

## CICERO AND THE WORD *POPVLARIS*

It has by now become a commonplace among the historians of the republic that *optimates* and *populares* were not political parties in any modern sense. Nevertheless the ghost of the 'popular party' still lingers in subtle disguises, the most insidious of which is donned whenever *populares* is translated as 'the *populares*', with all that the definite article may imply.<sup>1</sup> It is the aim of this paper to catalogue the principal functions and connotations of the word *popularis* in Cicero, with illustrative material from other sources, in the hope that such a demonstration may contribute to the final laying of the ghost. The first section is essentially a commentary on the definition of *populares* given in the *Pro Sestio*; the second attempts to expound the various techniques that Cicero uses to combat an opponent who claims to be *popularis*.<sup>2</sup>

### I

Cicero only once purports to offer a working definition of the word *popularis*.<sup>3</sup> *Populares* are contrasted with *optimates*: 'alteri se popularis, alteri optimates et haberi et esse uoluerunt. qui ea quae faciebant quaeque dicebant multitudini iucunda uolebant esse, populares, qui autem ita se gerebant ut sua consilia optimo cuique probarent, optimates habebantur.' The polemical character of this definition is already clear in the contrast between *multitudo*—almost always a term of disparagement in its own right<sup>4</sup>—and *optimus quisque*. But the latent hostility becomes much more overt and more pronounced when *optimus quisque* itself is defined.<sup>5</sup> The *optimates* include all those 'qui neque nocentes sunt nec natura improbi nec furiosi nec malis domesticis impediti'. The implied dismissal of *populares* as criminal, naturally wicked, mad, or poor is shortly afterwards rephrased in a positive form when Cicero lists the possible grounds for opposition to the optimate values of which he gives a catalogue: *metus poenae, insitus quidam animi furor, and implicatio rei familiaris*.<sup>6</sup>

I am grateful to Mr. E. L. Bowie and Mr. J. J. Paterson for their criticisms of a draft of this paper.

<sup>1</sup> In fact the plural of *popularis* is relatively rare, and in Cicero always refers not to a coherent group of politicians jointly active at any one time, but to a series of individuals. The only passage, to the best of my knowledge, in which *populares* are presented as a party or group alludes not to Rome but to Athens (Nep. *Phoc.* 3. 1): 'erant eo tempore Athenis duae factiones, quarum una populi causam agebat, altera optimatum . . . populares Polyperchonti fauebant, optimates cum Cassandro sentiebant.' In Val. Max. 4. 1. 13, 'Metellus populari factione patria pulsus', the meaning 'by a (or the) *popularis* faction' is possible, but 'by *popularis* intrigue' perhaps more likely.

<sup>2</sup> Detailed references to modern works have been kept to a minimum. The collection of material in the article by C. Meier

(*RE* Supp. 10, 549 ff.) is invaluable. Cf. also K. Rübeling, *Untersuchungen zu den Popularen*; J. Martin, *Die Popularen in der Geschichte der späteren Republik*; J. Hellegouarc'h, *Le Vocabulaire latin des relations et des partis politiques sous la république*, 513 ff. References to ancient sources given without indication of author are to works of Cicero.

<sup>3</sup> *Sest.* 96 ff.

<sup>4</sup> Cf. 2 *Verr.* 1. 151, *Cluent.* 73, 130, 136, *Sest.* 105, 140, *Phil.* 7. 4, *Lael.* 41, and for *optimus quisque* in this context *Off.* 1. 85.

<sup>5</sup> *Sest.* 97.

<sup>6</sup> *Sest.* 99. For madness, cf. *Mil.* 22, *Brut.* 273. Later in the year, when Cicero was forced to make a show of politeness toward Caesar, he was rather more moderate in his suggestions as to why a man might become *popularis*: 'propter indignitatem suam diffisi ipsi sibi aut propter reliquorum obtrectationem ab huius ordinis coniunctione depulsi' (*Prov. cos.* 38).

The objective of the optimates in the *Sestiana* is *cum dignitate otium*.<sup>1</sup> Its constituents are: *religiones, auspicia, potestates magistratuum, senatus auctoritas, leges, mos maiorum, iudicia, iuris dictio, fides, prouinciae, socii, imperii laus, res militaris, aerarium*. These are attacked by those who claim to be *populares*. Labienus in 63 is said to have neglected 'omnia exempla maiorum, omnis leges, omnem auctoritatem senatus, omnis religiones atque auspiciorum publica iura'.<sup>2</sup> Clodius too 'ita se in populari ratione iactarat ut auspicia, legem Aeliam, senatus auctoritatem, consulem, conlegas, bonorum iudicium nihili putaret'.<sup>3</sup> This in his tribunate; but even his quaestorship, which marked his first steps in *popularis iactatio*, had been 'rei publicae, sacris, religionibus, auctoritati uestrae, iudiciis publicis funesta', for in it Clodius had outraged 'deos hominesque, pudorem, pudicitiam, senatus auctoritatem, ius, fas, leges, iudicia'.<sup>4</sup> Apart from these general catalogues there are numerous instances where specific elements of the optimate ideal are said to require defence against *popularis* attack. A few examples will suffice. The opponents of C. Gracchus accused him of draining the treasury, and Q. Caepio opposed Saturninus' corn law on the same grounds.<sup>5</sup> Cicero himself used the argument in 63 against the bill of Rullus.<sup>6</sup> For *potestates magistratuum* there is the interesting snippet of information that in 100 Saturninus smashed Glaucia's curule chair, 'ut magis popularis uideretur'.<sup>7</sup> In 63 Cicero warned the people not to welcome 'iudiciorum perturbationes, rerum iudicatarum infirmationes, restitutio damnatorum'.<sup>8</sup>

