'POPULARES' IN LIVY AND THE LIVIAN TRADITION*

This paper essays a reconstruction of Livy's attitude to and treatment of the major 'popularis' figures of the late republic, from Ti. Gracchus to Cinna and Carbo. The opening section examines four situations involving 'popularis' prototypes: the careers of Sp. Cassius, Sp. Maelius, and Manlius Capitolinus and the fall of Ap. Claudius the decemvir. It first considers Livy's use of what by his time had become standard themes in writing about 'populares', then attempts to establish the possible antiquity of these modes of expression. In passing it should perhaps be stressed that the attention directed in this section to terminology is not intended to imply that Livy's attitudes (or those of any other author) can be determined simply from the mere occurrence in his work of certain slogans or catchwords. That is one reason why there is little profit in asking how a 'popularis' historian might have handled the same or similar events. No such historian survives: by the time he came to write history, Sallust was no 'popularis'.[1] Moreover, although historians may present differing accounts of general trends,[2] and describe the same events in different terms,[3] for the most part both persuasions, in history as in politics, will have used the same words to express their divergent points of view and achieve diametrically opposed conclusions. Both 'populares' and their opponents can describe their activities as 'uindicatio in libertatem'.[4] Sallust, looking back on his 'popularis' days, maintains that his career was hampered by the 'audacia' and 'largitio' of presumably optimate enemies.[5] His Memmius can pose as a champion of 'senatus auctoritas', while his Macer accuses his optimate opponents of 'turbarum concitatio'.[6] The lists of institutions and values that Sallustian 'populares' claim to defend bear a striking resemblance to those that Cicero regards as dear to the hearts of all good men.[7]

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The relationship between the Livian and Ciceronian treatment of 'populares' is dealt with primarily from the Ciceronian point of view in my article in *CQ* 66 (1972), 328 ff. For material on and discussion of 'populares' in general, cf. C. Meier, *RE* Supp. 10, 549 ff.; K. Rübeling, *Untersuchungen zu den Populären*; J. Martin, *Die Populären in der Geschichte der späteren Republik*; J. Hellegouarc'h, *Le Vocabulaire latin des relations et des partis politiques sous la république*, pp.513 ff.

[1] The evidence is overwhelming: the attack on the plebs (*B.C.* 37.3 ff.) and on popular tribunes (*B.C.* 38.1); the portrait of Memmius as a rabble-rouser whose activities were detrimental to 'concordia' (*B.J.* 32.1, 33.3 f. and the whole tenor of Memmius' speech in *B.J.* 31, esp. 23 f.; for Sallust's views on 'concordia', cf. *B.C.* 9.1, *B.J.* 10.6, *Hist.*1.11 M); the sharp criticism of the 'quaestio Mamilia' (*B.J.* 40.3 ff.); the halfhearted praise of the Gracchi (*B.J.* 41.10–42.2). Most striking of all perhaps is *B.J.* 37.1: 'ea tempestate Romae seditionibus tribuniciis atrociter res publica agitabatur': a reflection worthy of Cicero or Livy. In general, cf. D. C. Earl, *The Political Thought of Sallust*, pp.57 f., 68 ff., 107 f., 118 f.

[2] Contrast e.g. Sall. *B.C.* 6 ff., *B.J.* 41 f. with Flor.2.1, whether the latter is Livian or not.

[3] Cf. Sall.*B.J.* 31.8 and the complaint of Sallust's Cato in *B.C.* 52.11 f.

[4] For examples, cf. R. Seager, *CQ* 66 (1972), 337 f.

[5] For 'audacia' as an optimate catchword, cf. C. Wirszubski, *JRS* 51 (1961), 12 ff.; on 'audacia' in Sallust, cf. A. Weische, *Studien zur politischen Sprache der römischen Republik*, pp.66 ff.

[6] Sall.*B.J.* 31.25, *Hist.*3.48.11 M.

[7] Sall.*B.J.* 31.9, 20 (Memmius), *Hist.* 1.55.13 M (Lepidus), 3.48.6 M (Macer); for Cicero, cf. Seager, *CQ* 66 (1972), 329.

The second section deals with the occurrence of specific similarities between the prototypes and incidents and figures of the late republic, and inquires what tentative conclusions, if any, may be drawn concerning Livy's originality. The final section analyses the accounts in the Livian tradition of late republican 'populares'. The views which would appear from this analysis to have been Livy's are, as will be seen, at least consistent with those of his opinions that emerge from the extant books.

I

The pejorative language of the Ciceronian age is throughout used by Livy. 'Seditiones' were provoked by Sp. Maelius,[1] and 'seditio' is the dominant verbal note in the account of Manlius Capitolinus. It is sounded at the outset,[2] and thereafter there is a steady crescendo. Not content with agrarian laws, Manlius addressed himself to the question of debt; so the sedition grew.[3] Then, somewhat paradoxically, after the arrest of Manlius and the triumph of Cornelius, 'haud procul seditione res erat'.[4] The foundation of a colony at Satricum did not allay discontent: 'remedio inritatur seditio'.[5] Manlius' release from prison only made matters worse, for it gave sedition a leader.[6] At the end of the year sedition flared up again.[7] Finally, the charges made against Manlius included 'seditiosae uoces'.[8]

Another standard theme is that of stirring up the mob, 'multitudinem concitare'.[9] It was in this activity that Maelius was engaged when he got his just deserts, according to Servilius' report.[10] Manlius too is guilty on this count; Cornelius proclaims: 'nec diutius patiar a te multitudinem fallaci spe concitari'.[11]

'Vis', which is so prominent in the late republic, plays only a very minor part in the account of Maelius. Cincinnatus makes the highly questionable claim that Maelius had been attempting to avoid trial by violence, so that violence had been justly used against him.[12]

