

## The Politics of Fraud: A Seruilius Casca in Livy

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In the late second century BCE two wealthy members of the *publicani* committed an audacious fraud against the state. They had received the contracts for army supplies in 215 BCE, during a crucial period of the Second Punic War.<sup>1</sup> The paper examines Livy's account of this incident and its aftermath, in which he records the methods employed to condemn the malefactors, and the efforts of the one man prosecuted to save himself. The objective is twofold: i) to analyse Livy's account of the political influence that the *publicani* displayed throughout this incident, and ii) to examine the misleading account of the tribune C. Seruilius, to whom Livy attributes the *cognomen* Casca. The identity and actions of this C. Seruilius 'Casca', a tribune of 212, have no small bearing on the incident. Ernst Badian's brief analysis relies too heavily on a chronological argument; on this basis he unjustly dismisses the caution displayed by the senate in dealing with the unfolding events.

Before proceeding it is worthwhile to discuss the approach and relevant terminology. First, the approach taken. The investigation of the evolving political power of the *publicani* as a class is feasible due to this instance of conflict. The *publicani* rarely constituted anything like a modern political party or even a Roman *factio*.<sup>2</sup> It is only when a threat was perceived to their pursuit of profit that sufficient numbers of the *publicani* would unite to exert political influence.<sup>3</sup> The same is true of the senate in this conflict: to use the term collectively and imply a unified front is almost always hazardous; the senate was the public expression of an oligarchy dedicated to fierce personal and factional competition.<sup>4</sup> Nevertheless, the instance investigated comprises a serious enough conflict to crystallise for a time the fundamental differences and objectives of the two groups. This crystallisation drew clear lines based on self-interest: for the *publicani*, that they might pursue their profits with minimal state interference; for the senate, that they might exercise sufficient power over the state to maintain the status quo essential for the successful functioning of the oligarchic system. These differences were eventually exploited by an ambitious *nobilis* for his own ends; time and circumstance had by then made the differences more obvious.<sup>5</sup>

It is further pertinent to define the term *publicani*. *Publicanus* in this paper is used to mean any individual engaged in the bidding for and fulfilling of public contracts. This usage thus excludes the employees of a *publicanus*.<sup>6</sup> The term encompasses members of the *equites* and other lesser

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<sup>1</sup> All dates are BCE unless otherwise noted.

<sup>2</sup> T. R. S. Broughton, "Comment" in ed. R. Seager, *The Crisis of the Roman Republic* (Cambridge, 1969), pp 118-9. Originally printed in *Second International Conference of Economic History vol. 1* (1962), pp. 150-62. All references are to the pagination in Seager.

<sup>3</sup> The prosecution of Quintus Mucius Scaevola's legate Publius Rutilius Rufus in 92 is a good example of another such occasion, as are the efforts in the senate of Crassus in 61 on behalf of the *publicani* operating in Asia. For Scaevola and Rutilius cf. E. Gruen, *Roman Politics and the Criminal Courts* (Harvard, 1968), pp. 204-6. For Crassus' actions in 61, cf. B. A. Marshall, *Crassus: a Political Biography* (Amsterdam, 1976), pp. 97-9.

<sup>4</sup> E. Gruen, *The Last Generation of the Roman Republic* (Berkeley, 1974), pp. 121-2. His remarks are equally applicable to the period examined by this paper.

<sup>5</sup> Gaius Gracchus in 123-2 BCE. Cf. P.A. Brunt, "The Equites in the Late Republic" in ed. R. Seager, *The Crisis of the Roman Republic* (Cambridge, 1969), p. 85. Originally printed in *Second International Conference of Economic History vol. 1* (1962), pp. 117-49. All references are to the pagination in Seager.

<sup>6</sup> This conforms to Livy's use of the term at 25.3.17-18; 25.4.2; 25.5.1; 43.16.3; 45.18.4. At 34.9.12 he uses the word *redemptor* (contractor) to refer to what are presumably the agents of one or more *publicani* in Spain: *redemptoribus vetitis frumentum parare ac Romam dimissis* (with the contractors forbidden to buy grain and dismissed to Rome).

members of the first class.<sup>7</sup> It is important to note that the *publicani* were spread among the whole first class: even those *publicani* who qualified for the equestrian census were mixed among such *equites* as the landed gentry of Italian towns, rural landowners such as (most prominently) the fathers of Marius and Cicero and the forebears of Pompeius.<sup>8</sup> In a political sense, the significance of the *publicani* lies in the fact that they were, more than the rural men of means, present in Rome itself.<sup>9</sup>

