

## REVIEW ARTICLES

### **The People's Voice and the Speakers' Platform: Popular Power, Persuasion and Manipulation in the Roman Forum**

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Henrik Mouritsen, *Plebs and Politics in the Late Roman Republic*. Cambridge: Cambridge University Press, 2001. vi + 164 pp. ISBN 0 521 79100 6.

Robert Morstein-Marx, *Mass Oratory and Political Power in the Late Roman Republic*. Cambridge: Cambridge University Press, 2004. xiv + 313 pp. ISBN 0 521 82327 7.

The debate on the 'political character of the Roman Republic', sparked by Fergus Millar in the eighties, rages on, with the question of the people's role at the centre of it. Did the people have real power, and if so, how much power, and in what fields? Despite widely divergent views, a wide consensus seems to emerge on one vital point: the people did have a role that was at any rate significant enough to merit close study. Few, if any, would subscribe today to a 'frozen waste theory'<sup>1</sup> dismissing the significance of the popular element in the system altogether.

But what exactly was this significance? It has been claimed that the whole, or main, significance of the people's role was precisely that it strengthened the oligarchy: it was integrated into the oligarchic system, endowing it with popular legitimacy and serving as a 'safety valve'.<sup>2</sup> This is a sophisticated way of reconciling the ample evidence for popular participation with the fundamentally oligarchic model of Roman politics; rather than dismissing the importance of the popular element, this theory seeks to appropriate it for the purposes of the oligarchic model (naturally attributing the same tactics to the Roman ruling class itself).

Those who emphasise the crucial role played by the people in Republican politics should obviously reciprocate. The theory that popular institutions were integrated into the system and enhanced its legitimacy and stability is surely not groundless; it should by no means be dismissed. Rather, it should be appropriated for the purposes of presenting a more popular model of Republican politics. A political system cannot fail to be powerfully influenced by integrating popular institutions of the sort that existed in the Republic. It was an essential distinctive feature of the Republican 'oligarchy' that it needed to be constantly propped up, re-enforced and stabilized by powerful popular devices. The popular 'medicine' contributed, in the final analysis, to the system's overall health, but it might occasionally have quite unpleasant, and sometimes dangerous, side-effects from the senatorial viewpoint. Moreover, the 'oligarchs' were not free to decide whether, and

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<sup>1</sup> J.A. North's expression in 'Democratic politics in Republican Rome', *Past and Present* 126 (1990), 7.

<sup>2</sup> See, e.g. R.F. Vishnia, *State, Society and Popular Leaders in Mid-Republican Rome 241-167 BC*, London and New York 1996, 202.

when, they wished to take this medicine; they had to do it regularly, and sometimes an overdose was pushed down their throat. An 'oligarchy' that depended on such safety valves may still be described as an oligarchy of sorts, for there is no denying the enormous power, prestige and influence of the Roman elite; and, after all, the 'iron law of oligarchy' tells us that any political system is, in an important sense, oligarchic. But it was a very different — essentially different — kind of oligarchy from, for instance, the Venetian Republic at its aristocratic prime (which, to be sure, had its own 'popular' safety valves, but not at all such as can be compared to the Roman ones).

If one wishes to put a label on such a system, there seems to be no good reason to reject Polybius' 'mixed constitution'. This should not be taken to imply that there was some perfect 'balance' between the elite and the masses — if only because the elite is, by definition, the more powerful and influential part of any society, and Rome was certainly no exception. But whatever the label, both the popular and the elitist components of the system should be taken seriously, and examined in their interdependence and interaction.

Both authors whose books are reviewed here, H. Mouritsen and R. Morstein-Marx, examine the people's role in Republican politics. Mouritsen rejects attempts to attribute a strong 'democratic' element to the system. His emphasis is on the power of the oligarchy and on the decidedly subordinate character of the popular element. The radical 'popular' change in the composition of the legislative assemblies in the Late Republic (which Mouritsen admits and emphasizes) does not substantially affect his overall assessment of the Republican regime. Morstein-Marx, on the other hand, regards popular politics as a vital part of the system; in the final analysis, however, the popular element, according to him, strengthened the aristocratic Republic.

