

CHAPTER 13

Consules populares

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THE POPULARES AND THE CRISIS OF THE REPUBLIC

The *optimates–populares* conflict is one of the distinctive events of the last century of republican Rome.¹ From the mid-second century until the civil wars of the 40s, the ancient authors describe a series of critical episodes that allow a degree of continuity to be established.²

At relatively regular intervals, we witness popular movements led by the plebeian tribunes, socio-economic demands (whether to do with agrarian reform, the corn supply or the founding of colonies), disputes between the senate and the assemblies about their respective powers, an abundance of laws and proposals³ as well as of assemblies (especially *contiones*), and even repressive mechanisms of doubtful “constitutionality,” such as the so-called *senatus consultum ultimum*. In this sense, the harmony (*concordia*), real or imaginary, that the ancient authors attribute to other republican periods appears to have been lost: the citizens and the ruling classes frequently appear divided and the mechanisms of consensus and social cohesion function less effectively.⁴

I thank Francisco Pina Polo and Martin Jehne for comments that have greatly improved the text, and David Peterson for the translation. All the dates are BC. This work was supported by the M.E.C. (Spain. Research project “Cónsules, consulares y el gobierno de la República romana” / HUM2004-02449 and HUM2007-60776/HIST).

¹ On *optimates* and *populares*: Strassburger 1939; Hellegouarc’h 1963; Martin 1965; Meier 1965; Serrao 1970; Seager 1972; Perelli 1982; Vanderbroek 1987; Burckhardt 1988; Mackie 1992; Wiseman 1994; Ferrary 1997.

² This continuity seemed evident to the ancient authors (Cicero, Sallust, Velleius Paterculus, Appian, Cassius Dio, etc.): *assidua senatus adversus plebem certamina* (Tac. *Dial.* 36.3).

³ *Corruptissima re publica, plurimae leges* (Tac. *Ann.* 3.27); Cic. *Vat.* 16; Millar 1986, 1995, 1998; Ducos 1984, 154–70.

⁴ “There is ‘consensus’ in a society when we can observe among its members a fairly general agreement on the form of government regarded as legitimate.” (M. Duverger, *The Study of Politics*, 103; cited in Mackie 1992, 52, n. 10). But, from then on, “Selbstverständliches war nicht mehr selbstverständlich” (Burckhardt 1988, 16).

The term *popularis* is a concept vital to the analysis of the late-republican crisis. However, the polisemicity of the term often complicates that analysis. It is in this context that it becomes both necessary and worthwhile to attempt to understand the meaning of the term *popularis*.⁵ Drawing on the evidence of our sources, *popularis-populares* can refer to:

- a) an individual favorable, in one way or another, to the *populus* or who seeks its approval;
- b) a political stance or attitude opposed to the senatorial majority, from different possible perspectives;
- c) a political strategy, based on the tribunate, the assemblies, especially the *contiones*, and the *eloquentia popularis*;
- d) a social tendency and a political tradition, during the last century of the republic, that appeal to a series of ideas and proposals, episodes, leaders and martyrs all related to the defense of the political rights of the *populus* and the improvement of its living conditions, generally in opposition to the senatorial oligarchy (*optimates*).⁶

It is thus wrong to regard the *populariter agere* as merely a more or less opportunist option in the political career of a *nobilis*. That could, of course, be the case – hence Sallust’s criticism of the *mos partium et factionum* and of the ambitious young aristocrats who used the popular cause for their own interests.⁷ However, Sallust himself recognizes the justice behind the *populares*’ demands and the *superbia* of the senatorial oligarchy.⁸

The term *popularis* usually appears in the sources associated with the plebeian tribunes. However, it is also applied on occasion to certain consuls who enjoy great popularity (like Pompey), who promote policies traditionally considered *populares*, or who display a *popularis* anti-noble attitude and join forces with recognized *popularis* leaders (like Marius), or even to those who follow a *popularis* trajectory over the length of their political careers (like Caesar). On the other hand, we have the case of Cicero, self-proclaimed *consul re, non oratione popularis*. Before we begin to analyze the different examples of consuls *populares*, it is important to establish several general points.

⁵ The labels *optimates* and *populares* might mean different things at different times (Martin 1965, 224; Yakobson 1999, 174).

⁶ Something acknowledged early by Strassburger 1939, 794.

⁷ Sall. *Iug.* 41.1; *Cat.* 38. It is possible that Sallust was thinking of events in the 60s, when several of the best-known *populares* tribunes were prosecuted and condemned. See Wiseman 1994, 398: “The very successes of the *populares* had compromised their integrity.”

⁸ Sall. *Iug.* 5.1 (*superbia*). Basic texts for the demands and beliefs of the *populares*: *Cat.* 20 (Catiline’s speech); *Cat.* 33 (Manlius’ letter); *Iug.* 31 (Memmius’ speech); *Iug.* 85 (Marius’ speech); *Hist.* 1.55 (*Or. Lep.*); *Hist.* 3.48 (*Or. Macr.*); *Iug.* 41–3; cf. Cic. *Sest.* 96ff.

First, we should not forget that our single most important source is Cicero, who brings with him the well-known complications that the analysis of his writings entails. In this case, the task is complicated even more by the fact that Cicero describes himself in 63 BC as a genuine *consul popularis*, something that fits uneasily with his later career. Given his political and forensic protagonism, his use of the term is almost always charged with rhetorical or political meaning. On the other hand, the relatively late coinage of the term by Cicero does not mean that there had not previously been political and social conflicts analyzable from the *optimates* vs. *populares* perspective.⁹

As regards his own political stance, we accept that from the process against Verres (70) onwards through the 60s, Cicero, a *homo novus*, did not vacillate about aligning himself clearly with Pompey and in opposition to well-known *optimates*, thus gaining in popularity and steadily advancing in his *cursus honorum*. It ought, however, to be pointed out that his *popularis* stance was always a moderate one, and that the conflict with the senatorial leaders was carefully tempered and generally non-polemical.¹⁰ From mid-63 onwards, and particularly after the formation of the so-called First Triumvirate, he distanced himself from potential *populares* stances, and he progressively moved toward the *optimates*, although always attempting to preserve his own autonomy. This evolution affects the sense, more positive or negative, afforded to the term *popularis* in his writings.¹¹

Second, we know that at given moments the *optimates* would adopt measures traditionally regarded as *populares*. Normally these would be *leges frumentariae*, introduced in response to periods of social tension and to crises in the grain supply to Rome. The intention was to dilute social protest and prevent the *populares* from making political capital out of such protest. While the *optimates*' rejection of the agrarian laws was generally firm, we can cite various *frumentariae* initiatives, such as the Terentia-Cassia in 73 or the *senatus consultum* proposed by Cato in 62.¹² Although such initiatives might appear to confuse the issue, it seems reasonable to suppose that given the different political perspective, as well as the support of both the senatorial majority and individuals unmistakably *optimates*, the plebs would not have been fooled. This brings us to the distinction between true

⁹ Martin 1965, 5 begins his study in the post-Sullan period, although he also then analyzes the earlier period. Cicero himself uses the term in reference to earlier periods. We will also find numerous references in the *Rhetorica ad Herennium*, probably from the 80s (Pina Polo 1996, 93–5), and in the surviving fragments of the speeches of the Gracchi and others.