## I.

The incident has its origin in 215. At 23.48.6ff., Livy records the situation. The senate was short of money and Hannibal was still at large in Italy.<sup>10</sup> The senate requested that those (23.48.10) *qui redempturis auxissent patrimonia* (who had increased their property by contracts) extend credit to the government in the contracts for supplies for the army and navy.<sup>11</sup> Nineteen men came forward, comprising three companies.<sup>12</sup> These companies were composed of powerful *publicani*.<sup>13</sup> The wealth required for gaining these large and important contracts was in the hands of relatively few individuals, who organised themselves into partnerships for the fulfilling of particular contracts.<sup>14</sup> We may presume they performed many other services through the system of letting contracts.<sup>15</sup> The usual number of bidders for a large contract is unknown; presumably in this case the number was

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<sup>7</sup> The *publicani*, particularly toward the last fifty years of the middle Republic and thereafter, were spread throughout the first class. Cf. Livy 43.16.2 and M. I. Henderson, "The Establishment of the Equester Ordo" *The Journal of Roman Studies* 53 (1963) p. 62f; Brunt, pp. 89-92.

<sup>8</sup> Marius and Cicero were from wealthy families near Arpinum, Pompeius came from a similar background in Picenum. On Marius and Cicero see M. Gelzer, *The Roman Nobility* (Oxford, 1969), trans. R. Seager, pp. 17, 131; T. F. Carney, *A Biography of C. Marius* (Chicago, 1970), pp. 8-9. On Pompeius see Gelzer, p. 93.

<sup>9</sup> Hence by default more involved in politics. Cf. E. Badian, *Publicans and Sinners* (Oxford, 1972), pp. 50-3; Brunt, pp. 88-9.

<sup>10</sup> Livy 23.48.6ff.

<sup>11</sup> Livy 23.48.10-12.

<sup>12</sup> Livy 23.49.1.

<sup>13</sup> Cf. Livy 25.1.2, where Pomponius Veientanus is described as a *praefectus socium* and gathers an army to fight Hanno. He is referred to at 25.1.4 as *ante publicanus omnibus malis artibus et rei publicae et societatibus infidus damnosusque* ([he had been] previously a *publicanus* with all the false tricks; faithless and harmful to the state and to companies). Faithless or not, he can certainly be classified as a *publicanus* of note. As for Postumius, Livy at 25.3.15 describes him as a relative of the tribune Seruilius Casca. This is not firm proof given the issue of the identity of this Seruilius, but it is also not impossible. It seems therefore probable that both men moved in high enough circles to be considered prominent *publicani*, placing them firmly among the first class. See also Badian (1972), p. 18; H. Hill, *The Roman Middle Class in the Republican Period* (Oxford, 1952), pp. 51f.

<sup>14</sup> Livy at 23.49.1 states that the nineteen men who came forward to complete the contract comprised *tres societates*. It is difficult to see how such large contracts could have been undertaken without the formation of such companies, which required large securities of land on the part of the members to obtain contracts. ILLRP 518 is an example of a company being formed for a relatively small contract in 105 at Puteoli. The sum is 1500 sesterces, and one of the five men named is listed as *praes* (57-9): *C. Blossius Q. f. | (sestertiis) MD, idem praes, Q. Fuficius Q. f. | Cn. Tetteius Q. f. C. Granius C. f. Ti. Crassicius*. Although this inscription is dated securely to 105, it is logical to infer that this system, if in place for such a small contract, was also in place for large ones and that in large contracts several of the *socii* could be joint *praedes*. The *praedium* itself was land (55-6): *praedia satis | subsignata erunt* (they will have guaranteed sufficient farms), cf. also Cic. *Flac.* 80; Polyb. 6.17.

<sup>15</sup> See Livy 4.22.7; 5.23.7; 6.32.1; 9.43.25 for contracts for public buildings, the dates of which stretch back to 435. Cf. Brunt, pp 104-5. Brunt notes correctly that Livy at 23.48.6f is emphasising the novelty of the contracts being fulfilled on credit, not the novelty of the system itself, which implies that Livy at least believed that the system was in place long before.

lower than the norm due to the war. The few individuals who had come forward to accept the contract in this case were aware of the powerful position they were in.

It is possibly due to this low number of bidders that Livy does not mention competition for the contracts let in 215. This lack of competition is understandable given the situation in Italy at the time – one year after Cannae, Hannibal was a very real threat to the Roman state.<sup>16</sup> This state of affairs enabled the *publicani* to make certain demands and to undertake what was effectively a risk-free venture: their supplies at sea were fully insured by the state,<sup>17</sup> and they themselves were excused from military service.<sup>18</sup> The *publicani* represented the only way the state could, at this time, obtain army and navy supplies, and they took advantage of their situation.<sup>19</sup> A mixture of both patriotism and opportunism is conceivable.

