

DE AMBITU  
ET  
LEGES DE AMBITU

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## Introduction.

The main purpose of this thesis is to discuss the legislation of the Romans during the republic in regard to those illegitimate practices at elections which were included in the term ambitus. The results of the efforts to realize this purpose are to be found in Part II of this paper. Part I is intended to furnish the necessary setting for the discussion in Part II by picturing the methods of canvassing and the practices at elections which mainly determined the nature of the legislation against ambitus.

The treatment of the subject material in both parts of the paper is not intended to be exhaustive, for such a treatment would require the reading of a large portion of the Latin literature. The main sources of information have been the histories of Livy and Dio Cassius,- which have been read in their entirety,- and various portions of Cicero's letters and orations. The 'Commentariolum Petitionis' of Quintus Cicero has been of the greatest value for the

presentation of the methods of canvassing. Of the modern authorities, Mommsen, Long, Abbott, and Botsford have been most freely consulted. Valuable information on the legislation has been obtained by reading the article on ambitus in Pauly-Wissowa. As this paper is most directly concerned with the enactments against ambitus, references have been supplied more freely in Part II than in Part I.

## PART I.

Ambitus from ambire literally means 'a going about'. As a political term it properly meant the going about of the Roman candidate for office for the purpose of soliciting votes; (cf. Varro de l.l. V-28: qui populum candidatus circum it, ambit). The idea contained in ambitus is most nearly expressed by our word 'canvassing'. While such was the original significance of the word, in the course of time it came to mean not only all legitimate, but also, and more commonly, all illegitimate forms of canvassing. But as the favorite illegitimate means of securing votes was bribery (largitio), there grew up in the public mind such a close association between the terms ambitus and largitio that they virtually became synonymous; (cf. Cic. de orat. 2-105: ut possis liberalitatem atque benignitatem ab ambitu atque largitione seiungere). This close association of ideas is in large measure evidenced by the fact that most of the legislation in regard to ambitus was directed against bribery; (cf. Fest. p. 5: crimen avaritiae vel affectati honoris; Isidor or. V-26: qui largitione honorem capit et ambit). However, there were several other illegal practices

which received the attention of Roman legislators. As they too come within the scope of our discussion, it will be desirable to use the term ambitus in the more general sense of denoting corrupt practices at elections.

If we may accept the authority of Livy in this connection, the practice of soliciting votes antedates the establishment of the Roman republic. Tarquinius Priscus is said (Livy I-35) to have been "the first who canvassed for the crown and made a set speech to win over the affections of the plebs." The example set by him was followed by Tarquinius Superbus. According to Livy's account, the latter, "driven on by the frenzied instigations" of his wife Tullia began to exert all efforts to secure the throne then held by Servius. It is interesting to note the methods which he employed. Livy (Bk. I-47) states in part, "that he began to go around and solicit the patricians, especially those of the younger families, reminded them of his father's kindness and claimed a return for it; enticed the young men by presents, increased his interest, as well by making magnificent promises on his own part, as by inveighing against the king."

The primitive canvass of Tarquinius Superbus, interesting as it is, stands out in marked contrast to the elaborate canvasses of the politicians of Cicero's time. The remarkable growth of the art of electioneering was due

chiefly to six factors, which it will be well to consider briefly before we proceed to picture the conditions at elections during the time of the famous orator and pleader. These factors were: (1) the popular form of elections; (2) the limited tenure of office of the magistrates; (3) the increase in population; (4) the honors and privileges of the consulship; (5) the establishment of the promagistracies; and (6) the lack of a quick means of disseminating news.

After the establishment of the republic in 509 B.C., the supreme direction of the state was in the hands of the two consuls, who were elected annually by popular vote. The popular form of government and the limited tenure of office led to a keen interest in the elections on the part of voters and candidates. Moreover, when the plebs had formed a distinct estate at Rome and the population had greatly increased, greater efforts had to be put forth by the candidates to secure election. The office for which candidates made the most strenuous efforts was the consulship, for this was the highest goal of political ambition. Election to this office brought with it honor and many desirable privileges. With their establishment, new political opportunities were opened up, especially for unscrupulous office holders. To such men, assignment to a province, especially

to a rich one like Asia or Sicily, after the consular year of office, meant the opening of a way to wealth and power at the expense of the unhappy provincials. The lack of a quick means of disseminating news was one of the most important factors in developing the art of electioneering. Roman candidates, unlike the office seekers of modern times, were not fortunate enough to have the aid of the press in furthering their candidacy. They were, therefore, obliged to depend mostly upon their individual efforts in securing office. These various considerations led to such zeal among candidates that every possible means was employed to gain the votes of the citizens. When the legitimate means did not suffice, then recourse was often had to the illegitimate.

