

***Ambitus* in the Late Roman Republic (80-50 B.C.)**

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Abstract

This study provides an analysis of the electoral practice of *ambitus*, usually translated as electoral bribery, during the last generation of the Roman Republic (80-50 B.C.). It offers a broader definition of *ambitus* as “an exaggeration of traditional electoral practices” and argues that it should not be considered a form of corruption in the context of late Republican politics. *Ambitus* had several important symbolic and practical functions that made it an indispensable part of canvassing, but was not primarily a method for candidates to obtain the votes of poorer citizens. Opposition to *ambitus*, whether in the form of legislation, prosecutions or invective, did not stem from moral outrage but from practical concerns and the specific political goals of individual aristocrats. Senators hoped to use legislation and prosecutions against *ambitus* to advance their own careers. At the same time, aristocratic competition had intensified due to the constitutional reforms enacted during Sulla’s dictatorship. It was recognized that ever increasing expenditure was necessary to win elections. The political elite thus considered the rising scale of *ambitus* to be a destabilizing factor in late Republican politics and attempted to regulate it.

Abrégé

Cette étude offre une analyse de la pratique électorale d'ambitus, traduit habituellement comme corruption électorale, au cours de la dernière génération de la république Romaine (80-50 avant J.-C.). L'auteur offre une définition plus large d'ambitus comme étant « une exagération des pratiques électorales traditionnelles » et affirme que cela ne devrait pas être considéré une forme de corruption dans le contexte de l'apogée de la politique républicaine. L'ambitus servait plusieurs importantes fonctions symboliques et pragmatiques qui en faisaient une partie indispensable du démarchage électoral. Néanmoins, ce n'était pas principalement une méthode d'obtention, pour les candidats, des votes des citoyens les plus pauvres. L'opposition à ambitus, que ce soit sous la forme de lois, de poursuites ou d'invective, ne parvenait pas d'une indignation morale de la population, mais plutôt des préoccupations et des objectifs politiques de certains aristocrates. Ces sénateurs espéraient approprier l'effort contre l'ambitus pour avancer leurs propres carrières. En même temps, alors que la compétition entre aristocrates s'intensifiait en raison des réformes constitutionnelles de la dictature de Sulla, il a été reconnu que ces dépenses, devenus de plus en plus nécessaires pour effectuer l'ambitus et gagner les élections, étaient une force de déstabilisation dans la politique républicaine. Les élites politiques donc essayaient de le réglementer.

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Introduction

A Destructive Force?

The first century A.D. poet Lucan, narrating the state of the dying Roman Republic before Gaius Julius Caesar's crossing of the Rubicon in January of 49 B.C., writes: "*Hinc rapti fasces pretio sectorque favoris/ Ipse sui populus letalisque ambitus urbi/ Annua venali referens certamina Campo; Hinc usura vorax aviumque in tempora fenus/ Et concussa fides et multis utile bellum.*"¹ According to this passage, *ambitus* was a destructive force, a practice that eroded the common faith and moral values of the Roman community. It made a mockery of the Roman electoral process. Most importantly, Lucan implies that by forcing aristocrats to borrow large amounts of money to fund their political careers, *ambitus* caused them to turn to civil strife and war to regain their losses.² It was therefore responsible for the collapse of the Republic into civil war and the rise of Augustus' principate. The purpose of this thesis will be to examine this allegedly destructive practice during the last generation of the Roman Republic.

Ambitus has traditionally been defined in Roman Republican scholarship as electoral bribery, an illegal and corrupt canvassing practice in which candidates gave money to voters in exchange for electoral support and votes.³ However, recent discourses on *ambitus* have questioned fundamental assumptions about the

¹ Luc. *Phars.* 1.177-182: Here the fasces were seized with money and the people themselves were sellers of their own electoral favour, and deadly *ambitus* every year brought strife back to the Campus Martius and the city, both for sale; here were devouring money lending and greed for the day of interest and shattered faith and war, profitable to many. All translations throughout this thesis are my own unless otherwise noted. All dates are B.C. unless otherwise noted.

² Lintott 1990, 2-3.

³ E.g. Veyne 1976, 425-426; Linderski 1985, 93-94; Deniaux 1987, 294; Lintott 1990; Gruen 1991, 255-257; Wallinga 1994, 435-438; Riggsby 1999, 26-27; Yakobson 1999, 22-26.

concept, such as its status as a normatively defined crime or a form of corruption. Some, like Andrew Lintott, have argued that charges of *ambitus* should best be understood as a form of invective Roman senators used to weaken the prestige of political opponents.⁴ Whereas a senator would claim that he and his allies gave gifts to voters, an acceptable practice, he would accuse his competitors of having committed *ambitus*. Similarly, Paul Veyne has claimed that the many laws adopted against *ambitus* were a legalistic façade, disguising a commonly accepted practice.⁵ Others have challenged the traditionally provided definition of the term; they have argued that the definition of *ambitus* is far more complex than the usual translation of “electoral bribery,” a term with many negative and possibly anachronistic modern connotations.⁶ Most recently, Cristina Rosillo López has taken note of these criticisms and nonetheless argued that *ambitus* should be understood as a form of corruption that the Romans had defined as such.⁷

In approaching the concept of *ambitus* during the period between the end of Publius Cornelius Sulla’s dictatorship and the beginning of Caesar’s civil war (80-50 B.C.), it is important to have as few modern preconceptions as possible. This is challenging, not least because our little evidence for *ambitus* is contradictory, making it difficult to accurately define it without resorting to modern assumptions. Some of our sources are histories or biographies written long after the fall of the Republic which reconstruct the history of the late Republic for the purpose of moral instruction. Others posit the decline and fall of

⁴ Lintott 1990, 16.

⁵ Veyne 1976, 425-426.

⁶ Rosillo López 2010, 21-22; Beck, forthcoming. See Nye 1967, 417 on the moralism inherent in most studies of corruption in general.

⁷ Rosillo López 2010, 16-23, 49-69.

the Republic as inevitable and often look for moral causes.⁸ These include the works of Lucan, Plutarch and Appian. The use of *ambitus* in contemporary late Republican sources, including Cicero and Caesar, is meanwhile informed by political or personal goals. Cicero's trial speeches are constrained by his desire to win the case rather than provide a fair and balanced definition of *ambitus*, while Caesar's histories are clearly meant to validate his actions and decisions during the Gallic and civil wars. The concept of *ambitus* that emerges is inconsistent. Indeed, it is difficult to determine how exactly the Romans viewed it.

In my first chapter, I focus on the interpretation of *ambitus* as a form of corruption exclusively, since in both ancient sources and modern scholarship it emerges as the most dominant approach. I argue that it is impossible to reach a universal definition of corruption, and that modern, Western approaches to this concept are anachronistic and cannot be applied to the Roman Republic. I offer a broader definition of *ambitus* as an exaggeration of traditional canvassing practices. Chapter two will attempt to define the role and purpose of *ambitus* in the late Republic. I maintain that electoral candidates did not use *ambitus* to sway the votes of individual voters. Instead, *ambitus* was a political and legal tool with a symbolic aspect that allows us to understand the phenomenon. It was a method to affirm the status of aristocrats seeking election. It also allowed the essentially disenfranchised Roman populace to participate in the political process through both practical and symbolic gestures which reinforced underlying Republican ideologies of the sovereignty of the *populus Romanus*. In chapter three, I examine the reasons for the proposal and adoption of three laws against *ambitus*: The *lex*

⁸ On this tendency in post-Republican writing and even the works of Cicero, see Gruen 1974, 1-2.

Calpurnia of 67, the *lex Tullia* of 63, and the *lex Licinia* of 55. My position is that the proposers and supporters of these laws wished to use them to gain prestige and advance their own careers, or to achieve specific political goals. However, this legislation also reflects a genuine attempt by the Roman senate as a whole to regulate *ambitus*, which had become more prevalent due to the intensification of aristocratic competition, caused by the constitutional reforms adopted during Sulla's dictatorship. These senators wished to restore the element of comparability to Republican politics, an important factor in maintaining aristocrat consensus and political stability. In my final chapter, I analyze the *ambitus* trial of Lucius Licinius Murena and Marcus Tullius Cicero's speech in his defence as a case study for my arguments. I conclude by re-evaluating Lucan's conceptualization of *ambitus*' role in the decline of the Roman Republic and by arguing that its increasing scale did contribute to the destabilization of the Republican form of government.

Chapter I

Ambitus and Corruption

One persistent approach to *ambitus* has been to analyze it as a form of corruption, a practice which Roman society as a whole viewed as ethically wrong and which it defined as illegal. Cristina Rosillo López has most recently proposed that *ambitus* was one type of corruption which permeated all aspects of Roman political and social life.⁹ This argument hinges on applying modern definitions of corruption and applying them to the ancient world. I will therefore begin this chapter by summarizing general modern approaches to defining political corruption and by noting the difficulty of applying a universal definition of this concept. Indeed, Rosillo López's definition of corruption in the Roman world should not be applied to the concept of *ambitus*. Modern theoretical approaches to corruption in the developing world force us to question our assumptions concerning the concept and to explore some of the problems inherent in applying modern definitions of corruption to pre-modern societies. An examination of bribery in the ancient Greek context also demonstrates the dangers of applying modern terminology to ancient concepts. Finally, I turn to *ambitus* itself and after defining it as an exaggeration of traditional canvassing practices, will argue that it did not constitute a form of corruption in the Roman Republican mentality and that corruption is not a useful paradigm for approaching it.

⁹ Rosillo López 2010, 18-23, 52-69.

Universal Definitions of Corruption

Political theorists have long attempted to provide a universal definition of political corruption that is free of moral judgment, where moral judgment is defined as viewing a practice as intrinsically or ethically wrong in and of itself. The challenge is to define corruption without moralizing but while still noting how it might be perceived as a moral problem in the societies in which it takes place. In J.S. Nye's famous article on corruption and political development, he defines political corruption as "behaviour which deviates from the formal duties of a public role because of private rewarding (personal, close family, private clique), pecuniary or status gains; or violates rules against the exercise of certain types of private rewarding influence."¹⁰ Examples of this behaviour include bribery, through which a reward is used to "pervert the judgment of a person," and nepotism, through which personal relationships rather than merit affect the bestowal of patronage. This is an example of a "public office" approach to corruption, which itself defines corruption as a legal, as opposed to moral, problem and sharply distinguishes between public and private gain. Yet the legalistic understanding of corruption is also problematic. Most notably, it may be possible for an action to be legal yet considered corrupt by the public or others. For example, in the United States today corporations and interest groups may legally contribute money to political campaigns (within limits), and politicians, once elected, may legally choose to reward those who donated to their campaign by representing their interests through proposing or blocking legislation. Many

¹⁰ Nye 1967, 419. Friedrich (1972, 128-129) provides a similar definition: "It [corruption] is deviant behaviour associated with a particular motivation, namely that of private gain at public expense."

would characterize such a politician as corrupt for mixing public and private interests.¹¹

More importantly, laws regulating public conduct are not neutral or objective; they themselves are created by successful politicians.¹² These rules therefore differ from society to society and within societies themselves, making it impossible to create a generalized definition of corruption. For example, it is prohibited for legislators in the US Congress to employ relatives and family members, since this is considered to be patronage and thus a form of corruption, while in the UK it is common for members of the House of Commons to employ their spouses.¹³ In the late Republic, only elected tribunes of the *plebs*, praetors and consuls, a total of twenty magistrates each year, were usually able to propose laws.¹⁴ Meanwhile, “behaviour which deviates from the formal duties of a public role because of private rewarding,” as Nye describes it, is radically different in modern Canada and the late Roman Republic. It is always unacceptable for a canvassing politician to give a gift to a voter from his hometown in exchange for that voter’s vote in the modern western world, yet in the late Republic, gift giving, especially to a senator’s own tribe, was an acceptable and expected method of canvassing.¹⁵ Finally, as Williams has recently noted, despite Nye’s awareness of the dangers of an anachronistic, moralizing definition of corruption, his definition

¹¹ Bratsis 2003, 21-25.

¹² Williams 1999, 504.

¹³ Williams 1999, 509; Philp (1997, 451) provides a similar analysis.

¹⁴ Lintott 1999, 40-41; Flower 2010a, 121-124. Exceptions included times of dictatorship.

¹⁵ See this chapter below for further analysis and scholarship.

is not free of moral judgment, as the use of the verb “pervert” to describe bribery attests.¹⁶

Others have tried to escape this moralization and sought an economic approach to defining corruption. N. Leff, investigating the concept through its effect on bureaucracy, states: “Corruption is an extra-legal institution used by individuals or groups to gain influence over the actions of bureaucracy. As such, the existence of corruption *per se* indicates only that these groups participate in the decision making process to a greater extent than would otherwise be the case.”¹⁷ Still, even this definition presents problems. By defining corruption as an “extra-legal institution,” Leff’s understanding is still contingent on the concept that in each given society, there are universally agreed upon legally defined principles for conduct in public office.¹⁸ Rose-Ackerman, attempting to avoid political definitions of corruption entirely, conceptualizes governments as private capitalist businesses and corruption as one method among many to maximize profits or more generally, an individual’s status or position in society.¹⁹ Yet this definition does not differentiate between corrupt and non-corrupt methods for profit maximization, and is thus problematic.

There is no satisfactory transcultural and transhistorical definition of political corruption. It is therefore perhaps most beneficial to examine each society distinctly and analyze its own conceptions of corruption, though this too is

¹⁶ Williams 1999, 505.

¹⁷ Leff 1970, 510.

¹⁸ Williams 1999, 506; Rosillo López (2010, 17) notes that he also ignoring any possibility for corruption to be condemned in individual societies.

¹⁹ Rose-Ackerman 1978.

difficult.²⁰ Acknowledging this, Rosillo López argues that the three characteristics J.F. Malem Seña cites as indicators of corruption were present in the Roman Republic.²¹ According to Malem Seña, corrupt behaviour implies three things: The violation of duties of an office granted by the state, an attempt to benefit privately, though not necessarily by gaining money, and a normative condemnation of such behaviour, whether from a legal, social or ethical source.²² This definition is in essence similar to Nye's and many legal definitions of corruption, in that it implies that public and private interests are mutually exclusive, an argument that Rosillo López applies to the Roman Republic. Romans canvassing for office who committed *ambitus* were undoubtedly attempting to benefit privately, using methods which were condemned as illegal through many laws adopted against *ambitus*. I nonetheless argue that the role of *ambitus* in the political culture of the late Roman Republic is too complex to be labeled as corruption. It is further anachronistic to apply modern Western conceptions of normative legislation and a rigid distinction between public and private to Roman society.

One key reason for this argument, to be further illustrated, is that it is more difficult to differentiate between private and public in the Roman Republic, and between socially accepted forms of patrimonialism and corruption. This is a problem that has confronted scholars of modern developing states. Robin

²⁰ Williams 1999, 511-512. The most important difficulty in gaging a society's definition of corruption by only examining public opinion is that there is rarely, if ever, a consensus as to what constitutes corruption, particularly in a pre-modern state like the Roman Republic in which the education and ideas of rural farmers would be radically different from those of aristocrats, who themselves would have difficulty finding consensus.

²¹ Rosillo López 2010, 17-18.

²² Malem Seña 2000, 25-26, cited by Rosillo López 2010, 17.

Theobald defines patrimonial administrations as ones “in which the public/private boundary, central to the concept of modern administration, is to say the least unstable, and in many cases barely exists at all.”²³ Neo-patrimonial administrations are those in which patrimonial structures hold but which still have adopted the western discourse of the division of public and private to some degree. As Nye notes, it is difficult to discuss corruption in developing countries “because of a variety of conditions involved in their under-development- great inequality in distribution of wealth; political office as the primary means of gaining access to wealth; conflict between changing moral codes; the weakness of social and governmental enforcement mechanisms; and the absence of a strong sense of national community.”²⁴ Most of these conditions apply to pre-modern states such as Rome and the ancient Greek *poleis*.²⁵ Current studies of patrimonialism and its relationship to corruption in modern developing states may thus be instructive as to how we should treat these concepts in studying the Roman Republic.

Approaches to Corruption in the Developing World

Patrimonialism is a common feature in many modern developing states, while patrimonial structures are ambiguous measures of corruption. It is significant that in an article on political clientelism in the developing world, one of the most common examples provided is of a peasant and his family providing votes for a politician in exchange for his catering to their material needs, an

²³ Theobald 1999, 491-492. Theobald (1982, 555) has also argued that due to the lack of a strong central bureaucracy and a “constant stream of revenue” in patrimonial states, public office becomes a common path to private gain.

²⁴ Nye 1967, 418; Leys 1965, 224-225.

²⁵ Theobald 1999, 492-493.

observation relevant for the study of *ambitus*.²⁶ Although there are of course many important differences between modern developing states and pre-modern states such as the Roman Republic, some similar traditional political features allow us to make some cautious comparisons.²⁷ And although a one-to-one comparison between ancient Rome and any modern developing state would be difficult and beyond the scope of this chapter, it is worthwhile to briefly examine modern theoretical approaches to corruption and patrimonialism in the developing world, and to illustrate through a summary example that corruption and bribery do not have a universal meaning in all societies. This will demonstrate the dangers of applying our own assumptions about corruption to pre-modern states.

Despite the fact that “gift giving” in exchange for votes is illegal in many developing states, it is unclear that this normative legal ban implies that the continued presence of this practice in many countries constitutes “corruption.” As James Scott has pointed out, developing states have adopted, mainly in the twentieth century, a complete set of laws and regulations that slowly evolved in the Western world between the fifteenth and nineteenth centuries.²⁸ For example, the imposition of legislation against patronage practices which have long been firmly upheld does not imply that those participating in these practices now view them as corrupt. Social practice and legal norms can be contradictory, and using the modern Western legal state as a starting point to discuss corruption in developing or pre-modern states can lead to inappropriate or anachronistic

²⁶ Lemarchand and Legg 2000, 36; also see Scott 1969, 321.

²⁷ Crouch 2000, 310-311.

²⁸ Scott 1969, 317-320; Theobald 1999, 491-492.

analyses.²⁹ While the late Roman Republic did not have an external system of laws and regulations grafted onto it, it is important to note that the condemnation of behaviour, such as *ambitus*, through legal norms does not mean that such behaviour was automatically considered corruption.³⁰ Although patrimonial practices, including “gift giving,” have often been called corrupt, scholars of developing world corruption have argued that clientelism can actually be beneficial to individual societies and have questioned how we should approach it.³¹

The southern African country of Botswana provides an example. After 81 years of British colonial rule, Botswana held elections in 1966 and became the independent Republic of Botswana, a representative democracy.³² In the aftermath of independence, the elites of Botswana formed the country’s democratic leadership, elites who belonged to a class that had traditionally presided over the important cattle economy, arbitrated local disputes and ruled communities.³³ These chiefs had generally drawn power from local consensus, as evidenced by a Tswana saying: “*Kgosi ke kgosi ka batho*” (“a chief is a chief through the people”), yet were also economically distinct from the majority.³⁴ A system of clientelism was central to their power. Chiefs were patrons for local Tswana, and

²⁹ Philp 1997, 451; Theobald 1999, 491.

³⁰ *Contra* Noonan Jr. (1984, 1-53) who considers bribery in the ancient world to be essentially similar to its modern manifestations, and Friedrich (1972, 130-131), who argues that the classic, Aristotelian conception of “corruption as a general disease of the body politic persisted into modern times.” As I argue in chapter three, practical considerations and attempts to maintain social cohesion could cause legislation against certain practices to be adopted.

³¹ Weber 1947, 152; Leff 1970, 514-520; Huntington 1970, 492-500; Cremer 2008, 17-18; Pitcher, Moran and Johnston 2009, 126-128.

³² Sillery 1974, 155-161 on the history of Botswanian independence.

³³ Robinson and Parsons 2006, 120-121; Pitcher, Moran and Johnston 2009, 145-147.

³⁴ Morton 2004, 347 on consensus and for the saying and its translation; Pitcher, Moran and Johnston 2009, 146.

through this patronage “a poorer individual who owned no cattle might receive meat, hides, or (later) money from a chief, but enduring loyalty was expected in return.”³⁵ As Pitcher, Moran and Johnston have argued, these ties endured through Botswana’s democratic transition and contributed to the growth of a prosperous economy and stable democracy.³⁶ The first president of Botswana, Seretse Khama, derived prestige from his status as chief of the Ngwato, and his ruling party, the Botswana Democratic Party (BDP) incorporated local chiefs into government.³⁷ Through networks of patronage, these chiefs were able to expand the cattle industry and drive capitalist economic growth both for themselves and the peasantry, while still being held accountable to locals through traditional assemblies (*kgotlas*) and continuing to rule by consensus.³⁸ The Republic of Botswana illustrates how patrimonial structures can be integral to a state’s success and prosperity, and the difficulty of applying the western corruption paradigm to such a society.³⁹

The strict division between public and private sectors has also not been useful for exploring corruption in the developing world. This is in part because divisions between private and public spheres in developing states are generally explained functionally; that is, public and private spaces exist, but the mingling of these two spaces implies nothing about corruption.⁴⁰ Modern Western

³⁵ Pitcher, Moran and Johnston 2009, 146.

³⁶ Pitcher, Moran and Johnston 2009, 145-148.

³⁷ Robinson and Parsons 2006, 113-117; Pitcher, Moran and Johnston 2009, 147-148.

³⁸ Good 1992, 72-74, which notes the importance of patronage ties to Botswana’s economic growth. Harvey and Lewis Jr. (1990, 1) note that between 1965 and 1985, Botswana held the “fastest growing economy in the world” and “the most rapid rate of growth of GNP per capita (8.3 percent)”.

³⁹ Saller (1982, 205-208) has reached similar conclusions about the early Roman empire.

⁴⁰ Habermas 1991, 30; Bratsis 2003, 13.

definitions of corruption, however, are based on the “twin bodies” approach to public and private, a legal and political doctrine that arose during the fifteenth century in Western Europe.⁴¹ As Bratsis summarises:

This doctrine asserts that we have two bodies, a public and a private one. In its most developed form, the two bodies doctrine asserts that while, on the one hand, we exist as concrete individuals with physical bodies, particular passions, interests, obligations, and so forth, on the other hand, we exist in an abstract sense, as members of the body politic, a body that is beyond our physical bodies and concrete social existence. This body politic is the polity, characterized by the common interests that bind its members together and is materialized in the rituals, personnel, and institutions of the state.⁴²

According to this interpretation, neither public nor private bodies themselves have negative connotations. However, when the two mix, whether because private interests subvert public ones or *vice versa*, public and private contaminate each other and an action is viewed as corrupt. This conception of the relationship between public and private is not one shared by developing and pre-modern states.

Bribery in the Ancient Greek *Poleis*: Problems with Terminology

Studies of bribery in the ancient Greek world during the Classical Period also show the danger of transferring the meaning and moral force of modern corruption terminology, such as “bribery,” into ancient contexts. Scholars have long noted the difficulty of defining bribery as a form of corruption in the ancient Greek world, since the words the Greeks mainly used for bribery do not possess

⁴¹ Kantorowicz 1957, 193-272.

⁴² Bratsis 2003, 13; on the development of the modern Western conception of public and private, see also Douglas 1966, 36-37; Elias 1994, 432-439; Philp 1997.

the same negative connotation that “bribe” currently does.⁴³ Many ancient Greek words and phrases for bribe can also mean gift, such as δῶρον, δωροδοκεῖν, λῆμμα, and χρήμασι πείθειν.⁴⁴ The neutrality of these terms suggests that the concept of bribery in the ancient Greek world was not normatively condemned, one of the fundamental characteristics of a corrupt act, as Malem Seña and Rosillo López argue. The one possible exception, as Philp argues, is the verb διαφθερεῖν, which can mean to “destroy utterly” but also “to ruin” or perhaps “to corrupt” or “to destroy a person’s independent action and judgment” through a bribe.⁴⁵

Yet as Harvey, on whose analysis Philp bases his argument, and Bratsis have noted, it is unclear that διαφθερεῖν suggests corruption in the modern sense, at least as defined above. Harvey argues that διαφθερεῖν implies that “the man who takes a bribe surrenders his free will; what he says and does he does for another, and in that sense he no longer exists as an independent individual: he is a non-entity.”⁴⁶ This usage is similar to that of διαφθερεῖν in the context of a man seducing a woman and thus destroying the woman’s soul and making it his own.⁴⁷ The problem is then that like a woman or slave, the citizen who accepts a bribe ceases to be a citizen.⁴⁸ The corruption implied by διαφθερεῖν is therefore not the same as that cited by Rosillo López. There is no reference to a private gain at the

⁴³ Philp 1997, 442-443; Taylor 2001, 53. Bratsis 2003, 11-13; the word “bribe” etymologically stems from a fourteenth century word meaning “theft” or “robbery” and by the sixteenth century always referred to a magistrate taking money from his subjects. Both the Greek and Roman concepts are clearly quite different. Similarly, the common French translation of *ambitus* as “la corruption électorale” has obvious anachronistic implications.

⁴⁴ Harvey 1985, 82-89; Philp 1997, 442-443; Bratsis 2003, 11-13. Examples: δῶρον (Hyp. 4.39); δωροδοκεῖν (Diod. 13.64.6); λῆμμα (Dem. 19.127); χρήμασι πείθειν (Thuc. 7.86).

⁴⁵ Philp 1997, 442. For the use of διαφθερεῖν and διαφθορά in the moral sense: e.g. Xen. *Ap.* 19; Arist. *Rhet.* 1372a: “διαφθοραὶ κριτῶν” (“corruption of the judges through bribes”).

⁴⁶ Harvey 1985, 86.

⁴⁷ *Lys.* 1.33.

⁴⁸ Bratsis 2003, 12.

expense of the public. Similarly, the rarity of the use of διαφθερεῖν to discuss bribery in comparison to neutral terms such as δωροδοκεῖν and χρήμασι πείθειν suggests that even this concept of corruption was not central to ancient Greek discourses on bribery.⁴⁹ Modern terminology, with its additional preconceptions, can therefore confuse the meaning of ancient concepts by applying our preconceptions to them.

