

Lawyers, Friends, and Money: Portfolios of Power in the Late Republic

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That a young Octavian could prevail over several more experienced and prominent men in the struggles of the late 40s and 30s is a testament to the forbidding complexity of late Republican power dynamics.¹ Traditional forms of power – nobility, wealth, and high office – might suddenly become positive liabilities in the last century of the Republic. The proscriptions make this abundantly clear: wealth, according to our sources, sealed the fate of many innocent men while their very *dignitas* hampered the ability of some former magistrates to flee unnoticed by bounty hunters (App., *B.C.* 4.29-30, 40, 48). In contrast, other changes happened so gradually that apparently few noticed them until literally slapped in the face. Lucius Veratius, observing that the fine for assault, established in the *Twelve Tables*, still remained in force, went around slapping men, accompanied by a slave who immediately gave his victims the requisite 25 *asses*, now rather meager compensation (Gell. 20.1.12-3). While the power of a slap had presumably changed little in four centuries, the value of the Roman *as* had diminished substantially. In response, the Romans quickly developed a new means of assessing damages. It is the relationship between money and power in the late Republic that will be explored in this essay. Money demand theory, I will suggest, provides a useful lens for understanding Roman power because power, like money, can take many forms and the ‘exchange rates’ are rarely fixed.

While Roman historians have identified many varieties of power (political, social, legal, gender, economic), they rarely bother to define ‘power.’ Michael Mann’s definition, that ‘power is the ability to pursue and attain goals through mastery of one’s environment’,² is a good starting point though it implies that only individual actors with specific goals exert power. Even though the focus here is on the power of individuals, it is undoubtedly the case that objects, institutions, and ideas also have power.³ Working from Mann’s definition, it is easy to generate a lengthy list of powers: official and legal forms such as *imperium*, *tribunicia potestas*, and *patria potestas*, social forms such as the ability

¹ All dates BC unless otherwise indicated.

² MANN 1986: 6.

³ HARRIS 2010: 564-78.

to call upon the assistance of friends, patrons, and clients, and economic forms such as the possession of coins, land, slaves, or credit. Noble ancestry, *dignitas*, glory, rhetorical skill, and even pearls were forms of power.⁴ Valerius Maximus gives some indication of the power of *lies* with the story of Sentius Saturninus Vetulo's escape from the triumvirs' proscription (Val. Max. 7.3.9). In contrast to other fugitives who hid in sewers, wells or even dung heaps to escape detection (App., *B.C.* 4.13, 22), Saturninus disguised himself as a praetor. Accompanied by fake lictors, *apparitores*, and public slaves, he brazenly made his way to Puetoli and then on to safety in Sicily by seizing carriages, ships, and lodgings along the way.⁵

The task of cataloguing all the forms of Roman power is theoretically endless and almost certainly thankless, but the most important forms may be grouped into a few big and partially overlapping categories: state-sanctioned power (the authority of magistrates in the courts, assemblies, and with armies; but also knowledge of the law and the ability to navigate legal and political institutions more generally), social power (influence wielded through patronage, friendship, family, and reputation), and economic power (the ability to bribe, corrupt, or create bonds of dependency and gratitude through gifts or loans). Put simply, if imprecisely, power was lawyers, friends, and money. While the categories are fairly straightforward, the relationships between them became destabilized in the late Republic. Some tools increased in importance while others declined.

One of the most interesting changes in the balance of power was the vastly increased value of rhetorical ability beginning in the second century. The earliest indication of this phenomenon is in 161 when the senate told the praetor Marcus Pomponius not to admit rhetoricians and philosophers to Rome (Suet., *Rhet.* 1; cf. also Gell. 15.11.1). A few years later came Carneades' famous embassy during which the philosopher's rhetorical ability so disturbed Cato the Elder that he sought to have the visiting Athenian removed from the city as quickly as possible. As Plutarch describes it (*Cat. Ma.* 22), Cato 'hated the fervor for oratory flowing into the city, fearing lest the young men... prize the glory of speaking rather than that deriving from deeds and military service.' Rhetoric was a threat to more traditional sources of political power. By the first century, the change was irreversible. Despite a ban on Latin rhetoricians issued by the censors of 92 (Suet., *Rhet.* 1), rhetoric became a regular part of an upper class Roman education. Even leaders now mostly associated with military power, such as Caesar and Antony, spent time as young men studying in the east under Greek rhetoricians (Suet., *Iul.* 4; Plu., *Ant.* 2). Cicero, obviously, is the clearest example of the powerful potential of rhetorical ability in the late Republic.