'Largitio', appropriately enough, bulks largest in the story of Sp. Cassius.[13] His agrarian law is repeatedly stigmatized under this heading. Thus the senate was concerned that by 'largitio' the consul was building for himself resources that threatened freedom.[14] 'Largitio' and 'agraria largitio' quickly recur.[15] After Cassius' death the senate remained hostile to the notion of an agrarian law, because 'largitiones temeritatisque inuitamenta horrebant'.[16] The corn distributions of Maelius also bring 'largitio' well to the fore: its delights almost led to 'regnum'.[17] In the case of Manlius 'largitio' has only a minor place, occurring for the first time in the list of charges.[18]

The treatment of Cassius' agrarian law also reflects the attitudes of the late republic.[19] Livy remarks that this was the first agrarian law and that it prefigured a long series of subsequent upheavals.[20] Yet he also writes as if agrarian legislation

[1] 4.12.6; cf. Seager, *CQ* 66 (1972), 337. (References without indication of author in the first two sections are to Livy.)
[2] 6.11.1.
[3] 6.14.1.
[4] 6.16.6.
[5] 6.16.7.
[6] 6.17.6.
[7] 6.18.1.
[8] 6.20.4.
[9] Cf. Seager, *CQ* 66 (1972), 328.
[10] 4.14.6: 'concitantem multitudinem poenam meritam habere'.
[11] 6.15.6.
[12] 4.15.2.
[13] Cf. Seager, *CQ* 66 (1972), 332, 335.
[14] 2.41.2.
[15] 2.41.4, 8.
[16] 2.42.6.
[17] 4.12.6; the theme recurs at 4.13.2 and 10.
[18] 6.20.4.
[19] Cf. Seager, *CQ* 66 (1972), 335.
[20] 2.41.3.

were already an established element in a 'popularis ratio'. In describing Verginius' success in turning the plebs against Cassius he exploits the paradox that the opponent of an agrarian law appeared to be 'popularis'.[1] This implies that an agrarian law is a 'popularis' measure in its own right, and this implication is fully brought out after Cassius' death.[2]

Cassius was not a tribune but a consul.[3] For that reason Livy's treatment of him may give some indication of how he will have coped with the problem of Cinna and Carbo. His approach is simple: Cassius is firmly isolated from all those forces which a consul might normally be expected to represent and from which he might draw support. The opposition is led by his colleague.[4] It is clear which consul is acting as a consul should, since Verginius takes his stand 'auctoribus patribus'. A hostile colleague and a hostile senate are sure proof that a consul who behaves like a popular tribune is in the wrong.[5] Moreover, the senate acts only in response to provocation. This point is made more explicitly in the case of Manlius: it was his revolutionary schemes that compelled the senate to appoint a dictator.[6]

Among the standard techniques of opposition to 'populares' were the claim that their activities represented a danger to 'libertas' and the consequent charge of aiming at 'regnum'.[7] These are prominent in the story of Cassius. The position that he was establishing for himself was described by his critics in the senate as a threat to freedom, and Verginius warned the people that the lands Cassius was promising would bring slavery to those who accepted them.[8] This warning convinced the people and turned it against Cassius, so that when he proposed that the profits from Sicilian corn should be distributed to the masses they spurned the bait as 'praesentem mercedem regni'.[9] In the account of Maelius the theme of 'regnum', introduced at the outset,[10] bulks larger and larger as the tale goes on. Maelius had made himself certain of the consulship, but, carried away by ambition, he decided 'de regno agitare'.[11] Ultimately Cincinnatus proclaimed that Maelius had forfeited the right to be treated as a citizen because in a state so hostile to monarchy and devoted to freedom as Rome he had conceived the hope of 'regnum'.[12] Manlius' desire for 'regnum' too is allowed a good deal of space, but seems to cause Livy a certain embarrassment. He found that Manlius was supposed to have begun to plan to set up a monarchy after his release from prison, but why or how was not adequately recorded.[13] Nor could he find among the claims of Manlius' accusers any allegation strictly relevant to the charge of 'regnum', though that did not deter him from believing that such must have existed and indeed been weighty.[14] Other aspects of 'libertas' come to the fore in the downfall of Ap. Claudius. Here lipservice has to be paid to popular values.

[1] 2.41.7: 'popularis iam esse dissuasor et intercessor legis agrariae coeperat'.

[2] 2.42.1: 'dulcedo agrariae legis ipsa per se', 6: 'dulcedini agrariae legis', 'lege populari'.

[3] Stressed at 2.41.1. This fact is far more significant than the parallel with C. Gracchus and Livius Drusus, which is emphasized by R. M. Ogilvie, *Commentary on Livy Books 1–5*, p.339. In general Ogilvie is inclined to undervalue parallels with incidents and figures of the Ciceronian as against the Gracchan age: cf. *Commentary*, p.13.

[4] 2.41.4.

[5] Cf. Seager, *CQ* 66 (1972), 329 f.

[6] 6.11.10.

[7] Cf. Seager, *CQ* 66 (1972), 335.

[8] 2.41.2, 5: 'regno uiam fieri'.

[9] 2.41.8 f.

[10] 4.12.6.

[11] 4.13.4, 9.

[12] 4.15.3 f.

[13] 6.18.16.

[14] 6.20.4 f.: 'quae . . . pertinentia propius ad regni crimen ab accusatoribus obiecta sint reo, apud neminem auctorem inuenio. nec dubito haud parua fuisse.'

'Libertas' itself is hymned, along with its twin bastions 'tribunicia potestas' and 'prouocatio'.[1]

Attitudes to the people are also familiar. It was their poor opinion of the 'multitudo' which led the senators to set their faces against Cassius' 'largitiones': they thought that there was more than enough gratuitous 'furor' in the mob without the provision of further 'temeritatis inuitamenta'.[2] But Cassius did not even have all the people on his side, for from the first Verginius acted 'nec omni plebe aduersante'.[3] More respect for the people is shown by Ap. Claudius, who in his defence makes some capital out of the notion of popular sovereignty.[4] He wants, he says, to be treated as a Roman citizen, to be allowed to submit himself to the judgement of the Roman people. The use of the idea of submission to the people's will to pit the people against the tribunes is particularly neat.

