

Abstract: This is Guido Clemente's last and unfinished paper on the politics of the Roman Republic, on which he was working shortly before passing away on 11 February 2021 and which his family found amongst his papers. The essay deals with the *contiones* of the third and second century BCE, whose institutional continuity throughout the Republic hides, he argues, the most profound socio-economic changes. This work was part of a wider project on the nature of Roman Republican politics, on which Clemente was planning to write a monograph and whose main lines of enquiry are presented in the introduction that precedes the paper. To provide the reader with a fuller understanding of the argument of the essay, the extended abstract written by Clemente himself is also reproduced.

Keywords: Guido Clemente, Christian Meier, *contiones*, tribunes of the plebs, Gaius Flaminius

Popular Will and Aristocratic Government in Late Third Century BC Rome

This is the last and unfinished paper written by Guido Clemente, who passed away on 11 February 2021 in Florence. After a hiatus in his strictly academic work because of his involvement in administrative and political roles, over the last fifteen years Clemente had returned to the study of ancient Rome and in particular, as far as the Roman Republic was concerned, to the study of the Roman politics.¹ He used to joke that, on his return to academia, he had found that not much had changed in the field after all. However, one of the subjects that had gained centre stage in the scholarly debate and whose novelty and potential fascinated Clemente was the *contio*. Most of all, what attracted him to this assembly was its potential to highlight certain key aspects of Roman political culture. Its investigation, in his opinion, seemed to have been side-tracked by what he called with a certain degree of irony ‘l’ubriacatura comunicativa’, that is the state of inebriety with the communicative dimension of politics, whose importance he certainly believed in, but found limiting when in its apotheosis of ‘public opinion’ it has ascended to the role of almost totalising heuristic tool to interpret Roman Republican politics.

His approach, in contrast, was centred on the relation between society and the functioning of institutions. What truly fascinated Clemente about the *contio* was the relation between the complex mechanisms of this assembly, which gathered indiscriminately all those who turned up, without any

¹ For a biographical profile see Cecconi 2019. For a complete bibliography of the scholarly contributions by Guido Clemente see Barbagli 2019.

internal subdivision, and the actual institutional structure of the *comitia* and *concilia*, which grouped only adult male citizens in specific units. The kernel of the issue, in his opinion, lied in understanding the relation between the *multitudo* that met in a *contio* and the institutions that transformed that indistinct mass into a *populus*. And to do that, it was essential, he emphasised, to take into account the chronological distinction between a period when there was still a certain correspondence between the *comitia* and the civic community, and a period when that correspondence was no longer there, especially after the Social War and the socio-economic changes of the previous century that had led to an acute process of urbanisation.

This was broadly the subject of the paper presented here, where Clemente had aimed to articulate for the first time his thoughts, which he intended to fully develop in a book on Roman politics that he had begun to scope. The external impetus to put them in writing was provided by his attendance at the conference ‘A Community in Transition: Roman History, 200-134 BC’, organised by Mattia Balbo and Federico Santangelo at the British School at Rome in January 2019.

Not adverse to the use of theoretical models, whose potential to develop very sophisticated analysis he praised, Clemente remained a staunch propounder of the close reading of the ancient evidence, which alone can bring into focus historical developments throughout time. He insisted on an approach that investigates Roman institutions in the context of the *longue durée* that would enable the uncovering of the differences across time and the unearthing of those deeper social and political changes that otherwise remain hidden from view by the continuity of the institutions. Overall, his position on the debate about the nature of the Roman political system gave centrality to the socio-political issues, which, in his opinion, mobilised the people, who were prepared to be involved in politics.

However, this work on the *contiones* of the third and second century BC aimed not so much at ascribing a specific constitutional label to Rome, but was rather part of a wider study on Roman politics, on which he had been working for the past couple of years. The true issue, he wrote, was: ‘i Romani perché non hanno cambiato nulla quando tutto era cambiato?’.²

As we discussed together, his position was not that dissimilar from that of Christian Meier, with whom he shared the idea of the ‘fluidity’ of the institutions, which enabled the Senate, the true power in Rome, to interpret them to its own advantage, and, in Meier’s opinion, to act with the people’s consensus. However, although he shared the premises of this reading, especially its emphasis on the role of the *mos maiorum* and the laws, Clemente distanced himself from Meier’s reading with regard to its consequences. In his opinion, the indeterminacy of the institutions does not support the Senate’s interpretation of them, but rather determines the modalities of the conflicts, which take place, amongst

² In email correspondence with Valentina Arena, 6 February 2020.