¹⁰ As can be seen in his attitude toward Hortensius and Catullus in *de imperio Cn. Pompei*.

¹¹ Seager 1972; Ferrary 1982; Perelli 1982, 23–38. ¹² Burckhardt 1988, 239–67.

and false *populares*, with their attitude toward conflict with the senate, or rather the *factio paucorum*, possibly being important. For example, Sulla, despite proposing and carrying through both agrarian and colonial laws, was never considered a *popularis*, but rather quite the opposite.¹³ On the other hand, some proposals, such as the re-establishment of the tribunician powers in the 70s, are the result not just of *populares* demands, but also of a broader senatorial support based on pragmatism and the political opportunism of certain *nobiles*.¹⁴

Third, given that our focus is historical rather than philological, we analyze not only those consuls characterized expressly as *populares* in the sources (Pompey, Crassus, Caesar and Cicero), but also those other consuls related in one way or another to the *popularis* movement. The connection might be their political deeds, their proposals, their alliances or even the way they are portrayed in our sources, without the explicit label of *popularis*. In this way we can better appreciate their importance as a symptom of the republican political crisis, and specifically of the political division of the Roman ruling class.

The list of *consules populares* is not a long one. We ought not forget that a significant number of popular leaders were murdered during their tribuneships (such as Tiberius and Caius Gracchus, Saturninus, Sulpicius Rufus) and we cannot be certain how far they would have reached along their *cursus*. We also know of a more limited group of possible candidates who, for one reason or another, such as violence, never achieved the consulship; for example, Clodius, C. Memmius and C. Servilius Glaucia, candidates in 99¹⁵ and both assassinated, or M. Lollius Palicanus, candidate in 66.¹⁶

¹³ Cic. *Clu.* 151: *homo a populi causa remotissimus*. According to Cicero (*Sest.* 140), the true *populares* were those *qui senatus consilium, qui auctoritatem bonorum, qui instituta maiorum neglexerunt et imperitiae aut concitatae multitudini incundi esse voluerunt*. For Mackie, this is a distinction assumed by the Romans, and he insists on the defense of the powers and rights of the *populus* against the senate as being the defining characteristics: "The key to the political role of *populares*, and what also gave substance to the notion of 'true' versus 'false' *populares*, is public commitment (from whatever hidden motives) to an ideological theme of popular rights and powers. In the absence of a coherent *popularis* group or 'party', it was public commitment to this abstract theme that gave the *popularis* politician his identity" (1992, 71). For Yavetz (1988, 38–57), the key element is the willingness to openly confront the oligarchy, rather than concrete proposals. There would lie the fundamental difference between Pompey or Cicero and Caesar. Yakobson 2006a, 391.

¹⁴ From a pragmatic point of view Cicero judged Pompey's rehabilitation of the full tribunician *potestas* favorably (*Leg.* 3:26).

¹⁵ Memmius: Livy, *Per.* 69; Oros. 5.17.5. Glaucia: his electoral possibilities were emphasized by Cicero (*Brut.* 224). Badian, 1962, 207ff.; Yakobson 1999, 160.

¹⁶ On Palicanus, Val. Max. 3.8.3; Yakobson 1999, 162f.

CONSULES POPULARES

The earliest individuals characterized as *populares* date from the early republic. This is the case with the consuls of 449, Lucius Valerius Potitus and Marcus Horatius Barbatus, of whom Cicero would say: “*Lucique Valeri Potiti et M. Horati Barbati hominum concordiae causa sapienter popularium consularis lex sanxit ne qui magistratus sine prouocatione crearetur.*” Irrespective of the historical value of this episode, it is both interesting and demonstrative of the connection established by Cicero between the consuls, the *popularitas* and the *provocatio ad populum*.¹⁷

Additionally there is a passage in Cicero, in which he refers to a series of earlier consular figures that would later be championed by the *populares*, characterizing the latter as *seditioni cives*.¹⁸ Among these figures we find some consuls, like Publius Valerius, supposed author of the first *de provocazione* law in the early years of the republic, C. Flaminius, Q. Pompeius, P. Cornelius Scipio Africanus, P. Licinius Crassus and P. Mucius Scaevola. It is worth noting that, in the better-documented cases, these seem to have been political figures who either, with plebeian support, came into conflict with the senatorial majority (C. Flaminius, tr. pl. 232, cos. 223, 217;¹⁹ P. Scipio, cos. 147, 134²⁰), or supported *popularis*-style reforms (like P. Licinius Crassus and P. Mucius Scaevola with respect to T. Gracchus).²¹ Regarding Q. Pompeius (cos. 141), the career of this *homo novus* is frequently portrayed as a triumph over the traditional *nobilitas*;²² and this reading would similarly be applicable to C. Marius. While it is true that these examples are often radically different, with some of them being of doubtful historicity and

¹⁷ “And a law proposed by the consuls Lucius Valerius Potitus and Marcus Horatius Barbatus, men who wisely favored popular measures to preserve peace, provides that no magistrate not subject to appeal shall be elected” (Cic. *Rep.* 2.31.54). On the importance of 449 in the Roman historical tradition, Martin 1965, 217 n. 2; Ferrary 1984, 88–90; Powell 2001; cf. Livy 3.55.1–5.

¹⁸ Cic. *Luc.* 13. The *Lucullus*, also known as *Acad. Pr.* [II], is dated to the year 45 (Powell 1995a, xiv).

¹⁹ Polyb. 2.21.8; Livy 21.63. He was elected consul twice, despite his continuous conflict with the senatorial majority. Yakobson 1999, 158.

²⁰ The case of Scipio Aemilianus shows the role of the plebs as protagonists and the importance of popular support beyond the will of the senatorial majority (Plut. *Aem.* 38.3; Meier 1965, 582; Astin 1971, 26–34, 182ff.; Gruen 1974; Gargola 2006, 164). His support for the tribunes and the *lex Cassia tabellaria* was just as pragmatic as Cicero’s acceptance of the tribunate in *de legibus* (Yakobson 2006b, 393). Indeed, Meier (1965, 583) does not include Scipio in the subsequent *popularis* tradition.

²¹ P. Mucius Scaevola, cos. 133, opposed the violent repression of T. Gracchus led by Scipio Nasica (Cic. *Dom.* 91; *Planc.* 88; *De or.* 2.285; *Tusc.* 4.51; Val. Max. 3.2.17; [Aur. Vict.] *De vir. ill.* 64.7). P. Licinius Crassus, cos. 131, would be a member of the agrarian commission after the death of Tiberius Gracchus (Plut. *Ti. Gr.* 21.1).

