

these papers. Simply to restore the balance a little I will list some of them: youthful military service, combat by champions, the distribution of booty, criminal prosecutions, the invention of coin-types, the financing of games and other performances, the giving of banquets, the triumph, public works, elaborate funerals, the patronage of poets, and the more direct manipulation of public opinion through oratory.

Columbia University

RESPONSES TO W. V. HARRIS

NATHAN ROSENSTEIN

W. V. Harris proposes that the Roman upper class' reluctance to inflict a severe or humiliating punishment on one of its own, coupled with an awareness that in the uncertainties of war bad luck could befall any of them, would have been "nearly enough" to protect generals who lost battles against their political consequences. I must disagree. Aristocratic culture was deeply competitive, based on the constant struggles of individuals to rise to the top and then to remain there. At the same time, military defeat provoked widespread grief and outrage among the public. Harris' solution begs the question, then, of why the immediate political advantage of raising so effective and obvious an issue against an opponent should have taken a back seat to the more general corporate good derived from suppressing it. Of course, the latter involved some self-interest as well, but at a greater remove: the situation in which one man exploiting another's defeat found himself subsequently attacked on the same grounds might never arise. Most candidates for the offices that entailed leading an army to war surely anticipated victories, not defeats. And many aristocrats had already conducted their campaigns and so were safe from whatever dangers such a failure might bring. Certainly, it would be a surprising thing to find class solidarity and compassion for an unfortunate peer imposing limits on individual ambition here, since they are not much in evidence elsewhere in the political arena. Rarely if ever, for example, did aristocrats scruple to censure, disgrace, fine, and even exile one another in court whenever they got the chance.

Harris' answer also tends to obscure a crucial distinction: the arresting fact here is not really the failure of most *victi* to get punished but their continued political success in many cases. It is one thing to imagine other aristocrats reluctant to exile or degrade one of their own out of a sense of

propriety or sympathy, but it is quite another to suppose that they would remain silent when such a man sought elevation to a highly coveted and hotly contested public office. Are we really to believe that even though everyone in the senate knew that old Q. Marcius Philippus' or L. Calpurnius Piso's mistakes had cost the Romans a battle and thousands of soldiers their lives, they all kept quiet about them in the midst of a heated electoral struggle simply out of a feeling that it would not be quite proper to bring up the subject? That would strain credulity.

We need to accept at the outset that the Romans may have viewed the causes and implications of military defeat in terms fundamentally different from those in which we would understand them. If commanders were not held accountable when battles were lost, if they still appeared worthy in the eyes of the voters and their peers to hold high office and lead new armies to war, then we need to look beyond such explanations as class solidarity or the manipulation of public opinion, as satisfying as these may be to late-twentieth-century Americans or Europeans. We need to explore the values and assumptions that sustained aristocratic cohesion and shaped popular perceptions and so made such practices seem to the Romans perfectly natural and unobjectionable.

However, no one is more aware than Harris of how limited our sources are for the mental world of the Romans, particularly in regard to war. It is a little unfair therefore to demand explicit testimony for the role of beliefs about the gods or expectations concerning the soldiers in mitigating the political consequences of military defeats—just as it would be unrealistic to expect blunt statements in the sources that the Romans regularly went to war in the middle Republic because they hoped to enrich themselves and their state. Their frame of mind can only be reconstructed by carefully sifting the evidence for what they did and making reasonable inferences on that basis and on the basis of what little we do know of their beliefs and ideals. Religious activity bulks large in the wake of military and other disasters at Rome, and if we are not to revert to by now largely outmoded notions of the city's public cult as no more than a desiccated husk enveloping meaningless rituals, we must allow that this activity accurately reflects Roman perceptions of the sources of their misfortunes. I would not dispute that it is a long step from here to the public exoneration of defeated generals, but it is a step I would argue we are justified in taking. The same holds true regarding the public's expectations of the soldiers: although the argument here is more complex and the evidence less clear-cut, I believe that a good case can be made that they played an important part in limiting the political repercussions of a military defeat. But the case for these positions requires a far more extensive argument than I have been able to offer in a brief talk or in this response, as does an adequate discussion of the other topics and problems that Harris raises. For a full treatment of these subjects, I must refer the reader to my monograph, *Imperatores Victi*, forthcoming this fall from the University of California Press.

CALLIE WILLIAMSON

My paper condenses an argument I present in full in a book now in preparation, *Law and Empire in Ancient Rome*, concerned with developments in Roman positive law-making in the last two centuries B.C. and the first century A.D. Condensing arguments has its dangers, not the least of which is the tendency to leap over treacherous areas. My most abandoned leaps seem to have taken me past these two questions: how much legislative activity was there in the middle and late Republic? And who voted in Rome? The material objections raised by Harris on these two points touch on the wider aims and presuppositions of *Law and Empire* and need answering at greater length than I will attempt here. I confine myself to the following remarks.