Two closely linked features of the analysis in the *Sestiana* are the opposition between *populares* and the senate and that between *populares* and *boni*. *Popularis* activity in 133 is alleged to have opened a breach between senate and people,<sup>9</sup> and for the politician the lesson is clearly stated: 'nemo umquam hic potuit esse princeps qui maluerit esse popularis', where only a few lines later Cicero pleads for Gaul to be protected against those 'qui hunc ordinem oppugnant populari ac turbulenta ratione'.<sup>10</sup> The antithesis may also apply to political devices: the concept of the extraordinary command is said to be 'populare atque uentosum'; it is 'minime nostrae grauitatis, minime huius ordinis'.<sup>11</sup> It contributes too to the image of individual politicians and to the propaganda value of their acts: C. Flaminius was a hero for later *populares* because he passed his agrarian law 'inuito senatu',<sup>12</sup> the notorious L. Quinctius, 'homo maxime popularis', saw the chance 'ex inuidia senatoria crescere',<sup>13</sup> and it is a striking paradox that Sestius, a dedicated defender of the senatorial cause, exerted such influence over the multitude 'ut nihil tam popolare quam uestrum nomen, nihil tam omnibus carum aliquando quam uestra auctoritas uideretur'.<sup>14</sup> It can also be

<sup>1</sup> *Sest.* 98. Best of the innumerable discussions: C. Wirszubski in *J.R.S.* xlv (1954), 1 ff.

<sup>2</sup> *Rab. perd.* 17.

<sup>3</sup> *Sest.* 114.

<sup>4</sup> *Har. resp.* 43. For other hostile connotations of *iactatio popularis*, cf. *Cluent.* 95. In general, cf. also *Sest.* 140: 'qui senatus consilium, qui auctoritatem bonorum, qui instituta maiorum neglexerunt et imperitiae aut concitatae multitudini iucundi esse uoluerunt'. It was, however, not always by choice that *populares* rode roughshod over accepted forms, as is revealed by Cicero's boast in 56 (*Fam.* 1. 2. 4, cf. 1. 4. 2): 'quod

ad popularem rationem attinet, hoc uidemur esse consecuti, ut ne quid agi cum populo aut saluis auspiciis aut saluis legibus aut denique sine ui posset.'

<sup>5</sup> *Sest.* 103, *Auct. Her.* 1. 21; cf. in general *Flor.* 2. 1. 7.

<sup>6</sup> *Leg. agr.* 2. 10.

<sup>7</sup> *Vir. ill.* 73. 2.

<sup>8</sup> *Leg. agr.* 2. 10.

<sup>9</sup> *Lael.* 41.

<sup>10</sup> *Prov. cos.* 38 f.

<sup>11</sup> *Phil.* 11. 17.

<sup>12</sup> *Lucull.* 13.

<sup>13</sup> *Cluent.* 77.

<sup>14</sup> *Red. sen.* 20.

used to undermine the credibility of a would-be *popularis*: Rullus, as Cicero gleefully reveals to the people, not only insulted the urban plebs, but did so in the senate, which clearly made the outrage worse.<sup>1</sup> On the other hand it might appear *populare* to attack a certain individual because he was renowned as a champion of senatorial authority; thus Cicero fears attack by Caesar, 'quod putabit fortasse in nobis uiolendis aliquid se habere popolare'.<sup>2</sup> Other authors accept the same fundamental division between *populares* and champions of the senate. Thus Sallust in his famous dismissal of the motives of both: 'alii sicuti populi iura defenderent, pars quo senatus auctoritas maxuma foret, bonum publicum simulantes pro sua quisque potentia certabant'.<sup>3</sup> Livy too implies that the *optimates*, in opposition to *populares*, are the defenders of the rights of the senate.<sup>4</sup> Hence it is something of a paradox that the consulate of L. Valerius Potitus and M. Horatius Barbatus should have been 'popularis sine ulla patrum iniuria'.<sup>5</sup> Flaminius is the champion of the plebs against the senate and the nobles.<sup>6</sup> Of the dictatorship of Publius Philo he says that it was 'popularis et orationibus patris criminosis'.<sup>7</sup> Asconius, speaking of the dispute about senatorial seats in the theatre, says: 'causa popularis erat premebaturque senatus auctoritate'.<sup>8</sup>

The gulf between *populares* and *boni* is of course a favourite theme for Cicero. L. Cassius is described as 'dissidente a bonis atque omnis rumusculos populari ratione aucupante'.<sup>9</sup> In the *De Re Publica* a speaker is made to claim: 'nec in hac dissensione suscepi populi causam sed bonorum'.<sup>10</sup> In 60 it was Cicero's ambition that Pompeius should become 'melior et aliquid de populari leuitate deponeret'.<sup>11</sup> The possibility of defending his former colleague C. Antonius worried him, since he felt that he could not honourably undertake the task 'nec per bonorum nec per popularem existimationem'.<sup>12</sup> It is a source of agreeable surprise to him that Dolabella's severity in dealing with disturbances at Rome in 44 should have proved 'non modo non inuidiosa sed etiam popularis . . . et cum bonis omnibus tum infimo cuique gratissima'.<sup>13</sup> Cicero's brother reminds him in the *Commentariolum* of the need to convince the nobles 'nos semper cum optimatibus de re publica sensisse, minime popularis fuisse'.<sup>14</sup> In the *Tusculans fama popularis* is contrasted with *bonorum laus*.<sup>15</sup> It will come as no surprise that senate and *boni* are sometimes linked by Cicero in their opposition to *populares*. Thus Caelius is praised in the *Brutus* for his constancy 'a senatu et a bonorum causa' in the face of *popularis* lunacy.<sup>16</sup> Cicero laments that Caesar did not choose to make himself 'senatui atque optimo cuique carissimus' instead of squandering his energy and talents 'in populari leuitate'.<sup>17</sup>

The only positive characteristic that the definition in the *Sestiana* ascribes to *populares* is the desire that their words and actions should be pleasing to the

<sup>1</sup> *Leg. agr.* 2. 70.

<sup>2</sup> *Att.* 8. 3. 5, cf. 8. 11D. 7.

<sup>3</sup> *Sall. Cat.* 38. 3.

<sup>4</sup> *Liv.* 3. 39. 9.

<sup>5</sup> *Liv.* 3. 55. 1.

<sup>6</sup> *Liv.* 21. 63.

<sup>7</sup> *Liv.* 8. 12. 14.

<sup>8</sup> *Ascon.* 70.

<sup>9</sup> *Leg.* 3. 35.