The significance of this incident lies in the events which took place in 213-2. For two of the contractors, Marcus Postumius of Pyrgi and Titus Pomponius of Veii, greed overcame patriotism. The audacious fraud in which they engaged is remarked on by Livy at 25.3.8:

hi, quia publicum periculum erat a ui tempestatis in iis quae portarentur ad exercitus et ementiti erant falsa naufragia et ea ipsa quae uera renuntiauerant fraude ipsorum facta erant, non casu.

These men, because the state assumed the risk from the force of storms in the case of goods carried by sea to armies, had invented imaginary shipwrecks, and even those they had reported truly had happened by fraud, not by accident.

Evidently, these two *publicani* found their state-guaranteed insurance too tempting and committed insurance fraud.<sup>20</sup> Livy's account of the rest of the incident illustrates the importance of this situation further. It appears the senate at first did nothing (25.3.12) *quia patres ordinem publicanorum in tali tempore offensum nolebant* (because the senators at such a time were unwilling to give offense to the *ordo publicanorum*). While the senate dithered, Lucius Caruilius and Spurius Caruilius, both tribunes, instigated the prosecution of Postumius in the *comitia tributa*.<sup>21</sup> Postumius had hoped that the tribune Seruilius Casca would veto the charges. Casca was, according to Livy, a relation of Postumius.<sup>22</sup> Casca did not interpose his veto, and the *publicani* instigated a riot to

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<sup>16</sup> B. D. Hoyos, "Hannibal: What Kind of Genius?" *Greece and Rome, Second Series* 30 no. 2 (October, 1983), p. 173.

<sup>17</sup> Livy 23.49.2. The insurance at sea is the most significant point here, considering that the inherent risk to trade by sea in the ancient world is, in this case, compounded by the military situation. See B. W. Wells "Trade and Travel in the Roman Empire" *The Classical Journal* 19 no. 2 (November 1923), pp. 70-2.

<sup>18</sup> Livy 23.49.2.

<sup>19</sup> The issue here is related to this occasion during the Second Punic War. Badian (1972), p. 17ff. uses this to advance the more general argument that this was always the way the state would obtain supplies, but this is arguable. For the present purpose, it is enough that these contracts were urgent and crucial in 215 and that the state turned to *publicani* as an immediate option. For a response to Badian's more general thesis, see P. Erdkamp, "The Corn Supply of the Roman Armies during the Third and Second Centuries B.C." *Historia: Zeitschrift für Alte Geschichte* 44 no. 2 (October 1995), pp. 168-191.

<sup>20</sup> It seems that Livy in this case wrote chronologically, as clearly the comments quoted above on the fraud render previous remarks concerning the upright completion of the contracts absurd and inexplicable. Cf. Livy 23.49.2-3.

<sup>21</sup> The two Caruillii may have been brothers or related; certainty is impossible. They were not the sons of Sp. Caruilius Maximus, despite a tempting convergence of populist politics. Maximus proposed admission to the senate for Latins in 216, cf. Livy 23.22.4-9. His divorce in 235 or 231, for the childlessness of his wife, renders chronologically impossible a paternal connexion to either of the two tribunes of 212. On the divorce, cf. Plut. *Mor.* 267c; 278e; Gell. *NA* 4.3.2.

<sup>22</sup> Livy 25.3.15. Such associations were not impossible by any means, but are easier to find in the Late Republic. For examples of social connexions cf. e.g. Cic. *Brutus* 168; *De Or.* 2.2-3; Val. Max. 6.9.8, 9.1.1. Cicero, Marius and Atticus of course all form similar examples of the connexions between the equestrians and the senate;

disrupt the voting of the *comitia*. This riot at last compelled the senate into action, and the charge was upgraded to violence against the state and a new and more serious prosecution was initiated, this time overtly backed by the senate.<sup>23</sup>

## II.

The riot mentioned by Livy is the first clear example of purely political activity on the part of the *publicani*.<sup>24</sup> Postumius, after his connexions on the tribunician bench did not save him, showed himself prepared to use violent and illegal means. This powerful *publicanus* clearly saw political agitation as a viable method to save himself from prosecution, and he was quite prepared to engage in adversarial political activity with the senate.