There is scarcely a single Roman writer of late republican times who has not something to contribute toward our knowledge of the methods and practices at elections during Cicero's time. However, it is from Cicero's correspondence that our best information in regard to these matters is obtained. The best connected account we have of these methods and practices is to be found in the 'hand book of electioneering' written in form of a letter by Quintus Cicero to his brother Marcus Cicero. The book is entitled 'Commentariolum Petitionis' (de petitione consulatus ad M. Tullium fratrem). Its temporary purpose was to assist

Marcus Cicero in his canvass for the consulship. But it was also intended to serve as a kind of official guide book for all future aspirants to public office. It sets forth the proper methods of furthering one's candidacy, and also gives some broad indications of those methods which were improper. From this 'hand book' and from various other sources, we are able to obtain a pretty accurate picture of the Roman candidate of Cicero's time as he went about canvassing for office.

A candidate intending to sue for office declared his intention by submitting his name to the magistrate who was to preside at the election. It was the duty of the magistrate to pass upon the eligibility of the candidate. As it was desirable to know before the election what action the magistrate would take, it became the custom to ascertain his attitude beforehand. The practice of making a preliminary announcement of one's candidacy (professio) and the desire to prevent the introduction of new candidates at the last moment resulted in the passage of a law, probably in 98 B.C., that the professio had to be made 17 days before the election.

After the professio came the petitio, the 'seeking for office'. Though technically limited to the time between the announcement of one's candidacy and the elections, it was the custom during the last years of the republic to begin

the canvass at least a year before the elections. We find Cicero beginning to canvass on the 17th of July, 65 B.C. for the consular elections of 64 B.C.

A candidate was called petitor; his opponent with reference to him, competitor. The term candidatus, which was synonymous with petitor, was applied to the candidate from the fact that he was wont to appear in public places clad in a newly whitened toga. The 'whitening' was accomplished by the application of chalk. The purpose of the whitened toga was to make the candidate more conspicuous; (cf. Isid. orig. XIV-24. 6, toga candida eademque cretata in qua candidati, id est magistratum petentes, ambiebant; addita creta, quo candidior insigniorque esset).

Canvasses were conducted on an elaborate scale. The candidate arrayed in his white toga went about the Forum or other frequented places, accompanied by a large number of friends deductores or followed by the poorer citizens sectatores, who, in no other way, could show their good will or lend their assistance (Cic. Mur. XXXIV). It was the usual practice of those seeking for office to address by name the persons whom they met. To assist them in doing this they were accompanied by a nomenclator who was commonly a slave with a wide acquaintance and a good memory for names

(Cic. Mur. XXXVI). The salutation was accompanied by a shake of the hand prensatio. The forms of attention employed by Roman candidates bear a marked similarity to those used by the present day politicians and they were no doubt equally effective in gaining the good will of the voters. In his efforts to secure the favor of the people, the Roman candidate, no less than the candidate of today, exerted himself to the utmost, even to the extent of lowering his dignity to associate with his inferiors. In Livy (Bk. IV-6) we read of a contest which took place between the patricians and plebeian candidates for the consular tribuneship. "The tribunes of the plebs came forward as candidates and began to bustle about the Forum canvassing for votes. The patricians were at first deterred from seeking election, as in the exasperated mood of the plebeians they regarded their chances as hopeless, and they were disgusted at the prospect of having to hold office with these men. At last, under compulsion of their leaders, lest they should appear to have withdrawn from any share in the government, they consented to stand." We read (Liv. V-30) that, on another occasion, when a certain proposal was being put to vote, the senators, old and young, came down in a body to the Forum. They dispersed among the tribes, and, each taking his fellow-tribesmen by the hand,

implored them with tears not to desert the fatherland for which they and their fathers had fought so bravely and so successfully.

Mention was made in the preceding paragraph of the fact that in making his 'rounds' the candidate was attended by his friends. Quintus Cicero, in the 'Commentariolum Petitionis', emphasizes the importance of having a large number of acquaintances. He urges his brother not only to exert himself to retain the friends already acquired, but also to seek new friendships even with the humblest. He classifies the friends to be sought as follows: (1) Senators and knights, whose friendship was largely for show; (2) active and popular men of all orders; (3) men of the city of good business habits; (4) freedmen.

Another matter of great importance to the candidate, according to Quintus Cicero, was the securing of the good will of the people. This was a matter which naturally played no small part in the elections. Various means were employed by candidates to win popular favor. Some of the less pretentious means have already been alluded to. Cicero in a large measure gained the friendship of the people through his ability as an orator and a pleader. Pompey won his way into popular favor by his military exploits, for to gain renown in

war was one of the quickest and surest ways to win political office. But not everyone was an eloquent speaker or a successful pleader; and only a few became great generals. Hence other means had to be employed to win the good will and the votes of the electors. Of the legitimate means employed to conciliate the people, the most common and the most effective were the giving of public games or shows and of public dinners.