²² Cic. *Font.* 23; *Mur.* 16; Meier 1965, 580; Yakobson 1999, 13ff. For the idea of the *homines novi* as a victory over the nobilitas: *Rhet. Her.* 1.8; Sall. *Iug.* 65.5; 73; 85.4; Cic. *Leg. agr.* 2.3.7.

others seeming never to have exercised a genuinely *popularis* leadership, the important point is that they were regarded as precedents by the *populares*. If the passage is an echo of a contemporary opinion, it records what seems to be a historical *popularis* tradition, with its heroes and deeds. In any case, it is clear that the conflict between the *populus* and the senatorial majority predates the Gracchi.

M. Fulvius Flaccus

In 125, between the tribunes of Tiberius and Caius Gracchus, after the assassination of the former and his followers, and in the context of the activity of the agrarian commission and the growing unrest amongst the Italian *socii*, M. Fulvius Flaccus, a member of the agrarian commission, became consul. During his consulship he proposed two *rogationes* that would offer the Italians either citizenship or the *provocatio*, in the latter case as a defensive mechanism against the excesses of the Roman magistrates.²³ But, as he was sent to aid Massalia against Salluvian and Vocontian Gauls, neither proposal prospered. His *cursus honorum* is quite exceptional since after his consulship he would become a plebeian tribune in 122, along with C. Gracchus, as well as a member of the commission derived from the *lex Sempronia agraria*. He would also meet the same fate as Gracchus: being murdered and beheaded, with his body thrown into the Tiber and his possessions sold off.

C. Marius

Toward the end of the second century, the case of Caius Marius is noteworthy for various reasons, besides his oft-debated political beliefs. Some years after a tribunate that saw some *popularis* initiatives (*lex Maria tabellaria*), he became consul in an atmosphere of anti-noble tribunician agitation and strong popular support.²⁴

His first speech as consul was a diatribe against the traditional *nobilitas* and in support of a *nova nobilitas* (Sall. *Iug.* 85). We cannot be sure what portion of the speech stems from Marius' own ideas rather than from Sallust's later reconstruction (perhaps based on ideas taken from Cicero

²³ *Rogatio Fulvia de civitate sociis danda* (Val. Max. 9.5.1; App. *B Civ.* 1.21); *rogatio Fulvia de provocazione* (Val. Max. 9.5.1); Münzer 1910; Lintott 1994, 75–6. Plutarch insists on his strong and aggressive manner, in contrast to the more peaceful Gracchus (*C. Gracch.* 14–16). Broughton 1951–2, 1, 510.

²⁴ *Seditiosi magistratus vulgum exagitare* (Sall. *Iug.* 73.5); supported by *opifices agrestesque omnes* (*Iug.* 73.6), *equites* (*Iug.* 65.4). Yakobson 1999, 158ff.

himself), but it seems reasonable to suppose there is at least some original input from Marius. Several aspects of Marius' consular period are of interest to us: first of all, the fact that he was a *homo novus*; his open hostility toward Metellus, the prominent *nobilis*; then his award of the command of the African war by popular insistence, overriding a senatorial decision (Sall. *Iug.* 73.7); later, his alliance with the *popularis* tribune L. Appuleius Saturninus and, in particular, the granting of land to veterans, thus introducing a new type of agrarian distribution and a new model for relations between a commander and his legionaries. Developments of this kind had been seen before, but not on the same scale. The use of his veterans as shock-troops in the political arena was also new.

From a political perspective, his support of the so-called *de provinciis praetoriis* law is assumed, and this implies a significant degree of participation by the assemblies in areas previously controlled by the senate, a policy generally regarded as being *popularis*-inspired.²⁵ He also seems to have been responsible for the founding of a colony on Corsica, in accordance with Saturninus' policy for the foundation of colonies, a measure generally favored by the *populares* leaders. We also know that, in relation to Saturninus' policy, Marius is regarded as having favored the granting of the citizenship to three individuals in each colony as a way of rewarding the Italian allies. For these and other reasons, it seems clear that Marius was in favor of the concession of Roman citizenship, if only on a selective basis.²⁶

Marius' role in the suppression of Saturninus and Glaucia in 100, and his later excesses in the 80s, do not seem to have affected his popularity.²⁷ This is the only context that explains Cicero's insistent references to Marius toward the end of his speech *pro Rabirio perduellionis reo*, in which he attempts to legitimize the *senatus consultum ultimum* against the plebs and to justify the murder of Saturninus and his followers.²⁸ The presence of a consul among the anti-noble ranks, with all that his presence would have entailed (his *imperium*, popularity, his *dignitas* and his veterans) opens up a new dimension in Roman political conflict, until then restricted largely to tribunician activity.²⁹

²⁵ Crawford 1996b, 1, 237. ²⁶ Cic. *Balb.* 46, 48; Val. Max. 5.2.8; Plin. *HN* 3.80.

²⁷ Although he would have to renounce the censorship and make do with an augurate in 97 (Plut. *Mar.* 30.4, Yakobson 1999, 161, n. 32; Broughton 1951–2, 11, 8). In fact, during the backlash against Saturninus and Glaucia, Marius stood out by accepting their surrender, although he could not avoid their being lynched by the mob (App. *B Civ.* 1.32; Plut. *Mar.* 30; Vell. Pat. 2.12.6).

²⁸ Cic. *Rab. perd.* 20ff.; but cf. *Off.* 3.20.79. His portrayal is very negative in Cassius Dio (26.89; 31.102); Plut. *Mar.* 31–2; Vell. Pat. 2.23.1; Perelli 1982, 56.

²⁹ Weynand 1935, 1397.

CINNANUM TEMPUS

During the turbulent decade of the 80s we meet L. Cornelius Cinna (cos. 87–84), never termed *popularis* as such, and heavily criticized in the sources to the extent that his consulships are represented as an authentic *dominatio*, a period of tyranny. For some, following Asconius, his policy was centered on the defense of the interests of the *equites*.³⁰ However, his conflict with Cn. Octavius is described by Appian in terms of the full or partial integration of the new Italian citizens, a theme central to the *optimates* vs. *populares* conflicts.³¹ Indeed, the repeal of the Sullan laws and the restoration of those proposed by Sulpicius Rufus, in particular those that dealt with the inscription of new citizens, Italians and freedmen, should clearly be regarded in these terms. Other episodes have also been interpreted in terms of the *popularis* tendency, particularly when, declared *hostis publicus* by the senate, he appeared in Nola in front of the troops in an attempt to win their support and recover his position.³² Recently, Cinna has been vindicated as an advocate of counting on the new Italian citizens as political and military allies. To a certain degree, then, Cinna would have been a pioneer in leading a political project supported by the new Romano-Italic civic community and based on a broad social consensus.³³

The consul *suffectus* in 86, after Marius' death, L. Valerius Flaccus, proposed a law regulating debts, but it is difficult to know how far-reaching the law was and who its real beneficiaries would have been, as the consequences of the *bellum sociale* and the war in Asia would probably have affected the rural Italian plebs as much as any particular group of *publicani*.³⁴ As for the consuls from the years 84 to 82 (Cn. Papirius Carbo, L. Cornelius Scipio Asiaticus, C. Norbanus and C. Marius), we know about their understandably anti-Sullan tendencies and their military actions, but little or nothing about political measures.³⁵

³⁰ Asc. *Tog. cand.* 89; Cic. *Phil.* 1.34; 2.108; *Brut.* 227; Sall. *Hist.* 1.64M; Val. Max. 6.9.6; Vell. Pat. 2.23.3; Plut. *Caes.* 1.1; *Sull.* 10, 22.1; Tac. *Ann.* 1.1; [Aur. Vict.] *De vir. ill.* 67.6.