Some notes of caution. Livy's use of the phrase *ordinem publicanorum* at 25.3.12 must be viewed as an anachronism. Badian's summation of the doubtfulness of the existence and cohesion of this *ordo* in 212 is concise: 'The rewriting of earlier history in the light of the politics of the late Republic can...be almost demonstrated from the facts of the story.'<sup>25</sup> That is, Livy seems to be familiar with the power of such an organised *ordo* in his own time, and he makes use of this knowledge to attempt a satisfactory explanation of senate's behaviour.<sup>26</sup> Livy's implication of an existing and organised *ordo* is misleading.<sup>27</sup>

Set against this, the existence of such a class of *publicani* was beginning to emerge at this time and Livy's phrase should be read as an exaggeration rather than an outright falsification.<sup>28</sup> It is reasonable to presume some degree of caution on the part of the senate in dealing with two prominent members of the *publicani* at a time of war. This caution arises not only from the power and wealth of the individuals themselves, but also from a degree of truth contained in Livy's statement at 25.3.12: the senate could not risk alienating wealthy *publicani* owing to their importance in the functioning of the state. The caution at first displayed by the senate is an implicit acknowledgement that the *publicani* at this time did possess political influence by virtue of their essential function. It is this point, centred on the non-action of the senate when initially confronted with the fraud, to which the paper now turns. Livy's interpretation, despite some shortcomings, should be reconsidered.

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Marius was derided (as was P. Rupilius, cos. 132, Val. Max. 6.9.8) for having been a *publicanus* (Diod. 35.38). Such connexions were thus certainly more marked in Livy's own time, but there is no reason to believe they were not present in 212. Cf. also Henderson, p. 61; Brunt, p. 117; F. Münzer *Roman Aristocratic Parties and Families*. Trans. T. Ridley. (Baltimore, 1999), pp. 133-4.

<sup>23</sup> Livy 25.4.7f.

<sup>24</sup> As opposed to the mere bidding for and fulfilling of public contracts. Cf. Livy 4.22.7, 5.23.7, 6.32.1, 9.43.25.

<sup>25</sup> Badian (1972), p. 19.

<sup>26</sup> Cicero, roughly contemporary to Livy, is our best source for the existence and influence of a more cohesive and purposeful *ordo publicanorum*. See esp. Cic. *Planc.* 23, 33; cf. also *Verr.* 2.2.175, 2.3.94, 2.3.168; *Fam.* 1.9.26, 13.10.2; *Prov. cons.* 10-11. For a general but concise account of Livy's terminology regarding the *equites* as a whole see H. Hill 'Livy's Account of the Equites' *Classical Philology* 25 no. 3 (1930), pp. 244-249.

<sup>27</sup> Such as at 25.3.12, when he asserts that the senate was afraid of the *ordo publicanorum*. It is this *ordo* he refers to again at 25.3.17; 25.3.18; 25.4.2; 25.5.1. Such references are anachronistic in the specific sense that there existed in 215 no organised order, but not wholly inaccurate if read in a more general sense, taking the meaning as an identifiable section of the first class as a whole.

<sup>28</sup> For the prominence of the *publicani* in Spain and Macedonia in 195 and 167 respectively cf. Livy 34.9.12, 34.21.7, 44.16.3-4, 45.18f. See also Brunt, pp. 138-41 on the importance of the *publicani* in exploiting the silver and iron mines of Spain in 195. For a response to Brunt's view see J. S. Richardson, "The Spanish Mines and the Development of Provincial Taxation in the Second Century B.C." *The Journal of Roman Studies* 66 (1976), pp. 139-152.

### III.

Badian has argued that Livy's conception of the situation is flawed, and that the senate in this instance did not fear or treat with caution the *publicani*.<sup>29</sup> His argument is based on Livy's report that when the senate eventually took over proceedings, they placed in charge the same two tribunes who previously had acted apparently independently.<sup>30</sup> The caution of the senate he views as simply a matter of refusing to discuss such a serious matter towards the end of the year; the senate instead preferring to wait for new consuls.<sup>31</sup> This analysis relies too heavily on chronology and oversimplification.

Livy's statement referring to the matter being reported to the senate (25.3.12) reads only *ea fraus indicata M. Aemilio*<sup>32</sup> *praetori priore anno fuerat ac per eum ad senatum* (this fraud had been reported in the previous year to the praetor M. Aemilius and through him to the senate). It is not stated exactly when in the course of the year the matter is reported to the senate, though Livy records that the second prosecution (after the riot) occurred before May 212.<sup>33</sup> There is no way to ascertain precisely how long the senate 'waited'. By placing the report of the fraud to the senate at the end of the previous year (213), Badian i) explains the delay in action by simply having the senate choose to wait until the new consuls took office, and ii) thereby removes the implication that the senate feared to offend the *ordo publicanorum*.<sup>34</sup>

### IV.

Instead of an argument based on an issue of chronology, it is possible to offer an interpretation that suggests the senate were indeed cautious in their approach to the incident, and that this caution was due to the importance of the *publicani* in the political sphere.