Gladiatorial shows were a popular form of amusement at Rome. It is not known when they were introduced as a mere pastime. It has been conjectured that it was about 154 B.C. and that the aediles who had charge of the public games set the fashion. Previous to that time they had been employed chiefly at funerals. The practice of giving shows and games continued during the later years of the republic and under the empire. Cicero says that nothing brought greater crowds together. "The people preferred these shows to listening to speeches; and even the excitement of the election, when money circulated freely in bribery, had less charms for a Roman than the spectacle of men killing one another." (Long, Rom. Rep. Vol. III, p. 32 ) So common was the practice of giving spectacles that some eminent men went to the expense of erecting regular booths in the circus for the sake of their own tribesmen (Cic. Mur. XXXV). As the aediles had charge of the public games, it became customary for them to vie with

each other in making these as magnificent as possible. This they did to insure the good will of the people for the future when they should seek for higher offices. The aedile who was sparing of expense at the games could little hope for further political recognition. Realizing this fact, ambitious men would frequently go into great debt rather than to be put away upon the political shelf. The unheard of splendor of the games which Caesar gave when aedile caused the people to open their eyes in astonishment; but it put Caesar in debt to the extent of more than one million dollars.

The other popular form of winning favor in the eyes of the people - the giving of public dinners - would naturally appeal to many. The poor voter especially would be glad of the opportunity to secure a meal gratis. The wealthy candidate on the other hand probably felt that he was securing votes at a small cost. We are told that Crassus, following Sulla's example, made a great festival in honor of Hercules, and feasted the voters of Rome at ten thousand tables. But whether there were ten thousand tables or not, we may be sure that the expense of entertaining the voters was not a small one. Moreover, he gave the people an allowance of grain for three months. While this benefaction was chiefly intended to win over the good will of the poor, yet there were undoubtedly many of the rich who did not think it beneath their dignity

to take advantage of Crassus' generosity.

During the last years of the republic, canvassing was carried out on a large and systematic basis. This was especially true if the candidate was particularly fortunate in regard to birth, wealth, and rank. In that case, he could set in motion a vast political machine which had as its head some noble coterie at Rome (sodalitas). The instruments through which this coterie worked were the interpretes, divisores, and sequestres each of which took charge of a portion of a tribe. The means which they employed were not necessarily illegitimate though the word divisores was frequently associated with bribery. The operations of a candidate were not limited to Rome. Cicero in a letter to Atticus tells of his intention to visit the towns of Cisalpine Gaul for the purpose of furthering his interests as a candidate for the consulship.

Thus far, our discussion has mainly dealt with the legitimate methods of soliciting votes. Illegitimate methods, however, were extensively employed, particularly in the declining years of the republic. Some of these consisted in the abuse of proper means of soliciting; while others were instituted for the specific purpose of corrupting elections.

Of the former kind was the hiring of escort gangs

sectatores. The illegality of the method employed consisted in the hiring of these persons (Cic.Mur.XXXIII). Another of the same type was the abuse of the privilege of giving dinners. The exhibition of shows was in itself a legitimate way of courting popular favor, but this means had become so perverted that it was necessary to pass a law forbidding the giving of shows within two years before the announcement of a candidacy. One plebiscitum of questionable historicity was directed against the whitening of the toga. Another law was enacted for the purpose of limiting the activities of the candidates to Rome. All these various forms of improper canvassing will again receive consideration in the discussion of the legislation in regard to ambitus.

At this point it will be proper to consider certain forms of organizations which played an important part in the elections at Rome, chiefly during the later years of the republic. These were the collegia and the sodalicia. Not all of these became identified with political activities. In fact, only a few owed their origin to such activities. There were various kinds of unions, guilds, associations, and clubs in Rome, some of them of great antiquity. There were religious organizations (collegia templorum); also guilds of workmen and artisans such as the 'collegia pistorum', the

companies of bakers; 'collegia navicularium' or companies of ship and boat owners. Societates were partnerships formed for various purposes such as for farming the public revenues, working of gold mines, silver mines, etc. Some associations (sodalicia) were organized for social purposes. It was the latter kind in particular which became identified with corrupt practices at elections.

These various guilds and clubs could easily be employed for political purposes. They were a favorite means of the nobility to secure the election of their candidates. The candidate who had the backing of such organizations had a comparatively easy time to secure election. Pompey and Crassus were assisted by such clubs when they sought the consulship. The sodalicia carried on their work through agents (interpretes, divisores, sequestres) who marked out the several tribes into smaller portions and in this manner carried out a complete system of corruption. The distribution of the members of a tribe was called decuriatio (Cic. Planc.c.18). When bribery was employed, the interpretes would make the bargain with the voter; the sequestres, hold the money; and the divisores, distribute it. This was done to make detection more difficult.