⁴ Cic., *Brut.* 7 likens *oratio* to *arma*. According to Pliny the Elder (*Nat.* 9.114), people called a pearl 'a woman's *lictor* in public.'

⁵ Appian tells a similar story of Pomponius (*B.C.* 4.45) and also mentions two men who disguised themselves as centurions in order to escape (*B.C.* 4.46).

While his military career was unspectacular,⁶ he won friends, clients, students, and high office by virtue of his speaking ability. It is not, of course, that rhetoric had been unimportant prior to the late Republic – Cato the Elder himself owed some of his success to his speaking ability⁷ – but its potential had vastly increased. This development stems in part from the establishment of *quaestiones perpetuae* (permanent criminal courts) in 149 and their expansion by Sulla in 81 (Cic., *Brut.* 106). The new courts provided an important venue for speakers who were not yet magistrates to display their abilities in public.⁸ Cicero began his career in 76 before just such a court speaking in defense of Sextus Roscius (Cic., *S. Rosc.* 1).

Another important shift in the balance of power, roughly contemporary with the rise of rhetoric, was the growing importance of the plebeian tribunes in Roman politics. The Gracchi provide the most notable example of this; their reform efforts, made possible by the tribunes' legislative powers, are too well-known to require any elaboration here. Occasionally forgotten, however, is the fact that the trend started earlier. Tribunes jailed the consuls of 151, L. Licinius Lucullus and A. Postumius Albinus, for their harsh behavior in levying troops for a war in Spain (Liv., *Per.* 48). C. Curiatius did the same thing to the consuls of 138 (Liv., *Per.* 55; Cic., *Leg.* 3.20). Even the violent deaths of the Gracchi brothers did not deter later tribunes from wielding the full power of the tribunate. These tribunes include L. Appuleius Saturninus (103 and 100), C. Servilius Glaucia (101), M. Livius Drusus (91), and P. Sulpicius Rufus (88) – all of whom died violently. Sulla severely weakened the authority of the tribunes, however, after the office's restoration during the consulship of Pompey and Crassus in 70, tribunes continued to play a large and highly disruptive role in Republican politics down to the civil wars of the 40s. Publius Clodius is the most famous example from the later period. Of course, the laws passed by these and other tribunes further disrupted other aspects of the balance of power by redistributing land, changing the composition of juries, and so forth.

Closely connected with the new prominence of tribunes in Republican politics was the increased willingness of politicians to resort to violence to achieve their aims. Here too there are many well-known examples. In addition to the murdered tribunes, there are the Sullan and Triumviral proscriptions, and, by the 60s, the frequent use of gangs – partially composed of gladiators – to gain political advantage or simply provide protection.⁹ Lintott helpfully catalogues almost four dozen incidents of violence, nearly all from the last century of the

⁶ BEARD 2009: 197 may be right to accuse critics of never treating Cicero's military career seriously but his accomplishments are hardly impressive in comparison to many of his peers.

⁷ PLU., *Cat. Ma.* 1.3; cf. DENIAUX 2006: 408.

⁸ DAVID 2006: 427.

⁹ VILLE 1981: 291-3.

Republic.¹⁰ Though he acknowledges that ‘Roman tradition tolerated and even encouraged violence in political and private disputes’¹¹ and that the Romans ‘considered it an essential constituent of *libertas* that a man should be allowed to use force in his personal interest to secure what he believed to be his due’,¹² Lintott nevertheless sees a ‘surge of violence in the late Republic’ which the state was unable to effectively counter.¹³

Even the Roman patron-client system seems to have lost some of its force in the late Republic, although here the evidence is less clear-cut. In 139 the *Lex Gabinia* established the secret ballot for elections and three subsequent laws extended it to trials and legislation by 107 B.C.¹⁴ As Cicero (*Leg.* 3.33-5) makes clear, the Roman nobility regarded these laws as depriving them of their influence over the people, in other words preventing them from ensuring that their clients supported them politically.¹⁵ As tribune of the plebs, a young Gaius Marius also passed a law designed to limit upper-class influence during the voting process and did so in part by threatening to imprison a consul (*Plu., Mar.* 4). However, Erich Gruen has cast strong doubt upon whether these measures actually changed anything. He points out that ‘[w]ritten ballots gave the electorate a sense of *libertas*, but the choices available to them were generally men of the same established families who had run the state for many generations.’¹⁶ Peter O’Neill makes a similar point in a discussion of informal popular gatherings (*circuli*) at Rome, observing that the Roman elite were able ‘to maintain an ideology that stressed the theoretical power of the *populus Romanus* while allowing the people only a restricted role in constitutional politics.’¹⁷