In short the terminology in which Livy deals with the early 'populares', the arguments employed, and the attitudes expressed, are for us all thoroughly Ciceronian. But there is no way of knowing at what period such language was first used or became customary. It would be rash to assume that Cicero invented very much, or indeed anything at all, in the matter of terminology or its use. For precedents in the Gracchan period the evidence, though scanty, is clear, for both the 'populares' themselves and their opponents. In 122 the consul C. Fannius attacked the 'largitio' of C. Gracchus, which, he claimed, was paving the way for 'dominatio'.[5] C. Gracchus himself could rail against 'largitio' and pretend to be the guardian of the treasury. He also advertised his devotion to the 'commoda' of the people.[6] Whether the dichotomy between 'optimates' and 'populares' was already current we do not know, but a fragment of L. Crassus' attack on Carbo suggests that the 'boni' already liked to be so called.[7]

There are, moreover, hints that the rudiments at least of this vocabulary and mode of thought were established well before the time of the Gracchi. Polybius' account of C. Flaminius does not help: there is nothing in it that could not derive from purely Greek models.[8] But the notions of 'largitio' and 'seditio' were familiar to the elder Cato,[9] and comedy is fruitful. The prologue to the final version of the *Hecyra* in 160 is a clear example of 'popularis' language and ideas already current. Terence (or Ambivius Turpio) insists that 'potestas condecorandi ludos scaenicos' is now placed in the hands of his audience and warns against allowing 'ars musica' to fall into the hands of 'pauci', presumably Terence's rivals. Turpio's claim to popular favour is firmly based on his generous

[1] 3.53.4, 55.4, 56.1; cf. Seager, *CQ* 66 (1972), 331 f.

[2] 2.42.6; cf. Seager, *CQ* 66 (1972), 328.

[3] 2.41.4; cf. Seager, *CQ* 66 (1972), 334.

[4] 3.56.10.

[5] Fannius fr.6 M: 'non debetis largitionem permittere; nam et Dionysius et Pisistratus ciuis largitione corruperunt'; fr.7 M: 'si Phalaridi et Pisistrato et ceteris omnibus una res maxime, largitio, dominationem comparauit, quid est, quod non idem Gracchum adfectare credatis, quem eadem quae illos facere uideatis?' That Fannius appeals to Greek examples is striking, but does not indicate that the tradition about the early 'populares' had not yet been established: cf. Piso fr.37 P on Cassius. The Greeks cited had been successful in setting themselves up as tyrants, so might be thought more cogent on that account.

[6] C. Gracchus fr.42 M (cf. Cic. *Tusc.* 3.48), fr.44 M (cf. fr.30 M).

[7] L. Crassus fr.14 M: 'semper a bonis dissedisti'.

[8] Pol.2.21.8, 3.80.3. The same is true of the accounts of Cassius, Ap. Claudius, and Maelius in D.Hal.8.69 ff., 10.58 ff., and 12.1; these will therefore be left out of account here.

[9] Cato fr.203 M: 'numquam ego pecuniam neque meam neque sociorum per ambitionem delargitus sum'; fr.250 M.

dedication to the 'commoda' of the people, to whose 'fides' Terence has entrusted himself.[1] The political parallels are manifest: 'condecorandi ludos scaenicos' may be equated with the bestowing of 'honores' and 'ars musica' with the control or practice of public affairs. The metaphor is based on a harangue by a 'popularis' politician, urging the people to defend its prerogatives against encroachment by the few.[2] Later in the play Laches exclaims against the conspiracy of women in terms that prefigure 'popularis' complaints on the theme of political faction.[3] The denigration of opponents as 'pauci' is found earlier, in Plautus. In the *Aulularia* it is connected with praise of 'concordia' in the state; in the *Trinummus* men who care more for 'pauciorum gratia' than 'id quod prosit pluribus' are condemned.[4] On the other side, 'seditio' is twice interestingly used. In the *Amphitruo* it is associated with 'turbas concire' and contrasted with 'concordia', while in the *Mercator* it is linked with the occupation of strategic places.[5] The *Menaechmi* and *Trinummus* also suggest that the 'boni' could already be conceived of, if not as the corporate defenders of certain values, at least as united in the pursuit of certain ends.[6] For early Rome there is naturally no evidence at all. But once it is realized that the relevant concepts existed before the Gracchi, it becomes at least reasonable to maintain that, if the early 'populares' existed, and if they did the things they are alleged to have done, then they and their opponents might have spoken in this fashion. Aristocratic attitudes in the primitive republic may well have been essentially the same as those which later find expression in the terms we know from Cicero and Livy, and there is no ground for any dogmatic assertion that the 'prisci Romani' were too inarticulate or too upright to have invented these terms for themselves.

There can certainly be no doubt that Livy might have found the language and concepts he employs in speaking of 'populares' already present in his annalistic sources. But no deduction can safely be made on the strength of that possibility concerning the usage or political tendency of any given annalist. Livy's terminology may have been already embedded in the stories of the early 'populares' as he found them in his sources, but it is equally possible that he derived it entirely from Cicero, in whose works he was well versed and whose attitudes largely coincided with his own. To demonstrate the antiquity of the notions involved

[1] Ter.*Hec*.44 ff.: 'uobis datur / potestas condecorandi ludos scaenicos. / nolite sinere per uos artem musicam / recidere ad paucos: facite ut uostra auctoritas / meae auctoritati fautrix adiutrixque sit. / si numquam auare pretium statui arti meae / et cum esse quaestum in animum induxi maxumum / quam maxume seruire uostris commodis, / sinite impetrare me, qui in tutelam meam / studium suom et se in uostram commisit fidem, / ne eum circumuentum inique iniqui inrideant.'

[2] For the general trend of the argument, cf. e.g. Sall.*B.C.* 20.7, *B.J.* 31.1 f., 14, 16 f., *Hist*.1.77.19, 21 M (directed against the senate rather than the people), 3.48.6, 8, 13 f., 26 M.