That harmony did not always prevail between clubs is shown by a passage in the history of Dio Cassius. In speak-

ing of Caesar's canvass for the consular office at Rome he says: "Here he courted Pompey and Crassus and the rest so skillfully that though they were still at enmity with each other, and their political clubs likewise, and though each opposed everything that he learned the other wished, he won them over and was unanimously appointed by all." (Dio XXXVII-54).

Of the illegal means employed by candidates which were instituted for the specific purpose of securing election, there was the form of ambitus known as coitio. A coitio consisted in the formation of a league or compact between candidates of like interests for the purpose of aiding each other and of crushing their competitors. As this phase of ambitus will be more fully discussed in connection with the legislation against coalitions, it will be sufficient at this point to state that such combinations were extensively employed and were of considerable antiquity.

The favorite illegitimate means of soliciting votes, as we have already noticed, was bribery. The numerous enactments against this evil bear witness to its prevalence. It had been in use from the earliest times. Through bribes the decemvirs had prevented the opposition of the young nobility (Liv. III-36). By the same means the tribunes had been persuaded to betray the interests of the people (Liv. IV-13).

While so corrupt did Rome seem in the eyes of Jugurtha that he exclaimed: "Venal city! Doomed to perish quickly could but a purchaser be found!" (Liv. Epit.64). It was by openly distributing money among the tribes that Marius had secured his fourth consulship (Liv.Epit.69).

But it was during the last few decades of the republic that bribery at elections was at its height. By the distribution of bribes, C. Calpurnius Piso and M'. Acilius Glabrio were enabled to become consuls for the year 67 B.C. In the following year P.Cornelius Sulla and P. Autronius purchased their election to the consulship. They were, however, convicted of bribery, and forced to resign from office. In the year 60 B.C. Caesar was a candidate for the consulship. He had considerable influence but no money to buy votes. He therefore made an arrangement with L. Luceius, also a candidate for the consulship, whereby the latter in return for Caesar's influence was to furnish the necessary money for the election. The optimates, who were afraid of Caesar, especially if he should obtain as a colleague one who would do as he wished, resolved to support Bibulus. The latter was urged to bid as high for votes as Luceius. Since many of the nobles furnished Bibulus with money to carry on his canvass he proved to be a successful bidder. The result was that Caesar and Bibulus were elected; while Luceius

held the empty sack (Plut. Cato c. 31; Sueton. Caesar 18, 19). The use of money was carried to such an extent in 54 B.C. that everyone of the candidates for consulship that year was indicted for bribery (Cic. ad Q. fr. III, 2, 3; ad Att. IV, 17, 2).

The foregoing illustrations serve to give us some idea of the extensive use of bribery at elections. That the political conditions during the last decades of the republic were bad, no one can deny. But it is a mistake to assume that the large majority of the voters were corrupt. The existence of the various enactments against bribery is enough to show that there was a large number of honest Roman citizens even during the turbulous times of the late republic; for, without their assistance, legislation against bribery would hardly have been possible.

When we turn our attention from the activities of the candidates before election to the elections themselves, we come to one of the most interesting phases of Roman public life. But as it is not our purpose to consider all the varied features presented by Roman elections, we shall merely discuss those which stood in a vital relation to the success or non-success of the candidates. Our discussion will be confined to three features of Roman elections: (1) the auspices; (2) the tribunician activities; (3) the voting.

One of the most striking things in connection with Roman elections is the constantly recurring religious element presented by the auspices. All elections and appointments to the originally patrician offices had to be auspicated. The duty of taking the auspices belonged to the presiding magistrate. Great care had to be exercised in the performance of this duty, for a single mistake was sufficient to vitiate the whole business in hand. Thus we are told that two consuls were forced to resign after they had been in office for three months because the presiding magistrate had not selected his position rightly for taking their auspices (Liv. IV-7). On another occasion, a flaw in the election made it necessary for the consular tribunes to give up their office (Liv. V-17). Whenever a defect (vitium) in the election of a magistrate was discovered, it was customary for the senate to ask the magistrate to resign; and only one possessed of a bold spirit like that of C. Flaminius would venture to remain in office contrary to the expressed wishes of the senate and in opposition to the religious feeling of the people (Liv. XXI-63).

The will of the gods could be ascertained directly by the auspices (auspicia impetrativa), as in the foregoing instances, or by unsought manifestations (auguria oblativa).