<sup>10</sup> *Rep.* 4. 8.

<sup>11</sup> *Att.* 2. 1. 6.

<sup>12</sup> *Att.* 1. 12. 1.

<sup>13</sup> *Fam.* 9. 14. 7. There is the same hint of paradox in Livy's description (9. 33. 5) of an action as 'non popularem magis quam iustam nec in uolus quam optimo cuique gratiorem'.

<sup>14</sup> *Comm. pet.* 5.

<sup>15</sup> *Tusc.* 1. 110. For further disparagement of *fama popularis*, cf. *Tusc.* 3. 4, 5. 46, *Fin.* 2. 48 ff. A similar contrast between *optimi cuiusque* and *popularis laus* in *De or.* 3. 117.

<sup>16</sup> *Brut.* 273.

<sup>17</sup> *Phil.* 5. 49.

multitude.<sup>1</sup> That the term *popularis* indicates devotion to the plebs is of course implied, if not overtly stated, in many of the passages just considered, and it is also directly attested on numerous occasions. Cicero reckons with the possibility that Clodius' action in becoming a plebeian will appear *populare* in itself,<sup>2</sup> though elsewhere he points to the part played by chance in the affair: but for the Bona Dea scandal, the Roman people would never have known Clodius the *popularis*.<sup>3</sup> Sallust characterizes the Gracchi as champions of the plebs,<sup>4</sup> while Livy offers several instances. He notes the sudden emergence of Ap. Claudius as 'plebicola . . . omnisque aurae popularis captator',<sup>5</sup> the rise of Manlius Capitolinus 'criminando patres, alliciendo ad se plebem',<sup>6</sup> the loyalty to the plebs of C. Flaminius,<sup>7</sup> and the rise of C. Varro 'insectatione principum popularibusque artibus'.<sup>8</sup>

The word *popularis* is consequently often used to mean 'welcome to the people', 'likely to please or rouse the people', and so on. In 70 even the censorship had become 'populare et plausibile'.<sup>9</sup> The sense 'calculated to rouse the people' occurs in the *First Verrine*, when Hortensius accuses Cicero of acting *populariter* in producing the boy Iunius in court.<sup>10</sup> In the speeches against Rullus Cicero equates the question of what is *populare* with what things are 'populo grata atque iucunda'.<sup>11</sup> In 49 Curio assured Cicero that Caesar was not mild by nature; he merely thought that clemency was likely to appeal to the people.<sup>12</sup> But the most striking equation of *populare* with 'pleasing to the people' is Cicero's friendly advice to Vatinius that since he is universally hated the best thing he can do is die, especially as he claims to be *popularis*, for nothing could be more welcome to the people than his death.<sup>13</sup>

The principal defect of the definition in the *Sestiana* is that it gives no indication of the positive content of what by Cicero's time can fairly be called the *popularis* tradition, in other words of what actions, slogans, and values were habitually regarded as 'multitudini iucunda'. But fortunately there is ample evidence elsewhere.

*Libertas* is frequently mentioned in this context, almost invariably equated or associated with *provocatio*,<sup>14</sup> which is itself a key theme.<sup>15</sup> Laws on voting were also remembered as part of the tradition, though the issue was obsolete by Cicero's day.<sup>16</sup> To a certain extent the assertion of the sovereign powers of the assembly was also part of the *popularis ratio*.<sup>17</sup> Thus Cicero feared *popularis invidia* if his return from exile was accomplished 'sine populi iudicio'.<sup>18</sup> Elsewhere he remarks with undisguised disapproval: 'populare est sane neminem

<sup>1</sup> *Sest.* 96.

<sup>2</sup> *Att.* 2. 7. 2.

<sup>3</sup> *Har. resp.* 44.

<sup>4</sup> *Sall. B.J.* 31. 7, 42. 1.

<sup>5</sup> *Liv.* 3. 33. 7.

<sup>6</sup> *Liv.* 6. 11. 7, cf. 6. 20. 3: 'consensu opprimi popularem uirum, quod primus a patribus ad plebem defecisset'.

<sup>7</sup> *Liv.* 21. 63.

<sup>8</sup> *Liv.* 22. 34. 2.

<sup>9</sup> *Div. Caec.* 8.

<sup>10</sup> *2 Verr.* 1. 151 f. A similar sense in a different context: *Lig.* 37.

<sup>11</sup> *Leg. agr.* 1. 23, cf. 2. 10, where *populare* is an alternative to *iucundum*. Cf. *Liv.* 23. 4.

3: 'litem . . . quae magis popularis aptiorque in uolgens fauori conciliando esset'.

<sup>12</sup> *Att.* 10. 4. 8: 'non uoluntate aut natura non esse crudelem, sed quod putaret popularem esse clementiam'.

<sup>13</sup> *Vat.* 39: 'praesertim cum popularem te uelis esse neque ulla re populo gratius facere possis'.

<sup>14</sup> *2 Verr.* 5. 163, *Leg. agr.* 2. 16, *Rab. perd.* 16, *Dom.* 77, 80.

<sup>15</sup> *2 Verr.* 5. 163, *Rab. perd.* 11 ff., *Cat.* 4. 10, *Phil.* 1. 21, *Lucull.* 13, *Liv.* 3. 45. 8, 3. 53-6.

<sup>16</sup> *Sest.* 103 ff., *Lucull.* 13.

<sup>17</sup> But cf. Meier, *Res publica amissa*, 117 ff.