³¹ App. *B Civ.* 1.64; Plut. *Sull.* 10: Cinna, “a man of the opposite party.”

³² App. *B Civ.* 1.65–6. Cinna intervenes there “in a true *popularis* fashion” (Seager 1994, 175). For a detailed analysis of this episode, cf. Morstein-Marx in this volume.

³³ Lovano 2002, 51, 77. Lovano analyzes the sources for Cinna, and concludes that the image we have of the *dominatio cinnana* has largely been conditioned by the Sullan tradition (*ibid.*, 141–59; cf. Cic. *Brut.* 308: *triennium sine armis*). Previously, Gelzer (1968, 17–20) had characterized Cinna as *popularis*, pointing out his possible influence on Caesar's subsequent policy. On the difficulty of knowing exactly what happened during the *dominatio cinnana*, Seager 1994, 180ff.

³⁴ *Lex Valeria de ere alieno* (Vell. Pat. 2.23.2: *turpissima*; Cic. *Font.* 1.1; *Quinct.* 17). Seager (1994, 180), points out that it was criticized by the more conservative sources; but cf. Sall. *Cat.* 33.2: *volentibus omnibus bonis* (“with all the good citizens desiring it”); Lovano 2002, 72ff.

³⁵ Sources in Broughton 1951–2, II, 60ff.; cf. *Fam.* 1.9.11. See Münzer (1900, 1930, 1936) and Kroll (1910) on the four consuls. On Cornelius, Cic. *Sest.* 7: *optimus vir*, and *calamitiosissimus*. On Cn. Papirius Carbo: *malus civis, improbus consul, seditiosus homo* (Cic. *Verr.* 2.1.37; Sall. *Hist.* 1.38.1).

M. Aemilius Lepidus

Another example of the depth of the divisions in the heart of the ruling classes when the consuls themselves became involved is offered by Marcus Aemilius Lepidus, consul in 78.³⁶ After Sulla's retirement from politics, conflict immediately developed amongst the *nobilitas* between those wishing to repeal his measures and their opponents. Lepidus, despite his Sullan background, seems to have been chosen against the wishes of Sulla and with the support of Pompey, to propose the revision of the *acta Sullae*.³⁷ This meant the return of exiles, the restoration of the civic and political rights of the condemned, and the return to the previous owners of the properties and lands that had been confiscated and assigned to Sullan veterans. This series of measures was bound to upset the political, social and economic order in Rome given the wide range of groups and interests affected. There are also references to a *lex Aemilia frumentaria*, little known, but plausibly a response to the Sullan restrictions on grain distributions.³⁸ Senatorial opposition and his own radicalization would bring him close to a *popularis* stance, as can be seen in the speech recorded by Sallust (*Hist.* 1.55) in which Lepidus rejects both the Sullan tyranny and the *otium cum seruitio*, denounces the situation of the rural plebs and of Sulla's veterans, and calls on the *populus ad recipiendam libertatem*.

The revolt in Etruria seems to confirm Lepidus' diagnosis of the situation in the countryside. However, his social and political support would prove inadequate and when, in addition to the program outlined above, he ran for re-election to the consulship and the re-establishment of the tribunal powers, the senatorial response was the *senatus consultum ultimum* and his being declared *hostis publicus*.³⁹

C. Aurelius Cotta

In this same context of the dismantling of Sulla's policies, particularly those related to the tribunate, and the divisions within the ruling class, we can place the consulship of C. Aurelius Cotta (cos. 75), author of a law that allowed the tribunes access to other magistracies.⁴⁰ However, once

³⁶ Sources on his consulship in Broughton 1951–2, II, 85; Labruna 1975; Perelli 1982, 151–6.

³⁷ Plut. *Sull.* 34.4–5; *Pomp.* 15.1–2 (Sulla compared Lepidus, “one of the worst,” with Catullus, “one of the best”). Yakobson 1999, 161.

³⁸ *Gran. Lic.* 36.35; *Sall. Hist.* 1.55.11; 1.77.6; Burckhardt 1988, 251.

³⁹ See the *princeps senatus* L. Marcius Philippus' speech against Lepidus (*Sall. Hist.* 1.77); *App. B Civ.* 1.105, 107; Plut. *Pomp.* 16.3; *Livy, Per.* 90; *Flor.* 2.11.7.

⁴⁰ *Lex Aurelia de tribunicia potestate*: allowed the tribunes access to other magistracies (*Cic. Corn.* in *Asc.* 66, 78C; *Ps. Asc.*, p. 200 St; *Sall. Hist.* 3.48.8).

again, alongside the expected popular support, there appear to have been important senators in favor of the measure, and of the dismantling of the more radical aspects of the Sullan reforms in general.⁴¹

Cn. Pompeius (Pompey)

The full restoration of the tribunician *potestas* was the work of the consuls for the year 70, Cn. Pompeius (Pompey) and M. Licinius Crassus, and it earned them great popularity.⁴² Pompey had already promised to do this in his first speech as *consul designatus*, and it would be practically the only example of co-operation between the two consuls. During his consulship it seems probable that he supported the proposals of the tribune Plautius for an amnesty in favor of the supporters of Lepidus, including those who had fled to Hispania with Sertorius. According to Seager, such support would be another example of the conciliatory spirit displayed by Pompey in Hispania and Sicilia. However, he seems to have failed to win land distributions for his veterans since a possible *lex Plautia agraria* does not seem to have been implemented.⁴³ Later on, during the 60s, Pompey would feel the need to turn to the plebeian tribunes and popular support in general in order to consolidate his political position against the *optimates* increasingly jealous of his power. Thus he received a series of constitutionally novel military commands (*imperia extra ordinem*) much to the delight of the plebs, but frowned upon by the senatorial oligarchy.⁴⁴

The identification of Pompey as a *popularis* figure does not necessarily presume his adoption of a radical position at any time. The divisions among the *nobilitas* over the Sullan reforms, the popularity derived from the tribunician restoration and his military *curriculum*, his immense wealth and his veterans all translated into a huge amount of popular support. In addition to these factors, the inflexibility of his *optimates* adversaries, wary

⁴¹ But see Asc. 67C: *invita nobilitate magno populi studio*. The tribune Licinius Macer's speech (Sall. *Hist.* 3.48) summarizes synthetically the criticism of the situation and the arguments in favor of the full tribunician restoration.