other means, also through radically different interpretations of the *mos maiorum*, without, however, questioning its value, which remained for the Romans irreplaceable. The conflict was real, Clemente explains, and it could take place because it was compatible with the system, being formed throughout time by different political traditions in Rome. These differences are the expression of the various political stances of the elite and their related views of the *populus*, both in its institutional form (the assemblies) and as a social group opposed to the elite. In the political process, the people were the determining factor, but only if the tribunes of the plebs or the magistrates more generally decided to give it prominence. It follows that Clemente did not believe that the control of the elite, and of the Senate as its institutional expression, was the result of the weakness of the institutional system and of the elite's monopoly of political culture. Rather, he believed in the possibility of genuine conflicts caused by the weakness of the institutional arrangements and supported by the different, and all equally legitimate, political solutions and propositions. The great innovators of the Roman Republic, such as, for example, Tiberius Gracchus, Sertorius, Sulla, or Caesar, proposed and, at least, tried to implement radical alternatives; however, they did so by operating within the existing shared *mos*. Only in this sense did Clemente believe we could talk of the late Roman Republic as a crisis without alternatives.

A full understanding of the mechanisms of the *contio* was one of the essential steps, in Clemente's opinion, to understand its political culture and answer the question: why did the Romans not propose an alternative when it was clearly necessary to do so? This paper begins to sketch an answer to this central question.³

What follows here is an extended abstract, which should provide the reader with an overview of the whole argument that Guido Clemente would have put forward, had he had the chance to bring this paper to completion:

From Gaius Flaminius to Tiberius Gracchus: the People's Will in the Balance of Power

The *contio* has been at the center of a rethink of the character of the Roman political system for some decades. Nobody disputes its importance in the political process, although there is an open discussion on its function. To some, it is the place where the consensus of the people, the groups outside the governing élite could be obtained; to others it is a ritual, like many performed by the ruling class to legitimate its continuous and unchallenged power. The monopoly of rhetoric by the senators gave them an advantage ensuring a strict cultural, and therefore political, control over the lower social groups. There is also a heated debate on the composition of the public that attended the *contiones*, on the numbers involved, and on their ability, and

³ I am very grateful to the heirs of Guido Clemente for sharing the typescript of this paper and authorising its publication, and to the Editors of *Politica Antica* for accepting it in a journal with which Clemente had an especially strong connection.

interest, to understand the issues. In the end, was the *contio* yet another tool for the predominance of the élite, or the democratic feature of the Roman Republic? In fact, like for other institutions and practices in the Roman Republic, it is necessary to examine the development of the *contio*, its function in the different periods, and its impact on the political process.

It is quite clear that the *contiones* after the Gracchi, and the revival of the tribunate, played a very different role from the *contiones* of the previous century. We go from the emphasis on the problems of the Hannibalic War (levies, punishment of soldiers, debates on commands, etc.) to its aftermath, when apparently there was close collaboration between the tribunes and the Senate; consequently, in these decades, let us say from the end of the war to 133 BC, the *contio* did not represent a challenge to the élite, nor was the place where the people voiced an independent opinion, contrasting the *auctoritas senatus*, encouraged by politicians who had a popular agenda.

The picture outlined thus far has much to be recommended; the fact that in the first half of the second century BC there was a widespread consensus between the aristocracy and the people is undisputable; nonetheless, we need to nuance our views. The Roman institutions must be examined in light of the development of the Roman society. Periodization is crucial, since the continuity of the institutions in a changing world, at any given time, is the formal juridical framework, whose flexibility allows for very different functions in the concrete working of the political system.

The attendance of the *contiones* is an open problem, which must be addressed bearing in mind the profound difference between the population of Rome in the first century, our best-documented period, and the period between the third and the second. In this period, the *contiones* were called upon to solve serious problems of competence, correct exercise of power by the magistrates, disputes within the Senate or between magistrates and senate. Among the best-documented and most significant ones, in Livy's narrative, there is the *contio* in 184 BC, called upon to decide on the legitimacy of a candidacy to the praetorship against the will of the consul and the Senate (Livy 39.39); and the one in 171-170 BC on the discussion over the levy of the old centurions (Livy 42.32.6-8, 33). The general impression is that, while many laws were passed without serious disputes by the people, endorsed by the *auctoritas senatus* (*leges sumptuariae*, *de ambitu*, etc.), some issues were very sensitive, and raised a debate that was far from being a mere ritual. This period saw some of the toughest and most open debates on record: the controversy on the *lex Oppia*, the trials of the Scipiones, the dispute on the two Macedonian wars, and the closely related discussion on the Rhodians, the difficult procedure to grant Aemilius Paulus his triumph, the repeated pronouncements of the *contiones* on matters of procedure and on the correct interpretation of the *mos maiorum*, e.g. the exemption of the *flamen Dialis* from strict religious observance, show a picture in which the soldiers were crucial, or the people could express an opinion on matters related to the novelties in some practices, which were put forward by ambitious politicians; the *contiones* were in some cases the balancing element between individual political leaders and the Senate. Far from being passive, the people that took part in the *contiones* had a voice and a role. The imperialistic process, while it lasted, made the social issues less relevant, but what happened in the last decades of the second century BC had its roots in the previous years, when the people were a substantial feature of a complex political system.

