his life to history.<sup>97</sup> This was an author who was clearly educated, knowledgeable, and dedicated to producing sophisticated and learned history.

In Schultze’s important article from 1996, she makes it very clear that Dionysius faced a huge task: he had not only to gather and analyze material, but also to deal with the

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<sup>94</sup> Schultze notes that such passages show that the episodes, events, motives, etc. related by the historian were chosen for their usefulness rather than for their ability to entertain the audience (1986, 137). It should be noted that the historian’s task of usefulness overlaps with that of the rhetorician, who must also select useful material in order to persuade his audience (and, of course, plausibility also factored into this selection process).

<sup>95</sup> Schultze 1986, 124.

<sup>96</sup> Dionysius may also preserve remnants of other, more obscure sources in his history of Rome, which also attests to the degree to which he was consulting a variety of material. It has been argued, for instance, that Dionysius’ digression on the tyrant Aristodemus of Cumae (7.2-11) was based on a Cumaean chronicle, which may, in turn, have been preserved by Timaeus. Alföldi believed that the Cumaean chronicle provided a reliable record of the history of central and southern Italy during the fifth century BCE (1965, 56-72). Although Gallia is skeptical of Alföldi’s certainty regarding the reliability of the Cumaean chronicle, he argues that the “points of contact between Rome and Aristodemus” (p. 51) are a product of Roman historians’ desire to integrate the history of Rome with that of the wider world (2007, esp. p. 59). Regarding temporal connections between the Greek and Roman world, Gallia states: “Such temporal connections made it possible for historians to think in comparative terms, across regional and cultural divides. Roman historians engaged in this kind of reasoning as well, and by the time of scholars like Cornelius Nepos and Atticus, they knew of a number of important synchronisms between their own history and that of the Greek states” (2007, 66-67).

<sup>97</sup> DH *Pomp.* 6. Cf. Schultze 1986, 125.

pitfalls of Roman chronology.<sup>98</sup> Dionysius, Schultze proposes, made “considerable efforts to achieve a consistent and accurate chronological system,” which both his Greek *and* Roman readers had to be able to understand.<sup>99</sup> Peirano’s recent article similarly attributes a great deal of planning and critical labour to Dionysius.<sup>100</sup> This scholarship represents a gradual shift from the tradition of *Quellenforschung* to emphasis on Dionysius’ compositional aims and techniques. Schultze, in particular, has been a proponent for this more judicious and accurate assessment of Dionysius’ process as an historian and scholar.<sup>101</sup> Others have recently expressed similar views and have argued for a rehabilitation of Dionysius’ reputation as a researcher and historian.<sup>102</sup>

Dionysius certainly makes a point of his concern for providing a truthful account of the history he reports, which, he inveighs, ought to be the goal of every author writing in this genre (1.6.5). In his rhetorical work *On Thucydides*, Dionysius quotes Thucydides’ remarks on truth (1.22.4, quoted by DH at *Thuc.* 7-8). History is the “high priestess of truth” (*Thuc.* 8). In support of Dionysius’ claim, Gabba provides passages in which Dionysius remarks upon mistakes in chronology made by his sources.<sup>103</sup> Part of ensuring a truthful representation of the past, Dionysius asserts, involves recording a full account of events, causes, and motives—and avoiding brevity.<sup>104</sup> He regards brevity negatively, for it signals that the events or human sufferings portrayed are insignificant, and he

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<sup>98</sup> Schultze 1996.

<sup>99</sup> Schultze 1996, 192.

<sup>100</sup> Peirano 2010.

<sup>101</sup> Schultze 2000, 1996, and 1986.

<sup>102</sup> Peirano 2010; Fox 1996a.

<sup>103</sup> Gabba 1991, 85 (he cites the following passages from Dionysius: 2.74.5, 4.6-7, 4.30.2-3, and 7.1.4-6).

<sup>104</sup> E.g., DH 3.18.1, 7.66.5; *Thuc.* 15. Schultze 1986, 126: “...*alētheia* is closely associated with *akribeia*—and *akribeia* often seems to relate to fullness rather than to precision or discrimination.”

criticizes Thucydides for falling prey to this (*Thuc.* 15). In his *Antiquitates Romanae*, Dionysius says that he wants to present an “accurate history of the Romans” (1.5.4), and this involved providing fullness or, as Gabba defines it, “richness of detail” (ἀκρίβεια).<sup>105</sup> This explains his use of extensive speeches that we do not find in the other extant sources—they added richness of detail to his work.

### **Organization of the Study**

My dissertation is divided into two main parts, the first of which examines treatments of Sp. Cassius’ third consulship in 486 BCE, when he attempted to distribute land to the plebeians, and the second, the portrayals of Sp. Maelius’ private frumentary distribution in 439 BCE. Both men were suspected of aiming at kingship, which led to their deaths. The extant sources that treat the events of these years include Cicero, Livy, Dionysius of Halicarnassus, and Valerius Maximus, as well as several fragments attributed to earlier Roman authors, specifically L. Cincius Alimentus and L. Calpurnius Piso Frugi. Not only do different authors emphasize, adapt, and omit various elements of the events of 486 and 439 BCE, but the same author often reinterprets an episode differently at different times depending on literary objectives or his immediate rhetorical needs. In particular, these figures became embedded in the political controversy surrounding the suppression of men (reportedly) seeking kingship by the state that began with the institution of the *SCU* in 121 BCE and continued long in to the first century BCE. The concern is not with the historicity of events for the early period, but rather how

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<sup>105</sup> Gabba 1991, 82. This idea of “richness of detail” will be discussed at greater length in Part I, Chapter 3B on Dionysius’ treatment of Sp. Cassius’ agrarian proposal.



narrative details regarding the early Republic were created, exaggerated, omitted, and reshaped based on subsequent contemporary concerns.

**Part I** will focus on legislation that called for the distribution of land. The tenure and distribution of public lands were, according to our ancient sources, at the heart of political struggles throughout the entire Republican period from the earliest times until its collapse in the first century. Accounts of early agrarian legislation, however, found in authors such as Livy and Dionysius of Halicarnassus, who were writing at the end of the Republic and during Augustus' reign, evoke the agrarian struggles of the last decades of the Republic. As a case study to illustrate these literary dynamics, this part of the dissertation will focus specifically on the land distribution proposed by Sp. Cassius as consul in 486 BCE.

In **Part II**, I will explore the ancient narratives concerning the distribution of grain. Grain shortages were a constant source of trepidation among the Romans, and our sources record instances involving the distribution, and importation, of grain. We know that in the late Republic, popular politicians turned their attention to stabilizing Rome's food supply through *leges frumentariae*. These events had an effect on narratives of prior episodes concerned with grain distribution. Part II will focus specifically on the case of Sp. Maelius, a wealthy man of the equestrian order who distributed grain purchased with his own money during a time of famine at Rome.

Both Part I and Part II are divided in the same fashion. Each part contains smaller chapters devoted to the narrative of a particular author. **Part I**, Chapter 1 focuses on Cicero's narrative, Chapter 2 on Calpurnius Piso's, and Chapter 3 is divided into two

subchapters, one focusing on Livy's narrative (Chapter 3A) and the other on Dionysius' (Chapter 3B). For **Part II**, Chapter 1 is focused on the fragments of Cincius Alimentus and Calpurnius Piso, Chapter 2 on Cicero's narrative, and Chapter 3 is divided in the same manner as Part I.

## **PART I: SP. CASSIUS AND AGRARIAN REFORM**

### **INTRODUCTION**

As presented in our sources, the tenure and distribution of public lands were at the heart of political struggles throughout the entire Republican period from the earliest times until its collapse in the first century. Although debt, food shortages, and codification of the law were contributing factors to the conflict, agrarian problems are represented by our sources as the most pressing plebeian grievance throughout the Struggle of the Orders. From 486 to 367 BCE, our sources record over two-dozen agrarian proposals seeking to distribute land.<sup>106</sup> The historicity of early agrarian laws, and of events surrounding them, is controversial, and it is commonly acknowledged that the accounts of these proposals contain anachronistic elements.<sup>107</sup> Part I considers the ways in which agrarian proposals and their respective proposers are described and reinterpreted by our ancient sources in light of contemporary events and ideological concerns.

It is often observed that accounts of early agrarian legislation found in Livy and Dionysius of Halicarnassus, who offer the fullest treatment of these episodes, evoke the agrarian struggles of the last decades of the Republic. Tension between the *optimates* and *populares* during the last decades of the first century BCE is well documented, and when we look at the accounts of earlier struggles between patricians and plebeians, they are

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<sup>106</sup> Based on the available sources, such proposals (or agitations for such proposals) were sought in 486, 485, 481, 480, 476, 474, 467, 456, 441, 424, 421, 420, 417, 415-414, 412, 410, 401, 387, 385, and 367 BCE (this list is based on entries from Broughton *MRR* I and Rotondi 1962 [1912], both of whom provide references to the ancient sources for the relevant year).

<sup>107</sup> Ogilvie sees such proposals simply as “abortive threats” which would never have been recorded (1965, 340). Mitchell (2005, 153), Raaflaub (2005b, 191, 209), and Lintott (1992, 36-37) are more diplomatic in their approach, neither rejecting the validity of disputes over land in the early Republic nor arguing unconditionally for the historical nature of every recorded agrarian proposal for this period.

presented in a way that is reminiscent of those later struggles. For instance, although separated by several centuries, the agrarian proposals of both periods are seen to result in civil unrest, and their proposers are described as threatening Roman liberty. As we shall see, the language used to describe agrarian proposals for the early period is noticeably similar to that of the late Republic. For the early period, these sources describe proposers of agrarian reforms in familiar terms; such men aimed at *regnum* through “popular” reforms, their proposals were nothing more than *largitiones* that caused *seditiones*. Such descriptions evoke the political invective of the late Republic as used, for example, by Cicero against Servilius Rullus in the *De lege agraria contra Rullum* (of 63 BCE), against Publius Vatinius in the *In Vatinium* (of 56 BCE), and against Lucius Calpurnius Piso in the *In Pisonem* (of 55 BCE).<sup>108</sup>

Part I examines the ways by which the ancient sources reshaped and created narrative details based on their biases and contemporary concerns. The ancient sources maintain that agrarian proposals were a common source of conflict throughout the Struggle of the Orders. One agrarian proposal from this period, however, received more attention than the rest—that put forth by Spurius Cassius in 486 BCE.

### **SPURIUS CASSIUS VECCELLINUS**

According to our sources, Spurius Cassius Vecellinus was consul in 502, 493, and 486 BCE. In his first consulship, Cassius and his consular colleague, Opiter Verginius

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<sup>108</sup> E.g., *Leg. agr.* 1.24, 2.8, 2.10, 2.12, 2.14, 2.15, 2.24, 2.29, 2.75, 3.16; *Vat.* 5, 6, 7, 10, 11, 12, 13, 15, 17, 18, 19, 23, 29, 34, 37; *Pis.* 4, 15, 17, 24, 40, 41, 76, 84.

Tricostus, fought the Aurunci and celebrated a triumph.<sup>109</sup> He was consul again in 493 BCE, when the plebs seceded and he dedicated the Temple of Ceres.<sup>110</sup> In the same year he made a treaty with the Latins.<sup>111</sup>

Our sources for Sp. Cassius' third consulship differ in subtle but significant ways.<sup>112</sup> The fullest accounts are found in Livy and Dionysius of Halicarnassus, who largely agree in their treatment of the major events of this year. In particular, those accounts dealing with this consulship recast certain elements in light of contemporary concerns over the occupancy and distribution or redistribution of land. Over the course of several generations, authors reinterpreted the main events of 486 BCE. During this year, Cassius defeated the Hernici,<sup>113</sup> made a treaty with them (which according to Livy confiscated two-thirds of their land, but according to Dionysius did not deprive them of any land), and was possibly granted a second triumph for doing so.<sup>114</sup> Shortly thereafter, Cassius proposed a law to distribute land not only to the plebeians, but also to

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<sup>109</sup> Livy 2.17; Dionysius records that Cassius fought with the Sabines (DH 5.49.1-2). For sources on Sp. Cassius' first consulship, see Broughton *MRR* I: 8.

<sup>110</sup> For sources on Sp. Cassius' second consulship, see Broughton *MRR* I: 14-15. Secession of the plebs: Cic. *Rep.* 2.57; Livy 2.32-33; DH 6.49-90. Temple of Ceres: DH 6.94.3.

<sup>111</sup> Cic. *Balb.* 53; Livy 2.33.4; DH 6.95.1-3.

<sup>112</sup> Piso fr. 37 (Peter) [= Plin. *Nat.* 34.14(30)]; Cic. *Dom.* 101, *Rep.* 2.49, 2.60, *Amic.* 28, 36, *Phil.* 2.87, 2.114; Diod. Sic. 11.37.7; Livy 2.41; DH 8.68-80; Val. Max. 5.8.2, 6.3.1b, 6.3.2; Plin. *Nat.* 34.9(15); Florus 1.17.7(1.26.7); Ampelius 27.3; Festus 180L. At *Nat.* 34.9(15), Pliny the Elder mentions elements of the episode involving Sp. Cassius, and makes it clear that he found (*reperio*) this account in another source, but he does not specify the source; for more on this, see below, p. 44n.143. See Appendix 3 for a chart showing the evolution of the narrative involving Sp. Cassius, categorized by author and element of the episode.

<sup>113</sup> This is absent in Livy, who only reports that Sp. Cassius made the treaty with them (2.41.1). In addition, Livy does not mention the second triumph, whereas Dionysius states that Sp. Cassius demanded it and it was granted (8.69.1-2).

<sup>114</sup> Livy 2.41-42; DH 8.68.1-69.2; Val. Max. 6.3.1b. The details surrounding the treaties made by Sp. Cassius in his various consulships have possibly been conflated (e.g., Dionysius states that the treaty with the Hernicans was identical to the one he made with the Latins in 493 BCE [8.69.2]); such is the view of Forsythe (2005, 192-193).

the Latins and to restore the land to the recently defeated Hernici.<sup>115</sup> Alarmed by this proposal, the senate, which consisted of wealthy patricians who currently occupied much of the land subject to the agrarian proposal, and Cassius' fellow consul, Proculus Verginius Tricostus Rutilus, opposed him, turning even the plebs against the proposer of the law.<sup>116</sup> Sp. Cassius was then accused of trying to buy the plebeians' support with grants of land with the aim of making himself king.<sup>117</sup> In the following year, he was put on trial, found guilty, and condemned to death.<sup>118</sup> Both Livy and Dionysius report two separate accounts of his condemnation: in one, his father was responsible for the trial and execution, and in the other, Cassius was tried by the quaestors and then executed.<sup>119</sup>

The accounts of Sp. Cassius' third consulship are highly resonant with later events, especially the legislation proposed by the Gracchi, most notably, their proposals to distribute land to the masses.<sup>120</sup> In addition, Sp. Cassius' purported proposal to include non-Romans in his land distribution may have been inspired by Gaius' proposal to grant Roman citizenship to the Latins and Latin rights to the Italian allies.<sup>121</sup> It is hard to see how the proposals attributed to Sp. Cassius can be historical. Indeed, the proposed law of 486 BCE is more likely to be a doublet of the Gracchan measures, as many scholars have

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<sup>115</sup> Livy reports that Sp. Cassius wanted to include the Latins in his distribution scheme, and that he wanted to restore the land to the recently conquered Hernici. In contrast, Dionysius tells us that the Hernici were defeated, did not lose any land, and Sp. Cassius wanted to include them in his land distribution scheme along with the Latins.

<sup>116</sup> Livy 2.41.4-7; DH 8.69-71. There seems to have been particular anger over the inclusion of the Latins and Hernici in the distribution of the land (e.g., Livy 2.41.6; DH 8.72).

<sup>117</sup> Livy 2.41.8-9; DH 8.69.3-71.4.

<sup>118</sup> Livy 2.41.10; DH 8.78.5.

<sup>119</sup> First version: Livy 2.41.10; DH 8.79.1-4. Second version: Livy 2.41.11; DH 8.78.5 (Dionysius reports that Cassius was thrown from the Tarpeian rock).

<sup>120</sup> For sources on the agrarian proposal of Tiberius Gracchus, see Broughton *MRR* I: 493-494. For sources on Gaius Gracchus' agrarian proposal, see Broughton *MRR* I: 514.

<sup>121</sup> On C. Gracchus' proposal to grant Roman citizenship to the Latins (and Latin rights to the Italian allies): Cic. *Brut.* 99; Vell. Pat. 2.6.2-3; App. *B. Civ.* 1.21, 1.23; Plut. *C. Gracch.* 5.1, 9.3-4.

recognized.<sup>122</sup> This is especially likely in the case of Sp. Cassius' proposal to include the Hernici and Latins in the distribution. There seems to be little sense in confiscating the land of a recently defeated enemy only to give it back shortly thereafter. It was Sp. Cassius' plan to include non-Romans in his distribution of land that, we are told, allowed the senate to turn popular support against him. We are also told that Sp. Cassius' proposal was blocked by wealthy senatorial *possessores*, the majority of whom occupied much land that was to be distributed; similarly, our sources tell us that Tiberius Gracchus' agrarian law was opposed by rich *possessores*.<sup>123</sup> This again seems a Gracchan doublet, as it assumes a system of distribution that probably did not develop before Rome had actually acquired large tracts of public land at the expense of its defeated neighbours.<sup>124</sup> Moreover, the opposition of Verginius to Sp. Cassius' agrarian proposal seems to reflect the behaviour of Marcus Octavius, who colluded with the senate to block Tiberius, and Gaius Fannius and Marcus Livius Drusus, who opposed Gaius.<sup>125</sup> The events of 486 BCE were reshaped in later tellings. Sp. Cassius was cast as a Gracchus, Verginius as an obstructive tribune, and the early Roman senate as the Gracchan optimate opposition.

<sup>122</sup> Roselaar 2010, 27-28; Wiseman 2009, 183 and 2004, 192-193, 194; Rich 2008, 567; Smith 2006b; Forsythe 2005, 193-194 and 1994, 298-299, 303-304; Cornell 1995, 271; Powell 1990, 94; Panitschek 1989 (esp. p. 241-245); Capanelli 1981, 45-50; Lintott 1970, 12, 18-22 and 1968, 180-181, 184; Ogilvie 1965, 339, 340, 342; Gabba 1964 [2014], 31-32, 34-39, 40; Mommsen 1871, 235-236.

<sup>123</sup> Sp. Cassius and *possessores*: Livy 2.41.2; DH 8.69.3. The Gracchi and *possessores*: Cic. *Sest.* 103; App. *B. Civ.* 1.7, 1.8, 1.10; Plut. *Ti. Gracch.* 8.1-3. In general: Cic. *Off.* 2.78.

<sup>124</sup> Mitchell 2010, 311, 316; Roselaar 2010, 25-27, 30-32, 37-58, 298-326 (appendix); Rich 2008, 562-563; Raaflaub 2005b, 191, 203, 211-212n.23; Rathbone 2003, 140; Cornell 1995, 271; Billows 1989, 130; Salmon 1969, 40-53, 1955, 1953a, and 1953b; Frank 1933, 32-33 and 1920, 87. Mitchell observes that Rome did not possess large tracts of *ager publicus* until after the fall of Veii; likewise, Billows observes that even after the capture of Veii, the Roman state would not have possessed much public land until some time after the Gallic sack (thereby making the land law of 367 BCE highly suspect) [1989, 130]. Raaflaub, Lintott, Salmon, and Frank all argue that virginal distributions did not occur until after the conquest of Veii in 396 BCE (Raaflaub 2005b, 203; Lintott 1992, 37; Salmon 1969, 44, 1955, 1953a, and 1953b).

<sup>125</sup> Ti. Gracchus and the oppositional colleague: Livy, *Per.* 58; Cic. *Mil.* 72, *Brut.* 95; Vell. Pat. 2.2.3; App. *B. Civ.* 1.12; Plut. *Ti. Gracch.* 10-15. C. Gracchus and the oppositional colleague: Cic. *Brut.* 99; App. *B. Civ.* 1.23; Plut. *C. Gracch.* 8.3-4, 9.1-4, 11.2-3, 12.2-4.

When and why, however, did these various reshapings take place? An obvious place to begin is with Cicero's treatment of Sp. Cassius.



## CHAPTER 1: SP. CASSIUS IN CICERO

Cicero mentions Sp. Cassius in four of his works: *De domo sua* (57 BCE), *De republica* (between 54 and 51 BCE), *Laelius de amicitia* (between March and November of 44 BCE), and the *Second Philippic* (October of 44 BCE).<sup>126</sup> Cicero is the first extant source to list Sp. Cassius among other malefactors of early Rome and the first to associate him with the popular politicians of the late Republic. As we shall see, however, he never explicitly mentions a *lex agraria* in connection with Sp. Cassius, which is a central element to the versions found in Livy and Dionysius.

### **Dom. 101**

Cicero delivered his *De domo sua* in 57 BCE before the pontifical board at Rome. Publius Clodius Pulcher had, as tribune of the plebs in 58 BCE, effectively exiled Cicero for his handling of the Catilinarian conspiracy, and, subsequently, arranged the confiscation of Cicero's property. The dwellings of Sp. Cassius, Sp. Maelius (fl. mid-fifth century), and M. Manlius Capitolinus (cos. 392), Cicero tells us, were destroyed because these men had aimed at kingship.<sup>127</sup> The account of the destruction of Sp. Cassius' house serves to connect him with other men who attempted to set themselves up as kings at Rome and whose houses were also destroyed. As we shall see, the destruction of these houses also figures in Livy.<sup>128</sup> Cicero, of course, would insist that, unlike the three canonical malefactors of early Rome, he had not behaved tyrannically, as Clodius

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<sup>126</sup> *Dom.* 101; *Rep.* 2.49, 2.60; *Amic.* 28, 36; *Phil.* 2.87, 2.114. See Appendix 2 for a catalogue of the three malefactors, and other figures that are mentioned alongside them, in the Ciceronian corpus.

<sup>127</sup> *Dom.* 101.

<sup>128</sup> Sp. Cassius: Livy 2.41.11; Sp. Maelius: Livy 4.16.1; M. Manlius Capitolinus: Livy 7.28.5.

alleged,<sup>129</sup> but had preserved the state. Cicero differentiates himself from these malefactors, and, in turn, portrays Clodius as the true villain.<sup>130</sup> His behaviour, then, did not reflect that of the three malefactors, but rather, he identifies with men who saved the Roman state but who were unjustly punished for doing so, such as Kaeso Quintius (fl. early fifth century), Marcus Furius Camillus (mil. tr. c. p. 401, 398, 394, 386, 384, 381, dict. 396, 390, 389, 367), and Gaius Servilius Ahala (possibly mag. eq. 439).<sup>131</sup> Cicero uses Cassius, Maelius, and Capitolinus here in order to differentiate his behaviour from theirs.<sup>132</sup> Indeed, in the preceding section (§100), Cicero states that not returning the site on which his house once stood is further punishment and reinforces Clodius' victory over himself and the Republic. It was *Clodius* who had behaved tyrannically during his tribunate, *Clodius* who had unlawfully confiscated Cicero's house, and *Clodius* who had performed the dedication of the site of Cicero's house (to the goddess Libertas) incorrectly, thereby invalidating the ceremony altogether.<sup>133</sup>

The Roman ability to understand the past and its purpose were closely intertwined with monuments (in narrative, visual representations, or other forms); in particular,

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<sup>129</sup> E.g., *Sull.* 21-25; *Dom.* 72-91, 104, 115-116, 131, 141, 146; *Att.* 1.16.10 (May, 61 BCE). Craig notes the increased mention of tyranny and those behaviours (e.g., cruelty, plunder, avarice) attributed to a tyrant in §§72-91 (2004, 209).

<sup>130</sup> *Dom.* 110, 131, and *passim*.

<sup>131</sup> *Dom.* 86-87. Cicero tells us (§86) that all three men, due to the anger of the Roman *populus*, were condemned by the *comitia centuriata*, went into exile, and were subsequently restored once the Romans were in a more calm state of mind. Clearly Cicero used these men as examples to highlight the injustice of his own exile.

<sup>132</sup> Cicero uses the same tactic at §61, where he states that the destruction of one's house is reserved for criminals or enemies of the state, which he himself is not.

<sup>133</sup> Clodius' tyrannical behaviour during his tribunate: *Dom. passim* (§§1-32 deal primarily with Clodius' mishandling of the grain supply during his tribunate and, because of this mishandling, the need to select Pompeius as *curator annonae*). Clodius unlawfully confiscated Cicero's house: *Dom.* 68, 70, 128, and *passim* (the confiscation of Cicero's house as a form of proscription: e.g., *Dom.* 44, 47, 48, 50, 51). Clodius' incorrect performance of the dedication of the site: *Dom.* 117-128, 136, 138-140.

monuments allowed a Roman not only to remember the past, but also to categorize ethical or unethical behaviour and to present certain deeds to contemporary audiences in a hortatory rhetorical mode.<sup>134</sup> The Roman and Greek historiographical sources frequently link the downfall of the tyrant figure of the early Republic with Roman topography.<sup>135</sup> Based on the literary tradition, Sp. Cassius was only one of many Romans whose houses were destroyed on account of their misconduct. The destruction of Sp. Cassius' house, as well as those of Sp. Maelius and M. Manlius Capitolinus, was meant as a clear message to anyone who attempted to establish himself as king. The destruction of an aspiring king's house does not destroy the memory of the tyrant's attempt, but rather it shows public disapproval of his aims and commemorates his downfall, placing him firmly into the collective memory as a negative *exemplum*.<sup>136</sup> Thus, the demolition of the *domus* symbolizes not only the destruction of its owner, but also the destruction of his social network, and, in turn, his political aims.<sup>137</sup> Cicero mentions at *Dom.* 101 that the empty space where Sp. Maelius' house once stood came to be named the "Aequimaelium."<sup>138</sup>

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<sup>134</sup> Roller 2004, 7-8. Jaeger discusses how Livy's *Ab urbe condita* can be viewed as a monument (1997, 15-29).

<sup>135</sup> This fits into Roller's schematization as presented in the Introduction (p. 12-13).

<sup>136</sup> Roller 2010, 122, 151-152. Connor has collected and analyzed Greek instances involving the razing of houses; the earliest example provided is a Locrian law dating to around 525 BCE (1985, 81). It is possible that the Romans became aware of this type of punishment through Greek practice, and, possibly, the influence of Greek rhetoric.

<sup>137</sup> Arena 2012, 213; Roller 2010, 124, 127; Tatum 1999, 159-162; Bodel 1997, 11; Saller 1994, 93.

<sup>138</sup> Other sources also mention this: Varro, *Ling.* 5.157; Livy 4.16.1; DH 12.4.6. Once again we see how these episodes conform to Roller's schematization of exemplary discourse (2009a, 2004).

**Rep. 2.49 and 2.60**

In his *De republica* (between 54 and 51 BCE), Cicero also portrays these same figures as aiming at kingship:

“Thus, Spurius Cassius, M. Manlius, and Spurius Maelius are said to have attempted to seize the kingship, and recently (*modo*) [Tiberius Gracchus].”<sup>139</sup>

In the voice of Scipio Aemilianus, Cicero moves from ancient *exempla* to a more recent one (assuming that Tiberius’ name is correctly supplied in the lacuna here).<sup>140</sup> Cicero mentions Sp. Cassius later in the same work, omitting Maelius and Capitolinus, and provides additional details surrounding his condemnation and death. His account is as follows:

Such was the condition of the state when a quaestor accused Sp. Cassius, who was powerful because of his excessive influence with the people, of aiming at kingship; and, as you have heard, his own father, after he said that he had learned of his son’s guilt, condemned him to death with the permission of the people.<sup>141</sup>

This is the first, and only, reference Cicero makes to Sp. Cassius’ popularity among the people (*summa apud populum gratia florentem*), by means of which he intended to become king. Cicero, however, does not specify how Sp. Cassius won this support. A *lex agraria*, central to the narratives of Livy and Dionysius, is notably absent. Following his account of Sp. Cassius’ third consulship, Cicero discusses several other figures who sought popularity through legislation, including the consuls of 454 BCE, Sp. Tarpeius

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<sup>139</sup> *Rep.* 2.49: *Itaque et Spurius Cassius et M. Manlius et Spurius Maelius regnum occupare voluisse dicti sunt, et modo [Tiberius Gracchus]*. The name “Tiberius Gracchus” is supplied to fill a lacuna in the manuscript (Powell 2006, 76 [OCT]; Zetzel 1995, 204). Cf. *Cic. Amic.* 36.

<sup>140</sup> Powell 2006, 76 (OCT); Zetzel 1995, 204. A discussion of Tiberius Gracchus’ alleged attempt at *regnum* after the *modo* would fit the setting of the work in 129 BCE (for more on the setting of the *De republica*, see below, p. 49-50).

<sup>141</sup> *Rep.* 2.60: *Quo in statu rei publicae Sp. Cassium de occupando regno molientem, summa apud populum gratia florentem, quaestor accusavit, eumque ut audistis cum pater in ea culpa esse conperisset, cedente populo morte mactavit.*

Montanus Capitolinus and A. Aternius Varus Fontinalis. They had won popular support through laws concerning the payment of fines.<sup>142</sup> He also mentions the consuls of 430 BCE, C. Iulius and P. Papirius, who became popular by passing a law to change the method by which the payment of fines was made (from livestock to coin).<sup>143</sup>

Cicero reports (*Rep.* 2.60) that it was a quaestor who accused Sp. Cassius, and this element, found here for the first time, reappears in later versions.<sup>144</sup> In Cicero's account, however, only one quaestor was involved in bringing forth the accusation against Sp. Cassius, whereas both Livy and Dionysius report that two quaestors were involved. In addition, Livy and Dionysius report another version of Sp. Cassius' downfall in which his own father condemned him to death, although both authors prefer the version involving the quaestors. Notably, Cicero provides us with an account that combines the two separate versions reported by Livy and Dionysius—why might he have preferred a version of Sp. Cassius' condemnation and death that involved both a quaestor and the accused's own father?<sup>145</sup>

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<sup>142</sup> Their consulship: Diod. Sic. 12.6.1; Livy 3.31.5-6; DH 10.48.1. Their law (the *lex Aternia Tarpeia*) concerning the payment of fines: Cic. *Rep.* 2.60; DH 10.50.2.

<sup>143</sup> Cic. *Rep.* 2.60; Diod. Sic. 12.72.1 (names the consuls as C. Papirius and L. Iunius); Livy 4.30.1-4 (names the consuls as L. Iulius and L. Papirius Crassus). Their law stated that fines were to be paid in bronze (previously they had been paid in sheep or cattle).

<sup>144</sup> Although Mommsen (*Staatsr.* II.69, 464) discusses this section of the *De republica*, he focuses on Sp. Tarpeius and A. Aternius (II.69) and L. Papirius and P. Pinarius (II.464) and not on the role of the quaestor(s) in Sp. Cassius' trial and execution. His 1871 article on Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus acknowledges the versions of the episode that involved the quaestor(s), but he is silent on the meaning of this inclusion.

<sup>145</sup> Pliny the Elder records the version in which Sp. Cassius' father executed him for aiming at tyranny (*Nat.* 34.9[15]); he states that he found (*reperio*) this version, but does not mention his source. This does seem, however, to represent the earlier of the two versions of Sp. Cassius' condemnation and death (Smith 2006b, 50; Lintott 1970, 20, 22 and 1968, 56). Pliny also mentions in this section that the first statue at Rome was one of Ceres, made from the proceeds of Sp. Cassius' property. Lintott suggests that Pliny may be following Piso here, as he seems to be doing regarding the statue (1970, 19), but Forsythe does not think this was the case for this section of Pliny's work (1994, 298).

Zetzel, in his commentary on Cicero's *De republica*, notes that Cicero, by mentioning one quaestor instead of two, is reflecting the constitutional realities of contemporary Rome, not that of the fifth century BCE.<sup>146</sup> In the early Republic, judicial quaestors,<sup>147</sup> known as the *quaestores parricidii*,<sup>148</sup> served as public accusers of some sort in cases of murder; it is also possible that they played a role in bringing forth accusations in other capital offenses, such as that of *perduellio*, which is the only charge explicitly associated with Sp. Cassius' downfall (e.g., Livy 2.41.11), making it hard to see how the quaestors would function if they only sought out those guilty of murder.<sup>149</sup> It seems that late Republican sources knew of the archaic *quaestores parricidii*, but conflated them with the later officers known as the *duumviri perduellionis* (e.g., Livy 1.26). This may have been influenced by contemporary politics. That is, Sp. Cassius' trial may, as

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<sup>146</sup> Zetzel 1995, 218.

<sup>147</sup> Zetzel 1995, 218.

<sup>148</sup> For a general treatment of the *quaestores parricidii*, see Lintott 2003, 133-135. These officials are referred to as *quaestores parricidii* in the Twelve Tables (IX.4), but interpretive difficulties arise since they were supposedly responsible for carrying out the accusation and execution of those guilty of murder.

<sup>149</sup> There is some confusion about whether the *quaestores parricidii* were the same officers as the *duumviri perduellionis* (Livy, at 2.41.11, tells us this is what Sp. Cassius was found guilty of, but that the trial was carried out by the quaestors). There is much confusion in the sources (cf. Latte 1936, esp. p. 26-28), since the quaestors of the early period do not seem to try those guilty of murder (e.g., Sp. Cassius is tried for *perduellio* in 486 and M. Volscius Fictor is tried for providing false testimony in 459 [Livy 3.24.3-7, 3.29.6; cf. Val. Max. 4.1.4], although Ogilvie argues that Fictor could be charged with *parricidium* if his testimony resulted in a capital penalty [Ogilvie 1965, 437]). Some scholars argue that the *quaestores parricidii* charged people with capital offences beyond murder, including *perduellio* (e.g., Ogilvie 1965, 324-326; Staveley 1955, 426-427). Zetzel, however, argues that the *quaestores parricidii* would not have been involved in a case involving *perduellio* (Zetzel 1995, 218).

Although it seems likely that public accusers existed in the time of the kings (e.g., Tac. *Ann.* 11.22), much remains uncertain, see, e.g.: CAH VII (*The Hellenistic Monarchies and the Rise of Rome*), 446-448; Lintott 1970, 19; Ogilvie 1965, 339, 344-345 (he argues that the *duumviri perduellionis* must have tried Sp. Cassius); Latte 1936; Mommsen *Staatsr.* II.537-540 (§§525-527). The *duumviri* may have been created during the regal period (cf. Livy 1.26).

Forsythe suggests, have been reshaped in light of C. Rabirius' trial of 63 BCE, which was carried out by the *duumviri perduellionis*.<sup>150</sup>

Other explanations can be offered for the insertion of the quaestor(s). For instance, their addition to the narrative involving Sp. Cassius has been tentatively attributed to Valerius Antias, writing in the early to mid-first century BCE.<sup>151</sup> He may have inserted one or both of the quaestors because one of them, Lucius Valerius, was from his own *gens*.<sup>152</sup> As Wiseman has noted, such familial promotion is typical of Valerius Antias' work.<sup>153</sup> The inclusion of the quaestor(s) could also be an artifact of arguments occurring after the Gracchi. That is, conservative authors writing in the aftermath of the tribunes of Tiberius and Gaius were interested in legitimizing their slayings. Attributing to the

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<sup>150</sup> Forsythe 2005, 194. Cf. Cicero's *Pro Rabirio perduellionis reo*. Attempting to ascertain the significance of the possible role of the quaestor(s) in Sp. Cassius' trial is extremely difficult, especially with the creation of the annually elected quaestors in the 440s BCE. The quaestorship only becomes a regular, annually elected magistracy in 446 BCE (Tac. *Ann.* 11.22), and, as Cornell points out, it is unknown whether the *quaestores parricidii* were the forerunners of the later elected quaestors (1995, 450n.91).

Rabirius was on trial for his role in L. Appuleius Saturninus' death in 100 BCE. The charge was *perduellio*, by this time an archaic charge; the use of *duumviri perduellionis* was also an ancient ritual. The trial was brought forward by Caesar and its real object concerned the use of the *SCU* against popular politicians believed to be attempting to subvert Roman liberty (Cic. *Rab. perd.* 2-5, 28, 34; Jones 1972, 43). Mitchell 1971, 52: "The whole affair was a transparent scheme to challenge the extent to which extraordinary action could be taken against citizens under the authority of the ultimate decree... He [Cicero] describes [in his *Rab. perd.*] the trial as a purely political maneuver designed to destroy the effectiveness of the *consultum ultimum*." Cicero defended Rabirius, although the matter seems to have been dropped. For more on the trial of Rabirius and the archaic features of it, see Jones 1972, 40-44.

<sup>151</sup> The exact dates for Valerius Antias' treatment of Roman history are much debated. Some scholars argue that he was writing around the time of Sulla (e.g., Walsh 1961, 115), others between 80 and 60 BCE (e.g., Rich 2005, 142; Wiseman 1979a, 113, 117-121; Cloud 1977; Ogilvie 1965, 12-13), and still others contend that, since Cicero does not mention him, he may have written as late as the 40s BCE (e.g., Forsythe 2005, 63-64; Antias wrote around 65-45 BCE; this seems to be the outdated view: cf. Rich 2005, 139n.8). Ungern-Sternberg stresses that there is no evidence with which we can reliably date Valerius Antias (2005a, 89-90). For a concise overview of the various scholarship concerning the dating of Valerius Antias' work, not all of which is provided here, see Rich 2005, 139.

<sup>152</sup> Forsythe 2005, 194 and 1994, 299; Ogilvie 1965, 339. Cf. Livy 2.41.11; DH 8.77.1: the quaestors were Kaeso Fabius and Lucius Valerius Publicola. We cannot know whether Valerius Antias mentioned one or two quaestors in his account (although, if he did add the quaestors to promote the *gens Valeria*, it is reasonable to assume that if only one quaestor was mentioned, it was most likely L. Valerius).

<sup>153</sup> Wiseman 1998, 75-89.

agents of the Republic the charge brought against Sp. Cassius will have justified the removal of these later kingly aspirants, and absolved the murderers of the Gracchi. A similar reshaping can be seen in the episode involving Sp. Maelius. He supposedly sought *regnum* by means of frumentary distribution in 439 BCE and was, therefore, killed by C. Servilius Ahala. Our earliest sources report that Ahala carried out the slaying as a private citizen,<sup>154</sup> but after the Gracchi we find that Ahala acted in his capacity as *magister equitum* during the dictatorship of L. Quinctius Cincinnatus (cos. suff. 460, dict. 458, 439).<sup>155</sup>

Such attempts to legitimize the slayings of would-be tyrants fit well with Cicero's own political motives and help to explain his inclusion of both the quaestor and Sp. Cassius' father in his treatment of the events of 486 BCE. That is, we must consider that contemporary circumstances were contributing factors. Livy and Dionysius both present two separate versions of Sp. Cassius' trial and death. In one version, Sp. Cassius' own father was involved, but in the other it was the quaestors who were involved. It seems unlikely that Livy and Dionysius had encountered a different version of events within the decade or so between Cicero's death and the time at which they began to write. It is also hard to believe that both authors read the passage at *Rep.* 2.60 and decided to present Cicero's version as two separate narrative traditions. Clearly there existed an earlier narrative tradition in which two versions of Sp. Cassius' trial and death were reported. This is important for Cicero's version of events, for it seems that he intentionally

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<sup>154</sup> Cincius, fr. 6 (Peter); Piso, fr. 24 (Peter). Dionysius reports that Cincius and Piso recorded a tradition in which Servilius Ahala was a private citizen when he carried out the murder of Sp. Maelius (12.4.2-5).

<sup>155</sup> Cic. *Sen.* 56; Livy 4.13.14-14.7; DH 12.2.2-8; Val. Max. 5.3.2g. Cincinnatus' role in the events of 439 BCE will be considered in greater detail in Part II below.



combined two pre-existing narrative traditions in his *De republica*. I propose that Cicero was using his own amalgamated version as a means of validating the actions he took during his consulship in 63 BCE.

Cicero frequently expresses approval of private citizens who take the initiative to suppress those aiming at *regnum*, particularly in the case of P. Cornelius Scipio Nasica (cos. 138), who, as a private citizen, brought about the death of Tiberius Gracchus.<sup>156</sup> Providing his audience with precedents that support the slaying of would-be tyrants by private citizens serves to enhance Cicero's own position after his consulship of 63 BCE, during which he put the Catilinarian conspirators to death amid much controversy. Cicero's inclusion of the quaestor and Sp. Cassius' father as the men responsible for bringing the consul of 486 BCE to justice is revealing. Cicero seeks to justify the actions he took during his consulship by including a Roman magistrate in the proceedings against Sp. Cassius, hence the presence of the quaestor. The quaestor's role serves to add weight to Cicero's claims that he was right to kill the Catilinarian conspirators. It was the duty of a Roman magistrate to prevent harm to the Roman state. Cicero underlines the legitimacy of his actions by means of his inclusion of Sp. Cassius' father in the proceedings. If private Roman citizens, such as Sp. Cassius' own father, are expected to protect the state by killing would-be tyrants, how much more is Cicero himself required to take action against the Catilinarian conspirators in his capacity as consul?

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<sup>156</sup> This theme will be discussed at greater length in relation to Cicero's presentation of the episode involving Sp. Maelius (Part II, Chapter 2).

Moreover, the use of Sp. Cassius as a negative *exemplum* gave Cicero the freedom to touch upon the problems of his own time without offending powerful contemporaries, including Caesar and Pompeius.<sup>157</sup> Indeed, Cicero gives this as a reason in a contemporary letter to his brother:

Moreover, at that time I was pursuing that very subject, so that I would not incense anyone by touching upon our own times.<sup>158</sup>

Cicero wrote his *De republica* between 54 BCE and his departure from Rome to serve as governor of Cilicia in 51 BCE.<sup>159</sup> Some modern scholars believe that Cicero completed the work in 53 or 52 BCE, some time before the work's publication in 51 BCE.<sup>160</sup> It is clear from the same letters that give us a range of dates for the *De republica* that the work was the product of long reflection and research: in October of 54 BCE, he wrote to Quintus that he had already completed two books and that his organization of the work had undergone many changes and revisions.<sup>161</sup> In fact, Cicero read the work to his friend

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<sup>157</sup> Zetzel 1995, 4. In addition, the setting was also a function of its literary genre, that of the Platonic model (Asmis 2005, 387; Zetzel 1995, 5).

<sup>158</sup> *Q. fr.* 3.5.2 (October or November, 54 BCE): *Ego autem id ipsum tum eram secutus, ne in nostra tempora incurrens offenderem quempiam.*

<sup>159</sup> Cicero started the composition of the *De republica* in 54 BCE: *Cic. Att.* 4.14.1 (May, 54 BCE), 4.16.2 (June, 54 BCE); *Q. fr.* 2.13.1 (June, 54 BCE), 3.1.11 (September, 54 BCE), 3.5.1-2 (October, 54 BCE). The *De republica* was published in 51 BCE: *Cic. Fam.* 8.1.4 (May, 51 BCE). Modern scholarship for a composition date between 54 and 51 BCE: van der Blom 2010, 225; Asmis 2005, 384; Zetzel 1995, 1.

<sup>160</sup> Geiger 1984, 43; Gelzer 1969a, 212. This seems to be supported by a letter written to Cicero's brother, in which he reports that (at the time of the letter, in October of 54 BCE) he had already completed two books of the *De republica* and that his organization of it had changed frequently (*Q. fr.* 3.5.1-2); this indicates a long writing-process, possibly predating 54 BCE.

<sup>161</sup> *Q. fr.* 3.5.1-2 (October, 54 BCE).

In particular, his letter to Atticus from June of 54 BCE (4.16.2) shows the extent of his planning and research. An examination of the text reveals numerous references to works that Cicero clearly consulted, such as those of Ennius (1.25, 1.30, 1.49, 1.64), Polybius (1.34), Plato (1.66-67, 2.3, 2.21, 2.51, 2.52), Cato (2.1-3, 2.37), Socrates (2.22, 2.51), and he also consulted official records, such as the *annales maximi* (1.25), *libri augurum* (1.63), and, more generally, *in monumentis* (2.26) and *annalium publicorum* (2.28). For the extent of Cicero's research for the *De republica*, cf. Rawson 1972 (esp. p. 36-37).

In an earlier work, Zetzel indicates a date of between 55 and 51 BCE (1972, 177), and other modern scholars argue that Cicero had completed the composition of the work several years before its publication in 51 BCE (Geiger 1984, 43; Gelzer 1969a, 212).

Cn. Sallustius (not to be confused with the historian Sallust),<sup>162</sup> who recommended that the work be placed in the present, for Cicero was an ex-consul and knowledgeable about matters of state; a contemporary setting, Sallustius said, would lend the work more weight.<sup>163</sup> But, as we have seen, Cicero was afraid of offending certain eminent politicians and so kept the setting in the past, allowing him to touch upon his own troubled times obliquely.

The work is set in the year 129 BCE, four years after the tribunate of Tiberius Gracchus, when the legality of the powers of the Gracchan land commission was in question.<sup>164</sup> Scipio Aemilianus sponsored a measure to transfer jurisdiction over the land distribution from the three commissioners (C. Sempronius Gracchus, M. Fulvius Flaccus, C. Papirius Carbo) to C. Sempronius Tuditanus, who was consul at this time.<sup>165</sup> The work is presented as a dialogue between Scipio Aemilianus and several of his companions concerning the evolution of the Roman constitution. It attributes the divisions within the Roman state to the tribunate of Ti. Gracchus (e.g., *Rep.* 1.31), and concentrates on ways to restore unity at Rome.<sup>166</sup> The dramatic date allowed a certain degree of freedom, and it is clear that the use of popular legislation to win political support (2.60) reflects

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<sup>162</sup> On Cn. Sallustius, see Syme 1964, 10-12.

<sup>163</sup> Cic. *Q. fr.* 3.5.1 (October, 54 BCE).

<sup>164</sup> Zetzel 1995, 3, 6-8. For a detailed analysis of the crisis of 129 BCE, see Beness 2005.

<sup>165</sup> Ancient sources: Livy, *Per.* 59; App. *B. Civ.* 1.18-20. There had been complaints from the allies regarding the way in which the land commissioners were going about their duties; they appealed to Scipio Aemilianus, who took up their cause.

<sup>166</sup> The actions of the Gracchi are frequently represented as bringing about the civil wars and chaos that became characteristic of the late Republic (e.g., Cic. *Cat.* 4.4; *Har.* 41; *Rep.* 1.30). Lintott argues that the belief that the Republic was in decline due to moral corruption, which was a result of wealth from foreign wars, evolved in the wake of anti-Gracchan propaganda (1972; cf. Levick 1982).

The so-called "Scipionic circle" has been inferred by some modern scholars from Cicero himself, in particular, his *De republica* and *Laelius de amicitia*, both of which have the same interlocutors. This group, however, was an idealized construct and was not representative of an actual political faction (Zetzel 1972, 174, 175).

contemporary concerns, especially in light of the years preceding the actual composition of the *De republica*. What specific contemporary circumstances or events explain Cicero's setting and inform his use of Sp. Cassius in the *De republica*?

Given our analysis of the Ciceronian version of Sp. Cassius' trial and execution (*Rep.* 2.60), it is unsurprising to find references, both explicit and more subtle, to the events of the late 60s and 50s BCE in Cicero's *De republica*. He mentions his consulship of 63 BCE (*Rep.* 1.7, 1.10, 1.13), when he "saved the Republic" from Catilina and his conspirators, and he also reminds his readers that it is a Roman's duty to protect the state (*Rep.* 1.7, 1.12). In particular, when he describes the overthrow of the monarchy, Cicero states that:

L. Brutus removed from his fellow-citizens that unjust yoke of severe servitude. Although he was a private citizen, he preserved the entire government, and he was the first among this citizenry to show that no one is a private citizen when the liberty of the citizens requires preservation.<sup>167</sup>

Cicero is eager to reaffirm when possible that his role in the Catilnarian conspirators' deaths was justified. Similarly, Cicero, in several of his works, also often refers to Scipio Nasica's role in the murder of Tiberius Gracchus as a way of emphasizing that private citizens are responsible for safeguarding the state.<sup>168</sup> Cicero may have set the *De republica* in the remote past, but he was clearly preoccupied with recent events at Rome. In particular, Cicero's descriptions of popular legislation and attempts at tyranny reflect the political violence of the 50s BCE, which, to his mind, was caused by *populares*.

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<sup>167</sup> *Rep.* 2.46: *L. Brutus depulit a civibus suis iniustum illud durae servitutis iugum. qui cum privatus esset, totam rem publicam sustinuit, primusque in hac civitate docuit in conservanda civium libertate esse privatum neminem.* Zetzel observes the similarity in Cicero's reference to the yoke of servitude here (*Rep.* 2.46) and in other Ciceronian passages, such as those at *Cat.* 3.17 and *Phil.* 1.6 (1995, 201). Cf. *Rep.* 3.33.

<sup>168</sup> Scipio Nasica carries out the murder as a private citizen: *Cat.* 1.3; *Dom.* 91; *Plan.* 88; *Brut.* 212; *Off.* 1.76; *Phil.* 8.13. Cf. *Cic. Mil.* 72 (Scipio is not mentioned by name, but the slaying is referred to).

In §§47-52, Sp. Cassius and the other malefactors are placed within a larger discourse on tyranny and kingship. In §60, Sp. Cassius is used alongside other, more obscure, Romans who attempted to use legislation to gain popular favour. Sp. Cassius, then, served Cicero as an *exemplum* both of the would-be tyrant and of the *popularis* figure. The two consular pairs of 454 and 430 BCE mentioned at §60 used legislation to gain popular support, but they did not aim at kingship. Presumably this is why Cicero at §49 does not include these individuals with Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus. From Cicero's optimate perspective, then, one could be a *popularis* without aiming at *regnum*, but tyrannical ambitions were associated especially with *populares*.<sup>169</sup> In §60, Cicero is concerned about the negative effects of popular legislation, and, since only Sp. Cassius proposed legislation, the other two malefactors of the early period are omitted. Sp. Maelius distributed grain at a reduced price, and M. Manlius Capitolinus simply promised the citizens that their debts would be paid from the treasury because the senators were guilty of embezzlement (e.g., Livy 6.11.1-16.8); in both cases, no legislative measures were put forward. Thus, *exempla* are employed with specific force according to Cicero's rhetorical needs at different points in the text.

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<sup>169</sup> A *popularis* method or ideology did not necessarily mean tyrannical aims, but the path to *regnum* was most often sought by *populares* (for extensive examples of *populares* whom Cicero accused of, or described as, aiming at *regnum*, see Hellegouarc'h 1972, 560). Such a view, however, does not hold up beyond Cicero's own perspective. Cicero himself, as we know, was accused of behaving tyrannically in response to his treatment of the Catilinarian conspirators (e.g., Cic. *Dom.* 30, 75, 93, 94; *Sest.* 109), but he was by no means considered a *popularis* by those who made these claims. In our extant sources, however, the charge of *regnum* was largely reserved for use against *popularis* politicians, including C. Licinius and L. Sextius (e.g., Livy 6.40.7, 6.41.3), Tiberius Gracchus (e.g., Cic. *Lael.* 41; Sall. *Iug.* 31.7), L. Cornelius Cinna (Cic. *Phil.* 5.17), P. Servilius Rullus (e.g., *Leg. agr.* 1.22, 1.24, 2.8, 2.9, 2.24, 2.35, 2.43). One possible exception is the well-known optimate L. Cornelius Sulla, whom Cicero claims aimed at *regnum* (e.g., *Phil.* 5.17), but this only occurs after Caesar marched on Rome.

**Amic. 28 and 36**

Concerns about autocracy at Rome were particularly relevant when Cicero wrote the *Laelius de amicitia* between March and November of 44 BCE.<sup>170</sup> As with the *De republica*, Cicero places the dialogue four years after the tribunate of Ti. Gracchus.<sup>171</sup> Sp. Cassius is mentioned twice. He first appears with Sp. Maelius and Tarquinius Superbus, who replaces Capitolinus in our canonical list of malefactors.<sup>172</sup> Cicero simply states that the Roman people hated these three men, without providing additional information about them. In the second reference, Sp. Cassius Vecellinus and Sp. Maelius again appear together, but this time with Cn. Marcius Coriolanus (fl. fifth century), who seems especially well-suited to act as an *exemplum* in this passage:

Are we to think that if Coriolanus had friends they ought to have taken up arms with Coriolanus against their country? Or ought friends of Vecellinus to have aided him in his attempt at *regnum*, or those of Maelius?<sup>173</sup>

The use of ‘*numne*’ in the Latin, of course, anticipates a negative answer: Coriolanus’ friends ought not to have followed him into sedition, and this point is made explicit in the following section (§37). Here, Cicero discusses how some of Ti. Gracchus’ friends deserted him when they realized he was working against the Republic (*rem publicam vexantem*). Indeed, both sections argue that loyalty is owed first to one’s *patria*, and then to one’s friends and family, falling within a larger subsection concerning the ways by

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<sup>170</sup> Powell 1990, 5. Zetzel argues for a date in the summer of 44 BCE (1972, 177-179).

<sup>171</sup> Powell 1990, 8-9, 97.

<sup>172</sup> *Amic.* 28. Such a replacement of Capitolinus with Tarquinius Superbus is presented as a parallel.

<sup>173</sup> *Amic.* 36: *Numne, si Coriolanus habuit amicos, ferre contra patriam arma illi cum Coriolano debuerunt? num Vecellinum amici regnum adpetentem, num Maelium debuerunt iuvare?*

The involvement of Coriolanus’ friends in his attempt at *regnum* is seen, e.g., in Livy (2.37.1-2, Coriolanus’ friendship with the Volsci) and Dionysius (7.63.3-4, 7.64.3, 8.41.2). According to Dionysius (7.63.3-4), Coriolanus had distributed spoils of war to his friends and planned on including them in his plot to seize royal power.

which to maintain friendship (§§33-44).<sup>174</sup> In the second passage, Cicero attributes ‘armed’ violence to Coriolanus alone, whereas Sp. Cassius and Maelius are simply described as aiming at *regnum*. Once again, Sp. Cassius’ methods are left undescribed. As we shall see, the threat of armed violence occupies a prominent position in the accounts of both Livy and Dionysius.

Cicero’s *Laelius de amicitia* was written in the months following Caesar’s assassination in March of 44 BCE, when the example of Sp. Cassius would have taken on a significant new force. Just as Sp. Cassius had been justifiably murdered because of his tyrannical behaviour, so, too, had Caesar, in Cicero’s view. Cicero compares Caesar’s power to that of Pisistratus in several of his letters.<sup>175</sup> Using Sp. Cassius as an *exemplum* in this work likewise provided Cicero with the opportunity to comment on Caesar’s tyrannical behaviour. Especially significant is the fact that Cicero criticizes Caesar’s friends for not abandoning him. In the past, the friends of aspiring tyrants, including those of Sp. Cassius, Sp. Maelius, M. Manlius Capitolinus, and Ti. Gracchus, abandoned these men. Caesar’s friends were at fault for not doing the same, as are those beginning to coalesce around Marcus Antonius. Several months later, Cicero used the example of Sp. Cassius to condemn the monarchical aspirations of M. Antonius, whom Cicero accused of attempting to gain supremacy at Rome in the wake of Caesar’s death.

### **Phil. 2.87 and 2.114**

Two instructive references to Sp. Cassius come from Cicero’s *Second Philippic*, composed as a senatorial speech in October 44 BCE, but never delivered. Once again, Sp.

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<sup>174</sup> Powell 1990, 96.

<sup>175</sup> *Att.* 7.20.2 (February, 49 BCE), 8.16.2 (March, 49 BCE).

Cassius is mentioned alongside Sp. Maelius and M. Manlius Capitolinus.<sup>176</sup> Cicero

justifies the killing of all three for alleged attempts to secure monarchical power. He asks:

Was it for this reason that L. Tarquinius was driven out, that Sp. Cassius, Sp. Maelius, and M. Manlius were killed, so that many years later a king could be established at Rome by M. Antonius, something which is intolerable?<sup>177</sup>

Later in the same speech, Cicero expresses similar sentiments:

Even if those liberators of ours have removed their very selves from our sight, they have still left behind the example of their conduct. They have done what no man had done. Brutus pursued Tarquinius with war, who was king at a time when it was lawful to be king at Rome; Sp. Cassius, Sp. Maelius, and M. Manlius were killed on account of the suspicion that they were aiming at *regnum*. These men made the first armed attack against someone not aiming at *regnum*, but already ruling. That conduct is not only celebrated and godlike, but it has also been set forth so as to be imitated...<sup>178</sup>

Such allusions to would-be kings suited Cicero's purposes in the *Philippics* as he launched his attacks against Marcus Antonius (tr. pl. 49, cos. 44, 34), whom he was accusing of tyrannical ambitions.<sup>179</sup> The message is clear: early Romans who were only *suspected* of aiming at kingship (*suspicionem regni adpetendi*), including Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus, and the man who recently succeeded in achieving it (*sed in regnantem*), Caesar, all merited their punishment—death. Cicero justifies Caesar's

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<sup>176</sup> *Phil.* 2.87, 2.114.

<sup>177</sup> *Phil.* 2.87: *Ideone L. Tarquinius exactus, Sp. Cassius, Sp. Maelius, M. Manlius necati ut multis post saeculis a M. Antonio, quod fas non est, rex Romae constitueretur?*

<sup>178</sup> *Phil.* 2.114: *Quodsi se ipsos illi nostri liberatores e conspectu nostro abstulerunt, at exemplum facti reliquerunt. Illi, quod nemo fecerat, fecerunt. Tarquinium Brutus bello est persecutus, qui tum rex fuit, cum esse Romae licebat; Sp. Cassius, Sp. Maelius, M. Manlius propter suspicionem regni adpetendi sunt necati: hi primum cum gladiis non in regnum adpetentem, sed in regnantem impetum fecerunt. Quod cum ipsum factum per se praeclarum est atque divinum, tum expositum ad imitandum est...*

The “*illi nostri*” and “*hi*” refer to the murderers of Caesar, not to those who prevented Sp. Cassius, Sp. Maelius, and M. Manlius from acquiring *regnum* (cf. Pina Polo 2006, 78n.41).

Cornell misquotes Cic. *Phil.* 2.114 as “*Sp. Cassius auctor legis agrariae propter suspicionem regni*” (1995, 452n.114). The original text does not include “*auctor legis agrariae*,” nor does Cicero anywhere explicitly refer to an agrarian law of Sp. Cassius.

<sup>179</sup> For modern scholarship on Cicero's portrayal of Antonius as tyrant, see: Tempest 2011, 183-194; Cowan 2008, 148-149; Stevenson 2008, 95-96, 98-102, 104-106; Manuwald 2007, 106-109.



assassination because he achieved *regnum* like these early Republican figures attempted to do. Then Antonius had not attempted to establish himself as king, but he had helped Caesar succeed in achieving it (e.g., *Phil.* 2.85, 2.86); Antonius, then, is just as guilty as Caesar since he helped crown him. Now, in the wake of Caesar's death, M. Antonius is seeking *regnum* for himself. Whereas Antonius is using Caesar as a positive *exemplum*, for Cicero, Caesar is a negative *exemplum*. Cicero states that the names of those men responsible for killing would-be tyrants of both the early and late Republic will live on forever, urging anyone who is willing to free the state from Antonius' monarchical ambitions to do so.<sup>180</sup> In addition, by including the early malefactors of Rome here, men who were only suspected of seeking kingship, Cicero is able to emphasize that the behaviour of Caesar, and more recently of Antonius, is comparatively worse than that displayed by these earlier figures. Cicero often used this rhetorical device in his speeches and written works.<sup>181</sup> The *Second Philippic* ends with the *peroratio* (§§115-119), during which Cicero urges Antonius to avoid Caesar's fate by renouncing kingly aspirations; if Antonius does not, Cicero hopes to inspire someone to kill Rome's latest tyrant.

Cicero is using Sp. Cassius in the *Second Philippic* differently than he had previously. In this case, Cicero is explicitly urging the senate to take action against Antonius, who is subverting Roman liberty. This is in contrast to Cicero's previous uses of Sp. Cassius: in the *De domo sua*, he had used him to show that Cicero had not acted in the same way, that is, tyrannically, and, more subtly, to imply that Clodius' behaviour had

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<sup>180</sup> Cf. *Phil.* 2.26, where Cicero lauds the Bruti for following the precedent of their ancestor, L. Iunius Brutus (cos. 509), and ridding Rome of a tyrant. This passage will be discussed in greater detail in relation to the episode involving Sp. Maelius (Part II).

<sup>181</sup> This trope will reappear in relation to Cicero's other presentations of Sp. Cassius, as well as those of Sp. Maelius.

been more like that of Sp. Cassius than his own; in the *De republica*, he used him as a negative *exemplum* of tyrannical behaviour more generally; and in the *Laelius de amicitia*, he was using him as an *exemplum* of cruelty and as proof that a Roman's loyalty is first and foremost owed to the Republic. Whatever subtlety there was in these works is now gone; Cicero seems desperate to make it clear that Rome cannot tolerate another tyrant like Caesar, and, unless Antonius stops exhibiting similar behaviour, he, too, should be killed. The idea that the protection of the Roman state justifies the murder of the would-be tyrant represents a sentiment that was especially relevant in the period after Caesar's assassination.

Cicero writes that the author and/or rhetorician must have *exempla* ingrained in his mind, and that the only way to acquire knowledge of such examples is through education, primarily the study of history, rhetoric, and literature.<sup>182</sup> He had *exempla* ready for each situation, and he tailored his use of historical *exempla* to his intended audience or readership. This is evident in his use of the *exemplum* of Sp. Cassius. Cicero only ever mentions Sp. Cassius in speeches or works intended for a senatorial or elite audience or readership. *De domo sua* was delivered before the board of *pontifices*; the *De republica* was a philosophical dialogue, which mimicked Plato's works; the *Laelius de amicitia* was also written in a philosophical style; and the second book of the *Philippics*, although it was never delivered, was intended as a senatorial speech. The works in which Sp. Cassius appears were all intended for educated Romans. This is not only the case with Sp. Cassius. Cicero treats the other canonical malefactors of early Rome in the same way. Sp.

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<sup>182</sup> E.g., *Arch.* 14; *De orat.* 1.18; *Orat.* 120.

Maelius (fl. mid-fifth century BCE) and M. Manlius Capitolinus (cos. 392) are only mentioned in contexts that demanded a well-educated audience or readership in order to comprehend Cicero's purpose.<sup>183</sup> Similarly, C. Servilius Ahala, another Roman frequently used as an *exemplum* from the early period because of his role as the slayer of Sp.

Maelius, is only found in the same contexts as Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus.<sup>184</sup> Cicero does not mention any of these figures in speeches delivered before the people; they are only mentioned in speeches before the senate, in his philosophical works, or during judicial proceedings before a jury, which, at this time, consisted of senators, *equites*, or a combination of both.<sup>185</sup>

When Cicero refers to Sp. Cassius in any of his works, the latter is usually detached from his historical context. He is almost always grouped together with other malefactors of early Rome, all of whom are used as stock *exempla* by Cicero. At first glance it may appear that Sp. Cassius has been placed in the context of the Struggle of the Orders in Cicero's *De republica*, but this not the case. Following his description of Sp. Cassius' trial and death (2.60), Cicero discusses the Decemvirate of the mid-fifth century BCE. Established to codify the law, we are told that the initial decemvirs ruled justly, but their successors, the so-called "Second Decemvirate," refused to step down when their term expired.<sup>186</sup> Although the events of these years constitute a tumultuous and definitive stage

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<sup>183</sup> Ciceronian references to Sp. Maelius: *Cat.* 1.3; *Dom.* 101; *Rep.* 2.49; *Mil.* 72; *Sen.* 56; *Amic.* 28, 36; *Phil.* 2.87, 2.114. Ciceronian references to M. Manlius Capitolinus: *Dom.* 101; *Rep.* 2.49; *Phil.* 1.32, 2.87, 2.114.

<sup>184</sup> Cicero on C. Servilius Ahala: *Cat.* 1.3; *Dom.* 86; *Sest.* 143; *Rep.* 1.6; *Mil.* 8, 83; *Sen.* 56; *Phil.* 2.26-27.

<sup>185</sup> For a general treatment of the Roman courts, see Powell and Paterson 2004a, 29-36. For the composition of Roman juries, see Powell and Paterson 2004a, 31.

<sup>186</sup> *Cic. Rep.* 2.61-63. Cf. Livy 3.36.9; DH 10.59.1-2.

in the Struggle of the Orders,<sup>187</sup> Cicero only mentions the decemvirs as another generalized *exemplum* of the evil of aspiring to kingship. Such decontextualization was typical of the treatments of many Roman *exempla*, as we saw in Roller's case study of P. Horatius Cocles.<sup>188</sup> As we shall see, Livy and Dionysius portray the events of this year as a crucial moment in the conflicts between patricians and plebeians characteristic of the early Republic. Although Cicero touches upon events integral to the Struggle of the Orders, he only does so if such events are relevant to the formation of Rome's constitution, which, he believes, reached its ideal form after the removal of the tyrannical decemvirs.

Cicero's references to the events of Sp. Cassius' third consulship share several common elements. Except for one instance in the *De republica* (2.60), Cicero always mentions Sp. Cassius as one of the canonical malefactors of early Rome (*Dom.* 101; *Rep.* 2.49; *Amic.* 28, 36; *Phil.* 2.87, 2.114). Sp. Maelius is always mentioned in association with him, as is Capitolinus, although he is sometimes replaced by Tarquinius Superbus (*Amic.* 28) or Coriolanus (*Amic.* 36).<sup>189</sup> In his account of Capitolinus' downfall, Livy adopts the same practice of listing the three malefactors together (6.17.1-3). These figures become *exempla* of men who attempted to establish themselves as kings at Rome, and who were all justly killed for their monarchical ambitions. At *Rep.* 2.60, Cicero's main concern is the detrimental effect of popular legislation, thus, Sp. Maelius and M. Manlius

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<sup>187</sup> Livy 3.35.1-54.15; DH 10.58.1-60.6.

<sup>188</sup> Roller 2004. For more on this episode, see the Introduction, above (p. 17).

<sup>189</sup> In his *Philippics*, Cicero mentions Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus, as well as Tarquinius Superbus (2.87, 2.114)—a kind of quartet as opposed to the characteristic trio.

Capitolinus are omitted since they had not proposed official legislative reforms.<sup>190</sup> In addition, Cicero is the first extant source to start grouping Sp. Cassius and the other malefactors of early Rome with politicians of the late Republic, in particular, the Gracchi (e.g., *Dom.* 101-102; *Amic.* 36-37; and, very likely, *Rep.* 2.49), a practice later adopted by Valerius Maximus (6.3.1). As we have seen, although Cicero mentions Sp. Cassius' desire to be king, he never explicitly mentions an agrarian proposal, which is the main focus of the narratives of Livy and Dionysius. Cicero states (at *Rep.* 2.60) that Sp. Cassius tried to use some sort of legislative measure as a means of winning popular support, but Cicero does not mention the nature of that measure.

Roman ideas regarding freedom from kingship and tyranny, a common *topos* in late Republican rhetoric, were linked to adherence to the laws, which, in turn, was intimately connected with property rights. Thus, in Book 1 of his *De lege agraria* (63 BCE), Cicero explains that liberty will be lost if Rullus and his decemvirs are given the power to reallocate land.<sup>191</sup> Cicero also emphasizes that Rullus will surely fill all this land with soldiers loyal to him—if this happens, Roman liberty will never be restored.<sup>192</sup> To the Roman landowner, like Cicero, the confiscation and redistribution of property represented the destruction of a Roman citizen's basic rights.<sup>193</sup> The same sentiment is also echoed in

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<sup>190</sup> On this, see above, p. 51.

<sup>191</sup> Cicero emphasizes this sentiment throughout Book 1 of his *De lege agraria* (e.g., 1.2, 1.4, 1.5, 1.6, 1.7, 1.9, 1.10, 1.14, 1.15, 1.16, 1.17, 1.18, 1.20, 1.21, 1.22, 1.23, 1.24, 1.27). Cf. Livy's account of the Second Decemvirate and their plundering of plebeian possessions (3.37.6-8).

<sup>192</sup> *Leg. agr.* 1.17.

<sup>193</sup> Wood 1988, 107-108: Cicero had ancestral holdings in Arpinum, owned a luxurious house on the Palatine Hill, and acquired a villa once owned by Sulla. He also owned properties at Antium, Cumae, Formiae, Astura, Puteoli, Pompeii, lodges at Anagnia and Sinnessa, and a farm at Frusino (Wood 1988, 108). Cicero also owned *insulae* at Rome and elsewhere (Wood 1988, 110).

his *De officiis*, written several months after the assassination of Caesar in 44 BCE.