Defining *Ambitus*

With these difficulties in mind, I will now turn to *ambitus* itself and argue that the framework of corruption is not useful for analyzing its role in the late Roman Republic. I do not claim that there was no concept of corruption in the Roman Republic or that magistrates did not understand the difference between public and private. Rosillo López, for example, cites the suggestive *lex Ursonensis*, which stipulates that *duumviri* at the colony of Genetiva are not allowed to accept gifts or remuneration as part of their public role.⁵⁰ Similarly, a series of laws were adopted in the late Republic barring provincial magistrates from collecting gifts from those they were governing.⁵¹ Cicero also distinguishes between private and public property in *De Officiis* and argues that it is both

⁴⁹ Harvey 1985, 84; Taylor 2001, 53. For example, in over twenty passages referring to bribery, Herodotus only uses διαφθερεῖν once (5.51.2). It does admittedly become more commonly used in 4th and 3rd century texts.

⁵⁰ Rosillo López 2010, 18-19. For the *lex Ursonensis*, see Crawford (1996, 93): “*quicumque Ilvir post colon(iam) deductam factus creatusue erit quiue praef(ectus) qui ab Ilvir(o) e lege huius coloniae relictus erit, is de loco publico neue ab redemptor<e> mancipio praed(e) donum munus mercedem alitue quid capito neue accipito, neue facito quo quid ex ea re at se suorumve quem perveniat.*”

⁵¹ E.g. The *lex Iulia de repetundis* of 59: Cic. Att. 5.10.2, 5.16.3.

shameful and criminal to use the *res publica* as a source of private revenue.⁵²

There was some distinction between public and private in the late Republic, even if it is worth noting again that legislation of this sort was *ad hoc* and proposed by successful politicians with their own specific political interests. Rome was not a wholly patrimonial state. Nevertheless there are key differences between the ancient Roman conception of the public and private divide and that of the modern West upon which Rosillo López's definition of corruption is based. Lines between public and private, particularly during canvassing, were often blurred.⁵³ Similarly, the way *ambitus* is defined by our sources is itself ambiguous, especially when contrasted with the socially acceptable practice of *benignitas*. I will first explore these ambiguities by attempting to define *ambitus*.

Our sources for *ambitus* in the late Roman Republic are difficult.

Descriptions of *ambitus* are often found in much later sources, aware of the Republic's fall and the rise of the Principate, and thus tend to moralize and from hindsight describe *ambitus* as one of the reasons for the decline of the Republic.⁵⁴ In my introduction, I quoted Lucan's negative perception of *ambitus*, in which he attributes the decline of the Republic to the competitive nature of Roman electoral politics, now dominated by money, *ambitus* and the willingness of the *populus* to

⁵² Cic. *Off.* 2.77; also c.f. 3.36; *Fin.* 3.64: "*Nec magis est vituperandus proditor patriae quam communis utilitatis aut salutis desertor propter suam utilitatem aut salutem*" ("the traitor of his fatherland should not be censured any more than he who betrays the state's common welfare and prosperity for his own advantage or welfare").

⁵³ Berry 1994, 83-84; Bratsis 2003, 12-13.

⁵⁴ On moralistic language in the works of historians describing the decline and fall of the Republic, see Levick 1982; on the more general presentation of the Roman Republic among early imperial literature, see Gowing 2005.

sell their votes.⁵⁵ He does not, however, provide an explanation for what *ambitus* is. The second century A.D. biographer Plutarch similarly explains the “evil state” (κακοπολιτεία) of the Republic before Caesar crossed the Rubicon in 49 B.C.: “οἱ μὲν ἄρχαί μετιόντες ἐν μέσφθήμενοι τραπέζας ἐδέκαζον ἀναισχύντως τὰ πλήθη, κατῆει δὲ ὁ δῆμος ἔμμισθος, οὐ ψήφοις.”⁵⁶ The moral tone here is reinforced by the use of the verb “ἐδέκαζον” to mean bribe, a word with a more forceful and negative meaning than those traditionally used. Finally, the second century A.D. grammarian Festus calls *ambitus* a “*crimen avaritiae vel affectati honoris*.”⁵⁷ In early Imperial literature *ambitus* and bribery become morally charged concepts.⁵⁸

At the same time, Republican sources are naturally highly politicized. For example, when Caesar writes of his attempts to restore the Republic during his dictatorship, he connects *ambitus* with political violence and the absence of traditional Republican procedures. He claims that “*item praetoribus tribunisque plebis rogationes ad populum ferentibus nonnullos ambitus Pompeia lege damnatos illis temporibus, quibus in urbe praesidia legionum Pompeius habuerat... in integrum restituit*.”⁵⁹ Here Caesar implies that *ambitus* laws and convictions are a matter of political invective and violence. Just as Pompey could

⁵⁵ Luc. *Phars.* 1.177-182: Here the fasces were seized with money and the people themselves were sellers of their own electoral favour, and deadly *ambitus* every year brought strife back to the Campus Martius and the city, both for sale; here were devouring money lending and greed for the day of interest and shattered faith and war, profitable to many.

⁵⁶ Plut. *Caes.* 28.3: “Those seeking magistracies were setting up money changing tables in public and were shamelessly bribing the people, who when they were bought went down into the forum.” C.f. App. *B. Civ.* 2.19, 2.23, and especially 2.120, which blames the people for Brutus and Cassius’ inability to restore Republican government after the assassination of Caesar in 44, since the majority of the Roman people had long been corrupted by bribery. According to Appian, it was impossible to both desire liberty and take bribes.

⁵⁷ Fest. *Verb. Sign.* 5.6-9L: “A crime of money or of striving for magistracies.”

⁵⁸ Linderski 1985, 87-88, 93 on this treatment of *ambitus* as a moral issue.

⁵⁹ Caes. *B. Civ.* 3.1.4: “At the same time, by successfully proposing rogations to the people, he restored to office many praetors and tribunes who had been condemned under the Pompeian law on *ambitus* during the time in which Pompey had maintained a garrison of his legions in the city.”

(unjustly, according to Caesar) convict magistrates under his *ambitus* law because he controlled the city with his troops, so too could Caesar overturn those convictions now that he held military control of the city, though Caesar of course does not mention the latter. Similarly, Cicero's defence of Cnaeus Plancius, accused of *ambitus*, shows the centrality of moral invective to accusations of this type.⁶⁰ Cicero only uses the word "*ambitus*" once throughout his speech, and even then not in reference to the charge of the prosecution.⁶¹ Instead, the majority of the speech is dedicated to proving Plancius' moral integrity and popularity in electoral politics, as well as defending Cicero's own *auctoritas*.⁶² When discussing bribery, Cicero uses words such as "*largitio*," a term which can denote bribery but also more neutrally "generosity" or "giving."⁶³ These passages show how politicized and moralized the concept of *ambitus* becomes in our sources, and therefore emphasize the difficulty in interpreting or defining it.

A few authors do provide more concrete definitions, and based on these many scholars have translated *ambitus* as "electoral bribery."⁶⁴ For example, Cicero, discussing the contents of the *lex Calpurnia de ambitu* of 67 B.C. in his defence of Murena, states that "*si mercede obviam candidatis issent, si conducti sectarentur, si gladiatoribus volgo locus tributim et item prandia si volgo essent*

⁶⁰ May 1988, 116-126.

⁶¹ Cic. *Planc.* 9: "*semper populus... facit eos, a quibus est maxime ambitus.*"

⁶² E.g. Cic. *Planc.* 3-4, 17-23, 72-77, 83-104. Lack of evidence or ambiguous evidence often caused trials to focus on the moral integrity of the defendants and prosecutors, because one's character was thought to suggest whether one would or would not have committed a crime. See May 1988.

⁶³ Cic. *Planc.* 37: E.g. "*cuiuscumque tribus largitor esset,*" "*quisque tribum turpi largitione corrumperet.*"

⁶⁴ E.g. Veyne 1976, 425-426; Linderski 1985, 93-94; Deniaux 1987, 294; Lintott 1990; Gruen 1991, 255-257; Wallinga 1994, 435-438; Riggsby 1999, 26-27; Yakobson 1999, 22-26.

data, contra legem Calpurniam factum videri.”⁶⁵ The majority of the activities cited by Cicero in this passage involve the giving out of a bribe of some kind, whether in the form of money or meals, in exchange for electoral support. Yet Beck and Rosillo López have recently argued that *ambitus* must be understood in the wider context of canvassing practices.⁶⁶ Other sources confirm this interpretation.

Livy, describing the adoption of the first recorded piece of legislation against *ambitus* in 358 B.C., writes: “*et de ambitu ab C. Poetelio tribuno plebis auctoribus patribus tum primum ad populum latum est; eaque rogatione nouorum maxime hominum ambitionem, qui nundinas et conciliabula obire soliti erant, compressam credebant.*”⁶⁷ If Livy is to be believed, *ambitus* here does not refer to electoral bribery, but rather to an exaggeration and distortion of traditional canvassing practices, to literally “going around” and canvassing when and where a candidate was not allowed. This is perhaps the root definition of the term, if the late Republican author Varro’s insights in *De Lingua Latina* are correct. Varro claims that *ambitus* is etymologically connected to *amnis*, a river which encircles something.⁶⁸ Therefore “*ab eo qui populum candidates circum it, ambit, et qui*

⁶⁵ Cic. Mur. 67: “If some men were to go out to meet candidates because of a bribe, if they were paid so that they would follow him around, if places at gladiatorial games and similarly meals were given out freely, tribe by tribe, then this deed would appear to have been against the Calpurnian law.”

⁶⁶ Rosillo López 2010, 21-22; Beck, forthcoming.

⁶⁷ Liv. 7.15.12: “And then a proposal was first made to the people concerning *ambitus* by Caius Poetelius, tribune of the plebs, with the authority of the senate; through this rogation they believed that the ambition of new men could especially be curbed, new men who had been accustomed to canvass on market days and in public spaces.”

⁶⁸ Varr. 5.28.

aliter facit, indagabili ex ambitu causam dicit.”⁶⁹ Whatever the historicity of the law of 358 or the validity of this etymological explanation, it is clear that *ambitus* had a wider meaning than “bribery” and that a senator committed *ambitus* when he had done something not in keeping with traditional electoral canvassing, though Varro remains vague as to what this constituted.⁷⁰ This is further supported by the etymological links Livy makes between *ambitus* and *ambitio*, which can roughly be defined as “canvassing,” “electoral ambition” or “a desire for power and office.”⁷¹ For this reason, I do not define *ambitus* as “electoral bribery,” though in many cases this is certainly the meaning intended by our sources, even if they are vague on how bribery actually worked.⁷² Therefore, just as words for “bribery” in the ancient Greek world were ambiguous and often referred to acceptable “gift giving,” *ambitus* too in the late Republic was not a simple term referring to a normatively or morally defined form of corruption. Defining *ambitus* more broadly as an exaggeration of traditional canvassing practices also allows us to avoid the modern, anachronistic and negative connotations that the word “bribery” evokes.⁷³ Passages commenting on the Roman electoral practice of “gift giving” confirm this last point.

⁶⁹ Varr. 5.28: “From this he who goes around the people as a candidate, canvasses (*ambit*), and he who does something differently, pleads his case because of his *ambitus*, which is being inquired into.”

⁷⁰ Walter 2010, 160-161. One example from the late Republic is the organization of feasts. Prosecutors of *ambitus* could argue that while it was traditional and acceptable for a candidate to provide feasts to members of his own tribe, this practice became *ambitus* when feasts were given out to all (or many) of the tribes. See Shatzman 1975, 89; Cic. *Planc.* 48; Cic. *Mur.* 72-73.

⁷¹ Liv. 7.15.12; c.f. Cic. *Tusc.* 2.62; Cic. *Att.* 1.17. *Ambitio* can have a negative connotation in Late Republican literature (e.g. Lucr. 5.1132; Sall. *Cat.* 4.2), depending on context. Sallust, for example, modifies the noun with the adjective *mala*, calling it “evil ambition.”

⁷² I discuss the difficulty of determining how bribery functioned in chapter two.

⁷³ See n. 43 above.

Just as in the ancient Greek *poleis*, the giving of gifts and services (εὐεργεσία in the Greek world, *beneficia* in the Roman Republic) was an acceptable and necessary canvassing practice, as the *Commentariolum Petitionis*, a guide to electoral canvassing allegedly written by Quintus Cicero for his brother, makes clear.⁷⁴ Quintus emphasizes that it is important for a candidate to show *benignitas* (generosity) to gain the support of the *populus Romanus*.⁷⁵ He describes what this generosity should entail:

*benignitas autem late patet. est in re familiari, quae quamquam ad multitudinem pervenire non potest, tamen ab amicis si laudatur, multitudini grata est; est in conviviis, quae fac et abs te et ab amicis tuis concelebrentur et passim et tributim; est etiam in opera, quam pervulga et communica, curaue ut aditus ad te diurni nocturnique pateant, neque solum foribus aedium tuarum sed etiam vultu ac fronte, quae est animi ianua... homines enim non modo promitti sibi, praesertim quod de candidato petant, sed etiam large atque honorifice promitti volunt.*⁷⁶

Although the author of the *Commentariolum* continues to elaborate on the role of generosity in electioneering, this passage nicely summarizes the late Republican attitude towards the giving of gifts and favours during canvassing. These practices are here clearly regarded as legitimate. The author's guidelines to effectively making promises and his continual warnings that a candidate

⁷⁴ Lintott 1990, 1-4; Riggsby 1999, 21-27; Yakobson 1999, 201-203; Hölkeskamp 2010, 35, 49-50; Rosillo López 2010, 20-21. On the authenticity of the *Commentariolum Petitionis* itself, see Morstein-Marx 1998, 260-261: It is probable that it was written by Q. Tullius Cicero, and if it was not, it is still such a well formed fabrication that "it remains a first-rate source for late-Republican electoral politics."

⁷⁵ Cic. *Comm. Pet.* 41.

⁷⁶ Cic. *Comm. Pet.* 44: "And generosity stretches out widely. It stems from your household wealth, since although this wealth is not able to reach the masses, if it is still praised by your friends, it will be pleasing to them. Generosity is found in public banquets, which you and your friends should make sure are often celebrated all over, tribe by tribe. Generosity is found in services, which you should make publicly known and inform others of, and you should ensure that you are approachable both during the day and night, not only by leaving the doors of your home open but with your facial expressions and forehead, which is the gate of the soul... For people do not just wish for you to promise them things, especially when they seek promises from a candidate, but for you to make promises generously and respectfully."

must show enthusiasm and respect to the masses also suggest that *benignitas* was a common enough custom that canvassers might compete with each other to provide benefits to individuals. After all, the implication of this passage is that if a canvasser was not sufficiently lavish or enthusiastic, he would lose electoral support to a more generous competitor.

Other late Republican sources confirm the necessity of *benignitas*, a point which I explore more in more detail in chapter two. Cicero claims in the *De Republica* that the wisest and most powerful of senators during the early Republic maintained their influence because they used private resources, including their wealth (*re*) to protect the masses.⁷⁷ According to Sallust, in 75 B.C., the consul Caius Cotta delivered a speech to the people in which he attempted to exonerate himself of blame for a corn shortage. He emphasized his services to the people throughout his career and stressed that he had granted his oratory (*lingua*), counsel (*consilio*) and money (*pecunia*) to whoever asked.⁷⁸ All three of these passages show that *benignitas* meant not only gift giving but also the granting of services. Most importantly, some of the specific practices described and recommended in the *Commentariolum* were also forbidden by Marcus Cicero under his *lex Tullia* of 63 B.C., in the passage cited above. This law, for example, forbade that places at meals be given out to the masses, particularly tribe by tribe.⁷⁹ Although it could be argued that the *Commentariolum* predates the *lex Tullia* and that definitions of corruption had

⁷⁷ Cic. *Rep.* 2.59.

⁷⁸ Sall. *Hist.* 47 (44).4.

⁷⁹ Cic. *Mur.* 67; also see Cic. *Planc.* 47, in which he chides the prosecution: “*noli tollere ex ordine nostro liberalitatem*” (“do not take from our order our legitimate generosity”).

shifted in the intervening period, passages from Cicero's *Pro Murena*, delivered after the adoption of the law, similarly condone this canvassing behaviour.⁸⁰ Not only was generosity therefore a necessary aspect of Roman canvassing, but the line between *benignitas* and *ambitus* was clearly ambiguous.⁸¹

***Ambitus* and the Corruption Paradigm**

Herein lies where the difficulty in defining a strict division between public and private in the late Roman Republic arises. The above passages all show that it was acceptable to use private resources in exchanges that both benefitted the recipient of a gift or service privately and secured the advancement of an aristocrat through the public sphere. In the late Republican mindset, this process does not imply the perversion or subversion of the public sphere by the private, nor a violation of the duties imposed by the Roman state on canvassers and magistrates, any more than it does in modern Botswana.⁸² As argued above, modern definitions of corruption are based on the “twin bodies” approach to public and private, according to which the mixing of the two is viewed as contamination and corruption. The above passages show that private *benignitas* or *ambitus* were essential to public elections, and that Romans did not perceive their practice as the private sphere's contamination of the public good.

⁸⁰ Cic. *Mur.* 73-78. If the *Commentariolum* is legitimate, it was written in 64 before Cicero campaigned for the consulship. See Morstein-Marx 1998, 260-261.

⁸¹ Walter 2010, 160-161 on the difficulty in distinguishing between the two.

⁸² As per the definition of Molem Seña (2000, 25-26, cited by Rosillo López 2010, 17).

Indeed, the relationship between private and public spheres was more complex. As Polybius' description of a Roman funeral most clearly shows, the private benefits of a successful political career could also be beneficial to the public.⁸³ According to Polybius, during this procession a member of the deceased's family would publicly recount the accomplishments and virtues of his life. At the same time, actors or possibly clients of the family would wear the *imagines* (death masks) of the family's ancestors, dress in full costumes, marked by the variations on their togas to indicate which magistracies each ancestor had held, and remind the Roman people of the achievements of those long dead.⁸⁴ Polybius emphasizes that these funeral processions served an important public role; in particular, they inspired young men to great deeds and sacrifice in warfare for the public good. Yet they also promoted a specific family and were opportunities for aristocrats from each family to accumulate symbolic capital to be used in electoral politics.⁸⁵ For example, in 69 B.C., Caesar promoted his career during the funeral procession of his aunt Julia by displaying *imagines* of Gaius Marius for the first time since the end of Sulla's dictatorship.⁸⁶ He thus restored the memory of Marius' magistracies and achievements to the public while at the same time displaying his connection to Marius and his opposition to those who had benefited from Sulla's regime.

⁸³ Polyb 6.53-54. On Roman funerals and Polybius' description of them, see Toynbee 1971, 43-56; Scullard 1981, 218-221; Nicolet 1980, 346-352; Gruen 1991, 251; Flower 1996, 91-93, 97-114; Sumi 1997, 80-81; Hölkeskamp 2010, 113-115.

⁸⁴ Flower (1996, 99-100) emphasizes that those wearing the *imagines* were not family members; see Diod. 31.25.2.

⁸⁵ Gruen 1991, 251; Flower 1996, 61-69; Sumi 1997, 80; Hölkeskamp 2010, 108-109, 113-115.

⁸⁶ Plut. *Caes.* 5.

Funerals provide an example of the fluidity of private and public boundaries in Republican politics.

Corruption in the Republican mindset was not, therefore, simply a matter of the overlapping of public and private. Rather, the mixing of public and private was seen as a problem only when an act that was clearly both bad and private subverted an act that was good and public.⁸⁷ Thus, according to Cicero and Sallust, private wealth itself did not subvert political life during the late Republic, but rather private *luxuria* and *avaritia*, words with explicitly negative connotations.⁸⁸ For example, Sallust writes that “*igitur ex divitiis iuventutem luxuria atque avaritia cum superbia invasere; rapere, consumer, sua parvi pendere, aliena cupere, pudorem, pudicitiam, divina atque humana promiscua, nihil pensi neque moderati habere.*”⁸⁹ Sallust thus attributes the political and moral decline of the Republic to inherently destructive concepts. *Avaritia* can lead to the improper mixing of public and private, as he notes when he complains that it causes men of his time rob the allies of the Roman people, but the mixing itself is not the problem.⁹⁰ Republican conceptions of public, private and of the appropriate mixing of the two were radically different from our own. *Ambitus* was ambivalently tied to the socially

⁸⁷ Berry 1994, 83-86; Bratsis 2003, 14-15.

⁸⁸ Conley 1981; Levick 1982; Berry 1994, 84-86.

⁸⁹ Sall. *Cat.* 12.2: “Therefore because of wealth, luxury and greed took hold of our youth, along with arrogance; they pillaged, consumed, gave little value to their own things, desired the possessions of others, thought nothing of shame, chastity, all things human and divine, nor did they hold any moderation.” Similarly, see *Cat.* 10.4: “*avaritia fidem, probitatem ceterasque artis bonas subvertit; pro his superbiam, crudelitatem, deos neglegere, omnia venalia habere edocuit*” (“for greed subverted faith, honesty and other good qualities; in place of these it taught arrogance, cruelty, to neglect the worship of the gods and to hold all things for sale.” C.f. Cic. *Tusc.* 3.17; *Off.* 2.12.

⁹⁰ Sall. *Cat.* 12.5.

acceptable *benignitas* and the bestowal of *beneficia* and thus does not have the same inherently negative force as “*avaritia*” and “*luxuria*.” Just as in the case of the Roman funeral, the blurring between public and private caused by *ambitus* could have positive effects. Applying our modern division between public and private to *ambitus* in the Republic is therefore anachronistic, and should not be taken as evidence that *ambitus* was a form of corruption.

The final reason for which Rosillo López considers *ambitus* to be a form of corruption is that the Romans adopted legislation condemning it. There were certainly many laws proposed and adopted against *ambitus*, particularly in the late Republic, and I explore the reasons for their proposal and adoption in chapter three. For the moment, it is important to note that legality mainly informs Rosillo López’s distinction between corrupt and non-corrupt acts.⁹¹ However, just as we must be cautious when examining corruption in the developing world, we should be wary about automatically assigning ancient laws the same force that they hold in modern developed states. We should similarly not assume that the illegality of an act normatively defines that act as illegitimate or corrupt. Summarizing the common modern approach to Roman public law, Mousourakis has concluded that in the late Roman Republic, “legislation was employed to deal with specific problems rather than establish the rules and principles governing social policy or constitutional arrangements in a comprehensive and permanent manner.”⁹² The

⁹¹ See Rosillo López 2010, 21: “Les pratiques sociales des Romains incluaient des cadeaux, des faveurs et d’autres types d’aide; ces usages se retrouvent aussi dans le cadre politique. Nous ne pourrions cependant pas classer ces pratiques comme de la corruption politique; elles étaient légales, tout comme l’étaient les prêtres.”

⁹² Mousourakis 2007, 58; similarly: Williamson 2005, 30-34, 387. Also c.f. Watson 1995, 117-123, especially 123: “The Romans were not interested in systematizing the law.”

presence of *ambitus* laws does not entail that they normatively defined the practice as corrupt.⁹³

Ambitus might instead fit into what has been called “the grey area”, an act or concept which is not corrupt but which is still considered questionable, for whatever reason.⁹⁴ Rosillo López has herself noted the existence of a grey zone in the Roman Republican mentality and applied it to the *coitio*.⁹⁵ A *coitio* was a Roman electoral practice in which two candidates formed an informal alliance and shared resources in order to ensure they were both elected or to block another candidate’s election.⁹⁶ *Coitiones* were never declared illegal, but our sources still present them unfavourably. Livy’s description of the *coitio* formed against Cato the Elder during the censorship elections of 185 B.C. provides an example.⁹⁷ Livy notes that all of the nobility with the exception of Valerius Flaccus attempted to block Cato’s election both because of his status as a *novus homo* and because of the expected strictness of his censorship, despite Livy’s opinion that he was the most honest and qualified of all candidates.⁹⁸ In his speech against Verres in 70 B.C. Cicero similarly accused Verres of using his resources to support Lucius Metellus’ bid for the praetorship and Hortensius’ for the consulship so that they would ensure Verres’ acquittal in his extortion trial.⁹⁹

The implication is that it was disapproved of to form a *coitio*, most notably because it could lead to the unfair exclusion of suitable candidates from office or

⁹³ Philp (1997, 452) on the need to not rely on norms or laws in defining political corruption.

⁹⁴ Lowenstein 1989, 29-30.

⁹⁵ Rosillo López 2010, 19-20.

⁹⁶ On the *coitio*: Taylor 1964, 64; Hall 1964, 301-306; Yakobson 1999, 151.

⁹⁷ Liv. 39.40-41; c.f. the treatment of the *coitio* formed against Cicero during the consular elections of 64 by Antonius Hybrida and Catiline (Asc. 82-83C).

⁹⁸ Liv. 39.40.5-7, 39.40.11-12.

⁹⁹ Cic. *Verr.* 1.18-19, 27-29.

lead to illegitimate favours.¹⁰⁰ Nonetheless, there is evidence that *coitiones* were routinely formed and that they were often considered an acceptable means of canvassing. In a letter to his brother Quintus, Cicero denies a rumour that he had formed a *coitio* with several consular candidates, but states that he declined not because *coitiones* themselves were ethically problematic, but because the bargains struck in this specific *coitio* were not favourable; he later implies that he would have joined such a *coitio* if another consular candidate, Marcus Messala, had been involved.¹⁰¹ One possible objection to this type of argument is that our sources do not represent the majority opinion. That is, the *coitio*, while legal, might still be viewed as morally wrong by non-senators. They might not have viewed it from the same mindset of practicality as Cicero, just as modern politicians are often judged for being tied legally to lobby interests. This is a fair point, and it is worth stating that practices such as forming *coitiones* and *ambitus* were still criticized, though due to the nature of our sources it is impossible to determine what the majority or non-elite opinion was. As I argue in chapters two and three, however, this disapproval stemmed from practical considerations, not moral or ethical ones.

Like *ambitus*, *coitiones* blurred the lines between public and private, as aristocrats privately funded each other's campaigns to prevent a candidate's electoral victory or ensure another candidate's success for their own benefit. *Coitiones* also veered between legitimacy and illegitimacy. Disagreements stemmed from the interests of the individual, just as the judgment whether an act

¹⁰⁰ Hall 1964, 303-306.