Henrik Mouritsen examines 'how much real power the senate's ascendancy left the Roman people' (1). Not much: 'The Roman system was ... based on the few rather than the many' (128). Despite their theoretically wide powers and the official rhetoric acknowledging their sovereignty, the real Roman people — the wide popular strata — played, as a rule, a marginal role. This conclusion has often been based on a theory that Roman voters were controlled and manipulated by aristocratic patrons. But Mouritsen rightly points out that there is now 'a growing consensus' against this view. 'There is little evidence to suggest the existence of a comprehensive network of social obligations, linking top and bottom of society' (3); '[t]he marginal role of the plebs meant that there was no political imperative for the elite to cultivate the lower orders' (138). The assemblies, tightly controlled by magistrates, 'were deprived of any independent political initiative' (128); moreover, only a tiny and unrepresentative part of the people actually participated in them. These, as a rule, belonged to the wealthy strata: 'the typical political crowd in Rome probably represented the rich rather than the poor' (130).

The latter point, central to Mouritsen's thesis, applies not just to the centuriate assembly<sup>3</sup> but to the tribal one, as well as to the *contiones* at which speeches were made

<sup>3</sup> Mouritsen holds that '[t]he lower classes may often have had a say in elections' in the centuriate assembly, but winning there was impossible without 'strong support from the rich' (115). It is unsafe to identify the first property-class as a whole with 'the rich' — cf. Alexander Yakobson, *Election and Electioneering in Rome: A study in the Political System of the Late Republic*, Stuttgart 1999, 43-8. Moreover, if it is true that the voting 'often' went down to the lower classes, then these classes must have been considerably more influential

but no voting took place, and is based mainly on calculations and assessments as to 'how many Romans voted'. Considerations of the limited space available in the various voting locations, and of the time required for voting and counting votes, indicate that the actual scale of popular participation was very modest. The detailed arguments are set out in chapter 2 ('The scale of late republican politics') — the strongest part of the book. Mouritsen makes a powerful case here, though there is an inevitable element of conjecture, given the state of the evidence.

But what was the social and political profile of those several thousand voters (merely a fraction of the citizen body, and, in the Late Republic, of the city population) who could be expected to assemble in the Forum? Mouritsen holds that 'the logic of the system naturally favoured people with time, resources, interest and a certain level of integration into the world of politics' (130). The 'de facto exclusion' from the political scene of 'working class citizens', who (unlike in Athens) were given no 'public remuneration', left the assemblies 'in the hands of the propertied classes' (37), 'the *boni*' (127). The poor could ill afford, and had little motivation, to spend whole days taking part in a political process from which they were largely alienated. Legislative *comitia* 'rarely had a direct relevance to the lives of most citizens' (128); moreover, 'the "apolitical" nature of the elections would probably have made the whole exercise an irrelevance to the large majority of the population' (95); no 'issues of ... basic interest to the electorate' were involved (101).

This both exaggerates the 'apolitical' character of Roman elections<sup>4</sup> and ignores the various motivations, apart from the strictly 'political' ones, that a voter could have for taking interest in the outcome of an election — including personal preferences and precisely a wish to enhance the sense of one's own importance and 'relevance'. Elections, as well as other kinds of public business transacted 'under the gaze of the Roman people', had a strong element of the spectacle about them; and, after all, 'Republican Rome was in the grip of constant electioneering' (126). Such spectacles can move and engage people no less than substantive political controversies. Moreover, the prospect of taking part in the conviction, or the acquittal, of a great noble standing trial before the people in the heyday of senatorial ascendancy, in the Middle Republic, might well have been attractive to some voters from the 'broad population' — even if the trial was wholly devoid of political overtones and implications (which was far from always the case).

At any rate, late-republican legislative assemblies were not, as their record clearly shows, controlled by 'the *boni*' or subservient to the senate. Indeed, according to Mouritsen:

this cosy arrangement [of elite control] broke down in the later second century ... [probably as] a consequence of members of the lower classes now turning up for assemblies they had not previously attended. That happened at the initiative of magistrates who sought popular support to press through legislation against the opposition of the senate and the upper classes' (79).

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than Mouritsen allows, for on such occasions their vote was indeed, in an important sense, 'decisive' (contra Mouritsen 95), by finally tipping the balance in favour of the eventual winner. If so, no candidate, or prospective candidate, for higher office could ignore them — in his canvassing and perhaps more generally speaking in his social and political behaviour.

<sup>4</sup> Cf. Yakobson (n. 3), 148-83.