The latter also played an important part in elections. Though the magistrate might have received a favorable response through the auspicia impetrativa, he might still be confronted with prohibitive auguria oblativa. Evil omens were of various kinds. When, on one occasion, the dictator had called the curiae to pass an order respecting the lex de imperio the Curia Fautia was the first to vote (principium). But this curia was ill omened because it was the principium at the time the city was taken by the Gauls and again when the Romans suffered the disastrous defeat at Caudine Forks. So, at this time, it was necessary for the dictator to adjourn the meeting (Liv. IX-38). A case of epilepsy also required the adjournment of the assembly, "and for this reason the malady was called the comitial sickness." (Rom.As.p.112). The chief oblativa in Cicero's time were the signa caelestia, i.e., the manifestations from the sky.

It was 'sky augury' that made possible some of the disgraceful and, at times, farcical electoral proceedings of the late republic. The mere announcement that a certain magistrate would observe the sky was generally sufficient to cause the postponement of an electoral assembly, for a magistrate who undertook to watch the sky for ill omens was sure to find them. Even while an election was in progress

the announcement of an ill omen (obnuntiatio) was a convenient means to block further action on the part of the assembly. Thus, at an election in which Dolabella was one of the candidates, Antony, who was both consul and augur, seeing that the majority of votes were being cast for Dolabella, pronounced the augural formula and dismissed the meeting. The fact that Antony had previously boasted that he would prevent this candidate's election through augury shows that the obnuntiatio in this case was probably a mere fabrication.

Others besides the magistrate could report ill omens, but the presiding officer used his discretion in acting upon them. Once Cato and his companion Ateius had been shut out from an assembly. Undaunted by this circumstance they climbed upon the shoulders of some of the bystanders and being lifted up by them, declared an omen directing the meeting to break up. But the attendants of the tribunes drove them both out (Dio.XXXIX-35). The practice of observing the sky was carried to such an extent that in 57 B.C. Milo declared that he would watch the sky on all the comitial days. It was he who served the notice of obnuntiatio upon the consul Metellus as the latter was stealing hurriedly before sunrise to the Campus to hold the elections.

The activities of the tribunes played an important part at elections and were manifested in many ways. The variety of their activities was made possible by the different powers which they possessed. Not only could the tribunes exercise the obnuntiatio, a right conferred upon them by the Aelian and Fufian laws of about 154 B.C., but they wielded an even greater power in possessing the intercessio,- the right to veto various official actions. By its means they could prevent elections from being held or could cause them to be postponed after the electoral comitia had already assembled. Sometimes the tribunes stood as one body as representatives of the people against the nobility; sometimes they were the mere tools of the latter to be employed against the plebs. Again they were frequently divided, one against the other. In the latter case, tense situations leading to violence and bloodshed would often arise. In 53 B.C., the tumults at elections were so great that it was fully six months before Calvinus and Messala could be appointed consuls. Even then they would not have been appointed had not Quintus Pompeius Rufus, who was serving as tribune, been cast into prison by the senate (Dio XL -45). In 54 B.C. the elections could not be held at all because of bribery and violence.

We would not be justified in placing the responsibility for all the disturbances at elections upon the tribunes; yet we may confidently assert that they were the greatest distributing factor at elections from the early times when they obstructed the electoral assemblies to thwart the designs of the patricians to the last days of the republic when they so frequently carried out their own selfish purposes or served as mere tools for some powerful party chief. Pompey had his Gabinius; Caesar, his Curio; while "Clodius fought or professed to fight in succession for the ruling democracy, for the senate, and for Crassus."

Voting in Cicero's time was carried on by the ballot, which had been in use in the electoral assemblies since 139 B.C. In that year the lex Gabinia tabellaria was passed. Previous to its enactment the voting had been open (palam). The measure had been introduced by the tribune Q. Gabinius to free the voters from the influence of the nobility. Many of the voters were poor owing to the bad economic conditions of the time; and their poverty was used as a means of making them politically dependent upon the rich. The secret ballot, while it alleviated many of the evils attendant upon voting, did not entirely do away with them. In this connection we may well quote Botsford (Rom.As.p. 389) who, in discussing the matter, says: "The optimates had greatly impaired the

value of the secret ballot through the custodes tabellarum, who stood on the pontes as well as by the boxes (cistae) to keep watch over the voting. They were often influential men - in elections selected by the candidates - who used their influence with the voters, especially of the principium or the prerogative century, thereby maintaining for the aristocrats a high degree of control over the comitia in spite of the ballot laws. For this reason C. Marius when tribune of the plebs carried an act for making the pontes narrower that there might be room on them for the voters only. The politicians, however, soon found means of circumventing this law as well as the use of the ballot."