<sup>18</sup> *Dom.* 69, cf. *Sest.* 74.

in summum locum nisi per populum uenire', or speaks in more general terms of 'ciuitas popularis . . . in qua in populo sunt omnia'.<sup>1</sup>

Alongside these constitutional elements of the tradition stand those that can be collectively described as *plebis commoda*. In the *Pro Rabirio* the opposite of *popularis* is *alienus a commodis uestris*.<sup>2</sup> The standard forms were agrarian laws, corn laws, and colony laws.<sup>3</sup> Cicero warns the people against the automatic assumption that, 'si qui agros populo Romano pollicentur', they must therefore be *populares*.<sup>4</sup> But it is clear that this was the natural assumption to make: an agrarian law was in itself *populare*, as Cicero admits when he speaks of 'hoc populare legis agrariae nomen'.<sup>5</sup> To opponents of course such measures were *largitiones*. The *popularis* was supposed by his enemies to be so free with property, especially other people's, that Cicero could jokingly dismiss Gellius in the words: 'usque eo non fuit popularis ut bona solus comesset'.<sup>6</sup>

The tribunate itself was also a part of the *popularis* tradition. Cicero describes the tribunician power as 'causam . . . ita popularem ut non posset obsisti'.<sup>7</sup> Exiled without due process of law, he rhetorically asks: 'est hoc tribunicium, est populare?'<sup>8</sup> The *popularis* tribune should be 'custos defensorque iuris et libertatis'.<sup>9</sup> It is another paradox when Cicero speaks of 'insidias quae ipsi populo Romano a popularibus tribunis plebis fiant'.<sup>10</sup> Actions that were regarded as characteristic of *populares* are associated by Livy with the tribunate, which he calls 'popularem potestatem';<sup>11</sup> thus he says of T. Aemilius: 'tribunicii se iactare actionibus principem ciuitatis et largiundo de alieno popularem fieri'.<sup>12</sup> The decemviri, in order to impress the plebs, surrounded themselves with 'tribunicios homines, quia id populare habebatur'.<sup>13</sup>

The last important element of the *popularis ratio* is the imitation of certain accepted models, above all the Gracchi and Saturninus.<sup>14</sup> Cicero admits it would have been acting *populariter* to produce in court the son of a Gracchus, Saturninus, 'aut alicuius hominis eius modi'.<sup>15</sup> This tradition of imitation was seen as referring only to methods, not to motives, as is made clear by Seneca's description of the younger Livius Drusus as 'uadentem per Gracchana uestigia'.<sup>16</sup> It had begun early—Saturninus had advertised his imitation of the Gracchi, who, if Sallust is to be believed, had already been cited as a precedent by Memmius.<sup>17</sup> The principle is described in hostile terms by Cicero in the *Lucullus*. Seditious citizens, he says, choose various men, 'quos dicant fuisse

<sup>1</sup> *Leg.* 3. 27, *Rep.* 1. 42; in general, cf. Liv. 3. 39. 9.

<sup>2</sup> *Rab. perd.* 15.

<sup>3</sup> Agrarian: *Leg. agr.* 1. 24, *Sest.* 103, *Lucull.* 13, *Off.* 2. 78, Liv. 2. 41 f., 6. 11. 8, Flor. 2. 1. 1; corn: *Sest.* 103, cf. 2 *Verr.* 3. 48, Flor. 2. 1. 1; colonies: *Brut.* 160.

<sup>4</sup> *Leg. agr.* 2. 10.

<sup>5</sup> *Leg. agr.* 2. 63, cf. 2. 15. So too in Liv. 2. 42. 1: 'dulcedo agrariae legis ipsa per se'; cf. 2. 42. 6 and the paradox in 2. 41. 7: 'popularis iam esse dissuasor et intercessor legis agrariae coepit' (cf. Quint. 2. 16. 7).

<sup>6</sup> *Sest.* 110. For *largitio* in general, cf. *Leg. agr.* 2. 10, 16, *Dom.* 47, *Off.* 2. 21, Auct. Her. 1. 21, Liv. 2. 41 f., 3. 1; defended: *Off.* 2. 58.

<sup>7</sup> *Leg.* 3. 26; cf. 2 *Verr.* 5. 163, Caes. *B.C.* 1. 22. 5, above all Liv. 3. 45. 8, 3. 53–6.

<sup>8</sup> *Dom.* 77; cf. the implication of *Leg. agr.* 2. 14 and 2. 70.

<sup>9</sup> *Rab. perd.* 12.

<sup>10</sup> *Leg. agr.* 1. 25.

<sup>11</sup> Liv. 2. 42. 6.

<sup>12</sup> Liv. 3. 1; cf. 3. 11. 7: 'impetus tribunicios popularesque procellas', 8. 12. 10 on Ti. Aemilius, and the antithesis implied in *Leg. agr.* 2. 14. In general, cf. Flor. 2. 1. 1.

<sup>13</sup> Liv. 3. 37. 6.

<sup>14</sup> 2 *Corn. fr.* 5, *Rab. perd.* 14, *Sest.* 37, 103 ff., *Dom.* 24: 'C. Gracchus, qui unus maxime popularis fuit'. For the application of the idea to a much earlier period, cf. Liv. 4. 54. 8 on the Icilli.

<sup>15</sup> 2 *Verr.* 1. 151.

<sup>16</sup> Sen. *Marc.* 16. 4, cf. Flor. 2. 5. 6.

<sup>17</sup> Sall. *B.J.* 31. 7; on Saturninus and the Gracchi, cf. Flor. 2. 4. 1 f.

populares, ut eorum ipsi similes esse uideantur'.<sup>1</sup> It followed that if a man was accepted as a representative of the tradition, it would naturally be presumed that any measure he put forward must be for the good of the people. Thus Cicero says of the agrarian bill of L. Flavius in 60, which had the support of Pompeius, 'nihil popolare habebat praeter auctorem'.<sup>2</sup> This clearly posed a major problem for Cicero when he had to deal even with a Labienus or a Rullus, and much more so with a Vatinius or a Clodius. The energy he expends on proving in various ways that these opponents were not really *populares* at all is sufficient proof that the general public took it for granted that they were.

All the elements of the tradition are of course closely linked with one another: because the great champions of *popularis* themes, the great exponents of *popularis* legislation had been tribunes, the tribunate itself was thought of as *popularis*, and because they had had to work against the hostility of the senate, rejection of the senate's *auctoritas* and assertion of the rights of the assembly became standard *popularis* techniques.