¹⁰¹ Cic. *Ad. Q. Fr.* 3.1.16. Similarly, in the same passage in which Livy describes the *coitio* against Cato, he suggests that Cato formed a *coitio* with Flaccus, yet a positive one since their focus was on restoring the ancient character of the Roman people and censuring new vices, rather than excluding another candidate from office: Liv. 39.40.4.

was *benignitas* or *ambitus* often did. The chief difference between the formation of *coitiones* and *ambitus*, and the reason why Rosillo López cites the latter as a form of corruption but not the former, is that the Romans adopted legislation against *ambitus* but not against *coitiones*. I stress again that the presence of legislation in the Roman Republican context should not be taken as key evidence that a practice was considered corrupt. *Ambitus*, like the *coitio*, should be considered a legitimate but still questionable act, its benefits and ambivalent nature placing it in the grey area of Republican political culture.

Conclusion

The paradigm of corruption is therefore not useful for analyzing *ambitus* in the Roman Republic. As studies of the modern developing world have noted, it is not appropriate to apply our conceptions of legality, public and private, and corruption to other societies, and perhaps especially, as in the case of the Roman Republic, to pre-modern societies whose political culture was governed by a fundamentally different set of assumptions and “rules.” Although a Roman conception of public and private did exist, it was not sufficiently rigid so that *ambitus* could be considered a perversion of the public sphere by the private or even a solely private act. In addition, *ambitus* itself, which should be defined as an exaggeration of typical canvassing practices, was too closely associated with the socially and legally acceptable *benignitas* and the bestowal of *beneficia* to be considered a form of corruption; just as in Botswana, a pre-modern state like ancient Rome depended on these interactions for societal cohesion. Similarly, the existence of laws and moral invective against *ambitus* does not imply that the

practice was normatively condemned as corruption. Nor should scholars treat Roman laws against *ambitus* as anti-corruption laws in the modern, Western sense. Like *coitiones*, *ambitus* belonged to a grey area between acceptability and condemnation in the Roman Republican mentality.

But should we then conclude, as Lintott does, that “in the Roman view the crime of bribery indeed depended on who was doing the bribing?”¹⁰² If Lintott is correct, accusations of *ambitus* were purely methods for aristocrats to damage the careers of political rivals.¹⁰³ In this view, there was nothing “wrong” with *ambitus*; everyone engaged in the practice and it was essentially an exaggerated form of *benignitas*. There is some truth to Lintott’s argument, but it is ultimately unsatisfactory. The amount of invective and legislation against *ambitus* suggests that it was problematic in some way. But if *ambitus* was not actually viewed as a moral problem or a form of corruption, despite the invective, what was the role of *ambitus* in the late Roman Republic, and did it have any social functions? Similarly, why would any senator propose a law against it or try to restrict it? I will attempt to answer these first two questions in the next chapter, and then by analyzing legislation against *ambitus* in chapter three, to argue that there were practical reasons to regulate it.

¹⁰² Lintott 1990, 16.

¹⁰³ For this conception of the Roman courts, see Gruen 1968.

Chapter II

The Role of *Ambitus* in Late Republican Politics

The role of *ambitus* in the late Roman Republic is tied to a difficult and long noted problem. Over the past few decades, some scholars have argued that the Roman Republic was essentially a democracy and thus that citizens of all classes were able to, and in fact did, did affect policies and elections through participation in *contiones* and electoral and legislative assemblies, such as the *comitiata centuriata* and *concilium plebis*.¹⁰⁴ Among the first and strongest proponents of the Roman democracy thesis is Fergus Millar, who stated: “it is undeniable that the constitution of the Roman republic was that of a direct democracy.” If the Roman political system was effectively democratic, then *ambitus* can be interpreted as simply as one, direct method for winning votes. That is, aristocrats would provide gifts, money and services to voters. This process would encourage the poor, who might otherwise be unable to participate in elections due to economic limitations, to attend assemblies and vote for them.¹⁰⁵ Gift giving and *ambitus* would have acted as a form of remuneration for the poorer classes in exchange for democratic participation, just as it had in classical Athens, or at least as an incentive to vote for an individual candidate.¹⁰⁶

¹⁰⁴ Yakobson 1992; Millar 1995, 94, 112-113; Millar (1998, 38) on the existence of a “crowd” in Rome which consistently participated in late Republican politics; Tan 2008, 187; Wiseman 2009, 1-32; for the participation of Italian farmers in Roman electoral politics after the Social War, see Rees 2009.

¹⁰⁵ Riggsby 1999, 26-27.

¹⁰⁶ On remuneration and democracy in classical Athens: Markle 1985, 277-282; Sinclair 1988, 129-130; Ober 1989 134-136, 143.

As Millar puts it, “office could in fact not be gained without election, preceded by the well-known processes of *ambitus*.”¹⁰⁷

Yet if the votes of the urban *plebs* and of the poorer classes were insignificant, as critics of the democracy thesis claim, then the existence of widespread *ambitus* is more difficult to explain. As Yakobson correctly questions:

Why then did the candidates consider the urban *plebs* worth bribing? How can we account for the money and energy spent, and the dangers incurred, by the candidates for higher office in Rome in pursuit of the support of the urban *plebs*, if this support did not seriously affect the outcome of the elections? If the votes of the common people were worth as little as is usually supposed, then those members of the Roman ruling class who courted them with money, 'bread and circuses', spending huge sums and sometimes risking criminal prosecution, appear to have made a remarkably poor bargain.¹⁰⁸

Indeed, it is this *ambitus* paradox that spurs Yakobson to argue that the urban *plebs* must have significantly participated in the centuriate assembly. After all, it is unlikely that canvassers usually courted wealthier voters with *ambitus*, since the rich would have less need to consistently change their vote in exchange for gifts or remuneration, though it is clear there were some exceptions to this rule.¹⁰⁹ However, if elections were basically undemocratic, with political power resting exclusively in the hands of wealthy elite, then reports of *ambitus* in our sources may be sensationalist and exaggerated, as Nicolet argues.¹¹⁰ In this chapter I offer a different solution. It is my position that the lower classes at Rome were both essentially disenfranchised and that *ambitus* was extensive in the later

¹⁰⁷ Millar 1995, 94-95.

¹⁰⁸ Yakobson 1992, 32; Yakobson 1999, 22-26; Lintott (1990, 11) and Morstein-Marx (1998, 261-262) also note the problem.

¹⁰⁹ Shatzman 1985, 88-90. For arguments against the wealthy being recipients of *ambitus*: Lintott 1990, 11; Mouritsen 2001, 115-116; Yakobson 1999, 23-24.

¹¹⁰ Nicolet 1976, 401-424, esp. 403.

Roman Republic. This is because the purpose of *ambitus* was not to encourage poorer voters to vote for a candidate. Rather, *ambitus* was a necessary means for candidates to establish their wealth and senatorial status to the electorate and to maintain social cohesion by appealing to the symbolic power of the *populus Romanus* and by granting them economic benefits through the electoral process.

Elections and Democracy

The debate over whether or not late Republican Rome was democratic is beyond the scope of this chapter. Nevertheless it will be argued briefly that despite the ideological importance of the sovereignty of the *populus Romanus*, the Republic granted little electoral power to the lower classes. Much research on the political nature of the Roman Republic has concluded that the Republic's nature was essentially oligarchic.¹¹¹ Mouritsen, responding to the arguments of Millar that the urban *plebs* played an important role in the Roman political process, has argued that it was not economically feasible for most urban *plebs* to attend *contiones* and *comitia*. He has proposed instead that the majority of participants in Roman politics were *boni* and *equites*, those with considerable economic resources but without the power of political office.¹¹²

¹¹¹ Beard and Crawford 1985, 51-52, though they caution that this conclusion should not be overestimated; Harris 1990; North 1990, esp. 18: "The popular will of the Roman people found expression in the context, and only in the context, of divisions within the oligarchy; Hölkeskamp 1993; Mouritsen 2001; Morstein-Marx 2004, 279-287; Ward 2004; Sumi 2005, 1-46, esp. 6; Jehne 2006a, 234; Hölkeskamp 2010.

¹¹² Mouritsen 2001, 42, 44-45, 60. He bases this argument on several statements of Cicero's in which it is implied that the *boni* dominated the Forum and were more likely to attend *contiones* and participate in politics. So, comparing the Greek *agora* to the Roman forum, Cicero (Cic. *Flacc.* 57) claims that the Forum was "*plenum iudiciorum, plenum magistratuum, plenum optimorum virorum et civium*" ("full of justice, full of magistrates, full of the best men and citizens"); similarly, see Cic. *Att.* 2.18.1, where Cicero writes that Curio, a defender of the power of the senate, is routinely greeted and cheered by the *boni* in the Forum. Other examples: Cic. *Att.* 2.21.4,

It is true that this conclusion is overstated. It seems that there was some level of popular participation in the elections, especially in the *contiones*, during the late Republican period. Indeed, Cicero claims in a letter to Atticus that a contional audience that had recently supported him was composed of the “filth and shit of the city.”¹¹³ Still, Mouritsen is right to emphasize the economic limitations influencing the political participation of the *populus*. As Brunt argues, the attention ancient authors have placed on the grain dole as the sole means for the poor to be able to support themselves is mistaken.¹¹⁴ It is likely that the majority of the urban *plebs* would have had to work each day to ensure economic survival. This is why *populares* like Gaius Gracchus often created great building projects in order to create work for the poor.¹¹⁵ Additionally, unlike in Athens, there was no financial remuneration for political participation in the Republic’s electoral process.¹¹⁶ These economic conditions would have prevented most of the working-class *plebs* from consistently participating in Roman elections.

We hear the most about *ambitus* in the *comitiata centuriata*, the electoral assembly that elected Rome’s chief magistrates.¹¹⁷ Yet it is not clear whether the

where those frequenting the forum gather to read the decrees of Caesar’s enemy, Bibulus; Cic. *Q. Frat.* 2.3.4, where the “*contionarius populus*” is discussed alongside the *nobilitas* and the senate.

¹¹³ Morstein-Marx 2004, 128-130; Cic. *Att.* 1.16.11, where he notes his standing “*apud sordem urbis et faecem*,” whom he later associates with “*illa contionalis hirudo aerari*.”

¹¹⁴ E.g. Cass. Dio, 38.13.1-2, who claims that to win over the populace Clodius began the distribution of free corn; Suet. *Aug.* 42.3 similarly claims that the grain dole led to the neglect of agriculture, implying that there was no need for the poor to continue working. Brunt 1980, 97-98; c.f. Yavetz, 1958, 500-517.

¹¹⁵ On Gracchus and his building projects, which were intended to put “contractors and workmen in his debt,” see App. *B. Civ.* 1.23.

¹¹⁶ On Athenian assembly pay, see Markle 1985, 265-297; on the lack thereof at Rome: Mouritsen 2001, 60.

¹¹⁷ References to *ambitus* in consular and praetorian elections are probably more prevalent because our sources focus on these more important elections more than they do on those for the tribunate of the plebs, the quaestorship and the aedileship. This does not suggest, however, that candidates for these lower magistracies did not commit *ambitus*, as Cicero’s *Pro Plancio* shows.

poorer classes were able to exercise much power in this assembly. Traditionally, scholars have argued that voting power in the *comitiata centuriata* was slanted heavily towards the wealthy.¹¹⁸ This interpretation is based on descriptions of the creation of the assembly by the legendary king Servius Tullius in several of our sources, especially Livy, Dionysius of Halicarnassus and Cicero.¹¹⁹ Although some details in their accounts are contradictory, their overall analyses are similar, and all three emphasize that the centuriate assembly granted more voting power to the wealthy rather than the majority. These authors state that Servius Tullius divided all Roman citizens according to seven property qualifications, and then into 193 centuries.¹²⁰ Every century counted for one vote, which would be determined by the majority opinion of each. The wealthiest property class, the *equites*, was given eighteen centuries, while the second to wealthiest, the first class, was granted eighty. Together, the *equites* and the first class constituted a majority of the votes, and could theoretically decide any election without there being need to consider the votes of the lower classes.¹²¹ Meanwhile, the poorest class, the *proletarii*, composed of those with minimal property and wealth, were granted only one century, despite the fact that in numbers they were either greater than the first class (according to Cicero) or than all the other classes put together (according to Dionysius).¹²² Since it is most likely that these authors derived this

¹¹⁸ For examples of this view, see Brunt 1966, 6; Taylor 1966, 85-106; Wiseman 1971, 125; Gruen 1974, 122; Veyne 1976, 425; Rich 1983, 305-316; Vanderbroeck 1987, 163; Lintott 1990, 11; Cornell 1991, 53.

¹¹⁹ Liv. 1.42.4-43.13; Dion. Hal. *Ant.* 4.16-21, 7.59.2-8; Cic. *De Rep.* 2.39-40.

¹²⁰ Dionysius, Cicero and Livy disagree on the exact number of centuries, and it is Cicero's evidence which provides the figure of 193; on the likelihood of this figure being correct, see Taylor 1966, 88-89.

¹²¹ Liv. 1.43.12 stresses that the votes of the lower classes were rarely counted.

¹²² Cic. *De Rep.* 2.40; Dion. Hal. *Ant.* 4.18.2.

narrative from the organization of the centuriate assembly in the late Republic and early Principate, the period in which they were all writing, scholars have concluded that late Republican consular and praetorian elections were decided by the wealthy.

Yakobson and Millar have both challenged this view. Yakobson, as already noted, has claimed that it is improbable that consular and praetorian candidates would consistently bribe and give gifts to poorer voters whose votes were meaningless.¹²³ He further points out correctly that the Roman elite were consistently divided during elections, making it unlikely that all the centuries of the *equites* and first class would have unanimously voted for the same candidates and decided elections by themselves.¹²⁴ The extremely competitive nature of Roman elections, coupled with the divergent loyalties and interests of elite voters, likely prevented the wealthy from ever dominating elections in the way that Cicero, Livy and Dionysius of Halicarnassus suggest they did.¹²⁵ Finally, both Yakobson and Millar argue that our evidence supports the idea that politicians appealed to poorer urban voters in particular in consular and praetorian elections.¹²⁶ They cite Cicero's claim that he owed his consulship to his popularity

¹²³ Yakobson 1992, 32-35; Millar 1998, 203; Yakobson 1999, 22-26.

¹²⁴ Yakobson 1992, 45-46. Yakobson also suggests that the census requirement to vote in the first class was the relatively low figure of HS 25,000 and thus that there was considerable economic diversity in the first class. Evans (1991, 120-124) notes the high number of candidates who often ran for magistracies like the consulship, meaning the vote could generally be split between four to eight candidates. For example, there were likely eight candidates for the year 63 (one of the years that we are best informed of due to Cicero's testimony). For a list of the candidates, see Cic. *Att.* 1.1.2; Cic. *Comm. Pet.* 7-8; Asc. 82C. As Evans argues and Cicero suggests, however, some candidates clearly received low percentages of the vote and were not serious competitors. C.f. Broughton 1991 for a comprehensive list of known defeated candidates for elections.

¹²⁵ Hopkins 1983, 33; Beard and Crawford 1985, 51.

¹²⁶ Yakobson 1992, 44-45; Millar 1998, 37, 203-204, though he less strongly argues for the urban poor's prominent role in consular and praetorian elections, claiming instead that the real influence of the Roman people lay in passing legislation (Millar 1998, 210).

in the forum, as well as his suggestion that Verres must have bought his praetorship, since he had not spent enough time canvassing in the city to have earned it fairly.¹²⁷

The observation that Roman elites would not have consistently voted for the same candidates is a fair one, and the view of the centuriate assembly as completely oligarchic must be nuanced. Yet there are problems with Yakobson's and Millar's arguments. MacMullen, noting the limited size of Roman voting spaces, argues that an average of 2% of citizens voted in each election.¹²⁸ Millar himself provides a similarly small figure of one out of forty-five, a total of 2.22% of the eligible vote.¹²⁹ It is possible that despite economic limitations, a small percentage of the urban poor were able to attend and influence the *comitiata centuriata*, along with other *comitia* and *contiones*. Jehne has recently revived the old idea that there was a *plebs contionalis*, a group of traders, shopkeepers and craftsmen who worked and lived around the Forum area and who were able to be politically active.¹³⁰ Granting his argument that these workers had the means and desire to participate in Roman politics, Jehne's most interesting point is that this small collection of voters was not representative of the city *populus*. There was also no interest or effort to ensure that anyone beyond the elite and this small

¹²⁷ Cic. *Leg. Man.* 1-3; *Phil.* 6.17, 7.7; *Verr.* 2.1.101.

¹²⁸ MacMullen 1980, 454-457; supported by Ward 2004, 111.

¹²⁹ Millar 1998, 37; Mouritsen (2001, 32) argues for an even lower percentage of voter turnout.

¹³⁰ Jehne 2006a, 228-234. The idea originally stems from Meier 1966, 114; see also Vanderbroeck 1987, 161-165; Millar 1998; Morstein-Marx (2004 130-131) argues that the urban plebs dominated *contiones* but that those who attended each meeting would vary. Note that there is no reference to a *plebs contionalis* in our sources, though Cicero does mention a *contionarius populus* (Cic. *Q. Fr.* 2.3.4). Mouritsen (2001, 41) has criticized the idea that there was a consistent *plebs contionalis*, since the behaviour and interests of contional crowds, as described by our sources, vary greatly. He also notes that it was economically infeasible for shopkeepers and craftsmen to consistently abandon work to take part in politics, as noted by Cicero (Cic. *Cat.* 4.17). Similarly, Sallust (Sall. *Iug.* 73.6) suggests that it was unusual that craftsmen and artisans abandoned their work in 108 to support Marius.

percentage of urban voters participate in politics, or any attempt to remunerate poorer voters for participation, aside from *ambitus*.¹³¹ The participation and influence of this small fraction of an already tiny percentage of potential electoral voters does not suggest that consular and praetorian elections were democratic, or explain the consistent presence of widespread *ambitus*.

This returns us to Yakobson's observation on the problems of conceptualizing *ambitus* in an essentially oligarchic society. If, as I have argued, elections were not democratic, then why would candidates commit to extensive gift giving and *ambitus*? I argue that the answer can be formulated if recent reconstructions of Roman Republican political culture are put to use. These analyses emphasize both the symbolic power of the ideology of a sovereign *populus Romanus* and the complex set of unspoken rules governing aristocratic behaviour in electoral politics which maintained social and class cohesion.¹³² In the next section of this chapter I will summarize this understanding of Roman political culture and address criticisms that have been leveled against it. According to my interpretation, *ambitus* played a largely symbolic role, becoming an indispensable method for a candidate both to emphasize the theoretical importance of the people and to assert his own status in the senatorial class and suitability for public office.

¹³¹ Ward 2004, 110; Jehne 2006a, 234.

¹³² Jehne (2006b, 14-23) has already provided an excellent analysis of the political culture turn in modern Roman historiography.

Aristocratic Consensus and the Symbolic Role of the *Populus Romanus*

K.-J. Hölseskamp has argued that the Roman Republic relied on the fiction of popular and aristocratic consensus, a consensus ingrained in the political culture of the Republic.¹³³ According to this interpretation, political culture has both a rational dimension with concrete agendas, and a cognitive side that “has symbolic, affective and aesthetic dimensions that together underwrite, permanently reproduce, and renew the legitimacy of the political system on the ‘surface’ and ensure its acceptance by assuring its ‘meaning’ and ‘sense.’”¹³⁴ This reconstruction of the Republican politics, largely based on the work of German sociologist Georg Simmel, emphasizes the ways in which political structures and symbols reinforced social hierarchies and maintained societal and class cohesion.¹³⁵ Hölseskamp also stresses how the acceptance of formal and informal rules regulating competition caused Roman elites to continue to “buy in” to the Republican electoral system despite individual defeats and losses.¹³⁶ Meanwhile, rituals that both communicated elite dominance and stressed the sovereignty of the Roman people assured their continued obedience to the elite. At the same time, the Roman aristocracy placated the *populus* by reinforcing their symbolic importance to Roman society.¹³⁷

Legislative and electoral assemblies, for example, reinforced popular ideology as well as the hierarchy of Roman society.¹³⁸ Each assembly followed a

¹³³ Hölseskamp 2010, 104-105; also see Williamson 2005, 275, 358.

¹³⁴ Hölseskamp 2010, 55; Muir 1981, 5ff on this concept in Victorian England.

¹³⁵ Simmel 2009, esp. 205-207, 648-651.

¹³⁶ Hölseskamp 2010, 104.

¹³⁷ Hopkins and Burton 1983, 114; Jehne 2006b, 21; Hölseskamp 2010, 53-75.

¹³⁸ Purcell 1994, 645; David 2000, 22; Sumi 2005, 46; Hölseskamp 2010, 60-61.

ritualized set of rules and procedure.¹³⁹ Whether divided into centuries or tribes, as each citizen cast his vote, he reaffirmed his right to participate in the Roman political process and thus the belief that the Roman people were sovereign. This idea of sovereignty, which was also tied to the ideology of equality between all Roman citizens, was particularly reinforced in the *comitiata tributa* and the *concilium plebis*, in which citizens were organized geographically and the tribes voted in a random order, selected by lot at the beginning of each assembly. The voting procedures of the *comitiata centuriata*, however, reinforced the hierarchical nature of Roman society. Each citizen was organized according to his wealth and rank and each citizen's vote was granted different weight based on the level of his rank. Through this process, every citizen was granted a place in the Republic's social hierarchy and was able to determine how to interact with citizens of superior, inferior and equal classes. Different assemblies communicated contradictions in Roman political culture: Both the equality and inequality of every Roman citizen.¹⁴⁰

In particular, assemblies affirmed elite dominance over the *populus Romanus*. Candidates seeking election to the curule magistracies were all members of the wealthier classes and members or potential members of the political elite.¹⁴¹ Only elected magistrates could convene legislative assemblies and introduce legislation, and the only public discussion of this legislation occurred in the senate; the people were never granted power to debate or modify

¹³⁹ Taylor (1966) provides the best summary. See also Sandberg (2001, 1-7).

¹⁴⁰ Beck (2006) provides a similar analysis of Republican triumphal, funeral and circus processions.

¹⁴¹ Hölkeskamp 2010, 93.

laws, only to vote on their rejection or adoption.¹⁴² Even *contiones*, meetings that were supposed to offer discussion of legislation and electoral candidacies, allegedly enabling popular participation, had to be convened by a magistrate or candidate.¹⁴³ Morstein-Marx and Mouritsen have further shown that these magistrates could easily stifle any democratic debate and use their *contiones* as rallies to emphasize their own popularity, as Cicero attests in his descriptions of several *contiones*.¹⁴⁴ Assemblies and *contiones*, despite offering the Roman people the potential to exercise political influence, reinforced the political superiority of the Roman aristocracy and framed political discourse in the context of elite rivalries and disagreements.

Yet the *populus Romanus* retained great ideological and symbolic importance.¹⁴⁵ Cicero claims that “*tribus locis significari maxime de (re publica) populi Romani iudicium ac voluntas potest, contione, comitiis, ludorum gladiatorumque consessu.*”¹⁴⁶ Aristocrats giving speeches at *contiones* seem to

¹⁴² Lintott 1999, 40-41; Mouritsen 2001, 63-64.

¹⁴³ For the democratic interpretation of the *contio*, see in particular Millar 1995, 112-113; Tan 2008, 187.

¹⁴⁴ Mouritsen 2001, 8-16, 49-54; Morstein-Marx 2004, 120-122. E.g. Cic. *Cluent.* 130: “*Iactata res erat in contione a tribuno seditioso; incognita causa probatum erat illud multitudini; nemini licitum est contra dicere; nemo denique ut defenderet contrariam partem laborabat*” (“the affair had been brought forth in the *contio* by a seditious tribune; although his reasoning was unknown, he was approved by the multitude; it was permitted to nobody to speak against him; nobody at last tried in order to defend the contrary position”). C.f. Cic. *Agr.* 3.1 which notes that Servilius Rullus and other tribunes of the plebs held their own *contio* in 63 to defend their land reform legislation rather than debate Cicero at his own *contio*. Similarly, Cicero (Cic. *Har. Resp.* 5; Morstein-Marx 2004, 131-132 on the incident) suggests it was unusual for a magistrate’s own *contio* to become hostile to him when he writes that an assembly called by Clodius, “even his own *contio* mocked him” (“*etiam sua contio risit hominem*”). It was generally not in an aristocrat’s interest to attend hostile *contiones*, since he risked humiliation and violence. For example, Asc. 58C records that those who attended the *contio* of the tribune Cornelius in 67 broke the fasces of the consul Piso and threw stones at him when he voiced his opposition to Cornelius’ *ambitus* plebiscite. Even Tan (2008, 176) admits that *contiones* could often be partisan and rarely produce real debate.

¹⁴⁵ Sumi 2005, 6-7.

¹⁴⁶ Cic. *Sest.* 106: “The judgment and will of the Roman people are able to be expressed in three places: In the *contio*, in the elections, and in the assembly of the games and gladiators.”

have consistently claimed not only to represent the *populus Romanus*, but also that the *populus Romanus* attended their *contiones*. All the while they disparaged the audiences of their opponents.¹⁴⁷ For example, Cicero states that men like his political rival Clodius “*conductas habent contiones, neque id agunt ut ea dicant aut ferant quae illi velint audire qui in contione sunt, sed pretio ac mercede perficiunt ut, quicquid dicant, id illi velle audire videantur.*”¹⁴⁸ Yet Cicero later contrasts this type of *contio* with one organized by the consul Publius Lentulus on his own behalf against the attacks of Clodius, claiming that the *populus Romanus* had attended and that from their silence one could tell that nothing so popular had ever been said.¹⁴⁹ Similarly, Cicero calls those who attended Appius Claudius’ *contiones* against Cicero hirelings, while Claudius referred to them as them as the true *populus Romanus*.¹⁵⁰ Finally, the crowd at a *contio* called by M. Caelius in defence of Milo is referred to by Cicero as the *populus Romanus*, while Appian calls them a mob of slaves and bribed urban citizens.¹⁵¹ It is clear that aristocrats found it important to maintain the perception that they represented the Roman people while their opponents did not.

This is because, as Hölkeskamp has argued, the acquisition of status within the ruling class stemmed from political decision making and military success and therefore from holding political office, which the *populus* alone had

¹⁴⁷ Morstein-Marx 2004, 120-122; Lintott 1999, 206.