In the passage just quoted, Botsford speaks of the influence used especially with the voters of the prerogative century (principium). The principium was the century chosen by lot to cast the first vote. When this was announced the rest of the centuries voted, As these frequently took their cue from the vote of the principium it can readily be seen why candidates should endeavor to exert their influence upon the latter. The balloting continued until a majority of votes had been cast for any candidate, but a candidate's election was not valid until a formal announcement (renuntiatio) of the result had been made by the presiding officer

(Abbott, Rom.Pol.Inst.p. 171). The voting might be suspended by the announcement of an ill omen, in which case the meeting adjourned. Sometimes the president arbitrarily dismissed the assembly. Sometimes Roman citizens were unable to get to the polls at all because of the armed bands which blocked their way.

Now that we have considered some of the various aspects of Roman elections and have dwelt upon the methods of canvassing employed, we are in a better position to understand the legislation of the Romans with reference to ambitus, - the topic to be discussed in the second part of this paper.

## PART II.

If Livy's account may be trusted, legislation in regard to ambitus began in the first century of the republic. The first enactment was a plebiscitum of the year 432 B.C. the purpose of which was to do away with the abuses of canvassing (tollendae ambitionis causa). The manner in which this was to be done is indicated by the provision of the law which forbade candidates for office to whiten their garments (ne cui album in vestimentum addere petitionis causa liceret. Liv. IV-25).

To what extent Livy's statements in regard to this enactment coincide with historical facts, it is impossible to determine. Botsford questions the historicity of the law (Rom. Assemb. p. 295; also note on same page). The alleged enactment of the law is suspicious because Livy himself states that the first lex de ambitu was enacted in 358 B.C. (Liv. VII-15). Furthermore, it is difficult to reconcile the prohibition in regard to the practice of whitening the toga with the same but legitimate practice of later times. However, the consideration of the alleged law and of the circumstances leading to its enactment will not be without profit, especially since it has to do with the use of

the toga candida.

Livy's account of the legislation is an interesting one. "The leaders of the plebs finding that their cherished hopes of higher dignity were futile as long as there was peace abroad got up meetings in the houses of the tribunes where they discussed their plans in secret. They complained that they had been treated with much contempt by the plebs, that, though consular tribunes had now been elected for many years, not a single plebeian had ever found his way to that office. They complained, moreover, that they were looked down upon by their own people quite as much as by the patricians. Others threw the blame upon the patricians, for it was because of their unscrupulous cleverness in pushing their canvass that the path to honor was closed to the plebs. The plebeian leaders maintained that if their people were allowed a respite from the menaces of the patricians, they would think of their own party when they went to vote, and by their united efforts would win office and power." (Liv. IV-25; from Robert's translation, with a few changes and omissions.)

Such were the circumstances that led the tribunes to propose the law prohibiting the whitening of the toga. In commenting on this legislation, Livy remarks, "To us now the matter may appear trivial and hardly worth serious mention, but at that time it kindled a tremendous conflict

between patricians and plebeians." From Livy's statements we may infer that the law was the result of plebeian agitation and was intended to restrain the electioneering activities of the patricians. The fact that they were now prohibited by law from wearing whitened togas would, of course, make the patrician candidates less conspicuous than before. But it is difficult to understand how this circumstance would better the chances of the plebeian candidates to secure office unless previous to the passage of the law they for some reason did not have the same opportunities for appearing in whitened togas as did their patrician competitors.

Livy's account implies the use of the toga candida at a very early period of the republic. Outside of this passage of Livy, the oldest evidence for the use of the toga candida is, according to Mommsen, that of Polybius a.a.O.p. where he speaks of its use by the elder Africanus in his canvass for the aedileship in 213 B.C. To his statement he adds, "for this is the custom of those seeking for office" (τοῦτο γὰρ ἔθος ἐστὶ τοῖς ἀρχὰς μεταπορευομένοις )

In speaking of the candidacy of A. Fulvius Flaccus for the praetorship in 184 B.C., Livy says, "though he did not appear in the toga candida, because he was curule aedile elect, yet solicited the office with the greatest zeal of all" (is,

quia aedilis curulis designatus erat, sine toga candida, sed maxima ex omnibus contentione petebat. Liv. XXXIX-39).

The difference between the toga candida and the ordinary toga was not one of color but of brilliance. For this reason Polybius (10,4,8) calls the former *τήβεννα λαμπρά* 'brilliant toga'. The brilliance of the toga candida was given by applying some preparation of chalk. Isid.orig.XIX-24, 6). It is for this reason that Persius (Sat.V-177) speaks of a canvass as 'cretata ambitio'.

Whatever may be the truth about the authenticity of the plebiscitum of 432 B.C., there is no evidence to show that the law was ever enforced. Furthermore, the peculiar provision in regard to the whitening of the toga was never incorporated into any subsequent lex de ambitu. It is also worthy of note that no mention is made of any penalty being provided for failure to observe the law. In the latter respect it was like the lex de ambitu of 358 B.C. which we have already mentioned.