## II

One of Cicero's favourite ways of attacking a *popularis* opponent is to play on the derivation of *popularis* from *populus*.<sup>3</sup> In its simplest form this argument runs: 'X cannot be *popularis*, because he neglects or opposes the interests of the people.' It occurs as early as the *Verrines*. Cicero denies that there was anything *populare* in Verres' treatment of the Sicilian *decumae*, 'quasi uero aut populus Romanus hoc uoluerit aut senatus hoc tibi mandauerit'. Verres is not therefore 'bene de re publica, bene de populo Romano meritis'.<sup>4</sup> The same type of argument is used against Clodius, whose behaviour, according to Cicero, was such, 'ut homo popularis fraudaret improbissime populum'.<sup>5</sup> Elsewhere he accuses Clodius of acting not on behalf of, but instead of the people.<sup>6</sup> So too he had charged Catilina with revealing that he was no *popularis* by the murder of Marius Gratidianus: 'populum facer cum inspectante populo collum secuit hominis maxime popularis quanti faceret ostendit'.<sup>7</sup>

The true *popularis* in this sense is concerned for the *salus* of the people.<sup>8</sup> The tears of the boy Iunius are *populares* because 'communis est causa, commune periculum'.<sup>9</sup> In the *Philippics* Cicero attacks those who 'in re una maxime populari, quod eadem salutaris rei publicae sit', prefer to be *improbi* rather than *populares*.<sup>10</sup> Of himself he says: 'factique iam in re salutari populares sumus'.<sup>11</sup> This train of thought is several times expressed in a pun on the two senses of *popularis*: 'antea deterrere te ne popularis esses non poteramus: exorare nunc ut sis popularis non possumus'.<sup>12</sup> *Salus* can also be linked with the *commoda* of the people.<sup>13</sup>

<sup>1</sup> *Lucull.* 13, with a long list of examples.

<sup>2</sup> *Att.* 1. 19. 4; cf. *Liv.* 3. 64. 6 on L. Valerius and M. Horatius: 'auctores populares sententiae haud popularis'.

<sup>3</sup> Apart from the passages discussed below, cf. in general *Leg. agr.* 1. 25, 2. 43, *Har. resp.* 44.

<sup>4</sup> *2 Verr.* 3. 48. It is noteworthy that in this casual reference Cicero rejects by implication the idea of any automatic conflict of interest between people and senate.

<sup>5</sup> *Har. resp.* 42.

<sup>6</sup> *Dom.* 77.

<sup>7</sup> *Cic. ap. Ascon.* 87; for Gratidianus, cf. *Off.* 3. 80 f.

<sup>8</sup> Cf. *De or.* 3. 138 on Pericles.

<sup>9</sup> *2 Verr.* 1. 153.

<sup>10</sup> *Phil.* 7. 4.

<sup>11</sup> *Fam.* 12. 4. 1; cf. *Ad Brut.* 1. 3. 2: 'popularem me esse in populi salute praeclarum est.'

<sup>12</sup> *Phil.* 8. 19. So Cicero had spoken earlier of repelling 'popularis impetus populari praesidio' (*Prov. cos.* 41); cf. *Dom.* 69, *Sest.* 74 on his recall, and *Sest.* 140 on L. Opimius.

<sup>13</sup> *Leg. agr.* 2. 7.

More important, the true *popularis* seeks the welfare and approbation of the whole people,<sup>1</sup> not just that disreputable section that forms the following of most of those who claim to be *populares*. A link with the theme of *salus* is provided in the *Fourth Catilinarian*: there is a great difference, Cicero says, 'inter levitatem contionatorum et animum uere popularem salutis populi consulentem'.<sup>2</sup> The *maiores* are celebrated as 'non ficte et fallaciter populares sed uere et sapienter'.<sup>3</sup> To the man who is *uere popularis* corresponds the *uerus populus*, to be distinguished from the frequenters of *contiones*. This distinction is fully exploited in the *Sestiana*. Men who were not considered *populares* were elected to office *a populo Romano*, whereas the self-styled *popularis* Vatinius came to grief because he failed to understand 'quid uero populo probaretur', and because he believed 'illum esse populum Romanum qui in contione erat'. This leads to the paradoxical conclusion: 'uidetis igitur populum ipsum, ut ita dicam, iam non esse popularem, qui ita uehementer eos qui populares habentur respuat, eos autem qui ei generi aduersantur honore dignissimos iudicet',<sup>4</sup> a less elaborate form of which had appeared in 59: 'populare nunc nihil tam est quam odium popularium'.<sup>5</sup> A similar argument a little later in the *Sestiana*, on the theme 'non esse popularis omnis eos qui putentur', culminates in another affirmation 'quantum intersit inter populum Romanum et contionem'.<sup>6</sup> There had, however, once been a time when even a *contio* of *imperitissimi* had sufficient sense to bring it about that a *lex popularis* was rejected *suffragiis populi*.<sup>7</sup> Indeed Cicero is so eager to discredit the followers of Clodius as to claim that by comparison with them the Gracchi and Saturninus had flourished 'populi iudiciis atque omni significatione', though it is clear from what follows that the *populus* here is not the whole or real people but the *multitudo*.<sup>8</sup> The devotion of the *uerus populus* to Cicero's ideals is clear: the true *causa popularis* is that in which 'omnes honestates ciuitatis, omnes aetates, omnes ordines una consentiunt'.<sup>9</sup> This is the tradition in which Cicero sets himself in 63. It was because he was elected 'uniuersi populi Romani iudicio' that he announced in the senate on 1 January: 'popularem me futurum esse consulem',<sup>10</sup> and proclaimed that it would be impossible for Rullus and his friends 'contra consulem ueritate non ostentatione popularem posse in euer-tenda re publica populares existimari'.<sup>11</sup> After his return from exile he again exploited this interpretation of *popularis*, asking rhetorically: 'nunc uero cum me in iudicium populi nemo omnium uocarit . . . contraque a populo Romano semper sim defensus amplificatus ornatus, quid est qua re quisquam mihi se ipsa populari ratione anteponat?'<sup>12</sup>

Another major line of attack is to accuse the would-be *popularis* opponent of inconsistency, first of all with the established *popularis* tradition. So Labienus

<sup>1</sup> Cf. *Red. sen.* 20, *Sest.* 107; note also Florus' protest against the equation of *plebs* with *populus* on behalf of 'possidentium . . . qui ipsi pars populi erant' (2. 1. 7).