[3] Ter.*Hec*.198 f.: 'quae haec est coniuratio! / utin omnes mulieres eadem aeque studeant nolintque omnia'. Cf. Sall.*B.J.* 31.14 f. (*oratio Memmi*): 'quos omnis eadem cupere, eadem odisse, eadem metuere in unum coegit. sed haec inter bonos amicitia, inter malos factio est.' (On which, cf. Seager, *JRS* 62 (1972), 54.) Also the words put by Sallust (*B.C.* 20.4) into the mouth of Catilina: 'idem uelle atque idem nolle, ea demum firma amicitia est'.

[4] Plaut.*Aul*.486 f., cf. 481; *Trin*.34 f.

[5] Plaut.*Amph*.474 ff.: 'denique Alcumenam Iuppiter / rediget antiquam coniugi in concordiam. / nam Amphitruo actutum uxori turbas conciet / atque insimulabit eam probri; tum meus pater / eam seditionem illi in tranquillum conferet.' *Merc*.124: 'seditionem facit lien, occupat praecordia.'

[6] Plaut.*Men*.571 ff., *Trin*.272 ff.; for 'boni' as a collective, cf. also *Trin*.298.

cannot resolve this dilemma; it merely serves as a warning against the facile assumption that any incident which manifests 'Gracchan', 'Sullan', or 'Ciceronian' characteristics may on that account alone be dismissed as retrojection.

II

It remains to consider the specific similarities between the 'popularis' prototypes and their late republican descendants. The case of Cassius will prove to be typical. The charge that a considerable amount of public land was in the hands of private individuals suggests the situation that confronted Ti. Gracchus, as does the selfish reaction of the senatorial 'possessores'.[1] But the exploitation of the selfishness and jealousy of the people to turn his supporters against Cassius because he proposed to benefit the allies is reminiscent of Fannius' opposition to the enfranchisement bill of C. Gracchus.[2] It may of course also bear a resemblance to the kind of attack that led Ti. Gracchus to abandon his original intention of distributing land to allies as well as citizens—if he ever had such an intention. Verginius' other main line of attack, the charge that Cassius was aiming at 'regnum', suggests above all Cicero's brilliantly perverse demolition of Rullus. The similarities are very striking: Verginius, like Cicero, had to convince the plebs that an agrarian law, an apparently 'popularis' measure, was not what it seemed, and his success brought about the same paradoxical result, that he, like Cicero, came to seem the true 'popularis'.[3] It may be that such arguments were directed at the plebs by the opponents of Ti. Gracchus when he too was charged with aiming at 'regnum', but the parallel would still not be close, since in the cases of both Cassius and Rullus the tactic was successful, for the plebs was convinced that its champion was false and turned against him, whereas Ti. Gracchus never lost his popular support in this way.

The defence of Ap. Claudius has affinities with another incident of 63, the trial of Rabirius. Like Cicero, Appius accuses the tribunes of betraying their own most cherished values. The essential contrast between primitive savagery and civilized values, which happen also to be 'popularis', is established well before the direct attack on Appius with the plebeian demand that the decemvirs be burnt alive and the reply of Valerius and Horatius, which distinguishes between 'libertas' and 'licentia' and issues a warning against substituting one 'dominatio' for another.[4] The antithesis is then brought into sharper focus when Appius appeals to the people.[5] He urges the tribunes not to imitate the decemvirs and presents his situation as a test case between 'dominatio' and 'libertas'.[6] What is largely implied here is spelt out by Cicero.[7] Appius could make most of the same claims, though with less detailed emphasis—Cicero had the advantage of having at his disposal a fully developed 'popularis ratio' to turn against Labienus —and he does not seem to have proclaimed himself the true 'popularis', though he does stress his devotion to the plebs.[8] Thus, though the situations are similar, the parallel is once more by no means exact.

[1] 2.41.2; cf. *MRR* i. 493 f.
[2] 2.41.6 f.; cf. *MRR* i. 516.
[3] 2.41.7; cf. Seager, *CQ* 66 (1972), 335 f. The Ciceronian, though not the Gracchan, parallel is neglected by Ogilvie, *Commentary*, pp.339, 341 f. A. W. Lintott, *Historia* 19 (1970), 18 ff., also mentions only Gracchan and Drusan elements in the story.
[4] 3.53.6 f.
[5] 3.56.5.
[6] 3.56.11, 13.
[7] Cf. Seager, *CQ* 66 (1972), 334 f.
[8] 3.56.9.

The most dramatic parallel in the story of Maelius is that between Cincinnatus' comment on his death: 'Maelium iure caesum', and Aemilianus' judgement on the fate of Ti. Gracchus.[1] But more significant are the similarities between Maelius and Catilina. Once he had decided to try for monarchy Maelius did all the things conspirators are supposed to do: arms were collected at his house, he held 'contiones' at home, he apportioned their tasks to his lieutenants—just the same catalogue as Cicero ascribes with as great (or as little) plausibility to Catilina.[2] Quinctius felt the same restraints as Cicero: the consuls were unable to act effectively, hence the appointment of a dictator.[3] Though Maelius was not declared a 'hostis', it was possible to maintain that he should be treated as one and so to forestall criticism.[4] But in one respect Maelius was useless as a precedent for either Ti. Gracchus or Catilina. He was a mere 'eques', as is made clear at the beginning of the story,[5] and his social deficiencies are harped on at length by Cincinnatus.[6] Again the parallels, though striking, are not precise.