The change is described in dramatic terms: this period brought 'a shift, almost overnight, from seemingly tight senatorial control to what appears almost as a permanent revolution'; henceforward '[laws] which challenged the vital interests of the senate and the very foundations of its authority were passed with almost the same regularity as those approved by the senate' (67). The senate was 'unable to put up any serious opposition in the assemblies and had to have recourse to violence, religious obstruction, tribunician intercession and subsequent annulment of "popular" laws'. With the advent of the late-republican *populares*, '[w]hen ... popular leadership was effective, the people were able to rule supreme' (87).<sup>5</sup>

But how could such a radical transformation have taken place 'almost overnight'? What could have revolutionised the composition of legislative assemblies so thoroughly, turning, with a stroke of the clock, a fair aristocratic princess into a 'popular' Cinderella? According to Mouritsen, some members of the senatorial elite 'broke ranks' and resorted to aggressive populist tactics, 'seeking popular support to press through' anti-senatorial laws; they now easily mobilised 'lower-class voters who had not previously attended' in sufficient numbers to outnumber the *'boni'* in the assemblies. But was not aristocratic competition the soul of aristocratic Republican politics — always, and not just from 133 on? Was not 'seeking popular support', in competition with fellow members of the elite, part and parcel of a senatorial career (certainly at elections, and sometimes on other occasions), and might not the logic of this competition sometimes encourage politicians to play the 'popular' card? If 'the popular will of the Roman people found expression in the context, and only in the context, of divisions within the oligarchy',<sup>6</sup> it is equally true that 'divisions within the oligarchy' were intrinsic to the system. Of course, the Late Republic did signify an important change: the popular effect of the dynamics of competition within the elite repeatedly got out of hand. But the same mechanism operated, if less powerfully and disruptively, in earlier times as well.

Indeed, although Mouritsen holds that late-republican mobilisation of voters against the interests of the elite by its members was 'a novelty' which 'left the elite with a sense of disgraced anomaly', he proceeds to point to precedents: 'An early example of lower-class mobilisation secured the passing of Flaminius' *Lex agraria*'. The first two ballot laws, passed in 139 and 137 (the latter supported by Scipio Aemilianus), 'may be signs of the growing disunity within the elite, which fully erupted in 133' (79). Other examples of second-century laws are mentioned as proof that 'it had also been possible earlier [before 133] to overcome senatorial opposition in the *comitia*' (73). The electoral system, similarly, had not been fully reliable from the senatorial viewpoint: 'the preferences of the elite did not always prevail ... there are examples that clearly demonstrate that the nobility was powerless to prevent the victory of a candidate who had gained wide popularity' — though it is doubtful, on Mouritsen's reconstruction of the Roman political system before 133, whether 'wide popularity' would be much of a benefit to a candidate. He mentions the irregular election of Scipio Aemilianus to the consulship in 148 'against the expressed wishes of the nobility', and several other examples (98-9). Elsewhere (124,

<sup>5</sup> Nevertheless, since 'popular mobilisation was destined to be of limited extent and duration', Mouritsen holds that even in the Late Republic, 'the people of Rome never became fully integrated into the political process' (144).

<sup>6</sup> John North's words (n. 1), 18, quoted approvingly by Mouritsen, 89; see also 78; 146; 147.

with reference to Polyb. 31.29.8-9 and 6.57.5-9), Mouritsen speaks of 'distinct signs of a change in the political climate' in the period after the Hannibalic War, with fiercer competition within the ruling class prompting candidates, in Polybius' words, 'to court the favour of the populace'.

It should be remembered that legislation (which could only be initiated by elected officials) and elections were interconnected in ways that had at least the potential of encouraging members of the elite to promote popular laws with a view to advancing their careers (although there might also be weighty considerations against incurring strong senatorial resentment). Gaius Flaminius, the author of the controversial agrarian law of 232, went on to become consul and censor. In 218 he supported the Claudian law, curtailing the ability of senators and their sons to engage in profitable sea-trade — the sole senator to do so, according to Livy (though some historians have doubted this). The law is said to have brought upon Flaminius great resentment on the part of the nobility, as well as 'the favour of the plebs and the second consulship' (Liv. 21.63).