<sup>2</sup> *Cat.* 4. 9, cf. Schol. Gron. 289St.

<sup>3</sup> *Dom.* 77; for the *maiores*, cf. the limiting case in *Leg. agr.* 2. 18.

<sup>4</sup> *Sest.* 113 ff.

<sup>5</sup> *Att.* 2. 20. 4, cf. 2. 19. 2.

<sup>6</sup> *Sest.* 119-27.

<sup>7</sup> *Lael.* 95 f.

<sup>8</sup> *Sest.* 105, cf. 37 on Saturninus.

<sup>9</sup> *Sest.* 109.

<sup>10</sup> *Leg. agr.* 2. 6 f. *Popularis consul* is itself a paradox: the contrast between *tribuni popularis* and *seuerissimi consulis* in Liv. 3. 69. 1 expresses the natural assumption of hostility; cf. also Liv. 3. 11. 7: 'uelut omnes dictaturas consulatusque gerens in uoce ac uiribus suis, unus impetus tribunicios popularesque procellas sustinebat.'

<sup>11</sup> *Leg. agr.* 1. 23.

<sup>12</sup> *Dom.* 88.

is charged in 63 with seeking to overthrow the principles of *libertas*, of which Cicero is the defender.<sup>1</sup> What kind of *homo popularis* can he be, when he endeavours to set at naught the *lex Porcia* and the *lex Sempronia* on *prouocatio*?<sup>2</sup> Clodius too is said to have betrayed the *popularis* devotion to *libertas* by depriving Cicero of his rights without a trial.<sup>3</sup> Again, the *popularis* should cherish the *commoda* of the people, but against Rullus and his colleagues Cicero brings the accusation: 'populi non solum *commoda* uerum etiam salutem oppugnant et impediunt'—yet they claim to be *populares*!<sup>4</sup> The conduct of the self-styled *popularis* may equally be inconsistent with the example of one of the *popularis* heroes whose acts went to make up the tradition. Thus Labienus is inconsistent with C. Gracchus.<sup>5</sup> Clodius' law on the consular provinces of Gabinius and Piso is condemned as inconsistent with that on the allotment of provinces passed by C. Gracchus, 'qui unus maxime *popularis* fuit'.<sup>6</sup> Finally, the association of the tribunate itself with the *popularis ratio* makes it possible for the argument to take the form that a *popularis* tribune is betraying the proper functions of his office. Cicero reveals to the people the heinous utterance of Rullus: 'ab hoc tribuno plebis dictum est in senatu urbanam plebem nimum in re publica posse, exhauriendam esse.'<sup>7</sup> The same criticism is contained in the paradox: 'insidias quae ipsi populo Romano a popularibus tribunis plebis fiant',<sup>8</sup> in Cicero's exclamation at the sanguinary aims of Labienus: 'popularis uero tribunus plebis custos defensorque iuris et libertatis!',<sup>9</sup> and in his rhetorical question to Clodius: 'est hoc tribunicium, est popolare?'<sup>10</sup>

The accusation of aiming at *regnum* that is frequently brought against *popularis* politicians<sup>11</sup> can be in a sense an extreme case of the charge of betraying the tradition. It was of course a powerful argument, since as Livy makes two tribunes observe: 'nihil minus popolare quam regnum est.'<sup>12</sup> Even what appeared to be a measure in the best *popularis* style might not be all that it seemed: Cicero repeatedly accuses Rullus and his followers of aiming at *regnum* under cover of 'hac lege agraria pulchra atque populari'.<sup>13</sup> This is particularly skilful, as it plays off one element of the traditional *ratio*, *libertas*, against another, the *largitio* of an agrarian law—Cicero warns the people: 'insidias fieri libertati uestrae simulatione largitionis'.<sup>14</sup> Hostile critics could go so far as to claim that the object of the tribunician power from its very inception had been to secure domination for its holders under cover of a concern for the welfare of the plebs. Thus Florus: 'specie quidem plebis tuendae, cuius in auxilium comparata est, re autem dominationem sibi adquirens'.<sup>15</sup>

The most daring of all the devices that Cicero uses against *popularis* opponents is the redefinition of the word *popularis* by substituting for the elements of the traditional *ratio* a set of optimate values. As the defender of these values he is then able to claim that he, not his opponent, is the true *popularis*. Just how bold a step this was is shown by the fact that the values listed in the *Sestiana* as constituents of the optimate ideal are precisely those, attacks on

<sup>1</sup> *Rab. perd.* 15 f.<sup>2</sup> *Rab. perd.* 11 ff.<sup>3</sup> *Dom.* 77, 80.<sup>4</sup> *Leg. agr.* 2. 7.<sup>5</sup> *Rab. perd.* 14.<sup>6</sup> *Dom.* 24.<sup>7</sup> *Leg. agr.* 2. 70; no doubt Rullus had merely been trying to make his law palatable to the optimates.<sup>8</sup> *Leg. agr.* 1. 25.<sup>9</sup> *Rab. perd.* 12.<sup>10</sup> *Dom.* 77.<sup>11</sup> Cf. in general *Mil.* 72, *Lael.* 41, *Sall.**B.J.* 31. 7 (Ti. Gracchus); *Flor.* 2. 4. 4 (Saturninus); *Mil.* 43 (Clodius); *Vat.* 19 (Vatinus). For Cassius, Maelius, Manlius, Licinius, and Sextius, cf. *Dom.* 101, *Mil.* 72, *Phil.* 2. 114, *Cato* 56, *Liv.* 4. 13 ff., 6. 14. 2, 6. 40 f.<sup>12</sup> *Liv.* 6. 19. 7; for the antithesis, cf. 2. 8. 1.<sup>13</sup> *Leg. agr.* 2. 15, cf. 1. 24, 2. 8, 32 ff., 43.<sup>14</sup> *Leg. agr.* 2. 16.<sup>15</sup> *Flor.* 2. 1. 1.