The stories of Gallic gold attaching to Manlius call to mind the 'aurum Tolosanum' and the attack on Caepio by Saturninus and Norbanus, while the exploitation by the tribunes of the charge of 'regnum' to cut the ground from under the feet of a 'popularis' leader is reminiscent yet again of Cicero's treatment of Rullus, though in a very different situation.[7] But by far the most noteworthy parallel is once more Catilina. Like Catilina, Manlius took up the cause of debtors; like Catilina, he was arrogant and patrician.[8] His outbursts on the 'superbia' of the senate, the 'crudelitas' of usurers, and the 'miseriae' of the plebs find their echoes too in 63.[9] Like Catilina, Manlius holds 'contiones' at his house and meetings with his supporters by night.[10] He even makes a speech beginning 'Quo usque tandem'—Livy, like Sallust, must have had a sense of humour—a speech that has much in common with Catilina's head and body speech.[11] The debate in the senate is even more remarkable. The strong men call for an Ahala, who would end the 'intestinum bellum' by cutting down the 'publicus hostis'.[12] The moderates, however, invent a splendid device: they call for a decree, 'ut uideant magistratus, ne quid ex perniciosis consiliis M. Manli res publica detrimenti capiat'![13]

Thus Cassius, Maelius, and Manlius are in some respects unsuitable as precedents for any of the great 'populares' of the late republic. In so far as they are applicable at all, they are applicable only as composites. None of them is equivalent to any single later 'popularis'; each contains elements of several later figures. If a rough distinction is drawn between the Gracchan and Ciceronian or pre-Sullan and post-Sullan periods, there are far more Ciceronian than Gracchan

[1] 4.15.1. Cf. Vell.2.4.4; Ogilvie, *Commentary*, p.555; also Lintott, *Historia* 19 (1970), 13 ff., who distinguishes layers in the story designed to exculpate first Nasica, then Opimius, but says nothing of later accretions.

[2] 4.13.9. Cf. Ogilvie, *Commentary*, p.554; Seager, *Historia* 22 (1973), 240 ff.

[3] 4.13.11 f.

[4] 4.15.3.

[5] 4.13.1.

[6] 4.15.5 ff. Cf. Ogilvie, *Commentary*, p.550, who detects traces of a tradition that Maelius was in fact a tribune.

[7] 6.19.6 f.; cf. *MRR* i. 553, 557, 563.

[8] 6.11.3, 6 ff. Cf. Cic.*Cat*.2.5, 8, 10, 18 ff., Sall.*B.C.* 14.2 f.; Sall.*B.C.* 31.7 ff., 35.3, and on Catilina's obsession with 'dignitas', Seager, *Historia* 22 (1973), 248.

[9] 6.14.3; cf. Cic.*Mur*.50, Sall.*B.C.* 20.5–13, 33.1–5, 35.3.

[10] 6.14.11, 18.3; cf. Cic.*Cat*.1.8 ff., 2.13, 4.13, *Mur*.50, *Sull*.52.

[11] 6.18.5; cf. Cic.*Mur*.51, Plut.*Cic*.14.6. Sallust puts the phrase into Catilina's own mouth (*B.C.* 20.9).

[12] 6.19.2; cf. e.g. Cic.*Cat*.2.28.

[13] 6.19.3.

elements in the accounts of the prototypes. Cassius is more like Rullus than he is like either of the Gracchi or Saturninus. Maelius has very little in common with any pre-Sullan character, but bears a marked resemblance to Catilina, and this is even more true of Manlius. But the presence of elements indisputably drawn from the Ciceronian age should not be used to draw conclusions about the date or content of Valerius Antias or any other annalist.[1] Livy may have found these traces in a source. But it is equally possible, and perhaps more likely, though equally beyond proof, that his intimate knowledge of Cicero,[2] coupled with his own inclinations, led him to rework the stories he found in the annalists, adding what might be called a Ciceronian strand to the Gracchan and Sullan strands already woven into the complex fabric of history or fantasy.

III

To return to firmer ground, the inquiry so far offers a certain degree of guidance for the attempt to reconstruct Livy's attitude to the 'populares' of the late republic. When the authorities that constitute the Livian tradition manifest a doctrinaire hostility regardless of motive and a readiness to believe the worst where motive is concerned, expressed in what for us are Ciceronian patterns of language and argument, it will not be unreasonable to suppose that Livy's own convictions are preserved with some degree of precision.

It is likely that for Livy, as for many other authorities both ancient and modern, the tribunate of Ti. Gracchus represented a new departure, a new stage in the decline of the Roman republic into violence and anarchy. Florus prefaces his account of Tiberius with some general remarks on the nature of the tribunician power.[3] It is not improbable, first that these views coincide with Livy's own, secondly that they were expounded at the same point in Livy's history as they occupy in the work of Florus. The tribunician power is seen as the origin and cause of all 'seditiones'.[4] Possible defences of it—devotion to the welfare of the masses, promotion of social justice—are rejected as pretexts.[5] This attitude recalls Livy's own remark about agrarian laws, 'quae materia semper tribunis plebi seditionum fuisset'.[6] These sections in Florus may suggest that there was in Livy some discussion of the Gracchan point of view, but if so, the final judgement was clearly hostile.[7] The arguments by which this pejorative conclusion will have been sustained are summarized by Florus.[8] The detail is familiar from the speeches of Cicero: suppression of revenues, draining of the treasury, and 'possidentium euersio'.[9] But there is no reason to suppose that such arguments were not advanced at the time by Annius Luscus and others. Most striking perhaps is the point that the 'possidentes' too had a right to be considered as a part of the people. This implies an exploitation of the etymology of 'popularis' to claim that the true 'popularis' is the man who serves the interests of the whole or 'real' people, a favourite Ciceronian ploy.[10]

The language in which the Livian tradition describes the activities of 'popularis' politicians and their opponents is rich in the anti-'popularis' catchwords of the

[1] As by C. Zohren, *Valerius Antias und Caesar* (Diss. Münster, 1910).

[2] For which, cf. Ogilvie, *Commentary*, pp.4, 19.

[3] Flor.2.1.1–6.

[4] Flor.2.1.1.

[5] Flor.2.1.1: 'specie plebis tuendae', 'species aequitatis'.

[6] Liv.6.11.8.

[7] Flor.2.1.5: 'sed haec ipsa in perniciem redibant'.

[8] Flor.2.1.6 f.

[9] Cf. Seager, *CQ* 66 (1972), 329.