Nothing, he says, is more damaging to liberty than the unlawful seizure of property:

Therefore, the transference of property by L. Sulla and C. Caesar from its rightful owners to strangers ought not to be regarded as ensuring liberty, for nothing ensures liberty if it is not at the same time just.<sup>194</sup>

Throughout this work, Cicero constantly connects loss of liberty with the unlawful seizure of property:

Moreover, how is it fair that a man who never held property should acquire land that has been occupied for many years or even generations, and he who held the land for a long time should lose [possession of] it?<sup>195</sup>

The plunder of public and private property is associated with the typical behaviour associated with a tyrant, namely, *crudelitas*, *libido*, *superbia*, and *vis*.<sup>196</sup> To Cicero, then, a significant aspect of what it meant to have *libertas* was secure, lawful possession of property. Clearly, in Cicero's opinion, men like Sp. Cassius would overturn Roman liberty and confiscate the goods of others.

This makes all the more striking and peculiar the absence of a *lex agraria* in all the Ciceronian references to Sp. Cassius in contrast to the narratives of both Livy and Dionysius. Two possible explanations come to mind: first, that the *lex agraria* was a post-Ciceronian invention; second, that Cicero intentionally ignored a pre-existing narrative in which Sp. Cassius sought *regnum* by means of an agrarian reform.

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<sup>194</sup> *Off.* 1.43: *Quare L. Sullae, C. Caesaris pecuniarum translatio a iustis dominis ad alienos non debet liberalis videri; nihil est enim liberale, quod non idem iustum.*

<sup>195</sup> *Off.* 2.79: *Quam autem habet aequitatem, ut agrum multis annis aut etiam saeculis ante possessum qui nullum habuit habeat, qui autem habuit amittat?* Other instances of the same sentiment include, e.g., *Off.* 2.27, 2.29, 2.78-85, 3.21-23. Cicero expresses similar sentiments in other works as well, e.g., *Dom.* 20, 52, 146; *Mil.* 76.

<sup>196</sup> On the four characteristics of the tyrant, see: Manuwald 2007, 107; Craig 2004, *passim* (but for specific examples from the Ciceronian corpus, p. 191, 201, 202, 204-205, 207, 209); Vasaly 1987, 218-220 (esp. p. 218n.40); Wiseman 1979a, 80; Dunkle 1971, 1967.

Our evidence suggests that Sp. Cassius' *lex agraria* was not a post-Ciceronian addition, but rather that it pre-dated Cicero. A fragment of L. Calpurnius Piso Frugi (cos. 133), recorded by Pliny the Elder, reports that Sp. Cassius erected a statue in honour of himself before the Temple of Tellus and that, because it had not been erected by the order of the senate or the people and because it represented one man's attempt to attain *regnum*, the censors of 158 BCE melted it down.<sup>197</sup> As we shall see in greater detail shortly, there is some association between Tellus and Ceres in Latin literature and iconography. The Romans attributed the same spheres of influence to Tellus as they did to other fertility goddesses, including Ceres, who was also relevant to Sp. Cassius' career. During his second consulship, Sp. Cassius dedicated the Temple of Ceres, Liber, and Libera; later members of the Cassian *gens* depicted this familial association with Ceres on their coins. Much is unclear, but it seems likely that the episode concerning Sp. Cassius' *lex agraria* already existed as a story. By erecting a statue in honour of himself before the Temple of Tellus he had connected himself with the goddess. Piso wrote in the aftermath of Ti. Gracchus' land law and maintained a pro-senatorial, anti-Gracchan outlook. Though he does not specify its content, it is quite possible that the legislation Cicero alludes to as gaining Sp. Cassius popular support (*Rep.* 2.60) was an agrarian reform since Livy and Dionysius of Halicarnassus both state that this was, in fact, the primary means by which his favour with the plebs was won. Although both authors also report that Sp. Cassius

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<sup>197</sup> Plin. *Nat.* 34.14(30); Piso, fr. 37 (Peter). The fragment of Piso is analyzed in Chapter 2 below.

proposed to reimburse the plebs for recently purchased grain,<sup>198</sup> they primarily associate him with agrarian reform (Livy 6.17.2-3).

A likelier explanation, therefore, is that Sp. Cassius' agrarian proposal was already included in the traditional narrative, but that Cicero deliberately ignored it for his own reasons. But what were his reasons for doing this? I want to suggest that the omission makes good sense in the context of the politics of the 50s BCE and early 40s, when several of the works in which Sp. Cassius is mentioned were being written.

After the reconfirmation of the alliance between Caesar, Pompeius, and Crassus in 56 BCE, Cicero was forced to take a more cautious stance concerning the trio.<sup>199</sup> Thus, Cicero chose dramatic dates for his philosophical works that allowed him the freedom to comment on the turmoil of contemporary politics without mentioning anyone by name. Tact may also explain why he makes no mention of Sp. Cassius' connection with frumentary distribution.

Just as Cicero does not mention Sp. Cassius' *lex agraria*, nowhere in his works does he refer to Cassius' connection to grain, an element that, according to numismatic evidence, pre-dated Ciceronian accounts. Cassian moneyers of the late second and early first centuries BCE used imagery on their coinage that connected them with their ancestor, Sp. Cassius.<sup>200</sup> Livy and Dionysius both mention that Sp. Cassius wanted to reimburse the masses for recently purchased grain, which had been imported from Sicily

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<sup>198</sup> As we shall see below, it appears that Sp. Cassius' connection to grain arose from his associations with Ceres, in particular, his dedication of the Temple of Ceres, Liber, and Libera in 493 BCE.

<sup>199</sup> Cic. *Fam.* 1.9.9-11 (December, 54 BCE).

There has been controversy regarding the "conference at Luca," and some scholars (e.g., Ward 1980; Jackson 1978; Hayne 1974) are skeptical of who exactly was present at the so-called conference. For more on the conference at Luca, see, e.g.: Ward 1980; Jackson 1978; Hayne 1974; Luibheid 1970; Gruen 1969.

<sup>200</sup> For more on this, see below, p. 76-78.



due to famine (Livy 2.41.8; DH 8.70.5). Frumentary distribution was a characteristically *popularis* tool used to garner support among the masses. As we shall see later in our discussion of Sp. Maelius' downfall, the belief that grain distribution was a form of *largitio* used as a pathway to *regnum* (which is indeed how Livy presents Sp. Cassius' proposal [2.41.8-9]) began with rhetoricians of the Gracchan era, including C. Fannius (cos. 122) and Q. Servilius Caepio (cos. 106). In 57 BCE, we know that Cicero advocated that Pompeius be made *curator annonae*, a position he held for three years, in order to rectify, among other things, Clodius' mishandling of the grain supply during his tribunate of 58 BCE. It seems that omitting Sp. Cassius' association with grain was deliberate on Cicero's part: he wanted to avoid associating Pompeius with a typically *popularis* area of activity, one which had a long history of being used by popular politicians in their attempts to obtain kingship.

Cicero's *De republica* is a philosophical work about the nature of Rome's constitution. Although it is the work that comes closest to history in the Ciceronian corpus, one cannot read the *De republica* simply as a historical work, as Cornell has shown, since Cicero is concerned only with historical exemplification of his philosophical theme and relates only those details that were necessary and relevant to a discussion about constitutional forms.<sup>201</sup> In his discussion of the Decemvirate, Cicero alludes to Appius Claudius, whom he simply calls "one of the ten" (*Rep.* 2.63). Wiseman suggests that this reflects a time at which the decemvirs were still unnamed.<sup>202</sup> Cicero, however, does

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<sup>201</sup> Cornell 2001.

<sup>202</sup> Wiseman 1979a, 107.

mention him by name in his *De finibus*, written several years later (in 45 BCE).<sup>203</sup>

Wiseman postulates that it is only at this time that Appius Claudius' name became included in the narrative about the Second Decemvirate.<sup>204</sup> Cornell and Vasaly argue against this; omitting Appius Claudius' name does not mean that Cicero was ignorant of his identity, but rather that revealing his identity was not central to Cicero's argument.<sup>205</sup>

Wiseman acknowledges that it is possible that Cicero did not provide Appius Claudius' name for fear of offending the Claudian *gens* at a time when his brother, Quintus, was considering campaigning for the consulship.<sup>206</sup> That may be part of the reason, but Cornell's assertion that Cicero wanted to avoid giving offence to his opponent, Publius Clodius Pulcher (tr. pl. 58), by attacking his family seems to hold more weight,<sup>207</sup> especially given that the conflict between Cicero and Clodius was common knowledge among the Romans (and, therefore, this conflict would have affected Quintus' bid for the consulship regardless of whether or not Cicero named the Claudian decemvir). Cicero may simply assume that the identity of Appius Claudius, the most infamous member of the tyrannical Decemvirate, would have been known both to his readers and to Scipio and his friends, who serve as the interlocutors in this work. As we have seen, Cicero was aware of his audience's education, and, because of this, he tailored the use of his *exempla*

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<sup>203</sup> *Fin.* 2.66: A man of slight means, L. Verginius, sixty years after our liberty was regained, he killed his virgin daughter with his own hand rather than surrender her to the lust of Ap. Claudius, then was invested with the highest power. *Tenuis L. Verginius unusque de multis sexagesimo anno post libertatem receptam virginem filiam sua manu occidit potius quam ea Ap. Claudii libidini, qui tum erat summo <cum> imperio, dederetur.*

<sup>204</sup> Wiseman 1979a, 107.

<sup>205</sup> Cornell 2001, 44; Vasaly 1987, 213-214.

<sup>206</sup> Wiseman 1979a, 107.

<sup>207</sup> Cornell 1982, 205-206.

and the details according to each situation.<sup>208</sup> Similarly, in his account of Servius Tullius' reign (2.37), Cicero does not mention the story of Tullius' head catching on fire as a child (e.g., Livy 1.39.1); his language, however, reveals that he was not ignorant of the story (*scintilla...elucebat*). As Cornell argues, Cicero had little room in the *De republica* for supernatural elements.<sup>209</sup> Cicero's omissions, then, seem to be deliberate for a combination of reasons: assumed knowledge on the part of his readership, and lack of relevancy, and avoidance of offending his contemporaries.<sup>210</sup>

Cicero's omitting mention of Sp. Cassius' agrarian proposal may be attributed to the latter motive. In 59 BCE, Caesar proposed an agrarian law, which was successfully passed despite strong senatorial opposition.<sup>211</sup> Caesar's opponents wanted nothing more than to annul the laws of 59 BCE. In 57 BCE, a tribune elected for the next year, P. Rutilius Lupus, attacked Caesar's *lex agraria* as it pertained to the Campanian land, and, Cicero reports, Pompeius was included in the attack.<sup>212</sup> The next year, on April 5<sup>th</sup>, 56 BCE, Cicero succeeded in having the question of the Campanian land referred to a full meeting of the senate, to occur on May 15<sup>th</sup>.<sup>213</sup> Cicero, however, did not attend the

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<sup>208</sup> See the Cicero section of the Introduction.

<sup>209</sup> Cornell 2001, 44-45; he also observes that Cicero does not often mention women in this work (despite their importance in certain episodes for the early period) since statesmen would not have discussed them in such a context (2001, 44-46).

<sup>210</sup> Cornell (2001) provides many more examples in his chapter on the origins of Rome in Cicero's *De republica*, including the intentional omission of women, the rape of the Sabines, and the parentage of Servius Tullius (for additional details and examples, see p. 43-46, 48-51).

<sup>211</sup> As Sumner observes, Cicero was opposed to all attempts at agrarian distribution; when Flavius proposed his land distribution scheme in 60 BCE, Cicero opposed it despite the fact that it benefitted Pompeius, whom Cicero supported at this time (1966, 582); Sumner then asks one to compare Cicero's attitude to Flavius' land bill (*Att.* 1.19.4 [March, 60 BCE]) to that of Caesar (*Att.* 2.16.1-2 [April, 59 BCE]).

<sup>212</sup> Cic. *Q. fr.* 2.1.1 (December, 57 BCE). Based on this letter, some senators were unwilling to discuss the issue of the Campanian land in Pompeius' absence since it concerned his own interests (Rawson 1978, 119).

<sup>213</sup> Cic. *Q. fr.* 2.5 (April, 56 BCE); *Fam.* 1.9.8 (December, 54 BCE).

meeting on May 15<sup>th</sup>, and the issue regarding the Campanian land was never raised.<sup>214</sup>

The alliance between Caesar, Pompeius, and Crassus had been re-solidified before the meeting of the senate took place, and Pompeius warned Cicero to set aside his opposition to the agrarian law.<sup>215</sup> If he had focused on land distribution, Cicero's intended audience would have immediately drawn comparisons to Caesar's recent *lex agraria*. This was not the only problem Cicero would face if he were to mention Sp. Cassius's agrarian law. It was well known that Caesar's proposal to distribute the Campanian land was proposed for the benefit of Pompeius.<sup>216</sup> It was common knowledge that L. Flavius' agrarian proposal of 60 BCE was a precursor to Caesar's agrarian law and that both proposals aimed to satisfy Pompeius' need for land on which to settle his veterans.<sup>217</sup> Sp. Cassius' *lex agraria* may have been omitted to avoid comparisons to Caesar.

It seems, then, that Cicero's suppression of Sp. Cassius' agrarian proposal fulfilled several goals simultaneously. He was able to avoid directly offending Caesar. This, in turn, may have allowed Cicero to deflect criticism from Pompeius, who played an influential role in the controversial Campanian land bill. Just as land distribution was associated with *popularis* attempts to obtain *regnum*, so, too, the distribution of grain was also believed to be a *popularis* tool—and Pompeius had been in charge of the grain supply for several years. Pompeius, therefore, had been involved in two spheres of

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<sup>214</sup> Cicero does not attend the meeting on May 15<sup>th</sup>: *Q. Fr.* 2.6.1 (May, 56 BCE). The question of the Campanian land is not raised at the meeting: *Q. fr.* 2.6.2 (May, 56 BCE).

<sup>215</sup> *Cic. Fam.* 1.9.9-11 (December, 54 BCE).

<sup>216</sup> *Cic. Fam.* 1.9.7-12; Cass. Dio 38.1.1-7, 38.7.5-6.

<sup>217</sup> On Flavius' proposal: *Cic. Att.* 1.18.6 (January, 60 BCE), 1.19.4 (March, 60 BCE), 2.1.6 (June, 60 BCE); *Livy, Per.* 103; Cass. Dio 37.49.1-50.6.

typically *popularis* interest. Cicero would not have wanted to imply that Pompeius was behaving in a *popularis* manner.

It seems that the trio of early Roman malefactors served specific role in Ciceronian rhetoric. We have seen that as a group they were used as a means of criticizing the actions of contemporary politicians. Thus, in his *De domo sua* and *De republica*, Cicero uses Sp. Cassius to condemn Clodius by means of a comparison to tyrannical, '*popularis*' figures of the past. Sp. Cassius is also used as an analogue for Caesar, just as M. Manlius Capitolinus was for Catilina. Each malefactor of the early period could be used to represent a contemporary, late Republican politician and, in turn, the *popularis* reform each of those politicians proposed. The *popularis* spheres represented in the treatments of the three malefactors of early Rome—land (Cassius), grain (Maelius), and debt (Capitolinus)—more accurately reflect late Republican concerns. For Cicero, these spheres were championed by contemporary *populares* and his own political and personal enemies—Caesar (land), Clodius (grain), and Catilina (debt).

Although the accusation of *regnum* was a serious one in and of itself, Cicero does not attribute any other characteristics or attributes associated with aspiring tyrants to Sp. Cassius. He does not say that Sp. Cassius attempted to carry his agrarian proposal through by means of force, something which is implicit in Livy's treatment and explicit in Dionysius'. Sp. Cassius possesses none of the tyrannical vices associated with later *populares*, such as *crudelitas* and *libido*. This seems to be deliberate on Cicero's part. Early Republican "popular" politicians are depicted more moderately than their late Republican counterparts in order to emphasize the dangerous behaviour of contemporary

*populares*.<sup>218</sup> As we shall see, Livy, too, describes earlier Republican *populares* in less hostile terms than later Republican popular politicians. By this device such authors could highlight the moral degeneration that they believed had been occurring at Rome for several generations, particularly in the decades following the tribunes of the Gracchi.<sup>219</sup>

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<sup>218</sup> Vanderbroeck 1987, 190.

<sup>219</sup> E.g., Levick 1982; Luce 1977, 250-275; Lintott 1972a.

## CHAPTER 2: SP. CASSIUS IN L. CALPURNIUS PISO FRUGI

Cicero he was not the first author to discuss Sp. Cassius' third consulship. At least one earlier account existed, that of the annalist Lucius Calpurnius Piso Frugi (cos. 133, cens. 120). Evidence from the fragments that survive of Piso's work suggest that he composed it during the decade following 120 BCE, and that it made mention of events down to 133 BCE.<sup>220</sup> The fragments also suggest that Piso held a conservative senatorial attitude and was an opponent of the Gracchi.<sup>221</sup> The fragments are preserved largely by Pliny the Elder, who tells us that:

Piso has recorded that, when M. Aemilius and C. Popilius were consuls for a second time [158 BCE], all the statues erected around the Forum of those [men] who had served as magistrates were removed by the censors P. Cornelius Scipio and M. Popilius, except those erected at the order of the people or the senate; indeed, even that statue which Sp. Cassius, who had aimed at *regnum*, had erected for himself before the temple of Tellus was melted down by the censors.<sup>222</sup>

Based on this fragment, it is clear that the Romans interpreted the statue as a manifestation of Sp. Cassius' monarchical aspirations.

Given the censors' actions, it is likely that the story did not long precede 158 BCE because it is hard to believe that the statue would have survived long if this story about its origin was widely known. That the statue had not been taken down before suggests that the allegations of monarchical ambition were relatively new in 158 BCE. Sp. Cassius'

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<sup>220</sup> Forsythe 1994, 32.

<sup>221</sup> Forsythe 1994, 23 (Piso is elected censor by the conservative *comitia centuriata* in the year in which C. Gracchus and his followers were killed by L. Opimius), 25-26 (Piso's austerity and nickname Frugi), 27 and 31 (Piso's Roman traditionalism).

<sup>222</sup> Piso, fr. 37 (Peter) [= Plin. *Nat.* 34.14(30)]: *Piso prodidit M. Aemilio C. Popilio iterum cos., a censoribus P. Cornelio Scipione M. Popilio statuas circa Forum eorum, qui magistratum gesserant, sublatas omnes praeter eas, quae populi aut senatus sententia statutae essent, eam vero, quam apud aedem Telluris statuisset sibi Sp. Cassius, qui regnum adfectaverat, etiam conflata a censoribus*. Later authors, including Livy and Dionysius of Halicarnassus, explicitly state that the statue was actually a representation of the goddess Ceres. Some conflation has probably occurred.

attempt at *regnum* eventually became the common feature in the tradition hostile to him. Such a construction of Sp. Cassius' story would have resonated with Piso's contemporaries. As Forsythe observes, Piso's report of the destruction of Sp. Cassius' statue in 158 BCE should be understood in the context of his concern with the Gracchi. According to Piso, one of the censors responsible for having the statue destroyed was P. Cornelius Scipio Nasica Corculum (cos. 162, 155), the father of the Scipio Nasica responsible for Tiberius Gracchus' death in 133 BCE.<sup>223</sup>

Piso's account connects Sp. Cassius with the goddess Tellus. In his *De domo sua* (§101), Cicero reports that after Sp. Cassius' house was destroyed because he sought *regnum*, the Temple of Tellus was built on the now vacant spot. Diodorus Siculus is silent on this matter. Livy and Dionysius mention both Tellus and Ceres in connection with Sp. Cassius' third consulship. Both report two versions surrounding Sp. Cassius' downfall: in one, his own father put him on trial and killed him, after which he consecrated his son's property to Ceres, from which a statue was made in honour of the goddess,<sup>224</sup> and in the other, Sp. Cassius was tried by the quaestors, found guilty, and put to death, after which his house was destroyed or burned down, and a Temple of Tellus was built either in the space before the area of the newly-destroyed house or on the site itself.<sup>225</sup> Valerius

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<sup>223</sup> Forsythe 1994, 303. The anti-Gracchan sources are certainly trying to present the Corneli Scipiones Nasicae as protectors of the Roman state.

<sup>224</sup> Livy 2.41.10; DH 8.79.1-4. The involvement of Sp. Cassius' father in the death of his own son seems to be the older of the two versions regarding the downfall of the aspirant to *regnum* (see above, p. 43n.145).

<sup>225</sup> Livy 2.41.11 (house destroyed, a Temple of Tellus is built in the space before the site on which the house previously stood); DH 8.79.3 (house burned down, a Temple of Tellus was built on the actual site of the recently destroyed house). Dionysius reports that Sp. Cassius was killed by being thrown from the Tarpeian rock (8.78.5).

Although we are told that the Temple of Tellus was built on or near the site of Sp. Cassius' destroyed house after his death, it seems that the temple may not have been constructed until several



Maximus reports that Sp. Cassius' property was dedicated to Ceres (5.8.2), his house was destroyed, and the Temple of Tellus was built on the site (6.3.1b), and Pliny the Elder says that the first bronze image at Rome was of Ceres, constructed from the proceeds of Sp. Cassius' property (*Nat.* 34.9[15]).

Piso's report is striking since Sp. Cassius, by erecting a statue in honour of himself before the Temple of Tellus, was claiming a connection with this particular deity. One needs only to think of Augustus' self-association with deities such as Apollo, Venus, and Mars.<sup>226</sup> Sp. Cassius came to be connected with Tellus, whether by his own placement of a statue before her temple or due to an earlier tradition that Piso had at his disposal which is now lost.

Although a passage from Ovid emphasizes that Tellus represented the earth on which crops grew, and Ceres represented the agricultural yield,<sup>227</sup> the precise roles or spheres of influences ascribed to Tellus and Ceres often intersect because the Romans frequently syncretized one fertility goddess with others. Spaeth's work has shown, for instance, that Ceres was syncretized with several fertility goddesses, including Tellus and Venus;<sup>228</sup> she has shown that this was the case with a fertility goddess figure depicted on the Ara Pacis, whom she argues is most representative of Ceres, but who also has

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centuries later. Florus, writing in the mid-second century CE, reports that the Temple of Tellus was vowed in 268 BCE by one of the consuls, P. Sempronius Sophus, during a battle with the Picentes in response to an earthquake (1.14.2). The vow was made in order to placate the earth goddess.

<sup>226</sup> This propaganda tool is well known. For general information on this topic, see Beard, North, and Price 1998, I.196-201.

<sup>227</sup> *Fast.* 1.673-674.

<sup>228</sup> Spaeth 1994, 77.

multivalent attributes that connect her to other fertility goddesses.<sup>229</sup> In addition, Tellus and Ceres were worshipped together during several Roman festivals.<sup>230</sup> Ancient sources reveal that the Temple of Tellus was located on the Esquiline in the Carinae district.<sup>231</sup> This was near the spot where Tullia, together with the eventual seventh king of Rome, L. Tarquinius Superbus, killed her father, Servius Tullius; after the murder, the name of the street was changed to Vicus Sceleratus, “The Street of Crime.”<sup>232</sup> The proximity of the Temple of Tellus to the site of Tullia’s crime may explain how Sp. Cassius came to be associated with the temple. And this association may, in turn, help to explain how Sp. Cassius came, relatedly, to be associated with agrarian reform. Tellus’ associations with land appear in the sources writing about Sp. Cassius’ third consulship, albeit in subtle ways. When Tellus appears, space or land on which to build a statue or a temple is a necessity, but the exact location of the site is contentious. Piso reports that Sp. Cassius erected a statue in honour of himself *before* the Temple of Tellus (fr. 37 [Peter]: *apud aedem Telluris*); Cicero records the tradition that the Temple of Tellus was constructed *on* the spot of Sp. Cassius’ recently destroyed house (*Dom. 101: in eo loco aedis posita Telluris*); Livy informs us that the Temple was built in the space *before* Sp. Cassius’

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<sup>229</sup> Spaeth 1994. We know, too, from ancient authors that many of these fertility goddesses were conflated (King 2003, 293, 294, 296). Varro, citing Ennius, equates Ops, the goddess of plenty, with both the earth and with Ceres (*Ling.* 5.64); later, Varro equates Tellus, the earth goddess, with Juno (*Ling.* 5.67). One might think of the passage from Apuleius’ *Golden Ass* in which he provides several different names by which Isis is referred to, among them Juno, Diana, Venus, and Ceres (11.5). Ceres also appears have a chthonic aspect, due to her connections with poppy seeds (thereby with sleep and death [Spaeth 1994, 71]), causing her to become equated with Proserpina (King 2003, 293-294). King also notes (2003, 296), based on Varro’s work, that Proserpina = Tellus = Diana = Juno = Ceres.

<sup>230</sup> This includes the Ferae Sementivae, or festival of sowing, and a festival that took place on December 13<sup>th</sup> at the end of the sowing season (Spaeth 1996, 44). The two goddesses also had separate festivals; Tellus had the Fordicidia on April 15<sup>th</sup>, and Ceres the Cerealia on April 19<sup>th</sup> (Spaeth 1996, 44).

<sup>231</sup> E.g., Cic. *Q. fr.* 2.3.7; DH 8.79.3.

<sup>232</sup> For the murder and renaming of the street, see: Varro, *Ling.* 5.154; Livy 1.48; DH 4.39; Ov. *Fast.* 6.609. For modern scholarship on this episode, see: Forsythe 2005, 195 and 1994, 301; Ziolkowski 1996.

razed house (Livy 2.41.11: *ea est area ante Telluris aedem*), while Dionysius reports that it was built *on* the site itself (DH 8.79.3: καὶ μέχρι τοῦδε ἀνεῖται ὁ τόπος αὐτῆς αἰθρίας ἔξω τοῦ νεῶ τῆς Γῆς). The location of the Temple of Tellus, and thereby the site of Sp. Cassius' destroyed house, were of great importance and may help to, at least partially, explain the emergence of the agrarian proposal.

Let us turn our attention to Ceres' presence in the episode. The iconography clearly associates Ceres with agricultural products.<sup>233</sup> Ceres is often depicted either holding stalks of wheat, or wearing the *corona spicea* ("crown of grain"). In addition, the Temple of Ceres seems to have served as the location from which grain was distributed to the masses.<sup>234</sup> Ceres' connection with the distribution of grain is presumably why members of the Imperial family were sometimes depicted in the guise of Ceres.<sup>235</sup> This may account for Sp. Cassius' eventual connection with the grain supply by both Livy and Dionysius; it was Sp. Cassius, after all, who supposedly dedicated the Temple of Ceres, Liber, and Libera during his consulship of 493 BCE.

Piso is the only source who reports that Sp. Cassius erected a statue in honour of himself, which was reinterpreted in the second century BCE as indicative of his

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<sup>233</sup> For a detailed discussion of this, see Spaeth 1996, 37-41.

<sup>234</sup> Spaeth 1996, 39-41; Rickman 1980, 81. This is based on archaeological excavations that uncovered inscriptions belonging to the Temple of Ceres, Liber, and Libera; these inscriptions were given the names of the prefects of the corn supply under the Empire (*CIL* 6.1151, 6.31856) [Spaeth 1996, 40, 40n.49]. Spaeth also reports (1996, 39) that Varro, quoted by Nonnius, wrote: "Those who lacked wealth and had fled to the asylum of Ceres were given bread" (Varro in Non. 63, quoted by Spaeth, translated by Lindsay).

<sup>235</sup> From Augustus onwards, there are numerous depictions of members of the imperial family in the guise of Ceres (e.g., Spaeth 1996, figs. 9 [Augustus], 10 [Livia], 25 [Faustina the Elder], 27 [Antonia Minor], 30 [depicted individually: Ceres, Antoninus Pius, and Victoria]). For more on imperial members represented with attributes of Ceres, see Rickman 1980, 259-267. It was a common numismatic theme for members of the imperial family to depict themselves in this way in order to emphasize their role in feeding the Roman people.

monarchical ambitions. Cicero tells us that Sp. Cassius' house was destroyed, an element not present in Piso's fragment, and this version was also favoured by both Livy and Dionysius.<sup>236</sup> Livy and Dionysius do, however, report an alternate version in which Sp. Cassius' goods were consecrated to Ceres and a statue was erected by the *gens Cassia* from the proceeds of their relative's confiscated goods as a means of reparation for his misdeeds; the statue in this version represented, and was dedicated to, Ceres.<sup>237</sup> As Roller stresses, the destruction of an over-ambitious *popularis* politician's house is a common feature of these narratives.<sup>238</sup>

The accounts of late Republican authors concerning the enactment of two early laws add another layer to the episode. Ceres was associated with two laws, one of which concerned the punishment of those found guilty of violating tribunician sacrosanctity and the other which concerned the punishment of those believed to be aiming at *regnum*.<sup>239</sup> The first law stated that the violation of a tribune's sacrosanctity called for the execution of the perpetrator, whose goods were, according to Livy, to be sold at the Temple of Ceres, Liber, and Libera or, according to Dionysius, consecrated to Ceres.<sup>240</sup> The second

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<sup>236</sup> Livy 2.41.11; DH 8.79.3.

<sup>237</sup> Livy 2.41.10-11; DH 8.79.3 (although Dionysius questions the destruction of Sp. Cassius' house and/or confiscation of his goods due to the powers of the *paterfamilias* and that tradition in which Sp. Cassius' own father was involved in his son's downfall [DH 8.79.4]). As we have seen, Pliny the Elder records this version, but his source is unknown.

<sup>238</sup> Roller 2010, 133. As Roller rightly points out, many would-be tyrants' homes are destroyed (e.g., Sp. Cassius, Sp. Maelius, L. Appuleius Saturninus, C. Sempronius Gracchus), but our sources do not mention destructions in connection with other men labeled as aspiring kings (e.g., Ti. Sempronius Gracchus, C. Iulius Caesar) [Roller 2010, 133].

<sup>239</sup> Spaeth 1996, 71-79.

<sup>240</sup> Livy and Dionysius date this law to the first year of the Republic (Livy 3.55.6-8; DH 6.89.1-4); Livy states that it was proposed by the consul P. Valerius Publicola. Livy connects the creation of the law with the Valerio-Horatian Laws of 449 BCE, while Dionysius associates the law with the first plebeian secession of 494 BCE; either way, the law is connected with plebeian unhappiness and represents their acquisition of some political power from the patricians (Spaeth 1996, 69).

law called for any person who attempted to establish a tyranny to be punished through the consecration of his life (*consecratio capitis*) and property (*consecratio bonorum*).<sup>241</sup>

Spaeth argues that in this case, too, Ceres was the deity who had to be appeased.<sup>242</sup>

Although Livy does not mention Ceres in relation to the second law, in one of the versions of Sp. Cassius' downfall that he relates Cassius' property was dedicated to Ceres as a result of his attempt to acquire kingship (2.41.10). A similar episode is present in accounts of what followed upon Tiberius Gracchus' death.

Several authors mention that after his death, prodigies were seen, the Sibylline books were consulted, and it was discovered that Ceres had to be appeased and, as a result, a delegation of eminent priests was sent to the Temple of Ceres at Henna in Sicily.<sup>243</sup> Spaeth suggests that the site was chosen for reasons that may have been more involved than the sources would have us believe; she argues that the Temple of Ceres at Rome was not chosen because of its plebeian associations.<sup>244</sup> The Temple of Ceres at Rome, therefore, was too politically charged and deemed unsuitable. Tiberius was guilty, in the eyes of the senate, of violating both of the laws previously discussed. He had violated the *sacrosanctitas* of his fellow tribune, Marcus Octavius, by having him removed from office, and had been accused of attempting to establish himself as king. Both of these violations fell under the jurisdiction of Ceres, and it was she who had to be placated for these crimes. Although the delegation to Henna may be interpreted as an attempt on behalf of the senate to mollify the plebs, Spaeth's explanation that the senate

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<sup>241</sup> Livy 2.8.1-2; DH 4.71.3, 5.1.3, 5.19.4. Cf. Cic. *Dom.* 124; DH 10.42.4; Plut. *Publ.* 12.1.

<sup>242</sup> Spaeth 1996, 71.

<sup>243</sup> Cic. *Verr.* 2.4.108; Val. Max. 1.1.1.

<sup>244</sup> Spaeth 1990, 183, 195.

was actually trying to prove that Tiberius Gracchus was rightly put to death seems more in keeping with the literary tradition.<sup>245</sup> As she points out, there is evidence that decrees were passed actually honouring Tiberius' death.<sup>246</sup> Therefore, Sp. Cassius and Tiberius Gracchus were both guilty of the crime of aiming at kingship and, as such, Ceres had to be appeased. The message was clear: those who aimed at monarchy would be punished and that punishment would be fully justified since it supposedly conformed to early precedents in Rome's history.

Sp. Cassius may have been associated with Ceres by virtue of his dedication of the Temple of Ceres, Liber, and Libera in 493 BCE, but the association also spoke of the crime of aiming at kingship. It might be supposed that from this association grew the connection of Sp. Cassius with grain distribution. Similarly, he would seem to have become associated with the Temple of Tellus by virtue of the connection of that site with the crime of Tullia, and it might be supposed that it is from the association with Tellus that he came to be associated with agrarian reform.

We have seen that existing literary portrayals of Sp. Cassius are negative, but there is some numismatic evidence to suggest that positive portrayals also existed. Two members of the *gens Cassia* used imagery on coinage that paid homage to their early Republican ancestor. Lucius Cassius Caeicianus, moneyer in 102 BCE, issued a denarius that depicted the head of Ceres crowned with wheat on the obverse and two oxen

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<sup>245</sup> Spaeth 1996, 74 and 1990, 184, 185, 190, 194.

<sup>246</sup> Spaeth 1990, 184, citing, e.g., Cic. *Dom.* 91. Spaeth also provides evidence for the inquisition of Tiberius Gracchus' supporters launched by the consuls of the following year (1990, 184-185, 185n.10).

harnessed to a plough on the reverse.<sup>247</sup> Lucius Cassius Longinus (pr. 66), moneyer in 78 BCE, issued a denarius that depicted the head of Liber crowned with ivy on the obverse and the head of Libera surrounded by vines and grapes on the reverse.<sup>248</sup> Caecilianus and Longinus were not afraid to advertise their relationship to their supposedly “disgraced” ancestor. Sp. Cassius’ second consulship in 493 BCE witnessed the secession of the plebs, which ended with the foundation of the tribunate, and saw the dedication by Cassius of the Temple of Ceres, Liber, and Libera on the Aventine.<sup>249</sup> Because of her connection with the end of the secession, Ceres came to be intimately associated with the plebs.<sup>250</sup> Roman moneyers used coins to recall their ancestors’ achievements, including building projects and the dedications of temples for which they were responsible.<sup>251</sup> The imagery on these coins hints at a tradition that celebrated Sp. Cassius’ actions. Dionysius’ account contains elements that, at times, point to his acceptance and use of a tradition that was less hostile in its portrayal of Sp. Cassius. Based on the surviving literary evidence alone, it would appear that the negative portrayal of Sp. Cassius became the dominant tradition. An examination of the numismatic evidence, in conjunction with Piso’s fragment and elements of Dionysius’ account, however, reveals that positive portrayals of

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<sup>247</sup> Description: Crawford, *RRC* I.325-326; Ranouil 1975, 79. Description and illustration of the coin: Babelon, I.326-327.

<sup>248</sup> Description: Crawford, *RRC* I.403; Ranouil 1975, 79-80. Description and illustration of the coin: Babelon, I.328-329.

<sup>249</sup> The secession of the plebs and foundation of the tribunate: Cic. *Rep.* 2.57; Livy 2.32-33; DH 6.91.1-94.3; Val. Max. 4.3.4. On Sp. Cassius’ dedication of the temple: DH 6.94.3.

<sup>250</sup> Spaeth 1996, 81-102 (esp. p. 97); Le Bonniec 1958, 342-378. The temple itself served as the following: the office of the plebeian magistrates, the archives of the plebeians, the treasury in which was placed the possessions of any man who violated the sacrosanctity of a plebeian magistrate (and whose goods were then consecrated to the triad), the depository for copies of *senatus consulta* after 449 BCE, and the distribution centre of grain for the poor (on the uses of the temple: Livy 3.55.7, 3.55.13, 10.23.11-13, 33.25.2-3; DH 6.89.3, 10.42.3-6).

<sup>251</sup> Hales 2000, 48-51 (esp. p. 49).

Sp. Cassius also existed. Where might the moneyers have come across a tradition in which their ancestor was depicted positively?

Piso's fragment suggests that it was not until around 158 BCE that a negative meaning became attached to the statue erected by Sp. Cassius. Based on the numismatic evidence, it seems that a positive memory existed of Sp. Cassius, associated primarily with the events of his second consulship, that is, with the restoration of harmony after the secession of the plebs. The destruction of the statue would appear to reflect the rise of a negative tradition centred on the events of Sp. Cassius' third consulship, against which the *gens Cassia* attempted to preserve a positive memory of their ancestor.<sup>252</sup>

The destruction of the statue in 158 BCE fits the context of the times. The late third to the end of the second century BCE was a period during which senatorial power was at its height. In particular, the senate aimed to curb aristocratic competition among the elite for fear of the *ambitio* of individual politicians, especially in the wake of unorthodox careers such as those of P. Cornelius Scipio Africanus (cos. 205, 194) and T. Quinctius Flaminius (cos. 198).<sup>253</sup> This was the driving force behind the *lex Villia annalis*, passed in 180 BCE, which set the minimum ages for holding senior magistracies.<sup>254</sup> In the years before this, a sumptuary law (182) and a *senatus consultum* that limited the amount of

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<sup>252</sup> On Roman *gentes* recalling their ancestors in various media: Hales 2000; Tanner 2000, 47n.157. For the recollection of ancestors on coins: Meadows and Williams 2001, 39-44, 48; Flower 1996, 333-338; Vanderbroeck 1987, 108-109; Wallace-Hadrill 1986, 74-75; Bieber 1973, 875-879. For specific examples of the deeds and accomplishments of ancestors recalled on coinage: Meadows and Williams 2001, 39-44; Crawford, *RRC* 1.277, 288, 289, 301, 314, 374, 440, 443, 445-446, 460, 522, 523; Wallace-Hadrill 1986, 74-75; Bieber 1973, 875-879.

<sup>253</sup> Evans and Kleijwegt 1992, 181, 187.

<sup>254</sup> Cic. *Leg. agr.* 2.3; Livy 25.2.6, 40.44.1.



state funds available for games held by aediles were passed.<sup>255</sup> Other sumptuary laws were proposed over the next several generations, such as those of 161, 143, and 115 BCE.<sup>256</sup> In the 170s BCE, a marked decrease in the senate's approval of requests made to celebrate triumphs<sup>257</sup> reflected senatorial fears of allowing a general to hold *imperium* within the city limits.<sup>258</sup> The demolition of the statue associated with Sp. Cassius at the hands of the censors in 158 BCE is, therefore, characteristic of senatorial activity at Rome at this time seeking to regulate aristocratic competition. The senate's power was at its zenith, and accusations of kingship reflected a deeply rooted fear of the lower classes, who could help a politician rise to undue prominence and power.<sup>259</sup> The Gracchi, who, through their legislative proposals, desired to rein in the power of the senate, represent the culmination of these tensions. It was in these conditions that a new and hostile construction of Sp. Cassius' career emerged, as evidenced in the work of Piso and later in the writings of Cicero.

Piso does not explicitly mention that Sp. Cassius proposed a *lex agraria*, nor, as we have seen, does Cicero. The main concern for both authors was Sp. Cassius' desire to

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<sup>255</sup> The sumptuary law: Macrobian *Sat.* 3.17.2-3. The *senatus consultum*: Livy 40.44.11. For a more detailed account of these two legislative reforms, see Evans and Kleijwegt 1992, 183-184.

<sup>256</sup> These sumptuary laws were: the *lex Fannia* (161), the *lex Didia* (143), and the *lex Aemilia* (115). For the relevant sources and a discussion of each of these sumptuary laws, see, e.g.: Rotondi 1962 (1912), 287-288 (on the *lex Fannia*), 295 (on the *lex Didia*), 320 (on the *lex Aemilia*); Eilers 1989, 11-22. There was also one that Rotondi believes was proposed in 103, but the dating of this law is not secure (1962 [1912], 327-328; cf. Eilers 1989, 15-17).

<sup>257</sup> Richardson 1975, 56.

<sup>258</sup> Richardson 1975, 59, 60. As Richardson points out, the control of *imperium* was a senatorial weapon against uncooperative generals (1975, 60). If refused by the senate, a general could hold a triumph on his own authority (e.g., C. Papirius Maso in 231 BCE [Piso fr. 31 (Peter); Val. Max. 3.6.5], Q. Minucius Rufus in 197 BCE [Livy 33.23.3], Ap. Claudius Pulcher in 143 BCE [Cic. *Cael.* 34; Val. Max. 5.4.6; Suet. *Tib.* 2; Macrobian *Sat.* 3.14.14]). Triumphs that took place under a general's own authority, however, were not as prestigious as regular triumphs (Livy 33.23.8; Pittenger 2008, 295).

<sup>259</sup> Cornell 1995, 150.

become king. As we have seen, it is likely that Cicero deliberately omitted mention of Sp. Cassius' *lex agraria*, particularly in light of the association between Sp. Cassius and Tellus as presented by Piso. Tellus seems the most likely explanation behind Sp. Cassius' attempt to propose agrarian distribution. But what motivations lie behind the *explicit* mention of the agrarian proposal, which became one of the primary focuses in subsequent treatments of the episode, by authors writing after Cicero, in particular, Livy and Dionysius of Halicarnassus?

### **CHAPTER 3: SP. CASSIUS IN LIVY AND DIONYSIUS**

Diodorus Siculus, who was writing sometime between 60 BCE and 30 BCE, mentions only that Sp. Cassius was found guilty of aiming at *regnum* and put to death the year after his consulship (11.37.7).<sup>260</sup> He next appears in Livy's and Dionysius' retelling of the events of 486 BCE.<sup>261</sup>

The accounts provided by Livy and Dionysius are much fuller than earlier treatments. Dionysius provides the fullest construction of events—about 12 times longer than that of Livy—including several speeches given by figures absent from Livy and the other extant sources. The two authors' accounts of the events of this year are similar. For instance, they both, uniquely among extant authors, report that Sp. Cassius sought popular support, and subsequently *regnum*, by means of an agrarian proposal. In addition, they both explain the conflict between Sp. Cassius and the senate in terms that evoke the political strife of the late Republic, specifically that which was related to the struggles between *optimates* and *populares*. In particular, references to Sp. Cassius and his agrarian proposal use vocabulary characteristic of descriptions of *popularis* politicians and he is represented as committing misdeeds of the sort associated with *popularis* politicians in the late Republic.

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<sup>260</sup> At 11.1.2, he mentions the consuls for the year, but does not provide details about events that happened at Rome until later in the same book. Diodorus dates Sp. Cassius' consulship to the year 480 BCE; Green demonstrates that Diodorus' dating is not always sound, and Roman events, especially in Books 11 and 12, should sometimes be dated six or seven years earlier, and he cites 480 BCE as an example of this erroneous dating (2006, 11).

It is difficult to determine when between 60 and 30 BCE he stopped planning his work and started to compose it (see Green, 2006, 8). On the dating of his work: Green 2006, 2-9.

<sup>261</sup> Livy 2.41; DH 8.68-80.

Although their accounts contain echoes of the Gracchan era and late Republican politics, and both present details that depict Sp. Cassius as a *popularis* politician typical of the late Republic,<sup>262</sup> neither portrayal is entirely hostile to him, which is reinforced within the larger context of each work. The contradictions, particularly in the case of Dionysius, that arise in their narratives reveal their ideological colourings, but also reveal the literary and rhetorical aims of each author. We shall begin by examining Livy's treatment of this year, followed by Dionysius'.

### **3.A) THE LIVIAN SP. CASSIUS**

Livy's treatment of Sp. Cassius' third consulship in 486 BCE is more elaborate than that of Cicero. The following is an overview of the Livian account of Sp. Cassius' agrarian proposal and of the events of this year:

- Sp. Cassius made a treaty with the Hernici<sup>263</sup> and confiscated two thirds of their land; of this land he proposed to give half to the Latins and half to the Roman plebs; one third of the confiscated land was to be restored to the Hernici;
- Sp. Cassius also wanted to distribute land belonging to the state, which he claimed was being held illegally by certain private individuals, who comprised part of the patriciate; these wealthy *possessores* felt that Cassius' proposal was a threat to Roman liberty;
- Sp. Cassius' colleague in the consulship, Proculus Verginius Tricostus Rutilus, opposed the distribution of land, and had not only the support of the senate, but

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<sup>262</sup> Lintott 1970, 22.

<sup>263</sup> As consul in 487 BCE, C. Aquillius Tuscus defeated the Hernici in war (Livy 2.40.14), but, according to Livy, Sp. Cassius made the treaty with them in the following year (2.41.1).

even eventually a portion of the plebs, who resented the proposal to include the Latins and Hernici in the distribution scheme;

- Verginius accused Sp. Cassius of aiming at kingship;
- Sp. Cassius tried to win back popular support by proposing to reimburse the people for the money they had spent on grain imported from Sicily during a famine a few years earlier, but this was interpreted as an attempt to bribe them;
- two accounts of Cassius' condemnation and death in 485 BCE are provided:
  - i) Cassius' father was reportedly responsible for his son's trial and execution, and also consecrated his son's private property to Ceres, from the proceeds of which a statue of the goddess was made;
  - ii) Cassius was tried by the quaestors and eventually killed (Livy favours this version, as does Dionysius); after the trial and execution, Cassius' house was demolished and became the **open space** before the Temple of Tellus.<sup>264</sup>

As we saw above, Cicero's portrayal of the events of 486 BCE centred around Sp. Cassius' desire for *regnum* and hinted at his use of some sort of "popular" legislation to do so. Livy's treatment also includes these elements, which are treated at greater length. Livy mentions Sp. Cassius' supposed attempt at *regnum* on several occasions (2.41.5, 2.41.9), and how Sp. Cassius' consular colleague, in collusion with the senate, claimed that the agrarian proposal would bring servitude on the Romans (2.41.5) and was

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<sup>264</sup> 2.41 (for his complete account of Sp. Cassius' third consulship). Compare this to the salient features of Dionysius' account of Sp. Cassius' third consulship in Chapter 3B (p. 113-115); in the Dionysius section, bolded text represents details that differ from Livy's account or are unique to Dionysius.

dangerous to *libertas* in general (2.41.2). Livy is here applying the political idiom of the late Republic to his account of Sp. Cassius' third consulship.

Cicero, as we have seen, did not explicitly associate Sp. Cassius with a *lex agraria*. The first extant sources to do so are Livy and Dionysius (though the story would already seem to have been known by Cicero's time).<sup>265</sup> Livy's Sp. Cassius acts like a *popularis* politician (which Valerius Maximus seems to have picked up on since he records that Sp. Cassius was actually a tribune of the plebs),<sup>266</sup> so we should not be surprised to find the story of Cassius' agrarian proposal recast in ways that were typical of both the late Republic and Livy's own time.<sup>267</sup> Livy was born around the time Caesar proposed his land bill of 59 BCE<sup>268</sup> and would have been familiar with the controversies and dissension that it created. Furthermore, and probably more influential on his work, Livy lived through the vast triumviral confiscations and redistributions of land<sup>269</sup> and the extensive violence and strife associated with these events, and these experiences are reflected in his narrative. Indeed, in his *Praefatio*, Livy tells his readers that he is writing

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<sup>265</sup> Livy 2.41.3; DH 8.70.5.

<sup>266</sup> For Valerius Maximus' reference to Sp. Cassius as tribune: 5.8.2. Cf. Val. Max. 6.3.2, where Sp. Cassius was working with all but one of the tribunes of the plebs. Note that at 6.3.1b, however, Valerius Maximus mentions Sp. Cassius' three consulships (with no mention of a tribunate).

<sup>267</sup> As Ogilvie notes, somewhere along the line a historian reconstructed Sp. Cassius' demise "in keeping with the passionate behaviour of tribunes of his own day" (1965, 339).

<sup>268</sup> Caesar's distribution of the Campanian land: Cic. *Att.* 2.16, *Phil.* 2.101; Vell. Pat. 2.44.1-4; Suet. *Aug.* 4.1; App. *B. Civ.* 2.10; Cass. Dio 38.1.4, 38.7.3.

<sup>269</sup> Land confiscated and redistributed by the triumvirs: Livy, *Per.* 120; App. *B. Civ.* 5.3.25; Cass. Dio 47.6.5, 47.16.3-4, 47.17.3, 54.25.6; Gargola 1995, 182; Syme 1939, 194-197. Walsh 1961, 37: the effect of Caesar's agrarian law of 59 BCE on Livy. Miles 1995, 153: Romulus' reign and deification are depicted by Livy (1.16.4) as reminiscent of that of Caesar and Augustus. Augustus also made distributions of grain: Garnsey 1988, 218-222, 230-233; Rickman 1980, 60-66, 179-185.

as a means not only of providing *exempla* to be imitated or avoided, but also of escaping the evils of his own times—evils, he states, that had been experienced for many years.<sup>270</sup>

That Livy is conscious of the influence of recent historical circumstances on his work is clear, and this influence is present in his treatment of the events of 486 BCE. He has this to say about Sp. Cassius' proposal:

Then, for the first time, an agrarian law was proposed, and never from that day to the present time has one been put forward without the greatest disturbances within the state.<sup>271</sup>

The passage makes clear that the author does not, in fact, have one specific *lex agraria* in mind.<sup>272</sup> Indeed, the very phrase *ad hanc memoriam* reveals that Livy is thinking about the continuity between early history and the events of his own time.

Livy is the earliest extant source to state explicitly that this was Rome's first *lex agraria* (Dionysius and Valerius Maximus follow suit),<sup>273</sup> which seems to reflect concerns particularly relevant to the period from the Gracchi onwards.<sup>274</sup> Livy reports that Sp. Cassius' agrarian proposal set the precedent for future distributions of land, all of

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<sup>270</sup> *Praef.* 5: I shall, in opposition to this, seek another reward for my labour so that I may avert my gaze from the evils which our age has witnessed for so many years; indeed, for as long as I am recalling those ancient deeds it is possible to free the historian's mind from every care which, even if it was not possible to divert it from the truth, might nevertheless cause it anxiety. *Ego contra hoc quoque laboris praemium petam, ut me a conspectu malorum quae nostra tot per annos vidit aetas, tantisper certe dum prisca [tota] illa mente repeto, auertam, omnis expers curae quae scribentis animum, etsi non flectere a uero, sollicitum tamen efficere posset.* For a fuller discussion of this passage, see the Livy section of the Introduction, p. 21.

<sup>271</sup> Livy 2.41.3: *Tum primum lex agraria promulgata est, numquam deinde usque ad hanc memoriam sine maximis motibus rerum agitata.*

<sup>272</sup> Ogilvie 1965, 340.

<sup>273</sup> DH 9.51.2; Val. Max. 5.8.2. As we shall see in greater detail later, Dionysius deliberately withholds this detail in his account of Sp. Cassius; he mentions that Sp. Cassius' agrarian proposal was Rome's first in the context of the events of 467 BCE (9.51.2) in order to highlight just how long the patricians have delayed land distribution.

The kings had supposedly given land to citizens, but Sp. Cassius' proposal represented the first official legislative measure to distribute land. Numa: Cic. *Rep.* 2.26; DH 2.62.3-4, 2.74.2-5. Tullus Hostilius: DH 3.1.5. Ancus Marcius: Cic. *Rep.* 2.33. Servius Tullius: Livy 1.46.1, 1.47.11; DH 4.9.8.

<sup>274</sup> For scholarship on this theme, see above, p. 37n.122.

which resulted in civil turmoil. As we shall see, the theme of strife caused by agitations for land distribution speaks to larger concerns within Livy's early books,<sup>275</sup> fitting nicely with his aim of showing the moral degeneration of Rome over time.<sup>276</sup>

In Livy's narrative, we find a detailed account of the nature of Sp. Cassius' agrarian proposal, which is absent from earlier extant sources. The proposal is described as follows:

A treaty with the Hernici was struck; two thirds of their land was seized. Then the consul, Cassius, intended to distribute half [of this land] to the Latins, half to the plebs. He wanted to add to this gift some of the land that, he accused, although public land, was possessed by private persons. This, indeed, terrified many of the patricians, the actual occupiers, because of the danger to their property; but there was also anxiety among the patricians on public grounds, because they felt that by means of a bribe the consul was building up power dangerous to liberty.<sup>277</sup>

Later in the narrative, Livy reports that Cassius also intended to restore a third of the recently conquered land to the Hernici (2.41.6).

The situation in 486 BCE bears striking similarities to the distribution proposed by Tiberius Gracchus and the monopolization of land at that time by the nobility. Sp. Cassius' proposal, like Tiberius Gracchus', sought to address the unjust occupation of

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<sup>275</sup> E.g., 2.42.1-3 (485 BCE), 2.52.2-5 (476 BCE), 3.1.1-7 (467 BCE), 4.36.1-3 (425 BCE), 4.44.4-11 (420 BCE), 6.5.1-5 (387 BCE), 6.11.6-8 (385 BCE). As we shall see, however, Livy does not always favour the patrician monopoly of land, especially when the patrician refusal to allow the plebeians greater access to that land creates additional civil turmoil.

<sup>276</sup> Livy illustrates this by painting early malefactors more moderately than later ones (Vanderbroeck 1987, 190). As we shall see, Livy's narrative seeks to show Rome's gradual decline; on the decline of Roman virtues as one progresses through Livy's work, see below, p. 101n.323.

<sup>277</sup> 2.41.1-2: *Cum Hernicis foedus ictum; agri partes duae ademptae. Inde dimidium Latinis, dimidium plebi diuisurus consul Cassius erat. Adiciebat hic muneri agri aliquantum, quem publicum possideri a priuatis criminabatur. Id multos quidem patrum, ipsos possessores, periculo rerum suarum terrebat; sed et publica patribus sollicitudo inerat largitione consulem periculosas libertati opes struere.*



*ager publicus* and give parcels of land to landless Romans.<sup>278</sup> In Livy's narrative, the *possessores* are wealthy senatorial patricians able to use their influence to block the agrarian law. Our sources report that Tiberius Gracchus' agrarian proposal was similarly opposed by rich *possessores*,<sup>279</sup> who similarly feel entitled to the land that they were occupying.<sup>280</sup> Verginius' actions in this regard parallel the behaviour of M. Octavius, who similarly worked with the senate against Ti. Gracchus.<sup>281</sup>

As a malefactor of the early Republican period, Sp. Cassius became an analogue for later *popularis* politicians: not only for Tiberius Gracchus, who had proposed a similar agrarian programme, but also for Gaius Gracchus and others, such as Catilina and Clodius, as we have seen. We should not be surprised, then, to detect hints of C. Gracchus' programme and its hostile reception in Livy's portrayal. Specifically, Sp.

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<sup>278</sup> On Tiberius' agrarian law: Plut. *T. Gracch.* 9.2; App. *B. Civ.* 1.11. Cf. Cic. *Leg. agr.* 2.10, *Sest.* 103; Diod. Sic. 34/35.5.1-6.2; Livy, *Per.* 58; Vell. Pat. 2.2.3; Val. Max. 7.2.6b.

Tiberius also proposed that the rich be granted secure tenure (not ownership) of the land they possessed as long as it did not exceed the limit of 500 *iugera* set out in his law. The first legislative attempt to limit the use of public land (to 500 *iugera*) was one of the *leges Liciniae Sextiae* in the mid-fourth century BCE; before this time, there are no references to the amount of public land that one could use (Roselaar 2010, 96). On the *lex Licinia Sextia*, see Roselaar 2010, 95-112. Therefore, a limit on *ager publicus* would have been out of place in the context of the events of 486 BCE.

<sup>279</sup> Cic. *Sest.* 103; Plut. *Ti. Gracch.* 8.1-3; App. *B. Civ.* 1.7, 1.8, 1.10. On land ownership in more general terms, see, e.g., Cic. *Off.* 2.78. It should be noted that the use of the term *possessores* is ambiguous, for it could be used interchangeably to refer to either those who occupied land or those who owned it; therefore, the patricians could simply be "possessing" or "occupying" public land, which is legally owned by the Roman state. On this difficulty of interpretation, see, e.g.: Roselaar 2010, 94-95, 105-109; Rich 2008, 547-556, 558-560 (who provides a detailed discussion of the problem and of scholarship on this topic); Rathbone 2003, 145-146; Oakley 1997, I.435. The difficulty arises since one could possess, that is, control a thing, and this possession could apply with or without ownership. On the law and *possessio* (beyond just the use of land), see Watson 1968, 81-90.

<sup>280</sup> Further complicating Tiberius' agrarian distribution scheme was the fact that some individuals had used *ager publicus* for so long that its occupiers believed that they were legally entitled to it; in addition, it seems many occupiers of land did not possess ownership or lease papers, so it was impossible for the state to determine what land was public and what private (App. *B. Civ.* 1.18; cf. Pritchard 1969, 546-547). The land commission, which was established under Tiberius' agrarian law, was tasked with the job of trying to figure out which land was public and which private (Livy *Per.* 58; App. *B. Civ.* 1.13, 1.18-19; cf. also Roselaar 2010, 241).

<sup>281</sup> For the ancient sources on this opposition, see Broughton *MRR* I: 493.

Cassius' proposal to include the Latins and Hernici in the division of land recalls C. Gracchus' proposal to grant Roman citizenship to the Latins and Latin rights to the Italian allies<sup>282</sup>—in the case of both Sp. Cassius and C. Gracchus, the inclusion of non-Romans resulted in a significant loss of popular support. Sp. Cassius is said to have proposed reimbursement to the plebs for recently purchased grain, which is presented as a means of winning back the people's support (2.41.8); this reimbursement, however, was considered an explicit attempt to purchase monarchical power (2.41.9).<sup>283</sup> This seems to have been inspired, as Ogilvie suggested, by Gaius' corn subsidy.<sup>284</sup> Just as Cassius' story comes to be a composite of those of the later *populares*, the story of Verginius is an amalgamation of optimate reaction: Verginius seems to be not only a stand-in for L. Opimius, but also for C. Fannius and M. Livius Drusus, both of whom worked with the senate to oppose C. Gracchus. Fannius especially opposed Gaius' proposal to grant citizenship to the Latins and Latin rights to the Italians, and M. Livius Drusus made counterproposals that were intended to exceed Gaius' and benefit the Roman plebs.<sup>285</sup> Livy records that Verginius cast doubt on Cassius' motives for including the Latins and Hernici in his distribution scheme (2.41.6), and proposed the distribution of land to Romans only (2.41.7). Clearly elements of the political careers of both Tiberius and Gaius Gracchus came to be included within the narrative of Sp. Cassius' third consulship.

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<sup>282</sup> Forsythe 2005, 194 and 1994, 298; Seager 1977, 382. On C. Gracchus' proposal to grant full citizenship rights to the Latins: Cic. *Brut.* 99; Vell. Pat. 2.6.2-3; App. *B. Civ.* 1.21, 1.23; Plut. *C. Gracch.* 5.1, 8.3, 9.3-4.

<sup>283</sup> This new element will be considered in greater depth shortly.

<sup>284</sup> Ogilvie 1965, 339, 342. Ogilvie also notes that it could have been inspired by Ti. Gracchus' proposal for distributing the legacy of Attalus of Pergmaum, but prefers the parallel with Gaius' corn subsidy (1965, 342).

<sup>285</sup> For the ancient sources on this opposition, see Broughton *MRR* I: 516 (for Fannius' opposition), 517 (for Livius' opposition).

Although Livy does not specify what land Verginius wanted to distribute to the plebs, it seems reasonable to assume that the consul, who was backed by the senate, would not allow the interests of his senatorial supporters to be compromised by including land in their *possessio* in his own distribution scheme. This, in turn, would have won him support among the senatorial class.<sup>286</sup> The only land that would have been subject to distribution was presumably land recently taken away from the Hernici.<sup>287</sup> This consular deflection of criticism from patrician monopolization of public land occurs on other occasions in Livy's work.<sup>288</sup> According to the Livian tradition, then, a co-consul's counteroffer to distribute land recently seized from enemy tribes served to safeguard patrician interests on more than one occasion.

From Livy's account of the events of 486 BCE, it is difficult to discern if the blame for the unrest caused by Sp. Cassius' agrarian proposal lies with the patricians or the plebeians. This, it seems, is deliberate. He leaves the situation ambiguous in order to highlight the social unrest caused by such proposals instead of focusing solely on the details of the proposal itself. Sp. Cassius' charge that the patricians were occupying public land appears a fair one and, in this regard, Sp. Cassius appears as a legitimate social reformer. Likewise, Sp. Cassius' proposal to include non-Romans in his

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<sup>286</sup> One is also reminded of how M. Octavius, upon glancing up at the senators, refused to stop his opposition to Ti. Gracchus' legislative program (Plut. *Ti. Gracch.* 12.3).

<sup>287</sup> Ogilvie explains that doubt has been cast on the confiscation of Hernican land since, during a time of numerous conflicts with neighbouring tribes, Rome would not have wanted to isolate the Hernicans, whose territory lay directly to the east of Roman territory (1965, 340). Roselaar analyzes how the Roman sources expected allies to protest against land confiscations, and that conquered peoples could be disgruntled about loss of land to the Romans for a very long time (2010, 69-70).

<sup>288</sup> For instance, in 467 BCE patrician *possessio* was threatened by a consul, Titus Aemilius Mamercus, who planned on working with the tribunes to ensure a distribution of land to the masses. The other consul of this year, Quintus Fabius, diffused conflicts arising from patrician monopolization of land by proposing to establish a colony at Antium, a recently conquered Volscian town (3.1.1-7). In this way, Fabius deflected criticism from the patrician appropriation of state-owned land.

distribution scheme can be constructed as an attempt to consolidate Rome's power, thereby helping to protect her from hostile neighbours, especially the Aequi and Volsci.<sup>289</sup> Livy does, however, seem to accept that Sp. Cassius was using land distribution, and then a grain reimbursement plan, as a means to pursue *regnum* (2.41.5). His inclusion of non-Romans (2.41.8), which was especially problematic for the senatorial elite, can also be seen as an attempt to increase his support-base. In Livy's account, then, right and wrong can be found on both sides of the conflict.

It seems that Livy did not disapprove of agrarian legislation per se.<sup>290</sup> In his treatment of the events of this year, coupled with the goals of his work as stated in his *Praefatio* in Book 1, it becomes clear that Livy's greater concern is with the civil unrest that he knows will arise from agrarian proposals as well as other issues (e.g., debt, grain).

In other parts of his *Ab urbe condita*, Livy does not hesitate to specify either that the patricians were illegally occupying *ager publicus* or that the plebeians were seeking land that they did not deserve. Sometimes the fault, therefore, lies with the patricians, at other times with the plebeians. There are several instances in which both the senate and tribunes are held accountable for the strife caused by agrarian reform or lack thereof (e.g., 2.42.6-7, 6.5.1-5). Some instances occur in which Livy does not mention sedition per se, but on these occasions he does usually hint at deceit carried out by one side or the other

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<sup>289</sup> Ogilvie 1965, 338, 339-340. On the incursions of the Sabines, Aequi, and Volsci, see, e.g., Cornell 2005, 304-309. Before his narrative of the events of 486 BCE, Livy describes the ongoing strife with both the Aequi and Volsci (2.40.12-14). This discord continued after Sp. Cassius' third consulship, and, as Ogilvie demonstrates, the Romans faced a major defeat at the hands of the Volscians, who killed many of Rome's leading men (resulting in the supremacy of the Fabii over the aristocracy), that coincided with Sp. Cassius' ascendancy (1965, 338).

<sup>290</sup> Indeed, as we shall see, in his account of Sp. Maelius' downfall (4.13-16), Livy acknowledges that Maelius' desire to help the plebeians by distributing grain to them (at his own expense) was a useful thing, but that it was Maelius' motivation to run for the consulship and, when that failed, to acquire *regnum* that was problematic and justified his death.

(e.g., 4.11.1-7, 4.44.1-10, 6.6.1). We shall begin with an examination of several passages in which Livy ascribes blame to the patricians or senate, and then move on to consider passages in which he attributes blame to the plebeians, or, more specifically, a tribune or tribunes.<sup>291</sup>

In 417 BCE, Livy tells us, the tribunes of the plebs proposed that land conquered in war, legally *ager publicus*, should be confiscated from the patricians and distributed among the Roman citizenry (4.48.1-4). At 4.48.2, he states that the land to be distributed was “conquered land,” and was, therefore, properly *ager publicus*. By specifying that the land was, in fact, *ager publicus*, Livy’s position appears to favour the plebeian cause. In the same section, Livy reports that such a scheme would have greatly diminished the fortunes of “a large part of the nobility,” implicating, just as for the resistance to Sp. Cassius, patrician self-interest. Although both patricians and tribunes can be seen to be responsible for the resulting strife, Ap. Claudius, who belonged to a family portrayed consistently as anti-plebeian in our sources, caused additional problems;<sup>292</sup> his role seems to tip the balance of blame more firmly onto the patrician side. This is particularly reinforced when he is shown to adhere to the advice given by his grandfather to the senate, namely, to get a tribune to veto the agrarian proposal of a fellow-tribune (4.48.7).<sup>293</sup> When relating a similar episode to this one (4.48.1-4) that took place a few years later, in 413 BCE, Livy states that the senators could have avoided continued

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<sup>291</sup> For the group(s) that Livy holds responsible for the strife arising from agrarian proposals in his first six books, see Appendix 4.

<sup>292</sup> The most relevant work on this topic of Claudian arrogance and pro-patrician sentiments is Wiseman 1979a.

<sup>293</sup> The next few sections (4.48.7-9) outline the ease with which one can accomplish the task of getting a tribune to veto a fellow-tribune.

plebeian hostility if they had divided land among the masses. This land, he says, was *ager publicus* and was being held wrongfully by the patricians:

It was a most appropriate time, with the seditions having been avenged, for mollification to be offered [to the plebs] in the form of the division of the Bolan territory; if this had been done, the *patres* would have diminished the desire for an agrarian law, which was meant to prevent their occupation of *ager publicus* **through unjust means**. Consequently, this indignity continued to vex their minds because the nobility was not only **unyielding in its retention of public lands, which it held by means of force**, but even **refused to distribute to the plebs unoccupied land that had been captured from the enemy** only recently—land that would soon, like the rest of it, become the spoils of a few men.<sup>294</sup>

We can see that this is clearly a case in which Livy acknowledges the illegal occupation of public land by the patricians; they employed unjust means (*per iniuriam*) and force (*vi*) to maintain occupancy of public land—land which they occupied, but which they did not legally own.<sup>295</sup> Livy goes on to say that had the patricians distributed the Bolan territory, which was conquered land, they could have avoided the threat an agrarian law posed to their interests, even though they held the land that would be subject to distribution illegally. In addition, not only were the patricians occupying public land, but they also refused to distribute *unoccupied* public land (*vacuum agrum*) to the plebeians. Once more, patrician greed and self-interest caused additional problems in the context of the Struggle of the Orders. Likewise, in his discussion of the Licinio-Sextian rogations, passed in 367 BCE, Livy uses the same language as at 4.51.5-6 to point out the patricians'

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<sup>294</sup> 4.51.5-6: *Aptissimum tempus erat, vindicatis seditionibus, delenimentum animis Bolani agri divisionem obici, quo facto minuissent desiderium agrariae legis quae possesso per iniuriam agro publico patres pellebat; tunc haec ipsa indignitas angebat animos: non in retinendis modo publicis agris quos vi teneret pertinacem nobilitatem esse, sed ne vacuum quidem agrum, nuper ex hostibus captum plebi dividere, mox paucis, ut cetera, futurum praedae.*

<sup>295</sup> This section of Livy reads much like a section (line 18) of the *lex agraria* of 111 BCE, which stated that a man could not be prevented from possession of lands by violence or stealth. The text of the *lex agraria* of 111 BCE (line 18) is reproduced in Lintott 1992 (for line 18, see p. 181).

wrongful monopolization of *ager publicus*. Public land was being used by *iniustus possessoribus* (6.39.9), and these powerful men possessed the land in question by means of *iniuria* (6.39.10: *in agrum iniuria possessum a potentibus*).<sup>296</sup> Technically speaking, the patricians had *possessio* of certain public lands, but they did not legally own them. These represent only three of the instances in which Livy attributes the blame to the patricians or senate for the continued strife regarding land distribution during the Struggle of the Orders.

Just as Livy does not hesitate to ascribe blame to the patricians for the unrest caused by their unjust occupation of *ager publicus*, he likewise does not hesitate to assign blame for the sedition and turmoil caused by agrarian reforms proposed by the tribunes. In 476 BCE, Livy reports that once trouble abroad had been dealt with, the tribunes began to incite the plebeians “by means of their usual poison, an agrarian law” (2.52.3: *tribuni plebem agitare suo veneno, agraria lege*). Later, in 457 BCE, the tribunes caused strife at Rome by proposing an agrarian law (3.30.1). Likewise, in 412 BCE, a year after the senate was described as possessing public land by unjust means and by force, one of the tribunes, L. Icilius, “was stirring up sedition by promulgating agrarian laws” (4.52.2: *seditiones agrariis legibus promulgandis cieret*). This Icilius was following in the footsteps of his ancestor (4.52.2), who, in 456 BCE, had passed a law concerning the distribution of land upon the Aventine (3.32.7).