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The People's Will

Polybius was struck by the extent of the power of the plebeian tribunes, who had to execute the will of the people. That was the reason why the Senate feared the people: they could decide on legislation, elections, and judicial matters.⁴ Polybius was describing the democratic element in a balanced constitution, but he was not only theorizing. He was talking about his time, the mid-second century BC, when he experienced directly the workings of the Roman institutions, and could learn about them from his friends and interlocutors in Rome. He cited some examples of the great power of the people: one was the action of the tribune Gaius Flaminius in 232 BC, when he prevailed over the majority of the senators and made the popular assembly pass the *viritim* distribution of the *ager Gallicus*; this, Polybius observed, was the beginning of the corruption of the people, the beginning of demagoguery;⁵ the Greek historian also hinted, at various stages, to other features of the popular will, which were rather peculiar to his eyes, such as the power to interfere with the patrimony of the senators, in an indirect reference to the *lex Claudia* of 218.⁶

Polybius did not elaborate on the practical means through which the people were able to express their will. It is worth noticing, however, his emphasis on the role of the tribunes, who were bound to execute the people's will. This is, I think, the key to the understanding of a basic fact: the role of the tribunes was of course central, because the people formally had no power of initiative; but the tribunes had to make sure that they were carrying on what the people wanted, and eventually could decide. This is a fundamental feature of the system. The tribunate never lost its original character: its main task was to defend the people against the wrongs of the magistrates and the Senate, and to promote their *commoda*, among which the *libertas populi* was an indispensable feature, not negotiable. This role could be interpreted in various ways, it could be betrayed by individual tribunes, but it never lost its original character, its being *sediciosus* in the eyes of the more conservative

⁴ Polyb. 6.16.

⁵ Polyb. 2.21.

⁶ Polyb. 6.16.

aristocracy and the majority of the Senate; but, despite the biased interpretations of the oligarchy, this is what the tribunate was about, in the gradual establishment of the Republican institutions.⁷

This approach is the safest guide to the understanding of the workings of the political system in the second century BC. For a hundred years, from Gaius Flaminius to Tiberius Gracchus, politics in Rome did not know dramatic confrontations between the people, the Senate, and the magistrates; this has led some modern historians to define the second century before the Gracchi as a time of consensus.⁸ Of course, in comparison with what happened after 133, we may consider it an idyllic time; and this is how the ideologically oriented ancient historians described it, making the tribunate of Tiberius Gracchus the moment of the undoing of *concordia* and the beginning of the crisis of the Republic. Nonetheless, if we go back to Polybius' remark, we must qualify this definition. We must consider that the political system worked differently according to the social structure. The institutions were ostensibly the same, albeit with some changes in their practical functioning, but they had to adapt themselves to the social and political relations at any given period. Thus, a periodization based on the concept of consensus vs confrontation, violence and civil strife tells us only part of the story. We need to examine the practical workings of the popular institutions, and the issues that mattered in the relations between the Roman institutions. It is essential to discuss what we know and do not know (which is unfortunately a very common feature of our evidence) on the *contio*, the *comitia* and the *concilia*, as well as the *tribuni plebis*, both in general terms and in the specific situation of the period from Gaius Flaminius to Tiberius Gracchus.

As we shall see, there are many instances of independent decisions on the part of the people, against the view of the Senate and the magistrates; the main problem is to try to understand how the people formed an opinion, and how the tribunes could perceive, if they did, where the public opinion was leaning.

The contio

The decision-making process in Republican Rome was far from simple. The very existence of meetings on virtually anything that happened in the *res publica*, prior to the assemblies that voted, creates a problem. The magistrates could call the people to these meetings, the *contiones*, for a variety of reasons. Frequently the reason was to inform, for example on the outcome of a battle, on decisions of the senate, on individual achievements, on events like a famine etc.; there was an impressive

⁷ Clemente 2019.