[10] Cf. Seager, *CQ* 66 (1972), 334.

late republic which were found applied to an earlier period by Livy himself. The notion of 'seditio' repeatedly occurs. The riot in which Ti. Gracchus was killed is so termed by the Epitomator, while Orosius places his entire account under the rubric 'Gracchorum seditiones'.[1] He too maintains that the final disturbance arose while Tiberius was stirring up 'seditiones populi'.[2] The theme also dominates the Epitome's account of the activities of the agrarian commission after Tiberius' death. 'Seditiones' were stirred up by the triumvirs before Aemilianus' demise and blazed forth again after it.[3] The Epitomator labels the tribunate of C. Gracchus too as 'seditiosus', and in Orosius Gaius is said to have aroused the people 'in acerbissimas seditiones'.[4] Both the Epitome and Orosius speak of the 'seditio' of Saturninus and his adherents, while the *De Viris Illustribus* calls him and Glaucia 'seditiosi'.[5]

That common disease of tribunes, 'furor', is ascribed by the Epitomator to Ti. Gracchus: his deposition of Octavius is introduced with the words 'in eum furorem exarsit'.[6] It is prominent again in the account of C. Gracchus; Fulvius Flaccus is described as 'socius eiusdem furoris'.[7] It is uncertain what in particular among Gaius' actions Livy may have regarded as symptomatic of 'furor', but it seems a reasonable reading of the Latin of the Epitome, for what that is worth, to associate 'furor' especially with the armed occupation of the Aventine. Thus, as in the case of Ti. Gracchus, it would be used to characterize the means employed rather than the ends pursued by 'populares'. Saturninus too is a sufferer. In the Epitome he is killed along with Glaucia and others who shared the same 'furor'.[8]

The charge of inciting the multitude is brought against Ti. Gracchus, as it is later against Livius Drusus.[9] Far more weight, however, is given throughout to accusations of violence. But only Florus makes violence a major theme when speaking of Ti. Gracchus. In his account Octavius is removed by force from the 'rostra' and compelled to abdicate from office through fear for his life.[10] It is doubtful whether this misplaced emphasis on violence can go back to Livy, who can hardly have garbled the facts of the story to such a dramatic extent. For C. Gracchus violence is again a theme, and this time not only in Florus. Beneath the rhetoric it is clear at least that the initiative in resorting to force was ascribed to Gaius, and at an early stage in his career.[11] This is confirmed by Orosius, who states that Gaius' first election was achieved 'per tumultum'.[12] It is with Saturninus that violence comes into its own: it is the dominant theme in all accounts. In the Epitome he stood for his second tribunate 'occiso A. Nunnio competitore' and was elected 'per uim', a phrase which quickly recurs with reference to the passage of the agrarian law. The over-all verdict runs: 'non minus uiolenter tribunatum . . . gessit'.[13] Florus highlights the killings, their blatant nature, and the added outrage of the occasion. Ninnius (the correct form of the name is uncertain and immaterial here) was killed 'palam comitiis' and Saturninus then went so far as to disturb the consular elections too with a fresh murder.[14] In Orosius, Saturninus, 'excitati tumultus auctor', conspires with

[1] Liv.*per.*58, Oros.5.8.1, cf. 5.10.10.
[2] Oros.5.9.1.
[3] Liv.*per.*59.
[4] Liv.*per.*61, Oros.5.12.4.
[5] Liv.*per.*69, Oros.5.17.10, *uir. ill.* 67.3, 73.1.
[6] Liv.*per.*58.
[7] Liv.*per.*61.
[8] Liv.*per.*69; cf. Flor.2.4.4 on Glaucia: 'satellitem furoris sui'.
[9] Liv.*per.*58, 70.
[10] Flor.2.2.5.
[11] Flor.2.3.2.
[12] Oros.5.12.3.
[13] Liv.*per.*69; cf. *uir. ill.*62.2.
[14] Flor.2.4.1, 3.

Marius and Glaucia to drive Metellus Numidicus into exile 'quacumque ui'.[1] This heavy emphasis on violence in the treatment of Saturninus, in contrast with both the Gracchi, suggests that Livy, despite his uniform hostility, was quite capable of distinguishing one popular tribune from another. Violence plays its part again in accounts of Livius Drusus. According to the Epitome both the agrarian and the corn laws were passed 'per uim'; Florus says the same of Drusus' legislation in general.[2] Cinna, though a consul, is dealt with in terms as harsh as those applied to any tribune. It was when he was attempting to enact his laws 'per uim atque arma' that Octavius expelled him from Rome.[3] The syntax here might suggest that Cinna's resort to violence was seen by Livy as a justification for Octavius' action against a colleague. Violence is associated with Cinna's followers again after his death, with the election of the younger Marius to the consulship 'per uim' and the massacre perpetrated in the city by Damasippus.[4]

Another item from the standard vocabulary is 'largitio'. It was through his 'largitiones' that C. Gracchus succeeded in rousing the people to sedition.[5] The notion recurs strikingly in the remark ascribed in Florus to Livius Drusus himself: 'nihil se ad largitionem ulli reliquisse'.[6]

'Perniciosus' too makes several appearances. The Epitome damns C. Gracchus' laws as 'perniciosae', while his very election is stigmatized by Orosius as 'magna rei publicae pernicies'.[7] The activities of Livius Drusus are also described as pernicious; indeed three stock themes occur together in a single sentence: 'perniciosa spe largitionum plebem concitauit'.[8] The laws of Sulpicius Rufus are 'perniciosae', and they remain so when revived by Cinna.[9]

It is perhaps possible to determine certain more important features of the Livian account of Ti. Gracchus. The first emerges from the syntax of the Epitome. The actual passage of the agrarian law is relegated to a subordinate clause; attention is concentrated instead on the deposition of Octavius and the composition of the agrarian commission, and it is these acts that are singled out for castigation as 'furor'.[10] Similarly the Epitomator's description of the second law, which gave the commission its judicial powers—'ut idem IIIuiri iudicarent'—may indicate that Livy highlighted the fact that yet more power was thus being conferred on this small and dubiously constituted group. It appears first of all then that for Livy, as for many modern authorities, what was most significant about Tiberius' work was not the content or purpose of his legislation but the methods he adopted to secure its passage and guarantee its successful operation.