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<sup>296</sup> Livy portrays the limit laid out by the agrarian law of 367 BCE as a means to curb greed, and other sources, including Columella and Pliny the Elder, describe the law in moralizing terms (Rich 2008, 549-551). In this way, our ancient sources imply that laws *de modo agrorum* were a form of sumptuary law; on this subject (with sources), see Gargola 1995, 143-145; cf. Rich 2008, 564.

In Livy's work, responsibility for strife at Rome caused by distributions of land, or a lack thereof, falls upon both patricians and plebeians. In this light, the argument that Livy was a pro-senatorial author is outdated. Tacitus reports that Augustus called Livy a Pompeian (*Ann.* 4.34). This, however, is not indicative of senatorial sympathies, but rather suggests that Livy preferred Republican ideas and values. The author idealizes the Republic, especially the early period when all Romans were able to put aside political differences and ambitions for the good of the state. This was intended to stand in contrast to the turmoil of Livy's own times, which is presented as the outcome of a long process of moral degeneration. The virtues that characterize the early period in the *Ab urbe condita* are increasingly less apparent as the history proceeds<sup>297</sup> and politically ambitious men appear with increasing frequency. The structure and treatment of episodes is, therefore, very deliberate and required much forethought and planning on Livy's part.

Livy applies pejorative terms typically associated with *popularis* politicians (based on the available evidence) in the late Republic to both patricians and plebeians. In some cases, the offenses committed by the patricians outweighed those of the plebeians. As we have seen, Livy associates *iniuria* (e.g., 4.51.5, 6.39.10), *vis* (e.g., 4.51.6), and unjust occupation (e.g., 6.39.9) with the patricians' monopolization of public lands. It is only after years of unsuccessful attempts to pass an agrarian law that the plebeians consider resorting to violence (2.63.2). Livy presents this as a last resort for the plebs. The fault appears to rest with the patricians and their unwillingness to compromise. Unfortunately for the plebs, but characteristic of Livy's narrative, foreign war interrupts any hopes of

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<sup>297</sup> On the breakdown of virtues over time, see below, p.101n.323.



land distribution. Livy does describe the tribunes as responsible for stirring up the plebs. His treatment, therefore, is not one-sided in favour of the senate or patricians. He lays blame on both groups; the tribunes rouse the plebs, but the patricians are completely unwilling to compromise and surrender their lands, even if they possess no legal entitlement to them. This very deliberate portrayal holds both sides accountable for any disruptiveness created at Rome, and surely must reflect contemporary circumstances and political upheavals caused by late Republican instances of land distribution.

Just as Livy is the first source to explicitly report that Sp. Cassius proposed a *lex agraria* (as we have seen), so he is the first to explicitly mention Sp. Cassius' connection with the grain supply. Following the rejection of his agrarian scheme in favour of Verginius' counterproposal, Sp. Cassius, we are told, proposed to reimburse the masses for grain, imported from Sicily, that they had purchased in 491 BCE during a famine at Rome;<sup>298</sup> Livy attributes the cause of the famine to the secession of the plebs two years earlier, which prevented men from cultivating the fields and thereby drove up the price of grain (2.34.2).<sup>299</sup> The plebs, however, were not fooled and viewed Sp. Cassius' reimbursement for the grain as the price for a throne (2.41.9: *mercedem regni*).<sup>300</sup> Sp. Cassius' plan for reimbursing the plebs appears to be an amalgamation of Gracchan elements. The reimbursement proposal was based on Gaius' grain law, but the loss of

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<sup>298</sup> Livy 2.34.2-5; DH 7.20.2-3, 7.37.3.

<sup>299</sup> Livy's treatment of the plebs' decision to secede and their activities during their withdrawal from the city is not hostile, as one would expect if he were truly a pro-senatorial author. Indeed, he describes the plebeians as not having a commander, taking only the necessities required for life, and neither receiving nor giving provocation to the patricians (2.32.4). In Livy's narrative, the plebeians' behaviour is modest and not at all violent or angry.

<sup>300</sup> We can probably expect that senatorial opposition was expounded in public speeches, which may have influenced the plebs' opinion of Sp. Cassius' motivation for reimbursing them the cost of the grain.

popular support that arises it seems to be modeled on Ti. Gracchus' career. When Tiberius proposed to use the legacy of Attalus of Pergamum to finance his land distribution, opposition to him reached its height.<sup>301</sup> By attempting to give the people more, Tiberius lost their support. This is how Livy presents Sp. Cassius' reimbursement plan—an attempt to buy off the plebeians and gain a throne (2.41.9). The issue, then, was about generosity, or *beneficium*. The senate feared that Sp. Cassius intended to use popular support for his own advantage, and this endangered senatorial interests.<sup>302</sup> The inclusion of allies in the distribution scheme and then the reimbursement plan turned popular favour against Sp. Cassius. The underlying fear was that Sp. Cassius was attempting to enlarge his base of support in order to fulfill his purported monarchical aspirations.<sup>303</sup>

Both Livy and Dionysius mention and reject the narrative tradition in which Sp. Cassius' father put his son on trial, scourged him and had him put to death, and then consecrated his son's property to Ceres, the proceeds from which were used by the Cassian family to make a statue (Livy 2.41.10-11; DH 8.79.1-3).<sup>304</sup> Both authors prefer a

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<sup>301</sup> Livy *Per.* 58; Plut. *Ti. Gracch.* 14-15. Cf. also: Cic. *Leg.* 3.24; App. *B. Civ.* 1.13.3-4; Roselaar 2010, 239.

<sup>302</sup> Once more we see that the patricians are only concerned with their own interests. Sp. Cassius acts inappropriately, but the patricians are greedy and grasping.

<sup>303</sup> That Livy mentions a reimbursement of grain is also indicative of the extent of his knowledge and research. There were no grain laws until C. Gracchus' *lex frumentaria* of 123 BCE. Livy, therefore, provides a historically accurate account by stating that Sp. Cassius desired to reimburse the plebs for the cost of recently purchased grain.

<sup>304</sup> Recall that, according to Pliny the Elder, Piso Frugi reported that Sp. Cassius had erected a statue of himself before the Temple of Tellus (*Nat.* 34.14[30]), although earlier in his work Pliny records that the first bronze image made at Rome was of Ceres, and this had been paid for from the proceeds of Sp. Cassius' consecrated goods (*Nat.* 34.9[15]).

As we have seen in Chapter 1, Cicero presented an amalgamated version of Sp. Cassius' condemnation and death, involving both his father and the quaestors, whereas Livy and Dionysius make it clear that the involvement of the father and the role of the quaestors were two separate traditions.

version in which the quaestors carried out Sp. Cassius' trial, condemnation, and execution.<sup>305</sup> As we have seen, the version involving the consecration of Sp. Cassius' property to Ceres seems to be the older of the traditions presented; this may have arisen from the Romans' belief that early in Rome's history there was a law that demanded that the goods of a man who sought *regnum* be dedicated to Ceres.<sup>306</sup> Sp. Cassius, however, reportedly had an additional connection to Ceres. Sp. Cassius supposedly dedicated the Temple of Ceres, Liber, and Libera during his second consulship, in 493 BCE,<sup>307</sup> marking the end of the Secession of the Plebs; the Temple became closely associated with the plebeian cause, and was later the place where grain distributions took place.<sup>308</sup> The association may also have arisen from the Romans' belief that in early Rome's history there existed a law that demanded that the goods of a man who sought *regnum* be dedicated to Ceres.

This was all part of a process by which Sp. Cassius came to be seen as an early *popularis* magistrate and was linked with the Gracchi and later *populares*. Sp. Cassius' association with Ceres may have facilitated the addition to his story of a frumentary

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Valerius Maximus reports three different versions of Sp. Cassius' death based on his rhetorical aims. At 5.3.2, Valerius Maximus reports that Sp. Cassius' father punished him and consecrated his property to Ceres; this passage falls under the heading of paternal severity, so it is easy to see why this version was included. In contrast, at 6.3.1b, Valerius Maximus reports that the senate and the people punished Sp. Cassius, and then, at 6.3.2, he reports that a tribune killed Sp. Cassius; in both of these passages, Valerius Maximus' aim is to show the severity of past Romans more generally and, therefore, the version involving Sp. Cassius' father is not mentioned.

<sup>305</sup> These versions shall be discussed at greater length below.

<sup>306</sup> Part I, Chapter 2 (p. 74-75).

<sup>307</sup> DH 6.94.3. For the vow in 495 BCE to build the temple: DH 6.17.2; Tac. *Ann.* 2.49.

<sup>308</sup> The temple as a distribution centre for grain: Spaeth 1996, 9-10, 39-40. On the various uses of the temple, see: Livy 3.55.7, 3.55.13, 10.23.11-13, 33.25.2-3; DH 6.89.3, 10.42.3-6.

distribution plan, by retrospective analogy with C. Gracchus' *lex frumentaria*.<sup>309</sup> The analogy was not universally construed negatively. As we have seen, it seems that members of the *gens Cassia* sought to connect themselves with the grain supply and their predecessor—hinting at a positive tradition surrounding the events of Sp. Cassius' second consulship.<sup>310</sup> L. Cassius Caecianus, moneyer in 102 BCE, issued a denarius with the head of Ceres crowned with wheat on the obverse and a pair of yoked oxen on the reverse. L. Cassius Longinus (pr. 66), moneyer in 78 BCE, issued a denarius depicting Liber on the obverse and Libera on the reverse, which, as Crawford has pointed out, may be an allusion to the Temple of Ceres, Liber, and Libera.<sup>311</sup> As is to be expected, Sp. Cassius' reimbursement plan is described in ways that are evocative of the late Republic.<sup>312</sup> His connections with Ceres and the explicit connection of late Republican members of his *gens* with the goddess and, thereby, the grain supply lent additional credence to Sp. Cassius' association with grain and may have led to the growth of this element in the narrative tradition (especially as it is recorded by Livy and Dionysius). For the hostile tradition, the two aspects of Sp. Cassius' association with Ceres could combine

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<sup>309</sup> Mommsen 1871, 236n.27, accepted by other scholars, e.g.: Gabba 2014 [1964], 189-190; Ogilvie 1965, 339, 342.

<sup>310</sup> For a more detailed description of these *denarii* and the vestiges of a positive narrative tradition surrounding Sp. Cassius' third consulship, see above, Chapter 2.

<sup>311</sup> Crawford also notes that the omission of Ceres allowed the moneyer to allude to the *lex Cassia Tabellaria* (RCC I.403), which was passed in 137 BCE by L. Cassius Longinus Ravilla (cos. 127) as tribune; this law introduced voting by secret ballot in court cases, except those involving *perduellio* (Broughton MRR I: 485; Rotondi 1962 [1912], 297). Cicero records that the law was proposed because the people feared that their liberties were at risk (*Sest.* 103). The moneyer of 78 BCE was probably the grandson of the tribune of 137 BCE (Taylor 1966, 126n.10). In addition, Cicero reports that Liber and Libera were the children of Ceres (*Nat. d.* 2.62); thus, depicting the pair may have recalled associations with their mother.

<sup>312</sup> The language used to describe frumentary distribution plans is applied generally to Livy's treatment of Sp. Cassius' reimbursement scheme. More specifically, Sallust's account of the law of 73 BCE presents it, in the mouth of the tribune C. Licinius Macer, as an attempt to buy off the masses (*Hist.* 3.48.19 [Maurenbrecher]); as we have seen, this is how Livy portrays Sp. Cassius' proposal to reimburse the plebs for the grain (2.41.8).

in a satisfying reversal of fortune (as Forsythe calls it), since he had started as a servant of Ceres, only to be executed and have his property consecrated to the goddess.<sup>313</sup>

Livy refers to the agrarian proposal and reimbursement plan as *largitio* (2.41.2, 2.41.4, 2.41.8), a term he applies to several other agrarian proposals (e.g., 3.1.3, 4.44.9). Livy's description of Sp. Cassius' proposal to distribute land as an *agraria largitio* (2.41.8) mirrors that of Cicero's criticisms of the agrarian proposal of P. Servilius Rullus (tr. pl. 63), which he, too, described as a *largitio agraria*.<sup>314</sup> Following his description of Sp. Cassius' downfall, Livy reports that the senate opposed another agrarian proposal because it was considered a form of *largitio*, one which would cause the plebs to become even more heedless (2.42.6).<sup>315</sup> Similarly, the proposal to distribute land and the desire to reimburse the plebs for the cost of grain are both referred to on separate occasions as a *munus* (2.41.2, 2.41.4, 2.41.5, 2.41.8, 2.41.9). Although *munus* is not as negative a term as *largitio*, its use here is by no means positive, as Livy's narrative makes clear, since Roman citizens resented that non-Romans would receive allotments of land (2.41.4). Livy has Verginius attack the gifts as a source of *servitus* and *regnum*, which would subvert Roman *libertas* (2.41.5). He calls the *munus* itself a disease (2.41.5: *pestilens*), recalling

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<sup>313</sup> Forsythe 2005, 195 and 1994, 301. Cf. Ogilvie 1965, 343.

<sup>314</sup> *Att.* 2.16.1; cf. *Leg. agr.* 2.10, 2.12, 2.16, 2.76. Cicero refers to largess in general as something used by "raving" tribunes, whose madness needed to be curbed by the consuls (*Mur.* 24).

Optimate politicians often accused popular politicians of using *largitio* to win support. C. Fannius (cos. 122) applied the term *largitio*, and *dominatio*, to C. Sempronius Gracchus' proposal to offer citizenship to the Latins and Latin rights to the Italian allies (Fannius, fr. 6 and fr. 7 [Malcovati]). Q. Servilius Caepio (cos. 106), spoke against Saturninus' grain law, and described it as a *largitio* (Caepio, fr. 2 [Malcovati]). The fragments of Fannius and Caepio are discussed in Part II, Chapter 2 (p. 174). Also: Cic. *Mur.* 24; *Dom. passim.*; *Off.* 2.72.

<sup>315</sup> See p. 100n.320 for instances of *largitio* within Livy's first pentad.

Livy's allusions to the "sickness" of contemporary Rome.<sup>316</sup> Ogilvie notes that the use of *volgari*, used to refer to the *munus* itself, is typically restricted to descriptions of diseases, and he cites several instances of Livy's use of the word in this way (e.g., 4.30.8, 5.48.3).<sup>317</sup> For the Romans, *libertas* was characterized by restraint and moderation, and, therefore, a lack of restraint would cause *libertas* to devolve into *licentia*, or arbitrariness.<sup>318</sup> Sp. Cassius' *popularis*-like behaviour represented a move away from *libertas* toward *licentia*. Thus, his use of *largitio* and supposed attempt to acquire *regnum* represented a lack of moderation and a move toward tyrannical behaviour and tyranny. This allowed Livy to show that Rome's moral degeneration occurred gradually<sup>319</sup> and was already beginning within the first decades of the emergence of the Republic. Following Sp. Cassius, instances of *largitio* appear more often in Livy's narrative, marking the moral degeneration of the Roman state.<sup>320</sup>

The Livian Sp. Cassius proposes agrarian legislation that is characterized as causing "the greatest disturbances" (2.41.3: *maximis motibus*), and, as we have seen, Livy's use of *ad hanc memoriam* looks ahead to the seditions and violence of his own times associated with redistributions and confiscations of land.<sup>321</sup> Nowhere here, however, are found those

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<sup>316</sup> Livy 3.20.8, 22.8.5. For an analysis of these two passages, see the Livy section of the Introduction (p. 19-20).

<sup>317</sup> Ogilvie 1965, 341. See Livy 3.6.3, where *volgo* is used in the same way. Also cf. Curt. 9.10.1 (Q. Curtius Rufus was a Roman historian writing in the mid-first century CE) for a later use of *volgo* in reference to the propagation of disease.

<sup>318</sup> Wirszubski 1950, 7. Cf. Livy 3.53.6; Arena 2012, 69, 167, 244-245.

<sup>319</sup> On this gradual decline, see, e.g.: Moore 1989; Luce 1977, 250-297.

<sup>320</sup> Instances of *largitio* within the first pentad: 1.54.10 (monarchical period); three times in 486 BCE (2.41.2, 2.41.4, 2.41.8); 2.42.6 (484 BCE); 4.12.6 (441 BCE); twice in 439 BCE (4.13.2, 4.13.10); 4.44.9 (420 BCE; that there should be no largess); 4.48.12 (417 BCE); twice in 396 BCE (5.20.2, 5.20.5); 5.24.5 (395 BCE); 5.26.1 (394 BCE). Note that this is an exhaustive list, but that the uses vary depending on the context (i.e., senators speak of tribunician largesses, but this is exactly what we would expect them to say).

<sup>321</sup> See above, p. 85.

attributes or vices that are typically ascribed to tyrannical *populares* of the late Republic. That is, Livy generalizes by stating that Sp. Cassius' *lex agraria*, and all subsequent proposals of this kind, cause disruptions to the Roman state, but nowhere is Sp. Cassius' proposal itself described as resulting in the *sedition* or *tumultus* which the later *populares* are accused of inciting, nor does Sp. Cassius attempt to have his law passed by force (*vis*). The proposal caused disharmony between the patricians and plebeians, but there was no violence. Sp. Cassius' proposal is characterized as dangerous twice within the same section (2.41.2), but this language is more moderate than that used to describe later popular politicians. We have seen how Cicero presented the "*populares*" of the early period in moderate terms in order to highlight the depravity of more recent *populares*.<sup>322</sup> Livy has similar goals; he presents early politicians in more moderate terms in order to emphasize the political and moral degeneration at Rome. There is a marked decrease in Roman virtues, such as *fortitudo*, *moderatio*, *modestia*, and *pietas*, as one reads through the *Ab urbe condita*.<sup>323</sup> Over time, the Romans' inability to deal with internal dissension leads to civil war. By contrast, in his narrative of the events of 486 BCE, the people reach the conclusion that Sp. Cassius' actions reflect monarchical aspirations (2.41.9) and desert him. It seems that both Verginius and Cassius manipulate the plebs for their own ends. The suggestion seems to be, then, that contemporary Romans no longer had the ability to see through the "bribes" offered by *populares* seeking to obtain kingship.

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<sup>322</sup> Vanderbroeck 1987, 190; Luce 1977, 250-275.

<sup>323</sup> Moore 1989, Appendix 2 (p. 209-210): for books 1-10, 596 virtues; for books 21-30, 462 virtues; for books 31-40, 343 virtues; and for books 41-45, 164 virtues.

One of the main features of Livy's account (and also that of Dionysius) is the competition for popular support between Cassius and his consular colleague, Proculus Verginius Tricostus Rutilus. Verginius manages to turn the opinion of the plebs, who had once been supportive of Sp. Cassius' agrarian proposal, by accusing Cassius of aiming at kingship and attempting to enslave those who would receive land allotments (2.41.5-6). In the eyes of the patricians, Verginius, who has the support of the senate, acts as a consul should.<sup>324</sup> Although he has senatorial support, Verginius' collusion with the senate serves to recast him in the guise of the obstructionist tribune of the late Republic and seems to be a Gracchan doublet. Tiberius Gracchus' fellow tribune, Marcus Octavius, had worked with the senate to veto the Gracchan legislative proposals.<sup>325</sup> Livy describes Verginius and Sp. Cassius as in competition with one another,<sup>326</sup> which is reminiscent of the way Marcus Livius Drusus and Gaius Gracchus vied for popular support with competing legislation in 122 BCE.<sup>327</sup> Therefore, Livy's narrative depicts both Verginius and Sp. Cassius as late Republican politicians concerned less about social reform and more about their own political ambitions. Livy presents them as petty politicians characteristic of the Gracchan era who are simply trying to outdo one another in order to gain popular support. Neither are portrayed in an overly positive light, consistent with the picture of both

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<sup>324</sup> Seager notes that the hostility of a colleague and the opposition of the senate meant that, from the aristocracy's perspective, a consul who acted like a popular tribune was at fault (1977, 379).

<sup>325</sup> Cic. *Mil.* 72, *Brut.* 95; Vell. Pat. 2.2.3; Livy *Per.* 58; Plut. *Ti. Gracch.* 10-15; App. *B. Civ.* 1.12.

<sup>326</sup> 2.41.7: And then both consuls, as if in competition [with each other], began to indulge the plebs. *Uterque deinde consul, ut certatim, plebi indulgere.*

<sup>327</sup> On the competition for popular support between M. Livius Drusus and C. Gracchus: App. *B. Civ.* 1.23-24; Plut. *C. Gracch.* 8.2-12.3. Rowland (1969) provides a detailed and complex picture of the nature of the opposition to Gaius Gracchus, including how ties to the Scipiones and Aemilii may have turned men who were once Gaius Gracchus' supporters against him (e.g., the Livii Drusi).



patricians and plebeians as being accountable for growing tensions at Rome and continued strife.

The manner in which Sp. Cassius lost popular support again reflects a Gracchan element. Verginius suspected that Sp. Cassius' proposal to include the Latins and Hernici in his agrarian law revealed his monarchical aspirations (2.41.1, 2.41.6). Verginius did not oppose land distribution, but insisted that only Roman citizens should receive a share in the division (2.41.4, 2.41.6-7). Livy attributes the loss of much of Sp. Cassius' support to his intent to include non-Romans. Likewise, C. Gracchus' proposal to grant Roman citizenship to the Latins and Latin rights to Italian allies is cited as one of the reasons for his waning influence.<sup>328</sup> According to Livy, Verginius asked the people why Cassius wanted to include the allies and Latins.<sup>329</sup> Ogilvie points out that, according to Cicero, C. Fannius expressed a similar argument against C. Gracchus' citizenship proposal.<sup>330</sup>

Although Sp. Cassius eventually lost the support even of the plebs, Livy portrays him as a *popularis* magistrate characteristic of the late Republic. He and Verginius vied to gain popular support, and neither of them was primarily concerned with the welfare of the state. Each man is only concerned with his own political ends. This portrayal is deliberate on Livy's part. The nature of each man's political maneuvering increases class tensions at Rome and leads to further civil strife. Both patricians and plebeians, therefore, play a role in continued hostilities between the orders.

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<sup>328</sup> On C. Gracchus' proposal regarding Roman citizenship and Latin rights: Vell. Pat. 2.6.2-3; App. B. Civ. 1.21.1, 1.23.2; Plut. C. Gracch. 5.1, 9.3-4, 11.3.

<sup>329</sup> 2.41.6: *Quid ita enim adsumi socios et nomen Latinum?* The *quid ita* is used to suggest that there is some misgiving about what Sp. Cassius has proposed (Ogilvie 1965, 341).

<sup>330</sup> Ogilvie 1965, 342; Cic. Brut. 99.

Throughout his account of the Struggle of the Orders, Livy records similar episodes in which several themes reappear. For instance, for the year 467 BCE, Livy writes that one consul, Ti. Aemilius Mamercus, backed the tribunes' proposal for agrarian reform, but because the senate did not support him, any animosity felt was directed toward the consul, not the tribunes (3.1.3). In a familiar pattern, Aemilius' consular colleague, Q. Fabius, made a counter-proposal concerning the land that should be divided, and he had the support of the senate (3.1.4-7). In the context of the patricio-plebeian struggle of the early Republic, such episodes evoke the power of the senate. These episodes, however, are probably better suited to the second century BCE, when senatorial power reached its height.<sup>331</sup>

We must now consider the punishment inflicted upon Sp. Cassius for his actions as consul. As a result of his attempt at *regnum*, it is reported that he, upon leaving office, was condemned and killed. Livy and Dionysius both mention his demise and provide us with two traditions concerning his condemnation and execution. The first of these supposedly involved Sp. Cassius' own father, who, after placing him on trial privately at home, put him to death and devoted his property to Ceres.<sup>332</sup> In the other account, which both authors preferred, the quaestors of 485 BCE, Kaeso Fabius and Lucius Valerius, bring Sp. Cassius to trial for treason (*perduellio*); by the judgment of the people he is

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<sup>331</sup> The height of senatorial power and the senate's concern to maintain this power was discussed above, p. 78-79.

<sup>332</sup> Livy 2.41.10; DH 8.79.1-4; Val. Max. 5.8.2. Livy also claims that the *gens Cassia* erected a statue with an inscription on it (Livy 2.41.11). Objections have been raised by modern scholars regarding the tradition involving Sp. Cassius' father and the consecration of Spurius' goods to Ceres: Forsythe 2005, 194; Cazanove 1989, 98-100; Ogilvie 1965, 343. There is no mention of the disowning of Sp. Cassius by his father (*exheredatio*; on this practice, see Saller 1994, 118-119).

found guilty and condemned to death. His house is then pulled down and the Temple of Tellus built adjacent to the space.<sup>333</sup>

The similarities in the accounts of Livy and Dionysius imply that they were consulting a pre-existing source, or sources, that presented variant traditions regarding Cassius' trial and death. As we have seen, Cicero presented an amalgamation of these two versions in which a quaestor accused Sp. Cassius of aiming at kingship and then Cassius' father condemned him to die (*Rep.* 2.60).<sup>334</sup> It is clear that Livy and Dionysius were consulting material that is now lost to us. As we have seen, Valerius Antias has been proposed as the source for the tradition involving the quaestors, one of whom belonged to the *gens Valeria*.<sup>335</sup>

Sp. Cassius is mentioned again, together with Sp. Maelius, during Livy's treatment of the rise and fall of M. Manlius Capitolinus (cos. 392):

Therefore, the opinions were openly heard of men reproaching the multitude, because they always raised their defenders to a precipice through their favour, then in a critical moment of danger they would desert him: in this way Sp. Cassius, summoning the plebs to the fields, and in this way Sp. Maelius, warding off famine from the mouths of the citizens at his own expense, were overthrown; so too M. Manlius, dragging toward liberty and the light the part

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<sup>333</sup> Livy 2.41.11; DH 8.77.1-78.5. Notably, the Temple of Tellus was located on the Esquiline Hill in the Carinae district; this was near the street where Tullia helped murder her father, Servius Tullius, after which the street was renamed Vicus Sceleratus, "The Street of Crime." On the location of the temple and Tullia's actions, see above p. 72. Forsythe believes the street's proximity to the temple must have played a role in the evolution of Rome's earliest Republican malefactor, Sp. Cassius (2005, 195, 1994, 301). Other references to the destruction of Sp. Cassius' house: Val. Max. 6.3.1b; Cic. *Dom.* 101 (a more general account which only mentions the destruction of Sp. Cassius' house).

On importance of *perduellio*, as well as the presence and role of the quaestors, see Part I, Chapter 1 (p. 44-46).

<sup>334</sup> For an interpretation of Cicero's version involving the quaestor and Sp. Cassius' father, see above p. 43-46. As we saw, Cicero actively sought to present the two traditions as one in order to fulfill his own aims.

<sup>335</sup> Forsythe 2005, 194 and 1994, 299; Ogilvie 1965, 339. For Valerius Antias' role, see above, p. 21 (Livy's use of Antias), p. 23n.69 and 27 (Dionysius' use of Antias), and p. 45 (Antias as the potential source for the insertion of the quaestor or quaestors).

of the citizenry that was immersed in and overwhelmed by usury, was handed over to his enemies. The plebs fattened up their own representatives so that they might be slaughtered.<sup>336</sup>

The sentiments expressed in this passage are attributed to supporters of Manlius. At 6.18.9, in direct discourse, Manlius also uses Sp. Cassius and Sp. Maelius as *exempla* of plebeian champions whose fate he hopes to avoid. Manlius and his supporters reproach the plebeians to take a stand against patrician oppression. The fickleness of the plebs was a recurring theme of the rhetoric of the late Republic,<sup>337</sup> as was bitterness over the lack of action taken against those who killed *populares*. The author of *Rhetorica ad Herennium* (composed during the 80s BCE), for example, warns:

Do not, Saturninus, rely too much on the throng of the *populus*; the Gracchi lie unavenged.<sup>338</sup>

The same sentiment is found in Sallust (*Iug.* 31).<sup>339</sup> In Book 6 of Livy's work, then, Manlius and his supporters did not want him to meet the same fate as Sp. Cassius and Sp. Maelius, but the audience would have known the outcome of his story.

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<sup>336</sup> 6.17.1-3: *Audiebantur itaque propalam voces exprobrantium multitudini, quod defensores suos semper in praecipitem locum favore tollat, deinde in ipso discrimine periculi destituat: sic Sp. Cassium in agros plebem vocantem, sic Sp. Maelium ab ore civium famem suis impensis propulsantem oppressos, sic M. Manlium mersam et obrutam fenore partem civitatis in libertatem ac lucem extrahentem proditum inimicis; saginare plebem populares suos ut iugulentur.* Sp. Cassius' "summoning" of the plebs to the fields recalls his agrarian proposal and, as Kraus has proposed, suggests that the plebeians should take possession of the fields (Kraus 1994, 193); that is, the plebeians are entitled to the land that they have helped to conquer in war. Kraus notes that the participles applied to Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus (*vocantem*, *propulsantem*, and *extrahentem* respectively) imply that the physical strength necessary to help the plebeians increases with each attempt (1994, 193). On the passage, see also Oakley 1997, I.539.

<sup>337</sup> E.g., Hor. *Ep.* 1.19.36-38: I do not want to hunt for the votes of the fickle plebs by paying for their dinners and by a gift of worn clothing. *Non ego ventosae plebis suffragia venor / Impensis cenarum et tritae munere vestis.* The fickleness of the plebs is the reason why Horace had no desire to pursue a political career. Livy's text at 6.17.2 (*famem suis impensis*) is also similar to that of Horace, when he says "*impensis cenarum*"; both authors refer to supplying food to the masses at one's own expense as a means of ensuring popular support, at least temporarily. Cf. Cic. *Phil.* 11.17; Livy 42.30.4.

<sup>338</sup> *Rhet. ad Her.* 4.67: *Noli, Saturnine, nimium populi frequentia fretus esse; inulti iacent Gracchi.*

<sup>339</sup> Similarly, in his account on the Catilinarian conspiracy, Sallust notes that the masses have no concern for the state, only their own (rather pathetic) livelihoods (*Cat.* 37).

Livy's treatment of Sp. Cassius' third consulship places the events of this year firmly in the context of the Struggle of the Orders. His proposal to distribute land currently in the possession of wealthy senators served to widen the divide between the patricians and plebeians. Prior to this agrarian proposal, the patricians and plebeians were at odds with one another, but this stemmed primarily from plebeian oppression as a result of debt (e.g., 2.27.1-31.11). When Rome's first agrarian measure was proposed, however, the focus shifted from plebeian oppression through debt to plebeian agitation for land. Throughout his account, therefore, Livy describes the conflict caused by Sp. Cassius' agrarian proposal as one occurring between the *patres* (e.g., 2.41.2, 2.41.4) and the *plebs* (e.g., 2.41.4, 2.41.7), and this comes to characterize subsequent *leges agrariae* in Livy.

Although Proculus Verginius succeeded in turning popular favour from his fellow consul to himself, Livy describes the situation after Sp. Cassius' death as follows:

The peoples' anger against Cassius did not last a long time. The charm of agrarian legislation entered their thoughts on its own account, when its author had been removed, and their desire for it was inflamed by the stinginess of the *patres*, who, after the Volsci and Aequi had been conquered in that year, had robbed the soldiery of its booty.<sup>340</sup>

Once again Livy presents the *patres* and *plebs* as the two opposing sides in the conflict surrounding the merits of agrarian legislation. This represents a distinctively Gracchan touch. The decision to pursue agrarian legislation after Sp. Cassius' death calls to mind the opposition to Ti. Gracchus' proposals and laws while he was alive and the decision to implement similar legislation only upon his death. Plutarch reports that soon after the

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<sup>340</sup> 2.42.1: *Haud diuturna ira populi in Cassium fuit. Dulcedo agrariae legis ipsa per se, dempto auctore, subibat animos, accensaque ea cupiditas est malignitate patrum, qui deuictis eo anno Volscis Aequisque, militem praeda fraudauere.* The plebeians have a similar reaction after M. Manlius Capitolinus' execution in 385 BCE (Livy 6.20.15). Notably, Plutarch records that the people truly missed the Gracchi brothers once they were gone (*C. Gracch.* 18.2; see, also, *App. B. Civ.* 1.32).

death of Tiberius in 133 BCE, the senate no longer actively opposed the distribution of land as it needed to win over the people.<sup>341</sup> Tiberius' currying of popular favour and what the senate considered unconstitutional actions, such as the removal of M. Octavius from office, eventually led to his death, and this, too, is reflected in Livy's treatment of Sp. Cassius. The concern of the senate in both cases was the increasing popularity of each man achieved through his legislation, which, it was claimed, was dangerous to Roman liberty, but really threatened senatorial power and authority. Livy later provides a similar description of the lure of land distribution:

In this year the thoughts of the *plebs* were also stirred by the charm of agrarian legislation. The tribunes of the plebs attempted to maintain popular power by means of popular legislation: the *patres*, believing that there was more than enough madness among the crowd without rewarding it, trembled at the idea of largesses and at encouragements of heedlessness.<sup>342</sup>

Yet again Livy describes agrarian legislation in terms evocative of the late Republic (*furoris in multitudine; largitiones; temeritatis*). The *patres* feared the popularity that the tribunes of the plebs would gain from such legislation, and the tribunes of the plebs are described as using agrarian legislation to enhance their own standing with the masses. According to Livy, then, Sp. Cassius' agrarian proposal set a precedent at Rome both for plebeian agitation for and patrician opposition to land distribution, which caused

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<sup>341</sup> Plut. *Ti. Gracch.* 21. It is not until after Gaius Gracchus' death that, according to Appian, Gracchan legislation was drastically changed or abolished (*B. Civ.* 1.27).

<sup>342</sup> 2.42.6: *Sollicitati et eo anno sunt dulcedine agrariae legis animi plebis. Tribuni plebi popularem potestatem lege populari celebrabant: patres, satis superque gratuiti furoris in multitudine credentes esse, largitiones temeritatisque inuitamenta horrebant.*

continuous civil strife. As a result, agrarian legislation continues to figure as a prominent source of contention throughout Livy's account of the Struggle of the Orders.<sup>343</sup>

We have seen that the narrative surrounding Sp. Cassius' third consulship evolved as different selected and recast elements based on their ideological and rhetorical purposes. Some of these interpretations became embedded in Livy's narrative. Livy, in turn, makes decisions about what episodes, events, and figures to include, and at what length to treat them.<sup>344</sup> Therefore, the amount of space allotted to a given year varies greatly, particularly in the First Pentad.<sup>345</sup> Livy covers the foundation of Rome and the monarchical period in Book 1, which culminates with the expulsion of the Tarquins in 509 BCE. Book 2 covers events between 509 and 468 BCE. The following is a brief overview of the structure and contents of Book 2:

- after the expulsion of the Tarquins, the Romans turned their attention to restructuring their constitution (§§1-8);
- Lars Porsenna, of Clusium, agreed to help the Tarquinii in their attempts to reinstate their family at Rome (§§9-15);<sup>346</sup>
- the Romans experienced conflicts with neighbouring tribes and the Latins (§§16-22, 24-26, 30-31);

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<sup>343</sup> See Appendix 4 for the conflicts that arise from contention over agrarian proposals as described by Livy.

<sup>344</sup> On the ways by which Livy creates structural divisions and patterns throughout his work, including length, vividness, and content dedicated to a certain episode, his use of speeches, stereotypical personae, battle scenes, triumphs, etc., see Vasaly 2002, 280-284.

<sup>345</sup> Vasaly 2002, 281.

<sup>346</sup> Based on Livy's narrative, it is not until Tarquinius Superbus' death at Cumae in 495 BCE (2.21), almost 15 years after the expulsion of the Tarquins, that the Tarquinian threat truly dissipates.

- a struggle over increased plebeian access to political office occurred, which led to the First Secession of the Plebs; as a result of the secession, plebeian magistracies and the *concilium plebis* were created to appease the plebs (§§23, 27-33);
- Cn. Marcius Coriolanus defected and joined the Volsci, eventually marching on Rome itself (§§33-40);
- Sp. Cassius attempted to pass agrarian legislation and supposedly aimed at kingship (§41);
- the Fabii rose to prominence; the Romans waged additional wars against their neighbours, leading to the almost complete eradication of the *gens Fabia* at Cremera (§§42-50);
- discord, particularly involving the anti-plebeian senator Ap. Claudius (cos. 471), reigned at Rome (§§44, 52-61);
- the Romans were engaged in war with more of their neighbours (§§51, 53-54, 60, 62-65).

After Sp. Cassius' consulship in 486 BCE, the narrative of Book 2 tends to alternate between the dangers posed by external enemies and those posed by internal ones.<sup>347</sup>

Livy's treatment of Sp. Cassius' alleged attempt at kingship illustrates this nicely.

This episode takes place following Coriolanus' defection from, and march upon, Rome

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<sup>347</sup> This internal-external pattern is found throughout the First Pentad. In his first few books, internal threats alternate with external ones. Rich provides a detailed breakdown of the internal and external threats facing Rome in Book 4 of the *Ab urbe condita* (2011, Appendix 2). Rich has also shown that in his later books Livy alternated between episodes that occurred at Rome (internal) and those that occurred outside the city (external) [2005, especially Appendix 1, which focuses on narratives from Books 31-45].



(2.33-2.40).<sup>348</sup> Livy devotes several pages to the events of 486 BCE—even providing his readers with variant traditions regarding Cassius’ demise—after intentionally deemphasizing the events of 487 BCE (2.40.14).<sup>349</sup> This suggests that Livy wanted his reader to make direct comparisons between the figures of Coriolanus and Cassius.<sup>350</sup> This adheres well to Vasaly’s observation that Livy was concerned with two principal modes of organization: variation and symmetry.<sup>351</sup> Livy presents Sp. Cassius as both a parallel and as an anti-parallel to Coriolanus, which served his larger authorial objectives.<sup>352</sup> Politically, they are cast as opposites. Sp. Cassius was a proto-*popularis*; Coriolanus, a proto-optimate.<sup>353</sup> At the same time, there are parallels between the two. Both men were politically active in the aftermath of the famine caused by the secession of the plebs in

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<sup>348</sup> The events related to Coriolanus’ downfall (in Livy, he was killed as he left Roman territory) extend from 492 to 487 BCE, as they do in Dionysius, although he treats these years in much more detail (7.20-8.80). For more comprehensive analyses of the episode involving Coriolanus, see, e.g.: Cornell 2003; Ogilvie 1965, 314-337 (with additional literature); Salmon 1930.

<sup>349</sup> Ogilvie notes that only during his treatment of Coriolanus’ defection does Livy not follow the annalistic tradition of introducing the year by providing the names of the consuls, and that this was done intentionally (since other sources, such as Dionysius of Halicarnassus, mention them) in order to present his treatment of Coriolanus as a more temporally unified episode (1965, 314).

<sup>350</sup> An illustrative example of Livy’s intentional placement can be found in his narrative concerning the Decemvirate of 451-450 BCE. He made the Decemvirate “the chronological centre of Books 2 through 4” (Vasaly 2002, 278). As Vasaly points out, the episode is the longest in Book 3 (covering over 32 of the 90 pages in the *OCT* edition), and is made to stand out from other, shorter events by means of its length and content (2002, 281).

<sup>351</sup> Vasaly 2002, 284-285.

<sup>352</sup> Levene notes that Livy treats Coriolanus’ demise in a cursory fashion in order to focus the reader’s interest on the emotional climax of the story, and in order to emphasize the contrast between Coriolanus and Sp. Cassius (1993, 157). Mustakallio also argues that Livy wanted his readers to discern the similarities and differences between the two figures (1994, 65-66). Mustakallio has also shown that Appius Claudius the Decemvir was an opposite figure to Sp. Maelius (1994, 67-69) and that M. Furius Camillus was a rival of M. Manlius Capitolinus (1994, 69-8.4).

Cicero creates this type of parallelism when he likens Coriolanus to Themistocles (*Brut.* 41-43). Richardson argues that although the parallels between the two seem tenuous to modern readers, the Romans considered them comprehensive (2012, 12-14; cf. Wiseman 1979a, 31-32; Ogilvie 1965, 315).

<sup>353</sup> Cornell notes that Coriolanus is “a prototype for those Roman aristocrats who placed their personal dignity and status above everything else, and when rebuffed by their ungrateful fellow-citizens took extreme measures to gain revenge and what they saw as their rightful position” (2003, 77). Ogilvie notes that the Coriolanus episode is cast in the guise of late Republican politics (1965, 329).

493 BCE, and, when their political aspirations were thwarted, sought to achieve their own aims by transgressive means that were not approved of by the Romans. Both translated, or attempted to translate, military success into a base of support beyond Rome (Coriolanus with the Volscians, Sp. Cassius with the Latins and Hernici). In Livy's narrative, Verginius claimed that Sp. Cassius has included the allies in his distribution scheme in order to replace Coriolanus as leader (2.41.6). Moreover, in both cases allegations were made that each figure sought to overthrow the Roman state. According to Livy, the efforts of both to gain *regnum* exacerbated tensions between the patricians and plebeians, which led to increased civil strife.

In contrast to early Rome, however, Rome of the late Republic did not possess the same ability to recognize and overcome such internal conflicts. Livy often narrates instances in which patricio-plebeian discord was set aside so that the Romans could deal with external threats in the form of neighbouring enemy tribes. This was the greatest impetus for harmony between the orders, and the Livian portrayal of the early Republic witnesses the patricians and plebeians repeatedly coming together in the face of internal conflicts in order to deal with external threats posed by neighbouring tribes.<sup>354</sup> As Livy says at 2.39.7:

External fear, the greatest bond of concord, however much men were suspicious and were hostile of one another, united their dispositions.<sup>355</sup>

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<sup>354</sup> E.g., 2.23.1-2.25.1-2 (Volsci, 495 BCE), 2.42.3 (Volsci and Aequi, 485 BCE), 2.58.1-3 (Volsci and Aequi, 471 BCE). From the First Secession (c. 494 BCE) to the 450s BCE, our sources record campaigns against the Volsci and Aequi for almost every year (Cornell 1995, 307).

<sup>355</sup> *Sed externus timor, maximum concordiae vinculum, quamvis suspectos infensosque inter se iungebat animos.*

The reader was meant to contrast this with Rome's contemporary situation. This ability of the patricians and plebeians to set aside their differences in the face of external threats was slowly eroded, which, in Livy's mind, had led to the present factional situation at Rome.

Livy's construction of events, therefore, was deliberate and served his larger goals, as laid out in his *Praefatio*. He shaped his narrative as he chose, in this case providing a lengthy treatment of Coriolanus' defection, skipping over the events of 487 BCE, and then detailing Sp. Cassius' third consulship, allowing his readers to compare Coriolanus to Cassius.

### **3.B) THE DIONYSIAN SP. CASSIUS**

Dionysius' account attributes similar roles to the consuls and the senate as those found in Livy. Although many of the details are the same in Dionysius' version as in Livy's, notable variations do occur. The main elements of the Dionysian treatment of this episode are as follows (details that differ from Livy's account or that are unique to Dionysius are in bold):

- Sp. Cassius **conquered the Hernici** and then made a treaty with them;<sup>356</sup>
- he proposed to distribute public land, which was currently being occupied by the wealthy, to the Roman plebs, the Latins, and the Hernici (**whose land was not confiscated and not included in this distribution**);
- Sp. Cassius was arrogant and wanted to establish himself as king;

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<sup>356</sup> In Livy, the treaty with the Hernici is mentioned, although he does not say who was responsible for securing it (2.41.1).

- tumults occurred, and the senate was terrified by Sp. Cassius;
- during a meeting of the senate, Sp. Cassius also proposed to use public funds to repay the plebs the price of the grain that had been sent to them several years before by **Gelon, tyrant of Sicily**; during this meeting, Verginius and the other senators opposed Sp. Cassius' proposal;
- **the tribunes of the plebs turned against Sp. Cassius**, believing that the state was in danger since Cassius' bribes would increase idleness and depravity among the masses;
- **Verginius was asked his opinion** about Sp. Cassius' proposed land distribution; Verginius opposed giving an equal share to the Latins and Hernicans, but consented to dividing it among Roman citizens, who applauded this proposal;
- **the senator Appius Claudius opposed the distribution of land even to the plebeians, arguing that the masses would be grateful to Sp. Cassius alone**; **Claudius proposed establishing a board of ten men to investigate and restore illegally occupied land to the Roman state**;
- **another senator, Aulus Sempronius Atratinus, supported Verginius' compromise to distribute land only to the plebeians in order to maintain the goodwill of the tribunes**;
- two versions regarding Cassius' condemnation and death in 485 BCE are reported:
  - i) Cassius was tried by the quaestors for introducing his proposal **without a decree of the senate**, and for aiming at tyranny, and was **flung from the**

**Tarpeian rock** (like Livy, Dionysius favours this version); after Sp.

Cassius' death, **his house was burned down**, a temple to Tellus was built **on the site**, and his goods confiscated by the state, from which a statue of Ceres was made;

ii) Cassius' father was reportedly responsible for his son's trial and execution;

- **Dionysius prefers the first version on the grounds that if Cassius' father had still been alive and informed against him, Cassius' house would not have been burned down, for all Roman males were under the power of their fathers while they lived;**
- **some men (left unspecified with τινων) also tried to put Sp. Cassius' sons to death, but the senators viewed this as cruel and harmful, so their penalty was remitted; after this incident, it became customary to exempt the sons of tyrants, parricides, or traitors from punishment.**<sup>357</sup>

Dionysius' treatment of the events of this year is far longer than any of the other extant accounts.<sup>358</sup> This stems from lengthy direct speeches he composed for this part of his

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<sup>357</sup> 8.69-80 (for his complete account of Sp. Cassius' third consulship). Note that this represents a brief overview of Dionysius' lengthy account of the events of 486 BCE.

Compare the main elements of Dionysius' treatment to those of Livy's account of Sp. Cassius' third consulship in Chapter 3A (p. 86-87). The elements present in both Livy's and Dionysius' narratives are outlined in chart form in the following pages (p. 116-117).

Other passages in which Dionysius mentions Sp. Cassius are as follows: 8.81.1, 8.82.4, 8.82.5, 8.87.2, 9.1.1, 9.3.1, 9.37.2, 9.51.1-2, 10.38.3. Dionysius uses Sp. Cassius as a means of identifying certain Romans; for instance, at 9.1.1, Dionysius mentions that one of the consuls elected for the year in question was the Kaeso Fabius who had accused Sp. Cassius of aiming at tyranny.

<sup>358</sup> Oakley discusses Dionysius' expansiveness: Livy's first book corresponds to Dionysius' first four books, and Livy's second book was reached only by the middle of Dionysius' eighth book (1997, I.72-73). Also see Usher 1969, 240-241.

narrative,<sup>359</sup> all of which are given by figures who do not appear in the other sources' representations of these events.

Certain elements common to both Livy's and Dionysius' narratives suggest that the two authors were using at least one shared source.<sup>360</sup> The following chart outlines those elements that appear in both versions:

Narrative Element	Livy	Dionysius
○ Sp. Cassius proposed to distribute land not only to the Roman plebs, but also non-Romans	2.41.1, 2.41.6	8.71.5
○ Sp. Cassius alleged that the patricians were wrongfully occupying state land	2.41.2	8.70.5
○ Verginius worked with the senate	2.41.4	8.71.2
○ the senate claimed that the agrarian law threatened Roman liberty	2.41.2	8.71.4
○ the plebs supported Sp. Cassius	2.41.4	8.71.4
○ Verginius made a counter-proposal: land should be distributed to Romans only	2.41.7	8.72.3, 8.75.1
○ opposition to the land proposal was raised due to the inclusion of non-Romans, an element of the proposal that caused a decrease in Sp. Cassius' popularity	2.41.5, 2.41.6-8	8.71.5-6, 8.72.2-3, 8.74.2, 8.77.3
○ the agrarian proposal as a largess	2.41.2	8.71.4
○ Sp. Cassius' proposed that the plebs be reimbursed for recently purchased grain	2.41.8	8.70.5
○ the grain reimbursement as a bribe	2.41.9	8.70.5
○ Sp. Cassius aimed at <i>regnum</i>	2.41.5, 2.41.9	8.69.3, 8.76.2, 8.78.5

<sup>359</sup> E.g.: Cornell 2003, 75; Gabba 1991, 83; Wiseman 1979a, 50-52, 63. Gabba points out that the Roman annalists may have elaborated some episodes and included speeches, and that Dionysius was simply elaborating or amplifying their accounts (1991, 83-84). On speeches in Dionysius' works (especially his *Antiquitates Romanae*) and negative assessments of his value as a source by modern scholars, see the Dionysius section of the Introduction (p. 27-30).

<sup>360</sup> Cf. Pabst 1969, 96-103.

○ two versions concerning Sp. Cassius' condemnation and death:	2.41.10-12	8.77.1-8.79.4
i) the people, with the quaestors' involvement, decided upon the death penalty	2.41.11	8.77.1
• destruction of Sp. Cassius' house; Temple of Tellus	2.41.11	8.79.3
ii) Sp. Cassius' father punished his son with death	2.41.10	8.79.1-4
• Ceres	2.41.10	8.79.3
○ both authors prefer the version involving the quaestors and the people	2.41.11	8.79.1

The similarities between the accounts of Livy and Dionysius extend beyond their own treatments of these events. Modern scholars have generally acknowledged that the two authors were consulting the same source or sources.<sup>361</sup> Although they present certain events in similar terms, Livy and Dionysius do so with very different aims in mind, and they accomplish their goals by reshaping certain elements to suit their own needs.<sup>362</sup> As we have seen, Livy was concerned with the discord between the patricians and plebeians in order to show its cumulative, negative effect on the Roman state as a whole, leading to the deplorable state of the city by his own time. Dionysius has a different point to teach.<sup>363</sup>

Dionysius' aim was to show how the Romans were descended from Greeks and to provide a universal history of Rome, primarily for a Greek readership (1.4.2). He does this to help his Greek audience accept Roman rule by showing that the Romans were

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<sup>361</sup> For the scholarship on this, and the idea that Dionysius was probably not using Livy as a source, see the Introduction, p. 23.

<sup>362</sup> Wiater 2011, 173n.469; Oakley 2010 (esp. p. 136-137); Stem 2007, 445n.30, 463n.73; Smith 2006a, 192-198 (esp. p. 197-198); Forsythe 2005, 67-68 and 1999, 12, 59; Vasaly 1999, 518, 528-529; Fox 1996, 82-83, 96-97 and 1993, 34-35; Usher 1969, 240-241 (although his portrayal of both authors is generally critical).

In the past, this has generally been overlooked; modern scholars tend to paint Livy and Dionysius as blind copyists who lack any sense of critical thought. There is a move away from this opinion, but much of the critical language still remains (as discussed in the Introduction).

<sup>363</sup> Dionysius' aims are also discussed in the section of the Introduction dedicated to him.

descended from the Greeks but outstripped them in virtue (1.5.3), which, by allowing them to avoid civil discord, propelled their rise to dominance.<sup>364</sup> This dominance, he states, did not happen through chance (1.4.2, 1.5.2), but was the result of the moral superiority of the Romans. Dionysius, then, hopes to help his Greek audience accept Roman rule, and to show the ways in which the Romans were more Greek than the Greeks themselves (particularly in their avoidance of succumbing to the negative effects of civil discord). By the same token, his history may serve to inspire his Roman readers live up to the deeds of their predecessors (e.g., 1.6.3-4).<sup>365</sup>

Dionysius' concern for ἀκρίβεια also shapes his narrative. For Dionysius, ἀκρίβεια meant something more like fullness or, in Gabba's words, "richness of detail," rather than accuracy or precision as we understand them today.<sup>366</sup> This helps to explain his lengthy treatment of Sp. Cassius' third consulship—almost 12 times longer than that of Livy—and accounts for his inclusion of details not found in the other sources. This also explains Dionysius' inclusion of speeches, which were added as a means of adding plausibility and vividness to his narrative.<sup>367</sup> Dionysius, however, was not attempting to mislead his readers; his methodology reflected not only his personal ideas about how to write history,

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<sup>364</sup> The Romans, Dionysius emphasizes, had not permanently succumbed to the negative outcomes of civil strife (7.18.1, 7.26.4). This was all intended as a contrast to the Greek world; the Romans were more truly Greek than the Greeks had been. Dionysius believed that: "the Romans are not only Greeks but are better than actual Hellenes, more truly Greek in their customs and behaviour generally, and above all in their *politeia*" (Schultze 1986, 133; see, also, 1986, 128). Dionysius uses this to explain the Romans' rise to supremacy and their right to rule.

<sup>365</sup> Fox 1996a, 54. That being said, as Fox points out (1996a, 54), showing the Greek descent of the Romans is central to Dionysius' interpretation, and other modern scholars who have worked on Dionysius hold the same opinion (for the relevant bibliography, see above, p. 25n.76).

<sup>366</sup> Gabba 1991, 82.

<sup>367</sup> As was discussed in the Introduction (p. 29-30), Dionysius was following the conventions set out by other Greek writers, such as Thucydides and Polybius.



but also, and more importantly, reflected engrained, and perfectly acceptable, ancient methods.<sup>368</sup>

We saw that Livy reinterpreted this episode in a way that made the conflict between patricians and plebeians analogous to late Republican strife between the *optimates* and *populares*. Dionysius, by contrast, presents it as an example of στάσις between ὀλίγοι and δῆμος.<sup>369</sup> As a result, the conflict between the two Roman “factions” is presented in ways that are evocative of events in Greek history. The following is an overview of the political idiom used by Dionysius in his treatment of Sp. Cassius:

Description	Passage
<ul style="list-style-type: none"> <li>ο στάσις <ul style="list-style-type: none"> <li>• στάσις must be prevented (μὴ στασιάζον)</li> </ul> </li> </ul>	8.69.4, 8.70.2, 8.71.1, 8.76.2 8.75.4
ο a great tumult (θόρυβος πολύς)	8.71.1
ο the helpless (ἄπορον) and sordid (ῥυπαρόν) support Sp. Cassius; the noblest (εὐγενέστατον) and most pure (καθαρώτατον) support Verginius	8.71.3
ο discord (διχοστασία)	8.72.1 (between consuls), 8.72.4
ο Sp. Cassius intends to use force and violence (βία; ἐπιβολή χειρῶν) to pass his legislation	8.72.4, 8.73.1, 8.78.1
ο stealing of votes (ψήφων ἀρπάγη)	8.72.4
ο strife in the assemblies (στασιαζούση ἐκκλησία)	8.73.1
ο the idle multitude (ὄχλος ἀργός)	8.73.2
ο civil war (πόλεμον ἄσπειστον ἐπαγάγη τῇ πατρίδι)	8.78.5
ο tyranny (τυραννίς)	8.69.3, 8.77.1, 8.78.3, 8.78.5, 8.79.1, 8.79.4
ο monarchical power (μοναρχικῆς ἐξουσία; βασιλείας)	8.69.3

<sup>368</sup> Problems arise when we try to force ancient practices into alignment with modern ideas about the ways by which historical analysis and writing should be performed by the historian.

<sup>369</sup> Fox 1996a, 92; Schultze 1986, 130-131.

ἐφιέμενος)

- demagoguery (δημαγωγία) 8.76.2
  - demagogic tactics (ἐξεδημαγωγέει; δημαγωγοῦν) 8.71.2, 8.71.6
- Sp. Cassius uses gifts in an attempt to acquire kingship and win popular support 8.69.3, 8.70.4, 8.70.5, 8.71.4
- Sp. Cassius seeks the favour of the people implicit throughout<sup>370</sup> (esp., e.g., 8.69.3, 8.73.2, 8.74.4, 8.78.1)
- the senate seeks the favour of the people 8.72.3-4, 8.73.3-4, 8.75.1, 8.75.3
- Sp. Cassius is thought to be:
  - presumptuous (αὐθάδεια) 8.69.1
  - arrogant (ὕπεροψία) 8.69.2
  - possessing senseless pride (αὔχημα ἀνόητον) 8.69.3

Dionysius' narrative is broadly similar to that of Livy, who characterizes Sp. Cassius' legislation as dangerous (*periculum*), a largess (*largitio*), a gift (*munus*), and as causing "general disruptions" at Rome. He also notes that Sp. Cassius' goal was to acquire *regnum* and, therefore, represented a threat to Roman *libertas*. Livy sought to lessen the dangers posed by these proto-*populares* and *optimates* in order to contrast this with the last decades of the late Republic.<sup>371</sup> Dionysius, in contrast, had no need to do this since he viewed these Roman conflicts in terms that were analogous to Greek ones.

Dionysius often points out how many Roman customs, practices, institutions, and laws were Greek in origin.<sup>372</sup> His narrative of the Struggle of the Orders echoes Greek

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<sup>370</sup> It is clear in Dionysius' account that Sp. Cassius was courting the favour of the people, but, as we shall see, he is also presented as a reformer who was truly concerned with the plight of the people.

<sup>371</sup> On this Livian theme, see above, p. 20 and Chapter 3A (esp. p. 86, 93-95, 100-101).

<sup>372</sup> The reign of Romulus provides an illustrative example in this regard; the way in which Romulus is portrayed as conceiving of Roman identity is "thoroughly Greek," as Wiater points out (2011, 174). For instance, Dionysius reports that Romulus' division of the people into patricians and plebeians was based on the Athenian constitution and its division of the people into *εὐπατρίδαι* and *ἀγροῖκοι* (2.8.1-2). The Roman client-patron relationship dynamic, too, was adapted from Greek precedents, but Dionysius reports that Romulus actually improved the institution (2.9.2-3). These are but two examples.

examples such as the Athenian contention surrounding land during the time of Solon (e.g., [Arist.] *Ath. Pol.* 2.1-3; Plut. *Sol.* 13-15), but he shows that the Romans, in contrast to the Greeks, were able to resolve these discords and enjoyed harmony (ὁμόνοια or *concordia*) that lasted until C. Gracchus' death—630 years since the foundation of the city (2.11.2-3).<sup>373</sup> At the same time, Dionysius inherits from his Roman sources a narrative in which the Struggle of the Orders stands as a proxy for the conflicts between the *optimates* and *populares* that characterized the last decades of the Roman Republic, a framing that is reinforced by his own experience (he came to Rome in 30 BCE), as explicit references to recent events in his work, such as the confiscations carried out by the triumvirs (2.74.5), make clear.<sup>374</sup> Although these confiscations involved private, not public, property, the strife caused by them does affect how Dionysius portrays land disputes over *ager publicus*. The greed exhibited by current Romans, who are not content with their own possessions (ἱκανουμένους τοῖς ἑαυτῶν κτήμασι), but seek to appropriate the land of others by means of violence (βία) and deceit (δόλω), informs his portrayal of the patricians<sup>375</sup> of the early Republican period. Like Livy, however, Dionysius does not assign exclusive blame to either side in these conflicts. Sp. Cassius is presented as

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<sup>373</sup> For more on this, see Schultze 1986, 131-133; cf. Gabba 1991, 84. Gabba also points out that Dionysius sought to show that the Romans did experience civil strife, but that during the political struggles of archaic Rome, this strife was nonviolent (1991, 84).

<sup>374</sup> Gabba 1991, 211. Dionysius also mentions that, after arriving at Rome, he consulted eyewitnesses to events (1.7.2); clearly more recent historical events influenced how he wrote about Rome's early history.

<sup>375</sup> Dionysius reports that Servius Tullius, early in his reign, incurred the hostility of the patricians (4.8-9) because he did not think that they, "the most shameless" (4.9.8: τοὺς ἀναιδεστάτους), should be allowed to monopolize lands acquired through war. Notably, this discussion of the unfair possession of land is placed in the context of Tullius' discussion of the dispensation of justice at Rome (4.9.9: "Beyond all these things, I have decided to make the Republic both just and public and justice the same for all towards all." ὑπὲρ ἅπαντα δὲ ταῦτ' ἔγων καὶ ἴσην καὶ κοινὴν ποιεῖν τὴν πολιτείαν καὶ τὰ δίκαια πᾶσι πρὸς ἅπαντας ὅμοια.). Gabba notes the Gracchan overtones of this passage (1991, 178).

seeking to remedy the patrician monopolization of *ager publicus*, but he also seeks *regnum*. The senate is concerned with Sp. Cassius' behaviour, but it also fears that its own interests were being circumvented. Dionysius' treatment contains similar hostile elements as those found in our earlier extant sources (Cicero and Livy, and, from what we know, Piso Frugi). As we shall see, however, Dionysius' treatment of Sp. Cassius suggests that he ultimately sympathized more with the δῆμος, or plebeians.

Dionysius, like Livy, mentions that Sp. Cassius proposed an agrarian law. His account of the land proposed for distribution in Sp. Cassius' *rogatio agraria* and those who were to benefit from it, however, differs in subtle, but significant, ways from Livy's treatment. According to Livy (2.41.1-2), two thirds of Hernican land was to be confiscated, half of which was to be divided among the plebs, the rest among the Latins; in addition to this land, Sp. Cassius wanted to include state-owned land that he alleged was currently in the hands of wealthy patricians. The Livian Verginius agrees to the distribution of land to the plebs only (2.41.7). In Dionysius' treatment, Sp. Cassius proposes to distribute only state-owned land currently monopolized by the rich—this is the only land included in his distribution proposal. In contrast to Livy, Dionysius records that the Hernici, recently allied with the Romans, did not lose any land by virtue of the treaty Sp. Cassius made with them (8.68.4, 8.71.5, 8.78.2). Moreover, Dionysius reports that Sp. Cassius proposed to include not only the Roman plebs and Latins in his distribution scheme, but also the Hernicans (8.69.4). This differs considerably from the Livian narrative. In Livy's version, two thirds of Hernican land was confiscated (therefore, the Hernici retained a third of their land); in opposition to Livy, Dionysius

presents the Hernici as retaining control of all of their own land and as actual benefactors of distributions of land that belonged to the Roman state.<sup>376</sup> This seems particularly Gracchan—C. Gracchus proposed to extend Roman citizenship to the Latins and Latin rights to Italian allies. Here, then, the Hernici, as Gabba points out, stand in for the Italian allies of Gracchan history.<sup>377</sup> As we shall see, several other Gracchan elements appear, particularly in the context of the senatorial opinions regarding Sp. Cassius' proposed distribution scheme.

Like Livy, Dionysius records that the land being illegally held by the patricians was *ager publicus*. He makes this explicitly clear on several different occasions (8.69.3, 8.69.4, 8.70.5, 8.74.3, 8.75.1, 8.78.2). As we have seen, Livy does not hesitate to assign similar blame to the patricians when they wrongfully retain and monopolize state land.<sup>378</sup> Livy depicts the patricians' violent retention of lands and, at times, their deceitfulness. Dionysius' portrayal of the methods by which the patricians attempt to prevent land distribution to the plebeians likewise includes the use of violence and deceit. Although he assigns blame, like Livy, to both the patricians and plebeians for causing disturbances at Rome, Dionysius' sympathies lean more towards the unjust treatment the plebeians receive at the hands of the patricians, examples of which we shall return to shortly. In relation to the allotment of land, Dionysius does paint the patricians positively in some

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<sup>376</sup> On the Hernici being given Roman citizenship: 8.69.4. For descriptions of the land to be distributed: 8.69.3, 8.69.4, 8.70.5, 8.74.3, 8.75.1, 8.78.2. Dionysius refers to the land to be included as either state land, public land/possessions, or land conquered in war.

<sup>377</sup> Gabba 2014 [1964], 198.

<sup>378</sup> On the way in which Livy assigns blame sometimes to the patricians and sometimes to the plebeians for strife caused by disputes over land, see Chapter 3A above (p. 89-95) and Appendix 4.

instances (e.g., 6.22.1, 9.32.1-5). There are, however, far more cases of patrician deceit and trickery at play.

Generally speaking, in the narrative that Dionysius presents up to this point, land has been acquired through war and distributed as a reward for military bravery and for loyalty to Rome. Beginning in Book 8, however, conflicts between the patricians and plebeians surrounding land distribution take center-stage. In Dionysius' narrative, Coriolanus purposefully leaves patrician farms unharmed but destroys plebeian ones in order to rouse plebeian suspicion against the patricians.<sup>379</sup> Livy, who also reports the Volscian destruction of plebeian farms at Coriolanus' request, records that this was done either because of Coriolanus' great hatred of the plebs or in order to create dissension between the patricians and plebeians (2.39.5). Dionysius provides only the latter as explanation, and explicitly asserts that Coriolanus succeeded in his task. Class conflict resulting from disagreements or tensions around the allocation of land is minimal until this point in Dionysius' narrative; it is clear, however, that the Dionysian Coriolanus is using pre-existing class tension to his advantage. This leads to continued conflicts between the two groups regarding access to land.

In particular, the patricians are described as using trickery to avoid any distribution of land at all. Dionysius reports that after Sp. Cassius' death,<sup>380</sup> the patricians contrived to ensure that men favourable to their cause, that is, those who would not pursue land

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<sup>379</sup> Even before Coriolanus destroys the plebeians' farms, Dionysius reports that the Volscians, led by Coriolanus, had demanded the restoration of their lands that the Romans had confiscated in war (8.8.2, 8.9.3, 8.10.2, 8.35.2).

<sup>380</sup> Dionysius, like Livy (see above, p. 107), records that the plebeians regretted their condemnation of Sp. Cassius after his death. As discussed in the Livy section, this sentiment was inspired by narratives discussing the aftermath of the deaths of the Gracchi.

distribution, would be consuls (8.82.4). After the death of Sp. Cassius, the patricians manage to repeatedly defer any decision regarding the allotment of land to the plebs using deceit and fraud (e.g., 8.87.3, 8.89.3, 9.17.3-4, 9.37.14). Indeed, in Book 9, one of the consuls—the father, no less, of the consul who supported land distribution in 467 BCE—declares that the senate wants foreign war to continue so as to avoid fulfilling its promises regarding land distribution (9.17.3-4).

Although Livy's treatment of Sp. Cassius is not completely hostile, the Dionysian narrative presents him in a more favourable light than the Livian one, as is clear in two passages in which Sp. Cassius appears. The first passage comes from Book 9. As we have seen, Livy reports that the Cassian agrarian law was Rome's first. It is clear from earlier discussions about land distribution that Sp. Cassius' represents the first *lex agraria* proposed at Rome,<sup>381</sup> but Dionysius does not explicitly mention this until 9.51.2, in the context of the events of 467 BCE. This is intentional. Through the postponement of this detail, Dionysius was better able to emphasize the plebeians' continued misfortunes at the hands of the patricians, who had been able to delay any distribution of land since Sp. Cassius' death—almost 20 years earlier. After his death, Dionysius presents the patricians as continually, and successfully, managing to postpone any agrarian allotments to the plebs.<sup>382</sup> After two decades of unsuccessful attempts by the plebeians, the patricians finally agreed to distribute land. This was done, however, through the establishment of a colony far from Rome, and because so few Romans enrolled to join, the distribution

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<sup>381</sup> As we shall see, Dionysius records many distributions of land to Romans and non-Romans during the regal period, but these did not require legislative initiative since they were performed by the kings.

<sup>382</sup> 8.82.4, 8.87.3, 8.89.3, 9.1.3, 9.5.1, 9.17.3-4, 9.18.1, 9.27.4, 9.37.1-4, 9.51.1-7.

fails.<sup>383</sup> The delayed reference to the Cassian agrarian law allowed Dionysius to emphasize the extent to which the issue of land distribution had been postponed.

By the mid-450s BCE, the patricians had managed to defer the agrarian issue since the death of Sp. Cassius 30 years earlier (10.35.5-10.41.5). In Dionysius' version, the controversy over land becomes entangled with the struggle over the codification of the law at Rome, culminating in the appointment of the decemviral boards of 451 and 450 BCE. L. Siccius Dentatus, one of tribunes in 454 BCE, advocates for the plebeians against the patricians. Dionysius reports that the plebeians, who had helped to conquer the land taken from Rome's enemies, were given no share in it and that the patricians retained those lands by violent means (10.36.2). Dionysius has Siccius deliver a speech in which he praises Sp. Cassius' attempt to solve the agrarian problems afflicting the poor, and he accuses the patricians of securing his condemnation and execution by means of false testimony (10.38.3). In his lengthy speech, Siccius emphasizes the injustice inflicted upon the plebs by the patricians, who have unlawfully seized land and prevented the plebeians from obtaining any for themselves (10.37-39). In 449 BCE, the decemvirs assassinate Siccius for opposing them (11.25.1-27.7; cf. Livy 3.43.1-7).<sup>384</sup>

Dionysius' portrayal of the wrongful monopolization of public land by the patricians and his references to Sp. Cassius outside of the context of 486 BCE arise from his intention to portray the patricians as greedy and to highlight their mistreatment of the plebeians. Indeed, as Smith recently argued, Dionysius' portrayal provides positive

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<sup>383</sup> The plebeians were disappointed because they felt that by enrolling to join the colony they were being banished from Rome (9.59.1-2); so few Romans enrolled that the senate allowed any Latins and Hernicans who so desired to join the colony instead.