Of course, Gaius Flaminius' career was by no means typical of his times (it was merely *possible* — which, in itself, is significant enough). In general, the emergence of the late-republican *populares*, starting with the Gracchi, was indeed a turning point the importance of which should not be minimized. The decades that preceded 133 are known as a period of relatively secure senatorial ascendancy, despite occasional popular 'lapses'. But 'senatorial ascendancy' does not imply that the elite was free to defy or ignore public opinion — witness, among other things, the land allotments during the first decades of the second century. Moreover, the three decades leading to 133 are a meagerly documented period, with Livy's narrative lost after 167. Had it been preserved, it might possibly have provided additional reasons for concluding that the 'shift', as usually happens with important shifts in history, did not happen 'overnight'. It stands to reason that 'the so-called "Gracchan revolution" was in fact the final stage of an evolutionary process whose origins can already be discerned in the first half of the second century'.<sup>7</sup>

The Second Punic War was a period of relative 'harmony' under the senatorial leadership. But the electoral and legislative assemblies were far from being a mere rubber-stamp; the conduct of the war was not always left to the collective wisdom of the senate. The people's will asserted itself on important occasions, with the help of magistrates, including tribunes of the plebs, and candidates for elected office — all, in a broad sense, members of the elite (i.e., office-holders and office-seekers).<sup>8</sup> In a famous case, Scipio (not yet Africanus) the consul of 205, threatened to 'appeal to the people' over the senate's head when it would not allow him to invade Africa (Liv. 28.40.1-2); the senate eventually gave way. As for earlier times, the accounts of the 'Struggle of the Orders', if any trust should be put in them, certainly do not give the impression that the legislative assemblies were controlled by upper-class voters obedient to the senate. The tribunes

<sup>7</sup> Vishnia (n. 2), 9. Polybius famously called Gaius Flaminius, because of his agrarian law, 'the originator of this popular policy, which we must pronounce to have been ... the first step in the demoralisation of the populace' (2.21.7-8). This was apparently written in mid-second century, and strongly indicates that the Roman 'political crowd' did not really change 'almost overnight' and out of all recognition with the coming of the Gracchi.

<sup>8</sup> See Vishnia (n. 2), 49-114.

who carried 'popular' laws in the assemblies of the Early Republic were, of course, members of the elite — again, in the broad sense of the term; we should beware of assuming that it denotes a closed and narrow oligarchy.

All this is not to deny that social mechanisms of the kind described by Mouritsen could sometimes have the effect of making the assemblies considerably less popular in practice than they were in theory (over and above the advantage conferred on the wealthier elements by the structure of the centuriate assembly and, to a lesser extent, by the preponderance of the rural tribes in the tribal one). But it is clearly excessive to suggest that 'before the rise of the late-republican *populares*, legislative *comitia* may by and large have been a constitutional formality', 'an extension of the political class itself — rather than a separate institution representing the people', and that consequently the people provided 'no political counterweight to the rule of the senate' (79).

Robert Morstein-Marx's book is a comprehensive and highly illuminating study of the *contio* and its role in late-republican politics. It provides an integrated analysis of the various aspects of this crucially important (and often remarkably neglected) meeting-point between the elite and the people. The physical setting of *contiones* and the way they were run, the impressive range of issues dealt with at them, the composition of the audience and its behaviour, the interaction between the speakers and the listeners, and, most importantly, the ideological content of Roman public oratory — all these are meticulously examined. 'The central act of Republican politics is, as Millar claimed, the "orator addressing a crowd in the Forum"' (12). But, while the author rejects the narrowly oligarchic model of Roman politics, he is critical of Millar's assumption that constant public debates 'under the gaze of the people' democratized the Roman political culture. For the ground rules of those debates, and their content, were calculated, not indeed to confine the people to the fringes of the political system (as argued by Mouritsen), but, on the contrary, to integrate them 'so successfully ... into this regime ... [that] they came not merely to acquiesce in, but actively to perpetuate, elite power' (285).

In order to perform this crucial function, the people had to play a truly significant part in the game of Republican politics. Morstein-Marx convincingly rejects the stereotype (prevalent in the 'elitist' literary sources and accepted by many moderns) of the people frequenting the *contiones* as an 'ignorant mob' lacking civic knowledge and consciousness. By analyzing, in detail and with proper caution, the content of the various contional speeches surviving in the sources (Ch. 3, 'Civic knowledge'), he shows that members of the elite addressing the people often assumed, in their listeners, an impressive level of historical, constitutional and political knowledge. '[T]he acquaintance of the plebs with the traditions and workings of the Republic would probably compare favorably to that of the citizens of many a modern democratic state' (118).