¹⁴⁸ Cic. *Sest.* 42, 104: “(Men like Clodius) hold packed *contiones*, and they do not act thus in order to say or propose those things which those who are attending in the *contio* wish to hear, but they make it appear this way through bribes and cash in order that, whatever they say, those who attend might appear to want to hear those things.”

¹⁴⁹ Cic. *Sest.* 106-107.

¹⁵⁰ Cic. *Sest.* 126.

¹⁵¹ Cic. *Mil.* 91; App. *B. Civ.* 2.22.

the power to confer through elections.¹⁵² As he notes: “Elections – controlled, predictable and even manipulated though they were – were thus absolutely vital for the competition within the aristocracy. What is more, the necessity of winning popular support intensified the inherent competitiveness of the group.”¹⁵³ The *populus Romanus* was symbolically powerful because it theoretically attributed power. This is in fact the role that Jehne assigns the *plebs contionalis*. Although he argues that this group was not representative of the Roman people, its presence allowed senators to claim that the Roman political process was public and that the *populus Romanus* was politically active; the *plebs contionalis* symbolically represented the Roman people.¹⁵⁴

It was important that the *populus Romanus* and not the aristocracy be theoretically responsible for bestowing magistracies upon elites, since the degree of conflict and competition in the political class necessitated that political power stem from an outside, neutral group to minimize elite conflict.¹⁵⁵ Although the ability of poorer Romans to participate in and influence consular and praetorian elections remained minimal, it nonetheless remained crucial for the aristocracy to pay respect to the Roman people and to claim its support to emphasize the fairness of elections, maintaining societal cohesion.¹⁵⁶ The sovereignty of the

¹⁵² Hölkeskamp 1993, 30; also see Nicolet 1980, 371ff; Beard and Crawford 1985, 64; Sumi 2005, 3.

¹⁵³ Hölkeskamp 1993, 31.

¹⁵⁴ Jehne 2006a, 234.

¹⁵⁵ Hölkeskamp 2010, 94-95. He further notes (Hölkeskamp 2010, 105) that the Roman practice of only announcing the winners of each election and not the number of votes for or against them reinforced the appearance of unanimity and consensus and attempted to minimize each aristocrat's embarrassment at being defeated.

¹⁵⁶ Morstein-Marx (2004, 229) notes that so called “*optimates*” and “*populares*” equally used this rhetoric. On the problematic nature of these labels in modern historiography, see Robb 2010, 164, though Morstein-Marx is also aware of the difficulties in employing this terminology. Morstein-

populus Romanus was an essential component of Roman political culture, and adherence to this ideology one of the rules governing aristocratic collective behaviour.

Rosenstein provides an example of how these informal rules could maintain aristocratic class cohesion in his study on defeated Roman generals.¹⁵⁷ He concludes that despite the extreme competitiveness of Roman electoral politics and the importance of military victory for an aristocrat's self-promotion, Roman candidates and politicians did not generally seek to criticize their electoral opponents for military defeats, but often blamed the legionaries instead.¹⁵⁸ Thus, senators were able to have successful careers after a military defeat, though there were exceptions to this rule. If Roman commanders betrayed the aristocratic *ethos* through cowardly or immoral behaviour and were then defeated, opponents might then seek to prosecute and attack them.¹⁵⁹ For example, according to Cassius Dio, in 59 B.C. Antonius Hybrida was prosecuted on an unknown charge and was convicted mainly due to the failure of his Thracian campaigns between 62 and 60.¹⁶⁰ The suggestion is that Antonius was particularly blamed because he had disgraced himself with cowardice and alcohol throughout the campaign. Thus, Dio records that Antonius had run away in a battle against the Bastarnae and retired himself and his cavalry when facing the Dardanians, allowing the enemy to overcome his infantry.¹⁶¹ Similarly, one of his prosecutors, M. Caelius Rufus,

Marx's observation is still important, however, because it shows how universal popular rhetoric was. C.f. Cic. *De Or.* 1.225-226 for an example of this universality.

¹⁵⁷ Rosenstein 1990, esp. 114-178; Rosenstein 1992.

¹⁵⁸ Rosenstein 1990, 110-113.

¹⁵⁹ Rosenstein 1990, 140-152.

¹⁶⁰ Cass. Dio, 38.10.1-4, 51.26.5; Liv. *Per.* 103; Gruen 1973 on the trial of Antonius.

¹⁶¹ Cass. Dio, 38.10.1-3.

accused Antonius of remaining asleep throughout a whole battle due to his drunkenness, an accusation whose truth is perhaps supported by Antonius' drunken tendencies throughout his career.¹⁶²

Yet Antonius' fate was the exception rather than the rule. As Rosenstein suggests, this informal rule of governing the behaviour of Roman elites arose due to the increased importance of electoral success to attaining power, caused by the opening of magistracies to plebeians during the Struggle of the Orders and the creation of a new "meritocratic" aristocracy.¹⁶³ So, over the course of the fourth century, the senatorial aristocracy as a whole, noting the risk of military defeat for all its members, attained consensus that military defeats were not to be used in political attacks.¹⁶⁴ The majority of aristocrats could, then, still hope to achieve political success in subsequent elections regardless of their military record, encouraging continued participation in the Republican electoral process.¹⁶⁵ This reaction to military defeats illustrates how the senatorial aristocracy might regulate competition to ensure class coherence. In the same way, consistent rhetorical appeals to the *populus Romanus* assured elites that elections were fair and in the control of a third party.

Yakobson, however, has recently challenged this model of aristocratic supremacy and popular symbolic power.¹⁶⁶ Although he accepts that discourse

¹⁶² Quint. *Inst.* 4.2.123-124; on Antonius' habitual drunkenness, see Rosenstein 1990, 145-146; Cic. *Comm. Pet.* 8; Sall. *Cat.* 21.3; Asc. 83C-84C.

¹⁶³ Rosenstein 1990, 158-160. See Hölkeskamp 1993 for an analysis of the effects of the Struggle of the Orders on aristocratic collectivity; Beck (forthcoming) on senatorial regulation and class coherence.

¹⁶⁴ Rosenstein (1992) notes that this informal rule extended to new men as well as senators from established families.

¹⁶⁵ Hölkeskamp 2010, 104.

¹⁶⁶ Yakobson 2010.

and politics were exclusively shaped by elites, he argues that whenever elites appealed to the *populus Romanus* and their sovereignty or championed popular causes, they unconsciously legitimized the people and in this way granted them actual political influence and power.¹⁶⁷ After noting the prevalence of popular ideology in the late Roman Republic, he compares the methods that elites used to manipulate the Roman people and affirm their own authority to similar tactics of modern democratic politicians.¹⁶⁸ He suggests that despite use of the same rhetoric, the *populus Romanus* could still have distinguished the messages of *optimates* and *populares* and chosen between them, just as a modern American voter understands that Republican and Democratic invocations of the American dream and constitution hold different meanings.¹⁶⁹ For example, he claims that a Roman citizen attending a *contio* would have been able to recognize the artificiality of the *optimatus* Cicero's praise of Gaius Gracchus and the genuineness of the praise for the Gracchi of the inflammatory *popularis* tribune of 111, Gaius Memmius.¹⁷⁰ In this way, members of the lower classes attending *contiones*,

¹⁶⁷ Yakobson 2010, 5-6, 19-21.

¹⁶⁸ A great part of his evidence is taken from Cicero's speech, delivered in 66, in defence of a law promoting Pompey's powerful command against the pirates (*Pro Lege Manilia*).

¹⁶⁹ Yakobson 2010, 13. 18-19. He loosely follows Wiseman's (2009, 9) sharp division between *optimates* and *populares*: "Here were two rival ideologies, two mutually incompatible understandings of what the republic was." Yakobson's (2010, 10 n. 23) approach is certainly more flexible but still maintains that senators could be divided into these two groups: "Perhaps it is better to speak of different trends within the same widely avowed ideology – though policy differences between *optimates* and *populares* might be very sharp."

¹⁷⁰ Yakobson 2010, 10, 16: "It is hard to believe that a regular *contio*-goer would be unable to distinguish between Cicero's perfunctory professions of respect for the Gracchi and Memmius' inflammatory references to them." See Cic. *Rab. Perd.* 14-15, in which he calls Gaius Gracchus a man of supreme eloquence, principle, duty and courage; Cic. *Leg. Agr.* 2.10, in which he calls the Gracchi "*duos clarissimos, ingeniosissimos, amantissimos plebei Romanae viros*" (two of the most distinguished and effective men, two of the most devoted men to the Roman people") and notes that unlike many consuls Cicero does not think it is wrong to praise them and their good accomplishments. C.f. Sallust's (Sall. *Iug.* 31.6-7) account of Memmius' speech in 111, in which he criticizes the oppression of the common people and suggests that the murders of Tiberius and Gaius Gracchus had allowed some senators to prosecute, imprison and kill Roman plebeians.

confident in their own sovereignty due to popular rhetoric, could have chosen between different policies and candidates and vote accordingly in assemblies.

There are several problems with this argument. Although Yakobson is careful not to strictly pigeon hole Roman politicians as either *populares* or *optimates*, he still uses the two categories quite rigidly.¹⁷¹ So, Cicero is an *optimatus* using half-hearted *popularis* rhetoric when he references the Gracchi, although he had once by Yakobson's admission been a real *popularis*, while Memmius is a *popularis* interested in the welfare of the people.¹⁷² Yet as Robb has shown, lines between *popularis* and *optimatus*, if they existed at all, were much more fluid; Cicero offers various definitions of *populares* in his later speeches, ranging from extremely negative to positive.¹⁷³ Even Memmius calls on his audience to defend the dignity of the senate in the same speech in which he criticizes the oppression of the common people.¹⁷⁴ Roman audiences would not have held concrete definitions of *popularis* and *optimatus* and consistently chosen between two competing ideologies. Yakobson also does not address arguments that *contiones* mainly acted as rallies with pre-arranged audiences, possibly often composed of slaves, not as venues for political and democratic discourse.¹⁷⁵

¹⁷¹ N. 64 above; note that to Yakobson (2010, 17), a Roman could be a moderate *optimatus* or *popularis*, but was always one or the other.

¹⁷² Yakobson 2010, 17; Cic. *Comm. Pet.* 53 on Cicero's "popular record" when he was elected to the consulship.

¹⁷³ Robb 2010, 91-93, 175-177. For example, in one passage (Cic. *Phil.* 7.4), Cicero labels the supporters of Marc Antony negatively as *populares*, and then claims that he himself is a *popularis* because of his support for the *popularis* cause of removing Marc Antony from power. As Dyck (2004, 515-516) notes, *popularis* is essentially neutral in Cicero and its meaning and force dependent on context.

¹⁷⁴ Sall. *Iug.* 31.25; Morstein-Marx 2004, 231; Robb 2010, 176.

¹⁷⁵ On slaves at *contiones*: Mouritsen 2001, 58-60; Cic. *Sest.* 34; *Mil.* 76; *Dom.* 54; App. *B. Civ.* 2.22.

Most importantly, Yakobson's argument still hinges on accepting "the political and electoral clout of the Roman populace" and on the assumption that this catering to popular ideology caused the Roman populace to consistently participate in and influence the outcome of electoral and legislative assemblies.¹⁷⁶ Yet the low percentage of voter turnout in the late Roman Republic, as estimated by MacMullen, Millar and Mouritsen, does not support this.¹⁷⁷ If this assumption is not accepted, then Yakobson's arguments do not modify Hölkeskamp's conclusions. It is true that some poorer citizens probably did participate, such as the *plebs contionalis*, and I will later address how *ambitus* might have affected them. But without actual political influence to accompany the rhetoric of the Roman people's sovereignty, the power of the vast majority of the *populus Romanus* in Republican politics remained symbolic.

***Ambitus* in the Political Culture of the Late Republic**

It is in this context that we should approach gift giving and *ambitus*. *Ambitus* was not a form of corruption or even mainly a tool to encourage poorer citizens to vote for specific candidates, but rather a gesture which affirmed the candidate's aristocratic status and entitlement to political power. It also confirmed the ideology of the people's sovereignty and their right to participate in electoral politics, another way for the aristocracy to pay respect to the *populus Romanus*, as it did in rhetoric. Members of the aristocracy thus not only showed "generosity and concern for their welfare", as Jehne puts it, but also demonstrated how

¹⁷⁶ Yakobson 2010, 20.

¹⁷⁷ See n. 22-23 above; Harris 1990, 293; Jehne 2006a, 234; Jehne 2006b, 23.

electoral politics could tangibly benefit poorer citizens, tying them further to the elite and maintaining social cohesion.¹⁷⁸

Displaying wealth was an essential part of Roman aristocratic behaviour.¹⁷⁹ Great wealth was almost a precondition for political success and becoming a member of the senatorial class.¹⁸⁰ In chapter one I quoted the *Commentariolum Petitionis*' advice to Cicero that a candidate should always display generosity (*benignitas*).¹⁸¹ It is important to stress again Quintus Cicero's emphasis on the value of making one's generosity publicly known by informing others of it. Cicero is encouraged to provide public banquets and to act like Gaius Cotta, an "*artifex in ambitione*" ("master of canvassing") who knew how to increase his electoral prestige by giving gifts and granting favours.¹⁸² Just as the procedures of the *comitiata centuriata* communicated the hierarchy of Roman society, an aristocrat's expenditure of wealth was a form of symbolic communication, proclaiming his belonging to the senatorial order and his right to participate in and influence Roman politics.¹⁸³ Through mass *ambitus*, candidates could display their suitability for election. The very ability to give massive amounts of money, gifts and favours during an election stabilized each candidate's social position and maintained aristocratic consensus that only the wealthy were fit to run for office. These displays of wealth also brought the

¹⁷⁸ Jehne 2006b, 18.

¹⁷⁹ Veyne (1976, esp. 401-445) provides an important analysis of the role of aristocratic euergetism at Rome.

¹⁸⁰ Shatzman 1985, 146-147; Hölkeskamp 2010, 93. Cicero (*Cic. Parad. Stoic. 6.50*) is thus only able to name three senators in Roman history who could be considered poor and notes the difficulty of finding others.

¹⁸¹ *Cic. Comm. Pet.* 44.

¹⁸² *Cic. Comm. Pet.* 44, 47.

¹⁸³ Hölkeskamp (2010, 56-65) particularly applies this analysis to monuments.

important element of comparability to aristocratic competition.¹⁸⁴ Although certain elites held advantages in elections due to their own and their family's achievements, all aristocrats could increase their own prestige by displaying wealth. They therefore all had a chance of being elected, assuring that they continued to buy into the Roman electoral system as a means of distributing power. To not participate in *benignitas* and *ambitus* was political suicide, since they were key methods for a candidate to show voters of the higher classes that he was of senatorial status and a suitable choice for office.¹⁸⁵

Ambitus also served as a tie between Roman elites and the *populus*, a method of including the essentially disenfranchised people and granting them economic rewards in exchange for the maintenance of social cohesion.¹⁸⁶ As noted earlier, it was critical that competition between members of the Roman elite be resolved by an outside party, the *populus Romanus*. *Ambitus* was one method to affirm their importance, in the same way that popular rhetoric did. Quintus Cicero suggests this when he argues that it is important for a candidate to appear as though he cared about the common man. He tells Cicero to increase his publicity:

ut homines nosse, comiter appellare, adsique ac diligenter petere, benignum ac liberalem esse loquantur et existement, domus ut multa nocte compleatur, omnium generum frequentia adsit, satis fiat oration omnibus, re operaque multis, perficiatur id quod fieri potest labore et arte ac diligentia, non ut ad populum ab his

¹⁸⁴ Hölkeskamp 1993, 38; Mouritsen 2001, 125; Hölkeskamp 2010, 98-106, 123-124 on the importance of comparability to stabilizing aristocratic competition.

¹⁸⁵ Shatzman 1975, 159-167; Cic. *Comm. Pet.* 44-47; c.f. Cic. *Off.* 2.58 and Broughton 1991, 3 on the case of Mamercus Aemilius Lepidus Levianus, who allegedly lost the consular election of 78 due to his stinginess.

¹⁸⁶ Veyne 1976, 401-445

*hominibus fama perveniat sed ut in his studiis populus ipse
versetur.*¹⁸⁷

Generosity and the granting of favours, among other practices of candidates, were intended to publicize each candidate's wealth and status.¹⁸⁸ However, the candidate's aim was also to gain the devotion of the symbolically represented *populus Romanus* and to show that his campaign was aimed at the Roman people and respected their role in the electoral process.¹⁸⁹

Scholars have already commented on how reinforcing idea of the power of the Roman people maintained social cohesion by symbolically emphasizing their inclusion and importance in Roman society and by linking the *populus* to the wealthy elite.¹⁹⁰ *Ambitus* performed these functions. But it also did so in a more practical way. Brunt and Yavetz have emphasized the poverty of the majority of the urban *plebs* and the inefficiency of the public grain dole in providing for their economic needs.¹⁹¹ *Ambitus* provided economic relief for poorer citizens, especially since the amounts distributed could be considerable. According to Cicero, Verres spent HS 80,000 on voters when canvassing for the praetorship in 74.¹⁹² A law proposed by Lurco in 61 stipulated that if a candidate promised to pay a tribe money, but reneged on his promise, he would owe each member of

¹⁸⁷ Cic. *Comm. Pet.* 50: "So that men say and believe that you know them and call on them affably, that you canvass constantly and diligently and that you are wealthy and generous. Do these things so your house is full even during the middle of the night, so that a crowd composed of all the classes is there, so that by your speech you grant satisfaction to all and by your wealth and favours you grant satisfaction to many. Do these things so that this happens, as much as is made possible, due to your hard work and skill and diligence: that the people themselves turn to you, not because your reputation has reached them through the words of other men but because of their own love for you."

¹⁸⁸ This passage's reference to having "crowds composed of all the classes" filling a house reinforces argument.

¹⁸⁹ Cic. *Comm. Pet.* 51 on maintaining a "popular" campaign.

¹⁹⁰ Jehne 2006b, 18; Hölkeskamp 2010, 129.

¹⁹¹ Yavetz, 1958, 500-517; Brunt 1980, 97-98; also Mouritsen 2001, 42, 60.

¹⁹² Cic. *Verr.* 2.4.45.

that tribe 3,000 sesterces, possibly suggesting the scale of much *ambitus* at that time.¹⁹³ Meanwhile, entertainment or feasts provided by candidates could be considerable.¹⁹⁴ Even an expenditure of 80,000 sesterces divided among many citizens would have been a significant bonus for members of the urban *plebs*, especially if they accepted remuneration from other candidates as well. Poorer citizens thus received tangible economic benefits from individual candidates and elections in general. *Ambitus* also encouraged them to disregard their lack of actual political power and to accept the overall dominance of the aristocracy. As long as elections consistently benefitted them, there was no reason to challenge the overall authority of Roman elites, already communicated to them through the Republic's institutions and processes. *Ambitus* gave the lower classes a stake in Republican politics and so reinforced the Roman people's acceptance of the Republic's hierarchized political system.

Indeed, it is difficult to determine how *ambitus* would have functioned if its purpose was to ensure that poorer individual citizens would cast their votes for individual aristocrats. Our lack of knowledge of how *ambitus* actually worked is part of the problem. The most that we can say is that aristocrats hired middlemen known as *divisores* to distribute money and gifts, perhaps tribe by tribe.¹⁹⁵ But it is unclear whether they would have done this before or after the election, though before seems more probable.¹⁹⁶ And aristocrats would have been unable to keep

¹⁹³ Cic. *Att.* 1.18.3.

¹⁹⁴ Shatzman 1975, 88; Hopkins 1983, 7-12, 14; Asc. 88C; Cic. *Comm. Pet.* 44.

¹⁹⁵ *Divisores* had been established as legitimate tribal middlemen between patrons and clients: Lintott 1990, 8. On their role in *ambitus*, see Cic. *Planc.* 55; Asc. 74C-75C.

¹⁹⁶ Yakobson 1999, 140; see Cic. *Cluent.* 75, which suggests that money would be handed out before the vote. Cic. *Q. Fr.* 2.15.4 suggests the opposite, however, since in this passage the

track of their voters due to the Roman electoral practice of not publishing precise voting results, especially after the *lex Gabinia*'s introduction of the secret ballot in 139.¹⁹⁷ There was some attempt to outlaw the activities of *divisores* in 67 and they were forbidden from participating in elections in 55.¹⁹⁸ However, it is significant that many of the anti-*ambitus* laws we know of (to be further discussed in chapter three) seem to have instead targeted the ability of aristocrats to use *ambitus* for self promotion. The *lex Calpurnia* of 67, for example, forbade men from being hired to follow or meet candidates, suggesting that drawing crowds and thus maintain the illusion of popularity was an important aspect of canvassing. Meanwhile the *lex Tullia* of 63 prohibited candidates from providing games and shows for the two years before they sought election.¹⁹⁹ These laws suggest that one of the primary functions of *ambitus* was to display the wealth, power and suitability for office of Roman elites.

Of course, some citizens of lower classes were probably given gifts and money as encouragements to vote, particularly in elections in the tribal assembly and the *comitium plebis*. It is even possible that occasionally candidates targeted the wealthier classes. Elections for the year 53 provide an example. Two candidates for the consulship, Gaius Memmius and Gnaeus Domitius Calvinus,

candidates specifically target the first century to vote with their money, although the order of voting was only determined by lot at the time of the election.

¹⁹⁷ Hölkeskamp 2010, 105 on Roman electoral practices of only announcing the winners and not the voting distribution and of ending voting procedures as soon as enough candidates had attained a majority of votes. On the *lex Gabinia* and other secret ballot laws which were gradually introduced: Cic. *Leg.* 33-39; Nicolet 1976, 361-365; Millar 1984, 18 Linderski 1988, 91; Harris 1990, 293; Gruen 1991, 257-261; Yakobson 1995; Flower 2010a, 72-75. There is some disagreement over whether the introduction of the secret ballot was a democratic measure which was meant to discourage voter intimidation and *ambitus*. This debate is beyond the scope of this chapter, but it is worth noting that if the *lex Gabinia* was adopted to curb *ambitus*, it failed, as the number of laws adopted against *ambitus* in the first century attests.

¹⁹⁸ Asc. 74C-75C; Cic. *Planc.* 55.

¹⁹⁹ Cic. *Mur.* 47, 67, 89; *Planc.* 55, 83; Cass. Dio, 37.29.1; *Schol. Bob.* 79 (Stangl).

scandalously pooled their resources and attempted to distribute ten million sesterces to the *centuria praerogativa*, a century of either the first class or *equites* that was chosen to vote first by lot at the time of the election.²⁰⁰ Yet as Cicero makes clear, this was an exceptional case. The sum necessary to target even one century of the first class or *equites* is suggestive of the economic impossibility of consistently courting wealthy voters.²⁰¹ It is possible that candidates targeted the higher classes occasionally and the urban *plebs* consistently in the hopes that elites and a small percentage of the urban poor (the *plebs contionalis*) would vote for them, if the votes of the lower classes turned out to be necessary. But these candidates would have still been unable to determine whether their generosity to individuals had translated into individual votes. Because multiple candidates gave out gifts to the same voters and because secret ballot laws and the procedures of Roman elections prevented candidates from knowing whether their use of *ambitus* had worked, it is unlikely candidates would spend ever increasing amounts to secure votes.

Conclusion

The purpose of *ambitus* was not to encourage voter participation and the presence of *ambitus* does not indicate that the late Republican Rome was democratic. *Ambitus* was a necessary electoral practice, a part of the ways and means in which consensual interactions between aristocrats concerning the

²⁰⁰ Cic. *Q. Fr.* 2.15.4. Nicolet 1980, 258-264 and Cic. *Planc.* 49 on the *centuria praerogativa*.

²⁰¹ Shatzman 1975, 99-109 on senatorial wealth. Considering that even an exceptionally expensive senatorial house cost approximately six million sesterces in the late Republic (Val. Max. 9.1.4; Plin. *N.H.* 17.2-5) and that Cicero was forced to go into heavy debt to pay for a house of Crassus on the Palatine worth three and a half million sesterces (Cic. *Fam.* 5.6.2), the amount spent by Memmius and Calvinus is staggering.

distribution of power were formed. It allowed Roman candidates to confirm their own status through mass acts of munificence and to communicate that they belonged to the senatorial class. At the same time, it maintained the stability of Roman society by emphasizing the sovereignty of the *populus Romanus* while tying the aristocracy to the people and benefitting poorer citizens with money, favours, gifts, feasts and entertainment. If *ambitus* fulfilled these important social functions, however, how can we explain the proliferation of legislation proposed and adopted against it in the late Republic? And why was there so much political invective against the practice, if it was not considered to be a form of corruption? The next chapter will seek to answer these questions.

Chapter III

Competition and Comparability: Laws Against *Ambitus*, 80-50 B.C.

In the aftermath of Sulla's dictatorship and the *lex Cornelia de ambitu* in 81 B.C., *ambitus* seems to have become more prevalent in Roman political culture and practice. As such, our sources for the years between 80 and 50 record a greater number of accusations of *ambitus* as well as of laws against it.²⁰² This chapter will trace the evolution of laws meant to restrict or punish *ambitus* in the late Republic in order to determine if there were consistent reasons for their proposal and adoption. After all, if *ambitus* was purely a political weapon, as some have argued, then the reasons for the proposal of *ambitus* laws should have been equally self-serving.²⁰³ And if my arguments that *ambitus* provided important social functions and that it was not a form of corruption are correct, then there should have been little reason to adopt legislation against it. Previous examinations of legislation on *ambitus* have tended to be theoretically focused while ignoring the specific political contexts of each law. The two main

²⁰² Even Nicolet (1976, 401-424, esp. 403), who claims that reports of *ambitus* in our sources are sensationalist and should rarely be taken seriously, notes: "C'est dans cette période... que la corruption électorale changea de nature: il ne s'agit du corps électoral, mais de pratiques généralisées qui supposent une conception toute nouvelle du rôle, on dirait volontiers de la « profession » d'électeur." Similarly: Deniaux 1987, 294; Lintott 1990, 8; Yakobson 1999, 22-26. As for the *lex Cornelia de ambitu*, its purpose and contents are most difficult to reconstruct. The only reference to it appears in the *scholia* on Cicero's speech in defence of P. Sulla, which states that the penalty for *ambitus* was a restriction from canvassing for office for ten years: *Schol. Bob.* 78 (Stangl). Although Sulla no doubt re-organized the *quaestio de ambitu* to coincide with this law, we still do not have any examples of *ambitus* trials in the decade after Sulla, and no idea of how offense was defined. See Gruen 1974, 212; Riggsby 1999, 22; on the court for *ambitus* before Sulla: Gruen 1968, 125, 260-261.