which by Labienus, Clodius, and others are labelled as *iactatio popularis*,<sup>1</sup> while Cicero exploits them to curb *popularis* activity.<sup>2</sup> The precise method employed varies from case to case. In the first speech against Rullus Cicero, advertising himself as 'consulem ueritate non ostentatione popularem', accepts the standard general definition of the *popularis ratio*: 'quae populo grata atque iucunda sunt',<sup>3</sup> but then offers under this rubric a series of optimate slogans: 'nihil tam populare quam pacem, quam concordiam, quam otium reperiemus'.<sup>4</sup> At the end of the speech he affirms the superiority of his own *ratio* over the traditional one: in the light of all the dangers his consulship will repel and all the benefits it will bring, there will be no need to fear 'ne uestra ista praeclara lex agraria magis popularis esse uideatur'.<sup>5</sup> Before the people his approach is slightly different. There he accuses Rullus and his colleagues of betraying the *commoda* and *salus* of the people, continuing at once: 'quid enim est tam populare quam pax? . . . quid tam populare quam libertas? . . . quid tam populare quam otium?' The logic is clear: these are the *commoda* of the people here, just as they were 'populo grata atque iucunda' in the earlier speech—again a different set of values has been substituted under cover of the traditional portmanteau word *commoda*.<sup>6</sup> The point is underlined by the subsequent warning not to regard an attack on other optimate values as 'iucundum aut populare'.<sup>7</sup> At the end of the speech the substitution is carried out again without any disguise: 'potest nihil esse tam populare quam id quod ego uobis in hunc annum consul popularis adfero: pacem, tranquillitatem, otium'.<sup>8</sup>

A more general accusation regularly brought against *populares* is that of political irresponsibility, *leuitas*.<sup>9</sup> For instance C. Carbo came to grief 'propter perpetuam in populari ratione leuitatem'.<sup>10</sup> Caesar too wasted his time and talents 'in populari leuitate',<sup>11</sup> while Curio acted *leuissime* in changing sides in 50.<sup>12</sup> Cicero hoped in 60 that Pompeius might become 'better' and abandon something of his *popularis leuitas*.<sup>13</sup> The idea of irresponsibility is very clearly brought out in the distinction 'inter popularem, id est adsentatorem et leuem ciuem, et inter constantem seuerum et grauem',<sup>14</sup> while in the *Pro Plancio* Cicero seems to suggest that *populares* may well be insincere as well as irresponsible: 'facilis est illa occursatio et blanditia popularis'.<sup>15</sup> The unsavoury associations of *leuis* are made particularly plain in the *Sestiana*, where those who stir the people to sedition, dazzle the inexperienced with largess, or create ill-feeling against deserving men are dismissed as 'leuis homines et audacis et malos et perniciosos ciuis'.<sup>16</sup>

<sup>1</sup> The list of optimate values: *Sest.* 98; attacked by Labienus: *Rab. perd.* 17; by the tribunes of 63 in general: *Leg. agr.* 2. 10; by Clodius: *Sest.* 114, *Har. resp.* 43; cf. also *Sest.* 140.

<sup>2</sup> *Fam.* 1. 2. 4, 1. 4. 2; cf. in general his remarks on the Aelian and Fufian laws (*Red. sen.* 11, *Vat.* 18).

<sup>3</sup> Cf. *Sest.* 96.

<sup>4</sup> *Leg. agr.* 1. 23. Cicero had precursors: Valerius Potitus and Horatius Barbatus were 'hominum concordiae causa sapienter popularium' (*Rep.* 2. 54).

<sup>5</sup> *Leg. agr.* 1. 24.

<sup>6</sup> *Leg. agr.* 2. 6 ff.

<sup>7</sup> *Leg. agr.* 2. 10.

<sup>8</sup> *Leg. agr.* 2. 102; there is no great

significance in the variation between *concordia*, *libertas*, and *tranquillitas* in the three versions of this programme.

<sup>9</sup> Thus in general *Phil.* 7. 4: 'qui quondam propter leuitatem populares habebantur'. Cf. Z. Yavetz in *Atene e Roma* x (1965), 97 ff. *Leuitas* is also characteristic of the *multitudo* and of *contionatores* (*Mil.* 22, *Cat.* 4. 9).

<sup>11</sup> *Phil.* 5. 49.

<sup>12</sup> *Fam.* 8. 6. 5.

<sup>13</sup> *Att.* 2. 1. 6; for his own rejection of *leuitas* in that year, cf. *Att.* 1. 19. 8, 1. 20. 2.

<sup>14</sup> *Lael.* 95; for *grauitas*, cf. *Phil.* 11. 17 on extraordinary commands.

<sup>15</sup> *Planc.* 29; for *blanditia*, cf. *Comm. pet.* 41 f.

<sup>16</sup> *Sest.* 139, cf. 141.

The connection between *leuitas* and *seditio* provides a link with another mode of attack. The charge of *seditio* against *populares* is too familiar and too frequent to require detailed documentation.<sup>1</sup> But the assignment of blame is nevertheless interesting. In theory Cicero could admit that neither *optimates* nor *populares* were concerned for the good of the citizen body as a whole, and it is precisely this pursuit of sectional interests that he holds responsible for the outbreak of sedition and discord: 'qui autem parti ciuium consulunt, partem neglegunt, rem perniciosissimam in ciuitatem inducunt, seditionem atque discordiam; ex quo euenit ut alii populares, alii studiosi optimi cuiusque uideantur, pauci uniuersorum.'<sup>2</sup> But although on paper it seems possible for either *optimates* or *populares* to be guilty of causing discord and sedition, in practice it is always *populares* who are blamed. The breach between people and senate in 133 is a result of *popularis* activity<sup>3</sup>—thus in the *Pro Sestio* the opponents of Ti. Gracchus are said to have acted as they did 'quod et discordiam excitari uidebant'.<sup>4</sup> In the *De Officiis* those who claim to be *populares* and resort to agrarian legislation or the remission of debts 'labefactant fundamenta rei publicae, concordiam primum . . . deinde aequitatem'.<sup>5</sup> Even the effects of the Sullan confiscations are defended by Florus, because to interfere with them 'labefactabat compositae ciuitatis statum'.<sup>6</sup> This idea is also repeatedly linked with the introduction of the tribunician power 'per seditionem',<sup>7</sup> 'in seditione et ad seditionem nata'.<sup>8</sup> So too Florus: 'seditionum omnium causas tribunicia potestas excitauit'.<sup>9</sup> This extreme view of the origin and aims of the tribunate may help, since that office was part of the *popularis* tradition, to explain how sedition and *populares* became so inextricably linked in the thought and speech of their opponents. The insistence that discord and sedition ensue when politicians consult the interest of only a section of the people also illuminates Cicero's frequent claim that those who style themselves *populares* represent only the dregs, whereas he, the true *popularis*, is the spokesman of the whole or at least the 'real' people. It is clear that from the optimate point of view discord and sedition were created only by those who attempted to reform abuses, not by those who had caused them.