⁴² Plut. *Pomp.* 21; Cic. *Leg.* 3.26. In Cicero's *De legibus* (3.19–26), it is interesting to see the debate between the more extreme vision of his brother Quintus and his own more pragmatic stance toward both the tribunate and the *leges tabellariae*, which Cicero would have liked to reform. In a different context, in his defence of Cornelius, Cicero had vindicated the glorious history of the tribunate (Asc. *Corn.* 76–8C). According to Yakobson (2006b, 396ff.), Cicero accepts the importance and inevitability of the popular element in the "Roman constitution."

⁴³ On the tribune Plautius, Broughton 1951–86, II, 128; Seager 1994, 227.

⁴⁴ The *lex Gabinia de bello piratico*, in the year 67, and the *lex Manilia de imperio Cn. Pompei*, in 66 (Broughton 1951–86, II, 144, 153). For Perelli (1982, 161) both laws, *Gabinia* and *Manilia*, are undoubtedly *causae populares*.

of his excessive power, pushed him toward the role that he would eventually play in Roman politics. These circumstances allow us to analyze his alliance with Caesar and Crassus, up until the second half of the 50s, in the context of the conflict between *optimates* and *populares*.⁴⁵

In general, Pompey displayed a coherent and conciliatory attitude as well as being very efficient in his undertakings. When compared to the corrupt and incompetent *optimates*, this only increased his unquestionable leadership among the plebs. However, despite his undoubted popularity and prestige, at no time can he be regarded as an authentic *popularis* leader, and from the 60s onwards he would always be below Caesar in the plebs' affections.⁴⁶

M. Licinius Crassus

M. Licinius Crassus, colleague of Pompey in the consulships of 70 and 55, and the third member of the so-called First Triumvirate, is associated with the *populares* for the measures taken in 70 and for his support for Caesar in 59, but at no point does he stand out as a genuine *popularis* leader.⁴⁷

C. Iulius Caesar

In C. Iulius Caesar we have, for the first time, it has been said, a genuine lifelong *popularis*. His whole career, from Sulla's famous comment to the justification of civil war,⁴⁸ is related to the support of the plebs and the defense of their rights, in particular those of the tribunate, to the quest for popular precedents and a political opposition to the senatorial majority, particularly its most intransigent core, the *factio paucorum*.

He is present in all of the significant political episodes from the 70s onwards: the tribunician restoration, the *imperia extra ordinem*, the trial of Rabirius, the Catilinarian conspiracy, etc. From his earliest days in public office, for example as *quaestor viae Appiae* or during his aedileship in 65, he

⁴⁵ The consular elections in 55 were characterized by the *optimates'* complete opposition to Pompey and Crassus, with the *libertas rei publicae* supposedly at stake, according to Cato (Suet. *Iul* 24; Cic. *Att.* 4.8.2; *Q Fr.* 2.4.6; Cass. Dio 39.27–31; Plut. *Pomp.* 51–2; *Crass.* 14–15; *Cat. Min.* 41.2; *Caes.* 21; *Comp. Nic. et Crass.* 2.1; Val. Max. 6.2.6; Livy, *Per.* 105; App. *B Civ.* 2.17–18; Vell. Pat. 2.46.1; Millar 1998, 162–6; Yakobson 1999, 169f.

⁴⁶ Cic. *Att.* 1.14.1–2, on his return from the east. Supposedly, his pact with Sulla at the beginning of his career would always count against him (Yavetz 1988, 49ff.); later on, his support for Milo would also damage his popularity (Cic. *Q Fr.* 2.4.5; 2.3.2); Cass. Dio. 40.50.5; App. *B Civ.* 2.27; Plut. *Pomp.* 58.4; Cic. *Fam.* 8.14.3; *Att.* 2.19.2–3; 2.20.3; 7.3.4; Sall. [*Ad Caes. sen.*] 2.3.1).

⁴⁷ References are sometimes implicit: Cic. *Att.* 2.9.1, 19.2, 20.4; 12.21.1; Cass. Dio. 38.4.4; 5.5.

⁴⁸ *Nam Caesari multos Marios inesse* (“for in Caesar there are many Marii”) Suet. *Iul.* 1.1; Plut. *Caes.* 1.

displayed a clear tendency to win the support of the plebs, thus irritating the *optimates*. This much is evident from the annoyed response of Q. Lutatius Catulus to his restoration of Marius' trophies during the aedileship of 65.⁴⁹

During his consulship Caesar proposed a series of laws in accordance with the *popularis* tradition, to the extent that Plutarch would remark that he seemed more like a tribune. In this category we can include the publishing of the senate's and the assemblies' minutes, the agrarian laws, and even the *de repetundis* legislation, which brings us to the question of the relationship between the *populares* and imperialism.⁵⁰

Cicero always placed him firmly among the *populares*, and would refer in similar terms to the members of the First Triumvirate. In his intervention in favor of the extending of Caesar's proconsular *imperium*, Cicero would once more refer to his being *popularis*.⁵¹ Caesar's justification for the crossing of the Rubicon and the resulting inevitability of armed conflict was also based on the *popularis* tradition, specifically the defense of the *dignitas* of the plebeian tribunes.⁵²

In fact, his consulship proved to be a paradigm of the conflict between the impotence of the traditional senatorial authority and the impetus of a consul who knew what he wanted and was backed not only by his own popularity and resources, but also by supporters as important as Pompey and Crassus.⁵³ With such forces at work and with the legitimacy bestowed by the comitial decisions, the transformation of the nature of Roman political power is evident.

Marcus Tullius Cicero, consul popularis

The case of Cicero merits special attention. In several of his speeches, especially in those directed against the *rogatio Servilia agraria* in the early stages of his consulship (also in the *pro Rabirio perduellionis reo* and in the *Philippicae*), Cicero presents himself as the champion of the plebs, as a genuine *consul popularis*.⁵⁴ Previously his political trajectory had been

⁴⁹ Suet. *Iul.* 11; Plut. *Caes.* 6.1–4; Vell. Pat. 2.43.4.

⁵⁰ Plut. *Caes.* 14.2; *Pomp.* 47–8; *Cat. Min.* 31.4–32; Suet. *Iul.* 20; *Aug.* 36.1; Cass. Dio. 38.1–13; App. *B Civ.* 2.9–14; Cic. *Att.* 2.9.1–2, on his *popularitas*; *Phil.* 2.116; 5.49; *Att.* 2.3.4; 2.19; 2.20.4. On the division of roles with the tribune Vatinius, Cic. *Vat.* 15; Meier 1965, 574; after Caesar's death, Cicero's criticism of him is unbridled (*Off.* 2.84).

⁵¹ Cic. *Cat.* 4.4.9; *Att.* 2.19.2; *Prov. cons.* 38; cf. Cass. Dio. 37.22.1. ⁵² App *B Civ.* 1.22.5.

⁵³ All *optimates* swear the clause, imposed by Caesar, making the *lex agraria* obligatory (Plut. *Cat. Min.* 32.3–6; Cass. Dio 38.7.1–2). On *optimates* and their weak opposition in the face of Caesar's agrarian laws, see Bellemore 2005; a weakness confirmed by Cicero in the *pro Sestio* and the correspondence for that year (*Att.* 2.13.2; 2.15.2; 2.18.1–2; 2.19.3; 2.20.3).