²⁰³ Linderski 1985, 93-94; Lintott 1990, 16.

explanations both place *ambitus* legislation within the context of the effects of the Social War on Roman society. Gruen and Riggsby have argued that laws on *ambitus* were meant to restrict the potential of *novi homines* to attain new *clientelia* and gain political support, and to privilege older networks of elite patronage.²⁰⁴ Meanwhile, Wiseman and Wallinga have argued that there was an influx of new voters following the enfranchisement of the Italians in approximately 89 and the census of 70, which finally allowed the Italians to vote in the *comitiata centuriata*. According to this argument, Italian suffrage forced Roman aristocrats to spend an ever increasing amount of money on non-traditional clients to ensure election to office.²⁰⁵ The assumption is also that *ambitus* was a form of corruption, providing good reason to limit or eliminate it.²⁰⁶

I will disagree with both of these approaches. The argument that *ambitus* laws were meant to restrict the careers of *novi homines* ignores the contexts of the proposals for each of these laws in favour of a more unified theory based on untrustworthy evidence. Similarly, the idea that the influx of new Italian voters caused an increase in *ambitus* relies on the assumption that non-elite Italians not only consistently came to Rome in significant numbers to vote, but also that their votes held enough power to be worth buying in the *comitata centuriata*.²⁰⁷ I will first treat these two theories more generally. This chapter will then turn to the *lex Calpurnia* of 67 in particular, due to its importance as the basis for most of the

²⁰⁴ Gruen 1991, 255-257; Riggsby 1999, 26-27; also c.f. Wiseman 1971, 2 for a similar analysis. Lintott (1990, 3-4) concludes that this is likely a valid explanation for *ambitus* laws in the early and middle republic, at least.

²⁰⁵ Wallinga 1994, 435-438; similarly, Wiseman 1969, 65-67; Millar 1998, 210-211.

²⁰⁶ Rosillo López 2010, 52-69.

²⁰⁷ Most recently and forcefully argued by Rees (2009).

following *ambitus* legislation in the late Republic. I will also more briefly examine the *lex Tullia de ambitu* of 63 and the *lex Licinia de sodaliciis* of 55 as comparative case studies, though it should be noted that other *ambitus* laws were proposed in this period and that a final one, the *lex Pompeia*, was adopted during Pompey's sole consulship of 52.²⁰⁸ The reasons for the adoption of and proposal of laws against *ambitus* suggest that personal political goals were usually responsible for the proposal of *ambitus* legislation. However, these laws also reflect a genuine attempt to regulate the increasing expenditure of electoral politics in the late Roman Republic, primarily caused by the intensification of aristocratic competition due to the constitutional reforms of Sulla. Legislation, it was hoped, could restore the element of comparability to elections.

The Italian Vote and *Novi Homines* in the Late Republic

Some scholars, most notably Wallinga, have suggested that the census of 70's re-organization of the Italian vote led to an increase in *ambitus* and therefore is responsible for the number of laws on the crime in the last three decades of the Republic.²⁰⁹ It is true that only after this census could the majority of the Italian citizens who had become enfranchised after the Social War finally participate in the *comitiata centuriata*, and therefore vote in praetorian and consular

²⁰⁸ For example, the tribune Lurco proposed in 61 that any candidate who promised the tribes money but did not deliver would be exempt from prosecution, while those who kept the promise would be obliged to pay 3,000 sesterces (per year? Cicero is not clear) to each tribe for life (Cic. *Att.* 1.16.13). On Pompey's law, see App. *B.C.* 2.23-24.

²⁰⁹ Wallinga 1994, 435-438; Wiseman 1969, 65-67; Wiseman 1971, 125, 130; Lintott 1990, 8; Millar (1998, 210-211) argues less forcefully that the extension of suffrage to the Italians was a "destabilizing factor."

elections.²¹⁰ If the Italian vote did have political significance, then Roman candidates might have increasingly used *ambitus* to encourage Italian voters to vote for them, and to make it economically feasible for them to leave their farms to attend elections at Rome.²¹¹

Yet the evidence for Italian participation in Roman political life is ambiguous. Recently, William Rees has argued that Italians were able to and frequently did participate in Roman elections and legislative assemblies.²¹² He bases this argument largely on a passage from the *Commentariolum Petitionis*, which advises: “*postea totam Italiam fac ut in animo ac memoria tributim discriptam comprehensamque habeas, ne quod municipium, coloniam, praefecturam, locum denique Italiae ne quem esse patiari in quo non habeas firmamenti quod satis esse possit.*”²¹³ Similarly, Cicero further mentions in his letters that *municipales* and *rusticani* talk to him in order to protect their territorial and monetary interests.²¹⁴ Following Yakobson, Rees posits that the census amount

²¹⁰ When the newly enfranchised Italians were enrolled in the *comitiata centuriata* is itself uncertain. Our only piece of evidence is Jerome *Chr. ad ann.* 85, which claims that the number of adult male citizens registered in this census was 463,000, a low increase from the census figure for 115 B.C. given by the epitomizer of Livy, 394,000 (*Liv. Per.* 63). Brunt (1971, 92) has argued that it is possible that Jerome’s figure is corrupt and should read 963,000. Lovano (2002, 61-63) argues that the censorship of 86 under the *Cinnae dominatio* enrolled at least a limited number of new citizens, particularly those who were loyal to the Cinna regime, though he admits it is impossible to determine what this census accomplished; similarly, see Wiseman 1969; Bispham 2007, 189-199, 204.

²¹¹ Rees 2009, 96.

²¹² Rees 2009; c.f. Paterson 1985, 27.

²¹³ Cic. *Comm. Pet.* 30: “Afterwards, make it so that you hold all of Italy in your mind and memory, perceived as it has been divided, tribe by tribe. Do this so that there might not be a town, colony, prefecture or place in Italy which you have not known and in which you do not hold as much support as is possible;” also Cic. *Att.* 1.1, where Cicero claims he would travel to Cisalpine Gaul, powerful in its number of votes, to canvass for the consulship; Cic. *Mur.* 49 and Sall. *Cat.* 30.4 on Catiline drawing support for the consular elections from Sullan veterans settled around Fiesole, though it is unclear whether the interests and habits of Roman veterans can be equated with those of the Italians who had become citizens after the Social War.

²¹⁴ Cic. *Att.* 8.13.

necessary to vote in the first class of the *comitiata centuriata* was HS 25,000.²¹⁵ Rees concludes from Varro's statement that an acquaintance's farm of 200 *iugera* brought in HS 30,000 (and so HS 150 per *iugerum*), along with Duncan-Jones' estimates on the profitability of land, that even an average Italian farmer or Roman colonist with a small farm sized at 50 *iugera* would have a census value of more than HS 25,000.²¹⁶ Thus their votes would be worth having in a consular election, and the need for senators canvassing for magistracies to secure their votes explains the increase in *ambitus*.

There are difficulties with Rees' argument. Even allowing that the census requirement for the first class was the relatively low HS 25,000, which is contested, Duncan-Jones' estimates are based on the first century A.D. writings of Pliny the Younger and figures from Renaissance Italy.²¹⁷ It is not clear that Duncan-Jones' conclusions can therefore be applied to the first century B.C., when Varro was writing. It is only through these estimates that Rees is able to claim that a fifty *iugera* farm drew a profit of more than HS 25,000; this is itself a high estimate for the size of the average colonist's farm that is not supported by other scholars, including Brunt, Rees' main citation for this point.²¹⁸ Following

²¹⁵ Brunt 1966, 6; Taylor 1966, 85-106 on the centuriate assembly; also Rich 1983, 305-316, Yakobson 1992, 44-46; *Hölkeskamp 2010*, 93, 103 for a more aristocratic interpretation of the *comitiata*. See chapter 2 above for a fuller discussion on the nature of the *comitiata centuriata*.

²¹⁶ Varr. *D.R.R.* 3.2.15; Duncan-Jones (1982, 33) estimates that "the long term yield on capital, almost certainly an agricultural dividend in most cases, was commonly of the order of 5-6% in Italy." Based on these estimates Rees (2009, 90-93) is able to claim that the value of Varro's friend's land was HS 750 per *iugerum* and to extend this value to Italian property in general in the first century B.C.

²¹⁷ Esp. Plin. *Epist.* 7.18. On the census requirement for the first class of the centuriate assembly, c.f. Crawford (1985, 149-150) who argues for it to be HS 100,000; other estimates have fluctuated between HS 30,000-50,000. HS 25,000 is the most optimistically low number.

²¹⁸ C.f. Frayn 1979, 29, for an estimate of fifteen *iugera* as the average farm size in Italy. Rees misrepresents Brunt as claiming that Roman legionaries could have received as much as 66 *iugera* and on average had farms of 50 *iugera*. Instead, referring to allotments of 66 *iugera*, Brunt writes

Varro's statement instead, at HS 150 per *iugerum*, a farm of 50 *iugera* would draw a profit of HS 7,500. Even allowing for additional property counted in the census, such as mills or cattle and granting that my estimate of HS 150 is low, it is still unclear whether the average Italian farmer would have had property worth around HS 25,000.²¹⁹

There are possible objections to my argument; perhaps farmers accumulated wealth over many years so that they would eventually have the HS 25,000 needed to vote in the first class. And it is also worth noting that it was the Roman citizen who declared the value of his property to the censors and thus that he could lie, as the censors presumably rarely challenged these assessments.²²⁰ Yet it is likely that the average Italian farmer probably farmed at a subsistence level with little non-local trade, and so unlikely that many would have saved this much.²²¹ It is true, as Rosenstein notes, that a farm of 50 *iugera* in the second century could yield enough of a surplus harvest to gradually lead to upward social mobility for individual families.²²² But as he further argues, the partitioning of families as sons and daughters formed other family units, and more importantly the demands of the Roman state on sons for military service disrupted the labour

that "there is no implication... that any colonists at a particular time, e.g. veterans of V Alaudae in the triumviral period, actually received this particular amount of land." Brunt also states that one source claims "that an area of 200 *iugera* or more had sometimes been distributed into portions of 50 *iugera* by order of emperors," but never claims that this was an average allotment during the first century B.C. Instead Brunt argues that allotment sizes varied and that "where the common soldier received (let us say) 20 *iugera*, others might get 30 or 40, or probably more." See Brunt 1971, 295-296.

²¹⁹ So, Cato the Elder states the value of a mill was HS 724, which Rees admits is too high for this period (Cat. Agr. 22.3; Rees 2009, 92), and Varro comments on the extremely high price of cattle, though these references are to prize beasts and cannot be applied to the average farm animal (Varr. D.R.R. 2.1.14; 3.2.7).

²²⁰ Rathbone 1993, 132.

²²¹ On Roman subsistence farming: Frayn 1974, 11; Frayn 1979; Garnsey 1999, 23-28.

²²² Rosenstein 2004, 158-164.

and thus economic potential of individual farms. He concludes that “conscription and partition would eventually reduce succeeding generations to a subsistence level,” and that by 133 there was a “body of smallholders in the lowest census classes... without much hope of improving their lot through their own efforts.”²²³

It is also unlikely that large numbers of Italian landowners were able to consistently lie to the censors about their census qualifications to such a great degree. Furthermore, even if my estimates are too pessimistic, it is still worth pointing out just how optimistic Rees’ must be at every level to support his conclusion. In an assembly as slanted towards the first and second classes as the centuriate assembly, it is therefore not likely that the average Italian farmer’s vote would have been worth buying.

Yet there is still the evidence of Cicero’s letters and the *Commentariolum Petitionis* to consider. The question arises whether Romans running for office needed to consider the votes of the Italian lower classes. Mouritsen has recently argued that Cicero was an atypical candidate because of the amount of effort he put into securing the support of the Italians and the amount of Italian votes he received.²²⁴ According to this interpretation, Cicero’s approach to the Italian vote was guided by his rhetoric, as a *novus homo*, of Italian unification and his attempt

²²³ Rosenstein 2004, 164. Although Rosenstein’s analysis applies to the second century B.C. and mainly considers Roman citizens and not the Italian allies, it is worth noting that Roman conscription applied equally to the Italians and thus that Italian farms would have possessed the same difficulties. The Social War and Sullan civil wars would also have led to a dramatic decrease in the number of young men able to provide labour for family farms in the middle of the first century B.C., decreasing the likelihood that families owning farms of 50 *iugera* or less could accumulate economic capital.

²²⁴ Mouritsen 2001, 118-124, esp. 121.

to appear as the representative and protector of all Italy.²²⁵ The electoral support he received for his consulship from Volaterrae and Atella as their patron would have been unique.²²⁶ Indeed, the *Commentariolum Petitionis* claims that the Italians only know Cicero and not his competitors, and the writer later states that the advice in the work applies to Cicero in particular, not all those seeking office.²²⁷ Even if, as Rees argues, these references simply show that Cicero was unique in canvassing personally as opposed to through intermediaries, it is still likely that Cicero and other politicians generally attempted to gain the votes of Italian elites and not the lower classes.²²⁸ Although Rees is correct that the word “*rusticanus*” should refer to a simple rural peasant, the context of Cicero’s usage of the term suggests that he is referring to Italian aristocrats. For example, in letter to Atticus 8.13, Cicero complains that the *rusticani* care for nothing other than their lands, money and little villas (*villulas*); the latter reference guarantees he is talking about the wealthy. Thus the advice in the *Commentariolum* to take notice of *rusticani* could simply refer to the elite.²²⁹

Even so, the wealthy Italian may have been apathetic about Roman politics. In the letter cited above, Cicero is frustrated because locals were not taking interest in Roman politics, though his complaints are likely exaggerated.²³⁰ Similarly, some local elites preferred to be prominent in local politics rather than

²²⁵ Thus Cicero consistently comments on Italian virtue and uses the phrase “*tota Italia*” or its variants, e.g. Cic. *Q. Fr.* 1.2.16; *Fam.* 13.4.1; 13.7.4; *Verr.* 1.54; *Pis.* 3.

²²⁶ Cic. *Fam.* 13.4.1; 13.7.4.

²²⁷ Cic. *Comm. Pet.* 31; 58.

²²⁸ Rees 2009, 88-89; for example, Clodius seems to have used local intermediaries at Arica (Cic. *Pis.* 80); c.f. Cic. *Comm. Pet.* 24 for a possible reference to these local “men of influence.”

²²⁹ Cic. *Comm. Pet.* 8.

²³⁰ Similarly, in Cic. *Att.* 2.6.2 he complains about the political apathy of the elite of Antium.

involve themselves in Roman elections and canvassing.²³¹ The question, then, is whether Roman politicians would have consistently used *ambitus* to encourage these elites to vote for or otherwise support them in elections. I have already argued that it is unlikely *ambitus* was used to court the wealthy, both because of the excessive amount of money this required and because aristocrats would generally have been unwilling to ignore past favours and connections in favour of an immediate gift.²³² Lintott has suggested instead that “the effect of bribery in a tribe, *collegium*, *pagus* or *vicus* was, through helping the poor, to advance the standing of certain local *principes* in this social group vis-a-vis the other members.” Although an interesting and plausible theory, there is no ancient evidence to support it.²³³ And just as with the urban *plebs*, secret ballot laws would have prevented candidates from knowing whether their use of *ambitus* had actually translated into votes and therefore whether it was a worthwhile practice. The newly granted suffrage of the Italian elites cannot explain the mass increase in *ambitus* legislation during the last decades of the Republic.

This is not to say that non-elite Italians never voted in elections. *Novi homines* in the first century could generally rely on local support.²³⁴ So Cicero suggests that Plancius obtained the aedileship due to his local popularity at the

²³¹ Wiseman 1971, 92-93. For example, Cicero describes that his grandfather remained a local politician at Arpinum despite advice from the *princeps senatus* M. Aemilius Scaurus to attempt to join the Roman senate (Cic. *Leg.* 3.36); similarly c.f. Sextus Roscius of Ameria (Cic. *Rosc. Am.* 15); finally, although in the triumphal period, Horace states that Servius Oppidius of Canusium forbade his sons from seeking magistracies at Rome (Hor. *Sat.* 2.3.168-186). Whether these stories are true or not is not relevant. It is simply important that it was ideologically acceptable for first century Italian elites to not get involved in Roman politics.

²³² Lintott 1990, 11; Mouritsen 2001, 115-116.

²³³ Yakobson 1999, 23-24. Only Cic. *Comm. Pet.* 30, in which the writer advises to strike friendships with local elites to gain the support of the masses, might support this interpretation, though there is no suggestion that a common way to do this was to bestow gifts upon the poor.

²³⁴ Wiseman 1971, 137-138; Mouritsen 2001, 119-122.

prefecture of Arina and in its neighbouring towns; Cicero himself and Gaius Marius drew mass support from their hometown of Arpinium.²³⁵ It was expected that the rural tribesmen of a candidate would support or vote for him. Cicero, for example, could mock Vatinius for failing to win the aedileship in 58 because his own rural voters had rejected him.²³⁶ Similarly, politicians might especially canvass in regions close to Rome, since those Italians would be most likely to vote in Roman elections.²³⁷ For example, Publius Clodius Pulcher was returning from canvassing the councilmen in Aricia when Milo ambushed and killed him in 52, and Plancius put on games in Praeneste.²³⁸ And there were likely select occasions when greater numbers of Italians came to Rome, such as the census of 70 or the vote in the *comitiata centuriata* to return Cicero from exile, though one must allow for Ciceronian exaggeration on the amount of Italians who attended.²³⁹ It is therefore probable that the redistribution of the Italians into the voting tribes in the mid 80s and the census of 70 did cause a slight increase in *ambitus*. However, it is unlikely that the Italian vote caused this escalation of *ambitus* to the extent that has been claimed. Therefore, the laws against *ambitus* proposed after 70 were probably not a reaction to the expansion of the Roman voting body.

Riggsby and Gruen have alternately proposed that *ambitus* laws were meant to restrict the careers of *novi homines*.²⁴⁰ They base their argument on a

²³⁵ Cic. *Planc.* 19-23. It should be pointed out that the election for the aedileship took place in the tribal assembly.

²³⁶ Cic. *Vat.* 36.

²³⁷ On the limitations to Italian influence in electoral politics because of geographic distance, see: Staveley 1972, 136; Millar 1998, 211; Rees 2009, 94-96.

²³⁸ Asc. 31C; Cic. *Planc.* 63.

²³⁹ The census: Cic. *Verr.* 1.54. The vote to recall Cicero: Cic. *Red. Sen.* 24-27; *Red. Pop.* 15-16; *Pis.* 34; *Sest.* 128-130; *Leg.* 3.45; Cass. Dio, 39.6-9.

²⁴⁰ See n. 4 above.

passage of Livy, cited in chapter one, discussing an *ambitus* law passed in 358 which was meant to curb the “ambition of new men,” who had begun canvassing on market days and in public spaces.²⁴¹ In this case, *ambitus* is defined traditionally, to mean “going around,” and refers to an exaggeration of traditional political practices. Similarly, Gruen cites Livy’s account of the year 314, in which the dictator C. Maenius charged that many *nobiles* had made illegal coalitions in order to obtain magistracies (“*coitiones honorum adipiscendorum causa*”).²⁴² According to Livy, the *nobilitas* as a whole responded that new men must have committed the crime, since for them alone the path to magistracies did not lay open. These two passages are taken to reflect first century *nobilis* ideology towards new men and as evidence that “all *ambitus* legislation is essentially of this type.”²⁴³ Gruen in particular thus sharply divides the Roman aristocracy between new men and the traditional *nobiles*, arguing, for example, that Cato the Elder could not have been the author of a law on *ambitus* in 181, since such a law would hinder other new men.²⁴⁴ Indeed, it is probable that this ideology existed in the first century. Those prosecuting Plancius seem to have argued that the only way a new man could have beaten a *nobilis* in the election for aedile was through

²⁴¹ Liv. 7.15.12: “*Et de ambitu ab C. Poetelio tribuno plebis auctoribus patribus tum primum ad populum latum est; eaque rogatione novorum maxime hominum ambitionem, qui nundinas et conciliabula obire soliti erant, compressam credebant*”: “And then a proposal was first made to the people concerning *ambitus* by Caius Poetelius, tribune of the plebs, with the authority of the senate; through this rogation they believed that the ambition of new men could especially be curbed, new men who had been accustomed to canvass on market days and in public spaces.”

²⁴² Liv. 9.26.9-11.

²⁴³ Riggsby 1999, 27. Furthermore: “Retaining the gift exchange structure allowed the aristocracy to retain their individual and collective electoral primacy by preserving the value of their generations-old networks of patronage.”

²⁴⁴ Gruen 1991, 256, n. 25.

ambitus.²⁴⁵ Yet this interpretation cannot be reconciled with the *lex Calpurnia* of 67.

The *Lex Calpurnia de Ambitu*

The context for the law is difficult to reconstruct. Dio relates that both a plebiscite and a law were proposed in 67 dealing with *ambitus*, the former by the tribune of the *plebs* Gaius Cornelius and the latter by the consul Gaius Calpurnius Piso. According to Dio, the tribune Cornelius proposed a law with severe penalties on those guilty of *ambitus*, which the *concilium plebis* adopted.²⁴⁶ The senate, however, feared that a strict law with such excessive punishments would discourage accusations and condemnations.²⁴⁷ The senate thus forced the consuls to propose a law under which anyone convicted of *ambitus* would be removed from the senatorial order and be forced to pay a fine. This version was later passed despite opposition from the tribune Cornelius. Dio further claims that the consuls proposed this legislation unwillingly, and that Piso in particular had gained the consulship through mass *ambitus* and had barely escaped being indicted by bribing the jury. Cicero provides the only reference to the contents of the *Lex Calpurnia* in his defence of Murena, who was charged with breaking it: “*si mercede obviam candidatis issent, si conducti sectarentur, si gladiatoribus volgo locus tributim et item prandia si volgo essent data, contra legem*

²⁴⁵ Cic. *Planc.* 17-18; Mouritsen 2001, 119.

²⁴⁶ Cass. Dio, 36.38.1-36.40.3.

²⁴⁷ It is impossible to determine what these excessive punishments might have been. Perhaps, as the *lex Tullia* of 63 later imposed, Cornelius' plebiscite stipulated the harsher penalty of exile for ten years for those convicted of *ambitus*, as well as for those who pleaded ill health as an excuse not to attend their trial (Cic. *Mur.* 47; Cass. Dio, 37.25.3).

Calpurniam factum videri.”²⁴⁸ It is unclear whether the law also targeted *divisores*, the distributors, since Asconius’ commentary on this point is confused.²⁴⁹

Since it was Gaius Cornelius who first proposed the law, and since the consular law was a reaction to it, the *lex Calpurnia* must be evaluated within the context of Cornelius’ tribunate.²⁵⁰ Cornelius had served as quaestor under Pompey in 71 during his Spanish campaign, and along with another tribune in 67, Aulus Gabinius, he seems to have allied himself with Pompey during his tribunate.²⁵¹ His family background is impossible to reconstruct, though as a plebeian of the Cornelia gens, it is at least certain that none of his ancestors had held the consulship and likely that he was the first senator of his family.²⁵² Asconius claims that Cornelius was estranged from the senate because it had rejected a motion he proposed on money-lending to foreign envoys.²⁵³ This is an obvious oversimplification of political rivalries, not least because Asconius implies that

²⁴⁸ Cic. *Mur.* 67: “If some men were to go out to meet candidates because of a bribe, if they were paid so that they would follow him around, if places at gladiatorial games and similarly meals were given out freely, tribe by tribe, then this deed would appear to have been against the Calpurnian law.”

²⁴⁹ See Asc. 74C, which claims that Cornelius was attempting to bring penalties against the distributors of *ambitus*, the *divisores*. Still, Asc. 75C then states that the hostility of the *divisores* was against Piso’s law: “*C. Piso qui consul eodem anno fuit quo Cornelius tribunus plebis erat, cum legem de ambitu ex S.C. graviolem quam fuerat antea ferret et propter multitudinem divisorum qui per vim adversabantur e foro eiectus esset...*” (“C. Piso who was consul in the same year in which Cornelius was tribune of the plebs, when he proposed a law concerning *ambitus* by decree of the senate which was more harsh than the law in place before and on account of this threw out a crowd of distributors from the forum who were resisting him with force...”). Taylor (1949, 67 n. 98) argues that the *lex Calpurnia* thus targeted *divisores*, and indeed Cicero does say it was a most severe law (*Mur.* 46), but due to Dio’s statements about the differences between the two laws and Asconius’ initial attribution of these penalties to Cornelius, it is ultimately unclear if this is correct. Gruen 1974, 213-215; Riggsby 1999, 194 n. 7; López 2010, 66-67.

²⁵⁰ Scholarship on this tribunate: McDonald 1929; Broughton 1951-1952, II.144; Griffin 1973; Gruen 1974, 212-218; Morstein-Marx 2004, 215, 275; Williamson 2005, 373-376.

²⁵¹ Asc. 57C on Piso’s quaestorship.

²⁵² Treggiari 1969, 171; Elvers, “Cornelius” 2010.

²⁵³ Asc. 57C; c.f. McDonald 1929 for a presentation of Cornelius as a representative of the “Popular Party.” Hayne (1974) similarly assumes a strict division between *optimates* and *populares* in the events of 67, though he allows that M. Acilius Glabrio, the other consul, may have belonged to neither side.

Cornelius had no other allies within the senate. It is more likely, as Griffin argues, that many of the events of 67 should be analyzed in light of a feud between Pompey and several prominent senators, including Quintus Lutatius Catulus and the consul Piso.²⁵⁴ As noted above, Cornelius was clearly associated with Pompey, and therefore may have sought Pompey's support for his legislation while he himself supported Gabinius' attempts to grant Pompey his command against the pirates. According to this interpretation, hostilities between senators in this year should be explained as attempts by leading statesmen like Catulus and Piso to limit the prestige of Pompey and his allies.