<sup>384</sup> For more on the events of 449 BCE, see Broughton *MRR* I: 47-50.



details concerning Sp. Cassius' agrarian legislation—details that suggest not only a different style from that of Livy, but also a different political outlook.<sup>385</sup> Dionysius, like Cicero and Livy, emphasized, omitted, and reimagined his narrative based on his immediate authorial, rhetorical, and ideological needs.

Thus, Dionysius sets Sp. Cassius' agrarian proposal in the larger context of plebeian maltreatment by the patricians throughout the early Republic. Conflicts such as these regarding the use of land also fall within the even larger context of Dionysius' portrayal of Rome's rise to supremacy. Dionysius argues that the Romans' true innovation and greatest strength lay in their expansion by conquest and through the integration of others into her citizenry, both of which resulted in the control of ever-increasing territory.<sup>386</sup> According to Dionysius, Sp. Cassius' proposal to distribute Roman land to the Latins and Hernici was consistent with this treatment of allies, which, since the city's very beginnings, helped the Romans expand their power.

This theme is visible elsewhere in Dionysius' work, and many examples are attributed to various kings, including Romulus, Numa, and Tullus Hostilius, during the regal period. We shall consider a few of these examples here.

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<sup>385</sup> Smith 2006b, 52.

<sup>386</sup> 1.2.1-1.3.6. In contrast, Latin authors believed that expansion, especially during the second century BCE, led to increased luxury and greed and was the reason behind the degeneration of Rome over time (e.g., Sall. *Cat.* 10-11, *Jug.* 41; Tac. *Hist.* 2.38). At 39.6.9, in the context of the events of 187 BCE, Livy describes how luxury was seeping into the Roman state, but then ends the chapter as follows: Nevertheless these things which were perceived then were hardly even the seeds of future luxury. *Vix tamen illa quae tum conspiciebantur, semina erant futurae luxuriae*. Although there are earlier examples of this decline, Livy generally attributes the decline Carthage's destruction (Levick 1982, 53). Even Greek writers, such as Polybius, attributed the decline to Rome's expansion and the increase in luxury that accompanied it (e.g., Polyb. 36.9.5-7). The growth of Rome's empire was generally seen as the reason for the city's decline (for more examples and analysis, see, e.g.: Levick 1982; Lintott 1972a). In contrast, Dionysius presents Rome's expansionism as her main strength and as the reason she rose to supremacy. Indeed, Gabba notes that Dionysius omits the idea that Roman expansion led to her decline over time (1991, 211).

According to Dionysius, Romulus promised those who joined his city citizenship and a share of whatever land might be taken from the enemy in war (2.15.4). At 2.28.3, he records that Romulus divided equally among the people the land, slaves, and money taken from the enemy in war; this helped to secure the goodwill of the Romans, who henceforth took part in his campaigns “gladly” (ἀγαπητῶς). Livy does not mention this, and, in fact, the people that Romulus integrated into his new city are described as a mob (*turba*) of people fleeing from whatever plight they found themselves in (1.8.6).

Dionysius records that at the time of Numa’s succession, plebeians who had only recently been given Roman citizenship had not received land or booty from Romulus before his death, and, as a result, were homeless (2.62.3-4). To remedy the situation, Numa divided some of Romulus’ land as well as some public land among these new Roman citizens.<sup>387</sup> Similarly, when Tullus Hostilius became king, Dionysius writes, he also distributed to the Roman poor lands that Romulus, and then Numa after him, had enjoyed (3.1.4-5).<sup>388</sup> Once again, then, we see that expansion and the distribution of land, even to those newly conquered and integrated into Roman society, is integral to Dionysius’ treatment of early Rome.

Dionysius’ treatment of the destruction of Alba Longa is particularly illustrative.<sup>389</sup> After the city’s destruction, which occurred during the reign of Tullus Hostilius, the

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<sup>387</sup> In contrast to Dionysius, Livy reports that Numa accomplished many things, but this is not mentioned as one of them (Livy on Numa’s rise and reign: 1.17.1-1.21.6). Gabba points out that the Dionysian Numa is presented as the “mythic predecessor of the Gracchi” (1991, 176).

Dionysius also points out that Numa carried out this distribution of land, and was able to maintain the goodwill of the patricians by bestowing new honours upon the city’s new inhabitants, thereby maintaining patrician authority (2.62.4).

<sup>388</sup> Once more, Livy does not mention this detail (Livy on Tullus Hostilius’ rule: 1.22.1-1.31.8).

<sup>389</sup> Dionysius narrates the destruction of Alba Longa at 3.1.1-3.31.4.

Albans, we are told, were allowed to retain their own landholdings, and all other possessions, and were admitted to the Roman citizenry; in addition, Dionysius records that those Albans who did not possess any land would receive allotments of Alban land that had been considered public (3.29.6).<sup>390</sup> Livy mentions that Rome's population increased after Alba Longa's fall and that the Caelian Hill was added to the city's territory (1.30.1),<sup>391</sup> but there is no mention of the Albans being granted any land.<sup>392</sup> As Fox has pointed out, Dionysius presents the fall of Alba as "the archetype of Rome's humane expansion."<sup>393</sup> Livy's portrayal does not contain this humanism and harmony.<sup>394</sup> Dionysius' treatment of the fall of Alba Longa, therefore, maintains the picture of Rome's benevolent expansionism, in keeping with the goals of his history; in contrast, Livy presents it as a civil war—something to be abhorred—in a way that is evocative of the late Republic, which suited his aims.

Such examples reveal that there is a distinct pattern emerging in Dionysius' narrative. Land taken from an enemy is, from the beginning of the city's history, divided

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<sup>390</sup> At 3.30.1, Dionysius reports the reaction of the Albans to Tullus Hostilius' terms (some were pleased with being granted the retention their land and possessions, others were upset at losing their former standing and having to abandon their ancestral home).

<sup>391</sup> Livy describes other benefits that Tullus Hostilius granted to the Albans (1.30.1-3), however land is never mentioned.

<sup>392</sup> As scholars have noted, Livy's depiction of the fall of Alba Longa seems to be modeled on Vergil's treatment of the destruction of Troy, and Vergil seems to have owed much of his own portrayal on Ennius (e.g., Paul 1982, esp. p. 148-149, 152-153; Ogilvie 1965, 120; Walsh 1961, 171-172, 257).

<sup>393</sup> Fox 1993, 36.

<sup>394</sup> Dionysius presents the fall of Alba Longa as a reintegration of those who shared kinship with the Romans (3.28.6, 3.29.3). Livy's narration includes this element of kinship, but his portrayal is far less harmonious. He presents the conflict between Rome and Alba Longa as a civil war, and states that it was like sons (the Romans) going to war against their parents (the Albans). Livy 1.23.1: And each side prepared for war to the utmost of their ability, it was more similar to a civil war, more closely [a war] between parents and sons, each side was of Trojan descent, since Lavinium was descended from Troy, Alba from Lavinium, the Romans were descended from the stock of the Alban kings. *Et bellum utrimque summa ope parabatur, civili simillimum bello, prope inter parentes natosque, Troianam utramque prolem, cum Lavinium ab Troia, ab Lavinio Alba, ab Albanorum stirpe regum oriundi Romani essent.*

among Romans or divided among those who had been recently conquered, and to whom the land originally belonged, as a means of ensuring future goodwill and cooperation.

After the expulsion of the kings, however, there is a shift in Dionysius' narrative.

Expansionism and rewards for friendship with the Romans still occur, but the emphasis is more on the *στάσις* between the patricians and plebeians regarding access to land.<sup>395</sup> After his defeat of the Hernici, Sp. Cassius makes a treaty with them, having been told by the senate that it would approve whatever he decided (8.68.4). He duplicates the earlier treaty with the Latins (6.95.2) and applies it to the Hernici (8.69.2). The patricians, Dionysius reports, were displeased with this, and even more displeased when Sp. Cassius announced his proposal for the distribution of land to the Roman plebs, the Latins, and the Hernici (8.69.3-4). In light of what we have read previously in the history, Sp. Cassius is seen to treat the Hernici in a manner customary of the Romans since the city's foundation. Thus, the senate's unwillingness to grant land to the Latins and Hernici appears as a departure from a salutary practice that has been an essential engine of Rome's rise. Although Sp. Cassius' proposal is rejected, the senate decides that the Romans, Latins, and Hernici will campaign together in the future and will divide any land conquered from hostile neighbours equally (8.76.2). Later in his history, at 11.2.2, Dionysius reports that it is because of these friendly relations that the Latins and Hernici later helped Roman refugees escaping the Second Decemvirate.

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<sup>395</sup> This friendly expansion takes places, for instance, at 5.40.5 and 6.55.1, but the patricio-plebeian conflict takes precedence after the expulsion of the Tarquins, at which point instances of conflicts arising over land increase, especially in Books 7-10 (e.g., 7.27.1, 8.12.3, 8.81.1, 8.82.4, 8.87.3, 8.89.3, 9.1.3, 9.5.1, 9.18.1, 9.27.4, 9.32.1-5, 9.37.1-4, 9.51.1-7, 9.59.1-2, 9.69.1, 10.31-32, 10.35.5-41.5); Books 5 and 6 focus on land confiscated in war with neighbours (e.g., 5.43.2, 5.60.4, 6.20.1).

Dionysius is the first extant source to include speeches in his treatment of the events of 486 BCE. Neither Sp. Cassius nor Verginius speaks directly, but several others do, none of whom appear in the other sources.<sup>396</sup> As we have seen, Dionysius included speeches as a means of bringing richness of detail and plausibility to his narration of events. He also shaped them as he saw fit. His speeches, therefore, are also important for what they reveal about his interpretation of these events.

Direct speeches are attributed to Gaius Rabuleius, a tribune of the plebs, Appius Claudius Sabinus Inregillensis (cos. 495), a senator, and father of the infamous decemvir, and Aulus Sempronius Atratinus (cos. 497, 491), another senator.<sup>397</sup> Dionysius presents each figure as representative of a different political outlook. Rabuleius is presented as a pro-plebeian, cooperative politician, Claudius as a pro-senatorial, inflexible politician, and Sempronius as an advocate of compromise.

Initially Rabuleius advocates that the Roman plebs, the Latins, and the Hernici all receive land. When Verginius persists in his opposition, Rabuleius proposes limiting the distribution to the Roman plebs and postponing the provision concerning the Latins and Hernici (8.72.3). Dionysius, it seems, has brought Rabuleius into the narrative as a figure sympathetic to the plebeians, but also as willing to compromise for the sake of the state.

Upon hearing that the Latins and Hernici had been excluded, Sp. Cassius attempts to have his original proposal passed by force (8.72.4). This prompts a meeting of the senate, which, in Dionysius' narrative, includes speeches. Claudius opposes the

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<sup>396</sup> Livy refers to "senators" at 2.41.2 and 2.41.4, but he does not provide names.

<sup>397</sup> Rabuleius: 8.72.1-3. Claudius: 8.73.2-5 (includes indirect and direct speech). Sempronius: 8.74.1-8.75.4. Earlier in the narrative, Dionysius reports that Appius Claudius was also one among "the oldest and most honoured" of the senators who spoke against Sp. Cassius in reported speech at 8.71.1 (which explains why Dionysius reports, at 8.73.2, that he spoke first during the meeting of the senate).

distribution of land to anyone. Admitting, however, that the plebeians were justified in their anger because the patricians were “exceedingly shameless” (τοὺς ἀναιδεστάτους) for their wrongful appropriation of public lands (8.73.4),<sup>398</sup> he proposes that the public land in question be reclaimed and used by the state in such a way that the plebeians would relent from their desire for individual land allotments (8.73.4-5). Dionysius has presented Claudius as an uncompromising patrician, and his proposal to make a minor concession in order to not make a larger one is in keeping with Dionysius’ portrayal of patrician attempts to delay land distribution throughout the Struggle of the Orders.

Following Claudius’ speech, Sempronius gives his opinion (8.74.1-75.4). Sempronius’ speech is the longest of all, and is notable since it is here that Dionysius refers more explicitly to the themes and concerns of his work as a whole. Sempronius agrees with Claudius that some of the patricians had appropriated the lands unjustly,<sup>399</sup> and remarked that:

“...not to experience civil discord among the leading men of the state is the cause of all public benefits among poleis.”<sup>400</sup>

Sempronius proposes the division of land among the plebs (8.75.3), especially since this concession had already been promised to them (8.75.1-3), but the exclusion of the Latins and Hernici because they were not allied with the Romans when the land in question had been conquered (8.74.2); he also proposes that the Romans and Latins and Hernici keep the possessions that they had before becoming allies, but that any land acquired by them

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<sup>398</sup> On the contradictions in Dionysius’ presentation of Claudius’ opinion, see Wiseman 1979a, 73-75.

<sup>399</sup> 8.74.3: καὶ ὅτι ἐξ ἡμῶν τινες οὐ δικαίως αὐτὰ καρποῦνται.

<sup>400</sup> 8.75.4: καὶ τὸ μὴ στασιάζον ἐν τοῖς προεσθηκόσι τῶν κοινῶν ἀπάντων ἀγαθῶν ἐν ταῖς πόλεσιν αἴτιον.

jointly in war henceforth be divided equally (8.74.2). The senate agrees unanimously with him (8.76.1). Through compromise and a policy that still benefitted the plebs, the Romans avoided violence and social upheaval. The allies, therefore, would receive land, but only from future campaigns. Thus, Dionysius uses these exchanges to reinforce his larger theme of the virtuous circle between benevolent expansionism and civic stability as propelling Roman greatness.

We have already seen that Livy's narrative contains Gracchan echoes in several places, and most of these are repeated in Dionysius and need not be recounted here. Gabba has shown, however, that Dionysius' presentation contains additional Gracchan elements. Gabba notes that many of these are found in Dionysius' speeches.<sup>401</sup> He argues that Claudius' concerns seem to be modeled on the criticisms and attacks launched against the Gracchan reforms.<sup>402</sup> Therefore, Gracchan doublets that we have encountered elsewhere are repeated, but the Dionysian narrative includes more of them, and these require consideration.

When Sp. Cassius encountered the opposition of the senate, Dionysius relates, he amassed a bodyguard of the worst citizens, while Verginius was accompanied by the best (8.71.3). Gabba interprets this as an echo of the throngs that escorted Tiberius and Gaius Gracchus.<sup>403</sup> Presumably this reflects an optimate version of events. Another doublet can be found in the report that Sp. Cassius urged the Latins and Hernicans to come to Rome to vote for his proposal (8.72.4). Verginius countered by expelling non-residents (8.72.5),

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<sup>401</sup> Gabba 2014 [1964], 192-196.

<sup>402</sup> Gabba 2014 [1964], 194.

<sup>403</sup> Gabba 2014 [1964], 192.

which would appear to be modeled on what happened in 122 BCE. In that year, the consuls banned from Rome those who did not have the right to vote, reacting to the influx of allies who had come to vote for C. Gracchus' citizenship proposal (App. *B. Civ.* 1.23).<sup>404</sup> The sentiments attributed to Sp. Cassius (8.70.1-4) reflect those expressed in some of C. Gracchus' speeches, especially, as Gabba points out, in his speech before the elections of tribunes for 122 BCE.<sup>405</sup> Similarly, the role of Rabuleius seems to echo that of the two consulars who intervened before M. Octavius was deposed by Ti. Gracchus (Plut. *Ti. Gracch.* 11.1-2).<sup>406</sup> The opposition of the tribunes, Gabba notes, is a clear doublet of Gracchan events. This is all the more clear because the tribunes could not have opposed Sp. Cassius' proposal in the *comitia centuriata*, where he would have proposed it.<sup>407</sup> Gabba identifies additional Gracchan accretions in several of Claudius' counter-proposals. Claudius' proposal to establish a commission to fix the boundaries of the *ager publicus* illegally held by the patricians and restore this to the state (8.73.2-3) is obviously a doublet of the Gracchan land commission. Claudius' proposal to sell part of this land and to rent out the other part, and to put the proceeds of the latter toward the payment of troops and the purchase of military supplies, assumes a need to fund ongoing military expenses that does not fit well with the early Republic.<sup>408</sup> Gabba has interpreted it as

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<sup>404</sup> Gabba 2014 [1964], 198-199.

<sup>405</sup> Gabba 2014 [1964], 191-192.

<sup>406</sup> Gabba 2014 [1964], 193.

<sup>407</sup> Gabba 2014 [1964], 193.

<sup>408</sup> As Gabba points out, these were two of the most regular ways of using *ager publicus*; the former was sold by the quaestors, the latter leased by the censors (2014 [1964], 193).



reflective rather of problems that Tiberius and Gaius Gracchus had sought to remedy.<sup>409</sup>

The Gracchan colouring is unmistakable.

Similarly, we see the same three elements in Dionysius' presentation of the patrician justification for the retention of public land as we see in the Gracchan material: the land had been neglected; it had been held for a long time; and those who possessed the land believed that they were entitled to retain it. Dionysius describes the situation in 486 BCE as follows:

For he intended to distribute to the people a certain large portion of land, which belonged to the state, and which had been neglected and was in possession of the richest men.<sup>410</sup>

Appian describes the situation that Ti. Gracchus was attempting to remedy as one in which the rich likewise felt entitled to the public land that they had been using because they had used it for so long without any issues in the past (*B. Civ.* 1.7). Additional difficulties arose, it seems, because many of those who occupied the land in question did not possess proof of ownership or occupation (App. *B. Civ.* 1.18).<sup>411</sup>

Dionysius' depiction of the aftermath of Sp. Cassius' execution also contains a post-Sullan accretion. According to Dionysius, some men wanted also to execute Sp. Cassius' sons (8.80.1); the senate, however, considered this a cruel and dangerous action and, as a result, the Romans abolished the practice of punishing sons for crimes committed by their fathers (8.80.2). Dionysius contrasts this with more recent events. He relates how Sulla treated the sons of the proscribed, revoking their civil rights, and how

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<sup>409</sup> Gabba 2014 [1964], 194; cf. Plut. *C. Gracch.* 5.1.

<sup>410</sup> 8.69.3: ἦν γάρ τις χώρα δημοσία πολλὴ παρημελημένη τε καὶ ὑπὸ τῶν εὐπορωτάτων κατεχομένη, ταύτην ἔγνω τῷ δήμῳ διανέμειν.

<sup>411</sup> Pritchard 1969, 546-547.

even after 80 BCE some politicians had blocked attempts to rescind Sulla's provision (8.80.2).<sup>412</sup> He then alludes to Caesar's restoration, in 49 BCE, of these civil rights (8.80.2). Gabba has pointed out that Dionysius is reflecting discussions that would have been taking place in political circles at Rome when the Caesarian restoration took place.<sup>413</sup> The controversy surrounding the punishment of sons for the misdeeds of their fathers arose once more in 43 BCE.<sup>414</sup> From several of Cicero's letters that date to July of this year, it is clear that the issue had resurfaced as a result of the civil war that occurred after Caesar's assassination.<sup>415</sup> Yet again, Dionysius' reference to this situation nicely illustrates how stories were adapted and became increasingly politicized over time.

We have already discussed several of the ways by which Dionysius at times portrays Sp. Cassius in a positive light, but a few remaining points need to be made here since this is one of the most significant ways his treatment differs from those of the other sources. Dionysius records that after the Hernici were subdued, Sp. Cassius referred the Hernican ambassadors to the senate (8.68.4). He also reports that the senate decided to extend to the Hernici terms of friendship, leaving it to Sp. Cassius to negotiate these terms.<sup>416</sup> Nevertheless, the senators are portrayed as indignant *because* Sp. Cassius had drawn up the treaty according to his wishes and without the approval of the senate (8.69.2), even though this is what he was initially told to do (8.68.4). Their withdrawal of

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<sup>412</sup> Forsythe 2005, 194 and 1994, 299; Gabba 1991, 146.

<sup>413</sup> Gabba 1991, 146-147. The restoration was ensured through the *lex Antonia de proscriptorum liberis*, proposed by M. Antonius (cos. 44, 34, cos. des. 31) as tribune of the plebs in 49 BCE. For ancient sources on the law, cf. Broughton *MRR* II: 258; Rotondi 1912 [1962], 416.

<sup>414</sup> Gabba 1991, 147.

<sup>415</sup> Cic. *ad Brut.* 1.20.1, 1.21.1-2, 1.23.11.

<sup>416</sup> 8.68.4: Whatever seemed good to that man [Sp. Cassius], this would be enacted by them. ὅ τι δ' αὖν ἐκεῖνον δόξῃ, τοῦτ' εἶναι σφίσι κύριον.

support is justified because he had overreached by drawing up the terms of the treaty himself. There is a discontinuity here. It seems that Dionysius has adapted a version (clearly *popularis* in nature) in which Sp. Cassius is assumed to have the authority to negotiate, and another (anti-*popularis* in nature) that assumed the opposite.

A pro-*popularis* tradition can also be detected in the motivations ascribed to the tribunes' opposition to the agrarian proposal.<sup>417</sup> They are described as opposing Sp. Cassius out of envy (8.71.4: διὰ τὸν φθόνον). This is in line with Sp. Cassius' condemnation of the tribunes, whom he condemns as betraying the plebeians' interests. In this tradition, the distribution scheme was intended to strengthen the position of the poor (8.71.6). The *popularis* flavouring is also seen in the pettiness of Ap. Claudius when he argues against the proposal by pointing out that Sp. Cassius, and not the senate, would be the recipient of public goodwill (8.73.2). The Sp. Cassius of this *popularis* tradition, then, is prevented from passing a *lex agraria*, which was meant to assist the plebeians, by the jealousy of the senate and tribunes.

The story also came to be used as an example of paternal severity. Although Dionysius, like Livy, prefers the version of Sp. Cassius' condemnation and execution by the quaestors, he also reports a version in which Sp. Cassius' father played the role of informer and accuser against his son, eventually putting him to death at home (8.79.1). At 8.79.2, he provides other *exempla* of fathers who punished their sons during the early Republican period, including L. Iunius Brutus (cos. 509), who condemned both his sons to death for their attempt to restore the kings, and M. Manlius Capitolinus (cos. 392), who

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<sup>417</sup> Dionysius is the only extant source that mentions the tribunes of the plebs in the context of the events of this year.

supposedly put his son to death as a deserter because he had abandoned his post in order to help other Romans engaged in battle. This was an established rhetorical *exemplum*, and Valerius Maximus provides a long list of instances, including Sp. Cassius' father.<sup>418</sup>

As we have seen, Dionysius' account of the events of 486 BCE contains elements similar to other sources and shows just how entrenched some of these elements became over time. Like the other sources we have looked at, Dionysius' narrative was reimagined to suit his own aims, but this also resulted in some contradictions in his treatment of the episode. Dionysius' version is a combination of two competing narratives, and in his treatment we see the details of one or the other emerge at different times. On the one hand, we see the overreaching Sp. Cassius preferred by conservative, pro-senatorial sources and, on the other, the reformer Sp. Cassius preferred by "popular" sources. At the same time, Dionysius was using the episode to fulfill his own goals, including his belief in a Greek ethnogenesis of the Romans, and his admiration for the Romans' avoidance of irreparable στάσις internally and their humane expansionism externally, which included land distribution to allies. For Dionysius, this justified their supremacy.

## CONCLUSION

Cicero is the earliest extant source to present Sp. Cassius among other malefactors of the early period. This resulted in an established list of malefactors, which was adopted by later authors. Both Livy (6.17.1-2) and Valerius Maximus (6.3.1a-c) reproduce this list in their own works. Dionysius mentions M. Manlius Capitolinus in his account of Sp.

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<sup>418</sup> Valerius Maximus dedicates an entire section on father's severity towards their children at 5.8 (on Sp. Cassius, 5.8.2); cf. Sall. *Cat.* 39.6. See, also, Maslakov 1984, 476-480.

Cassius (8.79.2), but Sp. Maelius is not mentioned in his account of Cassius; his account of Manlius has not survived.

The narrative has undergone a series of reshapings. Cicero's primary concern is with Sp. Cassius' attempt at *regnum*, not the means by which the consul of 486 tried to fulfill his aim. Cicero never attributes to Sp. Cassius a *lex agraria* or frumentary proposal. He elaborates on the means by which Sp. Cassius sought to establish himself as king only once (*Rep.* 2.60) and, even then, we are only told that he sought to do so through "popular" legislation. Cicero uses the episode as a way of providing a negative *exemplum* and of highlighting the similarities between Sp. Cassius' aims and those of various contemporary figures, namely Catilina, Clodius, Caesar, and Marcus Antonius. In the years following Cicero's death, Livy and Dionysius both wrote about the same episode; they used this episode to describe the turmoil of their own times. It is not until Livy and Dionysius that a *lex agraria* becomes explicitly attached to the narrative of Sp. Cassius, reflecting the contemporary land distributions made by Caesar and the proscriptions carried out by the triumvirate. The language they use to describe Sp. Cassius' misdeeds are analogous to those found in descriptions of the conflicts between *optimates* and *populares* of the late Republic. Although this study does not extend to Valerius Maximus, who was writing during the reign of Tiberius, by his time the atrocities of the late Republic were fading from memory, and the problematic tribune of the late Republic was a thing of the past. He turns Sp. Cassius from a consul into a tribune, presumably because the consuls of his period had become figures of the conservative establishment. Ancient accounts of Sp. Cassius' third consulship were influenced by episodes in later Republican

history, were reshaped by successive historians, and presented audiences with conduct to be imitated or avoided.

## **PART II: SP. MAELIUS AND FRUMENTARY DISTRIBUTION**

### **INTRODUCTION**

Part II of the dissertation will examine the ways in which the ancient sources recast grain distributions said to have occurred during the Struggle of the Orders based on the concerns and events of their own times. Just as the *lex agraria* proposed by Ti. Gracchus provided an opportunity for later authors to comment on contemporary problems regarding land distribution, C. Gracchus' *lex frumentaria* of 123 BCE provided a similar opportunity in relation to the allotment of grain. In the decades following, other grain distributions were proposed, including those of L. Appuleius Saturninus (in 100 BCE) and P. Clodius Pulcher (in 58 BCE), as popular politicians turned their attention to stabilizing Rome's food supply through *leges frumentariae*, or to trying to benefit politically from such crises (depending on one's ideological outlook). These events had an effect on narrative traditions.

Our sources represent grain shortages as a serious, recurrent problem throughout Rome's history. Grain shortages were a source of anxiety among the Romans, and our sources record numerous episodes involving the distribution, and importation, of grain. Within the first twenty-five years of the Republic, several occurrences of famines and food crises are reported.<sup>419</sup> It is difficult, however, to verify the historicity of reports that grain was imported already in the early Republic, for our sources retroject later concerns onto this earlier period. As we shall see, the plebs are frequently depicted as the victims

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<sup>419</sup> There were, for instance, the famines of 496 BCE (DH 6.17.2), of 492 BCE (Livy 2.34.2-5; DH 7.1.3, 7.2.1), and of (around) 486 BCE (Livy 2.41.8; DH 8.70.5). Garnsey provides a list of all food crises from the early to the mid-Republic; with ancient sources; his list records food crises in 508, 496, 492, 477, 456, 453, 440-439, 433, 428, 412-411, 399, 392, 390, 299, and 286 BCE (1988, 168-172).

of famine and, as a result, ambitious Roman politicians are portrayed as using the lure of grain distribution to win popular favour in order to further their own political aspirations. The availability and distribution of grain are depicted as one of the underlying causes of the conflict between the patricians and plebeians during the early Republic. For instance, the secession of the plebs in 494 BCE is blamed for causing a famine in that same year: men were not able to cultivate their fields because of the secession, causing a food shortage.<sup>420</sup> The use of grain to win popular favour, however, seems to reflect late Republican events. As we shall see, concerns about grain were intertwined with the controversy surrounding the use of lethal force against Roman citizens, particularly those who represented the plebeians in an official capacity.

The accounts of the extant sources represent frumentary distributions as a common occurrence in the early period, but they also report that disputes arose between the exploitative patricians and starving plebeians. These accounts, however, have been heavily influenced by each author's own biases and contemporary circumstances. In 439 BCE, Sp. Maelius reportedly distributed grain to the plebs. The distribution of the grain assumed in the narratives about Sp. Maelius is certainly anachronistic, reflecting more contemporary frumentary distributions and not the reality of the fifth century BCE.<sup>421</sup>

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<sup>420</sup> Livy 2.34.2-3; DH 7.1-2.

<sup>421</sup> On the anachronisms contained within the narratives on Sp. Maelius: Smith 2006b; Forsythe 2005, 240-241 and 1994, 296-310; Wiseman 2004, 192-193 and 1998, 99-101; Erdkamp 2000; Cornell 1995, 268; Erskine 1991, 114-115; Panitschek 1989; Garnsey 1988, 170-171, 177, 178; Virlouvet 1985, 20-21; Rickman 1980, 29-31; Lintott 1970 and 1968, 55-56; Ogilvie 1965, 550-552; Mommsen 1871, esp. p. 256-269. There is much controversy surrounding the authenticity of notices recording grain shortages for the early years of the Republic. Several scholars argue for the authenticity of such notices (e.g., Forsythe 2005, 241; Erdkamp 2000, 55; Cornell 1995, 268; Garnsey 1988, 167-168; Rickman 1980, 29; Ogilvie 1965, 550). "We know that grain shortages were among the items regularly noted in the *Annales maximi*, and sometimes Livy gives unembellished references that probably reflect the character of this primary



This episode resonated with later authors who used it as a proxy to comment upon contemporary concerns. Maelius was cast as a *popularis* prototype, one which became increasingly relevant during the late Republic as popular politicians tried to use “frumentary largesses,” as the optimates would have described them, to garner support with the masses. It is to these reinterpretations of the episode involving Sp. Maelius that we shall now turn.

### **SPURIUS MAELIUS (FELIX)**

In 440 BCE, there was, as our sources report, a severe famine at Rome,<sup>422</sup> and Lucius Minucius Esquilinus Augurinus (cos. suff. 458), a patrician, was made prefect of the corn supply to help deal with the crisis.<sup>423</sup> The famine, however, did not abate, and Minucius remained as prefect in the following year. According to Livy, the famine was so severe that many plebeians were hurling themselves into the Tiber to avoid death by starvation.<sup>424</sup> In 439 BCE, Sp. Maelius, whom Livy and Dionysius describe as a wealthy equestrian, purchased corn at his own expense and distributed it to the plebeians.<sup>425</sup> (His wealth was so great, according to Dionysius, that he gained the cognomen “Felix.”)

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source” (Cornell 1995, 268). It is the grain distribution supposedly undertaken by Sp. Maelius that is ahistorical.

<sup>422</sup> Livy 4.12.7-8; DH 12.1.1.

<sup>423</sup> Livy 4.12.8; DH 12.1.6, 12.1.11. Livy, although skeptical of the report, states that Minucius may have been transferred to the plebs and become an eleventh tribune as a reward for helping to safeguard the Roman state against Sp. Maelius’ tyrannical aspirations (Livy 4.16.3; similarly Plin. *Nat.* 18.4[15]).

<sup>424</sup> Livy 4.12.11.

<sup>425</sup> Cincius, fr. 6 (Peter); Piso, fr. 24 (Peter); Varro, *Ling.* 5.157; Diod. Sic. 12.37.1; Livy 4.12-16; DH 12.1-4; Val. Max. 5.3.2g, 6.3.1c; Quintil. *Inst. Or.* 5.13.24; Florus 1.17.7(1.26.7); Ampelius 27.2. Cicero on Sp. Maelius: *Cat.* 1.3; *Dom.* 101; *Rep.* 2.49; *Mil.* 72; *Sen.* 56; *Amic.* 28, 36; *Phil.* 2.87, 2.114. Cicero on C. Servilius Ahala: *Cat.* 1.3; *Dom.* 86; *Sest.* 143; *Rep.* 1.6; *Mil.* 8, 83; *Orat.* 153; *Sen.* 56; *Phil.* 2.26, 2.27. Cicero also refers to Ahala in two of his letters to Atticus: *Att.* 2.24.3, 13.40.1. For ancient sources on the year 439 BCE, see Broughton *MRR* I: 6. See Appendix 5 for a chart showing the evolution of the narrative involving Sp. Maelius, categorized by author and element of the episode.

Sp. Maelius as an equestrian: Livy 4.13.1-2; DH 12.1.1.

Minucius learned of Maelius' plot to acquire *regnum* and informed the senate. As a result, Lucius Quinctius Cincinnatus (cos. suff. 460, dict. 458) was appointed dictator in order to curb Maelius' ambition.<sup>426</sup> In a familiar pattern, Maelius' ensuing popularity led to accusations that he was aiming at kingship, his alleged conspiracy was discovered, and he was killed by the patrician C. Servilius Ahala, about whose status the sources diverge and to which we shall return later. Maelius' house was destroyed, and the area where it had once stood was named the Aequimaelium (Varro, *Ling.* 5.157; Livy 4.16.1; DH 12.4.6). Livy and Dionysius report that Minucius was rewarded for his role in exposing Maelius' conspiracy: a statue was erected in his honour.<sup>427</sup>

As was the case with M. Manlius Capitolinus and Sp. Cassius, the episode involving Sp. Maelius was reworked and adapted by successive generations of authors.<sup>428</sup> Although the changes and adaptations made to the narratives regarding Sp. Maelius are easier to discern than those made to the episode involving Sp. Cassius, we shall see that the variability of details and the selectivity in which they are communicated make this episode more complex. Initially, narratives of the episode focused on Sp. Maelius' *popularis*-inspired distribution of grain at his own expense as a means of winning excessive favour from the masses so as to gain the support that he required to become king. Over time, however, the episode evolved into a discourse not simply about Roman freedom, but also about the use of violence within Roman politics. Specifically, the role

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<sup>426</sup> Cic. *Sen.* 56; Livy 4.13.12; DH 12.2.1, 12.2.5.

<sup>427</sup> As with Sp. Cassius, then, the episode involving Sp. Maelius was used to explain various monuments at Rome.

<sup>428</sup> The dictatorship attributed to 439 BCE seems to have developed separately from the *Fasti*; several scholars have suggested that it was adapted at a later date to fit an annalistic framework, suggesting that the association of two dictatorships with Cincinnatus must have pre-dated Cicero (Rickman 1980, 31; Lintott 1970, 13, 15-16; Ogilvie 1965, 550).

played by Servilius Ahala became a serious point of contention, and he became a crux of reinterpretation based on the aims of a given author.

Just as Sp. Cassius' third consulship resonated with later events, so, too, did Sp. Maelius' distribution of grain, particularly in the wake of the tribunes of the Gracchi. In particular, C. Gracchus' *lex frumentaria*, the first legislative measure to ensure the distribution of grain to the poor at a reduced cost, resulted in increased interest in Maelius' acts, which were refigured in light of Gaius' actions: if Gaius' distribution was aimed at the acquisition of *regnum*, so, too, must Sp. Maelius'. Cincinnatus' reaction to the news of Ahala's slaying of Maelius also seems to have been recast in the image of later events. Livy reports that the dictator praised Ahala for preserving the Republic (4.14.7) and that, in an assembly, he proclaimed that Maelius had been "justly slain" (4.15.1). As we shall see, several sources (including Cicero) report that this is how P. Cornelius Scipio Africanus Aemilianus (cos. 146, 134) responded when asked by a tribune of the plebs what he thought about the death of Tiberius Gracchus.<sup>429</sup> The events of 439 BCE were recast over the course of centuries. Sp. Maelius was depicted as a Gracchan reformer, Ahala as a Gracchan tyrannicide, and the early Roman senate as the Gracchan optimate opposition.

When did these reinterpretations occur and what contemporary circumstances might explain them? We shall begin with fragments of L. Cincius Alimentus (pr. 209) and L. Calpurnius Piso Frugi (cos. 133, cens. 120)—both preserved in Dionysius of

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<sup>429</sup> Cic. *Mil.* 8; Vell. Pat. 2.4.4.

Halicarnassus' *Antiquitates Romanae*—and then move on to Cicero's reshapings of the episode, followed by those of Livy and Dionysius of Halicarnassus.

**CHAPTER 1: SP. MAELIUS IN L. CINCIUS ALIMENTUS AND L.  
CALPURNIUS PISO FRUGI**

Dionysius of Halicarnassus, in his account of the events of 439 BCE, reports that he consulted the works of two early Roman authors.<sup>430</sup> One of these authors was the Roman annalist and jurist Lucius Cincius Alimentus,<sup>431</sup> who served as propraetor in Sicily in 209 BCE. He was captured by the Carthaginians during the Second Punic War, and, the story goes, Hannibal described to him his crossing of the Alps, which Cincius wrote down, forming the basis for many of the accounts of later Roman authors.<sup>432</sup> Cincius, like the other of Rome's first historians, Fabius Pictor, wrote in Greek. Dionysius tells us that Cincius and Fabius Pictor wrote about their own times in great detail, but only discussed events of the early Republic in a brief, summary fashion.<sup>433</sup>

Lucius Calpurnius Piso Frugi (cos. 133, cens. 120), who, as we have seen, wrote an annalistic history of Rome from its origins down until his own time, is the other source mentioned by Dionysius. Piso was an opponent of the Gracchi and maintained a very conservative, pro-senatorial outlook on matters.<sup>434</sup> His narrative of the events of 439 BCE

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<sup>430</sup> DH 12.4.2-5. Cincius, fr. 6 (Peter); Piso, fr. 24 (Peter).

<sup>431</sup> There are some difficulties with Dionysius' text at this point in his narrative (see Jacoby's 1967 Teubner for the apparatus criticus on DH 12.4.2). The Greek has been emended to attribute the variant version of Sp. Maelius' downfall to Cincius and Piso, and this is the reading accepted here, and by most scholars. It has been suggested that καὶ ἄλλοι be inserted before ἐπιχώριοι συγγραφεῖς, indicating that not only was the version attributed to Cincius and Piso, but to other Roman authors as well (Bispham and Cornell in *FRHist* III.51). For a succinct overview of problems associated with the text, see: Bispham and Cornell in *FRHist* III.51; Lintott 1970, 14-15. Regardless, it does seem that Dionysius associated the variant version with more than one author. In addition, based on the coins issued by two members of the *gens Minucia*, dated by Crawford to 135 and 134 BCE respectively (for both coins, see *RRC* I.273-276), it is clear that portions of the episode existed before Piso's retelling.

<sup>432</sup> Livy 21.38.3.

<sup>433</sup> DH 1.6.2.

<sup>434</sup> For more on Piso, see above Part I, Chapter 2.

would presumably have supported the slaying of a Roman citizen harbouring monarchical ambitions.

Based on Dionysius, it seems that Cincius and Piso presented similar versions of the episode involving Sp. Maelius.<sup>435</sup> He does not note any differences in their accounts. In their tellings, it was L. Minucius (who is notably absent from Ciceronian accounts) who learned of Maelius' plot and relayed this information to the senate. The senators believed the allegation, and one of them advocated that they put Maelius to death without a trial; the senate agreed, and ordered Ahala to carry out the slaying, which he did with a hidden dagger, earning him the cognomen Ahala ("arm-pit").<sup>436</sup> Some Romans were reportedly outraged by Ahala's slaying of Maelius and intended to stone him to death, but when they learned that the senate had sanctioned this action, their anger subsided (12.4.5).

The account that Dionysius provides on the basis of these two authors is quite elaborate. Given that Dionysius states early on in his work that Cincius wrote of early Rome in a summary fashion (1.6.2), and Livy similarly states that Cincius only provided a bare annalistic account of the early Republic,<sup>437</sup> we should assume that Dionysius primarily reflects the account provided by Piso, which we should suspect anyway given the presence of Gracchan overtones in Dionysius' telling.

The various versions of this narrative differ on whether or not Ahala was a magistrate. Some authors report that he was master of the horse; others that he was a

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<sup>435</sup> DH 12.4.2-5.

<sup>436</sup> DH 12.4.4-5. It should be pointed out, however, that the cognomen Ahala appears in the *Fasti Capitolini* beside the Servilian consul of 478 BCE (on this, see: Lintott 1970, 13; Degraasi 1954, 28-29).

<sup>437</sup> Livy 9.44.1-4.

*privatus* (which seems to be the older of the two traditions<sup>438</sup>). According to Dionysius, Piso presented Ahala as a private citizen. This would have suited Piso's political purposes. Those responsible for the deaths of the Gracchi needed to legitimize the use of lethal force by private citizens.<sup>439</sup> Piso's account would seem to have lent legitimacy to the killing of Ti. Gracchus by providing an historical *exemplum* of a private citizen who protected the state from a man with monarchical ambitions. Servilius Ahala held no office, but did have the authority of the senate behind him; the Roman mob was outraged by Sp. Maelius' death, and only the report that the senate had authorized it prevented the crowd from exacting revenge on Ahala:<sup>440</sup> so, too, by implication, should the contemporary populace—resentful of Tiberius' slaying<sup>441</sup>—yield to the senate's authority.<sup>442</sup> It is also well-known that Piso strongly opposed C. Gracchus' *lex frumentaria* of 123 BCE;<sup>443</sup> in this regard, too, the story of Sp. Maelius provided him an opportunity to comment upon the events of his own time. As Forsythe points out, Sp. Maelius' exploitation of a grain shortage to acquire *regnum* would have provided Piso with an obvious political moral in the aftermath of the events of 121 BCE.<sup>444</sup>

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<sup>438</sup> An examination of the narratives at our disposal will elucidate this point, and this is accepted by modern scholars: Bispham and Cornell in *FRHist* III.52; Cornell 2005, 51; Chassignet 1999, 88, 89-90; Forsythe 2005, 240-241 and 1994, 302; Lintott 1970, 14; Ogilvie 1965, 550.

<sup>439</sup> As Bispham and Cornell point out regarding the association of Sp. Maelius' and Ti. Gracchus' slayings, "it is impossible to believe that Piso did not see a connection between the two events and write accordingly" (in *FRHist* III.51).

<sup>440</sup> DH 12.2.9.

<sup>441</sup> Plut. *Ti. Gracch.* 21.1, 21.2; App. *B. Civ.* 1.17.

<sup>442</sup> As Forsythe notes, the Roman people of Maelius' day "exhibited singular good sense by acquiescing fully in the senate's judgment" (1994, 303). The implicit argument is that the plebs of earlier times accepted rough justice condoned by the senate, and, therefore, so should the contemporary populace.

On the people yielding to the senate: Plut. *Ti. Gracch.* 20.1.

<sup>443</sup> E.g., Cic. *Tusc.* 3.48 (despite his constant opposition to C. Gracchus' *lex frumentaria*, Cicero tells us that Piso showed up to receive his allotted portion of grain).

<sup>444</sup> Forsythe 1994, 303-304.

These parallels reappear in the accounts of later authors. Cicero often refers to the events of 439 and 133 BCE within the same passage (*Cat.* 1.3, *Rep.* 1.6, *Mil.* 8, 72, 83).<sup>445</sup> Livy has his Cincinnatus declare that Maelius had been lawfully killed (4.15.1) in a manner that echoes the sentiment expressed by P. Cornelius Scipio Africanus Aemilianus (cos. 146, 134) regarding the death of Ti. Gracchus (Cic. *Mil.* 8; Vell. Pat. 2.4.4).

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<sup>445</sup> For more on Ciceronian references to the narrative of Sp. Maelius see below, Chapter 2.



## **CHAPTER 2: SP. MAELIUS AND C. SERVILIUS AHALA IN CICERO**

We know that Dionysius of Halicarnassus consulted the accounts of L. Cincius Alimentus (pr. 209) and L. Calpurnius Piso Frugi (cos. 133, cens. 120), and it seems likely that Cicero did too—a pre-existing tradition in which Sp. Maelius attempted to overthrow the Republic and establish himself as king. Indeed, in one of his discussions of Servilius Ahala, Cicero mentions the annals (*annales populi Romani*) and records of antiquity (*monumenta vetustatis*),<sup>446</sup> which he surely consulted for his own purposes. This chapter will consider Ciceronian portrayals of Sp. Maelius and C. Servilius Ahala, focusing on the ways in which Cicero modified the episode and the extent to which these modifications were dictated by contemporary concerns. Chapter 2 will also analyze why and how Ahala became integral to the episode involving Maelius, particularly in the context of Piso's retelling of a narrative that, at least in Cincius' presentation, had been presumably sparse. Finally, we shall consider places where Cicero uses one of Maelius or Ahala without reference to the other.

Cicero mentions Sp. Maelius and C. Servilius Ahala in the following works (all of which will be considered in turn):

- *In Catilinam* (63 BCE): Maelius and Ahala are treated together;
- *De domo sua* (57 BCE): Maelius and Ahala both appear but are treated separately;
- *Pro Sestio* (56 BCE): only Ahala appears;

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<sup>446</sup> Dom. 86.

- *De republica* (between 54 and 51 BCE): Maelius and Ahala both appear but are treated separately;
- *Pro Milone* (52 BCE): Maelius and Ahala both appear but are treated separately;
- *Orator* (46 BCE): only Ahala appears;
- *Cato Maior de senectute* (early 44 BCE): Maelius and Ahala are treated together;
- *Laelius de amicitia* (between March and November of 44 BCE): only Maelius appears;
- *Second Philippic* (October of 44 BCE): Maelius and Ahala both appear but are treated separately.

As we have seen, Cicero is the first extant source to list Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus together as a group of malefactors of the early Republic, associating this trio with the *populares* of the late Republic.<sup>447</sup> Maelius also appears independently. Maelius and Ahala, both of whom appear relatively frequently in the Ciceronian corpus, nine and eleven times respectively, are mentioned within the same passage only twice.<sup>448</sup> As we shall see, Cicero mentions Ahala more often in the years following his consulship for an obvious reason: Ahala's example could be cited as

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<sup>447</sup> This does not mean that the practice of grouping these three men together did not pre-date Cicero, he is simply our first extant source to do so. See Appendix 2 for a catalogue of the three malefactors, and other figures that are mentioned alongside them, in the Ciceronian corpus.

<sup>448</sup> See Appendix 6 for the Ciceronian passages in which Sp. Maelius and C. Servilius Ahala are mentioned separately and together.

It should be noted that although Cicero refers to Maelius and Ahala nine and eleven times respectively, these references include only Cicero's speeches and treatises (philosophical and rhetorical). Maelius does not appear outside of such works; two references to Ahala come from Cicero's personal correspondence with Atticus (*Att.* 2.24.3, 13.40.1), but these have not been included in the totals presented here.

The early Roman figures used by Cicero the most are: L. Iunius Brutus, Sp. Cassius, Sp. Maelius, C. Servilius Ahala, M. Manlius Capitolinus, and Tarquinius Superbus. For more on this topic, see the Cicero portion of the Introduction (p. 14-16).

defense of his own execution of the Catilinarian conspirators. Maelius became increasingly relevant in the mid-40s BCE as Caesar solidified his power and Cicero became politically marginalized. Their appearance depended on whether his narrative needed a tyrant or a tyrannicide.

### **Cat. 1.3 (Maelius and Ahala)**

The first appearance of Sp. Maelius in the Ciceronian corpus occurs in the *In Catilinam*, where he appears with C. Servilius Ahala. Cicero delivered the *In Catilinam* during his tenure as consul in response to allegations of a conspiracy led by L. Sergius Catilina (pr. 68).<sup>449</sup> The passage in which Maelius and Ahala appear comes from the *First Catilinarian Oration*, which was delivered before the senate in November of 63 BCE, and reads as follows:

Indeed, that most illustrious man, P. Scipio, pontifex maximus, as a private citizen, killed Ti. Gracchus, although his attempts at compromising the well-being of the Republic were rather moderate. Shall we, who are consuls, tolerate Catilina, who desires to destroy the whole world by means of slaughter and fire? For I pass over those very ancient examples, such as C. Servilius Ahala, who, by his own hand, killed Sp. Maelius when he was eager to stir up revolution. Indeed, there was once such great virtue in this Republic that brave men would repress a destructive citizen with harsher penalties than they would the bitterest enemy.<sup>450</sup>

In this passage, Cicero likens the action carried out by Ahala to that of Publius Cornelius Scipio Nasica Serapio (cos. 138), who was responsible for killing Tiberius Gracchus.

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<sup>449</sup> The body of scholarship on Cicero's *In Catilinam* is huge and need not be given in full here. For a general overview of the work, see Usher 2008, 50-58; for a more detailed account, see Dyck 2008, 1-22.

<sup>450</sup> *Cat. 1.3: An vero vir amplissimus, P. Scipio, pontifex maximus, Ti. Gracchum mediocriter labefactantem statum rei publicae privatus interfecit; Catilinam orbem terrae caede atque incendiis vastare cupientem nos consules perferemus? Nam illa nimis antiqua praetereo, quod C. Servilius Ahala Sp. Maelium novis rebus studentem manu sua occidit. Fuit, fuit ista quondam in hac re publica virtus, ut viri fortes acrioribus suppliciis civem perniciosum quam acerbissimum hostem coercerent.*

Above, we saw that Piso had presented Ahala's actions in ways that must have been influenced by those of Scipio Nasica, and, indeed, had reframed the story to give that parallel prominence. This reframing had now become standard. Cicero presents the parallel as if it is completely obvious and, in so doing, adumbrates his later casting of himself in the role of tyrannicide.<sup>451</sup>

Cicero goes on in §3 to claim that there exists an *SCU* against Catilina and uses the *exempla* of past tyrannicides in order to problematize the constraints upon his action. Ahala, he emphasizes, did what was necessary "with his own hand" (*manu sua*). Here another parallel is intended. Ahala and Nasica both suppressed potentially seditious citizens through their own initiative, but with the support of the whole senate. In contrast, Cicero has to wait until he has the backing of all senators, some of whom appear to have supported Catilina (e.g., *Cat.* 1.30).

Three pairs of tyrants and tyrannicides are represented at *Cat.* 1.3: Ti. Gracchus and Scipio Nasica; Catilina and the consuls of 63 BCE, including Cicero himself; and Sp. Maelius and C. Servilius Ahala. Cicero thereby invokes an ancient *exemplum* (Maelius/Ahala) alongside a more recent one (Gracchus/Scipio Nasica), and then implicitly alongside a contemporary one (Catilina/consuls of 63 BCE). Cicero's description of Scipio Nasica as a "most illustrious man" (*vir amplissimus*), in addition to the mention of his priesthood, emphasizes his moral standing. Cicero cites Scipio Nasica and Ahala as positive *exempla*, and argues that Catilina deserves to suffer the same fate as Maelius and Tiberius.

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<sup>451</sup> In a letter to Atticus, Cicero makes the connection he sees between himself and past tyrannicides, specifically Ahala and L. Iunius Brutus (cos. 509), explicit (*Att.* 2.24.3).

In this passage, Cicero obscures an important element of other versions of this narrative, in which Sp. Maelius is consistently portrayed as seeking kingship or tyranny. This seems to have been a central element of the narrative from early on. In the fragmentary presentation of Piso, Ahala is said to have killed the tyrant (τὸν τύραννον),<sup>452</sup> which would have been interpreted by his readers as a parallel for the slaying of Tiberius Gracchus. Varro, a contemporary of Cicero, mentions that Maelius' house was destroyed because he "wished to occupy the kingship" (*Ling.* 5.157).<sup>453</sup> Cicero, in contrast, simply reports that Maelius was "eager to stir up revolution" (*novis rebus studentem*), with no mention of kingship. It is not difficult to see why this point might be passed over by Cicero. Intentionally downplaying these past threats increases the current threat posed by Catilina, who sought to destroy not only the state, but also the "whole world" (*orbem terrae*).<sup>454</sup> Just as he does with Ti. Gracchus, who is described as representing a moderate (*mediocriter*) threat to the state relative to Catilina,<sup>455</sup> Cicero underplays the ambitions of Sp. Maelius to highlight the magnitude of the present danger.<sup>456</sup> Cicero intentionally

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<sup>452</sup> DH 12.4.4.

<sup>453</sup> This is all that will be said about the passage from Varro, since he is interested solely in how the Aequimaesium received its name. For a general treatment of Varro, see Cornell in *FRHist* I.135-136.

<sup>454</sup> This idea is repeated by Cicero at *Cat.* 1.9, 1.12. Pagán refers to this type of hyperbole as "the globalization of an otherwise localized event" (2004, 14); her argument is based on Augustus' claim in his *Res Gestae*, when he discusses the events of the summer of 32 BCE, the time at which he broke with Antonius, that the "whole of Italy" (*tota Italia*) took an oath of allegiance to him (*RG* 25.2). Cf. Dyck 2008, 70.

Cicero presents the same argument in a later discussion of would-be tyrants. At *Cat.* 3.25, he stresses that in the past men who harboured tyrannical aspirations did not want to destroy the Republic completely, only to install themselves as leaders over it, and that they did not wish to burn down the city, but to flourish in it. Cf. *Cat.* 4.21, where he downplays the greatness of Rome's past men in order to emphasize the greatness of his contemporaries, particularly, in this case, Cn. Pompeius (Dyck 2008, 236).

<sup>455</sup> The rhetorical accusation of seeking kingship would have certainly been leveled against Ti. Gracchus, and several sources do, in fact, report this (e.g., Sall. *Jug.* 31.7; Cic. *Leg. agr.* 1.21, *Amic.* 41; Plut. *Ti. Gracch.* 14.2, 19.2, 19.3).

<sup>456</sup> Cicero makes a similar argument at *Cat.* 1.4: C. Gracchus was killed on account of the mere suspicion of seditious behaviour (*propter quasdam seditionum suspiciones*).

avoids associating kingship with Maelius and Tiberius, despite references to the monarchical aspirations of both elsewhere.<sup>457</sup>

At *Cat.* 1.3, Cicero emphasizes that Scipio Nasica was a private citizen when he killed Ti. Gracchus.<sup>458</sup> This is, in part, meant to contrast the senate's inaction with Nasica's decisiveness. This also has the effect, however, of further assimilating Ahala to Nasica. We saw above that there were two traditions regarding Ahala's status: one in which he was a *privatus*; in the other, master of the horse. Cicero is silent about this, even though he accepts elsewhere the version in which Ahala was master of the horse (*Sen.* 56). Given the overt parallelism between Nasica and Ahala, the audience can take it that the latter, too, acted as a *privatus*. This suited Cicero's needs in this speech. If a private citizen protected the state from a would-be tyrant, Rome must expect its consuls to do the same: "But even private men have often in this Republic punished destructive citizens with death."<sup>459</sup> Likewise, despite a tradition in which L. Iunius Brutus expelled the Tarquins in his capacity as *tribunus celerum* (Livy 1.59.7; DH 4.71.6), Cicero prefers the alternate version in which Brutus was a *privatus* (*Rep.* 2.46).

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<sup>457</sup> Maelius' attempt to obtain *regnum*: *Mil.* 72; *Rep.* 2.49; *Sen.* 56; *Amic.* 36; *Phil.* 2.87, 2.114. On Ti. Gracchus as a tyrant or attempting to acquire *regnum*, e.g., *Leg. agr.* 1.21; *Amic.* 41. Before a senatorial audience, Cicero paints the Gracchi in a negative light; before the people, however, he refers to the Gracchi, together or individually, in positive terms. Tiberius and Gaius as illustrious men: *Leg. agr.* 2.10. Tiberius as just and modest: *Leg. agr.* 2.31. Gaius ensures the rights of the people: *Rab. perd.* 12; Gaius' loyalty to his brother: *Rab. perd.* 14. The Gracchi consider what is best for the Roman Republic: *Leg. agr.* 2.81. On the flexibility of the Gracchi as *exempla*, see van der Blom 2010, 103-107.

<sup>458</sup> Cicero consistently portrays Scipio Nasica as a private citizen when he killed Ti. Gracchus: *Cat.* 1.3; *Dom.* 91; *Plan.* 88; *Brut.* 212; *Off.* 1.76; *Phil.* 8.13. Cf. *Cic. Mil.* 72 (Scipio is not mentioned by name, but the slaying is referred to).

<sup>459</sup> *Cat.* 1.28: *At persaepe etiam privati in hac re publica perniciosos cives morte multarunt*. This passage is part of a larger speech attributed to a personified Roman Republic (*prosopopeia*), which allows Cicero to lend greater legitimacy to his handling of the Catilinarian conspiracy.

The use of Maelius and Ahala here, in parallel with Ti. Gracchus and Scipio Nasica, is in reaction to contemporary political tensions at Rome concerning the extent of senatorial power, the rights of citizens, and the role of violence. The legitimacy, and, indeed, necessity, of his taking action is, Cicero argues, all the greater given that he is under instruction of an *SCU* to do so. Instituted in 121 BCE against C. Gracchus, the *SCU* was a controversial measure, one which was part of a long process of senatorial attempts to safeguard aristocratic power.<sup>460</sup> The issue was very much alive in 63 BCE. Earlier in that year, C. Rabirius was brought to trial for his role in the death of L. Appuleius Saturninus, which had occurred 36 years before. The defense was that he was acting under an *SCU*.<sup>461</sup> Likewise, the eventual decision to execute the Catilinarian conspirators was controversial; it was not supported by everyone in the senate, most notably Caesar, let alone at Rome.<sup>462</sup> Thus, Cicero's invocation of Maelius and Ahala should be understood in the context of a contemporary political debate over the use of lethal force against Roman citizens.

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<sup>460</sup> For the most recent, comprehensive examination of the *SCU*, see Golden 2013, 104-149. On attempts to safeguard aristocratic power, see above, p. 78-79.

<sup>461</sup> Cic. *Rab. perd.* 2-5, 28, 34. Modern scholarship: Usher 2008, 48-50; Jones 1972, 43; Mitchell 1971, 52: "The whole affair was a transparent scheme to challenge the extent to which extraordinary action could be taken against citizens under the authority of the ultimate decree...He [Cicero] describes [in his *Rab. perd.*] the trial as a purely political maneuver designed to destroy the effectiveness of the *consultum ultimum*." Cicero defended Rabirius, but it seems that the matter was later dropped.

<sup>462</sup> Cic. *Cat.* 4 in general (esp. 4.7-11, 13); Sall. *Cat.* 51 (Caesar's speech; at *Cat.* 52.1, Sallust makes it clear that Caesar won over some of the senators to his side after his speech). Lintott discusses other Romans who opposed Cicero's support of the passage of the *SCU* (1968, 149-150); some of these men were reportedly won over by Caesar's speech in which he questioned its legality (1968, 149). See also, Drummond 1995, 26-27, 96.

**Dom. 86 (Ahala) and 101 (Maelius) (57 BCE)**

Cicero again mentions Maelius and Ahala in his *De domo sua*.<sup>463</sup> This was delivered before the pontifical board at Rome in 57 BCE. The speech occurred in the aftermath of P. Clodius Pulcher's tribunate of 58 BCE, when Clodius exiled Cicero for his handling of the Catilinarian conspiracy. Cicero was recalled the next year. In this speech, Cicero seeks to gain restitution for Clodius' confiscations of his property. In his *De domo sua*, Cicero mentions C. Servilius Ahala alongside other early Romans who tried to safeguard the state only to be forced into exile after being condemned by the people:

But indeed, as the annals of the Roman people and the monuments of antiquity reveal, that Kaeso Quinctius and M. Furius Camillus and C. Servilius Ahala, although they had acted in a manner quite deserving of the Republic, nevertheless were subjected to the violence and anger of the roused *populus*, and after they had been condemned by the *comitia centuriata* they fled into exile, they were again restored by the same people, who had been placated, to their former dignity.<sup>464</sup>

Cicero laments Ahala's fate in the aftermath of the killing of Sp. Maelius; that is, Ahala, at the insistence of the *comitia centuriata*, was condemned and sent into exile. He also mentions Kaeso Quinctius (fl. early fifth century) and M. Furius Camillus (mil. tr. c. p. 401, 398, 394, 386, 384, 381, dict. 396, 390, 389, 367), both of whom were similarly exiled and then recalled.<sup>465</sup> These early Roman figures would have had particular

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<sup>463</sup> On the work in general, see Usher 2008, 72-77.

<sup>464</sup> *Dom. 86: At vero, ut annales populi Romani et monumenta vetustatis loquuntur, Kaeso ille Quinctius et M. Furius Camillus et C. Servilius Ahala, cum essent optime de re publica meriti, tamen populi incitati vim iracundiamque subierunt, damnatique comitiis centuriatis cum in exilium profugissent, rursus ab eodem populo placato sunt in suam pristinam dignitatem restituti.*

<sup>465</sup> For sources on Quinctius, see Broughton *MRR* I: 37. For sources on Camillus, see Broughton *MRR* I: 95.



relevance to Cicero at this time. In fact, in the same section Cicero goes on to state the following:

For although it is more desirable to pass the course of one's life without grief and without injury, nevertheless it adds more to the immortality of one's glory to have been missed by his fellow-citizens than to have never been injured at all.<sup>466</sup>

Cicero's sympathies clearly lie with Quinctius, Camillus, and Ahala, and he seeks to use their exiles and recalls as parallels for his own.

The portrayal of Ahala, as well as Quinctius and Camillus, is important for Cicero's presentation of himself and his current situation. Cicero reports that the three men "fled into exile" (*in exsilium profugissent*) after having been condemned, whereas, as Cicero states later in the same section, he "left without any sentence of the people" (*mihi sine ullo iudicio populi profecto*). As Robinson demonstrates, Cicero never refers to his quitting of Rome as an actual exile except to rebuke someone else for referring to it as such.<sup>467</sup> This is all intentional. Cicero wanted to be sure that his "exile" did not imply that he was a criminal, and in this situation, when seeking the restitution of his property, he needed to appear innocent—Clodius, he constantly emphasizes, was the criminal one. Cicero includes himself among these *exempla*, but his situation was less serious; they were sent into exile, he presents his departure as voluntary and something he did for the benefit of the state.<sup>468</sup>

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<sup>466</sup> *Dom.* 86: *Nam etsi optabilis est cursum vitae conficere sine dolore et sine iniuria, tamen ad immortalitatem gloriae plus adfert desideratum esse a suis civibus quam omnino numquam esse violatum.*

<sup>467</sup> Robinson 1994 (esp. p. 475-477). Even in his private letters, Cicero does not use the term "exile" to refer to his banishment (Robinson 1994, 475).

<sup>468</sup> E.g., *Red. sen.* 36; *Red. pop.* 13; *Prov.* 23; *Pis.* 21. Similarly, Cicero is fond of depicting his departure as a means by which he saved the state for a second time: *Dom.* 76, 99, 145; *Sest.* 49, 73; *Pis.* 78. On terms used by Cicero to make his "exile" seem voluntary, see Robinson 1994, 477-479.

This passage is the first place where Ahala's exile makes an appearance. It appears neither in the fragments of Alimentus or Piso, nor in the sources that Livy and Dionysius chose to follow.<sup>469</sup> Presumably it is Cicero's addition. Gaertner has recently argued that it was probably Cicero who likewise added exile to the pre-existing narrative of M. Furius Camillus (mil. tr. c. p. 401, 398, 394, 386, 384, 381, dict. 396, 390, 389, 367),<sup>470</sup> which is absent from the accounts of Polybius and Diodorus Siculus, but found in the accounts of Cicero, Livy, and Dionysius (and, later, Plutarch).<sup>471</sup> Indeed, as several scholars have noted, the Livian Camillus is reminiscent not only of the Camillus found in Cicero's speeches and philosophical treatises, but also reflects many of the thoughts expressed by Cicero in his letters written during his banishment from Rome.<sup>472</sup>

Of significance is Cicero's use of these three figures as *exempla* not only of Romans who were wrongly exiled from the city in spite of their services to the state, but also as *exempla* of men who were later recalled from exile and restored to their "former dignity." The situation parallels Cicero's own, and his meaning is clear: these men were recalled and their reputations did not suffer upon their return. Cicero, by grouping himself with them, wants to reclaim the dignity he possessed before his exile. This would be achieved through the restoration of both his property and his former political reputation.

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On several occasions, Cicero presents the punishment of a citizen without trial, which he himself reports to have suffered, as analogous to the Sullan proscriptions (e.g., *Dom.* 43-45, 48, 50, 51, 55, 58; *Sest.* 46; *Pis.* 30).

<sup>469</sup> Other than Cicero, only Valerius Maximus mentions that Ahala was exiled (5.3.2g); the passage from Valerius Maximus is very Ciceronian in its presentation. Livy reports that the tribunes threatened action against Servilius for his role in the death of Maelius, but nothing seems to come of this (4.16.5-7).

<sup>470</sup> Gaertner 2008.

<sup>471</sup> Gaertner 2008, 30-31.

<sup>472</sup> Gaertner 2008, 42-43, 43-46; Ogilvie 1965, 727-728. In his private correspondence, Cicero still does not use the term "exile" in reference to his banishment (Robinson 1994, 475).

Ogilvie describes the recall of Camillus as "one of the most daring fabrications in Roman history" (1965, 727).

Cicero is the only source that reports the restoration of Ahala and Quinctius (at *Dom.* 86),<sup>473</sup> presumably in order to emphasize the parallelism between his experience and theirs. Indeed, as Kelly points out, Livy reports that Quinctius died in exile, which exposes Cicero's version as self-serving.<sup>474</sup> Cicero's situation upon his return from exile would seem a likely explanation for his reshaping of the earlier narrative tradition to include the exiles and recalls of early Roman figures.

Sp. Maelius appears in the *De domo sua* several sections after the reference to Ahala. At *Dom.* 101, Cicero uses the three malefactors of early Rome to emphasize that their houses were rightfully confiscated as punishment for their aiming at *regnum*, whereas his own house was wrongfully, and illegally, confiscated by Clodius—an unfair punishment, Cicero states, for the danger he undertook as consul to safeguard the state. Cicero reports that the houses of Sp. Cassius, Sp. Maelius, and M. Manlius Capitolinus were confiscated because each man had sought *regnum*, but this is mentioned in order to differentiate his behaviour from theirs. This stands in contrast to §86 where Cicero assimilates himself to early Romans who were unjustly punished for their efforts to protect the state. Throughout the *De domo sua*, Cicero argues that he had not behaved tyrannically, as Clodius accused, but that it was Clodius himself who was playing the part of the tyrant.<sup>475</sup> Cicero's case, then, was not like Maelius', but rather, like that of the men whom he listed at §86. What events beyond Cicero's banishment and recall might also be influencing his use of such figures? As was alluded to briefly above, the use of these

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<sup>473</sup> Kelly 2006, 239. Cicero only mentions Quinctius at *Dom.* 86. As was the case with Ahala's exile, there is also no mention of Ahala's recall in either Livy or Dionysius.

<sup>474</sup> Kelly 2006, 239. Livy on Quinctius: 3.25.3, 4.16.5, 4.21.3-4.

<sup>475</sup> Cicero's use of Sp. Cassius in his *De domo sua* was discussed above, p. 39-41.

figures was necessitated by contemporary debates over the use of force to suppress “seditious” citizens, and particularly tribunes. Let us consider this argument more carefully here in the context of the year in which Cicero was recalled.

Cicero’s appeal to the *exempla* of Maelius and the other malefactors of early Rome reflects the fact that the debate concerning the use of extralegal, lethal force against citizens was anything but settled. Rabirius’ trial, prompted by Caesar, in 63 BCE for his role in the death of Saturninus 36 years before, was a political maneuver used to question the validity of the *SCU*.<sup>476</sup> Caesar had also shown his opposition to the decree when he spoke against the execution of the Catilinarian conspirators. In both instances, Caesar appeals to the laws concerning *provocatio*, that is, the right of appeal against the decision of a magistrate.<sup>477</sup> Such laws are reported in our sources as having been instituted very early in Rome’s history. The first was supposedly passed in 509 BCE, followed by two others in 449 and 300 BCE, although the historicity of these measures is controversial.<sup>478</sup> The accounts concerning the introduction of these laws seem to reflect contemporary concerns about magisterial abuse and citizens’ rights of appeal.

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<sup>476</sup> On Rabirius and the circumstances of the trial, see above, Part I, Chapter 1 (p. 44-45) and Part II, Chapter 2 (p. 157).

<sup>477</sup> On *provocatio*: Lintott 2003, 33-34, 37-38, 89-90, 98-99, 125-126, 152-157, 174, 222, 226-227 and 1972b; Cornell 1995, 196-197, 226, 276-277; Develin 1978b; Bauman 1973; Ogilvie 1965, 252, 283, 373, 499; Staveley 1955.

Cf. Sall. *Cat.* 51.22, where Caesar alludes to the *lex Sempronia de capite civium* passed by C. Gracchus as tribune in 123 BCE. This law reaffirmed the right of appeal to the people (*provocatio ad populum*) for capital cases, and it also stipulated that any magistrate who prevented any such appeal could be prosecuted. For ancient sources on this law, see Broughton *MRR* I: 513.

<sup>478</sup> For sources, see Broughton *MRR* I: 2 (first law), 47-48 (second law), 172 (third law). Highly suspect is that each law is ascribed to a member of the *gens Valeria*, however, ancient Roman authors often generalized the behaviour of *gentes* over time (on this idea, Richardson 2012). Scholars argue that only the third law can be authentic (e.g., Forsythe 2005, 154; Bauman 1973, 34; Ogilvie 1965, 252; much of the scholarship also deals with questions surrounding the authenticity of these laws), but much remains uncertain; Cornell and Smith do not refute the historicity of the first two laws (Smith 2006a, 180; Cornell 1995, 277); Cornell argues that because we cannot prove that the three laws were identical there is no reason to doubt their historicity.