There is a further point arising out of the clash with Octavius. The *De Viris Illustribus* comments on Tiberius' motion to depose his colleague that he acted 'nouo exemplo'.[11] If this goes back to Livy, it suggests that he accepted the view which has until recently pervaded modern scholarship: that it was Tiberius, not his opponents, who first resorted to unusual, if not unprecedented, tactics and so bore the responsibility for starting the chain reaction that ended in his death.[12] Livy then would not have countenanced the alternative viewpoint, that it was Octavius who by the use of his veto introduced a 'nouum exemplum', to which

[1] Oros.5.17.3 f.
[2] Liv.*per*.71, Flor.2.5.9.
[3] Liv.*per*.79.
[4] Liv.*per*.86.
[5] Oros.5.12.4.
[6] Flor.2.5.6.
[7] Liv.*per*.60, Oros.5.12.3.
[8] Liv.*per*.70.
[9] Liv.*per*.77, 79.
[10] Liv.*per*.58.
[11] *uir. ill*.64.4.
[12] Against this view, cf. now E. Badian, *ANRW* i. 1, 695 ff.

Tiberius was forced to devise an equally unprecedented reply. Thus the senate and its champion merely respond to provocation on the part of a 'popularis'. This is evidenced in general terms in the Epitome's account. Only after the land law and the outrages that facilitated its passage and the further interference with the legacy of Attalus did the senate stir itself, 'tot indignitatibus commotus grauiter'.[1]

The exculpation of the consul Opimius at the time of the death of C. Gracchus displays the same tendency. As the Epitomator's syntax shows, the senate once again responds only to provocation, and Opimius acts 'ex senatus consulto'.[2] So, although he too resorts to force, legality is on his side, and his action realizes 'concordia' between the senate and the people.[3] Livy must have worked here, at least by implication, even if he did not expound it in detail, with the Ciceronian distinction between the 'uerus populus' and the misguided rabble that followed so-called 'popularis' leaders.[4]

The opposition to Saturninus too is roused to action only by extreme provocation. Not until after the murder of Memmius do we find in the Epitome 'quibus rebus concitato senatu'.[5] So too in Orosius, after the expulsion of Numidicus and the murder of Memmius: 'fremente pro tantis rei publicae malis senatu populoque Romano'.[6] The attribution of a quasi-legal justification to those who suppress 'populares' is recorded this time by the *De Viris Illustribus*.[7] The mention of the people alongside the senate in the Orosius passage just cited is striking. This is not the first suggestion in Orosius that Saturninus lacked urban support, for he maintains that Numidicus departed into exile 'cum totius urbis dolore'.[8] Even such plebeian support as Saturninus retained at the end was easily detached by Marius once he had allied himself with the 'boni'.[9] So, once the ringleaders had been removed, 'quies populo fuit'.[10] As it stands, this account is inferior to that of Appian, which distinguishes clearly between the attitudes of the urban plebs and the Marian veterans from the country.[11] But it is not unreasonable to suppose that Livy himself understood the distinction and may have exploited it polemically to demonstrate that the 'popularis' Saturninus did not really enjoy the favour of the urban masses.[12]

The account of Livius Drusus provides a significant variation on the theme that the senate responds only to provocation. This time the provocation does not consist in the violent or dubiously legal acts of a tribune, but in the 'impotentia equestris ordinis' in the courts.[13] The senate, unable to endure this any longer, began to work towards the recovery of the courts, and Drusus made himself the champion of its cause. Florus is similar but more specific, accusing Caepio of striking the first blow against the senate.[14] Drusus responds on behalf of the senate; the language is very reminiscent of that used elsewhere to describe the reaction of the senate as a body to the activities of popular tribunes

[1] Liv.*per.*58; cf. Oros.5.8.3.
[2] Liv.*per.*61.
[3] Liv.*per.*61: 'ex senatus consulto uocato ad arma populo'.
[4] Cf. Seager, *CQ* 66 (1972), 328, 334.
[5] Liv.*per.*69.
[6] Oros.5.17.6.
[7] *uir.ill.*73.10: Marius 'senatus consulto armatus'.
[8] Oros.5.17.4.
[9] Oros.5.17.6.
[10] Oros.5.17.10.
[11] Cf. App.*B.C.* 1.132, 134, 140, 143.
[12] This might be corroborated by the Epitome, if the 'boni ciues' of *per.*69 who were ready to defend Numidicus be taken to include plebeians. Appian shows that Metellus did have some plebeian support; Livy probably deserves the benefit of the doubt.
[13] Liv.*per.*70.
[14] Flor.2.5.5.

themselves.[1] Drusus' stand, however, was supported 'non tribunatus modo uiribus sed ipsius etiam senatus auctoritate'.[2]

The theme of conflict between the violent and lawless 'populares' and the forces of law and order symbolized by the senate ironically acquires even greater prominence when Sulla comes upon the scene. Sulpicius Rufus resorted to violence against the supreme representatives of order in the state, who were, as is emphasized, arrayed against him: 'aduersantibus consulibus . . . uim intulisset'.[3] This clash between violence and law and order is even more heavily stressed in the description of Sulla's response: 'consul cum exercitu in urbem uenit et aduersus factionem Sulpici et Mari in ipsa urbe pugnauit eamque expulit'. This is a remarkable sentence. It emerges clearly from it that these events were astonishing and unprecedented, yet at the same time the march on Rome is reduced to a police action undertaken by a magistrate, for Sulla acts as consul against a group characterized by the pejorative label 'factio'. This is at once reinforced by the statement that Sulpicius, Marius, and their chief supporters were declared 'hostes' by the senate. The law-and-order antithesis is thus underlined: on the one side a consul and the senate, on the other a 'factio' made up of 'hostes'. Florus too presents the consequences of the march on Rome as a police action carried out by a magistrate with the approval and authorization of the senate.[4]