⁸ Bleicken 1955 was very influential, and was followed among others by Hiebel 2009; but see Angius 2018, 251-311 for a critique of this position; the elitist theories in their various declinations accept, from a different viewpoint, the idea of a consensus of the people. For a review of the historiography on the Republican political system cf. Clemente 2017 and 2018.

amount of information, on almost anything, that the governing élite passed on. On these occasions, the people listened, and often made their opinion clear.⁹

Then there were the *contiones* which had to be called to make law proposals known, so that they could be discussed in subsequent *contiones* on established days; the judicial and electoral *contiones* also had to be convened according to established procedures; the people played a role in each one, in different ways.

The *contio* is often described as an informal gathering, as opposed to the *concilia* and the *comitia*, which voted. This is inaccurate; the *contiones* were meetings of the people that functioned according to specific and strict rules. Only the presiding magistrate, the one who had called the *contio*, could allow anyone present to speak; on proposals of laws there were *suasiones* and *dissuasiones*. Apparently it was possible for any private citizen to ask for the floor, but of course in the hierarchical Roman society the magistrates and former magistrates exercised an enormous influence. The speeches in favor or against a proposal were thus commonly given by members of the senatorial élite, called upon by the presiding magistrate. They had the knowledge and the prestige that the common citizen lacked. A very important feature, often underestimated, is the fact that a magistrate could call off a *contio* convened by another magistrate, but not a tribunician one; this marks out the popular nature of the *contiones* more than anything else, because it was a safeguard of the tribunician action. In the discussion of law proposals, as we know, there were several *contiones* called at fixed dates, over a *trinundinum*.¹⁰ Finally, there was the *contio* that was called just before the meeting of the *concilia* or the *comitia*; here a final discussion took place, which afforded the opportunity for the tribunes to veto the proposal, or for others to seek to avoid a vote. The essential feature, which has not been generally noted, is the rather complicated relation between the *contio* preceding the *comitia* and the *comitia* themselves. In the *contio* there was no specific order in the way the citizens met (and possibly also some non-citizens, or slaves, or even women, since there was no control we know of in our sources); when the magistrate invited, on the spot, the people to *discedere* and to meet for the voting, the crowd did so by joining their voting units. It is very difficult to understand how this procedure could work; how could any magistrate who had proposed a law be sure that the people that gathered in the *contio* could form a majority in the *comitium*? The two assemblies were radically different from a formal standpoint: one met without any specific organization, while the other was conducted by the strict rules of voting by units. It seems reasonable to think that there may have been a certain amount of organization in bringing the people to the *contio*, especially on very important occasions; in any case, the tribunes, and the presiding magistrate, must have a good perception of the

⁹ Hiebel 2009.

¹⁰ The period is uncertain: it ranges from 17 to 24 days, depending on how the counting is made.

feelings of the people, to take their decisions on going on or trying to stop the voting. This complicated procedure is, in my view, a very strong argument in favor of the importance of the *contio* as a place where the discussion of a law could make a difference, far from being a formality, or a ritual. In fact, why would the Romans devise such a complicated system, bound to get out of hand any moment, if they did not take discussion seriously? The mood of the people must be tested: this is what appears to be the aim of the procedure, and the magistrates had to have an opportunity to tune their actions according to what they perceived. Like other Republican institutions, an archaic procedure, devised for different purposes, was possibly kept alive and played a different role under new circumstances. It is enough to remember how the urban population changed over time.

We must bear this in mind, when we discuss the evidence for the proposals that the *contiones* rejected, or the action of the tribunes regarding the veto; we shall come back to it below. The question is, then, of course, who attended the *contiones*, and then the *comitia*.¹¹ We must admit that we know very little, and that our information is unbalanced from the point of view of the chronology and the amount. Our sources are concentrated mostly in the first century BC, and largely come from Cicero. We tend to use these documents for the second century, but this creates a distorted perspective. The first century was characterized by violence, and by the active presence of an urban population, often described with contempt in the oligarchic sources as a mob; the urban population had increased and had changed deeply. In fact, we do not know how many in the population living in Rome were registered in the rural tribes, which still had the majority in the *concilia* and the *comitia*; the social composition of the citizen body had changed, after the enfranchisement of the Italians and the deep changes in the economy, and this had practical consequences on the *comitia centuriata*, already deeply changed by the lowering of the census for the *adsidui* in the second century BC.

In the second century, the citizen body was still more balanced. We have already mentioned the soldiers: they were a very important group, and had not become professionals. It would thus be wrong to interpret the little we know about the people's behavior in the second century and on the functioning of the popular institutions in light of what happened after the Gracchi. In the first century, some ideologically biased sources, notably Cicero, could argue that the mob was now master of the assemblies, but even then there was a *populus*, which met in the proper order in the *comitia*, and the problem goes back to the relationship between the *contio* and the assemblies.