As to the composition of the contional audience, it was in principle 'popular' (though naturally varying widely from occasion to occasion). Morstein-Marx rejects Mouritsen's view that 'the Forum belonged to the world of the elite rather than the populace in general'.<sup>9</sup> 'This remarkable conclusion flies in the face of virtually all our characterizations of contional crowds ... [moreover], on Mouritsen's own account, it [does not] apply straightforwardly to the late Republic [when the poor were often 'mobilized' by popular

<sup>9</sup> Mouritsen, 45.

politicians]' (42 n. 32; cf. 122-3). Morstein-Marx adduces Cicero's words in a letter to Atticus: 'this wretched starveling rabble that comes to meetings and sucks the treasury dry' (these are said to regard Cicero as Pompey's closest ally; hence he is unanimously applauded at games and gladiatorial shows, *Att.* 16.11). This does not sound 'elitist'.<sup>10</sup>

Arguing that the Forum belonged 'to the world of the elite', Mouritsen notes that it was 'gradually "cleaned up" during the later republic'; 'sordid trades' were removed from it, leaving there 'bankers and luxury shops, catering for a wealthy clientele'. It thus came to be dominated by 'respectable citizens'; the 'lively social mix' once described by Plautus (*Curc.* 455-482) no longer characterised it (Mouritsen 42). But to the extent that it is relevant to the composition of the 'political crowd' in the Forum, in both *contiones* and *comitia*, this process should have made late-republican assemblies considerably less, rather than more, popular than before (especially since Mouritsen stresses the importance of physical proximity and spare time for the people's ability to participate). This is of course contrary to what actually happened, and certainly to Mouritsen's theory of a sudden popular 'shift' in the composition of the assemblies after 133. Evidently, his analysis does not sufficiently allow for the readiness of humbler citizens to come, in considerable numbers, and participate in important political events; furthermore it 'over-gentrifies' the late-republican Forum.<sup>11</sup>

Returning to Morstein-Marx's thesis: if the *contiones* were genuinely popular, frequently held, and dealt with a wide range of public issues; if the audience was likely to include many politically alert and opinionated citizens; if 'responses of contional audiences gave a measure of a politician's standing — a central concern for a competitive elite' (122); if the people's negative reaction at a *contio* might effectively doom a legislative proposal before it had a chance to be put to a vote (impelling the bill's author to withdraw it, or 'provoking' a tribunician veto [124]);<sup>12</sup> and if competition among different members of the elite who addressed the people was real and fierce<sup>13</sup> (prompting some of them to break ranks with the senatorial majority and 'tap the enormous force of popular power on certain issues' [283]) — if all this true, why then does it not 'take us very far in the direction of democracy' (12)? Indeed, one wonders whether this description of how the mechanism of competition worked is fully compatible with

<sup>10</sup> According to Mouritsen (41) 'the tone of the letter is generally exaggerated, and the specific attack on Pompey's supporters, invoking the recent restoration of the subsidised grain dole, far too rhetorical to be of much use in determining who attended *contiones*'. In fact, the context is not particularly rhetorical: Cicero is explaining to Atticus the current political situation. Nor is it particularly hostile to the 'rabble which is described as supportive of Cicero.

<sup>11</sup> On the other hand, the 'lively social mix' described by Plautus casts further doubt on Mouritsen's theory that the 'political crowd' of the middle-republican Forum was typically dominated by the upper classes.

<sup>12</sup> This helps explain why a bill was very rarely rejected by the voters. There is thus no need to take the rarity of rejection as proof that Roman voters were not genuinely independent; cf. E. Flaig, 'Entscheidung und Konsens. Zu den Feldern der Politischen Kommunikation zwischen Aristokratie und Plebs', in M. Jehne ed., *Demokratie in Rom? Die Rolle des Volkes in der Politik der römischen Republik*, Stuttgart 1995, 80f.

<sup>13</sup> 'When, after 133, was the Roman elite not divided?' (283), responding to North's maxim (n. 6 above).

Morstein-Marx's overall verdict that the system was 'no more than minimally responsive to popular needs' (31). Morstein-Marx's reluctance to accept unreservedly the Republic's definition as a full-fledged oligarchy ('defined somewhat tendentially as the senatorial *dominance* of the state' [279]) seems to be more in tune with his actual findings. With such powerful incentives for populism built into the system ('divisions among the elite can themselves be as readily seen as a *consequence* of the availability of a "popular" avenue for political action as a *cause* for venturing down it' [283]<sup>14</sup>), it could hardly have been only 'minimally responsive' to popular needs. This is true even if the people's wishes, as Morstein-Marx rightly stresses, could not translate themselves into public policy directly, but only as mediated, articulated and, thus, finally shaped by office-holders, members of the elite (a rule that, incidentally, applies, *mutatis mutandis* but in some ways to a greater extent, to a modern representative democracy as well).