⁵⁴ *Leg agr.* 1.23: *consulem veritate, non ostentatione popularem*; *Leg. agr.* 2.6, 7, 15; *Phil.* 7.4; *Fam.* 12.4.1.

fairly moderate. It is true that he supported Pompey, intervening openly in his favor in support of the *lex Manilia*, and that he presented himself publicly as *popularis*,⁵⁵ but always measured his ground and never radically opposed the senatorial class. It appears that his status of *homo novus* put him in a special position that allowed him a more autonomous stance once the consulship had been attained.

Even so, Cicero's intervention proves somewhat surprising when he confronted a project that had important supporters and undoubted popular approval.⁵⁶ Cicero's line of argument is clear: the need to distinguish between the true and the false *populares*. While he is the genuine *consul popularis*, the *rogatio* masks the tyrannical aspirations of the tribune Servilius Rullus, and poses a real threat to the state. Rullus has little in common with the decent *populares* of the past, and is instead a demagogue motivated purely by his own interests and not by those of the *res publica*.⁵⁷

What is interesting is the effort made by Cicero to define a *popularis* context far removed from radicalism, and more concerned with *concordia* and with the *fides* between the Forum and the *Curia*.⁵⁸ As opposed to the *regnum* and *dominatio* of the decemvirs⁵⁹ and their plundering of the state's most prized possession, Cicero defends the genuine *populares* values: *pax, libertas, otium*.⁶⁰

Since the matter at hand was a *rogatio agraria*, however, Cicero felt he should pick apart its contents and reject the land redistributions, especially those that affected the *ager Campanus* and the economic interests of its owners. In this way, he confronted specific socio-economic proposals and measures, showing that the *popularis* label was not restricted to a general political stance, but was also applicable to specific issues.

⁵⁵ Cic. *Comment. pet.* 51, 53; but cf. 5: *nos semper cum optimatibus de re publica sensisse, minime popularis fuisse*. On Cicero's careful arguments in support of the *lex Manilia*, Lintott 2008, 427–30.

⁵⁶ Marinone 2004, 85. Cicero's second speech, delivered in a *contio* in early January, after an earlier intervention in the senate, would be his first important display of political eloquence (Boulanger 1960, 26). Cf. Quint. *Inst.* 2.16.7: *Aut non diuina M. Tulli eloquentia et contra leges agrarias popularis fuit?*

⁵⁷ *Gracchorum benignitas*: *Leg. agr.* 2.81. On the distinction between true and false *populares*: *Leg. agr.* 2.7, 10, 15, 27, 43, 63, 84, 102; cf. *Cat.* 4.4.9. See above, n. 13.

⁵⁸ Cic. *Leg. agr.* 3.4. This is part of the image of his consulship that Cicero sought to present by publishing together a selection of his consular speeches (Cape 2002). According to Cape, after Cicero's consulship he would offer examples of practical political negotiation, establishing different responsibilities and rules of conduct for the consul, the senate and the people.

⁵⁹ Throughout the speech, Cicero continually identifies Rullus and the decemviral commission that he proposes with tyranny: *dominatio* (2.25), *reges constituuntur, non viri* (2.29), *potestatem verbo praetoriam, re uera regiam* (2.32); 2.33, 35, 43, 57. Demagoguery and manipulation are constants in the choice of terms, with Rullus eventually being termed a *repentinus Sulla* (*Leg. agr.* 3.10).

⁶⁰ *Leg. agr.* 2.9; cf. *pax, concordia, otium* (1.23, at the senate); 2.6; 2.102.

In his defense of Rabirius, accused of participating in the murder of Saturninus in the year 100, Cicero once again resorts to the comparison of the tribune Labienus, the accuser, with previous *populares*, particularly C. Gracchus. Once more he is portraying himself as a true *popularis*, defender of the *iura populi* against the cruelty of Labienus, who, by resorting to the archaic *duoviri perduellionis* procedure and demanding the death penalty for a citizen, was circumventing the Porcia and Sempronia laws *de provocatione*. In reality, Cicero portrays himself as the true heir to the spirit of C. Gracchus.

Cicero's treatment in the two *orationes* of important popular leaders from the past, such as Tiberius and Caius Gracchus, Saturninus and even C. Marius, and the reaction to it by the plebs, is also significant. In the case of the Gracchus brothers, what stands out is the positive image presented, in contrast to both Cicero's earlier speech in the senate and later evaluations.⁶¹ In the *pro Rabirio* and on the subject of the murder of Saturninus, the plebs noisily protest the consul's justification of the murder and his characterization of Saturninus as a *hostis publicus*; Cicero also refers to the way that Labienus carried a portrait (*imago*) of Saturninus to the *rostra*.⁶² Cicero needed to tailor his evaluations and descriptions according to the audience, while the plebs, or part of it, at least, liked to remember its leaders and martyrs, and would react if they were criticized and their memories defiled. Cicero's self-proclamation as *popularis* is all the more surprising when compared to his subsequent, very critical opinions on the *populares*; for example, those contained in *pro Sestio* or in *de officiis*, and the countless political attacks he would direct toward them in later years.⁶³

In summary, we can identify various distinctive characteristics of Cicero's *popularis* stance.⁶⁴ When he vindicates other *populares* leaders, he refers almost exclusively to the Gracchi, but only does so in speeches to the people. As has already been said, he attempts to distinguish between true and false *populares*, and between radicals and moderates,⁶⁵ and always stresses the need for collaboration between the senate and the people.⁶⁶ His

⁶¹ *Leg. agr.* 2.10: *duos clarissimos, ingeniosissimos, amantissimos plebei Romanae viros, Ti. et C. Gracchos*; cf. *Leg. agr.* 1.21; 2.81; *Rab. perd.* 14–15; but later, in *Off.* 2.43, he would justify their murder. These consular speeches to the *populus* are interesting documents for exploring the plebs' collective memory (Martin 2000).

⁶² *Cic. Rab. perd.* 18; 25. ⁶³ *Cic. Sest.* 96–143; *Off.* 2.72–85; *Amic.* 95.

⁶⁴ From a number of different sources we get the impression that the plebs, despite showing him support on a number of occasions, never considered him one of their leaders.

⁶⁵ This is obvious as regards Pompey, but even in 63, Cicero distinguishes between Caesar and the *levitas concionatorum* (*Cat.* 4.4.9).

⁶⁶ His theoretical defense of the *leges de provocatione* is in contradiction of his arguments in defense of Rabirius or on the execution of the Catilinarian conspirators.

opposition to the *optimates*, at least after the process against Verres, is linked directly with his support for Pompey, and the intention is always to avoid open hostility. His popularity inevitably suffered with the execution of the Catilinarian conspirators, and in political terms the turning point would be the formation of the First Triumvirate.⁶⁷ From then onward his distancing of himself from the plebs and his movement toward a *rapprochement* with the *optimates* would become increasingly pronounced.