Firstly, Livy's account of the disruption of the assembly by the vaguely labelled *publicani* (25.3.18):

turbandae rei causa publicani per uacuum summoto locum cuneo inruperunt iurgantes simul cum populo tribunisque.

the *publicani*, in order to disrupt the assembly, rushed in a wedge through the space, the people having been cleared away [in preparation for the voting], quarrelling at the same time with the people and the tribunes.

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<sup>29</sup> Badian (1972), p. 19.

<sup>30</sup> Livy 25.4.8. In fact Livy only implies that the senate had placed the tribunes in charge: *senatus decreasset, confestim Caruilii tribuni plebis* (the senate declared [that this violence had been deployed against the state], immediately the Caruilii, tribunes of the people...).

<sup>31</sup> Badian (1972), p. 19.

<sup>32</sup> There is confusion here over the identity of the praetor in the mss., as Aemilius is tentatively identified as *praetor urbanus* at 25.1.11 and 25.12.3, but M. Atilius was both *praetor urbanus* and *peregrinus* after Aemilius the *praetor peregrinus* departed for Luceria in April (25.1.11-2). If indeed it was Aemilius who reported the fraud to the senate then he would have had to do so early in the year before he left Rome, a further point against accepting Badian's chronology-based argument that the senate merely waited for new consuls. If indeed it was Atilius who reported the fraud then Badian's argument gains little momentum in any case, as this still leaves a possible window of eight months for the reporting of the fraud to occur. Cf. T. R. S. Broughton, *Magistrates of the Roman Republic vol. 1* (Cleveland, 1951), p. 266, n. 2.

<sup>33</sup> Livy 25.4.9.

<sup>34</sup> Badian (1972), p. 19. His interpretation is plausible, but it is not the 'obvious interpretation,' which is based on his own assumption that 'fear of offending the publicans cannot easily be assumed when it is so conspicuously absent later'.

The first issue is Livy's meaning of the term *publicani* here. It need not be assumed that the whole class of the *publicani* is referred to, although it seems Livy is suggesting that this is the case.<sup>35</sup> His exaggeration concerning the *publicani* due to anachronism has been discussed. However, we may consider both Postumius and Pomponius as landowners of some magnitude (presumably in Etruria) in order to provide the securities (*praedia*) required to bid successfully for such a substantial state contract as they had in 215.<sup>36</sup> It is conceivable that Livy has exaggerated the reported riot while retaining the core of the truth: one or both of these two men put into action their numerous clients and supporters and successfully disrupted the assembly once it became clear that the prosecution would proceed. This disruption, though successful, gave the senate the excuse it needed to sanction openly the prosecution of Postumius and his supporters. The senate had hesitated to become involved directly until the charge was more serious, not because they were waiting for new consuls. The caution on the part of the senate is dictated by a reluctance to come down harshly and openly on two of the *publicani*.<sup>37</sup> However, such impudent speculation could not go wholly unpunished, especially in a time of war.

The senate then unofficially supported the public prosecution launched by the two tribunes. Hannibal was still in Italy and attempting with no small success to detach hitherto loyal allies from Rome.<sup>38</sup> The senate was aware of the potential political ramifications of openly making an example of these two *publicani*. The condemning of a *publicanus* of note (and by implication his associate, who was a prominent *socius*) must have been viewed as a delicate matter.<sup>39</sup> After the riot the senate (25.4.7) 'declared that this violence had been employed against the state and had resulted in a dangerous precedent' (*vimque eam contra rem publicam et pernicioso exemplo factam senatus decresset*). The charge became a capital one (*rei...capitalis*), no longer a case of *fraus*. Postumius was safely disassociated from other *publicani* by this accusation.

## V.

The role of Seruilius Casca in this incident is intriguing. It is the interpretation of this paper that the senate had never planned to act except obliquely through the *comitia tributa*, which it hoped would prove effective. The intention of the senate thus had less to do with waiting for new consuls to take a firm hand, and more to do with an awareness of the delicate political situation which had arisen. Whilst the notion of a cohesive *ordo publicanorum* at this time should be discounted, the senate chose nevertheless to act with caution. The importance and influence of the *publicani* dictated this approach.

The identity of the tribune C. Seruilius Casca is critical for this interpretation. He is the only other tribune mentioned by Livy as playing a part in this affair.<sup>40</sup> Livy's use in this instance of the *cognomen* 'Casca' in connexion with this member of the *gens* Seruilia is suspicious and constitutes

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<sup>35</sup> As he does at 25.3.12, 25.3.17-18, 25.4.2 and 25.5.1.