The amount of legislative activity in Rome has obvious implications for my argument, if indeed the Romans legislated only occasionally, and if the conduct of that legislation was left to men who did not compete fully in the competition for high office—that is, to tribunes. But how much and how often are not the only questions. What we call Roman legal knowledge, as well as the substance and mastery of technical expertise in drafting statutes, needs closer examination. So does the place of such knowledge in the Roman community, in the customary activities of Roman aristocrats, and in their interaction with ordinary Romans. The amount of detail in *De lege agraria* 2 makes me think that the urban *plebs* had a sophisticated appreciation of the techniques and procedures of law-making. In my paper I conflated the issue of general knowledge about positive law with that of aristocratic competition, to argue that Roman aristocrats had to demonstrate some knowledge of how to draft positive law in order to succeed in the political arena. The conclusion seemed unavoidable. The broader argument is based on the obvious importance that public speaking had for aristocrats; about that I am not mistaken.

As to who voted, whose interests were represented, and by whom: these are indeed fundamental to the larger question of what kind of political system the Romans had; but they are not central to the problems I set myself in my paper. There I tried to look at what the Romans were doing in their public meetings, in order to understand what purposes the public argument served in the process of making positive law and why the public argument took the form it did. For my purposes the portion of the urban *plebs* present for Cicero's speeches is irrelevant to the *form* of the interaction between ordinary people and aristocrats. Whatever groups attended a particular *contio*—and it is clear that the groups were varied—I think aristocrats interacted with each group on each occasion in basically the same way, to achieve ends that were not only political but also practical, with respect to making positive law. The thrust of *De lege agraria* 2 is not unique; the same concerns Cicero expressed about the legal content and technical construction of draft proposals were voiced on other occasions. It is the accumulation of circumstantial evidence about these concerns that prompted my reading

of *De lege agraria* 2, which is without question the most extensive surviving example of what was actually *said* on such an occasion, as opposed to what was done.

Finally, a comment on Harris' query whether we may be sure that these are the speeches as they were delivered. I do not think that any speech delivered at a public meeting could have been circulated later in a substantially different written form: once delivered, the speech became part of the public domain. Cicero's audience in 63 B.C. presumably included men who he anticipated would read the collected speeches of his consulate (a collection that Cicero contemplated in 60: *Att.* 2. 1. 3).

JOHN NORTH

Harris' remarks on my paper rightly bring up two important issues on which I should like to comment briefly. First, the issue of what would be an appropriate comparison for the Roman form of democracy; second, the level of popular participation in Roman political life.

The politics of eighteenth- or even early nineteenth-century Britain do seem at first sight to be a hopeful area for an enlightening comparison; and indeed at some future point this may very well turn out to be the case. Even at this moment, those who read some of the debates in progress will find very familiar ground in contention: thus, for instance, the high authority of the elite is emphasized by Jonathan Clark (*English Society, 1688-1832* [Cambridge, 1985], pp. 42-118); and similar arguments are in progress as to whether elections were predetermined or not (see, e.g., W. A. Speck, W. A. Gray, and R. Hopkinson, "Computer Analysis of Poll-Books: A Further Report," *Bulletin of the Institute of Historical Research* 48 [1975]: 64-90). There are, however, formidable problems in the way of making the comparison, at least beyond a superficial level: so far, the debate over the eighteenth century is far from resolved, and until there is some consensus, comparison must be hazardous; again, whatever the picture of British politics that finally emerges, there must still be profound differences to reckon with. One is the fact that for Roman, but not for British, nobles, their elite status actually depended on the outcome of elections; another is the role of religion, important but quite different in the two cases.

On the other hand, Harris is, of course, quite right to be skeptical of any general comparison with today's democratic systems; but that hardly excludes the specific point of contact suggested in my last paragraph. Those who search for contemporary political resonance in historical arguments may feel quite confident that my interest in the decline of Roman democracy cannot be divorced from concern at the Labour Party's repeated failure to maintain an alternation of power in Britain. In both cases, if the elite competition is not maintained, the adjudication process soon loses authority.

On the very important issue of the level of voter participation, I can only agree that this is indeed an important issue that I have not dealt with in this paper. I would only make one or two points of clarification.

First, it is not part of my thesis that the ordinary poor Roman was very interested in, or actively sought to participate in, the political life of Rome; nor is it part of my thesis that the ordinary Roman aristocrat was concerned that all citizens should be so interested. I have no doubt that Roman democracy, too, had its full share of apathy, and that the ruling elite was perfectly happy with that. Most of the day-to-day business was conducted quite uncontroversially by a small sector of the electorate whom the nobles could manipulate by one means or another.

There were also, however, occasions on which the nobles were profoundly divided on major issues; the assemblies then had the power to make the decisions, and the nobles accepted, even if they did not like, this arbitration. On these occasions, it is sometimes quite clear that a far wider section of the potential voters took part in the assemblies than usual. This is another factor that separates Roman political experience from that of more modern periods. The Roman voter had, and at least sometimes used, the opportunity to reject measures the senate wanted and to pass measures it did not want, provided a minimum of elite support was available. My view is that these occasions had the important effect of making Roman politicians acutely aware of popular reactions to their activities and their paraded opinions. It is for this reason that one can reasonably claim that there was a specific form of democracy in republican Rome.