It is not easy to interpret this *popularis* stance. It could simply be a product of Cicero's own vanity, a *novus homo* attempting to overcome the traditional senate–people hostility;⁶⁸ or it could be a genuine stance during the first months of the consulship, and only later, both during the same consulship and in subsequent years, would he be pushed toward the *optimates*. It could also have been pure demagoguery and political opportunism,⁶⁹ especially with regard to Pompey; or it could simply confirm the existence of a contional oratorical style that, in that specific context, regardless of who the speaker was and what his political outlook was, was necessarily *popularis* in tone.⁷⁰

SOME OBSERVATIONS ON THE *POPULARES* CONSULS

From such a brief review of those consuls who can be identified in one way or another with *popularis* activity in the late Roman republic it would be dangerous to draw too many conclusions. Aside from the issue of hypothetical personal motives whose influence it is impossible to gauge accurately, most of these consuls can be regarded as promoting measures favorable to the plebs, whether in agrarian laws, laws concerning new colonies, or the full restoration of the tribunician *potestas*. Additionally, in almost all these cases, they are seen to intervene in the *contiones*.⁷¹ As would seem logical, their arguments, as far as we know what they were, were centered on the defense of the supposed true interests of the plebs, even when this involved opposition to proposals that could be regarded as typically *populares*, as in the case of Cicero against Rullus.

⁶⁷ Cic. *Att.* 2.3.4 (December 60); his distancing from Pompey was apparent even earlier (*Att.* 1.20.2, May 60; 2.1.6, June). See Lintott 2008, 169f.

⁶⁸ Meier 1965, 570.

⁶⁹ His attitude toward the agrarian legislation is opportunistic. When facing the people he would defend the utility of the agrarian laws (*Leg. agr.* 2.10), but in practice opposed all of the proposals; on the other hand, in his correspondence, he was capable of recognizing the usefulness of a measure such as the *rogatio Flavia agraria* for clearing out the city's bilge-water and repopulating the deserted regions of Italy (*Att.* 1.19.4; previously he had talked of the rich landowners as his army; cf. *Leg. agr.* 2.70).

⁷⁰ Morstein-Marx 2004, 204ff. ⁷¹ Pina Polo 1989, 281–308.

From a more general political viewpoint, the presence of consuls who can be related more or less directly with the *populares* alongside the usual plebeian tribunes represents a qualitative widening of the divisions within the ruling class. The existence of a direct link between the expression of the popular will, which, as well as other forms, assumes that of the *optimates–populares* conflict, and the division of the Roman ruling class has already been noted.⁷² Going no further than the fact that all the popular leaders were members of that ruling class, the *nobilitas*, the connection seems self-evident, but I think that the involvement of consuls on the *popularis* side widens enormously the scale of the division and the conflict.

The terms of this conflict had changed significantly since the last third of the second century, particularly regarding the meaning of *populares*. Now the term was used not just in reference to tribunes in conflict with the senatorial leaders, and who proposed measures favorable to the plebs and that threatened traditional order, but also in reference to powerful and prestigious individuals of the consular class whose actions could affect foreign policy and the running of the empire. It was no longer merely a question of individual young men, in the early years of their political careers, seeking the support of the plebs and using their popularity to make headway in the *cursus honorum* and thus to consolidate their political positions. The consuls had already reached the summit of the *cursus*, and their *popularis* alignment reflects the breakdown of political consensus that was affecting the very heart of the senatorial elite. In any case, this shift in alliance is another sign of a profoundly divided ruling class. The complexity of political relationships in this period is reflected in the thoughts and commentaries of Cicero on the theme of *optimates* and *populares*, and in his efforts to single out Pompey as a moderate *popularis*, in contrast to the radicals.⁷³

It is possible that Cicero was aware of the danger represented by such polarization and by the possible identification of the senate as being a partisan body, controlled by the *optimates* and set against all proposals for reform. In a political system in which, as Yakobson has pointed out, the ruling class is not omnipotent and the popular element is a key part of the system, the *populares* posed a real threat to the cohesion of the traditional senatorial leadership of Roman society.⁷⁴

⁷² North 1990a.

⁷³ Cic. *Att.* 1.14.1; *Leg.* 3.26. The speech *de imperio Cn. Pompei* in support of the *lex Manilia* is a good example of this policy. However, cf. *Att.* 2.9.1 (April 59), for harsh private criticism of Pompey after his support for Clodius' plebeian *adoptio*.

⁷⁴ Yakobson 1999, 231ff.; cf. Hölkeskamp 1997a, 234ff.

As regards the nature of that conflict, it is clear that at no stage was a global alternative to the established system ever considered. The proposals of the *populares* were never more than reforms, though some of them were important, admittedly, to the traditional republican regime. No one questions the central elements of the *res publica* in Ciceronian theory; the senate, the magistracies, the assemblies – it is the relative division of powers between them that is questioned.⁷⁵ The target of the proposed reforms was an intransigent minority, the senatorial oligarchy, the *factio paucorum*. Even so, the proposals were very wide-ranging, affecting both the traditional balance of power, such as the range of powers of the senate and the assemblies, and socio-economic interests, plebeian as well as aristocratic.⁷⁶ As such, the supposed “ideological vacuum” as which some modern historiography has characterized late-republican Rome, as recently denounced by T.P. Wiseman, in my opinion simply does not exist.⁷⁷ The analysis of two speeches from Cicero’s consulship serves to illustrate this thesis. In both cases, in his opposition to the *rogatio Servilia* and in his defense of Rabirius, we are dealing with controversial matters that go beyond mere political tactics or opposed moral values. They affect specific material interests, both those of the plebs and those of the rich landowners, as well as particular civic powers and rights, the *senatus consultum ultimum* and the *provocatio*. In this sense, I feel that to talk in terms of there being an “ideological monotony” in these conitional debates does not do justice to the scale of the disputes.⁷⁸ In order to do otherwise, we would need to revise the idea of what we understand by “ideology.”⁷⁹

⁷⁵ The balance between *iura*, *officia* and *munera*, based on the *potestas magistratuum*, the *auctoritas senatus* and the *libertas populi* (Cic. *Rep.* 2.57); Hillard 2005. See Cicero’s criticism on democracy and the Athenian assemblies (*Rep.* 1.27.43, 3.33.45; *Flac.* 16, 18); Ferrary 1997, 229.

⁷⁶ In contrast to the idea of a broad social consensus in favor of senatorial leadership (Morstein-Marx 2004, 234), from C. Gracchus onward a new political balance of power becomes clear, essentially an increase in the control of the senate by the assemblies and their leaders (Seager 1994, 86).

⁷⁷ Wiseman 2002; Yakobson 2004, 210.

⁷⁸ Following Morstein-Marx (2004, 204ff.), since in the *contiones* everyone is *popularis*, or at least portrays themselves as such (like Cicero), in the sense that they portray themselves as defenders of the *populus*, there is no “ideological competition” there (on this “ideological monotony,” *ibid.*, 230ff.).