<sup>36</sup> Land was the basis of wealth for the first class, which encompassed both the senate, *equites* and other men of means. On the importance of land and agriculture for respectability see Cic. *Off.* 1.150-1. Cf. also Broughton (1962), pp. 118-9 and Badian (1972), pp. 48-52. For land as a necessary security for the obtaining of contracts see ILLRP 518, quoted above, n. 14. The land these two individuals owned was presumably in Etruria because of their stated origins.

<sup>37</sup> Brunt, pp. 104-5. This dependence was of course made more critical by the war-time situation.

<sup>38</sup> Cf. Livy 22.61.8 for a list of allies who had deserted Rome by 216.

<sup>39</sup> Livy 25.3.8-9, where they are named as *M. Postumius Pyrgensis* and *T. Pomponius Veientanus*. The fact that they were from Etruria and were subsequently disgraced does not seem to have harmed Etruria's support of the war effort, cf. Livy 28.45.14-18 and Münzer, pp. 52-3. Münzer here proleptically rebuts A. Toynbee's theory of Etrurian nationalism being behind the fraud, advanced in *Hannibal's Legacy: The Hannibalic War's effects on Roman Life* (Oxford, 1965), pp. 352f.

<sup>40</sup> Livy 25.3.15.

either an error or a deliberate alteration. The possibility that it was an error is rendered difficult to believe by subsequent passages.

This tribune is C. Seruilius Geminus, who had by means of a questionable *transitio ad plebem* assumed plebeian status.<sup>41</sup> He is the son of C. Seruilius Geminus and the nephew of the consul of 217, Cn. Seruilius Geminus. This solution was first proposed by Münzer in 1921.<sup>42</sup> The *cognomen* Casca is only otherwise known of the brothers Casca, two of Caesar's assassins.<sup>43</sup> The plebeian Seruilius are not recorded for another sixty years and may even be descended from this Seruilius.<sup>44</sup> The usage of Casca is highly irregular and is, as Münzer wrote ninety years ago, 'verdächtig'.<sup>45</sup> Furthermore, Livy was aware of precisely to whom he was attributing a late Republican *cognomen*. We see that for the year 209 (27.21.9):

aediles curules fuere L. Cornelius Caudinus et Ser. Sulpicius Galba, plebeii C. Seruilius et Q. Caecilius Metellus. Seruilium negabant iure aut tribunum plebis fuisse aut aedilem esse, quod patrem eius...occisum a Boiis...esse opinio per nouem annos fuerat, uiuere atque in hostium potestate esse satis constabat.

The curule aediles were L. Cornelius Caudinus and Ser. Sulpicius Galba, the plebeian were C. Seruilius and Q. Caecilius Metellus. It was denied that Seruilius had been tribune legally, or was now aedile legally, because his father... who for nine years was believed killed by the Boii, was now revealed to be alive and in the power of the enemy.

The exact situation will never be wholly clear. It appears to run along the following lines: supposing his father dead and that he was therefore *sui iuris*, Seruilius revoked his patrician status, presumably through *arrogatio*.<sup>46</sup> However, since his father was alive, and hence would still be *paterfamilias*, legal status of his *transitio ad plebem* was unclear.<sup>47</sup> What remains is a plebeian member of the patrician *gens* Seruilia, a nephew of the consul of 217.<sup>48</sup> He is mentioned in numerous subsequent passages in Livy, and his career is not difficult to follow. Tribune, plebeian and curule *aedilis*, praetor, consul, *magister equitum* and dictator, he was also a *pontifex* by 210 (taking a plebeian place), and was made *pontifex maximus* in 183.<sup>49</sup> If the patrician status was revoked by his father, it

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<sup>41</sup> Livy 27.21.9.

<sup>42</sup> Münzer, p. 133. Interestingly, Münzer's solution was not followed by Broughton in his *Magistrates of the Roman Republic*. Broughton leaves 'Casca' as tribune in 212 and places Seruilius Geminus as tribune in 211. I am indebted to Professor Ronald T. Ridley for drawing this to my attention.

<sup>43</sup> Münzer, p. 133.

<sup>44</sup> The earliest recorded is Seruilius Glauca by Polyb. 31.23.9 in 162, some fifty years after the Seruilius 'Casca' who was tribune in 212.

<sup>45</sup> F. Münzer, *Römische Adelsparteien und Adelsfamilien* (Stuttgart, 1920), p. 141.