For Morstein-Marx, the (negative) 'proof of the pudding' is ultimately in the fact, 'somewhat embarrassing for the "democratic" interpretation of the political system, that the late Republic produced relatively few benefits to the Roman plebs in the form either of material assistance or of reforms to the political system itself making it more responsive to pressure "from below"' (286). This assessment is not indisputable. One should take into account not just 'legislative' *largitiones* (principally the corn laws, and also agrarian laws) but also the various private *largitiones*, whose huge and ever-increasing scale (tapping, in the Late Republic, the wealth of the Empire) was, in part, a result of the political and electoral clout of the (mainly urban) plebs. Up to the first decades of the second century, extensive land allotments in Italy were an important way of benefiting the people (without asking the rich to give up 'their' land, as Tiberius Gracchus had to do); as long as a typical Roman soldier was also a voter, this fact could not be ignored by his commanders, especially when booty was distributed. The late-Republican city populace was virtually exempt from military service, and, since 167, Roman citizens did not pay direct taxes (no mean benefit, by any measure). In both cases, the system's responsiveness to popular (i.e., voters') needs was surely not irrelevant (while its failure to deal effectively with the problem of 'the army and the land' probably had to do with its remarkable non-responsiveness to the needs of those possessing little or no voting power). Were these benefits 'relatively few' or 'relatively numerous' and important? There is no 'absolute' answer to such a question. But the difficulty in translating the people's voting power into concrete benefits is not uniquely Roman.

As for radical reforms of the political system itself, this system did allow fairly radical changes (over a long period of time) during the 'Struggle of the Orders', at a time when it was, in principle, scarcely more 'responsive to popular needs' than after the Gracchi. Morstein-Marx stresses (286) the significance of the fact that this did not happen in the Late Republic (even though the ballot laws had made the voters freer).<sup>15</sup>

<sup>14</sup> See also p. 8 on the link between legislation and elections: 'successful legislation was ... one of the most important means by which the politician advanced his own "career", nursing the popular support necessary for continued success in the repeated electoral competitions which shaped a senator's life'.

<sup>15</sup> And, one may add, despite the restoration of the tribunes' right of legislative initiative in 70 — itself an outstanding example of how the dynamics of elite competition could empower the people; see Cic. *Leg.* 3. 26; Morstein-Marx, 167 n. 29.



But this is a double-edged sword. The fact that no wholesale democratic reform was carried out (or even attempted) can be seen as showing that the Republic as it then stood was strongly resistant to 'democratic' pressures, but equally as proof that it was 'democratic' enough to enjoy wide popular legitimacy. Perhaps it was both, and the former is true partly because of the latter. Of course, the people's very adherence to the fundamentals of the prevailing system of government can be seen as reflecting a deeply undemocratic political culture (not, however, without a certain risk of circularity in the argument). Morstein-Marx attributes this attitude largely to the experience of the *contio* and to the ideological message it powerfully and constantly drove home. 'Contional rhetoric sustained and revived the wide consensus on fundamental Republican ideals' (280), it 'helped to immunize the Republican system from serious political alternatives (such as increasing "democratization" following a Greek model) and consolidated the collective power of the Roman elite' (277). Thus, in the final analysis, the advantages of the *contio* as an institution far outweighed, from the senatorial viewpoint, its disadvantages. This is probably true — but we should not underestimate the impact of this method of stabilisation and legitimisation on the character of the system that needed to be thus stabilised and legitimised. Just as the 'Will of the People' was in a certain sense 'created in the process of being articulated' by members of the elite, so the *contio* and the contional rhetoric not merely 'perpetuated an ideological structure for the citizenry that reinforced the cultural hegemony of the political elite' (33), but inevitably influenced and shaped the content of this 'ideological structure', making it more responsive to popular needs and demands.