Another incident from early in the career of Gaius Marius suggests a different sort of challenge to the established patron-client relationship. At a trial, Gaius Herennius sought to avoid testifying against Marius, appealing to the law against the practice of patrons testifying against clients. Marius responded by denying that he was still a client of Herennius since he had been elected to office. Plutarch claims (*Mar.* 5), however, that Marius was wrong and that only *curule* offices dissolved prior bonds of patronage. Marius’ subsequent relationship with Q. Caecilius Metellus as well as Sulla’s later conflict with Marius suggest at the very least that patronage relationships were no match for political ambition. There is plenty of evidence indicating that patron-client relationships

¹⁰ LINTOTT 1968: Appendix A.

¹¹ *Id.* 4.

¹² *Id.* 204.

¹³ *Id.* 4.

¹⁴ The three subsequent laws were the *lex Cassia* of 137 (for the extortion court), *lex Papiria* of 131 (for legislation), and *lex Coelia* of 107 (for treason cases).

¹⁵ WALLACE-HADRILL 1989b: 70; DENIAUX 2006: 413.

¹⁶ GRUEN 1991: 261. For further discussion of this issue cf. YAKOBSON 1995: 426-42.

¹⁷ O’NEILL 2003: 163.

remained very important in the late Republic¹⁸ but, as Wallace-Hadrill suggests, a number of factors, most notably ‘the massive advance of bribery... struck at the heart of the traditional patronage system.’¹⁹

Bribery brings us finally to the subject of money. There was a dramatic increase in the importance of money in Roman politics and society in the late Republic. An array of evidence attests to this development but efforts to combat luxury and corruption are representative of the broader trend. Starting in the early second century, there seems to be a growing concern with conspicuous consumption, particularly at banquets. In 182, two years after Cato the Elder’s censorship, there appeared the first in a series of sumptuary laws: the *lex Orchia* which limited the number of guests at banquets.²⁰ The *lex Fannia* of 161 limited what could be spent on a banquet and banned certain foods.²¹ The *lex Didia* of 143 applied the rules of the *lex Fannia* to Italy as a whole and punished guests as well as hosts for excesses (Macr., *Sat.* 3.17.6). Sumptuous banquets were a way to forge political alliances and put the guests in one’s debt. The *lex Antia* of 71 illustrates this function since the law banned magistrates from attending banquets (Gell. 2.24.13; Macr., *Sat.* 3.17.13). As Emanuela Zanda puts it, ‘Sumptuary laws are the weapons of self-defense used by the Roman ruling class to protect the base of its own power.’²² Related to these sumptuary laws were the anti-corruption measures which began in 181 with the *lex Cornelia Baebia de ambitu* (Liv. 40.19) and continued down to the end of the Republic.²³ Indirectly, through banquets, or directly, through various forms of bribery, ambitious Romans were using money to increase their social and political clout. It is not that money had been considered an unimportant form of power prior to the second century but that the immense wealth amassed by the Romans in the late Republic changed the scale on which it operated.

Given the shifting balance of powers,²⁴ it is hardly surprising that some Romans badly miscalculated in trying to protect their interests. Gaius Verres’ encounter with Cicero provides one illustration of this sort of miscalculation. When Cicero prosecuted him for extortion in 70, Verres was a successful

¹⁸ Pompey, for example, raised an army from his clients in the 80s (PLU., *Pomp.* 6; APP., *B.C.* 1.80). Lucius Domitius Ahenobarbus drew on his *coloni* to man ships in 49 (CAES., *Civ.* 1.34).

¹⁹ WALLACE-HADRILL 1989b: 71.

²⁰ MACR., *Sat.* 3.17.2. I follow ZANDA 2011: 51, regarding the laws passed during the Second Punic War as ‘wartime measures’ rather than ‘sumptuary laws in a strict sense.’

²¹ GELL. 2.24.1; PLIN., *Nat.* 10.71.1; MACR., *Sat.* 3.17.

²² ZANDA 2011: 70. Censors also occasionally targeted the same kinds of excess.

²³ Later *ambitus* (bribery) laws include the *lex Cornelia Fulvia* (159 B.C.), *lex Cornelia* (81), *lex Aurelia* (70), *lex Calpurnia* (67), *lex Tullia* (63), *lex Licinia de sodaliciis* (55), and *lex Pompeia* (52). Cf. LINTOTT 1990: 1-16; ROSILLO-LÓPEZ 2010: 70-4.