<sup>46</sup> If indeed he himself assumed plebeian status. Münzer (see pp. 130-5 for a discussion of the *gens* Seruilia) raises further doubts about which of the two – father or son – revoked the patrician status of this line. Cf. also Livy 30.19: Livy solves the problem by having the son, cos. 203, in that year pass a law which removes illegality from him for having occupied the plebeian offices of tribune and plebeian aedile whilst his father still lived. This seems to indicate that Livy at least thought that Seruilius himself, not his father, was responsible for his revoking his patrician status.

<sup>47</sup> Cf. Cic. *Dom.* 34-41 for his remarks on the legality of P. Clodius' *transitio ad plebem*.

<sup>48</sup> Livy 22.49, where he is listed among the illustrious casualties.

<sup>49</sup> As tribune in 212 cf. Livy 25.3.15; as plebeian aedile and curule aedile 27.21.9, 27.36.8; praetor 28.10.3; *magister equitum* 27.33.7; consul for 203, 29.38.3, 30.1.1; dictator, 30.39.4. As a *pontifex* he replaced Titus Otacilius Crassus, thus taking a plebeian place in the college. For a full discussion of the dominance of the Seruilius at this time see Münzer, pp. 130-45.

was done before 220, when his father was captured by the Boii.<sup>50</sup> If it was revoked by the son, it was between 220 and 212, the year in which he is deceptively recorded as C. Seruilius Casca.<sup>51</sup> These two possibilities nonetheless converge: C. Seruilius, who had been born and raised patrician, at some point relatively early in his career loses this status and seeks advancement through plebeian offices. His success is aptly demonstrated by the offices listed above.

Livy has thus assigned the spurious *cognomen* Casca to C. Seruilius Geminus. Seruilius bears this *cognomen* only in relation to the incident that took place in 212, and indeed Livy only uses the *cognomen* Geminus to differentiate him from other Seruili; the usual appellation is simply C. Seruilius.<sup>52</sup> It seems unlikely that Livy's use of Casca is a fabrication from another author that has been innocently reported, given i) the prominent latter career of this particular Seruilius, a distant ancestor of the Seruili Vataie and Caepiones, and ii) such passages as 27.21.9, which connect Seruilius Geminus with Seruilius Casca. Livy knew full-well whom he was writing of in his account of the prosecution of Postumius. The use of the name Casca, unknown then, famous after 44, thus indicates that Livy attempted by reference to a known family - a family contemporary with him - to obscure the identity of the tribune of 212. It seems clear that Livy altered the name consciously, but this does not immediately ascribe to Livy an intention to deceive his readers: Seruilius' identity was concealed only in this specific episode.

If Livy can be assigned responsibility, his motive remains unclear. Münzer's conclusion on the matter, after his brilliant identification of Casca as Geminus, stops short of assigning responsibility for the falsification specifically to Livy; Broughton follows him, with a caveat to the effect that he himself does not wholly accept Münzer's identification.<sup>53</sup> It is possible to expand on Münzer here, as his solution does not give precedence to the significance of the struggle between senate and *publicani*.<sup>54</sup> The matter turns upon Livy's claim of a relation between Seruilius and Postumius. Such a relation was by no means out of the question. The prominent men of Latin towns could marry into the Roman aristocracy, and a contemporary example is not difficult to find – the infamous Capuan *nobilis* Pacuvius Calavius was married to a daughter of Ap. Claudius, the consul of 212, and one of his own daughters was married to the consul of 219, M. Livius Salinator.<sup>55</sup> The relationship attested by Livy is certainly possible, even likely, and the conduct of Seruilius is thus rendered distasteful to Livy on two fronts: i) Seruilius' close connexion through his relative Postumius (and by extension his

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<sup>50</sup> Livy 27.21.9; Polyb. 3.40. The father is referred to in Polybius as one of two men who had previously been praetor. Cf. also Livy 21.25.3-8 where Livy lists six alternatives for the identity of the other two captives, none of which is Seruilius, which is strange in the light of comments at 27.21.9.

<sup>51</sup> The deciding point may well be the status of his brother, M. Seruilius, who was also a plebeian. Both brothers took the plebeian consul's place: C. Seruilius in 203 with his relative Cn. Seruilius Caepio, and M. Seruilius in 202 with Ti. Claudius Nero. Münzer argues (pp. 129-33) in this case that the senior Seruilius' revocation of patrician status was to give the patriciate a firmer hold in the pontifical colleges: both Gaius and Marcus succeeded plebeians in the colleges as well as holding plebeian offices. Marcus Seruilius succeeded Spurius Caruilius Maximus in 211, cf. Livy 26.23.7; Gaius Seruilius replaced Titus Otacilius Crassus in 210, cf. 27.6.15.