In answer to the optimate accusation of disturbing a harmonious and satisfactory situation, successive *populares* claimed, with more or less justice, that they were merely restoring an earlier and better state of affairs, which had itself been disturbed by their opponents. The most obvious practical example of this was Ti. Gracchus' agrarian law, and it is with reference to the Gracchi that Sallust's Memmius puts the argument in a nutshell: 'sed sane fuerit regni paratio plebi sua restituere.'<sup>10</sup> But the point also finds expression in the assertion by *populares* that their aim was 'uindicare plebem in libertatem'.<sup>11</sup> The function of *uindicatio in libertatem* was to free a man who was not really a slave but was being improperly treated as one, that is, to restore an earlier, more correct, and more desirable state of affairs. Thus the metaphor as

<sup>1</sup> Cf. *Cluent.* 93 ff., 103, 113, 130, 136, *Sest.* 110, *Lucull.* 13, *Rep.* 4. 11, *De or.* 2. 48, *Schol. Gron.* 289St.

<sup>2</sup> *Off.* 1. 85.

<sup>3</sup> *Lael.* 41.

<sup>4</sup> *Sest.* 103; cf. *App. B.C.* 1. 13.

<sup>5</sup> *Off.* 2. 78.

<sup>6</sup> *Flor.* 2. 11. 3.

<sup>7</sup> *Rep.* 2. 59.

<sup>8</sup> *Leg.* 3. 19.

<sup>9</sup> *Flor.* 2. 1. 1. For the connection between sedition and tribunate in Livy, cf. 6. 11. 8:

'agrariis legibus, quae materia semper tribunis plebi seditionum fuisset'.

<sup>10</sup> *Sall. B.J.* 31. 8. So for the hostile Florus this argument is only a pretext, though a plausible one: 'quid tam iustum enim quam recipere plebem sua a patribus?' (2. 1. 2); for his objections, cf. 2. 1. 7.

<sup>11</sup> Thus *Sall. B.J.* 42. 1 of the Gracchi; in general, cf. e.g. *Caes. B.C.* 1. 22. 5, *R.G.* 1. 1.

exploited by *populares* implies not only a rejection of the charge that they stirred up an otherwise contented people to sedition,<sup>1</sup> since a free man unjustly enslaved would naturally wish to be freed, but equally the claim that it was not they who first introduced discord and sedition, since they were only restoring a situation—the freedom of the people—which was both just and legally correct, and should therefore never have been tampered with in the first place.<sup>2</sup>

It would probably be wrong to suppose that Cicero's treatment of *populares* displayed any great originality. Despite the inadequacy of our sources, precedents for most of his arguments can be found. The notion of the sovereignty of the whole people had been brilliantly exploited by L. Crassus in 106, when with an audacity equal to Cicero's in 63 he presented the judiciary law of Q. Caepio as a *popularis* measure.<sup>3</sup> Inconsistency with the tradition is perhaps a charge that could be brought only after the Gracchi had established the essential features of the *popularis ratio*—it is a pity that we do not know anything about the arguments used by the opponents of Saturninus, whose murders could very well have been contrasted with C. Gracchus' defence of *prouocatio*. But betrayal of the functions of the tribunate was an accusation made not only by Ti. Gracchus against Octavius, but also against Tiberius himself by Annius Luscus.<sup>4</sup> It may also have been urged against Cornelius in 67, when his disregard of the veto was interpreted as a diminution of *maiestas tribunicia*.<sup>5</sup> Even the perversity of the speeches against Rullus may have been equalled earlier, if Livy is right that the opponents of Licinius Stolo accused him of curtailing the people's freedom of choice by trying to enforce the election of one plebeian consul.<sup>6</sup> It may be that Cicero's one original contribution was the substitution of his own set of values for the traditional components of the *popularis ratio*, but even of that we cannot be sure.

One thing, however, is certain. Whether *populares* are opposed to the senate, to *optimates*, or to *boni*, and whatever aspect of the *popularis ratio* predominates—the various forms of popular legislation, the abstract ideals of popular sovereignty and freedom, or the tribunate itself—there is no trace at any time of a 'party', however watered down that term may be. In particular it should perhaps be emphasized that, although *populares* may be contrasted with *optimates*, *populares* never appear as a group with even that degree of unity sometimes exhibited by the *optimates*. Even where a collective use would seem justified, it does not occur. It would therefore be better not to speak of 'the *populares*' in any context where this might connote a group, no matter how loose its structure or how ephemeral its duration.

University of Liverpool

ROBIN SEAGER

<sup>1</sup> Cf. for *concitatio* etc. e.g. *Cluent.* 93, 95, 136, *Sest.* 74, 109, 139 f., *Sall. Cat.* 38. 1.

<sup>2</sup> Like most political slogans, *uindicare in libertatem* could be exploited by both sides. Cicero comments on its availability (*Rep.* 1. 48): 'et a regum et a patrum dominatione solere in libertatem rem populi uindicari'. So as soon as any *popularis* was accused of

*regnum* he was vulnerable on this score; cf. *Brut.* 212 on Nasica: 'ex dominatu Ti. Gracchi priuatus in libertatem rem publicam uindicauit.'

<sup>3</sup> *De or.* 1. 225, cf. *Brut.* 164.

<sup>4</sup> *Plut. T.G.* 14, cf. *App. B.C.* 1. 13.

<sup>5</sup> *Ascon.* 58, 61.

<sup>6</sup> *Liv.* 6. 41. 2.