Morstein-Marx's detailed examination of the *contio* and of the contional rhetoric produces many insightful explanations of why this meeting-point between the elite and the populace, despite its ostensibly or superficially popular features, was essentially 'elite-friendly' rather than contributing to the emergence of a genuinely democratic political culture. There is undoubtedly much truth in those arguments. Certainly, public debate was conducted in Rome in a very different way than in democratic Athens. There was no trace of the Athenian *isegoria* in Rome. The presiding magistrate had vast powers and ample opportunity to manipulate his popular audience. Opponents could often be intimidated by outbursts of the orchestrated 'Popular Will' (though this certainly happened in Athens as well). According to Morstein-Marx, 'the distribution of power between speaker and audience' in a *contio* was 'so unequal' 'that the latter was, to an extraordinary degree, at the mercy of speakers and their representatives' (194).

He realises, of course, that the various forms of manipulation which he regards as fundamental features of contional rhetoric, including the strong tendency to concentrate on one's opponents' bad faith and moral depravity and avoid a reasoned substantive discussion of the merits of the case, are not uniquely Roman. They 'are by no means foreign to modern democratic states'; however, 'there are discernible degrees of disingenuousness and manipulation, which have real consequences for the distribution of power in public deliberation' (201). Quite so. The modern democratic manipulation is of course different in many ways. Among other things, modern politicians belong to a political party, and while it is certainly not unknown for them to steal each other's ideological and rhetorical clothes (indeed, brilliant political careers are often built on precisely this principle), it is true that a Labour candidate will not present himself to the electorate as 'the true Tory' (230), in the same way that Cicero posed as a 'true *popularis*' while opposing

the agrarian law of Rullus.<sup>16</sup> But it is not obvious that, all in all, the opportunities for moulding and manipulating public opinion provided by modern organised politics and modern mass media (as well as the modern system of representative, as opposed to direct, democracy) are less far-reaching than those provided by the Roman *contio*. Nor is it obvious that, for all the flaws of the *contio* from the viewpoint of the modern theories of fair and rational debate cited by Morstein-Marx, 'the distribution of power between speaker and audience' produced by the television and its increasingly crucial role in our politics is more 'equal' than the one that prevailed in the Roman Forum.

Moreover, just because every politician addressing the people swore allegiance to more or less the same set of principles (popular liberty, public interest, *mos maiorum*), which, according to Morstein-Marx, precluded a meaningful and enlightening political debate, it does not follow that the audience, whom he has convincingly shown not to have been an 'ignorant mob', was as totally at the mercy of the elite manipulators as he assumes, and could not discern important nuances and differences of emphasis within the 'ideological monotony' (230) of contional rhetoric. The difference in tone between Cicero's speeches, even at their most 'popular' (207f.), and the examples of genuinely *popularis* rhetoric preserved by Sallust, is immediately apparent even to us. Nearly every German politician today fully supports 'the free democratic order', 'the social market economy', federalism, women's rights, drawing the right lessons from Germany's past, protecting the environment, strengthening the European Union — as well as NATO, world peace, international law, human rights, the fight against terrorism and a host of other good things. Nevertheless, meaningful political alternatives are presented to the electorate.

A modern liberal democracy provides — in theory, though far from always in practice — equal opportunities for persuasion (and manipulation) to the different sides of any public debate. Not so the Roman *contio*, because of the presiding magistrate's powers. But it was normal, at least in the Late Republic, for magistrates (above all, tribunes) to disagree on major issues. Hence rival *contiones*, with one procedural unfairness and political bias offsetting another one. The *contio* as an institution was therefore less (procedurally) 'undemocratic' than each particular *contio* (and even the 'holder' of the individual *contio* was thus encouraged to show restraint in using his powers). True, contional oratory was nearly monopolised by members of the elite, in the broad and circular but still socially significant and therefore legitimate sense of 'those who played a political role', rightly defended by Morstein-Marx (8-9 n. 38).<sup>17</sup> This, indeed, generally favoured the fundamental stability of the established order. But it also meant that those who 'appealed to the people' against the senatorial majority enjoyed 'elitist' as well as popular legitimacy. These were not outsiders against whom the power, prestige and public credit of the elite as a whole could easily be mustered; they were the elite's own flesh and blood, many of them belonging to the highest nobility. When the Gracchi brothers were pushing through their radical laws, they were doubly formidable precisely because

<sup>16</sup> However, few Tories will fail to claim, not indeed that they are 'true Labourites', but that they have the true interests of working people at heart; and this is perhaps the closer analogy to Cicero's 'vere popularis' (*Leg. Agr.* 2.6; 9).