The tribuni plebis

¹¹ See Morstein-Marx 2004 and 2013, 29-47; Mouritsen 2001 and 2017 for a discussion of different views; the search for a *plebs contionalis* that attended the meetings, and its motivation to do so, is far from a conclusive answer. When our evidence allows for some less arbitrary hypothesis, it appears that specific groups, like the soldiers, had a vested interest in attending a *contio*, and more or less controlled it; but in most cases we are left in the dark.

The role of the *tribuni plebis* also poses difficult problems. Our evidence comes almost exclusively from the aristocratic tradition; we are thus informed about a limited number of cases, when the *tribuni* opposed openly the Senate or the magistrates. The theory that views the second century as an age of cooperation considers these as exceptions, neither important nor upsetting.¹²

However, if we put together all the known episodes, the picture is different: there were many instances in which the tribune acted independently, and either won or gave up under pressure from their colleagues. These are not exceptions; they represent the normal working of the tribunate, at any time. The main difference from the time of the Gracchi on is the choice to theorize the power of the people as sovereign not only in principle (this has never been denied of course), but in the practical political action; the deposition of a tribune opposed to the will of the people is the striking novelty, not the different positions of individual tribunes in the college of ten.

We must consider that we know very few tribunes, and this lack of evidence is a serious shortcoming. We do not know enough about their background, and about their career; out of ten tribunes per year, very few are known to have had a career afterwards, and are mostly members of the aristocracy. This makes it not only impossible, but also dangerous to elaborate on the motives of the action of individual tribunes, and on the dynamics inside the college. We can certainly take Cicero at face value, when he says that he is confident that among ten people there must always be somebody who is sound of mind;¹³ in his view, an ally of the oligarchy in the Senate, somebody who pursued a personal policy, opposed to the people, for whatever reason: ambition, agreements with specific groups, or genuine persuasion.

In the end, the best course is to consider again the constitutional perspective: the tribunes' role was defined by their origin and history, and they played it when they decided to oppose the Senate or the magistrates or both. A perfectly understandable and undisputed course of action, if only for obvious polemical purposes.

The Popular Assemblies

The attendance of the *contiones* cannot be determined easily and once for all. What we can say based on the evidence is that participation varied, depending on the issues discussed, on the interest of the various groups to encourage and organize the participation of their supporters, on the willingness of the citizens to attend just to be there, to be part of the process.¹⁴

¹² Bleicken 1955, 102-105 – but see the seminal paper of Taylor 1962.

¹³ Cic. *Leg.* 3.10.24.

¹⁴ For the first century see e.g. Cic. *Mur.* 35-38, who elaborates on the *topos* of the volatility of the people, but also dwells on the practical consequences of the absence of the soldiers at the vote, and consequently on the prevalence of the vote of the people in Rome. This account can safely be applied to the second century as well.

The assemblies that met to vote were a very different matter. Their organization in units made the popular participation complicated and peculiar in many ways. In the *concilia* and *comitia tributa* of course the rural tribes had an enormous majority over the four urban ones. At the same time, we have no way of knowing how many citizens, present in Rome at the time of the voting were inscribed in which tribes. The tribal units were formed by people coming from very different situations, in wealth, political status, place of residence; their distribution in the various tribes cannot be determined with any certainty.¹⁵ On the other hand, the system did not need huge participation, since the vote was valid regardless of the attendance in the single tribes. As a consequence, the relationship between the *contio* and the *comitia* is almost impossible to determine with any certainty.

How many people from the rural tribes attended the *contiones* during the *trinundinum*, and how many urban dwellers filled the same meetings? Nonetheless, in the end the citizens of the rural tribes decided, and the split was not as much between urban and rural population, given the numbers of the tribes, but between the rural tribes. The impression we get from Cicero (among others) of the mob infesting the *contiones* and the wise tribes in the *comitia* is polemical, and hardly close to what really happened.

From Gaius Flaminius to the End of the Punic War

Gaius Flaminius became a convenient and easy target of the oligarchic manipulation of history after his disastrous defeat at the Lake Trasimene. He was blamed with all the stereotypes surrounding the *tribuni seditiosi*, the forerunners of the *populares*. This biased reconstruction, ideologically oriented, made him the villain of the story, including him in the gallery of bad *exempla*; but, if we assume this perspective, there is no reasonable explanation for his brilliant career, without any interruption, and the favor which the people, in the *contiones*, in the *comitia tributa* and *centuriata*, granted him approving his proposals and electing him to the highest magistracies.