Cicero presents Clodius' legislative programme as nothing more than a means of seeking revenge. The *lex Clodia de capite civis Romani* stipulated that anyone who had executed Roman citizens without trial would be denied fire and water.<sup>479</sup> In itself, this merely reaffirmed the principle of *provocatio*.<sup>480</sup> Cicero was not named specifically in this law; nevertheless, he recognized the threat to himself and departed Rome. Soon thereafter, the *lex Clodia de exilio Ciceronis* was passed,<sup>481</sup> which specifically declared Cicero an outlaw, confiscated his property to be sold at auction, allowed the destruction of his house and the construction of a monument on the site, and prevented discussion of his recall in the senate.<sup>482</sup> Cicero intentionally conflates these two Clodian laws in an attempt to present Clodius' policy as a purely personal attack.<sup>483</sup> These measures, however, should be understood in the larger context of the ongoing controversy surrounding the *SCU* on the one hand and the right of *provocatio* on the other,<sup>484</sup> and reflect a long-standing *popularis* concern with what Williamson describes as "the abuse of traditional mechanisms for political purposes."<sup>485</sup>

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<sup>479</sup> Cic. *Att.* 3.15.5 (August, 58 BCE), *Dom.* 50, 54, 62, 110, *Sest.* 25, 53-54, *Pis.* 16, 30; Vell. *Pat.* 2.45.1; Livy, *Per.* 103; Ascon. 46C; Plut. *Cic.* 30.1-31.5, *Cat. Min.* 35.1, *Pomp.* 48.6, *Caes.* 14.9; App. *B. Civ.* 2.15; Cass. Dio 38.14.1-17.7.

<sup>480</sup> Tatum 1999, 153.

<sup>481</sup> Cic. *Att.* 3.4 (April, 58 BCE), 3.12 (July, 58 BCE), 3.15 (August, 58 BCE), 3.20 (October, 58 BCE), 3.23 (November, 58 BCE), *Fam.* 14.4 (April, 58 BCE), *Red. sen.* 4, 8, 26, *Sest.* 65, 69, *Dom.* 47, 50, 83, *Pis.* 28-30, 72, *Planc.* 96-97; Livy, *Per.* 103; Ascon. 10C; Plut. *Cic.* 32.1-5; Cass. Dio 38.17.7.

<sup>482</sup> On the details of the law, see, e.g.: Kaster 2006, 260-261; Kelly 2006, 228-236; Tatum 1999, 156-157; Gruen 1995, 245-246.

<sup>483</sup> E.g., *Dom.* 43, 44, 45, 80, 110; *Sest.* 25, 64, 65; *Pis.* 30. At *Att.* 3.15.5, however, he admits that there were, in fact, two laws, and that the first did not mention him by name.

<sup>484</sup> Tatum 1999, 153.

<sup>485</sup> Williamson 2005, 382.

**Sest. 143 (Ahala)**

C. Servilius Ahala next appears in Cicero's *Pro Sestio* (once more without Sp. Maelius). As tribune in 57 BCE, P. Sestius was one of the men responsible for Cicero's restoration. After his term in office, he was charged with *vis*, or "public violence," relating to clashes that occurred during his tribunate.<sup>486</sup> The trial took place before the *quaestio de vi*, a standing criminal court.<sup>487</sup> Cicero successfully defended Sestius. Ahala is mentioned at *Sest. 143*, which makes up part of the *peroratio* (§§136-147), among a catalogue of Romans whose actions benefitted the Roman state. This group is worthy of attention, and the passage reads as follows:

Therefore let us imitate our Bruti, Camilli, Ahalae, Decii, Curii, Fabricii, Maximi, Scipiones, Lentuli, Aemilii, and countless others who strengthened this Republic; indeed, men whom I count among the assembly and number of the immortal gods. Let us love the fatherland, let us obey the senate, let us consult the good men (*boni*); let us disregard present rewards, let us be devoted to future glory; let us deem that to be the best which will be the most appropriate; let us hope for whatever we wish, but let us bear whatever will befall us; lastly, let us consider that the body of brave and great men is mortal, indeed that the working of the mind and the glory of virtue are everlasting; let us not, if we see that this opinion has been consecrated by that most divine Hercules...esteem less that those men, who by their plans or labours have either increased or defended or preserved this great republic, have obtained immortal glory.<sup>488</sup>

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<sup>486</sup> For a general overview of the speech, see Usher 2008, 79-86. Sestius was acquitted of the charge on March 14<sup>th</sup> of 56 BCE (Kaster 2006, 37). There is uncertainty about whether the speech was published before or after the so-called conference at Luca in April of the same year. Kaster finds that Cicero's hostility to Caesar throughout the speech does not adhere to his position after the meeting when he was forced to curb his criticism of Caesar (and the trio in general) [Kaster 2006, 37n.77]. On the complicated nature of the laws regarding the use of force by which Sestius was brought to trial, see Kaster 2006, 18-22.

<sup>487</sup> This court was formed as early as 78 BCE, but existed at least by 63 BCE (Brennan 2000, 589).

<sup>488</sup> *Sest. 143: Qua re imitemur nostros Brutos, Camillos, Ahalas, Decios, Curios, Fabricios, Maximos, Scipiones, Lentulos, Aemilios, innumerabilis alios qui hanc rem publicam stabiliverunt; quos equidem in deorum immortalium coetu ac numero repono. amemus patriam, pareamus senatui, consulamus bonis; praesentis fructus neglegamus, posteritatis gloriae serviamus; id esse optimum putemus quod erit rectissimum; speremus quae volumus, sed quod acciderit feramus; cogitemus denique corpus virorum fortium magnorum hominum esse mortale, animi vero motus et virtutis gloriam sempiternam; neque hanc opinionem si in illo sanctissimo hercule consecratam videmus...minus existimemus eos qui hanc tantam*

For rhetorical purposes, all the names are plurals, which is paralleled in similar Ciceronian catalogues.<sup>489</sup> As Kaster notes, the plurals serve as generic labels to mean “men like Brutus, etc.”<sup>490</sup> In Kaster’s reconstruction, Ahala’s *comparandi* are:<sup>491</sup>

- M. Iunius Brutus (cos. 509), who expelled the Tarquins from Rome;
- M. Furius Camillus (dict. 396, etc.), who saved Rome from a Gallic attack and, as a result, was considered a second founder of the city;
- P. Decius Mus (cos. 340) and his son, P. Decius Mus (cos. 312, etc.);<sup>492</sup> both men reportedly devoted themselves to the gods in order to obtain victory in battle (the father in 340 BCE, the son in 295 BCE);
- M’. Curius Dentatus (cos. 290, etc.), who conquered Pyrrhus in 272 BCE;
- C. Fabricius Luscinus (cos. 278), who celebrated a triumph over the Samnites, Tarentines, Lucanians, and Bruttians;
- Q. Fabius Maximus Verrucosus Cunctator (cos. 233, etc.), who used evasion to counter Hannibal;
- P. Cornelius Scipio Africanus (cos. 205, 194) and P. Cornelius Scipio Aemilianus Africanus Numantinus (cos. 147, 134), both of whom were victorious over Carthage;
- P. Cornelius Lentulus Spinther (cos. 57) (in Kaster’s view), who was Cicero’s benefactor;
- M. Aemilius Scaurus (pr. 56) (in Kaster’s view), who was the presiding praetor at Sestius’ trial.<sup>493</sup>

This list includes two main types of statesmen: those who overthrew tyrants (e.g., the Bruti and Ahalae), and those who exhibited military prowess.<sup>494</sup> By including Ahala, Cicero assimilates him to other renowned Republican figures. Cicero’s audience would

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*rem publicam suis consiliis aut laboribus aut auxerint aut defenderint aut servarint esse immortalem gloriam consecutos.*

<sup>489</sup> *Cael.* 39 (Camilli, Fabricii, Curii); *Balb.* 40 (Scipiones, Brutii, Horatii, Cassii, Metelli, and Cn. Pompeius); *Pis.* 58 (Camilli, Curii, Fabricii, Calatini, Scipiones, Marcelli, Maxmi; individuals are also named, e.g., Marius, Pompeius, etc.); *Rep.* 1.6 (Camilli, Ahalae, and Nasicae).

<sup>490</sup> Kaster 2006, 387 (the quotation is reproduced as found in Kaster).

<sup>491</sup> This list is based on Kaster 2006, 387-388.

<sup>492</sup> Cicero provides a more detailed account of the pair at *Sest.* 48.

<sup>493</sup> In this passage, as at *Cat.* 1.3 (as we saw), we have a list of ancient *exempla*, followed by more recent *exempla*, followed by contemporary *exempla*.

<sup>494</sup> As Maslakov rightly observes in a discussion which includes the passage at *Sest.* 143, Cicero’s “abstractions arise from an intimate knowledge of Roman politics and history, from a sense of personal identity with the status and achievement of the leaders recalled” (1984, 440n.6).

have implicitly understood the *dignitas* and *auctoritas* associated with these names.<sup>495</sup> In addition, therefore, by grouping these men together Cicero sought to gain wider glory not only for the men whom he mentions, but also for his client, and more importantly, for himself.<sup>496</sup> The speech focuses almost exclusively upon Cicero's consulship and the events leading to his banishment.<sup>497</sup> Throughout, Sestius' role is minimalized, and, as Paterson puts it, Sestius is "reduced to a bit part, while Cicero holds centre stage."<sup>498</sup> Indeed, Cicero himself even states that the trial was not about Sestius at all, but rather an attack on himself.<sup>499</sup>

All the figures alluded to in the passage held magistracies, whereas Cicero seems to imply that Ahala was a *privatus* in the Catilinarian version (1.3). Given that later versions

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<sup>495</sup> Maslakov 1984, 440n.6.

<sup>496</sup> Kaster argues that the clause introduced by *eos qui* at *Sest.* 143 was used by Cicero to show that those who preserved the state by conquest abroad and those who did so by political action at home, which included Cicero's actions as consul, were equally worthy of praise (2006, 389).

<sup>497</sup> We know very little about the details of Sestius' tribunate (see Kaster 2006, 16-17). Kaster points out that Cicero spends a mere 125 words describing one act Sestius carried out as tribune, an act of violence in which Sestius was the victim, not the perpetrator (2006, 17). Because Sestius' tribunate was (supposedly) devoted to his recall and well-being (§14), Cicero redirects the speech. The speech treats the events of 58 BCE that led to Cicero's exile at length, but actually glosses over Sestius' tribunate of 57 BCE (Paterson 2004, 93).

Since Cicero needed to present his welfare as inextricably bound up with that of the commonwealth, Sestius' tribunate is only important when Cicero wants to show that by saving him, Sestius also saved the Republic. As Kaster states: "Sestius could not be convicted of public violence for supporting Cicero's welfare if his welfare could be shown to be indistinguishable from the commonwealth's, the account of how Cicero's welfare came to be imperiled must be indistinguishable from an account of how the commonwealth's welfare was imperiled" (2006, 26). There are many examples, not just from the *Pro Sestio* (*passim*) but also from several of Cicero's post-exile speeches, in which he connects his welfare with that of the Republic; Kaster has collected some examples of such references in other speeches (2006, 27n.60).

<sup>498</sup> Paterson 2004, 92. As Paterson has shown (2004, 93-94), even in judicial cases that did not directly involve Cicero's own interests, such as his *Pro Plancio* of 54 BCE (for sources, see Broughton *MRR* II: 215, 223), he puts himself at the centre of his speeches, "playing on the sympathy which his exile had inspired."

<sup>499</sup> *Sest.* 31: P. Sestius is accused not on his own account, but on mine: the man who spent the entire strength of his tribunate on behalf of my safety, it is necessary that my cause of a past time be joined with the present defense of this man. *P. Sestius est reus non suo, sed meo nomine: qui cum omnem vim sui tribunatus in mea salute consumpserit, necesse est meam causam praeteriti temporis cum huius praesenti defensione esse coniunctam.*



of this story present Ahala as master of the horse (as we shall see), his inclusion in this list may signal that a shift in the Ciceronian narrative tradition was taking place. A gradual evolution occurs in the Ciceronian version of events as we have them: at *Cat.* 1.3 (63 BCE), Ahala is a *privatus*; at *Sest.* 143 (56 BCE), Ahala is implicitly a magistrate; and, finally, at *Sen.* 56 (early 44 BCE), Ahala is explicitly a magistrate. The use of Ahala in this passage was dictated by Cicero's (constant) need to justify his own actions as consul in 63 BCE in an attempt to rehabilitate his former political reputation and strengthen his self-image.<sup>500</sup> Hence his desire to achieve greater glory by including himself (among the "countless others") among the list of Rome's great statesmen, including Ahala. That Cicero was attempting to strengthen his position in the years following his exile is also supported by the sheer quantity of judicial cases he undertook in the years after his return.<sup>501</sup> It is Cicero's self-image, then, that is of great concern throughout the *Pro Sestio*, and this is central to our understanding of his use of Ahala in this passage.

### **Rep. 1.6 (Ahala) and 2.49 (Maelius)**

Sp. Maelius and C. Servilius Ahala next appear in Cicero's philosophical treatise the *De republica*, composed between 54 and 51 BCE. The dialogue is set in 129 BCE, at the time of the controversy over the legality of the powers of the Gracchan land commission. In the preface of his *De republica* (§§1-13), Cicero speaks in his own voice

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<sup>500</sup> Indeed, an examination of §§140-142 shows how Cicero's emphasis is on his exile; the familiar figure L. Opimius (§140), and his handling of C. Gracchus, is mentioned, as are Greek examples of men wrongly expelled by their fellow-citizens (§§141-142)—even Hannibal was banished from his home city (§142).

<sup>501</sup> For a list of all his judicial cases in which he was an advocate, see the Appendix in Powell and Paterson (eds.) 2004, 417-422 (esp. p. 420-421 for the cases in the years following his return from exile).

and discusses the value of political writing and the necessity of participation in the political sphere.<sup>502</sup> At *Rep.* 1.6, Cicero mentions Ahala together with Scipio Nasica (as at *Cat.* 1.3, *Mil.* 72, 83). The passage reads as follows:

For it recalls the exile of Camillus, the misfortune of Ahala, the hostility towards Nasica, the expulsion of Laenas, the condemnation of Opimius, the flight of Metellus, the most bitter disaster for C. Marius and the deaths of the leading men of the state, the deaths of many men which followed a little afterwards. Indeed, now they do not abstain from including my name.<sup>503</sup>

Here Cicero again assimilates the events that led to his own exile to the misfortunes of earlier Romans who protected the state but were punished for their efforts.<sup>504</sup> In this way, Cicero offers himself as an *exemplum* of behaviour to be imitated. Ahala, like Cicero and these other figures, had been persecuted for his actions. At *Dom.* 86 Ahala's penalty was identified as exile, and we should probably assume that Ahala's *offensio* at *Rep.* 1.6 is, likewise, exile. All the men whom he lists here were forced to leave Rome, and Zetzel points out that Cicero simply selects a different noun for each case.<sup>505</sup> The allusion, presumably, is made precisely to elicit this parallel, and to portray Ahala as a proto-Cicero.

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<sup>502</sup> Zetzel 1995, 95. The work consists of six books; there are three prefaces, one for every two books (Asmis 2005, 384).

Because he speaks in his own voice, Cicero is able to mention his own exile, which he would not have been able to accomplish elsewhere in the work except obliquely. Thus, the passage is not attributed to one of the interlocutors of the speech, unlike the passage from Book 2 in which Maelius is mentioned (and is attributed to Scipio Aemilianus).

<sup>503</sup> *Rep.* 1.6: *Nam vel exilium Camilli vel offensio commemoratur Ahalae vel invidia Nasicae vel expulsio Laenatis vel Opimi damnatio vel fuga Metelli vel acerbissima C. Mari clades principumque caedes, vel eorum multorum pestes quae paulo post secutae sunt. nec vero iam meo nomine abstinent.*

<sup>504</sup> The men mentioned are: M. Furius Camillus (mil. tr. c. p. 401, 398, 394, 386, 384, 381, dict. 396, 390, 389, 367), C. Servilius Ahala (poss. mag. eq. 439), P. Cornelius Scipio Nasica (cos. 138), P. Popilius Laenas (cos. 132), L. Opimius (cos. 121), Q. Caecilius Metellus Numidicus (cos. 109), and C. Marius (cos. 107, 104-100, 86).

For an overview of the deeds and reasons behind the punishments of the men listed by Cicero at *Rep.* 1.6, see Zetzel 1995, 103-104.

<sup>505</sup> Zetzel 1995, 103.

As a result of its dramatic setting, the work's interlocutors discuss the ways by which unity might be restored at Rome. Such a topic was applicable not only to the political situation of 129 BCE, but also to Cicero's own times. Indeed, at the time of composition there still would have been controversy surrounding the use of force against citizens, particularly against a citizen who was also a tribune; this clearly resonated with the dramatic date of the work and the political atmosphere in which Cicero found himself in the late 50s BCE.

At *Dom.* 86, Cicero refers specifically to Ahala's exile (and subsequent recall) at the hands of the *comitia centuriata*. At *Rep.* 1.6, Ahala's exile is now termed "misfortune" (*offensio*). In this way, Cicero stresses the wrongfulness of the treatment these men received at the hands of the Romans despite their services to the state, and, thus, by analogy, the sympathy of his audience for himself. Indeed, in the same section, he claims that for all that these other men suffered grievous treatment, the Romans "complain even more bitterly" (*gravius etiam...querentur*) about his treatment at the hands of Clodius. Moreover, by his choice of noun Cicero is once again able to avoid explicitly referring to his departure from Rome as exile.<sup>506</sup> Instead, he focuses on the mistreatment these Romans, like himself, received for their efforts to preserve the state, and this theme continues throughout the remainder of the preface (*Rep.* 1.7-13).

Later in the work, Cicero refers to Sp. Maelius alongside Sp. Cassius and M. Manlius Capitolinus.<sup>507</sup> The passage reads as follows:

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<sup>506</sup> See above, p. 165-167, on Cicero's presentation of his departure from Rome. On terms used by Cicero to make his "exile" seem voluntary, see Robinson 1994, 477-479.

<sup>507</sup> On the use of Sp. Cassius in this passage, see above Part I, Chapter 1 (p. 42-52).

“Thus, Spurius Cassius, M. Manlius, and Spurius Maelius are said to have attempted to seize the kingship, and recently (*modo*) [Tiberius Gracchus].”<sup>508</sup>

Here Cicero, in the voice of Scipio Aemilianus, moves from ancient *exempla* to a more contemporary one in the form of Ti. Gracchus. At *Rep.* 2.49, the trio of malefactors is mentioned by one of the interlocutors during a discussion of the tendency of a monarchical constitution to devolve into tyranny (§§47-52). They serve as stock *exempla*; nothing is revealed about how they attempted to establish themselves as kings.<sup>509</sup> The comparison, reflecting the dramatic setting of the dialogue, is to Ti. Gracchus, but, as Cicero had made explicit in his allusion to the episode in his preface, it applies, too, to Cicero’s own time.<sup>510</sup>

### **Mil. 72 (Maelius), 8 and 83 (Ahala)**

Cicero mentions both Sp. Maelius and C. Servilius Ahala in his *Pro Milone*. Titus Annius Milo (tr. pl. 57, pr. 55) was on trial for the murder of P. Clodius Pulcher (tr. pl. 58).<sup>511</sup> The politically-charged nature of the trial made Cicero’s advocacy difficult, and, despite his efforts, Milo was condemned and went into exile.<sup>512</sup>

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<sup>508</sup> *Rep.* 2.49: *Itaque et Spurius Cassius et M. Manlius et Spurius Maelius regnum occupare voluisse dicti sunt, et modo [Tiberius Gracchus]*. The name “Tiberius Gracchus” is supplied to fill a lacuna in the manuscript (Powell 2006, 76 [*OCT*]; Zetzel 1995, 204).

<sup>509</sup> Cicero gives more details about Sp. Cassius’ attempt at *regnum* at *Rep.* 2.60, however, he only mentions Sp. Maelius at *Rep.* 2.49.

<sup>510</sup> Because the work has a dramatic date of 129 BCE, Cicero cannot refer explicitly to contemporary events (except in the preface to the work as a whole). He does, however, take the opportunity to allude to contemporary political circumstances in a more oblique manner. Cic. *Q. fr.* 3.5.2 (October or November, 54 BCE): Moreover, at that time I was pursuing that very subject, so that I would not incense anyone by touching upon our own times. *Ego autem id ipsum tum eram secutus, ne in nostra tempora incurrens offenderem quempiam*. For this letter and a discussion of its implications for this study, see above, Part I, Chapter 1 (p. 48).

<sup>511</sup> For a general overview of the speech, see Usher 2008, 115-119. On the chronology of events, see Ruebel 1979. Cf. Clark 1967, lxiii.

<sup>512</sup> Milo’s trial was less about bringing a possible murderer to justice and more about factional politics. Indeed, the charges *de vi* and *de ambitu* were brought against Milo by two nephews of Clodius, both of whom were the main *accusatores* in both cases (Gruen 1995, 338, 342; Ruebel 1979, 243-244;

The speech was delivered in 52 BCE and, although the exact date of its publication is unknown, modern scholars accept that the published version of the speech was extensively revised before publication and that this occurred sometime after Milo's condemnation.<sup>513</sup> In his mid-first century CE commentary on Cicero's *Pro Milone*, Asconius records that in his delivered speech Cicero did not pursue a line of argument that Clodius had been killed *pro re publica* (41C).<sup>514</sup> Asconius' statement is obviously inconsistent with what Cicero does in the published speech. Homicide committed in order to safeguard the state is justifiable (e.g., *Mil.* 7-11), and, indeed, this is one of the central themes of the speech as we have it. Cicero refers both to past tyrannicides who acted *pro re publica* (e.g., *Mil.* 8, 83) and to would-be tyrants who were rightly killed (e.g., *Mil.* 72). Passages within the speech that portray the murder of a Roman citizen as a public service are, thus, believed to be additions made by Cicero subsequent to the trial but prior to publication.<sup>515</sup> Asconius reports in the same section (41C) that Cicero's speech concentrated on proving that Clodius had laid a trap for Milo; Asconius also goes on to report that, in his opinion, the brawl was not premeditated. Cicero's argument, then, relied

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Clark 1967, xxvi). A member of Milo's gang was later charged under the *lex Pompeia de vi* and the *lex Plautia de vi*, but he was acquitted in both cases. Soon after, a Clodian was condemned under Pompeius' *lex de vi* by a huge margin (Ascon. 55C-56C; Ruebel 1979, 248). This conviction reveals that popular opinion had (rather quickly) turned against the Clodiani, many of whom were convicted (Tempest 2011, 148; Gruen 1995, 344; Ruebel 1979, 248). To Pompeius' dismay, the Catonian faction in the senate started to prosecute his allies under his own laws; when his father-in-law, Q. Caecilius Metellus Pius Scipio Nasica, was indicted under the *lex Pompeia de ambitu*, Pompeius ended his sole consulship and appointed Metellus as his consular colleague, thereby saving him from prosecution (Gruen 1995, 344-345).

<sup>513</sup> E.g., Tempest 2011, 147; Melchior 2008, 286; Dyck 1998; Gruen 1995, 342; Clark and Ruebel 1985; Crawford 1984, 210-212; Colson 1980, xxxi-xxxii; Stone 1980. This seems to be confirmed by the sources: Cass. Dio 40.54.2-4; Ascon. 41C.

<sup>514</sup> For modern scholarship on Asconius and the purpose of his commentaries, see: R. G. Lewis 2006, xi-xiv, xx-xxii; Marshall 1985, 26-38.

<sup>515</sup> E.g., Melchior 2008, 286; Stone 1980.

on proving that Milo had killed the conspiratorial Clodius in self-defense, and Milo's role as tyrannicide was only used in the published version of the speech.

Both Maelius and Ahala are mentioned in the *Pro Milone*, but not in the same passages. The passage where Maelius is named, in which Cicero uses *sermocinatio* to speak as Milo,<sup>516</sup> reads as follows:

“I killed, I killed, not Sp. Maelius, who fell under the suspicion of seeking the kingship by lessening the price of grain and by the squandering of his family estate, because he appeared to favour the plebs too much; not Ti. Gracchus, who annulled the magistracy of his colleague for the sake of sedition, whose slayers filled the whole world with the glory of their name; but him—for he would dare to name him, when he had freed the fatherland at his own risk—the nefarious adultery of whom the most noble women recognized in the most sacred shrines.”<sup>517</sup>

Cicero again compares Clodius to Sp. Maelius.<sup>518</sup> New details, however, are offered in this reference to Maelius' story: Maelius attempted to increase his popularity, we are told, by lessening the price of grain (*annona levanda*) and wasting his own wealth to do so (*iacturis rei familiaris*). Cicero's inclusion of these details at this time seems to be related

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<sup>516</sup> Melchior 2008, 287. Although some scholars use *prosopopeia* and *sermocinatio* interchangeably (e.g., Tzounakas 2009), there is a distinction. *Prosopopeia* is the personification of non-personal things or of the dead, whereas *sermocinatio* is the personification of one who is still alive (Lausberg 1998, 366-371 [esp. p. 370-371]; cf. Melchior 2008, 287n.26).

*Sermocinatio* is used six times within the last half of the *Pro Milone*, and was a rhetorical strategy used by Cicero to humanize, and create pathos for, his client (Melchior 2008, 292).

<sup>517</sup> *Mil.* 72: *Occidi, occidi, non Sp. Maelium, qui annona levanda iacturisque rei familiaris, quia nimis amplecti plebem videbatur, in suspicionem incidit regni appetendi; non Ti. Gracchum, qui conlegae magistratum per seditionem abrogavit, quorum interfectores impleverunt orbem terrarum nominis sui gloria; sed eum—auderet enim dicere, cum patriam periculo suo liberasset—cuius nefandum adulterium in pulvinaribus sanctissimis nobilissimae feminae comprehenderunt.* *Annona* has been translated here to mean something like “the (current) price of grain” as per *OLD* s.v. 4, where this passage is cited as an example.

As Clark points out, the rhetorician Quintilian (9.3.28) quotes the beginning of this passage (*Occidi, occidi, non Sp. Maelium*) as an example of *geminatio*, where the first use *indicat*, and the second *adfirmat* (1967, 62).

<sup>518</sup> This is a common *topos* throughout the speech, e.g., *Mil.* 7-11, 14, 31, 38, 40-41, 57, 70-71; Cicero often states that it is not the deed itself that is in question, but whether or not it was justified. Cicero also shows throughout the *Pro Milone* that Clodius' death was justified by means of an examination of his nefarious character and numerous misdeeds (*Mil. passim*).

to the fact that Clodius, who had proposed a grain law, was involved. This passage is the only place where Cicero mentions the *annona* in connection with Maelius. His words seem to imply that Maelius had subsidized the price of grain for the plebs. Cicero is the first extant source that indicates this; it later becomes central to the narratives offered by Livy and Dionysius.<sup>519</sup> At *Mil.* 72, mention of the act underlines the parallel between Sp. Maelius and Clodius. As part of his legislative programme as tribune in 58 BCE, Clodius sponsored a frumentary law that provided free grain to poor Romans.<sup>520</sup> If Maelius had treasonously won popular favour by mitigating high grain prices, how much more treasonous was Clodius' law? As many scholars have noted, such a measure cannot have occurred in the early period and should be regarded as a later accretion to the narrative, reflecting later frumentary distributions at Rome, particularly in the wake of C. Gracchus' *lex frumentaria* of 123 BCE.<sup>521</sup> Was the addition an innovation of Cicero's?

Cicero was following a well-established discourse on grain distribution, which was considered, at least by our pro-senatorial sources, such as Piso, as part of the *popularis* programme. In particular, grain distribution was condemned as a form of *largitio*. This is, in fact, how Livy describes Sp. Cassius' proposal to reimburse the plebs for grain (2.41.8-9); his reimbursement plan was regarded as nothing more than a bribe to win him a throne. Ciceronian references to grain distribution as *largitio* and as the tool of

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<sup>519</sup> The events of 439 BCE: Livy 4.13-16; DH 12.1-4. There are some variations in the Maelian episode as it relates to the grain distribution; these shall be addressed in subsequent chapters.

<sup>520</sup> Broughton *MRR* II: 196; Rotondi 1962 [1912], 398.

<sup>521</sup> For the anachronistic elements of the Maelian episode: Wiseman 2004, 192-193 and 1998, 99-101; Smith 2006b; Forsythe 2005, 240-241 and 1994, 296-310; Erdkamp 2000; Cornell 1995, 268; Erskine 1991, 114-115; Panitschek 1989; Garnsey 1988, 170-171, 177, 178; Virlouvet 1985, 20-21; Rickman 1980, 29-31; Lintott 1970 and 1968, 55-56; Ogilvie 1965, 550-552; Mommsen 1871, esp. p. 256-269.

demagogues abound.<sup>522</sup> In his *Pro Sestio*, Cicero says that Gaius Gracchus' *lex frumentaria* was pleasing to the people, but that it would encourage idleness among the masses and drain the treasury (*Sest.* 103);<sup>523</sup> that is, it would bring ruin upon the state.

The association between *largitio* and attempts at *regnum* was a rhetorical trope that pre-dated Cicero. Fragments of C. Fannius (cos. 122), who was involved in Gracchan events in the 120s BCE, record accusations against Gaius Gracchus of using *largitio* to win *dominatio* for himself:

Fr. 6: ...you ought not to allow the largess [of C. Gracchus]; for both Dionysius and Pisistratus corrupted their citizens by means of largess.

Fr. 7: If one thing most of all, largess, procured dominion for Phalarus and Pisistratus and all the rest, why is it that you do not believe Gracchus, whom you see doing what they did, to be aiming at the same thing?<sup>524</sup>

A fragment, which has been attributed to Q. Servilius Caepio (cos. 106), who spoke against Saturninus' frumentary distribution scheme of 100 BCE, directly connects a grain law with both *largitio* and *dominatio*:

When Lucius Saturninus was about to introduce his grain law concerning the five-sixths of an *as*, Q. Caepio, who was urban quaestor at that time, informed the senate that the treasury could not endure so great a largess.<sup>525</sup>

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<sup>522</sup> E.g., *Mur.* 24; *Dom. passim*; *Off.* 2.72.

<sup>523</sup> Cicero frequently accuses *populares* of proposing measures that will "drain the treasury." E.g., against C. Gracchus (*Sest.* 55, 103; *Off.* 2.72), against Rullus and his land distribution proposal (*Leg. agr.* 1.15, 2.10, 2.15, 2.32, 2.47, 2.59, 2.72, 2.98).

<sup>524</sup> Fannius, fr. 6 (Malcovati): ...*non debetis largitionem permittere; nam et Dionysius et Pisistratus cives largitione corruerunt.*

Fannius, fr. 7 (Malcovati): *Si Phalaridi et Pisistrato et ceteris omnibus una res maxime, largitio, dominationem comparavit, quid est, quod non idem Gracchum adfectare credatis, quem eadem quae illos facere videatis?*

Both fragments come from C. Fannius' *De sociis et nomine Latino contra C. Gracchum* (122 BCE).

<sup>525</sup> Caepio, fr. 2 (Malcovati): *Cum Lucius Saturninus legem frumentariam de semissibus et trientibus laturus esset, Q. Caepio, qui per id temporis quaestor urbanus erat, docuit senatum aerarium pati non posse largitionem tantam.* This fragment comes from Q. Servilius Caepio's *In senatu contra legem frumentariam L. Appulei Saturnini* (100 BCE).



A generation later, Cicero uses similar language in his *De officiis*, where he describes C. Gracchus' extensive frumentary largess (*frumentaria magna largitio*) as draining the treasury.<sup>526</sup> Because the connection between *largitio*, *dominatio*, and popular reforms pre-dated Cicero and served to paint popular politicians in an unfavourable light, we cannot exclude the possibility that Maelius' mitigation of the frumentary crisis pre-dated Ciceronian accounts.

Another new element appears in Cicero's treatment at *Mil.* 72. Cicero asserts that Maelius pursued his ambitions through "the squandering of his family estate" (*iacturisque rei familiaris*), a detail that also appears in Livy (4.13.2) and Dionysius (12.1.7). Financial ineptitude or embarrassment, which included the squandering of one's patrimony and also bankruptcy, was one of the conventional *loci* of Roman political invective,<sup>527</sup> and Cicero often accuses his opponents of such misconduct.<sup>528</sup> In other works, and even his personal correspondence, Cicero makes a point of mentioning Clodius' financial difficulties.<sup>529</sup> Maelius, then, has been made into an archetype of the

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<sup>526</sup> *Off.* 2.72: C. Gracchi *frumentaria magna largitio, exhauriebat igitur aerarium*.

<sup>527</sup> Craig 2004. Craig shows how the traditional *loci* of invective are found within many different Ciceronian speeches. For a list of these *loci*, see: above, p. 11, and Craig 2004, 190-192, 200-202, 206-208.

<sup>528</sup> Catilina: 1.14, 2.10; Catilina's followers: *Cat. passim*, but especially 2.4, 2.5, 2.8, 2.18, 2.19, 2.20, 2.21; Clodius: *In Clod. et Cur.* fr. 7-12, 4-17 (Crawford); A. Gabinius: *Sest.* 26; Antonius: *Phil.* 2.4, 2.42, 2.44. This is not an exhaustive list, but rather serves to show that the rhetorical charge was a common one. In a speech attributed to Cicero, Sallust was accused of similarly squandering his patrimony (*In C. Sallustium Crispum invectiva*, §20). Cicero jests about M. Iunius Brutus' squandered patrimony at *De Orat.* 2.22-225.

In 53 BCE, when Milo sought the consulship and Clodius the praetorship, Clodius attempted to discredit Milo by delivering a speech in the senate claiming that Milo was hugely in debt. In response to these allegations, Cicero delivered a speech entitled *interrogatio de aere alieno Milonis*. On this speech, which exists only in fragments, see Crawford 1994, 265-288. Cicero refers to these events at *Mil.* 95.

<sup>529</sup> Cic. *In Clod. et Cur.* fr. 7-12, 14-17 (Crawford). Personal correspondence: *Q. fr.* 2.3.4 (February, 56 BCE), 2.7.2 (February, 55 BCE). On the nature and fragments of Cicero's *In Clodium et Curionem* of 61 BCE, see Crawford 1994, 227-263; based on fragments 7-12 and 14-17, the main focus of the speech was Clodius' eagerness to acquire a rich province in order to help alleviate his debts. See also, Tatum 1999, 84, 87, 199, 224-225.

prodigal *popularis* politician of the late Republic. He wasted his own resources to gain popular favour, and later *populares* often incurred debt doing the same thing.

The addition of Maelius' squandering of his family estate allowed Cicero not merely to equate Clodius to malefactors of the past, but to present Clodius as an even greater threat. Indeed, this explains why Maelius' and Tiberius' threats are mentioned in one relative clause each, whereas Clodius' many crimes are emphasized in 17 clauses spanning §§72-75.<sup>530</sup> Maelius used his own estate and money in an attempt to secure *regnum*. Clodius, by contrast, surpassed Maelius' wrongdoing since he had seized the estates and wealth of others in his attempt to gain power (*Mil.* 3, 74, 76, 78, 87, 89, 95). Clodius' tyrannical nature, Cicero argues, far exceeded that exhibited by earlier would-be tyrants. Because past aspirants to kingship were slain quickly after their aims became clear, they failed to carry out tyrannical deeds that Clodius had committed in his every day life. The plunder of private, and public, property, another of the *loci* of invective, was more politically dangerous (as it threatened *libertas*) than simply mishandling one's inheritance. Maelius had been justly slain, and even more so had Clodius.

At *Pro Milone* 72, Cicero needed a would-be tyrant and invoked Maelius. In other passages, he needed tyrannicides, and included Ahala. The first passage reads as follows:

Is there anyone who is ignorant of this, when someone inquires into the slaying of a man, it is customary either to deny that it has been done altogether or it is to be defended because it has been done rightly and

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<sup>530</sup> Fotheringham 2013, 326. For the complexity of the relative clauses describing Clodius' misdeeds, see Fotheringham 2013, 326-333.

At *Cat.* 1.3 and *Phil.* 2.114, Cicero likewise uses hyperbole to heighten the danger posed by a contemporary politician. This is why, at *Mil.* 72, Cicero reports that Maelius was killed because he "fell under the suspicion" of aiming at *regnum*. Ti. Gracchus, Cicero continues, annulled his colleague's magistracy "for the sake of sedition." By underemphasizing these attempts, Cicero is able to stress the severity of the misdeeds committed by Clodius while he was alive.

lawfully? Unless, indeed, you think that P. Africanus was out of his mind, he who, when he was asked seditiously in a *contio* by C. Carbo, a tribune of the plebs, what he thought about the death of Ti. Gracchus, responded that he seemed to have been lawfully slain. For neither could that Servilius Ahala, nor P. Nasica, nor L. Opimius, nor C. Marius, nor the senate during my consulship, be considered anything but abominable, if it seemed unlawful for wicked citizens to be put to death. Therefore, judges, it is not without cause that even in fictive stories the most learned men of memory handed down the story that he, who had killed his mother for the sake of avenging his father, with the opinions of men varying, was freed not only by divine opinion, but even by the opinion of the wisest goddess.<sup>531</sup>

This list of tyrannicides is reproduced in a second passage from the *extra causam* section (§§72-91)<sup>532</sup>:

On account of which matter T. Annius may make use of the same confession which Ahala, which Nasica, which Opimius, which Marius, which we ourselves used; and, if the Republic was grateful, he would rejoice; if ungrateful, amid heavy fortune, he would nevertheless be supported by his own conscience.<sup>533</sup>

In these passages, Cicero lists Roman statesmen who protected the Republic through tyrannicide, adding to the first the senate's actions against the Catilinarians and the mythological example of Orestes.<sup>534</sup> These all, in Cicero's view, provided precedents that

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<sup>531</sup> *Mil. 8: An est quisquam qui hoc ignoret, cum de homine occiso quaeratur, aut negari solere omnino esse factum aut recte et iure factum esse defendi? Nisi vero existimatis dementem P. Africanum fuisse, qui cum a C. Carbone [tribuno plebis seditiose] in contione interrogaretur quid de Ti. Gracchi morte sentiret, responderit iure caesum videri. Neque enim posset aut Ahala ille Servilius, aut P. Nasica, aut L. Opimius, aut C. Marius, aut me consule senatus, non nefarius haberi, si sceleratos civis interfici nefas esset. Itaque hoc, iudices, non sine causa etiam fictis fabulis doctissimi homines memoriae prodiderunt, eum qui patris ulciscendi causa matrem necavisset, variatis hominum sententiis, non solum divina, sed etiam sapientissimae deae sententia liberatum.*

C. Papirius Carbo (tr. pl. 130, cos. 120) was initially a Gracchan supporter. In 129 BCE, however, he was suspected of involvement in the sudden and mysterious death of Scipio Aemilianus and decided to join the optimates. As consul he successfully defended L. Opimius, the slayer of C. Gracchus. Carbo was condemned the next year and committed suicide. On Carbo, see Broughton *MRR* I: 502, 523, 526.

<sup>532</sup> This section of the speech is believed to have been added after the trial but prior to publication.

<sup>533</sup> *Mil. 83: Quam ob rem uteretur eadem confessione T. Annius qua Ahala, qua Nasica, qua Opimius, qua Marius, qua nosmet ipsi; et, si grata res publica esset, laetaretur: si ingrata, tamen in gravi fortuna conscientia sua niteretur.*

<sup>534</sup> Cicero points out that the case of Orestes was one of many *fictis fabulis* handed down for posterity, nevertheless, it was a story that was recorded by the "most learned men." The inclusion of this

justified Milo's slaying of Clodius. This is the foundation for the argument of the rest of his speech: homicide is justifiable in some contexts.

The list of Roman *exempla* of tyrannicides found at *Mil.* 8 and 83 is reproduced in other works, such as the *In Catilinam* (1.3-4) and *De republica* (1.6). Such lists allow Cicero to rank himself with Ahala, Nasica, Opimius, and Marius.<sup>535</sup> Cicero paints Clodius' misdeeds as a continuation of Catilinarian crimes, and likens Clodius to Catilina (e.g., *Mil.* 37).<sup>536</sup> Thus Cicero, as is made explicit by his inclusion of his consulship in the precedents for tyrannicide, makes himself an *exemplum* for Milo's action.

The conflict between Cicero and Clodius is well known. Cicero never forgot his own exile, nor did he approve of the extensive programme of *popularis* legislation enacted by Clodius during his tribunate.<sup>537</sup> Other parts of Clodius' programme are well known,<sup>538</sup> but especially important was his grain distribution law calling for the dispensation of grain to Roman citizens free of charge, which Cicero condemns at length

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mythological example allows Cicero to lend greater historical weight to his use of Ahala as an *exemplum*, and it allows him to emphasize that even though Orestes' revenge was fictitious, wise men, and even the goddess Athena, approved of his action. Orestes is also used to uphold the Ciceronian idea that violence could be used to counteract violence in certain cases. In the following section (§9), Cicero moves on from *exempla* of past incidents of the just slaying of citizens to the very foundations of Roman law. He states that the Twelve Tables, established in the late 450s BCE and Rome's first recorded laws, stipulated that not all circumstances demand the punishment of one who kills a fellow citizen—an aggressor can be justly slain.

<sup>535</sup> In a recent article (2008), Melchior argues (esp. p. 287) that the published *Pro Milone* was aimed at achieving the same result for Milo that Cicero had eventually experienced—recall from exile. This argument, however, is problematic given the political climate in the months following Milo's exile, Pompeius' apparent desire to secure conviction, and the composition of the audience actually reading the published version of the speech (those reading the speech might not have possessed the political clout to actually bring about Milo's recall).

<sup>536</sup> Compare the passage at *Mil.* 37 to that at *Mil.* 63. In the latter passage, it seems that some Romans were claiming that Milo, not Clodius, was a second Catilina. Cicero had to address the similarities between Catilina and Milo and show that they were better suited to Clodius' character, not Milo's. Plausibility, as always, was of the utmost importance. On Clodius as a second Catilina, see: Melchior 2008, 287-289; Kaster 2006, 217-218 (with a list of relevant passages).

<sup>537</sup> For more on this, see above, e.g., p. 40, 55-56, 158, 161, 163.

<sup>538</sup> For a list of Clodius' reforms and the relevant sources for each, see Broughton *MRR* II: 196.

in his *De domo sua* and elsewhere, including implicitly at *Mil.* 72.<sup>539</sup> If Sp. Maelius was condemned, according to our sources, for cultivating popular support by means of private frumentary dispensation, how much more culpable was Clodius for draining the state treasury to provide grain to the masses? Cicero's aims are clear. By intentionally de-emphasizing the threat posed by earlier Romans who sought popular support through distribution of grain, Cicero is able to condemn Clodius' frumentary distribution *gratis*.

**Orat. 153 (Ahala)**

Except for one reference mentioning a change of spelling in Ahala's *cognomen* in Cicero's *Orator* (§153) of 46 BCE,<sup>540</sup> neither Maelius nor Ahala appear in the Ciceronian corpus again until almost a decade after the *Pro Milone*. The *Orator* is presented as a letter to M. Iunius Brutus. The work concerns a contemporary controversy regarding oratorical style; that is, it was written against the Atticist approach to oratory—favoured by Brutus, among others—which favoured a plain style of speaking based upon the style of Attic orators of the fourth century BCE.<sup>541</sup> Cicero's style of speaking had become unfashionable, and this work was an attempt to defend his position.<sup>542</sup>

Because of its subject matter, the *Orator* lacks historical scope.<sup>543</sup> We should not be surprised, therefore, that the mention of Ahala in this work is in no way used to reflect upon Cicero's exile and its aftermath. Such topics were not relevant to his defence of his

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<sup>539</sup> E.g., *Dom.* 11, 12, 17, 25, 26; *Sest.* 55.

<sup>540</sup> Dionysius provides a similar explanation at 12.4.5.

<sup>541</sup> Steel 2005, 131-132; MacKendrick 1989, 102-103. The nature of this debate is rather complicated and cannot be reproduced in full here. On the nature of the *Orator* and this debate, see: Steel 2005, 131-136; MacKendrick 1989, 94-105 (esp. p. 102-105).

<sup>542</sup> Steel 2005, 132.

<sup>543</sup> Steel 2005, 132. At *Orat.* 103, Cicero states that citing well-known *exempla* is not relevant to the task at hand.

oratorical style and methodology. He uses Ahala's *cognomen*, in addition to other examples, as a means of showing how certain words came to be contracted over time.

### **Sen. 56 (Maelius and Ahala)**

Cicero invokes Sp. Maelius in his *Cato Maior de senectute*, which he wrote early in 44 BCE,<sup>544</sup> in the tradition of philosophical treatises on the subject of old age.<sup>545</sup> The work itself is set in 150 BCE and is presented as a dialogue between P. Cornelius Scipio Aemilianus Africanus (cos. 147, 134), C. Laelius Sapiens (cos. 140), and M. Porcius Cato (cos. 195), who is the main speaker throughout.<sup>546</sup> Both Ahala and Maelius appear at *Sen.* 56, which reads as follows:

At that time senators, that is old men, lived on farms. Indeed, the announcement came to L. Quinctius Cincinnatus that he had been appointed dictator while he was in the act of ploughing; it was by his order that the master of the horse, C. Servilius Ahala, killed Sp. Maelius for attempting to acquire *regnum*. Both Curius and other old men were summoned from their farmhouses to the senate.<sup>547</sup>

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<sup>544</sup> Cic. *Att.* 14.21.3. For more on the date of this work, see Powell 1988, 1-2. Powell also provides a fuller examination of the date of composition; he concludes that it was written between January and March of 44 BCE, and that this makes sense particularly in light of Cicero's return to public life after Caesar's assassination (1988, 267-268).

<sup>545</sup> As Powell points out (1988, 25), Aristotle's *Parva naturalia* contained a section on old age, as did a portion of his *Rhetoric* (1389b). Diogenes Laertes, a Greek biographer of philosophers writing during the third century CE, reports that Theophrastus (5.42) and Demetrius of Phalerum (5.81) both wrote works about old age. Cicero himself refers to a work on old age by Aristo of Ceos (*Sen.* 3). For more on these authors' works, see Powell 1988, 15-16, 24-26. The tradition on old age continued long after Cicero (see Powell 1988, 27-30).

<sup>546</sup> For the dramatic date of the work, see: Reay 2005, 355-356; Powell 1988, 16-17.

The work consists of 85 sections, but Aemilianus and Laelius speak only briefly in §§4-8. Even though Cato addresses him throughout the work, Aemilianus only utters a few lines at *Sen.* 4. Unsurprisingly, Cicero felt that he had much in common with Cato the Elder; both were *novi homines*, authors, lawyers, and had political careers that were important to them (MacKendrick 1989, 210; MacKendrick also notes the personal similarities between the two: both men had lost offspring, married younger second wives, and Cicero owned a villa in Cato's home town of Tuscum).

<sup>547</sup> *Sen.* 56: *In agris erant tum senatores, id est senes, siquidem aranti L. Quinctio Cincinnato nuntiatum est eum dictatorem esse factum; cuius dictatoris iussu magister equitum C. Servilius Ahala Sp. Maelium regnum adpetentem occupatum interemit. A villa in senatum arcessebatur et Curius et ceteri senes.*

The passage is part of a digression (§§51-60) on the pleasures that old men can derive from agriculture. Cincinnatus, who in 439 BCE would have been 80 years old, is cited as an example.<sup>548</sup> Presumably, his old age justifies his inclusion.

At *Cat.* 1.3 Cicero reported that Ahala killed Maelius with his own hand (*manu sua*) because he was “eager to stir up revolution.” Cicero mentioned Ahala together with Nasica, in a way that implies that, like Nasica, he was a *privatus*. In the *First Catilinarian Oration*, as we have seen, we do not find the tradition that Ahala was serving as *magister equitum* for the dictator, L. Quinctius Cincinnatus, who was chosen specifically to deal with the crisis posed by Maelius’ monarchical ambition; Ahala was meant to be viewed as a *privatus*. In Cicero’s *De senectute*, however, this has changed.

The passage presents several overlapping problems, which can be summarized as follows:

1. although the appearance of an aged Cincinnatus at the plough is relevant, he is given no concrete role in the action, and the inclusion of Ahala and Maelius is tangential since they have no relevance to either old age or farming;
2. this summoning of Cincinnatus from the plough seems an obvious doublet of the narrative of his dictatorship of 458 BCE, when he was summoned to rescue the consul from the Aequi;<sup>549</sup>

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<sup>548</sup> Powell 1988, 219.

<sup>549</sup> Livy 3.26.6-27.1; DH 10.23.4-24.3. Several other Romans associated with the events of 458 also reappear in 439 BCE; that is, some figures reappear as magistrates in both years. There was L. Minucius Esquilinus Augurinus; he was suffect consul in 458 BCE, and prefect of the corn supply in 439 BCE (the *Fasti* record him as suffect consul, although other sources report that he was an ordinary consul [Livy 3.25.1; DH 10.22.1, 11.20.1]). Diodorus Siculus records one L. Minucius Carutianus as ordinary consul in 458 BCE (11.88.1). Third, there was T. Quinctius Capitolinus Barbatus, a relation of Cincinnatus; Barbatus served as quaestor in 458 BCE and as consul in 439 BCE. Another indication that the events of 439 BCE

3. Cincinnatus does not appear in earlier narratives of the suppression of Maelius, and his second dictatorship in 439 BCE has been questioned, since the appointment of a dictator to curb the ambition of a single man, rather than to deal with an external military crisis, is historically dubious for the early Republic;<sup>550</sup>
4. this passage has Ahala kill Maelius as master of the horse,<sup>551</sup> which stands in contrast to Alimentus and Piso, who, according to Dionysius of Halicarnassus, mention no public office.<sup>552</sup> This seems to be the tradition followed by Cicero at *Cat.* 1.3, where the parallel between Ahala and Nasica implies that Ahala was a *privatus*.<sup>553</sup>

In light of these problems, it looks very much like Cicero is working hard to insert the suppression of Maelius into a context where it does not naturally fit. Given that Cicero's

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were fabricated can be found in the age of Cincinnatus himself. In 458 BCE, he would have been 61 years old, making him 80 years old in 439 BCE (Powell 1988, 219).

<sup>550</sup> On the general dubiousness of Cincinnatus' second dictatorship: Forsythe 2005, 240; Hartfield 1982, 68, 70-71; Rickman 1980, 31; Lintott 1970, 13-18; Ogilvie 1965, 550. On the doubtfulness of the appointment of a dictator to suppress one man: Hartfield 1982, 68, 70-71; Lintott 1970, 14. On the appointment of dictators in the early period to deal with military crises: Golden 2013, 11-41 (esp. p. 11-13, 22-26); Brennan 2000, 38; Hartfield 1982, *passim* (but esp., e.g., p. 2, 6-7, 17-98 [in connection with Cincinnatus: 70-71]).

<sup>551</sup> This was the version followed by Livy and Dionysius. Indeed, in his narrative, Dionysius explicitly states that his earlier sources (Alimentus and Piso) made no mention of Cincinnatus as dictator or Ahala as master of the horse, but that he considers this version less credible (12.4.2).

<sup>552</sup> For Alimentus and Piso, see DH 12.4.2. On the absence of magistracies being the older version, see: Bispham in *FRHist* III.52; Cornell 2005, 51; Forsythe 2005, 240-241, 1994, 302; Chassignet 1999, 88, 89-90; Lintott 1970, 14; Ogilvie 1965, 550; Pais 1905, 207; Mommsen 1871, 256.

<sup>553</sup> *Cat.* 1.3: Indeed, that most illustrious man, P. Scipio, pontifex maximus, as a private citizen, killed Ti. Gracchus, although his attempts at compromising the well-being of the Republic were rather moderate. Shall we, who are consuls, tolerate Catilina, who desires to destroy the whole world by means of slaughter and fire? For I pass over those very ancient examples, such as C. Servilius Ahala, who, by his own hand, killed Sp. Maelius when he was eager to stir up revolution. Indeed, there was once such great virtue in this Republic that brave men would repress a destructive citizen with harsher penalties than they would the bitterest enemy. *An vero vir amplissimus, P. Scipio, pontifex maximus, Ti. Gracchum mediocriter labefactantem statum rei publicae privatus interfecit; Catilinam orbem terrae caede atque incendiis vastare cupientem nos consules perferemus? Nam illa nimis antiqua praetereo, quod C. Servilius Ahala Sp. Maelium novis rebus studentem manu sua occidit. Fuit, fuit ista quondam in hac re publica virtus, ut viri fortes acrioribus suppliciis civem perniciosum quam acerbissimum hostem coercerent.*



handling of this episode elsewhere presents Maelius as a proxy for contemporary would-be tyrants (first Catilina, then Clodius), and that he is clearly anxious about the contemporary political situation at Rome, which he makes explicit in the preface of his *De senectute* (§§1-3),<sup>554</sup> we should look to contemporary circumstances for a possible explanation.

In the last years of Caesar's dictatorship, Cicero became increasingly marginalized from political life at Rome, and it is at this time, between 45 and 44 BCE, that a large proportion of his philosophical works were written.<sup>555</sup> By setting the dialogue in the past, Cicero was able to make tactfully oblique comment on recent events. His selection of speakers is important in this regard. We know that shortly after M. Porcius Cato's suicide, in 46 BCE, Cicero produced a panegyric for him.<sup>556</sup> We also know that, several months later (in 45 BCE), Caesar responded to Cicero's eulogy with his own work—*Anticato*.<sup>557</sup>

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<sup>554</sup> *Sen.* 1: And yet I suspect that you [Atticus] are sometimes very seriously disturbed by the same events by which I am disturbed, the comfort for which (events) is both an even greater task and must be deferred to another time. *Et tamen te suspicor eisdem rebus quibus me ipsum interdum gravius commoveri, quarum consolatio et maior est et in aliud tempus differenda*. In the preface, Cicero also states that philosophy can grant a life free from worry, if one obeys her. Moreover, the work even opens with a quotation from Ennius in which an Epirote shepherd offers help to T. Quinctius Flamininus during his military campaign (in the Second Macedonian War) against Philip V in 198 BCE (Powell 1988, 95). The quotation from Ennius is intended for Atticus, to whom Cicero is attempting to offer aid from present troubling circumstances.

<sup>555</sup> Powell 1988, 1-2. Other of his philosophical works written during this time include his *Laelius de amicitia* and *De officiis*, to name only a few. On the personal front, the death of Cicero's daughter, Tullia, in 45 BCE also contributed to his departure from active political life at Rome (e.g., Steel 2013a, 5; Tempest 2011, 177; Powell 1988, 2). It should be pointed out that although Cicero was no longer actively involved in politics at Rome, he considered his philosophical literary output as a form of political action (Cic. *Div.* 2.1.2; see, also, Steel 2005, 137-138).

<sup>556</sup> Cic. *Div.* 2.1.3, *Orat.* 35, *Top.* 94, *Att.* 12.4.2, 12.5.2, 13.27.1, 13.46.2, 13.50.1, 13.51.1; Plut. *Caes.* 54.2-3; App. *B. Civ.* 2.99. Macrobian *Sat.* 6.2.33.

<sup>557</sup> Cic. *Top.* 94, *Att.* 12.4.2 (implied; Cicero wants to present a "genuine eulogy"), 13.50.1, 13.51.1; Suet. *Caes.* 56; Plut. *Caes.* 54.2-3; App. *B. Civ.* 2.99. Unfortunately, neither work has survived. Some fragments of Caesar's *Anticato* exist, and Cicero, as well as other authors, mentions both works. For a comprehensive treatment of Caesar's *Anticato*, see Tschiedel 1981. See also: Damon 1993-1994; Jones 1970; Taylor 1949, 170-171. Before Caesar's *Anticato* was published, Aulus Hirtius (cos. 43), a Caesarian

Although Cicero's letters present this as a friendly literary dispute (*Att.* 13.50.1, 13.51.1), he had expressed concern that it would offend Caesar, and Plutarch later reports that this was, in fact, the case.<sup>558</sup> As Lintott has argued, Cicero's explicit praise of Cato Maior in his *De senectute* as representative of implicit praise for Cato Minor's efforts against Caesar's regime.<sup>559</sup> In what follows, I shall argue that Cicero's presentation of Ahala and Cincinnatus at *Sen.* 56 served similar ends.

Cicero clearly wanted to portray Cincinnatus and Ahala as tyrannicides and, thereby, saviours of the Roman state. They serve as positive *exempla*, and Cicero certainly intended readers to liken Ahala to himself. We can also imagine that Cincinnatus was meant to represent the senate during Cicero's consulship, under the authority or advice of which he regularly emphasized that he acted when he protected the state from the Catilinarian conspirators.<sup>560</sup> It is Caesar's dictatorship that is central to our understanding of Cicero's reshaping of the events of 43 BCE in this work. While it has largely escaped the notice of scholars, I would argue that Cicero's presentation of Cincinnatus and Ahala is an important innovation. That is, Cicero appears to have used his presentation of the pair as a foil for Caesar and M. Antonius, which helps to explain

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supporter, produced his own refutation of Cicero's *Cato* (Fuhmann 1992, 147); Cicero wanted Hirtius to publish his work since it would bring derision upon him, and, by extension, Caesar (*Att.* 12.45.2).

Caesar's *Anticato* was a rhetorical attack against Cato, claiming that he had been a drunk and committed incest (Damon 1993-1994, 183; Gelzer 1968, 302, 302n.6 [for ancient sources]). As Gelzer put it, Caesar's lack of moderation in the work "brought about the opposite result to that intended...his enemy became much more dangerous in death than he had been in life because his defenders were now even more inclined to elevate him to the status of the tyrant's equal opponent" (1968, 302-303; other scholars hold this view, e.g.: Grillo 2012, 45; Tempest 2011, 177; Taylor 1949, 170).

<sup>558</sup> Cic. *Orat.* 35, *Att.* 13.27.1; Plut. *Caes.* 54.2-3.

<sup>559</sup> Lintott 2008, 24; cf. van der Blom 2010, 247. Lintott also states that the 40s BCE might have seen "a political and historical context of competition" regarding the power of invoking Cato Maior (2008, 247). Cf. Taylor 1949, 162-182, where she examines Catonism and Caesarism from the time of the civil war between Caesar and Pompeius into the reign of Augustus.

<sup>560</sup> E.g., Cic. *Dom.* 94, 114; *Sest.* 53, 123; *Pis.* 7, 19; *Fam.* 1.9.12, 1.9.15 (December, 54 BCE).

the appearance of Ahala's role as master of the horse—a detail omitted from his *In Catilinam* (1.3) of 63 BCE—in Cicero's *De senectute*. The contemporary cognate to the dictator and his master of the horse would, on the face of it, be Caesar and Lepidus. But who should be Maelius here if not Caesar? But in that case there would be no magistrates to fill the roles of Cincinnatus and Ahala, and Caesar actually had a *regnum* and was not seeking it. Thus Cincinnatus and Ahala represent a standard not currently being met at Rome. Cincinnatus, who represents restraint and the ideal Roman statesman,<sup>561</sup> was appointed dictator in a time of need and saved Rome from tyranny. In contrast, Caesar had now been dictator since 49 BCE, and, far from laying aside this position, became, at about the time Cicero was composing this work, *dictator perpetuus*.<sup>562</sup> Cicero is attempting to show that, in contrast to Cincinnatus' dictatorship, which had been used to protect liberty, Caesar's was being used to suppress it.

#### **Amic. 28 and 36 (Maelius)**

When Cicero composed his *Laelius de amicitia* between March and November of 44 BCE,<sup>563</sup> discussions concerning autocracy were particularly relevant in light of the political situation at Rome. Caesar had recently been assassinated, and Antonius was using Caesar's death to his own advantage. The work is philosophical in nature, and, like the *De republica*, has a dramatic date of 129 BCE, four years after the tumultuous events

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<sup>561</sup> As MacKendrick notes, Cicero chose his *exempla* in this work to emphasize Roman virtues, for example those of endurance and of appreciation for the simple life (1988, 211-212).

<sup>562</sup> By February 15<sup>th</sup> of 44 BCE, Caesar was made dictator for life; Cicero mentions that at the time of the Lupercalia for 44 BCE, Caesar held the title *dictator perpetuus* (Cic. *Phil.* 2.87; see also Broughton *MRR* II: 317-38). In addition to Broughton, see the discussions of the following scholars on the chronology of Caesar's years as dictator, e.g.: Canfora 2007, 287-295, 358-367 (a comprehensive look at the chronology, with ancient sources); Gelzer 1968, 320;

<sup>563</sup> Cicero considered his *Cato Maior de senectute* and *Laelius de amicitia* as companion-pieces (*Amic.* 4, 11).

of Ti. Gracchus' tribunate. Maelius is mentioned twice. In one passage he is mentioned alongside Sp. Cassius Vecellinus and L. Tarquinius Superbus, who here stands as a substitute for Capitolinus.<sup>564</sup> Cicero reports that the Romans hated these men owing to their cruelty. In the second passage, Maelius appears alongside Sp. Cassius once more, but here we find Cn. Marcius Coriolanus (fl. fifth century BCE) in place of Coriolanus:

Are we to think that if Coriolanus had friends they ought to have taken up arms with him against their country? Or ought the friends of Vecellinus to have aided him in his attempt at *regnum*, or those of Maelius?<sup>565</sup>

The work as a whole focuses on the nature of friendship, and here, therefore, Coriolanus suits Cicero's lesson that a friend should be abandoned if he seeks to acquire kingship.

Cicero cites these malefactors in condemnation of Caesar's actions and Antonius' attempts to succeed him.<sup>566</sup>

**Phil. 2.26-27 (Ahala) and 2.87 and 2.114 (Maelius) [October of 44 BCE]**

Cicero's *Second Philippic* was composed in October of 44 BCE, six months after Caesar's assassination as Marcus Antonius was consolidating his power.<sup>567</sup> Conceived as a senatorial speech, it was never actually delivered, and the chronology of its publication is obscure.<sup>568</sup> Maelius and Ahala are both mentioned twice in this speech, but never

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<sup>564</sup> *Amic.* 28.

<sup>565</sup> *Amic.* 36: *Numne, si Coriolanus habuit amicos, ferre contra patriam arma illi cum Coriolano debuerunt? num Vecellinum amici regnum adpetentem, num Maelium debuerunt iuvare?*

The involvement of Coriolanus' friends in his attempt at *regnum* is seen, e.g., in Livy (2.37.1-2, Coriolanus' friendship with the Volsci) and Dionysius (7.63.3-4, 7.64.3, 8.41.2). According to Dionysius (7.63.3-4), Coriolanus had distributed spoils of war to his friends and planned on including them in his plot to seize royal power.

<sup>566</sup> For more on the interpretation of these passages, see Part I, Chapter 1 (p. 52-53).

<sup>567</sup> For a general treatment of the *Second Philippic*, see Usher 2008, 127-131.

<sup>568</sup> *Cic. Att.* 15.13.1 (October, 44 BCE). The accepted view is that the speech was circulated shortly after M. Antonius left Rome for Cisalpine Gaul on November 28/29<sup>th</sup> of 44 BCE, either at about the same time as *Philippics* 3 and 4 were delivered (on December 20<sup>th</sup>), or shortly before their deliveries (Ramsey

together. In the speech, Cicero justifies the killing of Caesar, citing ancient *exempla* of tyrannicides. By coincidence, several of the conspirators had ancestors who had killed tyrants or would-be tyrants:

Suppose it was that Brutus, who also himself liberated the state from kingly power and preserved for nearly five hundred years afterwards descendants of similar virtue and similar achievement.<sup>569</sup>

The descendants (*stirpem*) are Caesar's killers Marcus and Decimus Brutus. The same sentiments recur throughout the *Philippics*.<sup>570</sup> Not only does Cicero note the similarities between the conduct of Marcus and Decimus Brutus and that of their forefather, Lucius Brutus, but he also discusses another ancestor—C. Servilius Ahala. Cicero has this to say:

Moreover, how much more likely is it that among so many men, some obscure, some young, concealing no one, that my name was able to escape notice? For, if instigators were desired for the purpose of liberating the fatherland by those performers of the deed, was I to urge on the Bruti, both of whom saw the ancestral image of L. Brutus daily, and the other who saw also the ancestral image of Ahala? Therefore, were these men of such ancestry as to seek advice from another's ancestors rather than their own and [seek advice] from without rather than at home?<sup>571</sup>

The reference to ancestral imagery requires some clarification. Brutus, adopted by his maternal uncle, was related to C. Servilius Ahala on his mother's side.<sup>572</sup> Cicero refers to the fact that ancestral images (*imagines*) of L. Iunius Brutus and C. Servilius Ahala were

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2003, 158). On scholarship regarding the publication date of the Second Philippic, see Ramsey 2003, 158-159.

<sup>569</sup> *Phil.* 1.13: *Fuerit ille Brutus, qui et ipse dominatu regio rem publicam liberavit et ad similem virtutem et simile factum stirpem iam prope in quingentesimum annum propagavit.*

<sup>570</sup> On the Bruti: *Phil.* 1.13, 3.9, 3.11, 4.7, 6.9, 10.14, 10.25.

<sup>571</sup> *Phil.* 2.26: *Quam veri simile porro est in tot hominibus partim obscuris, partim adolescentibus neminem occultantibus meum nomen latere potuisse? Etenim, si auctores ad liberandam patriam desiderarentur illis actoribus, Brutos ego impellerem, quorum uterque L. Bruti imaginem cotidie videret, alter etiam Ahalae? Hi igitur his maioribus ab alienis potius consilium peterent quam a suis et foris potius quam domo?*

<sup>572</sup> *Cic. Phil.* 10.14; *Plut. Brut.* 1.3. See, also, Ramsey 2003, 201. Marcus Brutus' uncle was Q. Servilius Caepio; after his adoption around 59 BCE, Marcus Brutus was known officially as Q. Servilius Caepio Brutus (Ramsey 2003, 201).

displayed in Brutus' own home.<sup>573</sup> Brutus also issued coinage making these connections to his ancestors.<sup>574</sup>

At *Phil.* 2.26, we see Cicero using the example of Ahala to justify Caesar's slaying, even though he makes it clear that he personally played no part in it (§§25-28). In the following section, Cicero also names some of Caesar's assassins, including P. Servilius Casca Longus (tr. pl. 43) and another Servilius Casca,<sup>575</sup> for whom Servilius Ahala also served as an ancestral *exemplum*:

What? What about the two Servilii—should I call them Cascas or Ahalas?  
And do you think that those men were incited by my authority more than their  
love for the Republic?<sup>576</sup>

Here Cicero connects two more of the assassins to an ancient tyrannicide—such men were even more justified in thwarting a tyrant due to their lineage.

In his *De senectute* (§56), as we have seen, Cicero seems to have innovated by making Ahala *magister equitum*. In the *Second Philippic*, which was written only several months later, as previously in the *In Catilinam*, no mention is made of Ahala holding an office. Caesar's assassins had been a mix of *privati* and magistrates.<sup>577</sup> Once more, then, immediate concerns govern what details Cicero provides or omits. Moreover, in this speech Cicero was urging senatorial action against the newest threat to Roman liberty, M.

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<sup>573</sup> In a letter to Atticus, Cicero refers to a painted family tree, on display in one of Marcus' villas, which included L. Iunius Brutus and C. Servilius Ahala (*Att.* 13.40.1 [August, 45 BCE]). On this letter, see Ramsey 2003, 201. Such displays of family lineage would have served to induce later generations to attempt to live up to the examples set by their ancestors. Of great value on this topic is Richardson's recent monograph (2012, esp. p. 23-55, 57-113), which explores how the Romans expected members of the same family to behave in similar ways, and that this was an acceptable historiographical practice.

<sup>574</sup> Van der Blom 2010, 97. Coinage: Crawford, *RRC* 1.433, items 1 and 2.

<sup>575</sup> On the mysterious identity of this other Casca, see Ramsey 2003, 204.

<sup>576</sup> *Phil.* 2.27: *Quid? Duos Servilios—Cascas dicam an Ahalas? et hos auctoritate mea censes excitatos potius quam caritate rei publicae?*

<sup>577</sup> As Lintott points out, generally speaking, the *privatus* line of argument lent greater weight to Cicero's arguments (1968, 56).