<sup>17</sup> In this sense, public debate in a modern democracy is also largely 'elitist', though the elite in question is broader than the Roman one. The Athenian *isegoria* still remains unrivaled.

the Roman people 'dearly loved a lord' (as the English people were once said to do), having been conditioned to do so by the never-ending pageant of Roman public life.

However, it can be argued that two procedural wrongs, offsetting each other, don't make one democratic right. For Morstein-Marx, the Roman *contio* cannot be regarded as democratic in its effects because, as he rightly stresses, it fell far short of what modern theories define as 'democratic debate' — an impartially conducted discussion giving all sides equal opportunity to set forth their rational arguments, and allowing the public to come to a rational decision. In fact, he defines as most 'undemocratic' precisely those features of the *contio* that some would regard as 'popular' — the things that made reasoned opposition to a proposal enjoying strong popular support (skilfully orchestrated by elite speakers) virtually impossible.

'Political theatre ... rather than the kind of reasoned and "empowering" debate on important policy issues desiderated by democratic idealists, was, by and large, characteristic of the Roman public assembly' (33). The widespread contional practice of 'producing' an opponent and questioning him before the people 'was hardly founded on some principled reverence for free and open debate but was instead a form of political theatre designed to stampede opposition to popular measures by forcing opponents to confront the ostensibly manifest Will of the Roman People' (as demonstrated by the case of Caesar 'producing' his fellow-consul Bibulus in a turbulent *contio* in the hope of breaking his opposition to the agrarian law of 59 [167]). Describing the public confrontation between Tiberius Gracchus and Marcus Octavius over the agrarian law of 133, Morstein-Marx concludes that:

the ostensible right of the opposition to present its views, either in public meetings presided by sympathetic magistrates or in those held by a bill's proponent, was not actually realizable in practice when the proposer had succeeded in tapping some strong vein of popular sentiment and used it in his *contiones* to sweep the opposition aside.<sup>18</sup> Once effectively banished from the Rostra, the opposition naturally evaded public argument on the merits of the law and instead resorted to 'constitutional obstruction' (in the form of Octavius' veto) and symbolic resistance (such as the change into mourning). (174)

However, such tactics were no guarantee of success; Octavius' veto was of course unsuccessful, and in general, during the century that followed, 'a legislative veto will in practice have been nearly impossible to sustain against strong evidence of the Roman People's overwhelming support for a law' (126).

It does not seem to follow from all this that the system could have been 'no more than minimally responsive to popular needs'. One may even question whether what modern theories define as 'democratic debate' has necessarily much to do with democracy as such. Modern theories, naturally, take it for granted that the highest decision-maker is the democratic electorate; but an oligarchic deliberative body, or even a wise autocrat taking council with his honest and frank advisers, will, ideally, seek to be enlightened by similar reasoned presentation of all the available alternatives. Nevertheless, since any decision,

<sup>18</sup> This is why Cicero, for all his demagogic skills, would never have been able to defeat the agrarian bill of Rullus merely by demagogy, had not his arguments about the *commoda* of urban life (not to be exchanged for the prospect of a land allotment of uncertain quality) struck a chord with many of his urban listeners (*Leg. Agr.* 2.71). One may doubt whether the people really took him for an ideological heir of the Gracchi (cf. Morstein-Marx, 215).

including popular decision, not preceded by this kind of debate can be said to raise the question whether it is an authentic expression of the decision-maker's will, this issue is relevant to democracy after all. Moreover, the principle of *audiatur altera pars* in political debate was certainly not alien to ancient democracy — witness the efforts to ensure procedural fairness in the assembly and the popular courts of Athens. In this sense, it is legitimate, and important, to question the 'democratic' credentials of Roman public debate, even when it produced, in the teeth of senatorial opposition, obviously popular pieces of legislation. And, of course, manipulation from above (even if sometimes against the interests of the majority of the elite) is easier where a fair debate is not guaranteed. Morstein-Marx's fine study thus offers a new, unexpected and thought-provoking angle of looking at the question of democratic politics in Rome, and makes a very real contribution to examining the complicated and sometimes paradoxical connections between popular will, elite manipulation and the quality of public debate.

The debate started by Fergus Millar has not produced, nor is it likely to produce, a generally accepted definition of the Republican political system. But, apart from undermining old orthodoxies, it has undoubtedly improved our understanding of Roman — and perhaps not just Roman — politics; which is why it is well worth pursuing.

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