In fact, he was probably not alone among the senators in his political action, nor was he proposing anything unlawful or revolutionary.¹⁶ His proposal to distribute *viritim* the *ager Gallicus et Picenus* had of course noble precedents, starting with the territory of Veii and then with the distribution of the Sabine land by Manius Curius Dentatus.¹⁷ What is interesting, from the point of view of the dynamics of the decision-making process and the role of the *contio*, is that our sources, though giving a negative color, show how relevant the discussion was. Flaminius was a good orator;

¹⁵ Taylor 1960; 1966.

¹⁶ Polyb. 2.21.7-8; Livy 21.63.2; Cic. *Leg.* 3.20. Fraccaro 1957 [1919], 191-205 has been very influential; cf. Gabba 1979, 159-163. Càssola 1962, 209-218, against Fraccaro, overplays the economic motives of the conflict between the Senate and Flaminius, according to his general view of an opposition between commercial and agrarian interests at this time.

¹⁷ Forni 1953; sources in Broughton, *MRR* I, 183-184.

Cicero says so in the *Brutus*;¹⁸ his *suasio* must have been convincing, since even the dramatic and spectacular intervention of his father, pulling him away from the *rostra*, did not change the outcome of the final vote, delivered by the tribes immediately afterwards.¹⁹

There is no agreement on the crucial point: who attended the *contio*, and then the *comitia*? It is a safe assumption that the majority of the rural tribes should have been in favor; there were probably among the *tribules* many who had become poorer as a consequence of the long war; there was an influx of slave labor that made the small farmer less indispensable. However, none of these assumptions explains the abandonment of the policy of colonization to resume, after many years, the distribution *viritim*, more dangerous in distant territories and less comfortable for the individual settler. If we can explain, with a certain degree of probability, the opposition of the majority of the Senate, that did not want to weaken the structure of the city state,²⁰ it is less easy to determine who was in favor and why. There is too much we do not know about the facts and the society of the time. We may note, though, that our evidence documents the willingness and ability of the people to express their opinion, under the guide of a *tribunus* who evidently was capable of interpreting their feelings, to the dismay of the majority of the senators, but with no real serious consequence on the career of the *tribunus* and, what is more important, on the functioning of the system.

This development proves that the political conflict may have been tough, but in the end if played within the rules was acceptable, as long as it did not irrevocably upset the political and social order. We must bear this in mind, since it is often a temptation to read the third or second century with the eyes of the Romans of the first, who had a different agenda and different preoccupations.

Flaminius, despite his activity as tribune, went on to become the first *praetor* to govern the newly created province of Sicily in 227, then consul in 223, when another clash with the Senate occurred: he had refused to go back to Rome giving up his command, because of bad omens, fought and defeated the Insubri, and was voted a triumph by the *concilia plebis*, against the will of the Senate.²¹ Again, in 220 he was elected censor, and in 218 he was apparently the only *suasor* of the *lex Claudia*; according to Livy, his support of this *plebiscitum* favored his election to a second consulship.²²

The career of Flaminius shows a surprising continuous backing from both the tribal and the centuriate assembly. It also shows that the *suasiones* had a powerful effect in the decisions of the people, since Flaminius was able to prevail, virtually the only *suasor*, over the majority of the Senate on two different occasions, while enjoying the favor of the people in all the elections. The *lex Claudia*

¹⁸ Cic. *Brut.* 57.

¹⁹ Val. Max 5.4.5.

²⁰ See n. 13.

²¹ Livy 21.63.2.

²² Livy 21.63.3-6.

may not have been as anti-senatorial as our main source, Livy, describes it.²³ Anyway, it must have been perceived as such by at least a group of senators. It is relevant to our assumption that the people in the *contio*, listening to the *suasio* of one of their favorites, voted once again independently, and against the opinion of the majority of the senatorial élite.

The Punic War that followed immediately afterwards witnessed a number of instances when the people acted in disagreement with the Senate and the leading magistrates. Of course, wartime was exceptional; the citizens under arms were under enormous pressure, and the *tribuni* performed fully their function, to protect them from arbitrary decisions of the magistrates and to control the power of the generals.

The events of 217 are instructive.²⁴ A *tribunus plebis*, Metilius, interpreting the opposition to the strategy of delay of the dictator Q. Fabius Maximus, proposed a *plebiscitum* to give the *magister equitum* M. Minucius Rufus equal power, appointing him dictator with Fabius. Livy's story is as usual colorful, but the substance is undisputable. The *suasio* of C. Terentius Varro, the future consul of 216, is mentioned as decisive, in the face of the reluctance of the people to take action against such a great man, despite their disapproval of his strategy. It is an instance of the existence of a real debate, which preceded the final decision; an unprecedented decision, and thus a very significant one.