Antonius, and most certainly did not care about the status of those who might carry it out.<sup>578</sup>

Cicero mentions Sp. Maelius in two separate passages. In both passages, Cicero justifies the slaying of the would-be tyrant figure, which suited his aims as he attacked M. Antonius' recent tyrannical behaviour. The first passage reads as follows:

Was it for this reason that L. Tarquinius was driven out, that Sp. Cassius, Sp. Maelius, and M. Manlius were killed, so that many years later a king could be established at Rome by M. Antonius, something which is intolerable?<sup>579</sup>

Cicero emphasizes this point later in the same speech:

Even if those liberators of ours have removed their very selves from our sight, they have still left behind the example of their conduct. They have done what no man had done. Brutus pursued Tarquinius with war, who was king at a time when it was lawful to be king at Rome; Sp. Cassius, Sp. Maelius, and M. Manlius were killed on account of the suspicion that they were aiming at *regnum*. These men made the first armed attack against someone not aiming at *regnum*, but already ruling. That conduct is not only celebrated and godlike, but it has also been set forth so as to be imitated.<sup>580</sup>

As at *Cat.* 1.3, when Cicero reported that Ti. Gracchus' attempts "at compromising the well-being of the Republic were rather moderate," the threats posed by Sp. Maelius, Sp. Cassius, and M. Manlius Capitolinus are downplayed in order to highlight a new threat to Roman *libertas* in the form of M. Antonius.

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<sup>578</sup> For more on this interpretation and analysis, see Part I, Chapter 1 (p. 53-55).

<sup>579</sup> *Phil.* 2.87: *ideone L. Tarquinius exactus, Sp. Cassius, Sp. Maelius, M. Manlius necati ut multis post saeculis a M. Antonio, quod fas non est, rex Romae constitueretur?*

<sup>580</sup> *Phil.* 2.114: *Quodsi se ipsos illi nostri liberatores e conspectu nostro abstulerunt, at exemplum facti reliquerunt. Illi, quod nemo fecerat, fecerunt. Tarquinium Brutus bello est persecutus, qui tum rex fuit, cum esse Romae licebat; Sp. Cassius, Sp. Maelius, M. Manlius propter suspicionem regni adpetendi sunt necati: hi primum cum gladiis non in regnum adpetentem, sed in regnantem impetum fecerunt. Quod cum ipsum factum per se praeclarum est atque divinum, tum expositum ad imitandum est.*

The "*illi nostri*" and "*hi*" refer to the murderers of Caesar, not to those who prevented Sp. Cassius, Sp. Maelius, and M. Manlius from acquiring *regnum* (cf. Pina Polo 2006, 78n.41).

Cornell misquotes Cic. *Phil.* 2.114 as "*Sp. Cassius auctor legis agrariae propter suspicionem regni*" (1995, 452n.114). The original text does not include "*auctor legis agrariae*," nor does Cicero anywhere explicitly refer to an agrarian law of Sp. Cassius.

We shall now turn to an analysis of the ways in which the narratives of Livy and Dionysius of Halicarnassus regarding the events of 439 BCE differ from Ciceronian treatments and consider the motivations for such reshapings.



### **CHAPTER 3: SP. MAELIUS IN LIVY AND DIONYSIUS**

After Cicero, other authors also reinterpreted these events for their own purposes. Diodorus Siculus, writing between 60 and 30 BCE, mentions Sp. Maelius, but only in passing. He states merely that Sp. Maelius was put to death for seeking *regnum* (12.37.1: ἐν τῇ Ῥώμῃ Σπόριος Μαίλιος ἐπιθέμενος τυραννίδι ἀνιέρθη).<sup>581</sup> Sp. Maelius does not appear in the extant sources again until Livy and Dionysius of Halicarnassus narrated the events of this year.<sup>582</sup>

We saw that Livy and Dionysius treated Sp. Cassius' third consulship at greater length than previous sources, and this is also true for their respective treatments of Sp. Maelius' downfall. Once more, Dionysius' account is longer than Livy's. It is impossible to determine how much longer, however, since this portion of Dionysius' work is somewhat fragmentary.<sup>583</sup> Based on the fragments of L. Cincius Alimentus and L. Calpurnius Piso Frugi preserved in Dionysius' account, it seems that earlier treatments of the episode were very brief and involved little more than that: Maelius was suspected of aiming at kingship, L. Minucius Augurinus Esquilinus discovered the plot and reported it to the senate, and C. Servilius Ahala was instructed to kill Maelius, which he did. As we have seen, the figures associated with the events of this year were originally cast as *privati*. Both Livy and Dionysius, however, preferred a version of events in which L.

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<sup>581</sup> Diodorus dates the episode to the year 432 BCE, several years later than our other sources. On the problems with Diodorus' chronology, see above Part I, introduction to Chapter 3 (p. 81).

<sup>582</sup> Livy 4.13-16; DH 12.1-4.

<sup>583</sup> Both accounts as we have them span four chapters per author respectively.

Minucius was prefect of the corn supply, L. Quinctius Cincinnatus was dictator, and C. Servilius Ahala was master of the horse.<sup>584</sup>

Just as for their accounts of Sp. Cassius' third consulship, Livy and Dionysius were consulting the same source or sources for the events of 439 BCE, as we shall see. Cicero is the first extant source to mention Sp. Maelius' distribution of grain (*Mil.* 72), and both Livy and Dionysius include this important element in their own treatments. Livy's account contains obvious signs of disapproval of Sp. Maelius' bid for *regnum* by means of frumentary distribution, but, as we shall see, other elements contained within his treatment cannot be categorized as wholly pro-senatorial in nature. His concern is with socio-political harmony between patricians and plebeians (*concordia ordinum*). Although the Dionysian version shares many similarities with the Livian one, Dionysius' treatment manifests explicit plebeian/*popularis* sympathies.

In the work of both authors, Sp. Maelius' grain distribution and subsequent conflict with the senate are described in ways that evoke the rhetoric of the mid- to late Republic. Seager posits that Sp. Maelius at times represents Ti. Gracchus and at others Catilina.<sup>585</sup> More broadly, Sp. Maelius, just like Sp. Cassius, represents an amalgamation of several *popularis* politicians spanning several decades. Certain elements, however, are emphasized, suppressed, or reshaped by our sources in order to address the concerns of a particular author. The narratives of both authors not only reflect the Gracchan conflicts and those of subsequent decades, but also contain contemporary resonances and concerns

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<sup>584</sup> As we have seen, at *Cat.* 1.3, Cicero presented Ahala in a way that implied that he was a *privatus*, but later reported a version in which Cincinnatus was dictator and Ahala was master of the horse (*Sen.* 56).

<sup>585</sup> Seager 1977, 383.

unique to each author. Both authors continued the tradition of recasting the episode based upon their own authorial, literary, and rhetorical goals.

### **3.A) THE LIVIAN SP. MAELIUS**

Livy's treatment of the events of 439 BCE is longer than what we find in Cicero, and, therefore, contains many details that have not yet been encountered. As we shall see, Livy and Dionysius present the episode in ways similar to each other, but differences are present. Although a few things must be said about the situation prior to this year, the following represents a general overview of Livy's treatment of Sp. Maelius, his frumentary distribution, and subsequent downfall (details that differ from Dionysius' account or that are unique to Livy are in bold):

- **in 440 BCE, the Romans experienced a terrible famine and, as a result, L. Minucius Esquilinus Augurinus, a patrician, was elected as prefect of the corn supply;**
- **Minucius was unable to import corn to alleviate the famine, and many plebeians committed suicide in order to avoid death by starvation,<sup>586</sup>**
- in 439 BCE, Sp. Maelius tried to alleviate the famine by purchasing corn in Etruria with his own money (and with the help of his friends and clients); he then distributed it to the plebeians, which won him popular support;
- because he had no hope of obtaining the consulship, for he was an *eques* and not of the nobility, Sp. Maelius instead sought to acquire *regnum*;

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<sup>586</sup> Because of the fragmentary nature of this portion of Dionysius' work, we do not know if or how he treated the events of 440 BCE.

- **new consuls were elected (T. Quinctius Capitolinus and Agrippa Menenius Lanatus), and Minucius was either re-elected as prefect of the corn supply or had been elected to that position for an unspecified term;**
- Sp. Maelius acted in a manner unfitting of a private citizen; Minucius reported to the senate that **Maelius was gathering weapons** in his house and holding meetings there;
- because of the threat posed by Maelius, L. Quinctius Cincinnatus was chosen to serve as dictator, and he selected C. Servilius Ahala as his master of the horse;
- on the order of Cincinnatus, Ahala summoned Sp. Maelius to stand trial, but Maelius resisted and, as a result, Ahala killed him;
- **Cincinnatus mollified the plebs by praising Ahala for liberating the state;**
- Cincinnatus ordered that Sp. Maelius' house be torn down (the empty area became known as the Aequimaesium) and his goods be confiscated and sold, the proceeds of which would be placed in the treasury;
- **Minucius, who was rewarded with an ox and a statue, then distributed Sp. Maelius' corn to the plebeians at a reduced price;**
- Livy doubts the report, but states that **Minucius might have been transferred from the patricians to the plebeians and then been made eleventh tribune of the plebs;**

- the tribunes who opposed the rewards bestowed upon Minucius passed a law providing for the **election of military tribunes with consular powers**<sup>587</sup> for the following year, hoping that plebeians would be elected on the basis of promising to avenge the death of Maelius (but only patricians were chosen, including Cincinnatus' own son).<sup>588</sup>

Livy treats the events of 439 BCE at greater length than earlier sources, but also at greater length than his own treatment of Sp. Cassius' third consulship. This was intentional. Livy sought to emphasize that internal threats to Rome's stability became increasingly grave over time, contributing to the chaotic events of the last decades of the Republic.<sup>589</sup> Therefore, Sp. Maelius' monarchical ambition is given greater consideration than Sp. Cassius' several decades earlier, but not as much as M. Manlius Capitolinus' several decades later (during the mid-380s BCE).

Livy presents Sp. Maelius' decision to purchase and distribute grain to the masses as a direct result of a famine that began in 440 BCE. The famine had followed a year in which the Romans experienced peace both at home and abroad (4.12.1). Livy characterizes the situation in 440 BCE as follows:

This tranquility of affairs was followed by the consulships of Proculus Geganius Macerinus and L. Menenius Lanatus, a year that was remarkable for numerous deaths and disasters, seditions, famine, the near acceptance of *regnum* upon their necks on account of the charm of largess.<sup>590</sup>

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<sup>587</sup> Dionysius does mention military tribunes shortly after the Maelian episode (at 12.5.1 and 12.6.5), but does not report how or why they were chosen over consuls like Livy does.

<sup>588</sup> 4.13-16 (for his complete account of the events of 439 BCE). Compare this to the overview of Dionysius' account of the events of 439 BCE in Chapter 3B below (p. 243-245).

<sup>589</sup> Chassignet 1999, 85.

<sup>590</sup> 4.12.6: *Sequitur hanc tranquillitatem rerum annus Proculo Geganio Macerino L. Menenio Lanato consulibus multiplici clade ac periculo insignis, seditionibus, fame, regno prope per largitionis dulcedinem in cervicibus accepto.*

Livy also points out that had the Romans been faced with foreign conflict at this time, they could not have withstood it (4.12.7). In the past, the Romans had been able to put aside their differences in order to face the threat posed by external enemies (e.g., 2.23.1-2.25.2, 2.42.3, 2.58.1-3), but we must infer that this would not have been the case in this year.<sup>591</sup> He goes on to explain that the famine was caused either by poor weather, which affected the crops, or by the migration of farmers to the city of Rome (4.12.7).

The famine exacerbated tensions between the patricians and plebeians: the patricians accused the plebs of idleness, and the plebeians accused the consuls of fraud and negligence (4.12.7). The famine, therefore, is portrayed as entrenched in the patricio-plebeian struggle. The inability of L. Minucius, the *praefectus annonae*, to acquire grain led many plebeians to commit suicide as a means of avoiding death by starvation (4.12.11). The famine continued into the next year, when Sp. Maelius used his own money to distribute grain to the plebs at a reduced price, thereby eclipsing Minucius.

As elsewhere, Livy describes these events using the political idiom characteristic of the last decades of the Republic. The Livian description of the events of 439 BCE begins as follows:

Then Sp. Maelius, of the equestrian order, as a very rich man for those times, set about to do a useful thing in a way that set the worst example, with worse motive. For he, after purchasing corn from Etruria with his own money through the services of his friends and clients, which very circumstance, I believe, had been a hindrance to attempts to reduce the price of corn by means of public administration, began to make distributions of corn.<sup>592</sup>

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<sup>591</sup> Our sources record campaigns against the Volsci and Aequi for almost every year beginning around 494 down until the 450s BCE (Cornell 1995, 307).

<sup>592</sup> 4.13.1-2: *Tum Sp. Maelius ex equestri ordine, ut illis temporibus praedius, rem utilem pessimo exemplo, peiore consilio est adgressus. Frumento namque ex Etruria privata pecunia per hospitum clientiumque ministeria coempto, quae, credo, ipsa res ad leuandam publica cura annonam impedimento fuerat, largitiones frumenti facere instituit.*

Although Livy acknowledges the usefulness of this frumentary distribution, he also characterizes Maelius' actions as setting a bad example, deriving from an even worse motive. From the outset, Maelius' intentions are made explicitly clear.<sup>593</sup> Sp. Maelius' actions, like those of Sp. Cassius before him, led to unrest not only during his own time, but for future generations as well. Livy, like authors before him, has recast Maelius as a *proto-popularis* involved in conflicts that foreshadow those of the late Republic.

Leading up to his narrative of the events of 439 BCE, there is already a discernible difference in Livy's account from Ciceronian treatments. L. Minucius Augurinus Esquilinus (cos. or cos. suff. 458), who plays a substantial role in Livy's treatment (as well as Dionysius'), does not appear anywhere in the Ciceronian corpus. Both Livy and Dionysius followed a narrative tradition in which Minucius was important in bringing about Sp. Maelius' downfall. According to Dionysius (12.4.2-4), both Cincius Alimentus and Piso Frugi included Minucius in their versions of events, but only as an informer. Moreover, Dionysius' description of their work implies that in their accounts L. Quinctius Cincinnatus (cos. suff. 460) and C. Servilius Ahala act as *privati*. This version of events clearly predated the alternate version in which the main figures all held official positions, as scholars have recognized.<sup>594</sup> In Livy and Dionysius they are dictator and *magister*

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<sup>593</sup> As Roller rightly notes, Livy does not develop Sp. Maelius' aims over time, he states them clearly at the outset (2010, 125).

<sup>594</sup> Bispham and Cornell in *FRHist* III.51-52; Pina Polo 2006, 84-85; Cornell 2005, 51; Forsythe 2005, 240-241 and 1994, 302; Vasaly 1999, 527; Lintott 1970, 14 and 1968, 55-56; Ogilvie 1965, 550-551; Mommsen 1871, 260-261. Cf. Wiseman 1998, 100.

*equitum* respectively.<sup>595</sup> Moreover, both authors present Minucius as *praefectus annonae* (Livy 4.12.8, 4.13.7; DH 12.4.2),<sup>596</sup> though we shall see that this cannot be historical.

What inspired the addition of this detail? Why might Livy have preferred to present Minucius as *praefectus annonae* in his version of events? L. Minucius was not the only member of his family to have been involved in the grain supply. In 492 BCE, P. Minucius Augurinus, as consul, secured grain from abroad in response to famine.<sup>597</sup> In the next year, his brother, M. Minucius Augurinus (cos. 497), as consul, was involved in importing grain from Sicily.<sup>598</sup> In our episode, after Sp. Maelius' death, Minucius distributed at a low cost the grain that Maelius had purchased (4.16.2).

An allusion to this tradition, in which the Minucii were associated with the grain supply, appears in the numismatic record. Two moneyers belonging to the *gens Minucia* minted coins (denarii in both cases) that alluded to grain distribution: C. Minucius Augurinus and Ti. Minucius Augurinus (in 135 and 134 BCE respectively).<sup>599</sup> The two

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<sup>595</sup> Ahala as master of the horse: Livy 4.13.14; DH 12.2.1, 12.2.3, 12.2.6. Cincinnatus as dictator: Livy 4.13.12; DH 12.2.1, 12.2.4, 12.2.5, 12.2.10, 12.4.1. For Cicero's presentation of Cincinnatus and Ahala at one time as *privati* and at a later time as state officials, see above, Chapter 2 (esp. p. 180-185).

<sup>596</sup> As we shall see, Dionysius reports that Minucius was prefect (12.1.5) and prefect of the agora (12.1.11).

<sup>597</sup> Livy 2.34.1-2; DH 7.1-2, 7.12-15. The famine is presented as a result of the secession of the plebs in 494 BCE, and, therefore, as part of the patricio-plebeian conflict.

<sup>598</sup> Livy 2.34.7.12; DH 7.20.1-4, 7.24.1-2, 7.27.1, 7.29.2, 7.36.4, 7.37.3. In Dionysius' narrative, greater involvement is attributed to the consuls in the acquisition of grain than in Livy's. Notably, in 491 BCE, Coriolanus makes an appearance; he suggested to the senate that they only sell the grain to the plebs if the state was allowed to annul the plebeian magistracies instituted after the secession (Livy 2.34.8-12; DH 7.24.1-3). Dionysius' account is extremely long, and the debate over the grain turns into plebeian opposition to Coriolanus.

<sup>599</sup> On the coinage of C. Minucius Augurinus: Crawford, *RRC* I.273-275; Wiseman 1998, 91-92; Babelon I.228-229. On the coinage of Ti. Minucius Augurinus: Crawford, *RRC* I.275-276; Wiseman 1998, 91-92; Babelon, I.231-232. Wiseman and Babelon provide illustrations of the coins, as well as descriptions. Babelon dates the coins to 129 and 114 BCE respectively. Crawford's dating, however, is preferable, and is followed by Wiseman (1998, 91-92). For more on the controversy surrounding the dates, with modern scholarship, see Pina Polo 2006, 85, 85n.79.



seem to have been brothers.<sup>600</sup> Both coins depict a spiral column, with a statue on top (holding a staff); the column is flanked by two figures wearing togas, one holding loaves of bread and the other a *lituus*, and adorned with ears of corn at the bottom.<sup>601</sup> The column is believed to be the *columna Minucia*, located outside the *porta Trigemina*, which Dionysius and Pliny the Elder (and perhaps Livy<sup>602</sup>) report was a reward granted by the senate for L. Minucius' role in the suppression of Sp. Maelius' sedition.<sup>603</sup> Neither the *columna Minucia* nor the *porta Trigemina* are believed to have existed before the third century BCE.<sup>604</sup> The figure holding the *lituus* is M. Minucius Faesus, who was one of the first plebeian augurs after the office was opened to the plebs in 300 BCE.<sup>605</sup> Although uncertainty surrounds the identities of the other two figures depicted on the coins, one of them must be L. Minucius Esquilinus Augurinus.<sup>606</sup> From the numismatic

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<sup>600</sup> Crawford, *RRC* I.273, 276; Wiseman 1998, 91.

<sup>601</sup> The *lituus* was an augural symbol. On the connection between this branch of the *gens Minucia* and augury, see Wiseman 1998, 103-104.

<sup>602</sup> There is a corruption at 4.16.2, where Livy discusses the rewards granted to L. Minucius. As it stands, Livy's text refers to a gilded ox (*bove aurato*), which some have suggested, based on Dionysius and Pliny the Elder and the coinage, emending to an ox and a gilded statue (*bove et statua aurata*). The reference to a gilded ox may be the result of conflation (Oakley in *FRHist* III.436-437). On this issue, see, e.g.: Oakley in *FRHist* III.436-437; Wiseman 1998, 90-105; Forsythe 1994, 304-305; Ogilvie 1974 (*ad loc.*) and 1965, 556-557; Conway 1914 (*ad loc.*); Pais 1905, 209.

<sup>603</sup> DH 12.4.6; Plin. *Nat.* 18.4(15), 34.11(21). On the column depicted on the coins as the *columna Minucia*, see: Oakley in *FRHist* III.437; Crawford, *RRC* I.273, 276; Pina Polo 2006, 85; Cornell 2005, 51; Forsythe 1994, 304; Ogilvie 1965, 550. For the location of the statue: Livy 4.16.2; Plin. *Nat.* 18.4(15), 34.11(21).

Additional confusion has arisen as a result of the *porticus Minucia*, a gate at Rome located near a grain market (Garnsey 1988, 170; Ogilvie 1965, 550). That is, there is conflation in the sources between the *porta Trigemina* and the *porticus Minucia*; on this problem, see, e.g.: Wiseman 1998, 90-91, 94-97; Forsythe 1994, 304-305.

<sup>604</sup> Garnsey 1988, 170-171; Rickman 1980, 31; Ogilvie 1965, 550

<sup>605</sup> Crawford, *RRC* I.274; Wiseman 1998, 94, 97-98. On the interpolation of this name into the names of early members of the *gens Minucia*, see Kajanto 1965, 318. The use of this cognomen during the early Republic suggests that the Minucii sought to claim patrician descent (Wiseman 1998, 98).

<sup>606</sup> Crawford has suggested that the figure on the column is L. Minucius Esquilinus Augurinus and that the figure holding the bread is either the consul of 492 or 491 BCE (*RRC* I.274). In contrast, Wiseman believes that L. Minucius is the figure holding the bread and that the figure on the column must represent the ancestral Minucius (1998, 94, 104).

evidence, then, it is clear that the moneyers sought to emphasize their connection to fifth-century ancestors (whether legendary or historical) who had been involved in the grain supply.

Initially, the story seems to have involved some sort of competition between Minucius and Maelius regarding grain distribution; the two may have been rival merchants (which accords well with the episode's connections to the *porta Trigemina*, which, in later times, was an area associated with seafaring commerce, including shipments of grain).<sup>607</sup> Livy's narrative seems to support this; at 4.16.6, in indirect discourse, Cincinnatus describes Maelius as a wealthy corn-dealer. In this version, Minucius plays the role of informant against Maelius. Indeed, it seems that Minucius' role as an informer part of the early tradition. In his account, Dionysius records the pun between Minucius' name (Μηνύκιος) and the Greek μηνύω / μήνυσις / μηνυτής ("to inform" / "information" / "informant").<sup>608</sup> Münzer suggested that this etymologizing dated back to Fabius Pictor and Cincius Alimentus, Rome's earliest historians, both of whom wrote in Greek.<sup>609</sup> Much elaboration, however, seems to have taken place between this early version of the episode and later reimaginings.

Although the story of Sp. Maelius was used to explain various etymological phenomena (e.g., Minucius as an informant, the cognomen Ahala, the Aequimaelium) and topographical features, which has confused our sources, the Minucii were clearly associated with the grain supply from the third century BCE onwards, and the sources

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<sup>607</sup> On Sp. Maelius and Minucius as rival merchants: Wiseman 1998, 98, 99, 104; Pais 1905, 206. On the *porta Trigemina* and its association with commerce and shipments of grain: Forsythe 2005, 240.

<sup>608</sup> On the scholarship, see Oakley in *FRHist* III.437.

<sup>609</sup> Münzer *RE*, "Minucius" (40), 15.1950-1955. See also: Oakley in *FRHist* III.437; Lintott 1970, 15.

picked up on this. It seems that Minucius was one of the earliest figures attached to the events of 439 BCE, and this probably occurred sometime in the third century BCE, certainly before Alimentus was writing. There is additional evidence, however, that must be examined.

As we have seen, Alimentus and Piso seem to have presented Minucius as a *privatus* who laid information against Sp. Maelius. Livy presents Minucius specifically as *praefectus annonae* for the years 440 and 439 BCE and mentions that the *Libri Lintei*, or “Linen Rolls,” recorded “the name of the prefect” for both years.<sup>610</sup> Although much remains unclear, including whether the *praefectus annonae* or *praefectus urbi* is meant,<sup>611</sup> Minucius’ role as prefect of the corn supply cannot be historical. In addition, not much is known about the Linen Rolls and their reliability has been questioned.<sup>612</sup>

Mommsen suggested that Minucius’ position as *praefectus annonae* was introduced by the annalist L. Licinius Macer (tr. pl. 73, pr. 68), the only source we know of before

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<sup>610</sup> 4.13.7: For nothing is consistent, except that the name of the prefect has been recorded in the Linen Rolls and in both years among the magistrates. *Nihil enim constat, nisi in libros linteos utroque anno relatum inter magistratus praefecti nomen.*

<sup>611</sup> Ogilvie suggested that Livy’s phraseology in this passage implies that the prefecture mentioned must be that of the *praefectus urbi* (1965, 552), although Oakley observes that the historicity and evolution of this office is itself dubious (Oakley in *FRHist* III.437-438).

<sup>612</sup> Not much is known about the nature or date of the *Libri Lintei* (Oakley in *FRHist* I.325; Ogilvie 1965, 544). L. Licinius Macer (tr. pl. 73, pr. 68) seems to have cited the Linen Rolls, which were kept in the Temple of Juno Moneta on the Capitol at Rome (Livy 4.7.12, 4.20.8, 4.23.2), in his own work, but not much else is known about his use of them. Ogilvie proposed that the Linen Rolls were “restored” or compiled during the second century BCE (1958, esp. p. 46), whereas Frier argues that they must date to between the foundation of the Temple of Juno Moneta, where they were later found, in 344 BCE and its conversion into a mint around 269 BCE (1975, 88-89). Frier’s dating, however, seems slightly optimistic. Some scholars have even suggest that Macer invented the *Libri Lintei* as a means of adding weight to his own work (e.g., Klotz 1937, 218), but this interpretation has its disadvantages (Oakley in *FRHist* I.324-325).

On the *Libri Lintei*, Macer’s use of them, and the controversy surrounding their date and reliability, see: Oakley in *FRHist* I.320-331 (esp. p. 324-325); Frier 1999, 155-159; Oakley 1997, I.27-28; Palmer 1970, 232-238; Ogilvie 1965, 7-12 (esp. p. 11), 544-545 and 1958.

Livy and Dionysius to have cited the *Libri Lintei*.<sup>613</sup> Macer was politically active during the first century BCE and was a *popularis*.<sup>614</sup> During his tribunate in 73 BCE, he attempted to prosecute C. Rabirius for his role in the death of Saturninus in 100 BCE. It was also during this year that Saturninus, tribune for the third time, attempted to pass a *lex frumentaria*, which would have provided grain to poor Romans at a reduced cost.<sup>615</sup> Presumably Macer took issue with the use of the *SCU* against a plebeian magistrate, the reason for which Caesar brought the same Rabirius to trial in 63 BCE.<sup>616</sup> We can imagine that Macer would have taken special interest in the events of 439 BCE and shaped them according to his own ideological views, presumably painting Sp. Maelius as a tragic Saturninus figure whom the senate wrongfully, and as a means of maintaining their own interests, eliminated.<sup>617</sup>

The narratives of 439 BCE were reshaped in light of several different late Republican problems and controversies, including concerns regarding the acquisition of grain, the extent to which the cost of grain should be subsidized and subsequently sold to poorer Romans, and how these issues caused political rivalries to erupt. The passage of the *lex Sempronia frumentaria* in 123 BCE made grain distribution and attempts to extend or abolish it controversial issues; these controversies culminated with Clodius' tribunate

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<sup>613</sup> Mommsen 1871, 266-267 = *Staatsr.* II.671-673. Wiseman follows suit (1998, 100). Indeed, there are only a handful of references to the Linen Rolls, all but one of which comes from Livy (4.7.12, 4.13.7, 4.20.8, 4.23.2; DH 11.62.3).

<sup>614</sup> Oakley in *FRHist* I.328.

<sup>615</sup> Ogilvie 1965, 7-8. On Saturninus' tribunate of 100 BCE, cf. Broughton *MRR* I: 575-576. There is some debate about whether Saturninus' *lex frumentaria* belongs to his tribunate of 103 or 100 BCE; Broughton believes the law probably dates to 100 BCE (*MRR* I: 575, 575n.3), and this chronology is accepted here.

<sup>616</sup> As we have seen, in 63 BCE, Caesar later brought the same C. Rabirius to trial for his role in the death of Saturninus 37 years earlier (for additional details, see above, p. 44-45, 157, 162).

<sup>617</sup> Mustakallio notes the strong resemblance between Sp. Maelius' fate and the case of Saturninus (1994, 43). Cf. Lintott 1968, 55 (regarding Cicero).

in 58 BCE when he distributed grain for free.<sup>618</sup> These issues are reflected in stories of L. Minucius' inability to acquire grain in 440 and 439 BCE (and Livy's report of plebeian suicides in order to avoid death by starvation), Maelius' decision to sell his grain at a very low cost (which caused inflation), and the political rivalry that developed between Minucius and Sp. Maelius. Details that came to be added to the narrative of the events of 439 BCE, therefore, reflected the realities of the late second and first centuries, when political maneuvering, piracy, and protracted civil wars severely disrupted the acquisition and importation of grain by the Romans.

During the Republic, oversight of the grain supply was regularly supervised by the aediles or *quaestor classicus* (later known as the *quaestor ostiensis* or Ostian quaestor).<sup>619</sup> This quaestor was initially concerned with the Roman fleet, but he became increasingly involved in the grain supply during the third and second centuries BCE as more grain had to be imported from abroad to feed Rome.<sup>620</sup> In 104 BCE, during a serious shortage of grain at Rome, L. Appuleius Saturninus (tr. pl. 100) served as *quaestor ostiensis*; the senate, however, used an increase in the price of grain as a pretext to transfer these responsibilities from Saturninus to M. Aemilius Scaurus (cos. 115, pr. 119), an optimate and also *princeps senatus*.<sup>621</sup> Our sources report that it was Saturninus' removal from office that led him to join the *populares* and subsequently pursue election to the

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<sup>618</sup> Rickman 1980, 49.

<sup>619</sup> Rickman 1980, 47; Ogilvie 1965, 552. For more comprehensive analysis of the *quaestor ostiensis*, see Chandler 1978.

<sup>620</sup> Rickman 1980, 47.

<sup>621</sup> Cic. *Sest.* 39, *Har. resp.* 43; Diod. Sic. 36.12. For a comprehensive overview of his optimate preferences, see Dyck 2012, 86-89. Scaurus was *princeps senatus* from 115 BCE until his death around 89 BCE (cf. Sall. *Jug.* 25.4; Broughton *MRR* I: 532, II: 33).

tribunate.<sup>622</sup> The replacement of Saturninus with Scaurus is the first case of the appointment of a magistrate (during an emergency) charged specifically with care for the grain supply. The claim that Minucius was *praefectus annonae* cannot have been introduced into the narrative before 104 BCE. Since we do not hear of such a position again until Cn. Pompeius' appointment as caretaker of the *annona* in 57 BCE, and Macer died in 66 BCE,<sup>623</sup> Mommsen's argument that Macer invented L. Minucius' position as *praefectus annonae* is probably correct.

The times reinforced interest in the issue, and the security of the *annona* was typically threatened from more than one cause at a time.<sup>624</sup> Warfare interrupted the production of grain in Italy and hindered its transportation to Rome. We have evidence that this happened during the Social War, the conflict between Marius and Sulla (who subsequently invaded Italy), the rebellions of Spartacus and Catilina, and the wars against Mithridates.<sup>625</sup> Making matters worse, at this same time piracy was also becoming an increasingly serious threat to Rome's food supply, as is demonstrated by the commands that were assigned to M. Antonius Creticus (as praetor) in 74 BCE and Pompeius a few years later.<sup>626</sup> In 67 BCE, pirates intercepted shipments of grain to Rome, and even raided

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<sup>622</sup> Cic. *Har. resp.* 43; Diod. Sic. 36.12.

<sup>623</sup> Macer committed suicide after he was convicted by Cicero for extortion and bribery, which, we are told, he supposedly committed when he was praetor in 68 BCE (Val. Max. 9.12.7).

<sup>624</sup> Garnsey similarly observes that food crises in Rome were generally "not unicausal" (1988, 203).

<sup>625</sup> Garnsey 1988, 203-204.

<sup>626</sup> On Antonius' command: Garnsey 1988, 200; Rickman 1980, 167; for ancient sources, see Broughton *MRR* II: 101-102 (74 BCE), 111 (73 BCE), 117 (72 BCE), and 123 (71 BCE). In 71 BCE, Antonius suffered a massive defeat at the hands of Cretan pirates (Broughton *MRR* II: 123).

Other problems arose in the 70s BCE. From 73-71 BCE, around the same time that Spartacus was leading the slave rebellion in Italy, C. Verres was governor of Sicily and committed many misdeeds there, for which he was prosecuted by Cicero in 70 BCE. The subject of Cicero's *In Verrem Actio Secunda III* was the ways by which Verres' provincial mismanagement and extortionary tactics extended to the corn collected in Sicily; in this speech, Cicero alleges that many farmers had to abandon their fields since they

Ostia; as a result, Pompeius was granted extraordinary powers, in the form of unlimited *imperium*, to subdue the pirates, although the senate violently opposed the appointment.<sup>627</sup> About a decade later, in 57 BCE, Pompeius was given a special appointment for five years, with *imperium pro consule*, as *curator annonae*.<sup>628</sup> If we can believe Cicero, Clodius' frumentary law of 58 BCE, which had distributed grain *gratis*, had resulted in huge fluctuations in the price of grain from that time until Pompeius' appointment. The civil wars of the 40s and 30s BCE were likewise hugely disruptive to the *annona*, and the city was susceptible to blockade, which threatened its inhabitants with starvation.<sup>629</sup>

In a letter from March of 49 BCE, Cicero mentions that he fears grain shortages resulting from the privations of war. In particular, he dreads the interruption of supplies to Italy and military occupation of grain-exporting provinces.<sup>630</sup> Political and military strategy, therefore, created uncertainty in the grain supply and made the threat of famine a constant worry.<sup>631</sup> This was also a problem in the late 40s and early 30s BCE when Octavian and M. Antonius had to deal with the threat posed by Sextus Pompeius. After the death of his father, Sextus fled to Sicily; he came to control the island, and, thus, controlled Rome's access to a vital supply of grain (particularly since Egypt had not yet

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could not make a living (§47). On the prosecution of Verres, see, e.g.: Broughton *MRR* II: 112 (73 BCE), 119 (72 BCE), 124 (71 BCE), and 128-129 (70 BCE, and the attempts of L. Caecilius Metellus' [pr. 71, cos. 68] to hinder Verres' prosecution); Tempest 2011, 45-58; Usher 2008, 12-35; Fuhrmann 1992, 39-46.

<sup>627</sup> For general details regarding Pompeius' command, see Broughton *MRR* II: 144-145, 146. On opposition to and strife caused by Pompeius' appointment, see: Plut. *Pomp.* 25.3-6; Cass. Dio 36.24-36 (esp. 30.1-2).

<sup>628</sup> For more on this appointment, including ancient sources, see Broughton *MRR* II: 203-204.

<sup>629</sup> On the importance and difficulty of providing grain for Rome during the 40s and 30s, see: Welch 2012, 54-55, 61, 93, 134, 180-182, 203, 206; Garnsey 1988, 201-202, 203; Rickman 1980, 58-61.

<sup>630</sup> *Att.* 9.9.2. Cf. Welch 2012, 55.

<sup>631</sup> Rickman 1980, 50.

been made a province). Between 43 and 36 BCE, Sextus was able to intercept shipments of grain to Rome because of his naval superiority, and food riots and deaths occurred as a result.<sup>632</sup> The threat of famine at Rome was so great that, by 39 BCE, Octavian and M. Antonius were eventually forced to sign a treaty with Sextus, the so-called treaty of Misenum.<sup>633</sup> This treaty, however, was fragile, and a resolution to Rome's food crisis was only reached when Octavian and Antonius finally defeated Sextus in 36 BCE.<sup>634</sup>

Like Macer before him, Livy was interested in Minucius and his role as *praefectus annonae* because of the tumultuous events of recent decades, and both seem to have been motivated by their own experiences. For the year 440 BCE, Livy reports that the patricians were able to get the plebeians on side and elect L. Minucius as *praefectus annonae* (4.12.8).<sup>635</sup> He immediately points out, however, that Minucius did a better job at safeguarding Roman liberty than he did at acquiring grain (4.12.8), and, as a result, many plebeians, who sought to avoid death by starvation, killed themselves (4.12.11).<sup>636</sup>

This was not the first time that Minucius had displayed his incompetence. The sources report that L. Minucius, as consul in 458 BCE, had to be rescued by L. Quinctius Cincinnatus, who had been summoned from the plough and made dictator in order to save the consul and his army from disaster. Some duplication of narrative elements seems to have occurred: Cincinnatus as dictator and Minucius' ineffectiveness stand out the most.

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<sup>632</sup> On the chronological details of death and food riots in these years, see Garnsey 1988, 202.

<sup>633</sup> Vell. Pat. 2.77.1; Suet. Aug. 16.1; App. B. Civ. 5.18, 5.67-72; Cass. Dio 48.18.1, 48.31. On Sextus Pompeius' control of Sicily and the grain supply, see also: Garnsey 1988, 202, 207-208; Rickman 1980, 61.

<sup>634</sup> Garnsey 1988, 202.

<sup>635</sup> We shall turn to a discussion about L. Minucius' anachronistic role as *praefectus annonae* shortly.

<sup>636</sup> Ogilvie notes the ritual nature of the scene; he argues that the *capitibus obvolutis* was an adaption of an old ceremony that involved throwing prisoners into the Tiber as a sacrifice during times of famine (1965, 552-553).



There seems to have been a historiographical tradition in which Minucii were unable to successfully execute their duties as magistrates. As Richardson has recently argued, this family's failings gained currency during the Second Punic War.<sup>637</sup> In 217 BCE, M. Minucius Rufus (cos. 221), who was serving as co-dictator with Q. Fabius Maximus Verrucosus Cunctator (cos. 233, 228, 215, 214, 209), fell into a trap laid by Hannibal and had to be rescued by Fabius.<sup>638</sup> The failings of a later member of a *gens*, it would appear, were later retrojected onto much earlier members of the family.<sup>639</sup> Repetition of events and behaviour was, it should be emphasized, a regular feature of the way in which our sources wrote about and interpreted Roman history.<sup>640</sup>

Although Cicero mentions Sp. Maelius' distribution of grain only once (*Mil.* 72), in Livy and Dionysius this element forms the crux around which Maelius' overly ambitious behaviour developed, leading to his desire to acquire *regnum*. As Livy narrates the events of this year, it becomes clear that his disapproval of Maelius stems from his overreaching behaviour, which became so intolerable that his slaying was necessary.

Livy's describes Maelius' distribution of grain as a useful thing (*rem utilem*),<sup>641</sup> which seems to reflect Livy's own opinion. The upheavals of the last decades of the Republic, including the tumultuous triumviral period, greatly affected Livy's portrayal of events during the Struggle of the Orders. Livy's concern is not with politics per se, but

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<sup>637</sup> Richardson 2012, 62; Ogilvie 1965, 441. As Ogilvie notes, even the summoning from the plough attributed to the two different dictatorships of L. Quinctius Cincinnatus came to be attributed to other Quinctii, including T. Quinctius in 342 BCE (1965, 441).

<sup>638</sup> On this episode, see: Richardson 2012, 58-62 (esp. p. 62); Broughton *MRR* I: 243.

<sup>639</sup> Walsh 1961, 190. This is also the main argument of Richardson's monograph (2012).

<sup>640</sup> Richardson 2012, 11. As we have seen, other elements of the events of 439 BCE seem to be doublets of events that reportedly happened in 458 BCE; on this, see above, Part II, Chapter 2 (p. 181).

<sup>641</sup> Ogilvie does not analyze the use of *rem utilem* at 4.13.1 in his commentary (1965); indeed, the only analysis of this section surrounds Maelius' wealth (*praedives*) [Ogilvie 1965, 553]. For Ogilvie's analysis of the episode, cf. 1965, 550-557.

with the maintenance of *concordia ordinum*.<sup>642</sup> This helps to explain, at least in part, his ability to comprehend the importance of grain distributions for the sustenance of the starving plebs, whom he admits truly suffer from the famine, to the point of committing suicide as a means of escaping death by starvation (4.12.11). It is, then, not Sp. Maelius' attempt to relieve the plebeians that presents a problem for Livy, it is the ensuing disharmony that he disapproves of and the fact that Maelius attempted on the basis of his measure to achieve greater honours for himself than were his due. Indeed, as we shall see, at one point in the narrative Livy records (through indirect discourse ascribed to Cincinnatus) that Maelius' low birth and lack of glory should have deterred him from seeking *regnum* (4.15.5). As we shall see, Livy's approval of frumentary distribution has important implications for the rest of his account of the events of this year.

Livy's portrayal of the ways by which Sp. Maelius accomplished his frumentary dispensation requires consideration. L. Minucius had supposedly failed to acquire grain, which raises the question of how Sp. Maelius had succeeded. According to Livy, Sp. Maelius was a very wealthy man (4.13.1), and he used his private wealth to fund his distributions of grain (4.13.2).<sup>643</sup> Cicero is the first extant source to report this (*Mil.* 72), and Livy may be following him, although Livy's treatment is more elaborate. He goes on to report, as does Dionysius, that Sp. Maelius acquired this grain through his friends and

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<sup>642</sup> Kapust 2011, 83; Stem 2007, 457, 460n.66 (*concordia* under Romulus); Kelly 2006, 10; Vasaly 1999 and 1987 (esp. p. 203, 208, 210-211, 224); Jaeger 1997, 104-105, 159-160; Brown 1995; Lintott 1970, 16; Ogilvie 1965, 2; Walsh 1961, 66, 69-71. On the *concordia ordinum* as a common motif of authors writing during the second and first centuries BCE, see, e.g.: Oakley in *FRHist* I.329; Pabst 1969, 182-184.

<sup>643</sup> In his account of the sedition of M. Manlius Capitolinus in 385 BCE, Livy similarly reports that Capitolinus had gained popular favour by using his own money and property to pay off the debts of the plebeians (6.14.5: Capitolinus uses his own money to pay off a centurion's debts; 6.14.10: Capitolinus sells his property in order to help pay for plebeian debts). As was the case with Sp. Maelius, using one's wealth in this way, that is, to gain popular support, was considered problematic, and this is reflected in our sources.

clients who lived in Etruria (4.13.2: *per hospitum clientiumque ministeria*). This in itself should not represent a problem for Livy: a base of friends and clients was characteristic of Roman social structure. When taken with other aspects of the narrative, however, we can see how Livy presents Sp. Maelius' base of support, behaviour, and other actions as problematic, retrojecting the concerns of a later period.

Although he describes Maelius' distributions as *largitiones*, and even more generally as constituting a "gift" (4.13.3), Livy never explicitly states whether Sp. Maelius distributed his grain at a low cost or *gratis*.<sup>644</sup> As we have seen, at *Mil.* 72, Cicero records that Sp. Maelius fell under the suspicion of seeking *regnum* because he reduced the current price of grain and squandered his patrimony in order to increase his popularity; in the context of the *Pro Milone*, Cicero sought to show that Clodius' ambition was worse than that of Sp. Maelius, who had only fallen under the suspicion of seeking kingship. In Livy's retelling, it seems that whether or not Sp. Maelius distributed the grain at a low cost or free of charge was not the issue—the problem was the fact that he used his private wealth to fund these *largitiones* in an attempt to gain high public office.

On several occasions, Livy describes Sp. Maelius' frumentary distributions as *largitiones*. The first reference occurs during the events of 440 BCE, that is, during the

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<sup>644</sup> Several modern scholars interpret Sp. Maelius' distribution as one that occurred *gratis* (e.g., Robb 2010, 130; Mustakallio 1994, 39; Lintott 1970, 13), but this is not explicit in the Latin, and, indeed, other scholars avoid describing it as a free distribution (e.g., Pina Polo 2006, 82; Cornell 2005, 50; Forsythe 2005, 239-240 and 1994, 301-302; Raaflaub 2005a, 29; Wiseman 1998, 99; Rickman 1980, 30). Other scholars describe the grain as distributed at a low cost (e.g., Cornell 1995, 168; Garnsey 1988, 170). *Largitio* can mean a "distribution" (*OLD* s.v. 1), and although it can refer to a free distribution (*OLD* s.v. 3), this is not always the case; it can also have the meaning of "bribery" or "corruption" (*OLD* s.v. 2). Cicero, for instance, describes C. Gracchus' grain law as a largess (*Off.* 2.72), but we know that he lowered the price of grain; he did not distribute it for free.

famine that began in this year and that provided Maelius with an opportunity to realize his ambition. The passage foreshadows the seriousness of what will happen in 439 BCE.

Livy states that the Romans, almost won over by largess, nearly submitted themselves to *regnum* (4.12.6). At 4.13.2 and 4.13.10, Livy refers to Sp. Maelius' distributions as *largitiones*. The use of the plural in both passages implies that Maelius distributed grain on more than one occasion, and this is consistent with Dionysius' explicit report that Maelius distributed grain on three separate occasions (12.1.2, 12.1.3, 12.1.9).<sup>645</sup>

Livy goes on to report that the state's efforts to lower the price of grain were hindered because of the ways in which Sp. Maelius obtained grain (4.13.2). He had been purchasing so much grain with his own money that public attempts to relieve the crisis had been subverted. Livy states that this is his own opinion (4.13.2: *credo*).<sup>646</sup> It is a charge that had been made against the proposers of *leges frumentariae* of the late Republic, such as Saturninus and Clodius.<sup>647</sup>

After Sp. Maelius' death, Livy records that Minucius distributed Maelius' grain at a low cost (4.16.3). Presumably, before Sp. Maelius' interference, the senate had intended to distribute the grain at a reduced cost to the plebs. Sp. Maelius, therefore, through private initiative, subverted Minucius' role as *praefectus annonae* in two ways: 1) he

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<sup>645</sup> At 2.41.2, Livy describes Sp. Cassius' land distribution proposal as a *largitio*, in the singular, since he only made one such proposal.

<sup>646</sup> Forsythe has likewise interpreted the passage in this way (1999, 16, 28).

<sup>647</sup> This accusation made against Saturninus' law: *Rhet. ad Her.* 1.21. For Clodius' law: Cic. *Sest.* 55, 103. Cf. Cic. *Dom.* 1-32: these sections focus more generally on Clodius' mishandling of the grain supply during his tribunate; Cicero also uses Clodius' supposedly detrimental *lex frumentaria* to advocate for Pompeius' selection as *curator annonae*. The debate over Pompeius' selection as caretaker of the grain supply occurred in 57 BCE, and he took up this position in 56 BCE.

acquired grain where Minucius could not, using his own money;<sup>648</sup> 2) he offered it at a reduced cost, thereby circumventing the state's plans to do the same, and thereby securing the loyalty of the plebs for himself. Distributing grain was not Sp. Maelius' responsibility. His behaviour was inappropriate for a *privatus* (4.13.3-4), but even more so since he was an *eques* (4.13.1, 4.15.5-6) and not a senator. Such private munificence from outside the aristocracy was, unsurprisingly, met with hostility and resentment and was labeled as *largitio* as a means of attempting to safeguard aristocratic self-interest.

Livy was engaging with Republican sources in which wealth and its role in politics were problematized, and these coloured his own narrative. His use of the term *largitio* to describe Sp. Maelius' distributions is anachronistic, reflecting later political idiom.<sup>649</sup> *Largitio* referred to any distribution and could describe any gift of land, grain, or money. By the late Republic, however, it had acquired a pejorative meaning: *largitiones* functioned as bribes in order to secure votes in elections,<sup>650</sup> and, from the second century BCE onwards, they were subject to *leges de ambitu*.<sup>651</sup> Sp. Cassius' land distribution is described as a *largitio* several times (2.41.2, 2.41.4, 2.41.8). He was already consul, and, therefore, instead of using his largess to achieve high office, was accused of using it to acquire *regnum*. In Sp. Maelius' case, the offence was all the greater because he was an

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<sup>648</sup> Indeed, at 4.13.8, Livy reports that: This Minucius was conducting the same management publicly which Maelius had undertaken to do privately. *Hic Minucius eandem publice curationem agens quam Maelius privatim agendam suscepit.*

<sup>649</sup> For a general treatment of the term and its use in late Republican rhetoric, see Part I, Chapter 3A (p. 99-100).

<sup>650</sup> Pejorative meaning: Oakley 1997, II.176; Hellegouarc'h 1972, 220.

<sup>651</sup> As we have seen, the Romans had difficulty defining *ambitus* and *largitio*; both had neutral definitions, but by the late Republic had taken on negative associations. What was considered *ambitus* or *largitio* by one person, could have been considered legitimate electoral practices by another; it all depended upon the perspective of the individual. This is the topic of Cicero's *Pro Murena*, in which he argues that his client participated in legitimate forms of generosity, but clearly others believed that Murena's generosity was too extensive and, therefore, constituted bribes, leading to his charge *de ambitu*.

*equus*, and, therefore, such behaviour was deemed even more inexcusable. In indirect discourse attributed to L. Quinctius Cincinnatus, Sp. Maelius is contrasted to Sp. Cassius and certain members of the *gens Claudia*, because Maelius had held no consulships and did not come from a renowned family (4.15.5). Even the tribunate should have been beyond his ambition. And yet he had aimed for kingship. In the Livian narrative Sp. Maelius' behaviour was problematic because of his low birth; in Dionysius, however, the idea of Sp. Maelius' low birth is contradicted (to which we shall return).<sup>652</sup>

In his *De Officiis*, written late in 44 BCE,<sup>653</sup> Cicero engages with Greek philosophical ideas about duty and the pursuit of glory, but he places these ideas in a Roman context to explain how self-promotion had led to the moral decline of the Republic.<sup>654</sup> Although Cicero is engaging with Greek philosophical ideas, his concern is Roman politics, and Long argues that this work reveals more about Cicero's politics than anything else that he wrote.<sup>655</sup> Of particular relevance for the present discussion is Cicero's delineation of what constituted good and bad generosity in Book 2 of the work.<sup>656</sup> He writes that there are two groups of people who give generously: one group is

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<sup>652</sup> Dionysius portrays Sp. Maelius as a man from "no obscure family" (οἶκου τε οὐκ ἀφανοῦς) and as a very successful military man, one who had been bestowed many rewards for his valour (12.1.1).

<sup>653</sup> Erskine 2003, 10; Dyck 1996, 8-10.

<sup>654</sup> Cicero's indebtedness, in particular, to Panaetius of Rhodes, a Stoic philosopher, has long been recognized, e.g.: Dyck 1996, 17-29, and *passim*; Long 1995; MacKendrick 1989, 254-256. On the *De officiis* in general, see MacKendrick 1989, 232-257. Long observes that Cicero, in his *De officiis*, "puts Greek philosophy to work in an attempt to set Roman values, especially glory and wealth, within an ethical framework which will show that they are proper objectives if and only if they are combined with justice" (1995, 215). The moral decline of the Romans was attributed largely to the introduction of excessive wealth and luxury through expansion, which led to greed and increased competition (for more on this, see above, p. 127n.386, and below, p. 216-217). For more on Hellenistic philosophy's influence on Cicero, focusing on his *Tusculanae Disputationes*, written in 45 BCE, and *De officiis*, see Erskine 2003 (who also considers how the tumultuous events of 44 BCE influenced the *De officiis* [esp. p. 11-13]).

<sup>655</sup> Long 1995, 214.

<sup>656</sup> At *Off.* 2.22, Cicero states that people will submit themselves to the power and authority of another for several reasons, among which is the hope that they will receive a *largitio*.

lavish (*prodigi*), the other generous (*liberales*).<sup>657</sup> Lavish men are those, he says, who spend their money on public feasts, distributions of meat, gladiatorial shows, magnificent games, and animal fights (*Off.* 2.55). It was acceptable to give money to the poor, if one did so with discretion and moderation; many men, he says, squandered their patrimonies through indiscriminate generosity (*Off.* 2.54). Generous men (*liberales*), in contrast, spent their money in order to rescue captives from pirates, to help their friends pay for their daughters' dowries, or to assume their friends' debts (*Off.* 2.56).<sup>658</sup> In a morally upright system, the manner of giving should have been of importance. In reality, however, the line between legitimate and illegitimate generosity was often blurred, and accusations of *ambitus* were hard to define and often harder to substantiate.<sup>659</sup>

Attempts to curb illegitimate generosity through *ambitus* laws are an important and relevant feature of the late Republic.<sup>660</sup> After the number of praetors was increased in the

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<sup>657</sup> *Off.* 2.55. Even then, however, those who were described as generous (*liberales*) or as participating in *liberalitas* could be viewed negatively; that is, these terms also had negative connotations (see Manning 1985, whose article focuses on the virtue of *liberalitas*, its decline in the first century BCE, and its eventual rehabilitation). On the passages from Cicero's *De officiis* mentioned here, see Dyck 1996, 438-442.

<sup>658</sup> At *Off.* 1.43, it is clear that even generosity (*liberalitas*) could become perverted if those involved in it were overly desirous for splendor and glory (Long 1995, 225).

<sup>659</sup> Indeed, just as many *ambitus* trials resulted in acquittal as they did in conviction (see, e.g., Bauerle 1990, 103-108, 295-296 [Appendix D]). Lintott similarly points out that the courts were not able to curb the problem of electoral bribery (1990, 8-10). As noted above, p. 211n.650, Cicero's *Pro Murena* dealt largely with the idea of what constituted legitimate distributions and what was illegal and, therefore, subject to prosecution under a *lex de ambitu*. On the blurred lines between legitimate and illegitimate means of canvassing for votes, see, e.g.: Vishnia 2012, 134, 137-138; Penella 2004, 634n.14; Yakobson 1999, 37; Oakley 1997, II.176; Levick 1982, 54-55. At *Mur.* 76, Cicero makes the fairly well known remark that: The Roman people hates private luxury, but is fond of public grandeur. *Odit populus Romanus privatam luxuriam, publicam magnificentiam diligit.*

<sup>660</sup> After Caesar's dictatorship and the rise to power of the (Second) Triumvirate, *ambitus* became less politically important (Bauerle 1990, 3, 90-92; Lintott 1990, 10; Manning 1985, 78, 80-81). As Bauerle explains, the nature of *ambitus* changed after 49 BCE, so much so that this is the year with which she ends her study of occurrences of *ambitus* (she starts in 432 BCE). When Augustus carried out his legislative reforms in 18 BCE, he included a *lex de ambitu*, the last of such laws passed by the Romans (Bauerle 1990, 87-92); there is no evidence to suggest that anyone was ever actually charged under Augustus' bribery law (Bauerle 1990, 92).

early second century BCE and holding this office became a prerequisite for holding the consulship, the competition for high office became even fiercer than in the past centuries.<sup>661</sup> At this same time, *leges de ambitu* begin to appear, and by the mid-second century BCE the first *quaestio perpetua de ambitu* had been established.<sup>662</sup> Therefore, evidence for *ambitus* appears in the second century BCE onwards, but the problem reached its height in the last decades of the Republic.<sup>663</sup> The limitations of our sources, of course, still apply, but it is clear from the data that cases of *ambitus* were on the rise in the last decades of the Republic, which has been attributed to the link between *ambitus* and violence at this time, particularly by virtue of the employment of personal gangs.<sup>664</sup>

The references to *largitio* in Livy's account of Sp. Maelius, therefore, have been coloured by late Republican example and the late Republican sources that he was consulting. The most problematic aspect of all for Livy seems to have been the fact that competition for office, which often led those seeking office to outdo each other's generosity, led to intra-elite strife, which, in turn, could lead to violence and riots.<sup>665</sup> We

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<sup>661</sup> Brennan 2000, 625.

<sup>662</sup> Bauerle 1990, 45-47.

<sup>663</sup> Bauerle 1990, 114-203 (catalogue of evidence); cf. Shatzman 1975, 166. That instances of *ambitus* increased after Sulla's dictatorship see, e.g.: Bauerle 1990, 53-58 (esp. p. 54-55) [in addition to her body of evidence collected on p. 114-203]; Lintott 1990, 8; Shatzman 1975, 89 (with references from the ancient sources); alluded to by Manning 1985, 77. Based on Bauerle's catalogue of evidence, of a total of 51 cases from the second and first centuries BCE, 6 date to the second century BCE, and 45 to the first century BCE (of which 40 alone date to between 70 and 49 BCE).

<sup>664</sup> Bauerle 1990, 273-281; cf. Alexander 1990 (he catalogues all trials from 149-50 BCE, including those involving *ambitus* [see the index, under "*ambitus*" for catalogue numbers]). Lintott provides a catalogue of acts of violence between 287 and 44 BCE (1968, 209-216 [Appendix 1]); instances of violence from the 70s, 60s, and 50s BCE accounts for most of the catalogue. Vanderbroeck catalogues collective Roman behaviour (which he defines as larger gatherings "of people in which some action or reaction of the crowd is discernible [p. 218]) from between 78 and 49 BCE, and he includes whether or not violence was used, and it often was (1987, 218-267 [Appendix B]).

<sup>665</sup> On this intra-elite strife and the riots that it could create, see: Zuiderhoek 2007, 201-202, 207-211; Bauerle 1990, 243, 273-281. There was also the concern that a man could bankrupt himself by offering overly generous *largitiones*; in two letters to his brother at the end of 54 BCE, Cicero states that Milo, who



have seen that Livy, in the context of conflicts over land, attributed the blame of such conflicts to both patricians and plebeians. Neither group escapes censure.

The problematic aspects of canvassing reappear just a few years later in Livy's narrative and are placed firmly within the patricio-plebeian conflict. Livy reports that, in 432 BCE, it was patrician canvassing that was preventing the plebeians from attaining high office (4.25.12); apparently this patrician canvassing was so aggressive that it provoked a *lex* forbidding the whitening of togas to indicate one's decision to run for office (4.25.13).<sup>666</sup> Although Livy casts doubt on the historicity of the law, he goes on to report that the controversy surrounding canvassing and the law created great conflict between the patricians and plebeians (4.25.13: *tunc ingenti certamine patres ac plebem accendit*). It seems that some patricians had been so generous that tensions were increased between the classes. Livy casts doubt on the historicity of the law, but he still uses it in his narrative to further the conflict between patricians and plebeians (4.25.13).<sup>667</sup>

Livy reports that the first *ambitus* law, passed in 358 BCE, aimed to keep the ambition of *novi homines* in check (7.15.13): that is, to maintain the aristocratic *status quo*. By the time of this law, the Licinio-Sextian laws, passed in 367 BCE, had been in effect for almost a decade, one of which stipulated that one of the consulships be open to the plebeians. (The evidence, however, reveals that the patricians continued to

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was at that time canvassing for the consulship, expresses concern that he was spending too much money on lavish games (*Q. fr.* 3.8.6 [November, 54 BCE], 3.9.2 [November or December, 54 BCE]).

<sup>666</sup> Bauerle 1990, 113. Some scholars prefer to consider the law of 432 BCE as a sort of precursor to true *ambitus* laws and not an actual *ambitus* law itself. Indeed, Livy supports this interpretation in his narration of the events of 358 BCE; at 7.15.12, he states that the first true *ambitus* law was instituted in this year.

<sup>667</sup> It seems that such early instances of *ambitus* were embellished and included in narratives to provide precedents for laws against electoral bribery from the second century BCE onwards (Ogilvie 1965, 575).

dominate.<sup>668</sup>) In reaction to increased competition, the aristocracy attempted to obstruct new men from attaining high office. The conflicts over access to public offices that we find here remain relevant to politics until the end of the Republic; the competitors, however, change from patricians and plebeians to the aristocracy and *novi homines*, to senators and *equites*, and to *optimates* and *populares*.<sup>669</sup> The use of private wealth in these contexts, unsurprisingly, became problematized, and the use of *largitiones* to obtain votes, as we find in Livy's narrative of Sp. Maelius' downfall, is typical of later periods and influenced by them.

Livy reports that Sp. Maelius was a very wealthy man for those times (4.13.1: *ut illis temporibus praedives*).<sup>670</sup> Dionysius remarks that Maelius' cognomen "Felix" reflected his vast wealth.<sup>671</sup> Sp. Maelius would have to have been wealthy indeed in order to supply the entire Roman plebs with subsidized grain. Such wealth, however, seems more in keeping with the conditions of the late Republic.<sup>672</sup> Indeed, many of our sources attribute Rome's moral decline to the increase in wealth and luxury that empire produced from the second century BCE onwards (the time at which *ambitus* became increasingly problematic).<sup>673</sup> Sp. Maelius' distributions are reminiscent of these later centuries. In the

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<sup>668</sup> On the Licinio-Sextian laws in general, see: Broughton *MRR* I: 108-109; Rotondi 1962 [1912], 216-220. On the domination of curule office by the patricians after the passage of the Licinio-Sextian laws, see, e.g: Stewart 1998, 152; Billows 1989.

<sup>669</sup> Mitchell 2005, 129.

<sup>670</sup> The term *praedives* is not found in any source before Livy (Ogilvie 1965, 553). After Livy, the term is still not a common one. It is possible that Livy used it to describe Sp. Maelius in order to foreshadow the problematic aspects of his behaviour in 439 BCE.

<sup>671</sup> DH 12.1.1: Εὐδαίμων ἐπὶ κλησὶν ἐπὶ τῆς πολλῆς εὐπορίας. Ogilvie notes that Felix should not be taken as an allusion to Sulla, since his name was translated into Greek as Ἐπαφρόδιτος (1965, 553).

<sup>672</sup> For a catalogue and discussion of the wealth of Roman senators, see Shatzman 1975, "Part Three: Economic Prosopography of Roman Senators" (p. 237-439).

<sup>673</sup> Some sources attributed the increase in wealth and luxury to the end of Third Macedonian War in 168 BCE (Polyb. 31.25.6-8; Diod. Sic. 37.3.1-6). Livy dates this apparent increase in wealth and luxury to

late Republic many magistrates used their own money to cover some official expenditures, although the senate sometimes assisted magistrates in funding games or public buildings.<sup>674</sup> Occasionally, senators made distributions that were not connected with elections.<sup>675</sup> M. Licinius Crassus' first consulship provides an interesting example; in 70 BCE, Crassus distributed grain to the people for three months and gave a massive feast, both with his own money.<sup>676</sup> After Caesar's assassination, Octavian used his inheritance to make donations in 44 and 43 BCE both to the Roman people and to soldiers.<sup>677</sup> Antonius, in turn, made donations to gain the support of the people of Italy.<sup>678</sup> These were all recent events when Livy began writing his history in the 30s BCE, and surely affected his interpretation of the past. This explains why some of the details he

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slightly earlier than both Polybius and Diodorus Siculus; he reports that the subjugation of the Galatians by the proconsul Cn. Manlius Vulso (cos. 189) in 187 BCE led to the introduction of luxury at Rome (39.6.3-39.7.5) [on the events of this year, see Briscoe 2008, 225-229]; Pliny the Elder also seems to share this view (*Nat.* 34.8[14], 37.6[12]). Although Livy attributes the introduction of foreign luxury to this year, he presents Roman decline as a gradual one (as has been discussed elsewhere). Sallust attributes it to the destruction of Carthage in 146 BCE (*Cat.* 9-10; *Iug.* 41). For scholarship on the profits of war in general and the scholarly debate regarding the extent to which economic considerations motivated the Romans to wage war more specifically, see, e.g.: Erskine 2010, 42-49; Gruen 1984; Nicolet 1980, 117, 398; Shatzman 1975, 63-66, 103, 169-170; Harris 1971. The scholarship on this subject is extensive and, therefore, cannot be recounted in full here.

<sup>674</sup> On insufficient funds provided by the senate and the expectation that magistrates would use their own money to cover additional expenditure, see Shatzman 1975, 87. One example of this involves Pompeius; our sources report that in 70 BCE, he had to use his private resources to cover costs in Spain because the senate had not sent enough supplies and money (Shatzman 1975, 392). On grants of money given by the senate, see Shatzman 1975, 85, 87.

<sup>675</sup> Shatzman 1975, 89-90.

<sup>676</sup> Plut. *Crass.* 2.2, 12.2; cf. Plut. *Comp. Nic. et Crass.* 1.4. Crassus, we are told, also dedicated a tenth of his property to Hercules during this consulship. According to several sources, Crassus thought that no man could be considered truly rich unless he could afford to pay for an army from his own wealth (Cic. *De off.* 1.25; Plin. *Nat.* 33.47[134]; Plut. *Crass.* 2.7).

<sup>677</sup> Shatzman 1975, 359-361 (for a complete overview of Octavian's/Augustus' wealth and how he acquired and used it, see item 153 in Shatzman [p. 357-371]). Augustus mentions the distribution of 44 BCE at *RG* 15. Augustus carried out distributions of grain in 28, 23, and 22 BCE, as well as 6 CE, and in 18 BCE, as well as other years (Garnsey 1988, 230-231; cf. Aug. *RG* 15, 18). On the frumentary activities of Octavian/Augustus, see, e.g.: Garnsey 1988, 218-222, 230-233; Rickman 1980, 60-66, 179-185. According to Cassius Dio, there was a serious famine in 23 BCE (54.1.2-4). For a comprehensive overview of Augustus's donatives, see Shatzman 1975, 369-370. Suetonius records that Augustus distributed grain for free or at a very low cost when grain was particularly scarce (*Aug.* 41.2).

<sup>678</sup> Shatzman 1975, 90.

includes regarding Sp. Maelius' wealth, background, and personality seem reminiscent of the late Republic.

As we have seen, Livy records that Sp. Maelius purchased grain from Etruria with the help of his friends and clients and then distributed this to the Roman plebs (4.13.2). Livy reports that crowds began to accompany him, and he was "admired and elevated beyond the measure of a private man" (4.13.3: *conspectus elatusque supra modum hominis privati*). Livy's narrative suggests danger. At 4.14.1, when Sp. Maelius is summoned by Servilius Ahala to appear before the dictator to account for his actions, Livy describes Maelius' followers as *Maeliani* (4.14.1) and as *caterva suorum* (4.14.4). Both suggest a close network of followers, but the use of *Maeliani* in particular implies conspiracy. Overall, Maelius' actions were not appropriate for a *privatus*, and, as such, his success in gaining popular favour seemed suspicious and led to accusations that he was seeking *regnum* (4.13.4). Cincinnatus justified Sp. Maelius' slaying on the grounds that it was not right to deal with him as one would deal with a citizen (4.15.3).

In addition to describing Maelius' followers as *Maeliani*, Livy makes explicit reference to conspiratorial activities. Both he and Dionysius describe Sp. Maelius' conspiracy in terms that echo late Republican conspiracy narratives, and Livy's account seems to have been influenced greatly by the Catilinarian conspiracy, and, as such, his account contains obvious Ciceronian elements.<sup>679</sup> According to Livy, Minucius

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<sup>679</sup> Ogilvie 1965, 554. Briscoe notes that Livy's portrayal of the conspiratorial nature of the Bacchanalian affair contains language intended to recall the Catilinarian conspiracy (2008, 249-250, with reference to specific passages). For the placement of the Catilinarian conspiracy within the context of the typology of conspiracy narratives, see Pagán 2004, 87-90.

discovered that Maelius was plotting against the state and then informed the senate of his discovery (4.13.8).<sup>680</sup> Minucius reported that he had learned that:

Weapons were being collected at the house of Maelius, and that he was holding meetings at home, and that plans were certainly being made to establish a *regnum*. The time for carrying out the deed had not yet been established: the other details had already been agreed upon: and the tribunes had been bought, by means of payment, to forsake liberty, and jobs had been assigned to the leaders of the multitude.<sup>681</sup>

The secrecy of these meetings is once again emphasized at 4.13.10. In this passage, the senate reproaches the consuls for permitting distributions and plebeian meetings to occur in a private citizen's house. This promotes Livy's larger theme of civil disharmony and the gradual decline of the Republic—not only were Sp. Maelius' distributions widening the divide between the patricians and plebeians, but they were also causing conflict within the patriciate itself. According to Minucius here and to Cincinnatus later (when he was attempting to pacify the angry plebs after Maelius' slaying), Sp. Maelius was involved in the types of activities associated elsewhere in our sources with conspirators:<sup>682</sup>

1. he had delivered speeches to and held meetings of plebeians within the privacy of his own home (4.13.9, 4.13.10);
2. weapons were being collected in his house (4.13.9);
3. during these meetings, he had planned to acquire *regnum* (4.13.9, 4.15.5, 4.15.8) and to enslave the Romans (4.15.6);
4. the details of the plot had been planned—the leaders of the crowd had been assigned their roles (4.13.10);
5. the support of certain magistrates had been secured, in this case, the tribunes of the plebs, who had been bribed (4.13.10);
6. he had been planning violence (4.15.2: *vim parantem*);
7. he possessed a close body of followers (4.14.1, 4.14.4).

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<sup>680</sup> As we saw earlier, Minucius' role as informant seems to have been an etymologizing of his name in Greek (on this, see above, p. 200).

<sup>681</sup> Livy 4.13.9: *Tela in domum Maeli conferri, eumque contiones domi habere, ac non dubia regni consilia esse. Tempus agenda rei nondum stare: cetera iam convenisse: et tribunos mercede emptos ad prodendam libertatem et partita ducibus multitudinis ministeria esse.*

<sup>682</sup> Seager 1977, 383, 384.

Sp. Maelius, then, appears as a generic *popularis* figure, prefiguring politicians such as the Gracchi, Saturninus, Catilina, and Clodius.<sup>683</sup> Livy, however, presents the shadier elements of the narrative in a way that especially echoes the accusations leveled against Catilina and his followers.