The behaviour of Cinna on his expulsion from Rome is contrasted as strongly as possible with that of Sulla in the previous year. It is made clear first of all that he no longer had any official position.[5] He acquired the troops to march on Rome only by corruption at the expense of the legitimate commander.[6] The march itself is condemned as an act of war: 'bellum urbi intulit', in the undertaking of which Cinna surrounded himself with exiles. The gulf between Cinna and the senate is established by Florus as early as the initial clash with Octavius, which came, according to him, when Cinna acted to rescind a senatorial decree against the wishes of the senate.[7] Cinna's defeat in the assembly on that occasion is treated as a victory for those 'quibus pax et quies potior'.[8] This introduces the idea of the 'populares' as warmongers, a charge that is repeatedly brought later by the Livian sources against both Cinna and Carbo. In the same vein Florus flamboyantly describes the results of Cinna's seizure of Rome in the anatomical flourish 'per ipsius uiscera senatus grassante uictoria'.[9] An interesting light is also cast by Granius Licinianus. The senate's refusal to come to terms with the Samnites in 87 is praised by Granius in words that suggest Livy's approval of its attitude: 'dignitatem antiquam populi Romani tuentibus patribus'.[10] Cinna on the other hand capitulated completely to their demands and then incorporated them in his forces. Once again Cinna and the senate are on opposite sides, with the senate plainly in the right.

The rest of the treatment of Cinna, Marius, and Carbo displays the same characteristics. Illegality on the part of the 'populares' and the gulf between

[1] Flor.2.5.6: 'his ut motibus resisteret Drusus'.

[2] Flor.2.5.1.

[3] Liv.*per*.77.

[4] Flor.2.9.8: 'ex consulto senatus aduersariis hostibus iudicatis in praesentem tribunum aliosque diuersae factionis iure saeuitum est'.

[5] Liv.*per*.79: 'imperio ei abrogato'; *uir.ill*.69.2: 'honore priuatus'.

[6] Liv.*per*.79.

[7] Flor.2.9.9: 'cum de reuocandis quos senatus hostes iudicauerat ad populum referretur'.

[8] Flor.2.9.10.

[9] Flor.2.9.4.

[10] Gran.Lic.20 f.F.

them and the senate are repeatedly stressed and they are denied the credit for any action that might be thought to deserve praise. Thus the enfranchisement of Italy is ascribed to the senate.[1] The position of Cinna and Marius as consuls is undermined by the denial of its legality: they declared themselves elected 'citra ulla comitia'. This charge is repeated against Cinna and Carbo.[2] Cinna and Carbo are seen from the first as intent on civil war against Sulla, against the wishes of moderate opinion in the senate. It was Flaccus and those 'qui concordiae studebant' who succeeded in getting an embassy sent to Sulla. The mutiny in Cinna's camp is presented in the same light; Cinna was killed by the army when he was trying to force it to embark and set out against Sulla.[3]

Sulla is closely linked with the senate from the first. The survivors of the massacres of Marius and Cinna, 'residui senatores', 'uniuersus reliquus senatus',[4] took refuge with Sulla in Greece and begged him to come to the aid of the fatherland. He behaved deferentially towards the senate: 'legatis, qui a senatu missi erant, futurum se in potestate senatus respondit'.[5] The senate as a whole is now given credit for the embassy, which was previously described as the work of those who favoured concord. This creates the impression that the entire senate was in favour of an accommodation with Sulla, which could well have been achieved but for the disruptive efforts of Carbo. Sulla's terms seemed fair to the senate, but the agreement that would otherwise have been reached was prevented by Carbo and his faction, to whom war seemed more useful.[6] The split between Carbo and the senate widens still further. Carbo wanted to take hostages from all the towns of Italy, but was prevented from so doing 'consensu senatus'. The language underlines the unanimity of the senate in its opposition to the bellicose consul. The senate too receives the credit for the belated grant of the vote to the new citizens.[7] The general tendency of the narrative is clearly revealed yet again by the final sentence of *per.*84: 'praeterea belli apparatum, quod contra Syllam excitabatur, continet'.

Even when he invades Italy, Sulla is still presented as a peacemaker. He sent envoys to treat of peace, but they were misused by the consul Norbanus.[8] Again the actions of Carbo's supporters are violent, illegal, and aimed at war. Sulla tried especially hard with L. Scipio, and despite his obstinacy released him when he could have had him killed.[9] Sulla's victory on the other hand seems to have given Livy pause. 'Urbem Romam ex inimicorum manibus recepit': the first hint that the peace-loving and law-abiding Sulla might be seen as pursuing a private quarrel to the death regardless of the havoc worked upon the Roman state.[10] Livy was also apparently ready to concede that Sulla's cruelty outdid Cinna's.[11] Nevertheless the Sullan side remains that of law and order, with the authority of the senate behind it. Pompeius, on his mission to Sicily, was 'cum imperio a senatu missus', which might explain and justify the execution of Carbo while he was still consul, while the youthful butcher's next victim, Cn. Domitius, is labelled 'proscriptum', whereby his death too is legally excused.[12]

[1] Liv.*per.*80.
[2] Liv.*per.*80, 83; cf. *uir. ill.*69.3 on Cinna's second and third terms.
[3] Liv.*per.*83; cf. *uir. ill.*69.4: Cinna killed 'cum bellum contra Syllam pararet'.
[4] Oros.5.20.1, Eutrop.5.7.4.
[5] Liv.*per.*84.
[6] Liv.*per.*84.
[7] Liv.*per.*84.
[8] Liv.*per.*85.
[9] Liv.*per.*85: 'cum quo per omnia id egerat <ut> pacem iungeret nec potuerat'.
[10] Liv.*per.*87.
[11] Liv.*per.*88.
[12] Liv.*per.*89.

To conclude, briefly. The evidence of the Livian tradition, borne out by that of Livy himself on the 'popularis' prototypes, allows us to state with some confidence that Livy's hostility to all 'populares' was uniform and extreme, that in dealing with them he exclusively employed a terminology that we tend to think of as Ciceronian, and that may have been so for Livy himself, though its essential elements are to be found much earlier, and that he consistently set against the violent, illegal, and individualistic initiatives of 'populares' an opposition consisting of a unified senate, which acted in justified defence of law and order only in response to extreme provocation.

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