⁷⁹ Ideology: “an action-oriented, more or less coherent set of ideas about society held, more or less firmly and more or less articulately, by some large group of people” (Drucker 1974, cited in Mackie 1992, 51 n. 9). On the ideological aspect of the *optimates–populares* conflict, Perelli 1982; Mackie 1992; Ferrary 1997. Cf. Mackie 1992, 66: “in order to challenge the status quo, it was appropriate, and essential, to challenge the ideology on which the status quo depended. This *populares* did, so efficiently.” Finley 1983, 141: “The ideology of a ruling class is of little use unless it is accepted by those who are being ruled, and so it was to an extraordinary degree in Rome. Then, when the ideology began to disintegrate within the elite itself, the consequence was not to broaden the political liberty among the citizenry but, on the contrary, to destroy it for everyone.”

As for the mechanisms of cohesion, it is true that they survived, although in co-existence with other initiatives and tendencies, some politically directed and others spontaneous, which suggest a new situation. The mechanisms that traditionally ensured political and social cohesion seem to have no longer been sufficient: alongside the *mos maiorum*, coined principally by the *nobilitas*, comitial law would now also be cited as a source of authority.⁸⁰ Refuge in the law, which implies a degree of belief in the efficacy of the legislative procedures and in the political will that they express as well as in the source of power from which they originate (the *comitia*), is a sign of the times. Moreover, it is an important component of the *libertas popularis*, a *libertas* associated with *rostra*, *contiones*, *tribuni* and *leges*,⁸¹ and different from the *libertas* of the *optimates*, more closely linked with *concordia*.⁸²

To summarize: as recently has been argued, during the crisis or transformation that the republic went through, itself a lengthy historical process related to the Roman conquest of and expansion in the Mediterranean, and without one exclusive explanation, a fragmentation of legitimacy took place.⁸³ From 133 onwards, the crisis was clearly visible to the Romans themselves and the appearance of terminology such as *optimates–populares* is in itself symptomatic of political division and of the disputes over the legitimacy of different sources of political power: the senate and the people.⁸⁴

In this context, the so-called *populares consules* represent an important development. These individuals, for various reasons (as *homines novi*, or as individuals excluded from the *optimates*, or because of the mistrust of other groups among the *nobilitas*, or because of an ambition with no limits),⁸⁵ did not feel bound by group loyalty to their equals among the *nobilitas*. All the advantages and possibilities offered by a *nobilis* origin

⁸⁰ Lintott 1999b, 6. Cic. *Leg. agr.* 2.102: *libertas consistit in legibus* (though in a *contio*); *Clu.* 146; Sall. *Hist.* 1.55.4 (*Orat. Lep.*); Malcovati, *ORF*, 1, p. 158 = Val. Max. 3.2.17, on T. Gracchus). See above, n. 3. However, for Gruen (1974, 507) the numerous laws serve only to confirm the *mos*.

⁸¹ On *libertas popularis*, Venturini 1973; on *libertas*, Wirszubski 1968; Brunt 1988, 320–50. See Morstein-Marx (2004, 51) on a denarius from one Lollius Palicanus and the *libertas populi*.

⁸² On Opimius, cos. 121, the plebs and the temple of Concordia, see Morstein-Marx (2004, 102); Vell. Pat. 2.7.3; Cic. *Sest.* 140.

⁸³ Morstein-Marx & Rosenstein 2006, 625ff. These themes are central to the current debate about the character of the Roman political system, stimulated by F. Millar: Jehne 1995, 2006; Bruhns, David and Nippel 1997; Millar 1998, 2002; Jakobson 1999, 2006b; Hölkeskamp 2000, 2004b, 2006a; Morstein-Marx 2000, 2004; Mouritsen 2001; David 2006; Morstein-Marx and Rosenstein 2006; Zecchini 2006; Duplá 2007.

⁸⁴ Mackie 1992, 60ff; Jakobson 1999, 179: “the very appearance of the ‘party’ divisions testifies to the weakening of the ruling class and to the collapse of its unity.”

⁸⁵ Cf. Cicero’s remarks on why politicians became populares (*Prov. cons.* 38); *Har. resp.* 43–4 (the motives, always personal, of the different populares leaders); *Phil.* 5.49.

(or a recently acquired *nobilitas*) tied to political radicalism caused an enormous subversive potential,⁸⁶ which became a reality when the social and political pressure resulting from popular discontent was channeled by certain members of the ruling class.

We should add in one other dangerous element: these powerful leaders, with their *imperium* and, in most cases, military resources as well, could at any given time satisfy social demands in ways that went beyond the traditional mechanisms of the republic. Their freedom of movement, interest in their personal careers or political and ideological horizons went beyond the established legal and political limits, and thus the internal cohesion of the *nobilitas*, the bedrock of its hegemony and of the basic republican consensus, was threatened.⁸⁷

This evolution is not unrelated to the history of the *popularis* movement and the first reformist tribunes. One reading of the tragic fate of the Gracchi is that in order to implement their programs the *populares* needed the active support of magistrates *cum imperio*.⁸⁸ This represents a true turning point, with the balance of power shifting and the senate finding itself powerless against a determined consul *popularis*, as Caesar would show in 59.

These new circumstances allow us to observe, from the end of the second century onward, behavioral patterns that in some ways anticipate later autocratic models. In this, the *consules populares* that we have discussed play an important part, as do the plebs. However, it would perhaps be wrong to analyze the phenomenon in the context of modern and thus possibly anachronistic, democratic criteria.

In my opinion, we should not discuss Roman politics in modern democratic terms, and certainly not in the sense of deliberative democracy, with its open and public debate of alternative proposals, but rather in the etymological sense, that is, of the power, visibility and autonomy of the people, even though inevitably with aristocratic leaders. What we are witnessing is not the intensification of democracy, but rather the assertion of personal leadership backed by unquestionable popularity and huge political, economic and military resources.⁸⁹ In this sense it is a crisis without a solution

⁸⁶ Yakobson 1999, 207ff.

⁸⁷ The essence of the republican system is well synthesized by Crawford (1992, 23): “the collective rule of an aristocracy, in principle and to a varying extent in practice dependent on the will of a popular assembly.”

⁸⁸ Seager 1994, 85.

⁸⁹ Martin 1965, 225: “Ein wichtiger Teil der Geschichte populärer Politik gehört zur Vorgeschichte der Monarchie in Rom” (“A significant section of the history of popular politics belongs to the early history of monarchy at Rome”). Yavetz 1988, 54ff.; Martin 2000, 40.

within the traditional parameters of the republican aristocracy,⁹⁰ but that will find one in a closer relationship between the individual leaders and the *populus*.⁹¹

⁹⁰ See Meier (1966) and the “Krise ohne Alternative,” Brunt’s (1968) critique and Meier’s new Introduction to the second edition (1980, xiv–lvii); Hölkeskamp 2004b; Morstein-Marx and Rosenstein 2006.

⁹¹ Noè 1988.