<sup>52</sup> Münzer, p. 133, lists the uses of 'Geminus' in relation to this Seruilius in Livy (29.38.3, 30.39.4, 31.4.3, 39.46.1, 40.42.11), and shows that the object is to identify this Seruilius in particular, as there is in each case a possible confusion. The usage of 'Casca', on the other hand, is confined only to the trial of Postumius: 25.3.8ff.

<sup>53</sup> Münzer, pp. 133-4; Broughton, *MRR* (1), pp. 271-2, n. 5.

<sup>54</sup> Münzer does not specifically assign to Livy the responsibility of the falsification, though he does believe the motivation was to conceal the conduct of Seruilius Geminus as tribune in 212. Interestingly, he argues that in this case the tax-farmers 'were the senate's protégés'. The implication of his argument is that Seruilius *should* have blocked the original prosecution through his veto but did not; the disgrace for Münzer thus lies in the association of a Seruilius Geminus with the whole affair. It can be said then that Münzer's solution is more nuanced than that offered by the paper: he argues appealingly for factions and divisions within the senate in relation to this scandal, but underestimates in this instance the threat the senate saw in the conduct of the *publicani*. Cf. Münzer, pp. 133-4.

<sup>55</sup> Livy 22.2.5-7. Cf. above, n. 22.

family's connexion) to the whole sordid affair, and ii) his abandonment of his relative to prosecution. A clearer picture emerges: the disgrace of Seruilius is in his proximity to the scandal itself, and subsequently his cowardly non-action. Seruilius sided with the senate by his actions, which can surprise no one given his true identity, but the taint of scandal could still leave its mark. The motive of Livy is to conceal the role played by the aristocratic Seruilius Geminus, the disgrace from which touches his whole illustrious family; the confused affair of his plebeian status looms over the whole incident.<sup>56</sup> Livy nonetheless retains his historic merit despite an attempt at historiographically motivated subterfuge.

In summation, we have C. Seruilius, labelled 'Casca' by Livy, not interposing his veto to save Postumius. By this refusal to interpose his veto he is passively watching the ruin of his purported relative's career. C. Seruilius Geminus, once a member of the patrician Seruillii and ensconced in the heart of oligarchic power in Rome, was belying his assumed plebeian status and acting in a way familiar to tribunes of the middle and late Republic.<sup>57</sup> He followed the line of the senate, which in this case was to ensure the prosecution of Postumius. It was in the senate where the vast majority of his social, familial and political connexions and interests lay. That he did not harm these interests is evinced by his long and successful career.<sup>58</sup>

## Conclusions

On the part of the senate we have actions designed to show the *publicani* that their worst excesses will not be tolerated. The senate may well have instigated or supported the original prosecution in the *comitia tributa* and hoped this would prove sufficient. The senate took a direct hand as soon as it felt secure enough to do so – when the charges could be upgraded. Postumius was safely dissociated from the rest of the *publicani* by the nature of these new charges. This indicates a degree of caution in the senate's dealing with the *publicani* in 212 but also a clear willingness, even in a time of war, to engage in adversarial political activity. Livy's account of events shows a mixture of truth – the presence of Seruilius, the account of the disruption of the *comitia tributa* – and falsehood and misinterpretation – the obscuring of Seruilius' identity, the exaggeration of the existence of a cohesive *ordo publicanorum*. From his account, however, we may deduce the following: on both parts, *publicani* and senate, there is an awareness of the political influence of the *publicani*. This usually latent influence could crystallise if the circumstances were right. The steps the senate took show that such influence was very real and had to be taken into consideration in 212. The account of Livy, despite its shortcomings, possesses historical as well as historiographic merit.

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<sup>56</sup> For Livy's favourable characterization of the Seruillii see P. G. Walsh, *Livy: His Historical Aims and Methods* (Cambridge, 1963), pp. 90-1. Cf. also Chapters 3 and 4 for a broader discussion of Livy's moral objectives and methods of characterising particular *gentes* and historical figures in general.

<sup>57</sup> The cases of Gaius Marius and Decius Subulo show that a man's career could be wrecked if he was judged a radical and antagonised the more conservative elements of the Senate. Cf. E. Badian, "P. Decius P. f. Subulo: An Orator of the Time of the Gracchi" *The Journal of Roman Studies* 46 (1956), pp. 91-96. Tiberius and Gaius Gracchus need hardly be mentioned.

<sup>58</sup> As tribune in 212 cf. Livy 25.3.15; as plebeian aedile and curule aedile 27.21.9, 27.36.8; praetor 28.10.3; *magister equitum* 27.33.7; consul for 203 29.38.3, 30.1.1; dictator, 30.39.4.

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