²⁴ Many other examples could be added to the changes discussed here, such as the effect of the changing composition of the Roman electorate in the period after the Social War.

veteran of nearly fifteen years of Roman power struggles. Despite initially siding with the Marians in the civil war of the 80s, he had gone over to Sulla and apparently thrived under the new regime, gaining a praetorship in 74 and serving as governor of Sicily for three years.²⁵ According to Cicero (*Verr.* 1.40), Verres frequently declared to many listeners in Sicily that he sought money not just for himself but had the revenue of his tenure divided into three portions: one year's worth, if he was fortunate, for himself; another year's for his patron and defenders; and a third portion, the largest, for his judges. This *pecunia*, in addition to a powerful friend (*hominem potentem*) would, Verres believed, protect him. Furthermore, Verres had attempted to manipulate the legal system so that he could stand trial under the most favorable circumstances possible.²⁶ In other words, Verres' hope lay in lawyers, friends, and money. But there was one more dimension to Verres' defense: statues. He had forced the Sicilians to set up many honorific statues; 'his statues are everywhere', Cicero says (*Verr.* 2.2.154). Verres knew that these statues would cast doubt on any accusations that he had extorted money from the Sicilians (*Cic., Verr.* 2.2.168). Why would they honor him if he had mistreated them?²⁷ However, in this instance, all these forms of power were no match for Cicero's rhetoric.²⁸ Verres fled during the trial, living out the rest of his life in exile in Massalia.²⁹

Cicero himself would experience many defeats in the last decades of the Republic, but few are as revealing with respect to power dynamics as his encounters with Sextus Cloelius, a somewhat obscure figure, often described (if mentioned at all) as the leader of Publius Clodius' gang.³⁰ In this capacity, Cloelius was responsible for a considerable amount of violence but that is where the resemblance to the stereotypical modern gang leader ends. He was also a *scriba*, an official scribe (*Asc., Mil.* 33.6); he wrote laws passed by Clodius (*Cic., Dom.* 83); briefly administered Rome's grain supply (*Cic., Dom.* 25); and once caught and returned to Rome a fugitive Armenian prince (*Asc., Mil.* 47.12-26). Cloelius was neither a senator nor an equestrian yet he wielded considerable power.³¹ And he wielded it without (apparently) great wealth. This clearly frustrated Cicero, our main source for Cloelius' activities. He expresses his frustration in a

²⁵ COVINO 2012: 6968.

²⁶ This involved delaying the trial and finding a more sympathetic prosecutor. Cf. e.g., *PLU., Cic.* 7; *CIC., Caec.* 29; *ID. Verr.* 1.31.

²⁷ Cf. TANNER 2000: 32-3, 48.

²⁸ Plutarch, it is true, claims Cicero won by *not* speaking (*Cic.* 7), but this remark simply refers to the fact that Cicero, using a procedural ploy, opted against beginning his prosecution with a long speech.

²⁹ According to Pliny the Elder (*Nat.* 34.6), Antony had Verres killed in the proscriptions of 43 in order to acquire his Corinthian bronze.

³⁰ On the 'rediscovery' of Sex. Cloelius cf. SHACKLETON-BAILEY 1960: 41-2; *ID.* 1981: 383. For doubts, cf. FLAMBARD 1978: 235-45.

³¹ DAMON 1992: 227-50, discusses Cloelius' status and collects all the references to him. On the *ordo scribarum*, cf. PURCELL 1983: 125-73.

speech in defense of Caelius, delivered in 56. According to Cicero, Cloelius had burnt down a temple, set fire to the census and other public documents, destroyed Cicero's own house, set fire to his brother's house, and tried to get a gang of slaves to burn down the entire city. But Cloelius was acquitted! Cicero (*Cael.* 78) cannot understand how this is possible or at least thinks it completely unfair that Cloelius wields such power despite being, as he puts it, 'without money, without credit, without hope, without home and without resources' (*sine re, sine fide, sine spe, sine sede, sine fortunis*). It is tempting to dismiss Cloelius as merely an agent of Clodius and no doubt that relationship was of great importance, but Cloelius continued to wield power after Clodius' death. In 52 B.C., following Clodius' murder on the Appian Way, Cloelius, at the head of an angry crowd, took Clodius' body and cremated it in the Senate house, burning down the building in the process along with a nearby basilica (*Cic., Mil.* 33; *Asc., Mil.* 33.5-9). This, finally, gets Cloelius convicted and exiled (*Asc., Mil.* 55-6). But he returned to annoy Cicero once more in the 40s, recalled thanks to Marc Antony. We last hear of him in October of 44; Cicero thinks that he is up to something, but is not sure (*Att.* 15.13.3). Though much remains uncertain about Cloelius, his successes indicate that someone could wield great power without great wealth. It is likely that this was due in part to his connection with Rome's *collegia* whose political activity had led to a crackdown in 64.³² On 1 January 58, Cloelius presided over the *ludi Compitalicii*, a job previously held by *magistri collegiorum*.³³ Clodius restored the *collegia* shortly thereafter.