The latter law is generally known as lex Poetelia de ambitu from the name of C. Poetelius the tribune of the plebs who was responsible for its enactment. It was passed the same year that the number of tribes at Rome had been increased to twenty seven by the addition of two new tribes, Pomptina and Publilia. The continued increase in population has already been mentioned as one of the factors which

had a tendency to further the use of improper methods of canvassing. The Poetelian law itself gives evidence of the wider range of activities employed by the candidates of that time. Indeed, it would seem strange if the experiences of the previous two hundred and fifty years had not taught the politicians of this period some new methods of courting popular favor.

The lex Poetelia was directed against those candidates who were accustomed to visit the markets and meeting places outside of Rome for electioneering purposes. According to Livy, it was particularly intended to check the activities of the 'new men' novi homines (eaque rogatione novorum hominum ambitionem qui nundinas et conciliabula obire soliti erant, compressam credebant). In regard to this matter, however, Botsford states, "The motive . . . which Livy attributes to the author - to prevent the further enlargement of the patricio-plebeian nobility through the admission of new men - was hardly possible at this early date." (Rom. Assemb. pp. 396-397.) In this he may be right. In later times, however, the mere fact that a man was a 'novus homo' was a tremendous handicap to him when he aspired to public office. Those who succeeded in being elected in spite of this handicap were com-

paratively few. Two of the more notable exceptions were C. Marius and Cicero. The last mentioned always prided himself on having attained the highest honors of the state despite his humble origin.

Though the ostensible purpose of the law was to limit the electioneering activities to Rome, it seems to have been no more effective in accomplishing its purpose than the alleged plebiscitum of 432 B.C. in preventing the use of the toga candida. To what extent candidates carried on their canvass outside of Rome at the time the Poetelian law was passed, we are unable to say. It is not likely, however, that there was very much canvassing done outside of the metropolis. Rome remained for a long time a city-State; and, as the elections were held in Rome, it was but natural that candidates for office should expend their greatest efforts there. But as the city-State expanded and more colonies and municipia were established, it became desirable for office seekers to extend their activities to reach the voters of the outlying districts. We have already mentioned the fact that Cicero in canvassing for the consulship planned to visit the towns of Cisalpine Gaul. Cicero's own words in regard to his proposed visit are contained in a letter to Atticus (ad Att. 1, 1,2) in which he says: ". . .as Gaul

seems to have a good many votes, as soon as business at Rome has come to a standstill I shall obtain a libera legatio and make an excursion in the course of September to visit Piso, but so as to be back not later than January." In speaking of the canvass of Antony, he says: "You, who fancied yourself a master of the horse when you were standing for, I should rather say begging for, the consulship for the ensuing year, ran in Gallic slippers and a barbarian mantle about the municipal towns and colonies of Gaul, from which we used to demand the consulship when one used to stand for it and not beg for it" (Phil.2, 30, 76). Likewise, in the year 44 B.C., Caesar visited the municipia and colonies of his province that he might further his interests as a candidate (B.G.VIII-50).

As far as ineffectiveness is concerned, the Poetelian law finds its counterpart in the vain attempt made in the year 314 B.C. to put down the coalitions (coitiones) which had been formed for the purpose of monopolizing the public offices. As we have already explained, a coitio consisted in the formation of a league or compact between candidates of like interests for the purpose of aiding each other and crushing their competitors. The dictator C. Maenius was authorized by the senate to conduct an investigation of these

coitiones, which had so extended their operations as to seek to attain all the offices of the state (Liv. IX-26).

Maenius began his task, but soon learned how firmly established these coalitions were. His investigation roused the ire of the nobility. Some of them were implicated in the evils which had called forth the investigation. But whether implicated or not they all stood together as one body and opposed the efforts of Maenius to punish the guilty. More than that; they even ventured to accuse the dictator himself of being guilty of the very thing against which his edict was directed. They demanded that he resign from office so that they might prosecute him. The dictator, relying on his innocence, yielded to their demands, was tried, and acquitted. In concluding his story, Livy states that the investigation was finally repressed by the very coalitions and factions against which it was directed.