This makes sense, not least because Cornelius, "the senate" and Piso seem to have disagreed on little, especially if one accepts, like Gruen and Taylor, that Piso's law eventually laid penalties against *divisores*.²⁵⁵ Cornelius did not criticize the senate because the consular law was weaker. Instead, he claimed that the senate had infringed on the rights of the people by allowing Piso to present his bill to the people, although elections had already been called, and by disregarding the plebiscite adopted by the *concilium plebis*.²⁵⁶ As Gruen notes, Cornelius thus hoped to block Piso's legislation so that the force of his plebiscite would be maintained.²⁵⁷ What was at stake was aristocratic prestige; even if Piso initially proposed the law unwillingly, once he was forced to it the law became a means for aristocratic competition. In this context, it seems unlikely that many senators

²⁵⁴ Griffin 1973; Hayne 1974, 280. Piso opposed the *lex Gabinia* which granted Pompey *maius imperium* to war against the pirates, and later prevented him from recruiting in his province, Gallia Narbonensis. See Cass. Dio, 36.24.3; 36.37.2; Plut. *Pomp.* 27.1-2.

²⁵⁵ See n. 12.

²⁵⁶ *Schol. Bob.* 148 (Stangl) on the *leges Aelia et Fufia*, prohibiting legislation after the announcement of elections; Cass. Dio, 36.39.2; Asc. 58.

²⁵⁷ Gruen 1974, 214.

with variant interests, including non-*nobiles* like Cornelius, would have agreed on the need for a law to limit the electoral chances of new men.

Although, as noted above, there was certainly a *nobilis* ideology in the first century that claimed that *novi homines* needed *ambitus* to succeed in elections, the conception of a rigid divide between sections of the aristocracy is contested. Hopkins and Burton have argued for “a model of circulating elite with only a very small hereditary core,” though they admit that this hereditary core was most powerful.²⁵⁸ Although the argument could be made that Sulla’s enlargement of the senate and the enfranchisement of the Italians after the Social War had granted the Italian elite and former Roman *equites* the ability to succeed in Roman electoral politics, it does not seem that this occurred.²⁵⁹ The idea that over three centuries *ambitus* laws were consistently proposed to limit new men is also not in keeping with most modern conceptions of Roman public law. As shown in chapter one, scholars of Roman public law have noted that the Romans adopted laws to deal with specific crises and problems rather than to establish general and permanent regulations.²⁶⁰ *Novi homines* did not present a specific problem in 67.

Most scholars have ignored the reason Dio gives for the proposal of an *ambitus* law in 67: “ἔπειδὴ γὰρ ἦ τε τῶν δημάρχων δυναστεία ἐς τὸ ἀρχαῖον ἐπανεληλύθει, καὶ πολλοὶ τῶν ὑπὸ τῶν τιμητῶν διαγεγραμμένων ἀναλαβεῖν τρόπον τινὰ τὴν βουλείαν ἐσπούδαζον, συστάσεις καὶ παρακελευσμοὶ παμπληθεῖς ἐφ’

²⁵⁸ Hopkins & Burton 1983, 107-117, esp. 112; also Burckhardt 1990.

²⁵⁹ Wiseman 1971, 2, 106-107 on the difficulties of attaining the consulship and praetorship for new men. Cicero, after all, was the first new man to become consul after Sulla, three years after the adoption of the Calpurnian law.

²⁶⁰ Mousourakis 2007, 58; similarly: Williamson 2005, 30-34, 387.

ἀπάσαις ταῖς ἀρχαῖς ἐγίγνοντο.”²⁶¹ Thus Dio claims that Cotta’s law in 75, which repealed Sulla’s ban on tribunes of the *plebs* subsequently attaining higher magistracies, caused an increase in competition for election due to the greater number of candidates for offices.²⁶² Similarly, those among the sixty-four men expelled from the senate by the censors in 70 would have been trying to gain reentry to the senate by holding a magistracy. There is reason to believe that these explanations are valid. Sulla’s laws on the *cursus honorum* had both set mandatory minimum ages for the each magistracy and dictated a strict order for holding them, beginning with the quaestorship.²⁶³ Although he had doubled the number of quaestorships to twenty per year and increased the size of the senate from 300 to 600, Sulla only increased the number of praetorships by two per year, and the number of tribunes of the *plebs* and aediles remained the same.²⁶⁴

Wiseman thus estimates that whereas before Sulla three out of five senators might hold the praetorship and one out of five the consulship, in the late Republic only two out of five would attain the former and one out of ten the latter.²⁶⁵ Sulla’s reforms had created a bottleneck for gaining the higher magistracies, leading to more intense competition.²⁶⁶ Our literary sources corroborate this. Cornelius Nepos states that Atticus chose not to seek

²⁶¹ Cass. Dio, 36.38.2: “For because the power of the tribunes had been restored to its ancient role, and since many of those whose names had been removed by the censors were eager to restore their rank in the senate, very many conspiratorial political unions, alliances and factions were arising to gain all the magistracies.” Wiseman (1969, 67) denies that the expulsion of these senators would have had any effect on consular elections, while Griffin (1973, 200) and McDonald (1929, 199) accept Dio’s statement but do not present any discussion of the evidence.

²⁶² On Cotta’s law: Broughton 1951-1952, II. 96; Asc. 66C-67C, 78C; Sall. *Hist.* 3.48M

²⁶³ App. *B.C.* 1.100, Liv. *Per.* 89.3. On these reforms: Keaveney 1982, 143-145; Brennan 2000, 392-396; Flower 2010a, 121-124.

²⁶⁴ Griffin 1973, 200; Brennan 2000, 392-394.

²⁶⁵ Wiseman 1971, 164.

²⁶⁶ On the ways in which Sulla affected and changed Roman political culture, and on Sulla’s dictatorship as a moment of transition in Roman history, see Flower 2010b.

magistracies because they could no longer be attained without violation of the laws and mass *ambitus*.²⁶⁷ Similarly, Sallust presents the inability of *nobiles* to obtain office due to intense competition as one of the causes for the conspiracy of Catiline in 63.²⁶⁸

That bottleneck was particularly exacerbated in the first few years of the 60s. We have evidence that senators who had been ejected from the senate in 70 were canvassing for magistracies and attaining offices they had already held in order to gain re-entry into the senate.²⁶⁹ So, Cicero states in his defence of Cluentius in 66 that many of those whom the censors had expelled for taking bribes as judges had been re-elected.²⁷⁰ Antonius Hybrida, the consul of 63, provides an example. According to Quintus Cicero, in 70 the censors had ejected him for judicial bribery, abuse of Roman allies and general immorality.²⁷¹ Yet by 68 he had become tribune and was praetor in 66, possibly repeating the office of tribune to re-join the senate.²⁷² Hybrida essentially followed the same path he would have otherwise, aside from the repetition of the tribunate. Still, as a man of consular family he would have normally been almost guaranteed the tribunate and the praetorship. Because of his ejection, the stakes for election became higher, and so too did the expenditure necessary to attain the consulship.²⁷³

²⁶⁷ Corn. Nep. *Att.* 6.2.

²⁶⁸ Sall. *Cat.* 21.2, 26.1-5, and esp. 35.3. Cicero's incredulity at the amount (ten million sesterces) two consular candidates gave to the *centuria praerogativa* (Cic. *Q. Fr.* 2.15.4) is also evidence for the increasing scale of *ambitus*.

²⁶⁹ Griffin 1973, 200; on the censorship, see Gruen 1974, 44.

²⁷⁰ Cic. *Clu.* 120-121.

²⁷¹ Cic. *Comm. Pet.* 8-9; c.f. Asc. 84C.

²⁷² See CIL I² 589, where he is listed as tribune on the *Lex Antonia*; Ferrary 1985 (440, n. 74) on the dating of this law to 68, Brennan (1989, 479-480) on Antonius repeating the tribunate or (hypothetically) the quaestorship. Cic. *Comm. Pet.* 8.

²⁷³ Gruen 1974, 164 on men of consular family and the praetorship: "Given the statistics, it appears that few of them failed in a quest for the praetorship." Also c.f. the interesting case of L. Volcatius

Publius Cornelius Lentulus Sulla, on the other hand, had held the praetorship (74) and the consulship (71) before his expulsion and then became praetor again in 63.²⁷⁴ Plutarch is most explicit about the relationship between Lentulus' praetorship and his expulsion from the senate, and the frequency of ex-senators seeking old offices to regain senatorial rank: δι' ἀσέλγειαν ἐξεληλαμένος τῆς βουλῆς πρότερον, τότε δὲ στρατηγῶν τὸ δεύτερον, ὡς ἔθος ἐστὶ τοῖς ἐξ ὑπαρχῆς ἀνακτωμένοις τὸ βουλευτικὸν ἀξιῶμα.²⁷⁵ Brennan's argument that this passage shows that Lentulus had already re-entered the senate before 63 does not follow.²⁷⁶ Plutarch's use of "ὡς" emphasizes the causal relationship between attaining the praetorship and regaining senatorial rank. There is no need to be skeptical that Lentulus would not have regained entry into the senate for seven years, as Brennan is. I argue that the already noted increased intensity of competition for the praetorship in the 60s made it difficult for ex-magistrates to hold the same magistracy. This also explains Lentulus' participation in the conspiracy of Catiline as early as 64, before he had attained his praetorship;

Tullus in 68, who held the tribunate in 68 and the consulship in 66; it is probable that the tribunate was his means to regain access to the senate. Broughton 1951-1952, II. 139, 151. Antonius will be discussed again later, but note for now the mass accusations of *ambitus* during his consular campaign: Asc. 83C. Shatzman 1975, 88-90 for details of increasing expenditure.

²⁷⁴ On Lentulus: Cass. Dio, 37.30.4; Sall. *Cat.* 17.2, 46.5; Cic. *Cat.* 3.4; Plut. *Cic.* 17.1. See also Gruen 1974, 44, 418, 420, 509; March 1989, 228 n. 16; Ryan 1994, 256.

²⁷⁵ Plut. *Cic.* 17.1: "Lentulus who on account of his licentiousness had been expelled from the senate before, then was praetor for the second time, as was the custom among those seeking the senatorial rank again."

²⁷⁶ Brennan 1989, 478-481; Brennan argues against Briscoe (1981, 131) that after Sulla's reforms it was impossible to regain entry into the senate by holding the praetorship. Yet c.f. Cass. Dio, 42.52.2, which states that C. Sallustius Crispus was appointed praetor by Caesar in 47 so that he could recover senatorial rank. Brennan's reasoning for ignoring this passage is circular: Sallustius must have become a senator again before holding his praetorship because ejection from the senate must have limited one's ability to pursue the *cursus honorum*; thus Sallustius shows that former magistrates ejected from the senate could not have attained the praetorship and be restored to the senate at the same time.

aristocrats were seeking alternate paths to office.²⁷⁷ The expulsion of sixty-four senators from the senate in 70 therefore further increased the already intense competition for magistracies in the 60s. The question remains whether the restoration of tribunician powers had a similar effect, as Dio claims.

It is admittedly difficult to reconstruct how many of those who were tribunes between 80 and 75 sought further office. In fact, the four examples that we do have do not support Dio's claim. The known tribunes during this period are Gaius Herennius (80), Marcus Terpolius (77), Gnaeus Sicinius (76) and Quintus Opimius (75), a total of four out of sixty.²⁷⁸ Of these, Herennius later died in Spain as a *legatus* under Sertorius, and Terpolius is named by Asconius as most contemptible among all the tribunes of the *plebs* in this period.²⁷⁹ Sallust claims through a speech of the tribune Macer that Sicinius was murdered for being the first to attempt to repeal Sulla's law blocking tribunes from future magistracies.²⁸⁰ Finally, Opimius was prosecuted after his tribunate allegedly for having used his tribunician veto in a manner contrary to Sulla's law, though Cicero claims that he had actually offended some of the *nobiles*, perhaps by seeking the restoration of full tribunician powers.²⁸¹ Cicero thus states that Opimius "lost his property, his rank, and all his honours" ("*bona, fortunas, ornamenta omnia amiserit*"), implying that he was removed from the senatorial order.²⁸² Our only four

²⁷⁷ Ryan (1994, 256) for the argument that Lentulus was not yet a member of the senate when the conspiracy was first formed in 64, as dated by Sallust at Sall. *Cat.* 17.1. Lentulus, then, was perhaps sceptical of his chances of holding the consulship again and thus chose to remain in the conspiracy during 63.

²⁷⁸ Broughton 1951-1952, II.80, 88, 93, 97.

²⁷⁹ Herennius: Sall. *Hist.* 2.98M.6. Terpolius: Cic. *Corn.* II frag. 8 P; Asc. 81C.

²⁸⁰ Sall. 3.48M.7-10; also Plut. *Crass.* 7; Ps-Asc. 189 (Stangl).

²⁸¹ Cic. *Verr.* 2.1.155-157; Ps-Asc. 255 (Stangl); *Schol. Gron.* 341 (Stangl).

²⁸² Cic. *Verr.* 2.1.156.

examples of tribunes between 80 and 75 are therefore exceptional cases, and only the unremarkable Terpolius seems to have both survived and been able to maintain a senatorial career after his tribunate. There is therefore no evidence to support Dio's claim.

Still, Dio's explanation is coherent and deserves further consideration. Since the first part of Dio's statement concerning the reasons for escalating *ambitus* in the early 60s is accurate, I would argue from the case study of the praetorship that it is plausible that tribunes who had been blocked from seeking further office were further exacerbating the curule bottleneck, causing more intense aristocratic competition.²⁸³ Brennan has shown that a fair number of those who were tribunes after 75 held the praetorship within at most eight years, and that half of the senators who held both attained the higher magistracy two to three years after the tribunate.²⁸⁴ For example, Lucius Quinctius was tribune in 74 and praetor in 67, while Gaius Macer held the tribunate in 73 and the praetorship around 67; meanwhile, Marcus Palicanus was tribune in 71 and praetor in 69, and Quintus Cornificius was tribune in 69 and praetor in 66.²⁸⁵ Since under Sulla's law praetors had to be thirty-nine years old, this implies that many senators held their tribunate immediately before they were eligible to become praetor, likely so that their accomplishments were recent enough to be remembered by voters. It is therefore plausible, though not provable, that the bottleneck for the praetorship (and then for the consulship) was intensified as three groups of ex-tribunes competed for it in the late 70s and early 60s. Since the tribunate had no lower age

²⁸³ Griffin 1973, 200.

²⁸⁴ Brennan 2000, 393.

²⁸⁵ Broughton 1951-1952, II.103, 110, 122, 132, 138, 152.

limit, those who had held the tribunate at a young age between 80-75 would have been able to compete for the praetorship in the years preceding the *lex Calpurnia*.²⁸⁶ Their competition would have included those who had held the tribunate in the mid 70s and waited five to seven years before canvassing for the praetorship, along with those who were tribunes in the late 70s and early 60s and immediately pursued the praetorship.

It is clear that the *lex Calpurnia* must be explained in the context of immediate aristocratic competition between the tribune Cornelius with his ally Pompey and senators like the consul Calpurnius Piso and Catulus. More importantly, the legacy of Sulla's reforms to the *cursus honorum* and the censorship of 70 tightened competition and thus increased the amounts that candidates were forced to spend to seek office in the late 70s and early 60s.²⁸⁷ Considering Cornelius' aims, his original proposal of the law cannot have been meant to restrict *novi homines* from gaining magistracies, and it is similarly unlikely that the integration of Italian voters into the *comitiata centuriata* caused a massive increase in *ambitus*.

Instead, the senate's support for such a law shows a concerted effort to regulate and contain electoral competition, though not to outlaw "gift giving" or to imply that the practice was morally corrupt. Hölkeskamp and Mouritsen have noted that consensus and collectivity were important requirements for aristocratic

²⁸⁶ Wiseman 1971, 97-99 on the lack of age limit for the tribunate; so, Caelius Rufus was twenty-nine when he held the tribunate in 52 (see Plin. *N.H.* 7.165 for the claim that Rufus was born in 82).

²⁸⁷ Evans 1991, 120-124 on increasing competition in consular elections.

competition in the Roman Republic.²⁸⁸ As Hölkeskamp writes, “not only does such a consensus maintain, control and balance the various social forces; it is also a fundamental pre-condition for the very evolution of such a competitive system.”²⁸⁹ Comparability in resources and expenditure thus were necessary for aristocrats to continue to view the Roman electoral process as the necessary path to political power that was worth participating in.²⁹⁰ When this comparability became threatened by the intensification of competition, the senate as a whole was forced to react to attempt to retain aristocratic consensus. The *lex Calpurnia* therefore presents a genuine attempt to regulate competition and expenditure. Now I will turn more briefly to the *lex Tullia* of 63 and the *lex Licinia* of 55 to attempt to discover whether similar factors were responsible for their proposal and adoption.

The Lex Tullia de Ambitu

The *lex Tullia*, proposed by Cicero, was supplementary to Piso’s law.²⁹¹ It restricted candidates and those who soon would be candidates from giving gladiatorial shows within two years of the election, unless in compliance with a will.²⁹² The law also stipulated the harsher penalty of exile for ten years for those convicted, as well as for those who pleaded ill health as an excuse not to attend

²⁸⁸ Hölkeskamp 1993, 38; Mouritsen 2001, 125; Hölkeskamp 2010, 98-106, 123-124.

²⁸⁹ Hölkeskamp 2010, 103.

²⁹⁰ Hölkeskamp 2010, 124.

²⁹¹ See n. 11.

²⁹² Cic. Vat. 37: “*cum mea lex dilucide vetet ‘biennio quo quis petat petiturus sit gladiatores dare nisi ex testamento praestituta die.’*” Also, see Cic. Sest. 133; Schol. Bob. 140 (Stangl); Rotondi 1962, 379 and Crawford 1996, 761 for a reconstruction of this part of the law.

their trial.²⁹³ What was the immediate context of the law? Asconius states in his commentary on Cicero's *In Senatu in Toga Candida*, a campaign speech, that as of the consular election for 64, "*cum in dies licentia ambitus augetur propter praecipuam Catilinae et Antoni audacium, censuerat senates ut lex ambitus aucta etiam cum poena ferretur.*"²⁹⁴ Although these statements undoubtedly reflect Ciceronian exaggeration, there may be some truth to them. It is surprising how little Cicero actually discusses *ambitus* in the fragments of the speech, suggesting his allegations of *ambitus* were not as exaggerated as other accusations against Catiline and Antonius.²⁹⁵

This makes sense, because Cicero himself was probably not one of the initial sponsors of the law. Although he was willing to attack electoral competitors for *ambitus*, he was initially content with the Calpurnian penalty. Instead, two senators seem to have been pressing for reforms to *ambitus* legislation in 63. The first was Lucius Caecilius Rufus, tribune of the *plebs*. He was attempting to reduce the penalty for *ambitus* retroactively so that his brother-in-law, Publius Sulla, who had been stripped of his consulship and expelled from the senate in 65, could be restored to the senatorial order.²⁹⁶ Dio reports that he had support from Cicero's co-consul Antonius.²⁹⁷ Still, the plebiscite gained little traction and was

²⁹³ Cic. *Mur.* 47; Cass. Dio, 37.25.3. It also may have followed a Fabian law, possibly passed in 64, which regulated the number of sectatores (attendants in a retinue) a candidate could have (Cic. *Mur.* 71). Gruen (1974, 220) argues that the penalty for missing an *ambitus* trial due to ill health extended to jurors and witnesses as well; Bauman (2000, 845-846) argues convincingly against this interpretation.

²⁹⁴ Asc. 83C: "Since day by day freedom for *ambitus* was increasing because of the obvious boldness of Catiline and Antonius, the senate had decreed that a law on *ambitus* be proposed, with the penalty also increased."

²⁹⁵ Asc. 83-88C; Gruen 1974, 218.

²⁹⁶ Broughton 1951-1952, II. 157; Sall. *Cat.* 18.2; Asc. 75C, 88C; Cic. *Sull.* 11, 49-50, 63-64, 81, 91; Liv. *Per.* 101.3; Suet. *Iul.* 9; Cass. Dio, 36.44.3-5; *Schol. Bob.* 78-79 (Stangl).

²⁹⁷ Cic. *Sull.* 63-64; Cass. Dio, 37.25.3.

promptly rejected.²⁹⁸ On the other hand, Servius Sulpicius Rufus, the noted jurist and legal expert and candidate for the consulship of 62, led the attempt to toughen the penalties of the Calpurnian law. Sulpicius' role is clear from passages in Cicero's *Pro Murena*. Cicero addresses Sulpicius, who was prosecuting Murena for *ambitus*: "*legem ambitus flagitasti, quae tibi non deerat; erat enim severissime scripta Calpurnia. Gestus est mos et voluntati et dignitati tuae... concessit senatus postulationi tuae, sed non libenter duriores fortunae communi condicionem te auctore constituit.*"²⁹⁹ Our sources suggest that other senators, including Cato, supported Sulpicius, and that the idea of tougher *ambitus* legislation gained enough traction to force Cicero to propose the law as consul.³⁰⁰

Yet we should not imagine that Cicero played no active role in the legislation. Rather, it is certain that both Rufus' and Cicero's private agendas drove the proposal of the *lex Tullia*. As Gruen has noted, although Sulpicius was a famous legal expert, he had no military experience and needed concrete accomplishments to increase his prestige.³⁰¹ Catiline's and Antonius' alleged intense use of *ambitus* provided him with an opportunity to make it the central issue of his campaign, and thus he pressed for harsher penalties and consistently

²⁹⁸ Cic. *Sull.* 65; Sulla seems to have realized the unlikelihood of the legislation being adopted fairly early; if Antonius' and Catiline's use of *ambitus* during their campaigns was as extensive as Cicero claims, it makes sense that attempts to alleviate the penalties of the Calpurnian law would have failed, especially since Caecilius' proposal was retroactive. However, as Rosillo López (2010, 67) admits, the precise reason for why the plebiscite was dropped so quickly cannot be known.

²⁹⁹ Cic. *Mur.* 46-47: "You demanded a law on *ambitus*, which was not lacking: For there already was the most severe Calpurnian law. Your goal was achieved because of your authority and force of will... the senate yielded to your opinion, but it did not freely institute this harsher condition for the common good, and only did it under your authority." On Cicero's rhetorical strategy here, see Riggsby 1999, 36; Poma 2005.

³⁰⁰ Cic. *Mur.* 3, 13, 51, 58, 62; Plut. *Cat. Mi.* 21.3-6.

³⁰¹ Gruen 1974, 220; thus Cicero later ironically mocked him during the Murena trial for not having accomplished enough to become consul, comparing Murena's favourable military record with Sulpicius' skill in civil law. See Cic. *Mur.* 20-30, 38 and chapter four for more detail.

threatened to prosecute his opponents for *ambitus*.³⁰² Moreover, we should not accept too readily Cicero's statement that he was forced to propose the law and the senate to adopt it unwillingly out of respect for Sulpicius' *dignitas*.³⁰³ Dio suggests that Cicero pressed for the penalty of exile to be added to the law as a means to contest Catiline's campaign for consul, though Sulpicius was clearly the originator of the idea for the law.³⁰⁴ Although Dio probably overstates the case here in order to frame all the events of 63 in the context of an exaggerated conspiracy of Catiline, his statement is plausible. Cicero's rivalry with Catiline dated back to 65, and he had already alleged that Catiline had conspired against the Republic in his campaign speech in 64.³⁰⁵ If, as is often argued, Cicero exploited the conspiracy of Catiline in late 63 to add prestige and glory to his consulship, it is probable that Cicero had earlier hoped to gain similar benefits from a new *ambitus* law, while weakening a political rival at the same time.³⁰⁶

Still, it is also clear that senators were attempting to address the problems caused by the intensification of competition for electoral offices. It has already been noted that one of the causes of Catiline's conspiracy was frustration among many *nobiles* at being unable to attain magistracies as a result of the bottleneck

³⁰² Cic. *Mur.* 43.

³⁰³ *Contra* Gruen 1974, 217-223 and Riggsby 1999, 36, who both follow Cicero's statement cited above. Poma (2005) notes correctly that Cicero here was probably trying to distance himself from his own *ambitus* legislation here to paint Sulpicius as an overly harsh prosecutor and to limit the personal embarrassment of defending Murena against *ambitus* charges despite his own legislation.

³⁰⁴ Cass. Dio, 37.29.1-2. Note however that Cicero's version of the *lex* differed from Sulpicius' in that it did not alter voting procedures or allow prosecutors at *ambitus* trials to select the jury (Cic. *Mur.* 47).

³⁰⁵ Asc. 83C-86C; Phillips 1976, 441. Indeed, Q. Cic. *Comm. Pet.* 52 advises that a candidate should spread rumours about the *sceleris* (crimes), *libidinis* (desires) and *largitionis* (generosity) of competitors.

³⁰⁶ For revisionist readings of Catiline's conspiracy in which Cicero's exploitation of the event is emphasised, e.g. Allen Jr., 1938 Waters 1970; Phillips 1976. Though their interpretations are perhaps too extreme, the basic argument on how Cicero used Catiline's conspiracy to add to his consulship's prestige is clearly sound.

effect caused by Sulla's reforms. I have also argued that the expulsion of senators like Antonius in the census of 70 led to greater numbers of candidates canvassing for offices, sometimes for a second time, and to general greater expenditure in electoral campaigns in order to assure election. Asconius' testimony on the reason for the proposal of the law seems to confirm this, as does the stipulation against holding games in the two years before a candidate's election. Excessive and expensive gladiatorial games seem to have become a greater problem in this period, and were being treated as a form of *ambitus*, judging from the conviction of Quintus Gallius in 65.³⁰⁷ Similarly, Suetonius records that in Caesar's aedileship in 65, the number of gladiators he planned to use in his games alarmed his enemies, causing them to pass a law limiting the number of gladiators allowed.³⁰⁸

Just as was the case for the *lex Calpurnia*, the *lex Tullia* was proposed and adopted as a means to advance the careers and damage the rivals of two senators, Sulpicius Rufus and Cicero. But it was also an attempt to solve the problems of excessive aristocratic competition and to lower the expenditure necessary to canvass for magistracies. There is no suggestion in our sources that it was meant to restrict new men. The fact that Cicero proposed the law makes this unlikely in

³⁰⁷ Asc. 88C; on sumptuary laws and gladiatorial games as a means for *ambitus*: Rosillo López 2010, 62-64, who also argues that the *lex Tullia* failed because it did not have provisions limiting friends or family members of candidates; also see Hopkins 1983, 7-12, 14 for the cost of gladiatorial games during the late Republic early Principate and their purpose in Republican political culture.