The careers of Verres and Cloelius show that, while money certainly was an expected form of power, it was not an essential one. Cicero is able to overcome Verres' money, but is surprised that Cloelius manages to protect himself without great wealth. In Cicero's discussion of these men, he imagines them wielding portfolios of power, composed of a range of assets (money, patrons, *fides*, etc.). Verres has lawyers, friends, money, and statues while Cloelius should have money, a house, and credit. Cicero seems to conceptualize power in much the same way that economists think about the demand for money. Demand theory conceives of money as simply one form of wealth an individual might choose from a portfolio of assets; in response to actual needs as well as potential risks and rewards (called transactions, precautionary, and speculative motives), an individual adjusts his or her holdings, converting – with attendant transaction costs – assets into one another in order to achieve financial goals.³⁴

³² *Asc., Pis.* 7.9-11. Despite Cicero's claim (*Pis.* 9) that the members of these professional associations were the city's dregs and slaves, the *collegiati*, while not wealthy, must have been quite well off compared to the urban poor.

³³ *Cic., Pis.* 8; *Asc., Pis.* 7.16-21. Clodius' law revoking the ban on (some) *collegia* had not yet been passed and it is not clear what, if anything, Cloelius was a *magister* of at this point. For discussion of Cloelius' status, cf. DAMON 1992: 232 n. 16. For the *collegia* ban, cf. SALERNO 1984: 615-31.

³⁴ SERLETIS 2001: 79. Cf. also HOLLANDER 2008: 122-5.

Verres, one might say, trades some of the actual power of his governorship for 'precautionary' forms of power: money to bribe judges and statues to intimidate would-be prosecutors.

No one better illustrates the advantages of widely diversified holdings of power than Julius Caesar. During Sulla's proscriptions he remained safe by using money to bribe the bounty hunters while friends secured a pardon.³⁵ Caesar's rhetorical ability also served him well early on, whether it was in court prosecuting – unsuccessfully but nevertheless impressively – Dolabella in 77, or on the rostra eulogizing Julia and Cornelia in 67.³⁶ Even statues may have played an important role: Plutarch (*Caes.* 5.2, 6.1-2) reports that Caesar, as a *quaestor* and *aedile*, used εἰκόνας of Gaius Marius to garner popular support. But it is the role of money most of all in his 'portfolio' that shows how innovative Caesar was in amassing power. Caesar borrowed heavily in the early stages of his career and spent the money on gladiators, banquets, and other spectacles, tools of power and the means of acquiring more. Of the young, heavily indebted Caesar, Plutarch comments (*Caes.* 5.8-9) that 'with his lavish expenditures, he appeared to be exchanging a lot of money for an ephemeral and trifling glory, but was really buying the greatest things for a small price.' In other words, Caesar speculated in power, using credit to buy the esteem and gratitude of the people, things offering a long-term 'growth potential' in power.

If economics offers a helpful lens with which to observe Roman power dynamics, it is also salutary for economic historians to take account of money's important role in the realm of power. The demand for coins and other forms of money was based not only upon the ability it gave one to purchase goods and services, but also on the security it could provide. In the modern western world of substantial police forces, clearly defined rights and state-subsidized assistance such as public defenders, it is easy to overlook the vulnerability of the average Roman to violence. When we speculate about Roman demand for coinage, we need to consider the demand for security. The disruption of traditional forms of power in the late Republic undoubtedly promoted monetization. Money may have failed Gaius Verres but it served many other Romans quite well and was unlikely to let you down as spectacularly as Caesar's reliance on the power of gratitude ultimately did him. Judging from the sheer number of anecdotes preserved, proscription tales were quite popular under the Empire, a kind of 'zombie apocalypse' genre for the Roman reading public. What does one do when one's wife, slaves, friends, and acquaintances suddenly become potential murderers and informers? Many Romans must have observed the utility of portable, impersonal cash under those circumstances.

³⁵ SUET., *Iul.* 1.2; PLU., *Caes.* 1.6-7, gives a slightly different version of events.

³⁶ Suetonius (*Iul.* 55) says that after the Dolabella prosecution, Caesar was considered one of the best advocates. Cf. also PLU., *Caes.* 4.