Public opinion in times of war was oriented mostly by the soldiers, but the people took their decisions according to what they thought was their best interest. They listened to their magistrates, to the great men, but in the end they exercised a good amount of freedom. Metilius was probably an ally of Flaminius, the proponent of the *lex Metilia de fullonibus* backed by the same Flaminius;²⁵ this may add some additional explanation to what happened, and to the forming of a majority against the Senate, but it does not change the picture. It is impossible to explain the dramatic turn of events only in terms of factional struggle; there were issues, and they were what people decided about, without discounting the pressure that the aristocratic factions could exercise.

Terentius Varro, apparently, benefited from his support of the *plebiscitum* of Metilius, being elected to the consulship for the coming year. He was a new man, the son of a peddler, who opposed systematically the senatorial aristocracy and made his fortune from it. A tribune who was also a relative canvassed for him and won.²⁶ One of the arguments in favor of the interpretation of the *contiones* and *comitia* as a ritual to make the people feel part of the political process is that there is

²³ Gabba 1988 [1981], 27-44; 1988 [1980], 105; Clemente 1983. I still think that Flaminius had experienced the dangers of the senatorial activity in the newly created provinces, related to the transportation of the taxes in kind; it was not as much a problem of economic competition, but of exposing the senatorial aristocracy to heavy losses and to inappropriate institutional activities, far from its traditional sphere; they could not, as an exclusive political class, perform as the *publicani* did.

²⁴ Polyb. 3.103-105; Livy 22.25-26; Plut. *Fab.* 7-9. Discussion in Niccolini 1934, 90-91; Broughton *MRR* I, 242-243.

²⁵ Plin. *NH* 35.197. See Niccolini 1934, 91.

²⁶ Livy 22.34.3-11.

virtually no electoral *contio* at which candidates talk about programs. The élite was in control, and the elections were only a struggle for power, without any real alternative as to different political proposals. This view more or less consciously considers the elections in republican Rome as similar to the ones in modern democracies. In the Roman system, the candidates to the major magistracies, the praetorship and the consulship, were of course known, since they had gone through the *cursus honorum*. They were few in number, and expected to run for office. The policy was not decided by a magistrate elected on a yearly basis, but was set in motion by the Senate and by the magistrates of the previous years. What had to be decided was who could execute those decisions, and here of course the power game was crucial; less so the ability to change course. These magistrates were supposed to enforce whatever had been decided. Of course a wartime election may have been conditioned by the need to choose a good general, but the candidate was normally judged by his previous performance in office, by his family, by his alliances. The individualistic nature of Republican politics did not ask for consistency in behavior; a politician could change his views, and that was acceptable. Only after the split due to the Gracchan tribunes politicians could be judged and classified according to their positions on various significant issues, but even then changing sides was normal and not sanctioned by the public opinion.

Thus, the *contiones* on elections, when we know about them (and that happens only in a few cases), concern basically the declaration of support for a candidate, not a discussion on programs, which would be useless. The tribunician intervention on the magistracies was one of the main fields of action; factional struggles, must be repeated, were most probably part of the game, but the sources emphasize other aspects, related to the observance of the *mos maiorum* in the electoral process. In 213 BC the *tribuni plebis* opposed the candidacy of Scipio, the future Africanus, to the curule aedileship, on the grounds of his age; he was in fact only 22 or 23.²⁷ The story told by Livy is instructive; Scipio spoke at the *contio*, arguing that the popular will overcame the problem of his age; the people reacted with such enthusiasm that, when the *contio* was dissolved and ordered to meet for the voting, the *tribuni* desisted from their opposition. Although we must account for Livy's embellishment of the story, it is worth noting that once again the mood of the people, clearly voiced in the *contio*, defined the decision of the *tribuni*. Livy clearly takes for granted that this is what could happen normally.

Yet another example of the attitude of the people, eager to make their voice heard for the conduct of the war, was, in 211, the pressure exercised in the *contio* for the third *inquisitio* of the *praetor* who had lost his army the previous year, against Hannibal.²⁸ They forced the *tribunus plebis*,

²⁷ Livy 25.2.6-8.

²⁸ Livy 26.2-3; Broughton *MRR* I, 271 n. 2 argues effectively in favor of the reliability of Livy's account.

the accuser, to transform the charge from one punished with a *multa* to *perduellio*. The relationship between the *tribuni* and the people appears to be rather open to negotiation, confirming the remark of Polybius quoted above.