³⁰⁸ Suet. *D.I.* 10.3; although the implication is that his enemies were afraid that Caesar would use so many gladiators to set up a tyranny, and although they may have used such rhetoric, it is probable that this is an anachronistic interpretation, and that the major issue was the size of the games themselves. Indeed, the fact that Augustus later placed the praetors in charge of all festivals and forbade any of them from spending more on games than another, while reducing the size of shows, suggests he perceived that these games led to excessive political competition (Cass. Dio, 54.2.3-4).

itself, especially if we also accept that Sulpicius' original law was aimed at Catiline and Antonius, both *nobiles*. There is meanwhile no suggestion that the continued problem of *ambitus*, the increasing amount spent on gladiatorial games, or the adoption of the *lex Tullia* was caused by a greater presence of Italian voters.

The *Lex Licinia de Sodaliciis*

The final law to be examined is the *lex Licinia de sodaliciis* of 55, proposed by the consul Marcus Licinius Crassus. This law did not modify the Tullian law on *ambitus*, but instead focused on one possible method for committing that crime: the use of *sodalitates*, originally elite organizations meant to organize support for candidates amongst the tribes.³⁰⁹ Cicero describes the law's contents in his defence of Plancius, who was on trial under this *lex*. He calls on his opponent to prove that Plancius "held the money, that he gave bribes, that he enrolled (*conscriptisse*) tribesmen and divided them into teams (*decuriavisse*)."³¹⁰ Cicero's scholiast adds that the law was more specifically meant to punish severely those candidates who employed associations (*sodalitates*) which distributed money to the tribes or intimidated voters, as described in the *Commentariolum*. This was likely the first time that actions of the *sodalitates* were made strictly illegal.³¹¹ In order to limit manipulation of the judicial process in applying the law, Crassus also seems to have proposed that both accusers and defendants should not be allowed to reject individual jurors. Instead, groups

³⁰⁹ Mouritsen 2001, 150; Asc. 39C notes that Milo was later charged *de sodaliciis* and *de ambitu*, showing that the crimes were separate, although the two terms seem to be somewhat synonymous.

³¹⁰ Cic. *Planc.* 47, trans. Riggsby 1999, 22.

³¹¹ *Schol. Bob.* 152 (Stangl); Cic. *Comm. Pet.* 19;

would be chosen by tribe, the prosecutor could select four tribes, and the defendant could reject one.³¹² It is unclear what penalties the *lex* stipulated.

Scholars have debated whether the law was aimed at limiting *ambitus* or whether it was meant specifically to disband the political clubs of the populist politician Publius Clodius Pulcher.³¹³ The context for the adoption of the law was as follows. Pressure against the *sodalitates* began in 56, when Cicero writes that the senate, possibly under the guidance of Quintus Hortensius, decreed that all *sodalitates* be dissolved and a law be proposed and passed on the issue due to intense *ambitus*.³¹⁴ Since in the same letter Cicero discusses the disruptions caused by Clodius' *collegia*, scholars have assumed the two issues are related.³¹⁵ Pompey and Crassus, whose electoral campaigns for 55 allegedly involved much intimidation of voters and extensive *ambitus*, likely blocked the law in order to assure their own chances for the consulship.³¹⁶ Crassus then proposed the law once he had attained the consulship. He thus gained the credit for a law which many senators seem to have considered necessary.

The question is whether the law was mainly an attempt meant to cripple Clodius' use of political clubs, as has been suggested. Mouritsen's argument

³¹² *Schol. Bob.* 152, 160 (Stangl); Cic. *Planc.* 36-37 claims that this jury organization allowed for more corruption, since prosecutors would choose tribes which the defendant had bribed, meaning jurors would be both evidence and judges. As Gruen (1974, 231) points out, Cicero as defence council was likely simply being critical to help his case.

³¹³ Supporting the former: Mouritsen 2001, 149-151; Rosillo López 2010, 68-69. The latter: Treggiari 1969, 175-177. A compromise position: Gruen 1974, 227-233; Lintott 1990, 9.

³¹⁴ Cic. *Q. Frat.* 2.3.1-5; on Hortensius' involvement: Linderski 1961, 304-311, based on Cic. *Planc.* 37.

³¹⁵ E.g. Treggiari 1969, 175-177; Gruen 1974, 227-233. On Clodius' extensive and perhaps unique use of *collegia* as gangs and means for mobilizing popular support: Laurence 1994, 68; Mouritsen 2001, 58-60.

³¹⁶ Gruen 1974, 230. On these consular elections, see: Cic. *Att.* 4.8a.2; Suet. *D.I.* 24; Plut. *Pomp.* 51-52; *Cat. Min.* 41-42; *Crass.* 14-15; Cass. Dio, 39.27, 39.30-32; App. *B.C.* 2.17. Dio in particular reports that the disruptions caused by Pompey and Crassus were so extensive that the elections had to be delayed to 55.

against this interpretation is convincing.³¹⁷ Clodius's clubs are never called *sodalitates*, only *collegia*, which were not organized by tribe, but rather through individual districts (*vici*).³¹⁸ Although both *sodalitates* and members of *collegia* are called *decuriati* and members of *decuriationes* in Cicero's writings, implying that they had similar purposes, the former are nearly always mentioned in the context of *ambitus*, the latter in the context of political intimidation, particularly during *contiones* and legislative assemblies.³¹⁹ Moreover, in the letter in which he describes the disruptions of Clodius' gangs and the senatorial decree against *sodalitates*, Cicero does not himself make the connection between the two, but treats them as different subjects. While Crassus had personal reasons for delaying the law and then implementing it when he became consul, it is unlikely that he also meant to aim the law at Clodius specifically. Instead, his *lex*, and the senatorial decree sponsored by Hortensius in 56, were both aimed at solving the more general problem of *sodilitates*. By attempting to restrict one of the methods for committing *ambitus*, senators hoped to be able to limit the crime and thus the increasing expenditure necessary to participate in elections.

By the year 55, of course, several of the factors responsible for the proposal and adoption of the *lex Calpurnia*, such as the censorship of 70's ejection of sixty-four senators and the restoration of the full powers of the

³¹⁷ Mouritsen 2001, 149-151.

³¹⁸ Cic. *Sest.* 55; *Red. Sen.* 33; on the organization of *collegia*, see Cic. *Sest.* 34; Asc. 7C; Cass. Dio, 38.13.2.

³¹⁹ C.f. Cic. *Planc.* 45, 47, where the word *decuriatio* clearly refers to a tribal association meant to provide gifts to voters: "*Decuriatio tribulim, description populi, suffragia largitione devincta severitatem senates et bonorum omnium vim ac dolorem excitarunt*" (45: "The dividing of the tribes into decuries, the division of the people, and votes being bound by *ambitus* compelled the severity of the senate and the action and distress of all good men"); meanwhile in Cic. *Sest.* 34 the men of the *collegia* are divided into decuries (*decuriarentur*) "*ad vim, ad manus, ad caedem, ad direptionem*" ("for force, violence, slaughter and plundering").

tribunate of the *plebs*, would have no longer affected electoral politics. Yet competition did not lessen, likely because of Sulla's long term reforms that had increased the number of quaestors and praetors even as only two consuls continued to be elected each year. Indeed, in his prosographical study of the number of candidates competing for consular elections, Evans has concluded that it was typical for five to eight candidates to canvass for the consulship each year in the 50s.³²⁰ This meant that every year, three to six candidates for the consulship lost both the office and the money they had spent as part of the necessary electoral practices of *ambitus* and *benignitas*. For example, Gaius Memmius and Gnaeus Domitius Calvinus, as mentioned earlier, spent ten million sesterces on the *centuria praerogativa* alone during the consular elections for 53.³²¹ But while Calvinus won the consulship, Memmius did not, losing to Marcus Valerius Messala Rufus and therefore wasting a large sum of money.³²²

The increasing scale of *ambitus* thus forced many unsuccessful candidates to lose their own resources and in many cases to go heavily into debt.³²³ Gaius Julius Caesar was forced to borrow large amounts to be elected as *pontifex maximus* in 63.³²⁴ Appian claims that by the end of his praetorship in 61, Caesar had accumulated over twenty-five million sesterces in debt, partially due to the amount he had spent on *ambitus*.³²⁵ Although Caesar was one of the most successful politicians of his age and so eventually could pay off his debts, his career provides evidence for the amounts unsuccessful candidates would have had

³²⁰ Evans 1991, 123-124.; also Gruen 1974, 141-161.

³²¹ Cic. *Q. Fr.* 2.15.4.

³²² Gruen (1974, 149) provides a reconstruction of events.

³²³ Shatzman 1975, 79-83 ; Rósillo Lopez 2010, 192-203.

³²⁴ Plut. *Caes.* 7.1-2;

³²⁵ App. *B. Civ.* 2.8.

to spend and borrow in the late 60s and 50s. The breakdown of comparability of resources and expenditure therefore continued after the adoption of the *lex Calpurnia*, suggesting to the increasing number of unsuccessful and indebted candidates that elections were no longer a fair way to distribute power. At the same time, as candidates began employing new methods for *ambitus*, such as the use of the *sodalitates*, new legislation became necessary to block the loopholes of previous laws. The *lex Licinia* and *lex Tullia* therefore represent further attempts to regulate the scale of *ambitus* and to restore aristocratic comparability and thus aristocratic consensus over the fairness of the Roman electoral process. This regulation would then hopefully prevent senators from rejecting the electoral process and seeking other paths to office, as those who participated in the conspiracy of Catiline did.

Conclusion

The *leges Calpurnia*, *Tullia* and *Licinia* all failed. *Ambitus* and the use of *sodalitates* continued to be major problems in Roman electoral politics until the outbreak of civil war in 49 and the end of the Republic, as the events of 52 and Pompey's final attempt at an *ambitus* law attest to.³²⁶ Crassus' consular campaign and subsequent proposal of his law perhaps shows why this was so most clearly. Even if a politician was willing to attempt solve the problem, the priority was clearly the advancement of his own career.³²⁷ Similarly, laws were not specific enough to be able to limit the practice of *ambitus*, allowing candidates to exploit

³²⁶ App. *B.C.* 2.23-24; Asc. 39C

³²⁷ Linderski 1985, 93-94 for this observation, though he is less willing to credit attempts to solve the *ambitus* problem as genuine.

legal loopholes.³²⁸ Yet although I have argued that personal considerations and hopes of political advancement and prestige were partially responsible for the proposal of each of these laws, I have also shown that there seems to have been a genuine attempt to try to limit the increasing amount of *ambitus* in the late Republic.

This genuine attempt was not meant to restrict the careers of *novi homines*, as the contexts for the Calpurnian and Tullian laws and the lack of advancement for most new men in the late Republic most clearly show. Nor can a compelling argument be made that the majority of the newly enfranchised Italians participated in Roman elections to such a degree that they caused Roman aristocrats to turn to *ambitus* to secure their vote. Instead, the intensification of aristocratic competition in the 70s, 60s and 50s is what caused a greater amount of *ambitus*, largely due to the reforms of Sulla. The seemingly large senatorial support for these laws thus shows an effort to limit the greater expenditure now necessary to succeed in the *cursus honorum* and to stabilize aristocratic competition. Despite *ambitus*' necessity and its social and political functions, late Republican senators recognized that it presented a practical problem and needed to be regulated. Sulla's reforms had ultimately caused a loss of comparability in aristocratic resources and expenditure, and therefore a breakdown of aristocratic consensus on the fairness of elections as a means to distribute power. The many laws and proposals against *ambitus* in the last three decades of the Roman Republic are

³²⁸ Again, Rosillo López 2010, 62-64 on the reasons for the failure of the *lex Tullia*'s limitations on the holding of gladiatorial games.

thus not the legacy of the Social War, as many scholars have argued, but of Sulla's dictatorship and restoration of Republican government.

Chapter IV

Cicero's *Pro Murena* and the Politics of *Ambitus*

In July of 63 B.C., in the aftermath of the adoption of the *lex Tullia de ambitu*, Lucius Licinius Murena was elected to the consulship for the next year. Following this victory, one of his electoral rivals, Servius Sulpicius Rufus, brought Murena to court under the charge of *ambitus*, a prosecution Sulpicius had been preparing for throughout the campaign.³²⁹ Rufus was supported by Marcus Porcius Cato, who had promised before the election to prosecute any successful consular candidates, due to the amount of *ambitus* committed by all candidates during the campaign.³³⁰ Other prosecutors included a young man whose father had been friendly to Murena, whose name was also Servius Sulpicius, and Gaius Postumus, an old friend and neighbor of the accused.³³¹ According to Cicero, the prosecution based their charge on three arguments: the immorality of Murena's private life, his unsuitability for office in comparison with the other candidates, and the proof that he had violated both the *lex Tullia* and the *lex Calpurnia*.³³² The first two charges aimed to show that Murena was not only capable of *ambitus* but also could not have won the election without it, while the third accusation consisted of an analysis of Murena's behaviour throughout the campaign. Among Murena's advocates were Marcus Licinius Crassus, Quintus Hortensius Hortalus and Marcus Tullius Cicero. Cicero's speech in defence of Murena, the *Pro*

³²⁹ Cic. *Mur.* 78.

³³⁰ Cic. *Mur.* 62; Plut. *Cat. Min.* 21.2.

³³¹ Cic. *Mur.* 56. Little is known about these two prosecutors.

³³² Cic. *Mur.* 11: "*Intellego, iudices, tris totius accusationis partis fuisse, et earum unam in reprehensione vitae, alteram in contentione dignitatis, tertiam in criminibus ambitus esse versatam.*"

Murena, survives, and is one of the most important sources for *ambitus* in the late Republic.

The *Pro Murena* is organized as follows.³³³ After defending his own decision to represent Murena, Cicero briefly responds to criticisms of Murena's private character, but does not provide a detailed rebuttal, since he considers it well known that Murena's life was free from deceit and greed.³³⁴ He then argues that Murena was more suitable to be elected to office than Sulpicius, since he was of a distinguished praetorian family and an excellent soldier who had gained distinction for his bravery in the Third Mithridatic War. He was also popular due to his successful urban praetorship, during which he had organized magnificent games, and his honest administration during his propraetorship in Transalpine Gaul.³³⁵ Cicero criticizes Sulpicius' conduct during his campaign, claiming that he lost because he did not maintain a positive self-image, since he was already preparing to prosecute Murena for *ambitus* and thereby suggesting that he knew he was going to lose.³³⁶ Cicero next attacks the other prosecutors, and particularly Cato.³³⁷ He pseudo-praises Cato's Stoic moral absolutism before subtly mocking his inability to compromise, comparing him unfavourably with more reasonable figures from Roman history, such as Scipio Africanus and Cato's own ancestor, the stern and morally upright Cato the Censor.³³⁸ Turning to the charge of *ambitus*

³³³ For a more detailed analysis of the organization of the speech, see MacKendrick 1995, 75-78. Note that the speech contains several *lacunae*.

³³⁴ Cic. *Mur.* 1-10, 11-14.

³³⁵ Cic. *Mur.* 15-42.

³³⁶ Cic. *Mur.* 43-53.

³³⁷ Cic. *Mur.* 54-57. For example, he tells Postumius that, as a candidate for the praetorship, he should care about uses of *ambitus* in praetorian elections and not become involved in consular affairs.

³³⁸ Cic. *Mur.* 58-66. On this rhetorical tactic, see Craig 1986, 229, 239; van der Wal 2007, 187-189

itself, Cicero ridicules the evidence of the prosecution, such as the size of the crowds that met Murena and the lavishness of games and feasts put on in his name. He claims that the crowds were not paid to follow him but were simply responding to the favours Murena had legally bestowed upon them. Moreover, Cicero argues, Murena's family and friends had organized the games and feasts, making them legal.³³⁹ He concludes by reminding the jury that Catiline's conspiracy still posed a threat to the Republic. It was important to ensure the existence of a stable government to deal with the crisis, rather than to threaten stability with another election to replace Murena.³⁴⁰

As a result of its focus, many scholars have used this speech as evidence for their interpretations of *ambitus*. For Yakobson, the *Pro Murena* shows that the Roman Republic was democratic, as senators used *ambitus* to encourage poorer citizens to vote for specific candidates.³⁴¹ Rosillo-Lopez understands Murena's actions as examples of corruption, as defined by previous legislation.³⁴² Riggsby has argued that this speech shows the difficulty in distinguishing between gift giving and *ambitus*, providing evidence for his conclusion that *ambitus* laws were chiefly meant to punish new men.³⁴³ In this chapter, I will respond to these readings of the *Pro Murena* and present it as a useful case study for the version of *ambitus* in the late Republic that I have presented in earlier chapters. After briefly

³³⁹ Cic. *Mur.* 67-77.

³⁴⁰ Cic. *Mur.* 78-87. Riggsby (1999, 39) notes correctly that this last argument is Cicero's "only truly persuasive one," and Cicero himself suggests this (Cic. *Flacc.* 98) when he claims that none of the jurors in the Murena case actually cared about Cicero's arguments about *ambitus*. No modern scholar questions Murena's guilt. Cicero (Cic. *Mur.* 88-90) closes the speech with references to how sad Murena and his family (especially his loving mother) would be if his consulship were revoked and to Murena's popular support.

³⁴¹ Yakobson 1992, 35-43.

³⁴² Rosillo López 2010, 60-62, 67.

³⁴³ Riggsby 1999, 21-49.

outlining some of the problems this source presents for historical analysis, I will examine what this speech can tell us about the role of the *populus Romanus* in the late Roman Republic, the scale and use of *ambitus*, and the purpose of legislation against *ambitus*.

It must be borne in mind that this is a defence speech and, as such, is a problematic historical document. Its purpose is to defend Murena and assure his acquittal, not to tell the truth or even to present Cicero's own view of Republican politics. For example, the prosecution claimed that Murena was of low birth from an undistinguished family. In response, Cicero exaggerates the achievements of Murena's father, Lucius Licinius Murena, during the Mithridatic wars, going so far as to claim that the elder Murena celebrated a well-earned triumph.³⁴⁴ In reality, the elder Murena, a legate of Sulla, provoked a war with Mithridates due to his greed for a triumph and thus broke the treaty Sulla had made with the Pontic King; Mithridates eventually defeated Murena in battle and Sulla recalled his legate, who had fought in contradiction of his orders.³⁴⁵ Similarly, Cicero attacks Sulpicius Rufus' profession of jurisprudence throughout the speech, aiming to show that knowledge of civil law was not a useful asset for electoral candidates.³⁴⁶ He states that "*non patiar te in tanto errore versari ut istud nescio quid quod tanto opera didicisti praeclarum aliquid esse arbitrare.*"³⁴⁷ Yet it is clear that that comments like these do not actually represent Cicero's beliefs, at

³⁴⁴ Cic. *Mur.* 15, 32.

³⁴⁵ App. *Mith.* 64-66; on these events, and the historicity of Appian's account despite his compression of the events of the Second Mithridatic War, see Glew 1981, esp. 109-118.

³⁴⁶ Cic. *Mur.* 21-23, 25-28.

³⁴⁷ Cic. *Mur.* 23: "I will not let you remain in such error so that you remain ignorant, thinking that what you have learned (civil law) with so much work is thought to be exceptional in any way."

least if his writings on jurisprudence in *de Oratore* are to be believed.³⁴⁸ We should be cautious in using this text as an accurate source for either the events of the case or Cicero's own interpretation of Roman political culture.³⁴⁹

The *Populus Romanus*

The *Pro Murena* is filled with references to the electoral supremacy of the *populus Romanus*. Cicero immediately affirms that Murena owed his consulship to the Roman people, beginning the speech by addressing the jury and wishing that “*vestres mentes atque senententiae cum populi Romani voluntatibus suffragiisque consentient.*”³⁵⁰ Cicero continually reinforces this theme, calling Murena's consulship a gift of the Roman people (*beneficium populi Romani*).³⁵¹ He expands on this to more generally describe the powers of the *populus Romanus*, stating that elections are decided by the people and the masses (“*sunt enim populi ac multitudinis comitia*”), and further comments on the fickleness of the people and the difficulty in retaining the loyalty of the mob (*volgo*) and discovering how they intend to vote.³⁵² Yakobson has taken these statements as evidence that the urban *plebs* held considerable influence over the outcomes of elections in the centuriate assembly. Admitting the source's nature as an advocate's plea, he argues that “the picture of consular elections drawn here cannot be totally false; Cicero could hardly have hoped to help his client by

³⁴⁸ Cic. *Or.* 141-146; Nicolet 1960, 248-251.

³⁴⁹ Lintott 2008, 3, 15-39 on the dangers of using Ciceronian speeches as evidence. After all, Cic. *Brut.* 42 notes that it is acceptable for rhetoricians to distort history to prove their point.

³⁵⁰ Cic. *Mur.* 1: “That your minds and verdicts should consent with the wishes and votes of the Roman people.”

³⁵¹ Cic. *Mur.* 2, 8.

³⁵² Cic. *Mur.* 38, 36; similarly, c.f. Cic. *Mur.* 20-22, 39-42.

defending him with patently implausible arguments.”³⁵³ The educated, upper class jurors of the *ambitus* court would have recognized the sovereignty of the Roman people and would have accepted Cicero’s arguments that Murena’s popularity, and not his use of *ambitus*, had gained him votes in the *comitiata centuriata*.³⁵⁴

Yet it is also possible that such appeals to the *populus Romanus* do not reflect the reality of the people’s political power so much as they exemplify the ideology of their sovereignty, as I argued in chapter two. In my view, Cicero’s arguments would not have been implausible even if poorer Romans had little electoral power, since the political culture of the Roman Republic relied on reinforcing the symbolic power of the Roman people to maintain aristocratic consensus and societal cohesion. In truth, there is little evidence within the *Pro Murena* itself to prove conclusively either Yakobson’s or my thesis conclusively, as either interpretation of the evidence depends on one’s starting assumptions about the nature of Roman politics. That is, how one believes that Roman politics functioned will tend to shape, even determine, the way s/he interprets references to the *populus Romanus* in the *Pro Murena*.

Yet perhaps we can focus on one section of this speech that appears to indicate that Cicero exaggerates the sovereignty of the Roman people in order to emphasize Murena’s popular support and, therefore, his entitlement to the

³⁵³ Yakobson 1992, 35-38, esp. 36; also Yakobson 1999, 26-31.

³⁵⁴ At this time, juries in Roman permanent courts, such as the *ambitus* courts, were composed of equal numbers of senators, *equites* and *tribuni aerarii*, in accordance with the *lex Aurelia iudiciaria* of 70 (Asc. 17C, 28C; Cic. *Q. Fr.* 2.5, 2.16; Liv. *Per.* 97; Plut. *Pomp.* 22). Although there has been some debate over the identity of the *tribuni aerarii*, I accept Nicolet’s (1974, 608-610) suggestion that they were citizens who possessed the property qualification of HS 400,000 necessary to become a member of the *equites* class but who were excluded from the eighteen equestrian centuries and placed in the first class instead. This is suggested by Dio’s (Cass. Dio, 43.25) statement that some of the “common people” were jurors at this time.

consulship. When discussing how the urban poor are able to contribute to Roman politics, Cicero states: “*Homines tenues unum habent in nostrum ordinem aut promerendi aut promerendi aut referendi benefici locum, hanc in nostris petitionibus operam atque adsecutionem.*”³⁵⁵ In other words, according to Cicero, the urban poor contribute to the political process not so much by voting, but by serving to enhance an aristocrat’s prestige by following him in his entourage—by adding to the visual and physical manifestation of his status. Indeed, Cicero goes on to say that the support of the poorer classes is worthless, if all they have to offer is their votes.³⁵⁶

Yakobson tries to explain these statements as references to the lesser relative weight of each individual vote of the poorer classes.³⁵⁷ That is, since there were more citizens in each century of the fourth, fifth and proletariat classes, yet they accounted for fewer than half of the 193 centuries, the vote of each individual registered in the lower property classes was worth proportionally less than the votes of their counterparts in the top property classes. Moreover, since theoretically more individuals from the lower property classes voted (e.g. more *proletarii* voted than *equites*), each individual voter in a lower property class had proportionally less influence on which candidate won his property class’ centuries, regardless of how few they were. Cicero’s argument, then, according to Yakobson, is not that the only way for a poor citizen to participate in Roman

³⁵⁵ Cic. *Mur.* 70: “Poor men have one way of doing favours for or repaying a benefaction to our order, and that is by attending on and following us when we are candidates for election.”

³⁵⁶ Cic. *Mur.* 71: “*Si nihil erit praeter ipsorum suffragium, tenues, etsi suffragantur, nil valent gratia.*”

³⁵⁷ Yakobson 1992, 37-39; Yakobson 1999, 30-31.

politics is to follow a candidate, but that it is a better and generally more significant method of supporting a Roman candidate than voting.

Yet Yakobson's interpretation of this passage ultimately stems from his statement that the vote of a *tenuis* "could hardly be described as having no influence," causing him to take Cicero's statement as being comparative; but the text itself does not suggest this.³⁵⁸ Rather, Cicero's language is not comparative. He uses words such as "*nil*" when referring to the effects of the urban *plebs*' votes and argues that there is one (*unum*) way for the poor to repay aristocratic favours. It is true that in this part of the speech, Cicero is attempting to show that crowds were not paid to follow Murena during his candidacy. Emphasizing that poor citizens could only participate politically by following candidates reinforces Cicero's argument, since it provides explanations other than *ambitus* to account for why massive crowds accompanied Murena. We should be careful about accepting Cicero's rhetoric here unconditionally. Yet Cicero's arguments also hinge on showing that Murena gained popularity from his generosity, making it irrelevant whether this popularity translated into votes or crowds following him. It is therefore interesting that Cicero stresses the worthless vote of the *populus*, and this passage does provide evidence that Cicero's references to the electoral power of the Roman people in the rest of the speech are mainly symbolic. This interpretation of the role of the people fits well with how *ambitus* is presented in the *Pro Murena*.