Livy never explicitly labels Sp. Maelius' efforts as a *coniuratio*, which stands in contrast to Cicero's and Sallust's characterization of Catilina.<sup>684</sup> Livy does, however, refer to the gatherings carried out by Sp. Maelius in his house as *coetus plebi* (4.13.10). The term *coetus*, "a gathering," although not as strong as *coniuratio*, which implies the swearing of an oath, nevertheless often had a pejorative sense and could be used to describe secret or illegal meetings.<sup>685</sup> Cicero also refers to Catilinarian gatherings using the term *coetus* (*Cat.* 1.6, 1.10). Sp. Maelius is said to have held such meetings in his home, where he delivered speeches to the plebeians, even though he was a *privatus*. Catilina and his followers had supposedly held similar meetings (*Cic. Cat.* 1.6, 1.8-10).<sup>686</sup>

This is not the only behaviour alleged of Sp. Maelius that is reminiscent of the accusations made against Catilina. One might compare the list above with the following details concerning Catilina's behaviour:

1. he had held private meetings in the homes of conspirators (*Cic. Cat.* 1.6, 1.8-10);

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<sup>683</sup> Seager 1977, 383.

<sup>684</sup> E.g., *Cic. Cat.* 1.1, 1.6, 1.13, 1.27, 1.30, 1.31, 2.6, 3.3, 3.15, 3.17, 3.21, 4.5, 4.6, 4.18, 4.20, *Sull.* 70, 71, *Cael.* 15, 70, *Dom.* 101, *Att.* 1.14.4, 2.2.2; *Sall. Cat. passim.* (but, e.g., 4.3, 17.1, 17.7, 18.1, 19.6, 23.1, 23.4, etc.).

<sup>685</sup> On *coniuratio* and an oath: Hellegouarc'h 1972, 95. On the pejorative associations with *coetus*: Hellegouarc'h 1972, 92-93. On *coetus* as "secret or illegal meetings," see *OLD* s.v. 3c. Livy uses the term *coetus* to describe the meetings at which the plebeians decide to expel Cn. Marcius Coriolanus from the city (*Livy* 2.35.4; Hellegouarc'h 1972, 94). Hellegouarc'h examines the etymology of *coetus* and *coitio*, both of which derive from the verb *coire* (1972, 91-93).

<sup>686</sup> Catilina's meetings, we are told, also took place at night, making them even more seditious (*Cic. Cat.* 1.1, 1.6, 1.8, 1.9, 2.6, 2.13, 3.18, 3.29, 4.19; *Sall. Cat.* 27.3, 32.1, 42.1, 43.1).

2. weapons had been deposited at the house of the Catilinarian C. Cornelius Cethegus (Cic. *Cat.* 3.8);<sup>687</sup>
3. he sought to dominate the Roman state (Cic. *Cat. passim.*, more explicitly at 2.19; Sall. *Cat.* 5.6);<sup>688</sup>
4. the details of the plot had been finalized—the conspirators had been given specific duties to fulfill (Cic. *Cat.* 1.9, 1.24, 3.14; Sall. *Cat.* 43.1-2);
5. the support of certain magistrates had been secured, including L. Cornelius Lentulus Sura (pr. 74, cos. 71), the praetor of 63 BCE, and L. Calpurnius Bestia, one of the tribunes of 62 BCE;<sup>689</sup>
6. he had been planning violence and destruction (Cic. *Cat. passim.*; Sall. *Cat. passim.*, esp., e.g., 35.5, 61.1);<sup>690</sup>
7. he possessed a close body of followers (specific passages will be discussed below).

Livy describes Sp. Maelius' followers as *Maeliani* (4.14.1) and as the *caterva suorum* (4.14.4). The use of *Maeliani* is unique to his narrative, and may have been influenced by the rhetoric of Cicero, who often referred to Catilina and his followers in similar terms. In a letter to Atticus, Cicero describes them as “all the Catilinas” (*omnes Catilinas*),<sup>691</sup> and elsewhere he describes them as the “herd of Catilina” (*grex* or *greges Catilinae*).<sup>692</sup> Still, on other occasions, Cicero describes them in terms that evoke military associations, thereby heightening the threat, such as the *copiae Catilinae*, or “forces of Catilina” (*Cat.* 2.24; *Red. pop.* 13). At *Cat.* 4.20, he describes them as a “band” (*manus*),

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<sup>687</sup> On the *tela* of Catilina and his followers: Cic. *Cat.* 1.2, 1.15, 1.21, 3.8, 4.18. Cicero also mentions the more specific use of *ferrum* by the Catilinarians (*Cat.* 1.9, 1.13, 2.1, 2.2, 3.1). Sallust refers to the transportation and acquisition of weapons more generally at *Cat.* 42.2 and 51.38 respectively.

<sup>688</sup> Cicero makes this clear especially through the use of comparable *exempla* and those vices that were considered characteristic of kings and tyrants. For a catalogue of the vices attributed to Catilina, see Achard 1981, 518-521.

<sup>689</sup> For sources on Sura's involvement, see Broughton *MRR* II: 166. On Bestia's involvement: Sall. *Cat.* 43.1-2 (Bestia had been directed to denounce Cicero's decision to execute Roman citizens in a public meeting, which would be a signal to the other conspirators to carry out their own parts in the plot).

<sup>690</sup> Violence is everywhere implied through terms other than *vis*; acts of violence or potential violence included murder, conflagration, etc.

<sup>691</sup> *Att.* 4.3.3 (November, 57 BCE).

<sup>692</sup> E.g., *Cat.* 2.10, 2.23; *Dom.* 75 (*Catilinae gregales*); *Att.* 1.14.5 (February, 61 BCE). Cf. *Cat.* 2.23 (*seminarium Catilinarum*). The meaning of *grex* is less militaristic than the meaning of *caterva*, discussed below; the term *grex* could be used to refer to “a herd” or “a flock” of animals, especially sheep (*OLD* s.v. 1a, 1b), but was often used contemptuously to refer to “the undistinguished crowd” (*OLD* s.v. 2c). Both terms do, however, suggest a large group of animals or people.

once again inviting military comparisons.<sup>693</sup> Moreover, both Cicero and Sallust describe Catilina's followers as a *caterva* (Cic. *Cael.* 14; Sall. *Cat.* 14.1), just as Livy describes Sp. Maelius'. Catilinarian elements permeated other episodes narrated by Livy. He uses the phrase *turba Manliani* (6.16.8) to describe M. Manlius Capitolinus and his followers. At *Cat.* 1.30, Cicero mentions the *Manliana castra* of C. Manlius, a former Sullan soldier and alleged Catilinarian supporter; Manlius represented the Sullan veterans, who, having failed at farming the lands given to them by Sulla, hoped to gain additional land and resources by joining Catilina's cause.<sup>694</sup> Livy includes other Catilinarian elements in his portrayal of Capitolinus' downfall.<sup>695</sup> In particular, the group of people attached to Capitolinus is referred to both as *turba Manliani* and as *caterva sua* (6.14.3), which parallels his portrayal of Sp. Maelius' supporters as both *Maeliani* and *caterva suorum* (4.14.4). *Caterva* could mean "a band of followers" or "a crowd or herd," but could also be used to describe "a squadron of armed men."<sup>696</sup> Once again, military associations are implicit. Livy was clearly trying to evoke the memory of Catilina's conspiracy in his portrayals of early episodes in Rome's history.

Livy's portrayal also echoes Ciceronian accounts of the activities associated with Clodius. This is not surprising, since, as has been discussed elsewhere, Cicero often sought to portray Clodius as a second Catilina.<sup>697</sup> He had plotted sedition and violence,

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<sup>693</sup> On the military connotations of *manus*, see: Achard 1981, 126-127; Hellegouarc'h 1972, 61. Also see *OLD* s.v. 22. In addition to referring to "a band" or "armed force," the *manus* was used as "the instrument of violence" (*OLD* s.v. 8a).

<sup>694</sup> On C. Manlius, see: Dyck 2008, 7; McGushin 1977, 162, 169.

<sup>695</sup> Oakley 1997, 1.483-484.

<sup>696</sup> *OLD* s.v. 1 ("a band of followers"), 3 ("a crowd, mass; flock, herd, swarm"), 2 ("a squadron of armed men"). On the neutral and pejorative senses of the term, also see Hellegouarc'h 1972, 61-62.

<sup>697</sup> Melchior 2008, 287-289; Kaster 2006, 217-218 (with a list of relevant passages).



and was involved in numerous nefarious activities (according to Cicero). Cicero's political invective against Clodius is well known and need not be recounted in full here.<sup>698</sup> Clodius is described as an *insidiator*, "one who lies in wait (to attack or rob someone)" or "one who plots against" someone or something (i.e., the state).<sup>699</sup> Ciceronian descriptions of Clodius and his followers are also relevant in light of Livy's use of *Maeliani* and *caterva suorum*. Cicero refers to Clodius' supporters as "Clodian labourers" (*operae Clodianae*),<sup>700</sup> and just as Catilina had his *manus*, so, too, did Clodius (*Dom.* 108, *Sest.* 79).<sup>701</sup> Sp. Maelius had "bought" the tribunes to join his followers, and Cicero had claimed that Clodius had resorted to bribing people to join his gangs.<sup>702</sup>

When Ahala tells Maelius he has been summoned to appear before the dictator, Livy reports that Maelius withdrew "into the throng of his followers" (4.14.4: *in catervam suorum*). He also reports that Ahala was accompanied by a throng of patrician youths (4.14.6: *caterva patriciorum iuvenum*).<sup>703</sup> In both cases, then, the same term is used. Ahala's escort, which was meant to protect him and attests to his authority, is set in contrast to Maelius' mob, which would have made him king.<sup>704</sup> Livy's portrayal of Sp.

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<sup>698</sup> See, e.g., Craig 2004.

<sup>699</sup> *OLD* s.v. 1, 3 (respectively). On Clodius as an *insidiator* or as carrying out *insidiae*: Cic. *Mil.* 6, 10, 11, 14, 27, 30, 54. Cicero also applies this term, or one of its cognates, to Catilina (e.g., *Cat.* 1.11, 1.32, 2.6); although it is not as serious as the use of *coniuratio*, it still implies underhanded activities and a certain degree of planning and contrivance.

<sup>700</sup> *Vat.* 40; *Att.* 1.14.5 (February, 61 BCE); *Q. fr.* 2.3.2 (February, 56 BCE). Cf. *Dom.* 14 (*operarum illa concursatio nocturna*).

<sup>701</sup> Cf. *Sest.* 85 (*exercitus Clodiana*). Cicero also refers to the *sedition Clodiana* at *Sest.* 94. For more on the *Clodiani*, see Tatum 1999, 142-145.

<sup>702</sup> E.g., Cic. *Sest.* 38, 106, 127; *Dom.* 79, 89.

<sup>703</sup> There are several instances in our sources in which a group of patrician youths was used as a sort of gang in order to help uphold traditional senatorial values; for this theme, see Lintott 1970, 24-29.

<sup>704</sup> Ogilvie points out that Livy deliberately omits any mention of Ahala's escort until this passage in order to emphasize the difference between Ahala the solitary hero and the retinue of the tyrannical Maelius (1965, 555).

Maelius' followers, therefore, seemed to evoke the retinues and gangs associated with figures from the late Republic, such as Ti. Gracchus, C. Gracchus, Saturninus, Cicero, Catilina, Pompeius, Caesar, Clodius, and Milo.<sup>705</sup> The portrayal of the *catervae* of Sp. Maelius and of Ahala, thus, was meant to recall the gangs used by late Republican figures who hoped to achieve their own ends, often with violent results.

In addition to the charge of conspiring to obtain *regnum*, Livy expresses another objection to Sp. Maelius' ambitious behaviour, specifically that his ignoble background should have prevented him from aspiring to political office. After Sp. Maelius' slaying, Livy reports that Cincinnatus addressed the people as follows:

And who was this man? Although he was not of the nobility, although he held no honours and no merits, he opened the way to tyranny to any man; but at least the Claudii and the Cassii had been motivated to seek the forbidden because of consulships and decemvirates, by their own honours and those of their ancestors, by the magnificence of their families.<sup>706</sup>

In the sections preceding this one, Cincinnatus makes it clear that any man who has kingly aspirations will be punished accordingly, and he lists several familiar *exempla* to support this claim: the sons of L. Iunius Brutus, L. Tarquinius Collatinus, Sp. Cassius,

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<sup>705</sup> Ti. Gracchus: Asellio, fr. 6 (Peter); Plut. *Ti. Gracch.* 14.3, 17.5, 19.5. C. Gracchus: Plut. *C. Gracch.* 6.4, 12.1, 12.2, 13.1, 13.2, 14.5-6. Saturninus: Livy, *Per.* 71; App. *B. Civ.* 1.29-31; Plut. *Mar.* 28. Cicero: Cic. *Cat.* 3.5, *Att.* 1.18.1 (January, 60 BCE), 2.1.7 (June, 59 BCE), 2.19.4 (July, 59 BCE); Plut. *Cic.* 14.7. Catilina: Cic. *Mur.* 49, *Sest.* 88. Pompeius: Cic. *Mil.* 3; Plut. *Pomp.* 48.1-2. Caesar: Cic. *Att.* 2.16.2 (April, 59 BCE). Clodius: Cic. *Red. pop.* 13, *Q. fr.* 2.3.4 (February, 56 BCE); Ascon. 31C; Plut. *Pomp.* 48.7. Milo: Cic. *Vat.* 40, *Mil.* 10; Ascon. 31C. The passages cited for Catilina and Clodius do not include more specific references to descriptions of their followers; this idea will be described below. Saturninus' use of Marian veterans as his supporters provided a precedent for generals after Sulla (Lintott 1968, 75). There were also the retinues of P. Cornelius Scipio Nasica Serapio (cos. 138) [Plut. *Ti. Gracch.* 19.5] and P. Sulpicius Rufus (tr. pl. 88) [Plut. *Mar.* 35].

<sup>706</sup> 4.15.5: *Et quis homo? Quamquam nullam nobilitatem, nullos honores, nulla merita cuiquam ad dominationem pandere viam; sed tamen Claudios, Cassios consulatibus, decemviratibus, suis maiorumque honoribus, splendore familiarum sustulisse animos quo nefas fuerit.*

and the decemvirs (4.15.3-4).<sup>707</sup> Through Cincinnatus, Livy outlines the justifications for Sp. Maelius' slaying. As we shall see, it has been suggested that the brutality of Sp. Maelius' slaying was justified in light of his low social standing, especially when considered in light of the differential treatment of would-be-tyrants of patrician status, such as Sp. Cassius.<sup>708</sup>

Cicero never explicitly describes Sp. Maelius as a patrician or a plebeian. He does, however, present Maelius as a proto-*popularis* figure. As we have seen above, Livy portrays him in the same way. Livy, however, adds a new narrative detail: Maelius was a wealthy man of the equestrian order (4.13.1: *ex equestri ordine*), a characterization that Dionysius repeats (12.1.1: τάξις ἔχων ἵππικὴν).<sup>709</sup> The equestrians of the early Republic, however, were not yet a distinct social order. Our sources attribute the creation of the cavalry to the monarchical period, when increases in membership and changes in its organization were carried out by various kings.<sup>710</sup> In the early Republic, an *eques* was a wealthy member of the elite who served in the cavalry; some were provided with a horse at the state's expense (*equites equo publico*).<sup>711</sup> In addition to serving in the cavalry, the

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<sup>707</sup> Lucius Tarquinius Collatinus, consul with L. Iunius Brutus after the expulsion of the kings, was forced to lay down his office because he bore the name Tarquinius (Livy 2.3-11).

<sup>708</sup> Mustakallio 1994, 47.

<sup>709</sup> On this as the Greek equivalent for the Latin terminology, see Mason 1974 under ἵππικὸς (entry 2) and τάξις (entry 4).

<sup>710</sup> Hill 1930, 245. On the evolution of the equestrians in Livy, note his descriptions at 1.30.3 (Tullus Hostilius), 1.36.2-8 (L. Tarquinius Priscus), 1.43.8-13 (Servius Tullius); Livy's narrative assigns the final monarchical organization of the *equites* to Servius Tullius.

<sup>711</sup> McCall 2002, 2. As McCall points out, being an *eques equo publico* was an honorary title, increasing one's social prestige and standing in the centuriate assembly (2002, 3), and only equestrians with the public horse actively participated in "the *transvectio equitum*, a public religious ceremony and festival celebrating the Roman cavalry" (2002, 7). Later on, Romans served as *equites equis suis*, but there was no military distinction between an *eques equo publico* and an *eques equo suo*; the difference was one of honour and prestige (McCall 2002, 3). Livy first mentions these other equestrians in his account of the siege of Veii in 403 BCE (5.7).

*equites* voted in the distinguished eighteen equestrian centuries of the *comitia centuriata*,<sup>712</sup> which was a wealth-based assembly (divided among property classes by *centuriae*, military organizational units) responsible, *inter alia*, for the enactment of laws, making decisions about war and peace, and electing senior magistrates.<sup>713</sup>

Livy's choice to present Sp. Maelius as a member of the equestrian order reflects the socio-political and economic realities of the late Republic. He apparently conceived of Sp. Maelius as a wealthy non-senator, and he used the social categories of his own times to articulate the character sketch of Sp. Maelius as a man wealthy enough to qualify for enrollment in the eighteen equestrian centuries of the *comitia centuriata*, but who had not held a magistracy, and, therefore, was not a senator. This accords well with Livy's descriptions of Sp. Maelius as *praedives* (4.13.1) and *dives* (4.15.6).

The use of the term *ordo* by Livy to describe the early equestrians is anachronistic. Although the *equester ordo* did not formally exist until the reign of Augustus, its development as a loosely formed group separate from the senatorial elite began in the late second century BCE.<sup>714</sup> The equestrian order began to coalesce around 129 BCE, when a *plebiscitum equorum reddendorum* was passed requiring that senators surrender their public horses, which would then be conferred upon wealthy equestrians.<sup>715</sup> Thereafter,

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<sup>712</sup> McCall 2002, 2; Brunt 1988, 24, 145-146. For a comprehensive overview of the composition of the centuriate assembly, see Taylor 1966, 84-106. The equestrian centuries voted first in the assembly, and could, by their vote, influence the votes of others (Taylor 1966, 86).

<sup>713</sup> Crawford 1993, 194-195, 196 (Table 12).

<sup>714</sup> On the equestrian order not formally existing until Augustus' reign, see, e.g.: Rowe 2002; Henderson 1963, 65-71 (esp. p. 71); Hill 1930, 244. For more on Augustus' organization of the *equester ordo*, see: CAH X (*The Augustan Empire, 44 B.C.-A.D. 70*), 185-189; Rowe 2002, 67-84. The seminal work on the equestrian order remains Nicolet's monograph in two parts entitled *L'ordre équestre à l'époque républicaine (312-43 av. J.-C.)* [1966-1974].

<sup>715</sup> Crawford 1993, 200-201. For a more extensive overview of the law, see Nicolet 1966-1974, I.103-111. Many men would have possessed enough wealth to qualify for enrollment by the censors in the

upon entry into the senate one ceased to be an equestrian. Although there were conflicts between the senators and equestrians, the interests of these two groups often aligned.<sup>716</sup> The important difference was in rank and honour.<sup>717</sup> In addition, the law passed by C. Gracchus as tribune in either 123 or 122 BCE, which stipulated that juries were to be composed of equestrians only, widened the divide and caused contention.<sup>718</sup> Prior to this, senators had a monopoly on jury service, and, as a result, they acquitted their fellow-senators even in cases where there was evidence of guilt.<sup>719</sup> It is not until the time of Cicero that the equestrian came to be described as an *ordo*.<sup>720</sup> Given the socio-historical realities of the late Republic, it is unsurprising that Livy's Sp. Maelius, who was a wealthy non-patrician, was interpreted as an equestrian.

Livy's phrasing is quite deliberate. He could have described Maelius simply as an *eques*, but chose *ex equestri ordine*, a phrase that appears on only one other occasion within his first ten books (at 9.38.8). Livy, I would argue, wanted his readership to recall the more recent struggles between the senate and equestrians, which had led to civil strife

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equestrian centuries, but spots were limited. On the censors removing the public horse from those who once held it, see Hill 1952, 32-44. We know that the measure became law because there is no reference in the late Republican period to a senator being a member of the equestrian order (McDonnell 2006, 254).

<sup>716</sup> E.g., Hall 2009, 16; McCall 2002, 6-8; Brunt 1988, 147, 162-177 and 1971b, 69; Paterson 1985, 29; Shatzman 1975, 177, 185-190; Wiseman 1971, 65-70 (esp. p. 67); Syme 1939, 13.

<sup>717</sup> Syme 1939, 13.

<sup>718</sup> Shatzman 1975, 205. For ancient sources on C. Gracchus' law concerning the composition of juries, see: Broughton *MRR* I: 517-518 (where he also discusses its date); Hill 1952, 109n.6. Cf. Stockton 1979, 148-150, 191-192.

<sup>719</sup> Hill 1952, 109. The senate controlled the provinces through their right to select provincial governors and through the use of senators as jurors in the extortion court, the only permanent law-court in existence at the time of C. Gracchus' law (Hill 1952, 108).

<sup>720</sup> Hill 1952, 45, 47. Ciceronian references to the *equester ordo* include e.g.: *Verr.* 1.1.38; *Dom.* 74; *Sest.* 56; *Pis.* 7; *Planc.* 87; *Phil.* 2.19; *Brut.* 224. He also uses *ordo* by itself to refer to the equestrian order, e.g.: *Planc.* 23-24; *Phil.* 6.13. Neither of these lists is exhaustive, but serve to show that Cicero was using this terminology as early as 70 BCE, when he delivered *In Verrem*; this is the first time that Cicero mentions the *equester ordo*. At *Cat.* 17.4, Sallust uses the phrase *ex equestri ordine* to describe Catilinarian conspirators (in contrast to senatorial conspirators).

and contributed to the decline of Rome; this is supported by another important element in his narrative of 439 BCE—access to high office by non-patricians.

Although Sp. Maelius is presented as overly ambitious and acting in a way that was unacceptable for a non-patrician, Livy's narrative suggests that access to high office was a concern. Livy reports the following:

He himself [Sp. Maelius], because the human mind is unsatisfied with that which fortune promises, strived for loftier and forbidden things, and, because the consulship would also have to be torn away from the unwilling *patres*, he thought about seeking *regnum*.<sup>721</sup>

While Sp. Maelius is criticized for being too ambitious, Livy acknowledges that this is a human trait rather than a particular failing of Maelius'. He also admits that the patricians closely guarded the consulship and that Sp. Maelius had no hopes of winning a consular election. Sp. Maelius' behaviour was problematic and divisive, but Livy shows us at the same time that patrician monopolization of high office played a role in the conflict. A similar sentiment is later found in Livy's account of the Licinio-Sextian laws, one of which required that one of the consulships be available to the plebeians.<sup>722</sup> It took almost ten years for the laws to be passed, and Livy explicitly states that the issues at hand were "all remarkable and the sort which could not be obtained without the greatest struggle" (6.35.5: *cuncta ingentia et quae sine certamine maximo obtineri non possent*). Following this passage, Livy describes the patricians unfavourably—they coveted land, money, and power, and upon seeing these jeopardized, immediately began to devise ways to win the support of a tribune, who could veto the laws (6.35.6). At 6.34.1-4, Livy mentions the

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<sup>721</sup> 4.13.4: *Ipse, ut est humanus animus insatiabilis eo quod fortuna spondet, ad altiora et non concessa tendere et, quoniam consulatus quoque eripiendus invitis patribus esset, de regno agitare.*

<sup>722</sup> For more information on these laws, see above, p. 215-216.

sufferings of the plebeians and is critical of the patricians. He does not, however, portray the plebeians as wholly sympathetic. As Oakley notes, some of the tribunician speeches (e.g., 6.39.5-12) do not reflect well on the plebs.<sup>723</sup> In his narrative, then, Livy presents himself as a moderate, seeing fault on both sides. While he criticizes Sp. Maelius' motivations for providing the plebs with grain, he understands that such donatives were necessary and that patrician monopolization of high office was problematic.

Livy presents Sp. Maelius not only as an equestrian, but also as an aspiring *novus homo*.<sup>724</sup> Much has been written about *novi homines* and the difficulties that they faced in gaining entry into political life during the late Republic,<sup>725</sup> and a detailed recounting of the arguments is beyond the scope of this study. The admittance of new men into high office, and, thereby, into the senate, was rare and considered quite the accomplishment.<sup>726</sup> Furthermore, the nobility used their genealogies to justify holding offices to the exclusion of *novi homines*.<sup>727</sup> Indeed, between 366 and 63 BCE, scholars have determined that only

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<sup>723</sup> Oakley 1997, I.646.

<sup>724</sup> *Novi homines* were equestrians (e.g., van der Blom 2010, 34, 54; Wiseman 1971, 1-12 [esp. p. 1]; Syme 1939, 10-14). There is, however, some debate about the definition of *novus homo*, although our sources typically define it as the opposite of *nobilis* (van der Blom 2010, Chapter 4, "*Nobilis* and *homo novus*").

<sup>725</sup> The scholarship is too vast to list fully here, but some works include, e.g.: van der Blom 2010 (esp. Chapter 4, "*Nobilis* and *homo novus*"); McDonnell 2006, 320-331; Dugan 2005; Burckhardt 1990; Brunt 1982; Dondin-Payre 1981; Wiseman 1971 (esp. p. 143-181); Gelzer 1969b, 38-39, 54-56; Earl 1967, 44-58; Wirszubski 1950, 52-55.

<sup>726</sup> Badian has collected the evidence of the background of the consuls from 179-49 BCE, and through his categorizations it is clear that new men were infrequent (1990). Although being a member of the nobility did not necessarily mean that a Roman was well-suited to political life, *nobiles* had a much higher success rate in the competition for office, particularly the consulship, than other, equally eligible, men (Burckhardt 1990, 86-87). Senators were more successful than equestrians, and those who had praetorian ancestors were more successful than those whose ancestors had only reached the aedileship (Burckhardt 1990, 87).

<sup>727</sup> Dugan 2005, 8; Wiseman 1974. As Dugan demonstrates, new men developed their own myths in order to counteract the exclusivity of the nobility (2005, 8). At *Brut.* 96, Cicero describes a new man, Q. Pompeius (cos. 141), who attained the highest offices through his own merits and without the advantage of politically successful ancestors to give him credibility.

fifteen to seventeen new men attained the consulship.<sup>728</sup> This exclusivity is reflected in Livy's account of Sp. Maelius.

As we have seen above, Sp. Maelius' actions fueled conflict not only between the patricians and plebeians, but also within the patriciate itself, and, at 4.13.10, the senate blames the consuls of 440 and 439 BCE for allowing the situation to escalate. Livy then reports the following:

Then Quinctius said that the consuls, who were restrained by the laws of appeal (*provocatio*), which had been produced for the purpose of annulling their authority, were being unjustly reproached because they by no means had as much power in their magistracy to punish a matter according to its severity as they had the courage (to punish it). There was need of a man who was not only brave, but also of a man who was free and unbound by the fetters of the laws [of appeal]. Therefore, he said that he would name L. Quinctius as dictator.<sup>729</sup>

Here we see that T. Quinctius Capitolinus Barbatus (cos. 471, 468, 465, 446, 443), one of the consuls in 439 BCE, who had just been reproached by other senators for not stopping Sp. Maelius sooner, named his relative, L. Quinctius Cincinnatus (cos. suff. 460, dict. 458), as dictator in order to deal with the threat (also mentioned by Livy at 4.13.14). Cincinnatus' dictatorship of 439 BCE is suspect because, as we have seen, it seems to be a doublet of his earlier dictatorship and because the appointment of a dictator in the early Republic was typically a response to external military crises rather than to an internal threat.<sup>730</sup>

<sup>728</sup> For fifteen men: Gelzer 1969, 50-52. For seventeen men: Dondin-Payre 1981, 54-63.

<sup>729</sup> 4.13.11-12: *Tum Quinctius consules immerito increpari ait, qui constricti legibus de provocatione ad dissolvendum imperium latis, nequaquam tantum virium in magistratu ad eam rem pro atrocitate vindicandam quantum animi haberent. Opus esse non forti solum viro, sed etiam libero exsolutoque legum vinclis. Itaque se dictatorem L. Quinctium dicturum.*

<sup>730</sup> Golden 2013, 11-41 (esp. p. 11-13, 22-26); Hartfield 1982, 68, 70-72; Lintott 1970, 13, 14. Cf. Ogilvie 1965, 550. This was pointed out above in Part II, Chapter 2 (p. 182).



The reference to *provocatio* in this passage places the episode in a larger context within the Struggle of the Orders. Our sources, including Livy, report that several *leges de provocatione* were passed during the early Republic, specifically in 509, 449, and 300 BCE. Although the historicity of these laws is doubted, our sources present them as a significant factor in the Struggle of the Orders.<sup>731</sup> Therefore, although Livy's reference to the laws of appeal in the Maelian episode seems out of place, the last *lex de provocatione* had been passed only a decade earlier, after the second decemviral board was disbanded.<sup>732</sup> The law passed in 449 BCE was one of three included in the Valerio-Horatian laws (Livy 3.55.1-10) introduced by the consuls of 449 BCE after the plebeian secession, which resulted in the tyrannical rule of the decemvirs; the laws supposedly helped to secure and reestablish certain plebeian rights.<sup>733</sup> The mention of the law is out of place in Livy's narrative of the Maelian episode; once again, late Republican events have influenced the narrative of 439 BCE. The disempowerment of the consuls as a result of the laws of appeal becomes a pretext for the senate to select a dictator, who would not be hindered by these laws. This is reminiscent of the institution of the *SCU* in the 120s BCE, and the controversies that surrounded its use for decades to come.

Livy reports that Sp. Maelius and his followers understood that the dictator had been chosen in order to act against them (4.14.1). In his account of the events of 385 BCE, Livy reports (6.11.9-10) that a dictator was chosen to deal with the threat of the Volsci, Latins, and Hernici, but also because of the ambitions of M. Manlius Capitolinus

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<sup>731</sup> For references to these laws in the ancient sources and modern scholars' doubts about their historicity, particularly regarding the laws of 509 and 449 BCE, see above, Part II, Chapter 2 (p. 162).

<sup>732</sup> Livy's portrayal of the First and Second Decemvirates can be found at 3.33-59.

<sup>733</sup> For details and ancient references concerning these laws, see: Broughton *MRR* I: 47; Rotondi 1962 [1912], 203-205.

(cos. 392). Later in the narrative, Livy writes that Capitolinus and his followers understood that a dictator had been chosen not to deal with the threat posed by neighbouring tribes, but as a means of eliminating him (6.15.7-8); this sentiment is repeated at 6.16.5, and Livy reports that, in response, the senate attempted to appease the people by proposing a division of land (6.16.6-7).<sup>734</sup> Returning to his account of Sp. Maelius' downfall, Livy goes on to record that Cincinnatus sent his master of the horse, C. Servilius Ahala, to summon Sp. Maelius to appear before him to account for his actions (4.14.3). Notably, in the same passage, Livy includes the detail that Cincinnatus wanted Sp. Maelius to stand trial. Thus, while a dictator was selected in order to circumvent the law of appeal, Cincinnatus wanted to proceed against Sp. Maelius using legitimate legal means. Livy's narrative is sympathetic to the plebeian cause and seems indicative of a *popularis* version of the episode in which the dictatorship was to be used as an extralegal force against the people's champion. Cincinnatus' intention to make Sp. Maelius stand trial, however, would seem to point to an optimate version in which the senate wanted things to be done in a legitimate fashion.

There are other apparent problems in consistency. After Ahala informs Sp. Maelius that he has been summoned to appear before the dictator, Livy describes Maelius as *pavidus* (4.14.3), which means "frightened," but also has the sense of "quaking" or "trembling."<sup>735</sup> In the following sections, Livy goes on to describe how Sp. Maelius shrank back into the crowd of his followers and then implored them to protect him from

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<sup>734</sup> This served only to anger the people more, since they considered the land division payment for Capitolinus' condemnation (6.16.7). At 6.16.8, Livy writes that the dictator, A. Cornelius Cossus (cos. 413?), abdicated, which ameliorated the concerns of the plebs.

<sup>735</sup> As "frightened": *OLD* s.v. As "quaking" or "trembling": Lewis and Short, s.v.

the patricians.<sup>736</sup> This characterization is inconsistent with Livy's presentation of Sp. Maelius as confident, ambitious, and effective.

Livy's characterization of Ahala is also inconsistent. Sp. Maelius is killed simply for being unwilling to appear before the dictator; Ahala's actions deprived him of any chance of standing for trial, as Cincinnatus had wanted. In addition, Ahala is described as splattered with Sp. Maelius' blood (*repersusque cruore*<sup>737</sup>) when he and his band of young patricians return to tell Cincinnatus that they slew Maelius (4.14.6). They are painted in an intimidating and unfavourable light; this seems to point to a *popularis* version of the narrative. Livy, however, later reports that Cincinnatus approved of Ahala's actions, declaring that he had saved the state (4.14.7), which sounds like an optimate version of events. Clearly Livy was familiar with the opposing traditions regarding the events of 439 BCE, but sought to criticize both sides as a means of commenting on the current state of affairs at Rome.

Some of these elements of the narrative parallel late Republican events, particularly those associated with the careers of the Gracchi, Saturninus, and Catilina. In 121 BCE,

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<sup>736</sup> 4.14.4-5: He [Sp. Maelius] was snatched away by those watching and, as he fled, called upon the protection of the Roman plebs, and said that he was being overthrown by a conspiracy of the patricians because he had acted kindly to the plebs; he implored them to bring help to him in his extreme crisis and not to allow him to be cut down before their eyes. *Ereptus a circumstantibus fugiensque fidem plebis Romanae implorare, et opprimi se consensu patrum dicere, quod plebi benigne fecisset; orare ut opem sibi ultimo in discrimine ferrent neque ante oculos suos trucidari sinerent.*

<sup>737</sup> In a figurative sense, the verb *respergo* can also mean "to spatter with disgrace" (*OLD* s.v. 1d). It can also mean "to defile" (Lewis and Short, s.v. II). Livy uses this verb several times within his first pentad (1.13.2, 1.48.7, 3.50.3, 4.14.6 [regarding Ahala], and 4.32.12). It is used at 1.48.7 to describe Tullia after she intentionally tramples her father, the king Servius Tullius, under her carriage; she was married to L. Tarquinius Superbus, and her father's death hastened her husband's succession. At 4.32.12, the verb is used to describe the cowardice of the Fidenates and Veientes, who had murdered ambassadors and were splattered with the blood of their own settlers. Its use in the other passages, even those outside the first pentad, is not positive. In Book 7, a Roman commander who had been successful in battle puts on the chain of a fallen Gaul, which had been splattered with blood (7.10.11). At 10.39.16 and 10.41.3, Livy uses the verb to describe the Samnites, who had betrayed the Romans and performed horrid ritual rights and were, therefore, splattered with the blood of men and beasts.

after the death of Q. Antullius, an attendant of the consul L. Opimius, at the hands of C. Gracchus' supporters, the senate summoned Gaius and M. Fulvius Flaccus (cos. 125) to appear before them; the men, aware that they might meet the same fate as Tiberius Gracchus if they attended the meeting, disregarded the summons (App. *B. Civ.* 1.26). The senate instituted the *SCU*, instructing Opimius to ensure that the state suffered no harm.<sup>738</sup> Gaius and Flaccus were given the chance to surrender themselves for trial, but declined to do so (Plut. *C. Gracch.* 16.2). Opimius and his supporters then resorted to lethal force. Other late Republican conflicts involving the use of lethal force by senators would have come to mind as well, including the cases of Saturninus, Catilina, and Caesar.

Upon learning of Maelius' slaying, Cincinnatus reportedly praised Ahala as follows: "Well done, C. Servilius, you have delivered the republic."<sup>739</sup> The people, however, were displeased with the senate's actions, and Cincinnatus convoked an assembly in order to pacify them. At 4.15.1, Livy reports that Cincinnatus began his address to the people as follows:

He pronounced that Maelius had been justly slain (*iure caesum*), even if he would have been found innocent of the crime of *regnum*, since he, after he had been summoned by the master of the horse, had not appeared before the dictator.<sup>740</sup>

In the following section, Cincinnatus claims that Sp. Maelius had been planning to use violence to avoid trial, which justified the violence used against him (4.15.2),

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<sup>738</sup> Cic. *Cat.* 1.4, *Phil.* 8.14; Livy *Per.* 61; Plut. *C. Gracch.* 14.3.

<sup>739</sup> 4.14.7: *Tum dictator "Macte virtute," inquit, "C. Servili, esto liberata re publica."* Ogilvie 1965, 555.

<sup>740</sup> 4.15.1: *Maelium iure caesum pronuntiavit etiamsi regni crimine insons fuerit, qui vocatus a magistro equitum ad dictatorem non venisset.*

although this seems inconsistent with Maelius' actions as presented in the preceding narrative.<sup>741</sup>

Livy's conception of Sp. Maelius' death accords with his account of the deaths of both Sp. Cassius and M. Manlius Capitolinus, and with the deaths of *popularis* figures of the late Republic, against whom conservative authors, such as Cicero, attempted to justify the use of lethal force. In particular, Cincinnatus' reaction mirrors Gracchan events. When asked by a tribune of the plebs what he thought about the death of Tiberius Gracchus, P. Scipio Africanus Aemilianus replied that he seemed to have been "justly slain" (Cic. *Mil.* 8: *iure caesum videri*).<sup>742</sup> Likewise, at *Off.* 2.43, he uses the phrase *numerus iure caesorum* to describe the slayings of Tiberius and Gaius.<sup>743</sup> Velleius Paterculus relates this incident similarly, stating that "if he [Ti. Gracchus] had intended to seize the republic, he has been justly slain" (Vell. Pat. 2.4.4: *si is occupandae rei publicae animum habuisset, iure caesum*). The episode involving Sp. Maelius and his downfall would have become particularly relevant in the years following the deaths of the Gracchi when it would have been cited in justification of their deaths,<sup>744</sup> the traces of which have survived here in Livy's own narrative of events. Quintilian, too, describes the death of the

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<sup>741</sup> Seager, likewise, notes the dubiousness of Cincinnatus' claim (1977, 378).

<sup>742</sup> On Scipio Aemilianus' use of the phrase *iure caesum*, see Astin 1960, 135-137.

<sup>743</sup> Cicero uses the phrase in a discussion of the death of the Gracchi and popular leaders (2.43: *mortui numerum optinent iure caesorum*).

<sup>744</sup> *Iure caesus* became topical after the deaths of the Gracchi: Mustakallio 1994, 42-43 (discussing Valvo); Valvo 1975, 160; Ogilvie 1965, 555. L. Calpurnius Piso Frugi seems the most likely author to have made the parallelism between Sp. Maelius and Scipio Nasica's slaying of Ti. Gracchus (e.g., Bispham and Cornell in *FRHist* III.51; Forsythe 1994, 302; Rawson 1991, 265-266; Ogilvie 1965, 555-556).

Gracchi using similar phrasing (using *occisus est* in place of *caesus*), although he seems to be following earlier authors.<sup>745</sup>

Cicero uses the same phrase to describe the slaying of Caesar. In a letter to Atticus from May of 44 BCE, he uses the phrase *iure optimo caesum* (15.3.2). The same phrasing appears at *Phil.* 13.2, where he writes *iure caesum*.<sup>746</sup> The phrasing was clearly used to justify the removal of certain political figures using lethal force. This is clear from the nature of the argumentation used in such passages in which the phrasing appears, but may have been used as a means of citing legal procedure associated with Rome's early history. That is, the phrasing appears in one of the provisions of the Twelve Tables, Rome's earliest codified laws, dated by our sources to around 450 BCE.<sup>747</sup> The provision states that if one kills a thief at night, the thief will have been lawfully killed (Table 8.12: *iure caesus esto*). It is possible that our sources were trying to mimic the phrasing of the table in order to lend greater legal legitimacy to the slaying of those accused of seeking *regnum* or those believed to have achieved it (such as with Caesar).

After Sp. Maelius' slaying, Livy relates details that are characteristic of other narratives regarding would-be tyrants and the *post mortem* punishments that they suffered; Maelius' house was destroyed, as Livy will have known from Cicero (*Dom.* 101). He tells his readers that:

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<sup>745</sup> *Inst.* 5.11.6: *iure occisus est Saturninus sicut Gracchi*. In addition to the Gracchi, Quintilian's example includes reference to Saturninus. Seneca the Younger uses the same phrase, like Quintilian using *occisus est* in place of *caesus* (*Nat. Quaest.* 1.16.1: *tantum non pronuntiauit iure caesum uideri*); Seneca is describing an incident attributed to Augustus' reign. Although *occisus* has replaced *caesus* in these passages, the meaning remains the same.

<sup>746</sup> The *Thirteenth Philippic* was a speech delivered in the senate in March of 43 BCE.

<sup>747</sup> In his commentary on Cicero's *De officiis*, Dyck has also made this connection (1996, 426).

It was not enough for it [Maelius' crime] to be expiated by means of his blood, unless the roof and walls within which so much of his madness had been conceived should be demolished, and the goods that had been tainted with the rewards of *regnum* should be confiscated. Therefore, the quaestors were ordered to sell those goods and to put the proceeds in the public treasury.<sup>748</sup>

Following this description, Livy goes on to report Cincinnatus' orders for the house to be demolished, the empty space being named the Aequimaelium in order to immortalize Sp. Maelius' monarchical ambitions (4.16.1).<sup>749</sup> Cicero records that, in his day, one could buy sacrificial animals in this area (*Div.* 2.39).<sup>750</sup> Dionysius reports that the site remained unbuilt upon until his own day (12.4.6).<sup>751</sup> Thus, as with Sp. Cassius, Sp. Maelius' house is destroyed, the space left empty, and his goods confiscated.

According to Livy's report, L. Minucius was rewarded for his role in safeguarding the state, his statue becoming part of the Roman commemorative landscape. The bestowal of rewards is presented as follows:

L. Minucius was presented with an ox [and] gilded [statue] outside the Porta Trigemina, not even with the plebeians unwilling, because he distributed the corn of Maelius to the plebs at the value of one *as* to the *modius*. I find in certain authors that this Minucius was transferred from the patricians to the plebs, having been made an eleventh tribune of the plebs, which helped to abate the sedition that arose from the death of Maelius.<sup>752</sup>

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<sup>748</sup> 4.15.8: *Nec satis esse sanguine eius expiatum, nisi tecta parietesque intra quae tantum amentiae conceptum esset dissiparentur bonaque contacta pretiis regni mercandi publicarentur. Iubere itaque quaestores vendere ea bona atque in publicum redigere.*

<sup>749</sup> On the demolition of Sp. Maelius' house, and houses in general, see Roller 2010.

<sup>750</sup> Forsythe points out that Cicero has probably hit upon the original purpose of the site and its name; "Melium," and, thus, "Maelium," he argues, could be cognate with the Greek word μῆλος, or "sheep," or with the Latin *maialis*, "pig" (1994, 306).

<sup>751</sup> Based on Livy, the Aequimaelium was located on the south-eastern slope of the Capitoline (24.47.15-16, 38.28.3-4). For more on the site, see Forsythe 1994, 305-307.

<sup>752</sup> 4.16.2-3: *L. Minucius bove [et statua] aurata extra portam Trigeminam est donatus, ne plebe quidem invita, quia frumentum Maelianum assibus in modios aestimatum plebi divisit. Hunc Minucium apud quosdam auctores transisse a patribus ad plebem, undecimumque tribunum plebis cooptatum seditionem motam ex Maeliana caede sedasse invenio. A modius was a measuring vessel of standard size, and was a dry unit of measure (OLD s.v. 1, 2); grain, for instance, was measured using the *modius*.*

The line mentioning the rewards bestowed upon Minucius may be corrupt. The text as transmitted records that Minucius was rewarded with a gilded ox (*bove aurato*), but some scholars have suggested emending this to an ox and a gilded statue, based on Dionysius, Pliny the Elder, and the available coinage.<sup>753</sup> An examination of Dionysius' account makes no mention of an ox, gilded or otherwise, but it does mention that the senate voted for a statue to be erected in Minucius' honour (12.4.6). In two separate passages, Pliny the Elder also mentions a statue erected in honour of a Minucius,<sup>754</sup> which also seems to suggest that Minucius' statue was intended to be part of Livy's own narrative. Regardless, the bestowal of a reward upon Minucius had become a part of Livy's narrative; as we have seen, Dionysius records the pun between Minucius' name (Μηνύκιος) and the Greek μηνύω / μήνυστις / μηνυτής ("to inform" / "information" / "informant"), which Münzer suggested had its origins in Fabius Pictor and Cincius Alimentus, Rome's earliest authors, both of whom wrote in Greek.<sup>755</sup> Livy's narrative is the first in which we hear of rewards being granted to Minucius. Livy dismisses as ahistorical the report in some of his sources that Minucius was made eleventh tribune of the plebs, which Ogilvie has attributed to Valerius Antias.<sup>756</sup>

The report that Minucius received rewards for divulging the alleged conspiracy again evokes late Republican precedents, especially in light of the report that Sp. Maelius

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<sup>753</sup> On the issue of the reward or rewards bestowed upon Minucius, see, e.g.: Oakley in *FRHist* III.436-437; Wiseman 1998, 90-105; Forsythe 1994, 304-305; Ogilvie 1974 (*ad loc.*) and 1965, 556-557; Conway 1914 (*ad loc.*); Pais 1905, 209. For more on the *columna Minucia*, the statue with which Minucius was supposedly rewarded, see above, p. 198-200.

<sup>754</sup> Plin. *Nat.* 18.4(15), 34.11(21).

<sup>755</sup> For more on this pun, see above, p. 200

<sup>756</sup> Ogilvie 1965, 557. Pliny also mentions that Minucius was made eleventh tribune (Plin. *Nat.* 18.4[15]). Livy's belief that there were, at this time, ten tribunes is anachronistic.



did not receive a trial and that the senate went to extraordinary lengths to suppress him. Livy states that Minucius was rewarded with the possession of the grain that Maelius had acquired. Rewards to informants were not uncommon, and Livy mentions several occasions on which this happened. During a slave revolt in 198 BCE, rewards were given to two slaves who provided the senate with information regarding the conspiracy of other slaves (32.36.14). In his narrative of the Bacchanalian affair in 186 BCE, Livy reports that those who had informed against the conspirators were rewarded handsomely (39.19.1-7).<sup>757</sup> Rewards were also granted to those who helped provide information about the Catilinarian conspiracy.<sup>758</sup> Thus, again, we find in Livy's narrative of Sp. Maelius' downfall elements reminiscent of late Republican conspiracy narratives. We also know that Tiberius Claudius Nero (pr. 42 BCE), the husband of Livia and father of the future emperor Tiberius, had proposed rewards for Caesar's assassins—the so-called tyrannicides—in a meeting of the senate on March 17<sup>th</sup> of 44 BCE (Suet. *Tib.* 4.1).

In the aftermath of Sp. Maelius' slaying, Livy describes the reaction of the people and the plebeian tribunes. This, too, resembles accounts of the slayings of late Republican popular figures. Livy reports that because the people were agitated at the news of Sp. Maelius' death (4.15.1: *tumultuantem multitudinem*), the dictator addressed the crowd, in terms that are highly evocative of what we find in the late Republic (warning of *regnum*,

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<sup>757</sup> On the Bacchanalia affair, including extensive additional scholarship, see Briscoe 2008, 230-290.

<sup>758</sup> E.g., Cic. *Cat.* 4.10; Sall. *Cat.* 50.

citing *exempla* of would-be tyrants, and so on.).<sup>759</sup> The *post mortem* sanctions against Sp.

Maelius aim to quell plebeian hostility against the patricians. Livy goes on to record that:

Q. Caecilius, Q. Iunius, and Sex. Titinius were the only members of the college of tribunes who had not supported the law granting honours to Minucius and had never ceased to accuse at one time Minucius, at another Servilius, of a crime before the plebs and [had never ceased] to complain about the harsh death of Maelius.<sup>760</sup>

Agitation surrounding Sp. Maelius' slaying reoccurs in the year 436 BCE, initiated by another tribune of the plebs, who coincidentally was also named Sp. Maelius; Livy reports the following:

And seditions were aimed for at home, but were not undertaken, by Sp. Maelius, tribune of the plebs, who, having thought that by the goodwill of his name he might stir up something, had both set a day for the trial of Minucius and brought forth a proposal concerning the confiscation of Servilius Ahala's property, declaring that Maelius had been overthrown by Minucius through false charges, exposing that the death of an uncondemned citizen had been carried out by Servilius.<sup>761</sup>

The Sp. Maelius of 439 BCE had not been tribune of the plebs, but had acted like one. By the late Republic, the distribution of grain was characterized as a *popularis* measure to gain favour with the plebs. The Sp. Maelius of 436 BCE, however, actually was a tribune in Livy's narrative. Ogilvie suggests that this is a doublet, and a sign that, initially, the episode did not have a fixed date and later was embedded in 439 BCE.<sup>762</sup> Clearly various

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<sup>759</sup> As Ogilvie notes, Cincinnatus' speech certainly had overtones of Scipio Aemilianus' comments after he was asked by one of the tribunes of 131 BCE, C. Papirius Carbo (cos. 120), about his thoughts on the death of Ti. Gracchus (1965, 556).

<sup>760</sup> 4.16.5: *Q. Caecilius Q. Iunius, Sex. Titinius soli ex collegio tribunorum neque tulerant de honoribus Minuci legem et criminari nunc Minucium, nunc Servilium apud plebem quæque indignam necem Maeli non destiterant.*

<sup>761</sup> 4.21.3-4: *Et seditiones domi quaesitae sunt, nec motae tamen, ab Sp. Maelio tribuno plebis, qui favore nominis moturum se aliquid ratus et Minucio diem dixerat et rogationem de publicandis bonis Servili Ahalae tulerat, falsis criminibus a Minucio circumventum Maelium arguens, Servilio caedem civis indemnati obiciens.*

<sup>762</sup> Ogilvie 1965, 550.

narratives had become associated with Sp. Maelius, different elements of which appear at different times in Livy's narrative.

It is striking how topical this part of the Maelian narrative would have been in 63 BCE and its aftermath. We have already seen how, in 63 BCE, C. Rabirius was charged for his role in the suppression and death of Saturninus in 100 BCE. After Cicero's handling of the Catilinarian affair in the same year, a tribune of the plebs of the following year, Q. Caecilius Metellus Nepos (cos. 57), attempted to prosecute him. Cassius Dio writes that although the charge was brought against Cicero, it was truly directed at the senate, which had allowed Roman citizens to be executed without the consent of the people (Cass. Dio 37.42.2).<sup>763</sup> When he was tribune in 58 BCE, Clodius passed the law that called for the exile of those who had executed Roman citizens without trial.<sup>764</sup> The use of extralegal force and the institution and use of the *SCU* were opposed by various politicians, especially *populares*, the group against whom such measures were exercised and justified (by conservative senators).

Livy's portrayal of the aftermath of Sp. Maelius' death speaks to late Republican concerns over the use of extraordinary measures against Roman citizens. In particular, his description of Sp. Maelius being killed without a trial, that is, uncondemned (*indemnatus*), evokes the controversy surrounding the deaths of popular leaders during the late Republic killed without trial or under the guise of the *SCU*. The term *indemnatus* is used by Livy on three other occasions, and always in the context of discussions of those

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<sup>763</sup> Cassius Dio goes on to write that Cicero escaped prosecution because the senate had granted immunity to those who had been administering affairs during that time and that anyone who should attempt to bring a charge against these state officials would be declared a public enemy (37.42.3). For more on this, see Golden 2013, 132.

<sup>764</sup> For more on this law, see above, Part I, Chapter 1 (p. 163).

who were mistreated. One man suffers violence although he had not yet had his day in court (3.13.4). The term then comes up in a discussion of the laws of appeal (*provocatio*) in 449 BCE (3.56.13), then again in the narrative of Sp. Maelius. The term also appears at 35.34.7, where Livy describes how a Greek man was wrongfully exiled without having received trial. The term also appears in Livy's *Periochae* in relation to Cicero's exile—he was exiled because he had executed citizens without trial (§103).<sup>765</sup> Outside of Livy, the term is used to describe the Sullan proscriptions, which saw the confiscations of the goods of uncondemned men (e.g., Cic. *Agr.* 2.56), and the murder of uncondemned citizens (e.g., Cic. *Dom.* 21). Cicero applies the term to himself when discussing Clodius' wrongful actions against him (*Dom.* 26). Livy's use of the term may suggest a degree of discomfort with how violence had been used against uncondemned citizens during the last decades of the Republic.

Livy was trying to reconcile different versions that covered the events of 439 BCE, and sometimes inconsistencies appear in his narrative of this year. It also seems, however, that Livy was trying to show that both patricians and plebeians were at fault for the socio-political conflicts of the early centuries of the Republic, but were often able to put aside their differences, especially when the state was threatened by external factors (e.g., 4.17.7, 4.18, 4.21). This allowed him to comment on the contemporary state of affairs at Rome; by his day, internal conflicts were not so easily resolved, and it was not possible to blame any one group for the city's moral degradation. Livy shaped his narrative to serve his larger aims, which, as we have seen, he clearly lays out in his *Praefatio*. That is,

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<sup>765</sup> Velleius Paterculus also uses this term in his description of Cicero's execution of Catilina, who had not been condemned (2.45.1).

Livy's narrative of Sp. Maelius' attempted coup is more sinister and conspiratorial in its presentation than that of Sp. Cassius, supporting his picture of gradual decline which had culminated in the disastrous state of affairs of Livy's own day.

### **3.B) THE DIONYSIAN SP. MAELIUS**

Although some of the details found in Dionysius' account of the events of 439 BCE are similar to those found in Livy, there are notable variations. Dionysius' narrative is slightly longer (although there are several lacunae in the text) and has direct speeches delivered in *oratio recta*. As we shall see, Dionysius' treatment contains positive elements that are lacking from Livy's portrayal. The main elements of Dionysius' narrative concerning Sp. Maelius are as follows (details not found in Livy's account and/or that are unique to Dionysius are in bold):

- Sp. Maelius, who was unable to hold magistracies because he was an equestrian, decided it was opportune to aim at tyranny by currying favour with the plebeians;
- with the help of his friends and clients, Sp. Maelius used his own money to acquire grain, which he distributed at a reduced price to Rome's citizens and ***gratis to the truly destitute***;
- Sp. Maelius made **a second distribution of grain**;
- the patricians became suspicious of Sp. Maelius **and began meeting in secret to discuss his actions**; eventually they started to work against him openly, saying that he was acting in a way unbecoming a private citizen;

- **Sp. Maelius addressed the plebeians saying that he, unlike the patricians, who had appropriated public possessions and continued to monopolize them, was willing given his own money to help provide relief for the poor;**
- **Sp. Maelius made a third frumentary distribution;** as a result, the plebeians were willing to bestow him with **the consulship or any other magistracy he might seek, even though the law forbade it;**<sup>766</sup>
- the prefect of the corn supply, L. Minucius, was angered by Sp. Maelius' public insults of him; **Minucius convinced one of Maelius' supporters to inform against him,** allowing the prefect to bring charges to the senate against Maelius;
- a dictator, L. Quinctius Cincinnatus, was chosen; Cincinnatus chose C. Servilius (Ahala) to serve as his master of the horse;
- the dictator ordered Ahala to summon Sp. Maelius to appear before the senate to answer the charges brought against him;
- Sp. Maelius resisted the summons of the dictator, **ran into a butcher shop, killed some of Ahala's followers who approached him,** and was finally killed;
- in an assembly of the people, the dictator justified the slaying of Sp. Maelius and managed to calm most of the plebeians, who were initially angered by Maelius' death;
- the senate voted that Sp. Maelius' house be destroyed, the empty spot being named the Aequimaelium, and his property confiscated;

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<sup>766</sup> According to Livy, the people were pleased with Sp. Maelius' grain distribution and followed him around the city, but it is clear that it was Maelius who sought the consulship because of his popularity (4.13.3-4), whereas Dionysius presents it as an idea that arose from the plebeians.

- Minucius was rewarded with a statue for his role in thwarting Sp. Maelius' ambitions.<sup>767</sup>

As we saw above, Dionysius mentions that his account diverged from those of Cincius and Piso, where the main figures in this episode—Sp. Maelius, L. Minucius, Q. Cincinnatus, and Servilius Ahala—were *privati*.<sup>768</sup> Dionysius, like Livy, prefers that version of the narrative in which the main figures, except for Sp. Maelius, were magistrates. At 12.1.5, Dionysius reports that L. Minucius was prefect (τὸν ἀποδειχθέντα ἑπαρχον); at 12.1.11, he reports that he was prefect of the agora (ὁ τῆς ἀγορᾶς ἀποδειχθεὶς ἑπαρχος), which was synonymous with the role of *praefectus annonae*.<sup>769</sup> At 12.2.1, Dionysius mentions that a dictator and master of the horse were chosen, but the identities of the individuals are not specified until several sections later (12.2.3: Ahala as master of the horse; 12.2.5: Quinctius as dictator).<sup>770</sup>

Dionysius was clearly using the same source or sources as Livy, as can be seen in a comparison of the main elements of their narratives:

Narrative Element	Livy	Dionysius
○ Sp. Maelius was a wealthy <i>eques</i>	4.13.1	12.1.1

<sup>767</sup> 12.1-4 (for his complete treatment of Sp. Maelius and the events of 439 BCE). Compare this to the salient features of Livy's account of Sp. Maelius' downfall presented above in Chapter 3A (p. 193-195); the sections in bold represent details in Dionysius' account that differ or are absent from Livy's account.

<sup>768</sup> 12.4.2-5.

<sup>769</sup> Mason 1974, 19 (under agora).

<sup>770</sup> As we have seen, Cicero attributed Cincinnatus' summoning from the plough to both 458 BCE and 439 BCE (at *Sen.* 56). In what we have left of Dionysius' account for the events of 439 BCE, there is no mention of Cincinnatus being summoned from the plough to take up the dictatorship. Dionysius does, however, attribute two ploughing scenes to Cincinnatus, one in 460 BCE (10.17.3-4) and one in 458 BCE (10.23.4-10.24.3). Clearly there was some confusion on Dionysius' part about when the ploughing scene belonged, but he never attributes it to 439 BCE. It should be noted that for 458 BCE, Dionysius' narrative is very similar to Livy's (3.26.6-3.27.1); Cincinnatus was summoned from the plough to serve as dictator in order to rescue the consul, L. Minucius Augurinus, the same figure who appears in narratives of the events of 439 BCE. Minucius' incompetence as a magistrate seems to have become a historiographical trope, as discussed earlier.

○ Sp. Maelius distributed grain to the Roman plebs	4.13.2	12.1.2
○ the grain was acquired through the agency of Maelius' friends and clients in Etruria/Tyrrhenia	4.13.2	12.1.2
○ Sp. Maelius made several distributions of grain	4.13.2	12.1.3, 12.1.9
○ the frumentary distributions were made at a reduced cost and/or <i>gratis</i>	4.13.2	12.1.2
○ the distributions as <i>largitiones</i>	4.13.2, 4.13.10	12.1.4
○ Sp. Maelius' behaviour and actions exceeded those of a private citizen	4.13.3, 4.13.8, 4.13.9, 4.13.10	12.1.4-5, 12.1.11
○ Sp. Maelius had no hope of achieving any magistracy because of patrician opposition (Livy) or his status as an <i>eques</i> (DH)	4.13.4	12.1.1
○ Sp. Maelius' arrogance	4.13.4, 4.13.8	12.1.4-6
○ Sp. Maelius aimed at <i>regnum</i>	4.13.4, 4.13.9, 4.15.5, 4.15.8	12.1.1
○ Sp. Maelius' popularity caused him to hope for higher honours, particularly the consulship <sup>771</sup>	4.13.3	12.1.9
○ patrician opposition to Sp. Maelius' distributions	<i>passim.</i>	<i>passim.</i>
○ C. Servilius Ahala, under orders from the dictator, summoned Sp. Maelius to appear for trial	4.14.3, 4.15.2	12.2.4, 12.2.7, 12.3.1
○ the dictator claimed that Sp. Maelius was justly slain	4.14.7, 4.15.1-8	12.3.1
○ Sp. Maelius as a danger to the state	4.15.2, 4.16.7	12.1.14
○ Sp. Maelius' house was destroyed, and the open space was renamed the Aequimaelium	4.16.1	12.4.6
○ L. Minucius, who informed against Sp. Maelius, was rewarded	4.16.2	12.4.6

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<sup>771</sup> There is a slight difference in the accounts here. Livy reports that Sp. Maelius was the one who hoped for the consulship, whereas Dionysius records that the plebeians wanted to bestow a consulship upon him.



The obvious similarities between the narratives of Livy and Dionysius reveal that both authors were using the same source(s).<sup>772</sup> As we saw in Part I, however, Dionysius' goals as an author differed from Livy's. Dionysius sought to emphasize the descent, as he believes, of the Romans from the Greeks, for whom his work was intended.<sup>773</sup> Dionysius' treatment, therefore, diverges from that of Livy in several important ways.

As we have seen, Livy reinterpreted the episode involving Sp. Maelius in ways that made the patricio-plebeian conflict reminiscent of late Republican conflicts between the *optimates* and *populares*. Dionysius, in contrast, presents the strife as an example of *stasis* between the ὀλίγοι and δῆμος.<sup>774</sup> The following chart provides an overview of the political idiom that Dionysius uses in his treatment of Sp. Maelius:

Description	Passage
○ tyranny (τυραννίς)	12.1.1 (twice)
• almost achieved rule over the Romans (τὴν Ῥωμαίων ἡγεμονίαν κατασχεῖν)	12.2.9
○ Sp. Maelius is thought to be:	
• difficult to deal with (βαρύς)	12.1.4
• insufferable (ἀφόρητος)	12.1.4
• arrogant (ὑπερηφάνια)	12.1.4
• acting in ways inappropriate for a private citizen	implicit throughout (esp., e.g., 12.1.5, 12.1.6, 12.2.3) <sup>775</sup>
○ Sp. Maelius delivers arrogant speeches (λόγοι αὐθάδεις)	12.1.4
○ Sp. Maelius uses abusive language against Minucius (τῶν λόγων ὑβρίζων)	12.1.11

<sup>772</sup> Most scholars agree that Dionysius was not consulting Livy; on this, see the Dionysius section of the Introduction (p. 23).

<sup>773</sup> For a detailed examination of Dionysius' aims, see the section dedicated to him in the Introduction and Part I, Chapter 3B. His aims will be mentioned here briefly and only where relevant.

<sup>774</sup> Fox 1996a, 92; Schultze 1986, 130-131. For more on Dionysius' presentation Roman conflicts as analogous to Greek στάσις, see Part I, Chapter 3B (esp. p. 118-120).

<sup>775</sup> At 12.1.5 and 12.2.3, Sp. Maelius is described as sitting on a tribunal; as a private citizen (and also a non-patrician), this was deemed as particularly inappropriate and representative of his regnal designs.

- Sp. Maelius is hatching secret plots (τὰ ἀπόρρητα) 12.1.12
  - the seriousness of the plot (ἐπιχειρήσεις τηλικαύτη) 12.1.13
  - the plot is imminent (τὴν πράξιν ἐν χερσὶν οὔσαν) 12.1.13
  - plot against the state (πράξεις) 12.1.14
  - revolutionary actions (νεωτέρα πράγματα) 12.2.4
  - unholy plots (ἀνόσιοι βουλαί) 12.3.1
  - the conspirators (οἱ κοινωνήσαντες τῆς συνωμοσίας) 12.4.1
- the great danger presented by Sp. Maelius' actions (τὸ τοῦ κινδύνου μέγεθος) 12.1.14
- Sp. Maelius has popular favour implicit throughout<sup>776</sup> (esp., e.g., 12.1.3, 12.1.8-11)
- the dictator impeaches Sp. Maelius (εἰσηγγέλθης<sup>777</sup>) 12.2.4
- Sp. Maelius and his followers behaved as wild beasts (ἐσίτιζεν ὥσπερ θηρία κατὰ τῆς πατρίδος) 12.3.1
- after his death, Maelius' supporters attempt to create dissension among the people (διαστασιάζειν τὸν δῆμον ἐπεχείρουν) 12.4.1

Both Dionysius and Livy follow the same basic narrative outline of events and similar political idiom, but Dionysius presents the internal conflicts experienced by the Romans in terms that were reminiscent of Greek examples. In addition, Dionysius' concern for ἀκρίβεια, that is, fullness, or "richness of detail," in Gabba's words,<sup>778</sup> also affects his presentation of events, and accounts for the inclusion of details not found in the other sources, and of lengthy speeches.

Dionysius presents the ongoing conflicts between the patricians and plebeians in ways that evoke Greek examples of στάσις between ὀλίγοι and the δῆμος. This portrayal

<sup>776</sup> As we shall see, Dionysius presents Sp. Maelius as a successful military man whose motivation in distributing grain arose from a genuine concern to help the plebeians.

<sup>777</sup> In the passive, εἰσαγγέλλω has a technical sense, referring to the "laying of an impeachment" against someone (*LSJ* s.v. II).

<sup>778</sup> Gabba 1991, 82. For more on Dionysius' concern for ἀκρίβεια, which has already been discussed, see above, Part I, Chapter 3B (p. 118-119).

is consistent throughout his work, and, therefore, is applicable to his treatment of the events of 439 BCE. For instance, at 12.4.1, after Sp. Maelius has been slain, his followers are described as attempting to sow dissension among the people (διαστασιάζειν τὸν δῆμον ἐπεχείρουν); likewise, at 12.4.6, Dionysius uses the term στάσις to describe the conflict created by Sp. Maelius' attempts to achieve supremacy. While the Romans, like their Greek relations, suffered such civil strife, Dionysius points to one key difference in the two experiences—the Romans did not permanently succumb to civil discord, unlike the Greeks (e.g., 7.18.1, 7.26.4). Thus, he points out that the Romans had enjoyed 630 years of civil harmony, until the death of C. Gracchus. (2.11.2-3).<sup>779</sup> Because of this long period of harmony, the Romans had earned their supremacy.

As was the case with his depiction of Sp. Cassius' third consulship, Dionysius' account of the events of 439 BCE contains inconsistencies. Of all our sources, he portrays Sp. Maelius the most positively, but, as we can see from the chart of political idiom presented above, his account is at times hostile to Maelius. On the one hand, Sp. Maelius is portrayed as a figure who is concerned for the well-being of the plebs; on the other hand, he sought tyranny, was arrogant, and acted in ways that were inappropriate for a private citizen. The senate is characterized as both concerned for the safety of the state, but is also described as desperate to hold on to their supremacy and as involved in questionable, secret activities. The senate's actual motives, therefore, are open to scrutiny, and the senators do not appear to be concerned solely with safeguarding the Republic from a would-be tyrant.

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<sup>779</sup> Schultze 1986, 131. This was also discussed in the Dionysius portion of the Introduction and in Part I, Chapter 3B.

Dionysius begins his account of Sp. Maelius' downfall (12.1.1) with a characterization of the would-be tyrant. There is, from the start, a notable difference between the characterization of Sp. Maelius in Dionysius and that found in Livy. Dionysius describes Sp. Maelius as a renowned war hero, who had recently taken over the estate of his father (12.1.1).<sup>780</sup> Dionysius remarks upon the fact that, despite this, Sp. Maelius, because of his youth and his equestrian rank, was prevented from holding magistracies or any other public positions. At the end of this section, however, Dionysius' sympathetic depiction develops into a more hostile one. He mentions that Sp. Maelius thought that the time was right to aim for tyranny, and started to seek favour with the plebs, which was "the easiest of the paths leading to tyranny" (τὴν ῥασιτόνην τῶν ἐπὶ τυραννίδα φερουσῶν ὁδῶν). This is how the first section of Dionysius' version of the Maelian episode ends. It has been suggested that Dionysius' portrayal of Sp. Maelius' military success and his desire for tyranny resemble attempts made by tyrants of southern Italy to acquire popular favour.<sup>781</sup> Thus, Dionysius paints an ambivalent or inconsistent picture of Sp. Maelius. Was Sp. Maelius a renowned war hero simply trying to improve the living conditions of the Roman plebs by providing them with grain, or was he a revolutionary seeking tyranny by acquiring popular support through his frumentary distributions?

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<sup>780</sup> As we shall see below, Dionysius reports that Sp. Maelius used his inheritance to help finance his grain distributions.

<sup>781</sup> Mustakallio 1994, 46. Mustakallio also points out that Dionysius' mention of the acquisition of grain from areas associated with the Tarquins (specifically Tyrrhenia at 12.1.2) suggests additional connections with the Greek and Etruscan worlds; on the tyrannies of Southern Italy, see, e.g., Lintott 1982, 62-66.