Yet another striking episode is revealing of the importance of the *contiones* in the decision-making process: in 209 a *tribunus plebis*, C. Publicius Bibulus, held many *contiones* accusing Marcellus for his conduct of the war, and proposing to abrogate his *imperium*.²⁹ Marcellus was able to turn the people in his favor, and the proposal was rejected; from Livy it seems clear that there was a vote (*rogatio... de imperio eius abrogando antiquaretur*); this implies that the *tribunus* was willing to take the risk, and the outcome was not certain in his view. Livy's remark that the *contio* was held *ingenti concursu plebisque et omnium ordinum* is also significant; there was no *plebs contionalis* regularly attending the assemblies at the time, but attendance was determined by the issue under discussion.

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Bibliography

Angius, A., *La repubblica delle opinioni. Informazione politica e partecipazione popolare a Roma fra il II e il I secolo a.C.*, Florence 2018.

Barbagli, N., *Bibliografia di Guido Clemente*, in G. A. Cecconi, A. Marcone, R. Lizzi (eds.), *The Past as Present: Essays in Honour of Guido Clemente*, Turnhout 2019, pp. 27-40.

Bleicken, J., *Das Volkstribunat der klassischen Republik. Studien zu seiner Entwicklung zwischen 287 und 133 v. Chr.*, Munich 1955.

Broughton, T.R.S., *The Magistrates of the Roman Republic [MRR]*, 3 voll., New York 1951-1986.

Càssola, F., *I gruppi politici romani nel III secolo a.C.*, Trieste 1962.

Cecconi, G. A., *Un profilo di Guido Clemente*, in G. A. Cecconi, A. Marcone, R. Lizzi (eds.), *The Past as Present: Essays in Honour of Guido Clemente*, Turnhout 2019, pp. 17-25.

Clemente, G., *Il plebiscito Claudio e le classi dirigenti romane nell'età dell'imperialismo*, «Ktèma» 1983, 8, pp. 253-259.

Clemente, G., *La politica nella repubblica romana: attualità di un dibattito storiografico*, «PA» 2017, 7, pp. 139-157.

²⁹ Livy 27.20.9-13; 21.1-5. See Niccolini 1934, 98-100.

- Clemente, G., *Democracy Without the People: the Impossible Dream of the Roman Oligarchs (and of Some Modern Scholars)*, «QS» 2018, 87, pp. 87-119.
- Clemente, G., *Cicerone e i populares. L'ambigua lezione della storia*, in M. Maiuro (ed.), *Uomini, istituzioni, mercati. Studi di storia per Elio Lo Cascio*, Bari 2019, pp. 35-49.
- Forni, G. *Manio Curio Dentato uomo democratico*, «Athenaeum» 1953, 31, pp. 170-240.
- Fraccaro, P., *Lex Flaminia de agro Gallico et Piceno viritim dividundo*, «Athenaeum» 1919, 7, pp. 73-93.
- Fraccaro, P., *Opuscula*, II, Pavia 1957.
- Gabba, E., *Caio Flaminio e la sua legge sulla colonizzazione dell'agro gallico*, «Athenaeum» 1979, 57, pp. 159-163.
- Gabba, E., *Riflessioni antiche e moderne sulle attività commerciali a Roma nei secoli II e I a.C.*, «MAAR» 1980, 36, pp. 91-102.
- Gabba, E., *Ricchezza e classe dirigente romana fra III e I sec. a.C.*, «RSI» 1981, 93, pp. 541-558.
- Gabba, E., *Del buon uso della ricchezza. Saggi di storia economica e sociale del mondo antico*, Milan 1988.
- Hiebel, D., *Rôles institutionnel et politique de la contio sous la République romaine: 287-49 av. J.-C.*, Paris 2009.
- Morstein-Marx, R. *Mass Oratory and Political Power in the Late Roman Republic*, Cambridge 2004.
- Morstein-Marx, R., 'Cultural Hegemony' and the Communicative Power of the Roman Elite, in C. Steel, H. van der Blom, eds., *Community and Communication: Oratory and Politics in Republican Rome*, Oxford 2013, pp. 29-47.
- Mouritsen, H. *Plebs and Politics in the Late Roman Republic*, Cambridge 2001.
- Mouritsen, H., *Politics in the Roman Republic*, Cambridge 2017.
- Niccolini, G., *I fasti dei tribuni della plebe*, Milan 1934.
- Taylor, L. R., *The Voting Districts of the Roman Republic: The Thirty-five Urban and Rural Tribes*, Ann Arbor 1960.
- Taylor, L. R., *Forerunners of the Gracchi*, «JRS» 1962, 52, pp. 19-27.
- Taylor, L. R., *Roman Voting Assemblies from the Hannibalic War to the Dictatorship of Caesar*, Ann Arbor 1966.