³⁵⁸ Yakobson 1992, 37.

Ambitus

Unfortunately, despite Cicero's promise to respond to Postumius' accusations concerning the evidence of the distributors (*divisorum indicii*) and the amounts of money seized (*deprehensis pecuniis*), the actual text dealing with these charges is missing from the published version of the speech.³⁵⁹ Pliny the Younger suggests that it was Cicero himself who edited it in this way.³⁶⁰ The reasons for this are probably not sinister. Pliny and Quintilian write that it was a common custom to make the written versions of long orations more concise, in particular leaving out passages dealing with technical and legal details and replacing them with a *titulus* summarizing that part of the argument, as Cicero does here.³⁶¹ Cicero's goal was to make the *Pro Murena* more polished and readable, not to hide the accusations against Murena. Although this redaction does limit our evidence concerning *ambitus*, it at least tells us that the prosecution had evidence that Murena distributed money through the *divisores* to be handed out to the people. Some sections of the speech in which Cicero responds to charges of *ambitus* do survive, however, and provide interesting details. Cicero summarizes a part of Cato's accusation: "*Si mercede obviam candidatis issent, si conducti sectarentur, si gladiatoribus volgo locus tributim et item prandia si volgo essent data, contra legem Calpurniam factum videri.*"³⁶² The prosecutors thus accused

³⁵⁹ Cic. *Mur.* 54.

³⁶⁰ Instead, (Cic. *Mur.* 57) he writes a *titulus* summarizing this part of the speech ("*De Postumi criminibus, de Servi adulescentis*"). Plin. *Ep.* 1.20.7.

³⁶¹ Plin. *Ep.* 1.20.7; Quint. *Inst. Or.* 12.10.49-57. Laurand (1928, 5) agrees that these edits nearly always removed sections of speeches that were considered to be less interesting. See n. 31 above for the *titulus*.

³⁶² Cic. *Mur.* 67: "If some men were to go out to meet candidates because of a bribe, if they were paid so that they would follow him around, if places at gladiatorial games and similarly meals

Murena of using *ambitus* to attract crowds to meet him and of breaking the law by giving out places at gladiatorial games and meals to citizens beyond his own tribe. Cicero's defence rests on showing both that these actions did not take place and Murena owed his electoral success to legally acceptable practices.

To do this, he exploits *ambitus*' position in the grey area between legitimacy and illegitimacy in the Roman mentality and its similarity to the socially acceptable "*benignitas*."³⁶³ Cicero emphasizes that the urban *plebs* had legitimate reasons for meeting Murena when he returned from his province at the end of his propraetorship and following him during his candidacy. He argues that it was normal for crowds to go meet a consular candidate when he returned from a province.³⁶⁴ More importantly (as noted above), he emphasizes that the only way for poor men to repay favours bestowed upon them by senators is to follow them when they are canvassing.³⁶⁵ He frames these favours as "*beneficia*" and as permanent and necessary interactions between the masses and elites that formed part of the electoral campaign.³⁶⁶ Arguing in this way, he states that "*nulla est enim poena quae possit observantiam tenuiorum ab hoc vetere instituto officiorum excludere*" and notes popular opposition to a law proposed by a certain Fabius in the 60s that limited the number of people who could follow a candidate.³⁶⁷ Cicero thus does not deny that crowds followed Murena. Instead he

were given out freely, tribe by tribe, then this deed would appear to have been against the Calpurnian law."

³⁶³ See chapter one; also Riggsby 1999, 30-33.

³⁶⁴ Cic. *Mur.* 68.

³⁶⁵ Cic. *Mur.* 70.

³⁶⁶ Riggsby 1999, 30-33 on this argument.

³⁶⁷ Cic. *Mur.* 71: "For there is no punishment which can stop the dedication of poor men from fulfilling their obligations according to the old custom." The Fabian law seems to have been adopted, though we have little information about it. Kinsey (1965, 58-59) argues successfully that

claims that their behaviour was a response to his generosity and was not caused by them being hired (*conductos*) through a form of *ambitus*.³⁶⁸

Cicero's arguments justifying Murena's distribution of food, games and seats at games are similar. Although he is quick to point out that these feasts and games were organized by Murena's family and friends, meaning that Murena did not violate the *lex Tullia*'s stipulation that candidates could not provide such entertainments within two years of their election, he is more concerned with showing that they were an essential component of Republican canvassing.³⁶⁹ He argues that the shows and dinners Murena's friends gave indiscriminately to all the tribes — thus technically illegally according to the *lex Calpurnia* — were in fact conducted according to tradition (“*autem more et modo factum est*”).³⁷⁰ In response to Cato's accusation that the practice of canvassing by giving out food, entertainment and other *beneficia* was morally wrong, Cicero cites their use throughout Roman history and the benefits and enjoyment the *populus Romanus* received from them.³⁷¹ Archaeological evidence appears to support Cicero's position and reveal Cato's accusations to be little more than rhetoric. A cup has been discovered that advertises Cato's candidacy for the tribunate of the *plebs* in 62. The medium suggests that Cato himself organized feasts during his own

it was not an *ambitus* law, since Cicero (Cic. *Mur.* 73) later suggests that a candidate could not be charged for drawing a large crowd, only for paying one to accompany him. Kinsey also argues that that the *lex* was recent, since Cicero expects his audience to be familiar with it.

³⁶⁸ Cic. *Mur.* 67-73, esp. 73.

³⁶⁹ Cic. *Mur.* 72-73, in which he claims that all these acts were the obligations of relatives and friends, such as Murena's stepson Lucius Natta. He stresses that Murena took no part in them. Rosillo López 2010, 62-64 on legal loopholes.

³⁷⁰ Cic. *Mur.* 72.

³⁷¹ Cic. *Mur.* 73-75.

campaign.³⁷² Even if Cato refrained from giving feasts to all tribes, the cup nevertheless indicates that generosity, such as the giving of feasts, was a typical feature of Roman elections. Cicero's ultimately successful arguments depend on the importance of generosity to canvassing and the blurry line between *ambitus* and *benignitas*.

The *Pro Murena* therefore does not suggest that *ambitus* was a form of corruption, despite the moral invective clearly leveled against it by senators like Cato and the laws which attempted and failed to restrict the behaviour of senators such as Murena.³⁷³ Instead it shows the necessity of *ambitus* for electoral success, and its importance to the Roman political process.³⁷⁴ *Ambitus* and *benignitas* were too closely related and too essential a component to campaigning to have been considered corruption in the modern Western sense, with its rigid division between public and private. Indeed, Cicero provides evidence that this distinction was not valid in the Roman Republic when he states that “*odit populus Romanus privatam luxuriam, publicam magnificentiam dilet.*”³⁷⁵ Murena's electoral practices, such as the organization of feasts and games for all tribes, were technically *ambitus* but clearly constituted *publica magnificentia*. These practices could be claimed as legal due to the exploitation of loopholes in *ambitus* legislation, including by conducting them under the names of family members and friends.³⁷⁶ The *Pro Murena* perhaps best summarizes the Roman attitude towards

³⁷² The graffiti reads: “*M. Cato quei petit tribun[at]u[m] plebei.*” Rosillo López 2010, 64.

³⁷³ Rosillo López 2010, 60-62 for a view of Murena's electoral methods as forms of corruption, albeit defined ambiguously by laws with loopholes that were easy to exploit.

³⁷⁴ Riggsby (1999, 33) argues that Murena's campaign was conventional.

³⁷⁵ Cic. *Mur.* 76: “The Roman people hates private luxury but loves public displays of wealth.” C.f. Cic. *Flac.* 28.

³⁷⁶ Cic. *Mur.* 72-73.

ambitus and its ambivalent nature when Cicero claims that “*nec candidatis ista benignitas adimenda est quae liberalitatem magis significant quam largitionem.*”³⁷⁷

Cicero instead suggests that granting *beneficia*, and therefore committing *ambitus*, was a necessary method for a candidate to gain popular support. The attainment of popular support was a method of self-representation, a way to increase a candidate like Murena’s visibility and status due to the symbolic importance of the Roman people. This is apparent from Cicero’s description of Murena’s return from Gaul, in which he establishes that all the classes of Roman society rushed to meet him and thus emphasizes Murena’s popularity.³⁷⁸ Similarly, Cicero cites the importance of acting with consular dignity and maintaining consular behaviour throughout a campaign; presumably this included flaunting wealth.³⁷⁹ The consequences for acting differently were clear.³⁸⁰ Cicero cites the example of Quintus Tubero, a Stoic who mocked a funeral banquet given in honour of Scipio Aemilianus and so lost himself the praetorship, despite his distinguished lineage and moral uprightness.³⁸¹ Similarly, Sulpicus Rufus is alleged to have lost the consulship to Murena because his games had not been as splendid or lavish.³⁸² Cicero further notes that Murena had himself not done as

³⁷⁷ Cic. *Mur.* 77: “The *benignitas* of a candidate should not be hindered, because it more signifies generosity rather than bribery.”

³⁷⁸ Cic. *Mur.* 68-70.

³⁷⁹ Cic. *Mur.* 45.

³⁸⁰ Cic. *Mur.* 76-77; c.f. Cic. *Comm. Pet.* 44; Veyne 1976, 401-445; Jehne 2006b, 18.

³⁸¹ Cic. *Mur.* 75-76.

³⁸² Cic. *Mur.* 38-40.

well as he could have in the praetorian elections for 65 because he did not publicize his generosity as effectively as his rivals, including Rufus.³⁸³

By drawing crowds of people to him and through the act of *ambitus* itself, Cicero could claim that Murena had the support of the Roman people, granting legitimacy to his election since a third party had fairly chosen him over his rivals. At the same time, the urban *plebs* received symbolic and tangible benefits. Their status as representatives of the Roman people was reinforced, as Cicero's rhetoric attests. At the same time they received food, entertainment and money, compensating them for their lack of real political power.³⁸⁴ The *Pro Murena* supports my argument. The purpose of *ambitus* was generally not to secure the votes of the poor, but to confirm the status of individual aristocrats while maintaining social cohesion through benefitting the *populus Romanus*.

Legislation Against and Prosecutions of *Ambitus*

The question remains why Sulpicius Rufus and his fellow prosecutors chose to prosecute Murena, and what their motives can tell us about the role of *ambitus* in aristocratic competition and invective. In chapter three I examined three laws in the individual contexts of their proposals and adoptions, including the *lex Tullia*, which Rufus sponsored. I argued they were not meant to restrict the careers of new men, nor were they the result of the granting of the vote to the Italians, two commonly held assumptions. I instead concluded that the goals of such laws were often to promote the careers of the aristocrats who had

³⁸³ Cic. *Mur.* 37.

³⁸⁴ Cicero (Cic. *Mur.* 72) calls these the "*praemia commodaque a suis tribulibus*" ("prizes and rewards from their own tribesmen").

proposed them and to regulate *ambitus* for practical reasons. Sulla's reforms to the *cursus honorum* during his dictatorship had particularly accelerated competition, however, which led to traditional social practices, including *ambitus*, being conducted on a much grander scale. Aristocrats began to expend unprecedented levels of resources while canvassing, with the result that an important element in maintaining aristocratic consensus during the Roman Republic, comparability, was lost. Legislation against *ambitus* reflects attempts to restore this comparability. The *Pro Murena* fits the model that I am proposing.

First, the argument that *ambitus* laws and trials were meant to restrict the careers of new men to the Roman senate cannot apply to Murena.³⁸⁵ It is true that his prosecutors, and particularly Sulpicius Rufus, seem to have used this sort of rhetoric. Cicero thus responds to accusations that Murena's family was not as distinguished as that of Rufus', members of which had held the consular tribunate during the fourth century.³⁸⁶ The implication of the prosecution is that the standing of the Licinii Murenae was too poor to gain the consulship through legitimate means, and that Murena must have used *ambitus*. Cicero in turn defends the ability of *novi homines* to become successful consuls, noting the success of aristocrats like Cato the Elder and himself.³⁸⁷ Yet Murena cannot truly be said to be a *novus homo* in the way that scholars discussing *ambitus* have used the term.³⁸⁸ As Cicero repeatedly points out, Murena's great-grandfather, grandfather and father all held the praetorship, and his father even celebrated a

³⁸⁵ For the argument that they did: Gruen 1991, 255-257; Riggsby 1999, 26-27.

³⁸⁶ Cic. *Mur.* 15-16; Munzer 1931, 860-862.

³⁸⁷ Cic. *Mur.* 16-18.

³⁸⁸ Wiseman (1971, 1 n.2) calls attempts to style Murena a *novus homo* "a mere lawyer's ploy."

triumph.³⁸⁹ Although Murena was his family's first consul, he nevertheless belonged to one of the highest levels of the elite.³⁹⁰ Though senators who were the first in their family to reach the consulship could be called new men, this was a rarer and more contrived usage of the term.³⁹¹ There is nothing to suggest that Murena in particular committed *ambitus* because he was a new man or in an unfavourable position to attain the consulship, or that Servius' accusations are anything but rhetoric.

Cicero's speech also does not provide evidence for mass Italian participation in Roman politics or the use of *ambitus* to secure this participation.³⁹² The *Pro Murena* only mentions residents from outside Rome twice, and then only in reference to two groups in particular: The Umbrians and the hometown of Murena's family, Lanuvium. Cicero states that citizens of the latter, out of support for Murena, had come in crowds to Rome throughout the trial.³⁹³ Yet Lanuvium, a town in Latium, had obtained full Roman citizenship in the middle of the fourth century and is therefore not an example of pan-Italian involvement in Roman elections, especially since it was normal for aristocrats to draw on the support of their hometowns.³⁹⁴ The Umbrians are a more interesting case. According to Cicero, on the way to his province of Transalpine Gaul, Murena had held a levy in Umbria, where he used the opportunity to display his generosity ("*facultatem... liberalitatis*") and through it to win the support of the

³⁸⁹ Cic. *Mur.* 15, 32.

³⁹⁰ Hopkins and Burton 1983, 107-113, esp. 112-113.

³⁹¹ Wiseman 1971, 1.

³⁹² Rees 2009, esp. 101: "The Italian peasant could make himself a significant figure in the political life of the late Roman Republic.

³⁹³ Cic. *Mur.* 90.

³⁹⁴ Liv. 8.14 on Lanuvium's citizenship; for senators and local support in Roman elections, see Wiseman 1971, 137-138; Mouritsen 2001, 119-122; c.f. Cic. *Planc.* 19-23.

many tribes which made up the *municipia* of Umbria.³⁹⁵ It is unclear whether this generosity included *ambitus*.³⁹⁶ Yet Umbria was specifically chosen by Murena, and there is no implication that he campaigned throughout the whole of Italy, or even that he expected these Umbrians to vote for him. Instead, this generosity allowed Murena to win “the highest reputation” (“*optima existimatione*”).³⁹⁷ The *Pro Murena* does not provide evidence for the significance of the Italian peasantry’s vote in Roman elections, but instead shows how acts of generosity targeted towards specific Italian groups when an opportunity arose could increase a candidate’s prestige.

As Erich Gruen has pointed out, one reason for Sulpicius Rufus’ prosecution of Murena is clear: He wanted the consulship.³⁹⁸ In 66 Lucius Torquatus and Lucius Cotta had prosecuted the consular designates Publius Autronius and Publius Sulla for *ambitus* and succeeded, with the result that the two prosecutors replaced the elected consuls.³⁹⁹ They provided precedent to use *ambitus* accusations to make up for a loss in a consular election. Cicero claims that this was Sulpicius’ motive for the prosecution, stating that “*intellego non iniuria L. Murenæ sed honoris contentione permotum.*”⁴⁰⁰ Throughout the electoral campaign he had gathered evidence to prosecute Murena.⁴⁰¹ Aristocratic competition and the desire for the consulship were thus major factors in his

³⁹⁵ Cic. *Mur.* 42.

³⁹⁶ Wiseman 1971, 44, 139; MacDonald (1977, 240-241) suggests that Murena exempted wealthy Umbrians from the levy.

³⁹⁷ Cic. *Mur.* 42.

³⁹⁸ Gruen 1974, 273.

³⁹⁹ Broughton 1951-1952, II. 157; Sall. *Cat.* 18.2; Asc. 75C, 88C; Cic. *Sull.* 11, 49-50, 81, 91; Liv. *Per.* 101.3; Suet. *Iul.* 9; Cass. Dio, 36.44.3-5; *Schol. Bob.* 78-79 (Stangl).

⁴⁰⁰ Cic. *Mur.* 56: “I understand that he (Sulpicius Rufus) has not been moved by any harm done to him by Lucius Murena but by their electoral rivalry.”

⁴⁰¹ Cic. *Mur.* 44-47.

decision to prosecute. Considerations of aristocratic rivalries and alliances probably motivated even Cato, despite his harsh rhetoric on *ambitus* and his promise to prosecute all successful consular candidates. Plutarch writes that Cato refused to prosecute Murena's fellow consul, Decimus Silanus, because he was married to Cato's sister Servilia.⁴⁰² If this is true, Cato's prosecution was not a simple principled stand but rather a political strategy with practical considerations. This is further suggested by Cicero's claim that Cato's threat was meant to be specifically aimed at Catiline, as well as by Cato's cooperation with Murena after the trial.⁴⁰³ Just like most proposers of *ambitus* legislation, Sulpicius Rufus and Cato had specific reasons for prosecuting Murena in the hopes of promoting their own careers.

Yet there were other reasons for both Sulpicius Rufus and Cato to prosecute Murena. Throughout their careers both senators were major proponents of electoral reform. In a section unfortunately interrupted by a lacuna, Cicero notes that in addition to his support for the Tullian law, Sulpicius Rufus demanded a random order of voting for the centuries to lessen the influence of the *centuria praerogativa*, the first class century selected by lot to vote first in the *comitiata centuriata*.⁴⁰⁴ He also allegedly sought "*aequatuinem gratie, dignitatis, suffragorium*" and drew much criticism from elites throughout Rome and Italy in response.⁴⁰⁵ It is not clear what this proposal entailed. Gruen believes Rufus' legislation was modeled on the *lex Manilia* of 66, a never adopted proposal to

⁴⁰² Plut. *Cat. Min.* 21.2-3.

⁴⁰³ Cic. *Mur.* 51; Plut. *Cat. Min.* 28.2-3; *Schol. Bob.* 140 (Stangl); Gruen 1974, 254-255.

⁴⁰⁴ Cic. *Mur.* 47; Cic. *Q. Fr.* 2.15.4.

⁴⁰⁵ Cic. *Mur.* 47: "An equality of influence, aristocratic prestige and voting."

allow freedmen to vote with their ex-masters.⁴⁰⁶ Nicolet has suggested instead that it was a revival of several interesting initiatives of Gaius Gracchus proposed in 123, which Sallust references in a letter to Caesar from 49.⁴⁰⁷ According to Sallust, Gracchus had proposed that the centuries be called to vote on in random order, and not according to class, to encourage the further participation of the lower classes; he further criticized the amount of wealth necessary to attain the praetorship and consulship.⁴⁰⁸ It is impossible to determine if either of these interpretations are correct. Still, Rufus' rhetoric of equality, his attempt to lessen *ambitus* in the *centuria praerogativa* and his possible appeal to these proposals of Gracchus show that he was concerned about the amount of wealth needed to compete in elections. Indeed, as I noted in chapter three, concerns of this sort motivated Rufus to sponsor and support legislation against *ambitus* in 63.⁴⁰⁹

This does not mean that Sulpicius Rufus and Cato opposed *ambitus* on purely moral grounds, despite the amount of invective they leveled against it. Both Sulpicius Rufus and Cato took part in the *beneficia* exchange that was a necessary component of Roman electoral politics. After all, Rufus organized lavish games while canvassing for his praetorship.⁴¹⁰ Cato's campaign for tribunate of the *plebs* also provided feasts and in 61 he supported the use of *ambitus* to block the election of Caesar.⁴¹¹ The question was one of scale and comparability. Although it is impossible due to Cicero's editing of the speech to determine the amount Murena spent during this election campaign, it is significant

⁴⁰⁶ Gruen 1974, 221.

⁴⁰⁷ Nicolet 1980, 312-313.

⁴⁰⁸ Sall. *Ep. Caes.* 11.7.10-8.2.

⁴⁰⁹ Asc. 83C.

⁴¹⁰ Cic. *Mur.* 37.

⁴¹¹ See n. 41 above and Suet. *Iul.* 19.

that Cicero does not deny that Murena's friends provided seats and food for all tribes of the population, suggesting great expense.⁴¹² One of Rome's wealthiest senators, Lucius Licinius Lucullus, explicitly supported Murena and may have partially financed Murena's campaign, allowing for greater expenditure.⁴¹³ Finally, Cato's comment that he would prosecute any victor of the elections because he had to have committed *ambitus* is suggestive of the amount of wealth being spent in the campaign.⁴¹⁴ This presented a problem, because the grander scale of *ambitus* restricted high office to only the wealthiest of elites. It undermined the fairness of the electoral process, since senators could no longer be sure it provided a useful path to power.⁴¹⁵ In attacking *ambitus* and Murena, Cato and Sulpicius Rufus therefore not only attempted to promote their own careers, but also to limit *ambitus* for practical reasons.

Conclusion

The *Pro Murena* provides an interesting case study for unpacking the meaning and function of *ambitus* within the context of Late Republican politics, and indeed the speech highlights several of the themes and arguments of this thesis. Cicero's speech provides evidence for the importance of the people in political ideology, but also their lack of real political power. It elaborates on the functions of *ambitus*, suggesting that it was used less to secure the votes of the

⁴¹² Cic. *Mur.* 72-73. Cicero claims that some candidates procured seats at circus games for whole neighborhoods.

⁴¹³ On Lucullus' wealth: Plut. *Luc.* 39-41; Keaveney 1992, 2, 144, 223 n. 59; Tröster (2008, 54-59, 63) notes that we should be cautious about accepting ancient invective on his extravagance. On his support for Murena: Cic. *Mur.* 20, 37; Cic. *Att.* 13.6.4; Keaveney 1992, 134, 136-138; Tröster 2008, 72.

⁴¹⁴ Cic. *Mur.* 62; Plut. *Cat. Min.* 21.2.

⁴¹⁵ Hölkeskamp 1993, 38; Mouritsen 2001, 125; Hölkeskamp 2010, 98-106, 123-124.

poor, and more to provide legitimacy to candidates and maintain social cohesion. It also shows why aristocrats would choose to attack *ambitus*, whether through rhetoric, legislation or prosecution. Senatorial prosecutors often had specific personal political goals they hoped to achieve through prosecutions of other aristocrats. But I believe that some senators, including Cato and Sulpicius Rufus, were concerned about the ever-growing amount of wealth needed to compete in Republican politics. They continually attempted to limit the extent of *ambitus* and restore comparability to elections. Yet the *Pro Murena* also shows the futility of these efforts. Murena exploited common legal loopholes to ease his use of *ambitus* throughout his campaign. More importantly, his ultimate acquittal, despite his clear guilt, foreshadows the impossibility of regulating *ambitus* in the last years of the Republic.

Conclusion

Ambitus and the Fall of the Republic

This thesis has challenged several influential and prevalent interpretations of *ambitus*. It is my position that *ambitus* should not be considered a form of corruption in the context of late Roman Republican politics. Not only is it anachronistic to apply modern definitions of political corruption to pre-modern societies, but *ambitus* was too ambiguous a concept and too closely tied to acceptable practices, such as *benignitas*, to be condemned as a corrupt practice even in antiquity. I have also argued against the reading of *ambitus* as a *quid pro quo* arrangement, in which Roman elites exchanged gifts, money, food and entertainment for individual votes. The political structures of the Republic did not generally allow for the poorer classes to meaningfully participate in elections. More importantly, secret ballot laws and electoral procedures prevented candidates from determining whether the voters they had given money to actually voted for them. *Ambitus* would thus not have been useful for securing votes. Finally, I have concluded that legislation adopted against *ambitus* after Sulla's dictatorship was not meant to restrict the careers of *novi homines* or to limit the targeting of the votes of the newly enfranchised Italian peasantry. The reasons for which individual senators proposed and sponsored the three laws I have examined do not suggest that *ambitus* legislation aimed to block new men from attaining magistracies. It also is unlikely that masses of Italian peasants to come to Rome to vote in elections. It would have been unfeasible economically for them to leave their farms for days in order to vote in Rome. Moreover the value of their

individual votes, especially in the *comitia centuriata*, was proportionally insignificant. This means that we cannot attribute an increase in *ambitus* and legislation against it to the enfranchisement of the Italians.

I have instead argued that *ambitus* fulfilled several important functions. It was a method for candidates to confirm their status. Distributing wealth was a necessary tool to demonstrate their belonging to the political class and suitability for office. At the same time, *ambitus* allowed candidates to include the *populus Romanus* symbolically in the electoral process. In the same manner as rhetoric on the power of the Roman people, it maintained the illusion that the *populus* was sovereign and that elections were decided by a third party, ensuring their fairness in the Roman mentality and allowing senators to endure their electoral losses. *Ambitus* also provided real benefits for the poor, including money, food and entertainment. This gave them reason to accept their lack of political power and to not question social hierarchies. Legislation, prosecutions and invective against *ambitus*, then, were not reactions against the practice *per se* but attempts to regulate it. The level of *ambitus* had increased dramatically as the reforms of Sulla continually escalated competition for office. This meant that aristocrats no longer possessed comparability in resources, since a greater amount of money was needed to succeed in elections. For many senators, elections no longer presented a viable path to power, breaking down aristocratic consensus on how political office should be conferred.

Lucan's analysis of *ambitus*' role in the fall of the Republic may be overly-simplistic and moralistic, but is not entirely wrong. *Ambitus* did not destroy the *fides* of the Republican community and voters were not bribed in the

way he envisions. It was a necessary social and political practice that could tie Roman classes together. Yet as political competition intensified in the aftermath of Sulla and candidates continually favoured their own political goals over political stability, attempts to control *ambitus* through legislation or prosecution failed. The scale of *ambitus* and the failure of attempts to regulate it eventually undermined Republican elections, leading to civil war and the fall of the Roman Republic.

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