As we have seen, Livy reports that Sp. Maelius distributed the grain at a reduced cost. Dionysius' treatment also includes this element, but he provides more specifics about the price at which the grain was sold and includes a new detail. His description reads as follows:

He [Maelius] was distributing it to the citizens, measuring out a *modius* for two drachmas instead of twelve, and upon all those whom he perceived to be utterly powerless and not even able to provide for the cost of their daily nourishment, he was bestowing it without payment.<sup>782</sup>

Dionysius, therefore, imagines a scenario in which Sp. Maelius distributed grain both at a reduced price and for free; later in the same section, he also reports that Sp. Maelius imported this grain from Tyrrhenia. We saw that Livy's use of the plural *largitiones* (4.13.2) suggests that he believed that Sp. Maelius made more than one frumentary distribution. In his treatment, Dionysius explicitly reports that Sp. Maelius made three distinct distributions. Dionysius, however, is far more detailed than Livy in his descriptions of these distributions. In the section following his description of the initial dispensation, Dionysius records the following:

After he won over the people and obtained a most wonderful reputation by this act of kindness (τῇ φιланθρωπίᾳ), he set off again seeking to import from other markets; and he came back after a short time, leading many boats down the river, completely full of food, and he distributed it to the citizens in the same way [as before].<sup>783</sup>

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<sup>782</sup> 12.1.2: διεμέτρει τοῖς πολίταις, ἀντὶ δώδεκα δραχμῶν διδράχμου ἀπομετρῶν τὸν μόδιον· ὅσους δὲ αἰσθοῖτο παντάπασιν ἀδυνάτους καὶ μηδ' ὑπὲρ τῆς ἐφημέρου τροφῆς ἔχοντας προέσθαι τὸ διάφορον ἄνευ τιμῆς χαρίζομενος.

<sup>783</sup> 12.1.3: ταύτῃ τῇ φιλανθρωπίᾳ τὸν δῆμον ἀναλαβὼν καὶ θαυμαστὴν ὅσῃν δόξαν ἀπενεγκάμενος ὥχετο πάλιν ἐμπορευσόμενος ἐτέρας ἀγοράς· καὶ παρῆν οὐ διὰ μακροῦ ποταμιγοῦς ἄγων σκάφας πολλὰς πάνυ μεστὰς τροφῆς καὶ τὸν αὐτὸν τρόπον τοῖς πολίταις ἐμέτρει.

Sp. Maelius' motives are presented positively by Dionysius, as indicated by his characterization of Maelius' measures as an act of *φιλανθρωπία*, which earned Sp. Maelius a "most remarkable reputation" (*θαυμαστὴν ὅσῃν δόξαν*).

After his discussion of these distributions, Dionysius turns his attention to the patricians' reaction (12.1.4). Unsurprisingly, the patricians are described as suspicious of Sp. Maelius, presumably because his activities threatened their own authority and highlighted their inability to provide the masses with food, and this is confirmed several sections later. At 12.1.10. Dionysius describes the patricians' actions in terms that are evocative of conspiratorial activities: he mentions that they began to meet secretly (*κρύφα*), with only a few other men, in order to discuss the matter (12.1.4).<sup>784</sup> Dionysius goes on in the same section to report that the patricians were affronted by what they considered arrogant behaviour on the part of Sp. Maelius. A change has occurred in the presentation of events. At 12.1.4, Dionysius reports that it was the *patricians* who were holding secret meetings, not Sp. Maelius, which stands in contrast to Livy's account, in which he uses language characteristic of late Republican conspiracy narratives to describe Sp. Maelius' actions. Eventually, in Dionysius' account too, accusations are made that Sp. Maelius had been plotting secretly, but these do not appear until later in the narrative, after a third distribution of grain is carried out. Although the patricians complain about Sp. Maelius, it is initially they who are depicted as furtive, not Sp. Maelius.

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<sup>784</sup> 12.1.4: At first they met secretly and among few others and they discussed the matter with one another, and then they were crying out against him openly, since he was overbearing and insufferable, carrying out deeds full of arrogance and relaying presumptuous speeches on behalf of himself. *κρύφα μὲν τὸ πρῶτον καὶ κατ' ὀλίγους συνιόντες καὶ διαλεγόμενοι πρὸς ἀλλήλους, ἔπειτα καὶ ἐκ τοῦ φανεροῦ καταβοῶντες, ἐπειδὴ βαρὺς τε καὶ ἀφόρητος ἦν ἔργα τε πράττων ὑπερηφανίας μεστὰ καὶ λόγους διεξιὼν αὐθάδεις ὑπὲρ ἑαυτοῦ.*

After Sp. Maelius' first and second distributions, the patricians become more agitated (12.1.4-6). They consider Sp. Maelius difficult to deal with (βαρύς), insufferable (ἀφόρητος), arrogant (ὕπερηφανία), and as acting in ways unbecoming of a private citizen, especially when he repeatedly convoked the assembly. He delivered arrogant speeches (12.1.4), and denounced Minucius before the people (12.1.6). This political idiom is typical of the late Republic, as has been discussed elsewhere.<sup>785</sup>

These complaints, however, are contradicted in the following sections (12.1.6-9), which focus on Sp. Maelius' concern for the plebs. Dionysius writes that Sp. Maelius' denunciation of Minucius was improper, but in the same sentence he writes that one of these denunciations concerned Minucius' inability as an elected official to provide for the plebs. This then leads into indirect discourse in which Sp. Maelius is said to have pointed out that the patricians were not willing, either collectively or individually, to help the needy, and so it was important that men like himself make financial sacrifices to secure provisions and distribute them (12.1.6). Sp. Maelius then turns to a discussion of the patricians' monopolization of public land, and contrasts their behaviour with his own—he used his own inheritance to help the needy, and, when he had exhausted these funds, he went so far as to acquire loans from his friends (12.1.7). By mentioning the patrician monopolization of public land, the episode is placed in the larger context of the Struggle of the Orders, lending additional legitimacy to Sp. Maelius' claims about lack of patrician concern for the plebs.

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<sup>785</sup> See above, p. 247-248.

Dionysius goes on to report that Sp. Maelius' supporters hailed him as the savior, father, and founder of the fatherland (12.1.8: αἰ σωτῆρα καὶ πατέρα καὶ κτίστην ἀπεκάλουν τῆς πατρίδος). It is understood that this kind of sentiment, coupled with the assertion that the people were willing to bestow the consulship and more upon Sp. Maelius (12.1.8, 12.1.9), even though this was not enough to show their appreciation for the greatness of his deeds (12.1.8: κατὰ τὸ μέγεθος τῶν ἔργων αὐτοῦ), would have alarmed the patricians.

It is at this point that Sp. Maelius sets sail to acquire more grain, eventually returning and making his third distribution (12.1.9). He obtained this grain from Cumae and the harbours around Misenum, flooding the city with provisions and preventing starvation by famine. The people were now more willing than ever to bestow upon Sp. Maelius any magistracy that he desired in the upcoming elections. According to Dionysius, the patricians did not have the power to stop this; even after the consuls and tribunes forbade Sp. Maelius from summoning the assembly, the people drove the magistrates from the forum (12.1.10). This only served to confirm how great his popularity was. Once more, Dionysius' narrative is ambivalent; Sp. Maelius is seen to act justly in response to the plebs' need, but in doing so is acting inappropriately for a private citizen and gaining dangerous popularity.

The patricians, in response, are seen once again to resort to plotting. At 12.2.1, Dionysius reports that after a dictator was selected, he required all the senators to keep their plans secret from outsiders. There is a lacuna in the text in the middle of 12.2.2, but the narrative goes on to report that forces were mustered and that the senators then seized



the Capitol and kept it under guard (12.2.2-3). This perhaps may be influenced by the events that followed upon Caesar's death, after which the assassins occupied the Capitol.<sup>786</sup> Dionysius also relates that after Sp. Maelius' slaying, Cincinnatus, in his capacity as dictator, put Sp. Maelius' followers to death secretly (12.4.1). This presentation clearly does not fit with other elements of Dionysius' narrative in which Sp. Maelius is painted as conspiring against the state to become tyrant. According to Dionysius, these men did not receive trials, but were simply summarily executed. Dionysius is influenced in his telling not only by earlier authors, who had recast the patricio-plebeian conflict to reflect contemporary concerns, but also by examples of Greek στάσις in which Greek citizens were summarily executed.<sup>787</sup> Dunkle notes that Herodotus defines a tyrant as one who rapes women and kills men without trial (3.80.5: κτείνει τε ἀκρίτους).<sup>788</sup> Although Sp. Maelius may have exhibited the desire to become a king or tyrant, it is Cincinnatus and Ahala who act like tyrants by denying Sp. Maelius a trial. Not only was there a rich Greek historiographical tradition regarding tyrants and their behaviour, but the case of Sp. Maelius was also particularly relevant in the years following the slayings of the Gracchi and the controversy surrounding the use of lethal force against citizens and the institution of the *SCU*. For Dionysius, then, the slaying of citizens without real cause and without trial was an established part of the Greek

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<sup>786</sup> Cic. *Att.* 14.10.1 (April, 44 BCE); App. *B. Civ.* 4.57. Ogilvie notes that the Ides of March heavily influenced Dionysius' treatment of the events of 439 BCE (1965, 555).

<sup>787</sup> As discussed in the Introduction, Dionysius was familiar with the works of those who came before him, both Greek and Roman. He cites Herodotus in various works, including his *Antiquitates Romanae* (e.g., 1.27.3, 1.29.3) and other works (e.g., *Thuc.* 5; *Dem.* 41). As we also saw in the Introduction, Dionysius composed many rhetorical works, including one entitled *On Thucydides*, and was well versed in Greek and Roman literature. On Dionysius' use of early Greek historians, including Herodotus and Thucydides, see: Gabba 1991, 65-69; Toye 1995.

<sup>788</sup> Dunkle 1967, 152-153.

historiographical tradition about tyranny. These treatments influenced Roman portrayals of *regnum*,<sup>789</sup> but the Romans also had their own, native stories about Roman political figures who sought to become kings,<sup>790</sup> particularly from the second century BCE onward. Dionysius had a wealth of material at his disposal, both Greek and Roman, about what constituted tyrannical behaviour.

We have seen that Livy's characterization of C. Servilius Ahala, Cincinnatus' *magister equitum*, contained several inconsistencies: on the one hand, he is praised by Cincinnatus for saving the state, on the other, he appeared before the dictator splattered with Sp. Maelius' blood and accompanied by an escort of patrician youths. In Dionysius, too, Ahala is accompanied by a group of men when he goes to summon Maelius to appear before the dictator (12.2.3). These men carry swords with them, concealed under their clothing (12.2.3). The presence of the hidden swords is mentioned before Ahala even addresses Maelius; this suggests that Maelius was going to be suppressed by force whether or not he was willing to appear before the dictator (luckily for Ahala, Maelius tried to run!). Ogilvie notes that Dionysius' presentation of Ahala's retinue was influenced by Caesar's assassination; Ahala's supporters were with him from the outset, and they took an active part in Sp. Maelius' slaying.<sup>791</sup>

From Dionysius' account, then, we get a mixed picture of the motives of both Sp. Maelius and the patriciate. Other positive elements do exist in Dionysius' narrative, and

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<sup>789</sup> As Erskine has demonstrated, the Romans' contact with Hellenistic kings in the second century BCE influenced how they wrote about kingship (1991, esp. p. 109); he also recognizes that both Greek models of tyranny and Roman viewpoints of kingship influenced treatments about kingship (1991, 112: Plautus used Greek models for his plays when he discusses kingship, but he reflects the Roman standpoint; cf. Pina Polo 2006, 72-73. Glinister voices some skepticism regarding Erskine's model (2006).

<sup>790</sup> Dunkle 1967, 156.

<sup>791</sup> Ogilvie 1965, 555.

extend beyond the suspicious behaviour of the patricians, and we shall examine several of these in what follows.

When Ahala delivers the dictator's summons, he and Sp. Maelius exchange words. Maelius voices his surprise at the news that a dictator had been chosen, for he, like the rest of the citizens who were not senators, had not been aware of such an appointment (12.2.4). Ahala explains the situation (12.2.4-6), and then Sp. Maelius appeals to the plebs:

“Plebeians, help me, for I am being seized by those in power because of my goodwill towards you; for I am not being summoned by them to a trial, but to death.”<sup>792</sup>

Sp. Maelius' assertion that he had acted out of goodwill to the plebeians well with Dionysius' description of Maelius' “kindly service” at 12.1.3. Moreover, Maelius is clearly aware that the summons to trial is nothing more than a pretext to get him to appear before the dictator, where he will surely be killed without a trial. This fear is by no means unfounded, given Dionysius' report that Ahala and his retinue had come bearing concealed arms (12.2.3). Dionysius, then, is clearly suspicious of the motives of the senate and represents the summons by the dictator as a form of entrapment, leading to Maelius' understandable attempt to escape Ahala and his subsequent bloody death at the hands of the master of the horse (12.2.7-8).

Dionysius also reports several other details that portray Sp. Maelius in a more positive light than our other sources. At the outset, L. Minucius, prefect of the corn supply, is depicted as upset by Maelius' distributions as well as by his insults of Minucius

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<sup>792</sup> 12.2.7: δημοτικοί, βοηθεῖτέ μοι συναρπαζομένῳ διὰ τὴν πρὸς ὑμᾶς εὐνοίαν ὑπὸ τῶν δυνατῶν· οὐ γὰρ ἐπὶ δίκην πρὸς αὐτῶν, ἀλλ' ἐπὶ θάνατον καλοῦμαι.

in the assembly (12.1.11). Later in the same section, however, Dionysius provides another explanation for Minucius' disapproval of Maelius' actions, one that presents Minucius' aims less sympathetically. Minucius feared Maelius above all other men because he thought that he would make himself more powerful than the aristocracy, to which Minucius belonged, and that Maelius would win over "men of his [Minucius'] own faction." This detail is absent from Livy. In Dionysius' narrative, then, doubt is cast on the validity of Minucius' actions, since they are performed out of fear for his prestige and for the authority of his own patrician caste. This also serves to vindicate Sp. Maelius' claim at 12.1.7 that Minucius, although prefect of the corn supply, was not fulfilling his magistracy since he had done nothing useful in the interest of the poor masses. This is reminiscent of Ti. Gracchus' claims that M. Octavius was not acting in the interests of the plebeians and that, as a result, he should no longer hold the tribunate. Indeed, it is Minucius' failure to obtain grain that leads Sp. Maelius to find, import, and distribute his own supply.

These elements—the favourable depiction of Sp. Maelius, his desire to help the starving plebs, the placement of his speeches to the people and during his confrontation with Ahala, Minucius' concern for his own prestige—are unique to Dionysius' treatment and reveal the author's sympathies. The description of Sp. Maelius' death in the butcher shop paints him in a pathetic light; Dionysius reports that he was able to defend himself for a time, but eventually his arm was cut off and he was then hacked to pieces like a wild animal (12.2.8). Mustakallio suggests that this emphasized the shame associated with

what Sp. Maelius had attempted to do,<sup>793</sup> but when considered in the light of the rest of the narrative, I suggest that this contributes to a more complex and ultimately more favourable depiction of Sp. Maelius, who knew that the patricians were trying to secure his downfall.

The narrative then goes on in a very similar manner to Livy's. The mob sought vengeance for Sp. Maelius' slaying, and Cincinnatus intervened to stop them (12.2.9-10). There are, however, notable variations from Livy. Dionysius relates that the mob was roused to anger when Sp. Maelius' body was carried to the forum and exposed for all to see. In Livy's account, Cincinnatus simply calls the people to an assembly and addresses them, thereby calming their anger. In Dionysius, however, Cincinnatus approaches the angry mob with all the senators and a retinue of knights carrying swords (12.2.10). This is a significant departure from Livy, who mentions no such armed body accompanying the dictator. This, combined with the patrician occupation of the Capitol after Sp. Maelius' slaying, seems to be inspired especially by Caesarian events.<sup>794</sup>

Like Livy, Dionysius reports that Sp. Maelius' property was confiscated and his house destroyed. Forsythe notes an interesting divergence in Dionysius' account of the site on which Sp. Maelius' houses once stood.<sup>795</sup> Cicero (*Dom.* 101) explained that the site was named Aequimaellum to commemorate the justness (*aequum*) of Maelius' fate, and Livy followed this explanation (4.16.1).<sup>796</sup> Dionysius, however, reports an alternate explanation: the site received its name for the flatness (*aequum*) of the terrain. He may

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<sup>793</sup> Mustakallio 1994, 47.

<sup>794</sup> Valvo 1975, 167 (esp. p. 167n.42). On the clear Caesarian tones in Dionysius' account, see Valvo 1975, 178-181. Mustakallio follows Valvo's interpretation (1994, 43-44).

<sup>795</sup> Forsythe 1994, 306.

<sup>796</sup> Valerius Maximus later followed this explanation (6.3.1c).

have taken this from Varro, who wrote earlier, who records that the flatness of the land lent its name to the site (*Ling.* 5.157). Here, then, we see that Dionysius rejects the explanation preserved in Cicero and Livy and follows that of Varro, preferring not to attach the idea of justice to the name of the site.<sup>797</sup>

A few things must be considered regarding Dionysius' depiction of Sp. Maelius' grain distributions. More specifically, how was Dionysius affected by contemporary issues surrounding the distribution of grain?

As we have seen, Dionysius records that he arrived at Rome and began writing his *Antiquitates Romanae* in 30 BCE (1.7.2) and completed the work in 7 BCE (1.3.4). He seems comfortable with Sp. Maelius' distributions in a way that our other sources are not, which stems partially from his obvious sympathies with the plebs, or δῆμος. In addition, given that Dionysius was living and writing in Augustan Rome, his comfort with Sp. Maelius' distributions may be the product of Augustus' own donatives, which included frumentary and monetary dispensations. Augustan distributions of grain occurred in 28, 23, 22, and 18 BCE.<sup>798</sup> In addition, these distributions were financed through his own funds (*RG* 5, 15: both passages refer to grain distributed at his own expense), and, like Sp.

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<sup>797</sup> As was discussed earlier, Forsythe also points out that Cicero (*Div.* 2.39) records that, during his own day, the area served as a sheep market where one could purchase sacrificial animals. "Maelium," Forsythe proposes, could be cognate with the Greek word μῆλος, or "sheep," or with the Latin *maialis*, "pig" (1994, 306). It seems that different etymologizing occurred depending on the author how he preferred to present the events of 439 BCE.

<sup>798</sup> Augustan distributions of grain occurred in 28, 23, 22, and 18 BCE, and 6 CE, as well as several other years (Garnsey 1988, 230-231; cf. Aug. *RG* 15, 18). In 30 BCE, shortly after Octavian's defeat of Antonius, Rome had acquired a new source of grain—Egypt. This new province remained under the control of Octavian/Augustus, and he distributed grain from the region to poor Romans. For more on the frumentary activities of Augustus, see, e.g.: Garnsey 1988, 218-222, 230-233; Rickman 1980, 60-66, 179-185. For a comprehensive overview of Augustus' donatives, see Shatzman 1975, 369-370.

Maelius, used his own patrimony at times (*RG* 15, 17, 18). Suetonius records the following in relation to Augustus' donatives:

Also, during scarcities of grain, he [Augustus] often measured out grain, man by man, at the lowest price, sometimes at no price, and he doubled the number of grain tickets.<sup>799</sup>

Dionysius may be reflecting this in his account of Sp. Maelius' distributions, which occurred at a reduced cost or for no price at all to the truly needy, and, as in the case of Augustus, were financed from his own funds. Sp. Maelius' initiative would not have seen so out of place or threatening to Dionysius given the contemporary situation at Rome. Altogether, Sp. Maelius' use of his own money for the acquisition of grain seems more reminiscent of the last decades of the Republic, and looks ahead to a time when the *princeps* became the patron of the city of Rome and was responsible for acquiring food for the city's poorer citizens, as well as making *congiaria*, or distributions of money.

Dionysius' narrative of the events of 439 BCE, although inconsistent, like portions of Livy's narrative, portrays Sp. Maelius in a more positive light than previous sources. At times Sp. Maelius is portrayed as a villain attempting to install himself as a tyrant, at other times the patricians are involved in conspiratorial activities and concerned primarily with the maintenance of their own authority. In the end, the episode does serve Dionysius' larger goals as an author. Despite the violence used to suppress Sp. Maelius, the Roman state suffers no long-lasting ill effects from the temporary discord. That is, the strife is not fatal to the Roman state, nor are later issues that arise and cause problems

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<sup>799</sup> *Aug.* 41.2: *Frumentum quoque in annonae difficultatibus saepe levissimo, interdum nullo pretio viritim admensus est tesseractque nummarias duplicavit.*

among the Romans. In his account of an earlier food crisis, which occurred in 492 BCE as a result of the first secession of the plebs, Dionysius, writes the following:

However, their hatred did not give way to any irreparable result, as usually happens in disorders such as these.<sup>800</sup>

Dionysius goes on to report that neither the patricians nor the plebeians resorted to violence against each other (7.18.2). As Garnsey has noted, the only clear reference made by Dionysius to violence carried out by the masses in times of food crisis occurs in his narrative of the events of 477 BCE (DH 9.25.1-4).<sup>801</sup> According to Dionysius, the Romans were unable to acquire grain for a time because of Etruscan invasions into Roman territory; eventually the consuls were given large sums of money to purchase and import grain for the masses. He goes on to record that the people seized provisions from the houses of the rich, but even then he does not explicitly mention that anyone was harmed. Thus Dionysius advances his theme of the special virtue of the Romans, in contrast to the Greeks.

## CONCLUSION

Successive generations of authors reshaped the events of 439 BCE and the figures involved to suit their aims. Just as with his presentation of Sp. Cassius, Cicero is concerned with Sp. Maelius as a generalized *exemplum* of the *popularis* who aims at *regnum*. He is interested in the particulars of the story only when they reinforce the parallels Cicero wishes to draw. Thus, he only mentions Sp. Maelius' grain distribution when condemning Clodius' *lex frumentaria*. Livy and Dionysius both wrote about the

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<sup>800</sup> DH 7.18.1: οὐ μὴν τό γε μῖσος αὐτῶν εἰς ἔργον τι ἀνήκεστον ἐχώρησεν, οἷα ἐν ταῖς τοιαύταις φιλεῖ γίνεσθαι ταραχαῖς.

<sup>801</sup> Garnsey 1988, 174.



same events in their works, drawing on the same sources, adapting, omitting, or expanding upon various details of the narrative in order to convey the lessons they sought to teach. Central to the narratives of both authors is Sp. Maelius' desire to acquire *regnum* through the distribution of grain. Livy aims to show the moral decline of Rome over time. Dionysius seeks to show how the Romans outstripped their Greek cousins in virtue and, thereby, had earned their supremacy. Contemporary events influenced both authors' reshaping of the narrative. Once more, we see that the events of the early Republic, specifically those involving the would-be tyrant figure, were influenced by later events and reshaped by successive authors to serve as moral *exempla* for their contemporary audiences.

## CONCLUSIONS

In this study, I have posed two questions: what did Roman authors in different genres think they were doing when they wrote about the past? How did the Romans try to understand their history, and how did they find meaning in the stories of their past? This study considered these questions by examining specific episodes from the Romans' early past and how these episodes were reimagined over time based on contemporary events and concerns and authorial aims. Such reinterpretations helped authors to come to terms with the realities of their own times and to map certain developments or trends that had occurred over time. The Romans, therefore, reinterpreted the past based on the present, "modernizing" the past as they did so.

To many Roman authors, the late Republican period represented a long culmination of decline and moral degeneration. The Struggle of the Orders became a source of interest to authors of the second and first centuries BCE who were writing about Rome's past for its putative parallels to late Republican events and concerns. As Cornell observes:

Inevitably the Romans of the late Republic tended to emphasize the similarities, and to overlook the differences, between the events of the archaic period and those of their own age.<sup>802</sup>

Thus, the patricians were recast as *optimates* and the plebeians as *populares*.<sup>803</sup> This recasting provided a means by which those writing about the past could try to make sense of their present. This was all part of the organic process of contemporizing earlier periods of the Romans' history.

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<sup>802</sup> Cornell 2005, 60.

<sup>803</sup> Mitchell points out that the conflict between patricians and plebeians was not unlike the conflicts between kings and patricians, *equites* and senators, or those of *populares* and *novi homines* with *optimates* and *nobiles* that characterize accounts of late Republican events (2005, 129).

In **Part I**, I analyze the various changes, adaptations, and omissions made to the episode involving Sp. Cassius and his *lex agraria* of 486 BCE. Cicero does not associate an agrarian law with the events of this year, but this was central to Livy's and Dionysius' understanding and presentation of Sp. Cassius' attempt to acquire kingship. The presence of the agrarian proposal in both of their accounts, combined with numismatic evidence and a fragment of Calpurnius Piso (Chapter 2), suggest that the land law pre-dated Cicero's treatment of the episode; the motivation behind his omission is examined (Chapter 1). Cicero's exclusion of this element was motivated by present circumstances and the relevancy of the episode to his own situation. Cicero was at liberty to pick and choose what elements to include as he made a rhetorical point or argument. Often he simply mentions Sp. Cassius' attempt to achieve kingship, but on other occasions he is more specific in the element(s) that he mentions. For instance, he uses the destruction of Sp. Cassius' house to show that Clodius had unjustly confiscated his property. It is possible he chose to omit reference to an agrarian law in order to appease Caesar and Pompeius during the 50s BCE. Livy (Chapter 3A) and Dionysius (Chapter 3B) both focus on the agrarian law as the central element of the narrative, but include rhetorical details that are found in Cicero's works, suggesting that they were familiar with them (and likely the works of other similar sources that are no longer extant). Livy uses Sp. Cassius' land proposal to show that both patricians and plebeians were to blame for the decline of Rome's greatness over time, which had culminated in the disastrous circumstances of his own times; this accorded well with his presentation of other patricio-plebeian conflicts in his *Ab urbe condita*, for which he sometimes holds the patricians accountable, sometimes

the plebeians. In either case, the commonwealth was sacrificed to private and sectional interests. Dionysius, on the other hand, uses the episode to show how the Romans had, at least until recently, been able to restore harmony and avoid succumbing to sicil strife, in contrast to the Greeks. A virtuous circle between humane imperialism and civic solidarity is revealed to be the engine of Rome's rise to supremacy.

**Part II** examines how successive generations of authors added to, reshaped, or omitted elements from the story of Sp. Maelius. Depending on their literary aims, rooted in the circumstances of their own times, authors reframed or recast different elements of the episode. Cicero (Chapter 2) only mentions Sp. Maelius' grain distribution once, when seeking to criticize Clodius' distribution of grain *gratis*; he does so to emphasize that what Clodius had done was far worse and was consequently even more worthy of being slain. Similarly, Cicero seems to have added the exile of Servilius Ahala in the aftermath of Sp. Maelius' death in order to make his own banishment at the hands of Clodius seem even more undeserved. As we saw with Sp. Cassius and his agrarian proposal, Sp. Maelius' grain distribution formed the crux around which Livy (Chapter 3A) and Dionysius (Chapter 3B) shaped their narratives of the events of 439 BCE. The political idiom characteristic of the late Republic appears in the narratives of both, but once more both authors recast, emphasized, or downplayed different elements in order to fulfill their objectives. Cicero, and other sources no longer extant, influenced these narratives, but Livy and Dionysius were crafting the episode in light of their own concerns and aims. The most obvious change to the episode involved the statuses of the main figures—had Cincinnatus and Servilius Ahala brought about Sp. Maelius' downfall as *privati* or were

they dictator and master of the horse respectively? Different authors' presentations must be understood in the context of the controversies surrounding the use of lethal force against Roman citizens. Earlier sources, including Cincius Alimentus and Calpurnius Piso (Chapter 1), preferred to cast the figures as *privati*, and Cicero reports this version in the years following his consulship to add additional legitimacy to his own actions against Catilina. At the time of Caesar's dictatorship in 44 BCE, however, he reports the later tradition (also followed by Livy and Dionysius)—that Cincinnatus and Ahala were magistrates—in order to contrast the contemporary deplorable situation with the past, when the dictator and master of the horse put down a tyrant as opposed to being tyrants themselves.

Although these episodes were reinterpreted based on contemporary historical circumstances, certain elements are common to the extant sources.<sup>804</sup> The basic thread of the tradition, found in Cicero, Diodorus Siculus, Livy, and Dionysius, is Sp. Cassius' and Sp. Maelius' desire to acquire *regnum*, resulting in their deaths. Over time, the tradition regarding the events of 486 and 439 BCE was expanded upon, and different elements came to be added, omitted, or exaggerated as a particular author saw fit. The nature of Cicero's works meant that he was able to dissociate Sp. Cassius and Sp. Maelius from the Struggle of the Orders, and could choose which elements to use depending on the context of the speech or setting of his philosophical treatise. Livy and Dionysius, however, were following an annalistic framework as they wrote about Rome's past. As a result, the events of 486 and 439 BCE are structured in such a way that they involve larger

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<sup>804</sup> Cornell 2005, 52.

controversies surrounding land and grain and, therefore, fit thematically into the larger context of the Struggle of the Orders.

Livy and Dionysius were contemporaries and by comparing their treatments of Sp. Cassius and Sp. Maelius, it becomes clear that they were consulting the same source or sources. Changes to the narrative or emphases placed on different elements, therefore, are easier to map since we can contrast the two accounts, and analyze the possible motivations for the ways they reshape various elements of the narrative tradition.

It is clear that different versions of the episodes involving Sp. Cassius and Sp. Maelius were available to Cicero, Livy, and Dionysius but no longer exist or exist only in fragments. What did these other sources report? How did this influence other authors in different genres? Further complicating matters is the fact that we do not know how many intermediary sources have been lost to us and we cannot know how the earliest versions of these episodes, as reported through the oral tradition, were presented or how these influenced the first authors who began to write about Rome's past. To what extent were the earlier sources reacting to the events and circumstances of their own times, and to what degree were our extant sources influenced or reacting to these pre-existing traditions as they composed their works? Vestiges from different time periods may have affected narratives in similar ways, sometimes making it difficult to determine what elements have been influenced by Gracchan events, what elements by Sullan events, what elements by Caesarian events. Of course, we are limited by the survival of our sources and have no definitive answers for such questions. What is clear is that the process by which the extant authors reinterpreted the tradition about Rome's past was not a simple one—it occurred

on both a subconscious and conscious level—and that they were working with and influenced by pre-existing accounts of the episodes which they themselves treated, and that they, in turn, reshaped the narrative in light of contemporary concerns.

These questions lead to another line of inquiry: to what extent were these episodes based in real historical events? This is another question for which no definitive answers are forthcoming, but one which has generated much controversy among scholars with respect to the historical value of the literary tradition for Rome's early history.<sup>805</sup> Such studies have provided us with valuable information about Rome's past, but there is only so much we can do to gauge the historicity of the events of the early Republic based on the descriptions of our sources.

This study focuses on how our sources repurposed different elements of the episodes in question and how these alterations made sense to them as opposed to trying to ascertain whether or not Sp. Cassius and Sp. Maelius were historical people. I use the extant sources in a way that sheds light on what Roman authors thought they were doing as they wrote about Rome's past and what this suggests about the Romans' view of themselves. Those elements of the narratives that have been deemed fictitious or contaminated reveal more about what specific authors were doing as they reshaped elements according to their own needs than they do about the historical realities of the events they describe. This study has offered an integrative approach to understanding how our three main sources on episodes attributed to the Struggle of the Orders were used to shed light on contemporary events, concerns, and debates. That is, by considering not

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<sup>805</sup> Some of the more pertinent scholarship was mentioned in the Introduction (p. 4-6).

only how the episodes evolved from one author to the next but also how the literary aims of these authors differed from one another and also, in the case of Cicero, from work to work, we can try to access how these authors were trying to understand their present.

In repurposing the narratives regarding Sp. Cassius and Sp. Maelius, our sources were following established literary and rhetorical practices. Ungern-Sternberg summarizes this succinctly:

Inventions and additions clearly have inherent logic; they arise out of historical questions that are answered in a specific way that is typical for the Romans but does not conform to our standards and expectations. One invention then inevitably leads to another.<sup>806</sup>

Authors writing about Rome's past were engaging with the material at their disposal in ways that conformed to their culture's ideas and expectations about how to treat the past. Cicero was working primarily within the confines of rhetoric through the composition of his speeches, and so his omissions, exaggerations, and additions are generally considered as a normal part of the process. Livy and Dionysius, however, were writing year-by-year accounts of Rome's past; as a result, they have received much criticism for exaggeration or presenting things in ways that do not seem plausible to us as a modern audience but which did, in fact, conform to the standards of their own times. That is to say, they have been criticized because these do not conform to our own modern conceptions about how history should be written, which has been detrimental to consideration of their work in terms of their own aims and methods.

It was expected that authors would adapt elements of different episodes in ways that spoke both to contemporary circumstances and to their own literary and rhetorical

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<sup>806</sup> Ungern-Sternberg 2005a, 80.



objectives. We cannot know whether or not the details ascribed to the careers of Sp. Cassius and Sp. Maelius actually happened, but we do know that later Romans conceived of both men as aspirants to *regnum*; as such, they were adapted as *exempla* to recent experience. The reinterpretations of earlier figures and episodes, therefore, occurred organically. If Sp. Cassius and Sp. Maelius were seeking kingship like the Gracchi, so, too, these earlier episodes would be refigured in light of present experience, which gave narratives about earlier periods additional plausibility.<sup>807</sup> While for us the refashioning of history according to a pattern of repetitive episodes and types represents a distortion of historical “facts,” it reveals how the Romans conceived of themselves—their values, culture, and history.<sup>808</sup> The Romans of the late Republic understood their own present by repurposing episodes from the past and, as such, conceived of contemporary socio-political conflicts in ways that make it appear as though the same conflicts had been occurring, relatively unchanged, since the early Republic.

My study has shown that authors, regardless of genre, were engaging with the material at their disposal and making insightful and logical choices about what elements to include, change, or omit, and that this process was natural and occurred over successive generations of authors. Truth and plausibility cannot be separated from the realities of the times during which a particular author was writing, and cannot be separated from the connections they make between the past and present (and even future).<sup>809</sup> In their capacities as speechmakers and authors, Cicero, Livy, and Dionysius

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<sup>807</sup> Ogilvie 1976, 20. Cornell points out that such episodes, which he refers to as living myths, expressed the way in which the Romans saw themselves at a given moment in time (2003, 75).

<sup>808</sup> Richardson 2012, 12.

<sup>809</sup> Fox 1996a, 231.

were making deliberate and well-thought-out choices about the content, structure, and presentation of elements from the episodes involving Sp. Cassius and Sp. Maelius.<sup>810</sup> For instance, my examination of Livy reveals that his placement of events was deliberate not only within specific books, but also within different pentads, reflecting both a distinct historiographical tradition and also the author's own, distinct views of how to engage with and write about Rome's past.

How did the sources present certain episodes using different literary, rhetorical, and authorial devices as a means of giving meaning to the past, and how did the ways by which they reinterpreted the past help them to come to terms with the present? These are important questions that need to be considered in light of how a particular episode was adapted by successive generations of authors and how the use of that episode conformed to a certain author's own circumstances, concerns, and biases. Moreover, these questions require consideration in light of other episodes that were believed to be a part of the Struggle of the Orders and which later authors understood in terms of more recent socio-political conflicts. Dionysius' account of Rome's early history, in particular, requires additional consideration. His aims differed greatly from Livy's, but he was still influenced by earlier narratives about Rome's past. As a result, his treatments of certain episodes and figures can seem confusing and contradictory at times, but he was interacting with the material at his disposal and serving to fulfill his own aims just as other authors before him sought to do.

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<sup>810</sup> Indeed, Roller, discussing Livy specifically, states: "I assume that Livy has constructed his work consciously and intentionally—by invention, selection, or both—to promulgate a vision of the past that addresses his and his readers' contemporary needs and interests" (2009b, 156).

This study could be extended by examining how the authors writing during the Imperial period repurposed these episodes from Rome's early past. Valerius Maximus, for example, treats the events of both 486 and 439 BCE in his *Facta et dicta memorabilia*, written during the reign of Tiberius. Our sources report several incidents of authors who were killed during Tiberius' reign for things that they had written. For instance, A. Cremutius Cordus, a Roman historian, was put on trial for *maiestas* in 25 CE for his account of the fall of the Republic and the attitude towards Caesar's assassins that he espoused therein.<sup>811</sup> Suetonius and Tacitus report that Cordus praised Marcus Decimus Brutus and called Gaius Cassius Longinus "the last of the Romans."<sup>812</sup> Tiberius' rule depended on the appearance "of continuity with the Republican past," and the views expressed by Cordus subverted this.<sup>813</sup> Tiberius transferred elections from the popular assemblies to the senate; those who would have sought magistracies in the late Republic by means of oratorical competition were now chosen by the emperor before the "election" occurred.<sup>814</sup> The transfer of decision making to the senate greatly reduced the need for officeholders to address the public—it also greatly reduced the politician's freedom of speech, which had, in the late Republic, been realized by means of oratory. Oratorical debate still occurred in the senate itself, but this was presided over by the emperor. This decrease in the need for oratory and rhetoric affected Valerius Maximus' presentation of the past. Although he provides his readers with many *exempla* of behaviour to be imitated

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<sup>811</sup> A general account: Sen. *Marc.* 1.3.

<sup>812</sup> Suet. *Tib.* 61; Tac. *Ann.* 4.34-35.

<sup>813</sup> Bloomer 1992, 148n.2.

<sup>814</sup> Roller 2011, 199.

or avoided, his rhetoric is not as colourful as that of the Republican period. This reflects the contemporary situation in which Valerius Maximus found himself.

These episodes continued to be reused by later authors and appear in the works of authors such as Florus, Ampelius, Augustine, and Zonaras; Sp. Cassius' death was even depicted in Renaissance Art. These figures used the episodes in ways that made sense to them and reflected their own circumstances.

Florus (fl. first to mid-second century CE) wrote a brief history of the Roman people from the foundation of the city to the Augustan period; he used Livy for most of his work, simply reproducing what had already been written. He did, however, divide his work according to thematic categories; Sp. Cassius and Sp. Maelius both appear under the heading "De seditionibus," where they are grouped with other Roman figures who caused civil strife, including Coriolanus and Appius Claudius.<sup>815</sup> Florus thought that the deeds of the early Romans should inspire mankind, and so he praises the heroes of the nascent Republic for their handling of such malefactors.<sup>816</sup> It has been observed that the economic and political problems of Florus' own times inspired him to encourage the Roman people by praising the deeds of their ancestors.<sup>817</sup>

Ampelius (fl. third century CE) included both Sp. Cassius and Sp. Maelius in his *Liber memorialis*, a compendium on various subjects, including geography, astronomy, religion, and history, under the heading "Qui adversus patriam nefaria iniere consilia,"

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<sup>815</sup> 1.17.7(1.26.7). His work was used into the Middle Ages and beyond as an easily accessible epitome of Rome's past.

<sup>816</sup> Lehman 1952, 334.

<sup>817</sup> Lehman 1952, 334.

under which he also included Coriolanus, Capitolinus, and Catilina.<sup>818</sup> Ampelius was a compiler who sought to provide rulers with good and bad examples in order to instruct them about how to rule.<sup>819</sup>

In his *City of God*, Augustine (fl. fourth and fifth centuries CE) refers to the episode involving Sp. Maelius.<sup>820</sup> In this work, Augustine seeks to show that Christianity was superior to paganism.<sup>821</sup> Sp. Maelius appears in a passage in which Augustine criticizes the Romans' worship of their gods because those gods had not helped them during times of calamities; Augustine cites Sp. Maelius' attempt to acquire kingship as one of these disasters. In this passage, he seeks to show that the Romans worshipped in the way they did in order to ensure their inadequate and deceptive happiness (*exiguam fallacemque...felicitatem*).

Zonaras (fl. twelfth century CE), a Byzantine chronicler, also mentions Sp. Maelius in his *Epitome of Histories*.<sup>822</sup> This massive work covered events from the creation of the world to the early twelfth century CE; the work was, for the most part, derived from other sources.<sup>823</sup> He states that he sought to find a middle ground, providing neither a brief nor a lengthy account of the past, in order to make the work accessible.<sup>824</sup> Because Zonaras

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<sup>818</sup> 27.2-3; Sage 1978, 220. Ampelius' dates are uncertain. Some have posited that he wrote during the third century CE (Sage 1978, 220, 220n.19); Sage notes that references to Trajan only provide a *terminus post quem* (1978, 220n.19).

<sup>819</sup> Lehman 1952, 329. In his article, which focuses on the story of Coriolanus, Lehman notes that while Livy and Dionysius of Halicarnassus honoured Coriolanus, other authors, such as Cicero, and later compilers, including Ampelius, censured him for his actions (1952, 330).

<sup>820</sup> CD 3.17.

<sup>821</sup> Wetzel 2012a, 1.

<sup>822</sup> 7.20.

<sup>823</sup> Banchich 2009, 1. Because the work was largely derivative, and so lengthy, it seems to have fallen into disuse (the original texts which Zonaras used could be consulted instead) [Banchich 2009, 1].

<sup>824</sup> Banchich 2009, 1.

sought to provide a full history of events, it seems that this made the episode involving Sp. Maelius worthy of inclusion.

The death of Sp. Cassius was depicted by the Renaissance artist Domenico di Pace Beccafumi (1486-1551) in the Palazzo Pubblico in Siena, Italy. His work, entitled *La decapitazione di Spurio Cassio*, adorned the palazzo where the republican government was housed, and it was the city council, not the Church, that commissioned artists to adorn the square.<sup>825</sup> The scenes depicted are allegorical, intended to show the importance of having an established and steady republican government.

Like Cicero, Livy, and Dionysius, these later authors and even artists recast the episodes involving Sp. Cassius and Sp. Maelius within the frameworks of the circumstances and controversies of their own day—all of which would confirm the dictum coined by Croce: all history is contemporary history.

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<sup>825</sup> See the frontispiece for an image of this painting (p. iii). Jenkins notes that the scene is located below a panel depicting Justice (1972, 442). Other scenes from Roman history were painted by Beccafumi and adorned the palazzo; in one scene, Fabius Maximus, located near the realm of Justice, is used to reinforce the virtues of constancy, liberality, and friendship (Jenkins 1972, 448).

In one of the buildings in the Palazzo Pubblico, the Hall of the Nine, were a series of frescoes known as *The Allegory of Good and Bad Government*, painted by Ambrogio Lorenzetti between 1337 and 1339; in one scene, showing the effects of bad government, Justice is held captive by a tyrant-figure (on these frescoes: [http://www.wga.hu/html\\_m/l/lorenzetti/ambrogio/governme/](http://www.wga.hu/html_m/l/lorenzetti/ambrogio/governme/) and <http://rense.com/general92/alleg.htm>).

### **Appendix 1: A Summary of the Struggle of the Orders**<sup>826</sup>

The following is a summary of the events, conflicts, and legislative measures that our sources attribute to the Struggle of the Orders:

- 509: the *gens Tarquinia*, from which family the king came, was expelled from the city; the traditional date of the establishment of the Roman Republic;
- 494: the patricians treated plebeians in debt-bondage poorly, prompting the plebeians to withdraw from the city in what is called the First Secession of the Plebs; in order to reconcile the plebeians to them, the patricians allowed the plebs to elect their own officials, the tribunes of the plebs (initially, there were two), and to convoke their own, plebeian only, assembly, the *concilium plebis*; the tribunes were to be considered sacrosanct in order to protect them from patrician violence;
- 486: Sp. Cassius (cos. 502, 493, 486) proposes land distribution to the plebeians, is accused of seeking *regnum*, and is killed;
- 451-450: a board of ten men (the First Decemvirate), all patricians, is selected to codify the laws, resulting in the Twelve Tables; the codification allowed non-patricians to understand what was law and what was not;
- 450-449: the First Decemvirate did not complete the codification, and so a Second Decemvirate was chosen (half patrician, half plebeian) to finish the task; this Decemvirate was tyrannical, even instituting a ban on intermarriage between

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<sup>826</sup> For specific sources on each of these events, see the relevant years in Broughton *MRR* I. Where applicable to the dissertation, the sources for these events and legislative measures are discussed.

patricians and plebeians; they refused to step down at the end of their term, prompting the Second Secession of the Plebs;

- 449: a *lex Valeria* is passed, which supposedly reconfirmed the law confirming the right of appeal passed in 509 BCE;
- 449: the passage of a law that made plebiscites binding on all Roman citizens;
- 445: the law forbidding the intermarriage of patricians and plebeians is repealed;
- 444-367: military tribunes with consular powers are often chosen in this period (intermittently between 444 and 392 BCE, but every year from 392-367 BCE) instead of consuls in order to prevent plebeian access to the higher magistracies; eventually plebeians were eligible, but the patricians continued to dominate the office;
- 439: Sp. Maelius purchases grain at his own expense and distributes it to the plebs, is accused of seeking *regnum*, and is killed;
- 385: M. Manlius Capitolinus (cos. 392) tries to help the plebeians with debt problems, is accused of seeking *regnum*, and is killed;
- 376-367: in 376 BCE, the Licinio-Sextian rogations were proposed by the tribunes of the plebs (C. Licinius Stolo [cos. 364 or 361] and L. Sextius Sextinus Lateranus [cos. 366]), but not accepted until 367 BCE, after much contention; the laws concerned matters of debt, the limitation of how much land one could possess, and the opening of one of the consulships to the plebeians;
- 367: the praetorship is established;



- 367: the consular tribunate is abolished, and consuls are elected in the following year;
- 366: the first plebeian, L. Sextius Sextinus Lateranus, one of the authors of the *leges Liciniae Sextiae*, is elected consul;
- 356: C. Marcius Rutilus (cos. 357, 344, 342) becomes the first plebeian dictator;
- 351: the first plebeian censor, C. Marcius Rutilus (the first plebeian dictator in 356 BCE), is elected;
- 342: the passage of the *lex Genucia*, which guaranteed that one consul each year had to be a plebeian;<sup>827</sup>
- 339: the plebeian dictator in this year, Q. Publilius Philo (cos. 327, 320, 315), passes the *leges Publiliae*, one of which made plebiscites binding on all Roman citizens, another of which required that one censor be plebeian;
- 336: Q. Publilius Philo (cos. 327, 320, 315, dict. 339) is the first plebeian elected to the praetorship;
- 300: a *lex Valeria* is passed reconfirming the right of appeal of Roman citizens;<sup>828</sup>
- 300: plebeians are eligible to serve as pontiffs and augurs, who comprised two of Rome's priestly colleges;
- 287: the plebeians seceded, resulting in the passage of the *lex Hortensia*, which reaffirmed the law making plebiscites binding on all Roman citizens.

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<sup>827</sup> Despite the *leges Liciniae Sextiae*, it seems plebeians were not admitted to one of the consulships every year between 366 and 342 BCE; the patricians continued their monopolization of this magistracy.

<sup>828</sup> This law reportedly reconfirmed the laws of appeal passed in 509 and 449 BCE.

**Appendix 2: A Catalogue of the Three Malefactors of Early Rome in the Ciceronian Corpus**

**Sp. Cassius**

<b>Romans Mentioned Alongside Cassius</b>	<b>Passage</b>	<b>Compositional Date of Work</b>
Sp. Maelius, M. Manlius Capitolinus	<i>Dom.</i> 101	57 BCE
Sp. Maelius, M. Manlius Capitolinus	<i>Rep.</i> 2.49	between 54 and 51 BCE
Sp. Cassius only	<i>Rep.</i> 2.60	
Sp. Maelius, L. Tarquinius Superbus	<i>Amic.</i> 28	between March and November of 44 BCE
Sp. Maelius, C. Marcius Coriolanus	<i>Amic.</i> 36	
M. Iunius Brutus (procos. of Macedonia and the East 43-42) → through his father related to L. Iunius Brutus (cos. 509), through his mother related to C. Servilius Ahala, D. Iunius Brutus (procos. of Cisalpine Gaul 44-43) → related to L. Iunius Brutus (cos. 509), C. Cassius (whose family could not endure domination, referring to Sp. Cassius' father)	<i>Phil.</i> 2.26	October of 44 BCE
Sp. Maelius, M. Manlius Capitolinus, L. Tarquinius Superbus, M. Antony	<i>Phil.</i> 2.87	
Sp. Maelius, M. Manlius Capitolinus, L. Tarquinius Superbus	<i>Phil.</i> 2.114	

**Sp. Maelius and C. Servilius Ahala****a) Sp. Maelius**

<b>Romans Mentioned Alongside Maelius</b>	<b>Passage</b>	<b>Compositional Date of Work</b>
negative exempla: Sp. Maelius, Gracchus, L. Sergius Catilina (positive exempla: C. Servilius Ahala, Scipio, consuls of 63 BC)	<i>Cat.</i> 1.3	63 BCE
Sp. Cassius, M. Manlius Capitolinus	<i>Dom.</i> 101	57 BCE
Sp. Cassius, M. Manlius Capitolinus	<i>Rep.</i> 2.49	between 54 and 51 BCE
Gracchus, P. Clodius Pulcher	<i>Mil.</i> 72	52 BCE
C. Servilius Ahala, L. Quinctius Cincinnatus	<i>Sen.</i> 56	early 44 BCE
Sp. Cassius, L. Tarquinius Superbus	<i>Amic.</i> 28	between March and November of 44 BCE
Sp. Cassius, C. Marcius Coriolanus	<i>Amic.</i> 36	
Sp. Cassius, M. Manlius Capitolinus, L. Tarquinius Superbus, M. Antony	<i>Phil.</i> 2.87	October of 44 BCE
Sp. Cassius, M. Manlius Capitolinus, L. Tarquinius Superbus	<i>Phil.</i> 2.114	

**b) C. Servilius Ahala**

<b>Romans Mentioned Alongside Ahala</b>	<b>Passage</b>	<b>Compositional Date of Work</b>
positive exempla: C. Servilius Ahala, Scipio, consuls of 63 BC negative exempla: Sp. Maelius, Gracchus, L. Sergius Catilina	<i>Cat.</i> 1.3	63 BCE
K. Quinctius, M. Furius Camillus	<i>Dom.</i> 86	57 BCE

Ahalae, Bruti, Camilli, Decii, Curii, Fabricii, Maximi, Scipiones, Lentuli, Aemilii, and “countless others”	<i>Sest.</i> 143	56 BCE
M. Furius Camillus, P. Cornelius Scipio Nasica Serapio (cos. 138), P. Popilius Laenas (cos. 132), L. Opimius (cos. 121), Q. Caecilius Metellus Numidicus (cos. 109), C. Marius, the “slaughter of leading men” (by Sulla), Cicero himself	<i>Rep.</i> 1.6	between 54 and 51 BCE
P. Cornelius Scipio Aemilianus Africanus Numantinus (cos. 147, 134), P. Cornelius Scipio Nasica Serapio (cos. 138), L. Opimius (cos. 121), C. Marius, the senate during Cicero’s consulship	<i>Mil.</i> 8	52 BCE
T. Annius Milo, P. Cornelius Scipio Nasica Serapio (cos. 138), L. Opimius (cos. 121), C. Marius	<i>Mil.</i> 83	
Sp. Maelius, L. Quinctius Cincinnatus (cos. suff. 460, dict. 439)	<i>Sen.</i> 56	early 44 BCE
M. Iunius Brutus (procos. of Macedonia and the East 43-42) → through his father related to L. Iunius Brutus (cos. 509), through his mother related to Ahala, D. Iunius Brutus (procos. of Cisalpine Gaul 44-43) → related to L. Iunius Brutus (cos. 509), C. Cassius (whose family could not endure domination, referring to Sp. Cassius’ father)	<i>Phil.</i> 2.26	October of 44 BCE
Servilii (refers to P. Servilius Casca Longus [tr. pl. 43], who struck the first blow against Caesar, and his brother C. Servilius Casca [tr. pl. 44]); Cicero asks if he should refer to the two brothers as Cascas or Ahalas	( <i>Phil.</i> 2.27)	
M. Iunius Brutus (procos. of Macedonia and the East 43-42) → through his father related to L. Iunius Brutus (cos. 509), through his mother related to Ahala	( <i>Phil.</i> 10.14)	February of 43 BCE

**M. Manlius Capitolinus**

<b>Romans Mentioned Alongside Capitolinus</b>	<b>Passage</b>	<b>Compositional Date of Work</b>
Sp. Cassius, Sp. Maelius	<i>Dom.</i> 101	57 BCE
Sp. Cassius, Sp. Maelius	<i>Rep.</i> 2.49	between 54 and 51 BC
C. Iulius Caesar	<i>Phil.</i> 1.32	September of 44 BCE
Sp. Cassius, Sp. Maelius, L. Tarquinius Superbus, M. Antony	<i>Phil.</i> 2.87	October of 44 BCE
Sp. Cassius, Sp. Maelius, L. Tarquinius Superbus	<i>Phil.</i> 2.114	

**Appendix 3: The Evolution of the Narrative Tradition Surrounding Sp. Cassius**

Narrative Element(s)	Fragments	First Generation	Second Generation		
	Piso	Cicero*	Diodorus Siculus	Livy	Dionysius of Halicarnassus
consul	no	no	yes	yes	yes
treaty with Hernici	no	no	no	yes	yes
• confiscation of Hernician land	no	no	no	yes	no
agrarian proposal	no	no	no	yes	yes
• distribution of Hernician land	no	no	no		
• distribution of public land currently held by wealthy <i>possessores</i>	no	no	no	yes	yes
• distribution of land to include Latins and/or Hernici	no	no	no	yes (Latins; Hernician land to be restored)	yes (Latins and Hernici)
• election of ten men to restore to the state public land which was being occupied illegally	no	no	no	no	yes
• attempt to pass legislation without a decree of the senate	no	no	no	no	yes
Verginius (the other consul) opposes Sp. Cassius	no	no	no	yes	yes
• opposition of other senators	no	no	no	yes	yes
repayment of grain from Sicily	no	no	no	yes	yes
popular support	no	yes	no	yes	yes

the people hate Sp. Cassius for his cruelty	no	yes	no	no	no
aiming at kingship	yes	yes	yes	yes	yes
• his friends should not support him because of this	no	yes	no	no	no
• seditions and violence	no	no	no	implied	yes
• Sp. Cassius erects a statue of himself	yes	no	no	no	no
◦ located before the Temple of Tellus	yes	no	no	no	no
death of Sp. Cassius	yes	yes <sup>1</sup>	yes	yes (both versions given)	yes (both versions given)
• involvement of his father (version 1)	yes	yes	no <sup>2</sup>	yes (doubts this version)	yes (doubts this version)
◦ who tries/accuses	no	yes	no	yes	yes
◦ who executes him	no	no	no	yes	yes
◦ confiscates and consecrates his goods to Ceres	no	no	no	yes	yes
▪ a statue to Ceres is made from the proceeds	no	no	no	yes	yes
• involvement of the quaestors (version 2)	no	yes, only one quaestor	no	yes (preferred)	yes (preferred)
◦ who try him for treason; he is guilty	no		no	yes	yes
◦ destruction of Sp. Cassius' house; the Temple of Tellus built on site of old house	no	yes	no	yes (but slight variation)	yes
• flung from Tarpeian rock	no	no	no	no	yes

<sup>1</sup> As will be examined in Part I, Chapter 1, Cicero provides an amalgamation of the two versions set out by Livy and Dionysius.

<sup>2</sup> Diodorus Siculus simply reports that Sp. Cassius was found guilty of aiming at tyranny and killed; no mention of his father or the quaestors is made.

Cicero's Sp. Cassius<sup>3</sup>

Narrative Element(s)	<i>Dom.</i> 101 (57)	<i>Rep.</i> 2.49 (between 54 and 51)	<i>Rep.</i> 2.60	<i>Amic.</i> 28 (March to November of 44)	<i>Amic.</i> 36	<i>Phil.</i> 2.87 (October of 44)	<i>Phil.</i> 2.114
consul	no	no	no	no	no	no	no
treaty with Hernici	no	no	no	no	no	no	no
• confiscation of Hernician land	no	no	no	no	no	no	no
agrarian proposal	no	no	no	no	no	no	no
• distribution of Hernician land	no	no	no	no	no	no	no
• distribution of public land currently held by wealthy <i>possessores</i>	no	no	no	no	no	no	no
• distribution of land to include Latins and/or Hernici	no	no	no	no	no	no	no
Verginius (the other consul) opposes Sp. Cassius	no	no	no	no	no	no	no
• opposition of other senators	no	no	no	no	no	no	no
repayment of grain from Sicily	no	no	no	no	no	no	no
popular support	no	no	yes	no	no	no	no
the people hate Sp. Cassius for his cruelty	no	no	no	yes	no	no	no

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<sup>3</sup> Note that more detailed elements that only appear in one of the other sources have been removed from this chart for simplicity.



aiming at kingship	yes	yes	yes	no	yes	yes	yes
• his friends should not support him because of this	no	no	no	no	yes	no	no
• seditions and violence	no	no	no	no	no	no	no
death of Sp. Cassius	implied	no	yes	no	no	yes	yes
• involvement of his father (version 1)	no	no	yes	no	no	no	no
○ who tries/condemns	no	no	yes	no	no	no	no
○ who executes him	no	no	no	no	no	no	no
○ confiscates and consecrates his goods to Ceres	no	no	no	no	no	no	no
▪ a statue to Ceres is made from the proceeds	no	no	no	no	no	no	no
• involvement of the quaestors (version 2)	no	no	yes, only one <sup>4</sup>	no	no	no	no
○ who try him for treason; he is guilty	no	no	no	no	no	no	no
○ destruction of Sp. Cassius' house; the Temple of Tellus built on site of old house	yes	no	no	no	no	no	no

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<sup>4</sup> In this version, it is the quaestor, not the father, who brings forward the accusation against Sp. Cassius.

**Appendix 4: Strife Caused by Agrarian Proposals in Livy (Books 1-6)**

<b>Passage in <i>AUC</i></b>	<b>Year (BCE)</b>	<b>Blame: Senate/Patricians, Tribunes/Plebeians, Neutral, or Both</b>
2.41.1-9	486	both
2.42.1-2	484	senate
2.42.6-7	483	both
2.43.2-4	481	both
2.44.1-5	480	senate
2.48.1-2	479	senate
2.52.1-5	476	tribunes
2.54.1-2	474	both
2.63.1-2	469	senate (war interrupts); plebs consider using violent means due to the long postponement of a land law
3.1.1-7	467	senate
3.30.1-4	457	tribunes
3.31.1	456	neutral
3.32.7		senate
4.11.1-7	442	neutral (colony), but senatorial deceit
4.12.3	441	tribune
4.36.1-5	424	neutral, but senatorial deceit
4.43.6	421	tribunes
4.44.1-10	420	both, but tribunician deceit
4.47.4-6	417	neutral (colony), but senate establishes a colony to avoid an agrarian law
4.48.1-16	416	both, although Ap. Claudius causes unrest (blame more on the senate)
4.49.6	415	senate
4.51.4-6	413	senate

4.52.2	412	tribune
4.53.2-7	410	senate
5.12.4-13	400	tribunes
6.5.1-5 (cf. 7.15.9)	387	both
6.6.1	386	neutral; tribunes
6.11.7-8	385	plebeians; Camillus (a patrician) turns demagogue
Licinio-Sextian		
Rogations:	mid- to late	senate
6.35.(1-)5	370s	both
6.36.7-12	370	senate (indirect speech given by tribunes)
6.39.2-12	368	tribunes (in speech by a patrician)
6.41.10-11	368	

**Appendix 5: The Evolution of the Narrative Tradition Surrounding Sp. Maelius<sup>1</sup>**

Narrative Element(s)	Fragments	First Generation	Second Generation		
	Cincius Alimentus and Calpurnius Piso	Cicero <sup>2</sup>	Diodorus Siculus	Livy	Dionysius of Halicarnassus
appearance of Ahala	yes	yes	no	yes	yes
• patrician	no	no	no	implied	implied
• master of the horse	no	initially a <i>privatus</i> , later a magistrate	no	yes	yes
• exiled for defending liberty	no	yes	no	no	no
appearance of Minucius	yes	no	no	yes	yes
• patrician	no	no	no	yes	implied
• prefect of the corn supply	no	no	no	yes	yes
• informs against Maelius	yes	no	no	yes	yes
appointment of a dictator, Cincinnatus, to deal with the crisis	no	initially a <i>privatus</i> , later a magistrate	no	yes	yes
Maelius as an <i>eques</i>	no	no	no	yes	yes
• given the cognomen Felix because of his great wealth	no	no	no	no	yes
grain distribution(s)	no	yes	no	yes	yes
• grain obtained through the help of his	no	no	no	yes	yes

<sup>1</sup> A note on terminology is in order; “no” means that the author has not mentioned this particular element in his narrative.

<sup>2</sup> Cicero’s works are broken down individually below; his presence in this chart, therefore, reflects the presence of any elements in the episode involving Sp. Maelius found in any of the works in which the would-be tyrant of 439 BCE is mentioned. The exception here is when he initially records that the figures involved in the events of this year were *privati*, but then later records that they were magistrates.

friends and clients in Etruria					
• offered at a reduced price	no	yes	no	yes	yes
• given <i>gratis</i> to the very poor	no	no	no	no	yes
• Maelius uses his own resources to help fund distributions	no	yes	no	yes	yes
attempt to acquire <i>regnum</i>	yes	yes	yes	yes	yes
• his popularity leads him to hope for the consulship at first, but then his thoughts turn to kingship	no	no	no	yes	yes (or “some other magistracy”)
• trying to stir up revolution	no	yes	no	implied	yes
• his friends should not support him because of this	no	yes	no	no	no
• Minucius’ information:					
○ Maelius is gathering weapons in his house	no	no	no	yes	yes
○ conspiring with his followers to acquire the kingship	no	no	no	yes	yes
○ plotting	no	implied	no	yes	yes
○ tribunes have been bribed	no	no	no	yes	no
• laws of appeal prevented the consuls from punishing Maelius sooner	no	no	no	yes	no
squanders family estate	no	yes	no	no	no
overly favours the plebs	no	yes	no	yes	yes
• (explicit) popular support	no	no	no	yes	yes
Ahala tells Maelius that he has been requested to appear before the dictator	no	no	no	yes	yes
• Maelius ignores the request	no	no	no	yes	yes

death of Maelius	yes	yes	yes	yes	yes
• without a trial having occurred	yes	yes/implied	no	yes	yes
• Ahala kills Maelius	yes	yes	no	yes	yes
○ Ahala is ordered to kill Maelius by the dictator	no	yes	no	no	no
○ the senate orders Ahala to kill Maelius	yes	no	no	no	yes
○ Maelius is cut down by a group of knights (including Ahala) in a butcher shop	no	no	no	no	yes
• the dictator approves of Ahala's actions	no	no	no	yes	yes
○ the dictator addresses the plebs in order to explain that Maelius' death was justified	no	no	no	yes	yes
• some plebeians conspire after Maelius' death, but the dictator puts these men to death secretly	no	no	no	no	yes
confiscation of goods	no	no	no	yes	yes
• quaestors sell his goods and put the proceeds in the public treasury	no	no	no	yes	no
destruction of house	no	yes	no	yes	yes
• area named Aequimaelium	no	yes	no	yes	yes
Minucius is rewarded for his part	no	no	no	yes	yes
• given an ox	no	no	no	yes	no
• presented with a statue	no	no	no	yes	yes
• Minucius divides Maelius' grain to the plebs at a reduced price	no	no	no	yes	no
• some authors record that Minucius transfers to the plebs and becomes	no	no	no	yes (doubtful)	no

eleventh tribune			
several tribunes, who had supported Maelius, are upset and force through a measure calling for the election military tribunes with consular powers instead of consuls	no	no	no      yes      no
<ul style="list-style-type: none"> <li>these tribunes accuse Minucius and Servilius before the peoples after Maelius' death</li> </ul>	no	no	no      yes      no

### Cicero's Sp. Maelius<sup>3</sup>

Narrative Element(s)	<i>Cat.</i> 1.3 (63)	<i>Dom.</i> 101 (57)	<i>Rep.</i> 2.49 (between 54 and 51)	<i>Mil.</i> 72 (52)	<i>Sen.</i> 56 (early 44)	<i>Amic.</i> 28 (March to November of 44)	<i>Amic.</i> 36	<i>Phil.</i> 2.87 (October of 44)	<i>Phil.</i> 2.114
appearance of Ahala <sup>4</sup>	yes	no (other section)	no	no (other sections)	yes	no	no	no (other sections)	no (other sections)
<ul style="list-style-type: none"> <li>patrician</li> </ul>	no	no	no	no	no	no	no	no	no
<ul style="list-style-type: none"> <li>master of the horse</li> </ul>	no	no	no	no	yes	no	no	no	no
<ul style="list-style-type: none"> <li>exiled for defending liberty</li> </ul>	no	no	no	no	no	no	no	no	no
appearance of Minucius	no	no	no	no	no	no	no	no	no
Cincinnatus helps to deal with the crisis	no	no	no	no	yes	no	no	no	no
<ul style="list-style-type: none"> <li>as a <i>prvatus</i></li> </ul>	no	no	no	no	no	no	no	no	no

<sup>3</sup> Note that more detailed elements that only appear in one of the other sources have been removed from this chart for simplicity. In particular, Minucius does not appear in any of Cicero's references to the events of 439 BCE, and so has been omitted in certain places.

<sup>4</sup> For the sake of simplicity, Ahala is dealt with here only when he appears in passages alongside Sp. Maelius; passages in which Cicero mentions Ahala without Sp. Maelius are analyzed in Part II, Chapter 2.

• as dictator	no	no	no	no	yes	no	no	no	no
Maelius as an <i>eques</i>	no	no	no	no	no	no	no	no	no
grain distribution(s)	no	no	no	implied	no	no	no	no	no
• grain obtained through the help of his friends and clients in Etruria	no	no	no	no	no	no	no	no	no
• offered at a reduced price	no	no	no	yes	no	no	no	no	no
• given <i>gratis</i> to the very poor	no	no	no	no	no	no	no	no	no
• Maelius uses his own resources to help fund distributions	no	no	no	no	no	no	no	no	no
attempt to acquire <i>regnum</i>	no	yes	yes	yes	yes	no	yes	yes	yes
• his popularity leads him to hope for the consulship at first, but then his thoughts turn to kingship	no	no	no	no	no	no	no	no	no
• trying to stir up revolution	yes	no	no	implied	no	no	no	no	no
• his friends should not support him because of this	no	no	no	no	no	no	yes	no	no
squanders family estate	no	no	no	yes	no	no	no	no	no
the people hated Maelius for his cruelty	no	no	no	no	no	yes	no	no	no
overly favours the plebs	no	no	no	yes	no	no	no	no	no
• (explicit) popular support	no	no	no	yes	no	no	no	no	no
Ahala tells Maelius that he has been requested to appear before the dictator	no	no	no	no	no	no	no	no	no



• Maelius ignores the request	no	no	no	no	no	no	no	no	no
death of Maelius <sup>5</sup>	yes	implied	no	yes	yes	no	no	yes	yes
• without a trial having occurred	no/ implied	no/ implied	no/ implied	no/ implied	no/ implied	no/ implied	no/ implied	no/ implied	no/ implied
• Ahala kills Maelius	yes	no	no	implied	yes	no	no	no	no
○ Ahala is ordered to kill Maelius by the dictator	no	no	no	no	yes	no	no	no	no
○ the senate orders Ahala to kill Maelius	no	no	no	no	no	no	no	no	no
• the dictator approves of Ahala's actions	no	no	no	no	no	no	no	no	no
○ the dictator addresses the plebs in order to explain that Maelius' death was justified	no	no	no	no	no	no	no	no	no
confiscation of goods	no	no	no	no	no	no	no	no	no
• quaestors sell his goods and put the proceeds in the public treasury	no	no	no	no	no	no	no	no	no
destruction of house	no	yes	no	no	no	no	no	no	no
• area named Aequimaelium	no	yes	no	no	no	no	no	no	no

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<sup>5</sup> Although his death is not always explicitly mentioned, a Roman audience would have known that he was killed, for this was part of the bare thread of the narrative (Sp. Maelius sought *regnum* and was killed as a result).

**Appendix 6: Ciceronian References to Sp. Maelius and C. Servilius Ahala**

<b>Passage</b>	<b>Sp. Maelius</b>	<b>C. Servilius Ahala</b>
<i>Cat.</i> 1.3	✓	✓
<i>Att.</i> 2.24.3	✗	✓
<i>Dom.</i> 86	✗	✓
<i>Dom.</i> 101	✓	✗
<i>Sest.</i> 143	✗	✓
<i>Rep.</i> 1.6	✗	✓
<i>Rep.</i> 2.49	✓	✗
<i>Mil.</i> 8	✗	✓
<i>Mil.</i> 72	✓	✗
<i>Mil.</i> 83	✗	✓
<i>Orat.</i> 153	✗	✓
<i>Att.</i> 13.40.1	✗	✓
<i>Sen.</i> 56	✓	✓
<i>Amic.</i> 28	✓	✗
<i>Amic.</i> 36	✓	✗
<i>Phil.</i> 2.26	✗	✓
<i>Phil.</i> 2.27	✗	✓
<i>Phil.</i> 2.87	✓	✗
<i>Phil.</i> 2.114	✓	✗
<i>Phil.</i> 10.14	✗	✓
<b>Total:</b>	9	13

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