The use of coalitions and agreements of various kinds between candidates is well attested by Roman writers. Livy records (Liv. III-64) an instance where even as early as 449 B.C. the tribunes of the plebs came to a secret understanding that they should all be reappointed. To prevent their factious purpose from being too noticeable they were to secure a continuance of the consuls in office also. However, the plot

failed chiefly through the efforts of M. Duillius who presided over the elections. In an address to his soldiers in 343 B.C., M. Valerius Corvus thus speaks of himself: "It was not by factions (merely) nor by coalitions usual among nobles, but by this right hand that I procured for myself three consulships and the greatest praise" (non factionibus (modo) nec per coitiones usitatas nobilibus, sed hac dextra mihi tres consulatus summanque laudem peperit). An instance where the nobility attempted to crush a candidate is shown in the canvass of M. Porcius Cato for the censorship in 184 B.C. The story is found in Livy (Liv.XXXIX-41). In telling the story, Livy says: "On this occasion, when he (Cato) was a candidate for the censorship, as in all his previous career, the nobility endeavored to crush him. All the candidates likewise, except Lucius Flaccus, who had been his colleague in the consulship, combined to disappoint him of the office, not merely with a view to their own success, in preference to him, or because they felt indignant at the idea of seeing a man of no family censor, but because from one who had received offense from most of them, and who wished to retaliate, they anticipated a severe censorship that would endanger the reputation of many." It is interesting to note that in spite of the opposition of the nobility Cato was elected.

The foregoing instances have been given to show the prevalence of coalitions during the earlier history of the republic. A few passages taken from the correspondence of Cicero will reveal something of the nature of these coalitions during the lifetime of the orator. In a letter written to Atticus in 54 B.C., Cicero speaks of a coalition which was formed by the consuls between Memmius and Domitius "on terms", Cicero says, "that I do not dare to commit to paper." Further on in the same letter he says, "Messala's chance is at a low ebb: not because he is wanting in spirit or friends, but because this coalition of the consuls, as well as Pompey's opposition, stands in the way." In the next sentence but one he continues, "The tribunician candidates have taken oath to conduct their canvass according to the direction of Cato. They have deposited with him 500 sester tia apiece on condition that whoever Cato condemns shall forfeit it, and that it shall be paid to one of his competitors." In another letter to Atticus (Cic. ad Att. Iv-17), we are told that the consuls were "in a blaze of infamy" because Gaius Memmius, one of the candidates, read out in the senate a compact which he and his fellow candidate had made with the consuls. Commenting on the matter, Cicero says, "It made no difference to Appius (one of the consuls) - he had no character to lose. To the

other consul (Domitius) it was a real knock down blow; and he is, I assure you, a ruined man. Memmius having dissolved the coalition has lost all chance of reelection, and is in a worse position than before because he was informed that the revelation was disapproved of by Caesar."

The last excerpt from Cicero's letters indicates that coalitions, in spite of their prevalence, existed contrary to public sanction and that anyone who affiliated with them did so at the risk of being ruined politically. That such was the case is further indicated in a letter of Cicero to his brother Quintus (Cic. ad Q. fr. III-1). In this letter he makes a vigorous protest against the report that had come to Quintus that Marcus was a party to the coalition of the consular candidates. His own attitude is expressed as follows: "You say that you have been told that I was a party to the coalition of the consular candidates - it is a lie. The compacts made in that coalition, afterwards made public by Memmius, were of such a nature that no loyal man ought to have been a party to them. Nor at the same time was it possible for me to be a party to a coalition from which Messala was excluded, who is thoroughly satisfied with my conduct in every particular, as also, I think, is Memmius."

The foregoing illustrations serve to give an idea of the extended use of coalitions and of other forms of collusion during republican times, - the use of which, legislation seems to have been powerless to check. The futile efforts of Maenius in that direction have already been discussed. After his time we do not hear of any further legislation in regard to ambitus until 181 B.C. when a new lex de ambitu was passed.

The period between the promulgation of the edict of Maenius in 314 B.C. and the law of 181 B.C. is a rather long one. It is possible, therefore, that during this interval there was some legislation in regard to ambitus of which we have no record. It is a significant fact that a part of this period coincides with the historical gap occasioned by the loss of Books XI - XX of Livy.

The lex de ambitu of 181 B.C. is commonly known as lex Cornelia Baebia. It was proposed by the consuls P. Cornelius Cethegus and M. Baebius at the direction of the senate (et leges de ambitu consules ex auctoritate senatus ad populum tulerunt. Liv. XL-19). It is probable that the plural form "leges" refers to the separate provisions of the law. All that Livy has to say about the law has already been quoted. Botsford, Heitland, and others, however, state that the penalty for anyone convicted under the law was exclusion

from office for ten years. The evidence for this is somewhat meager; (cf. Schol. Bob. 361). It is probable, however, that it was of this law that Cato the Elder spoke; (cf. Non. p. 470; Fest. p. 282). In that case it would appear that the law was directed against bribery. If so, it was apparently the first enactment against the evil which was so prevalent during the last century of the republic. Previous legislation had attempted to restrain the activities of candidates along other lines.

The lex Cornelia Baebia does not seem to have accomplished anything. It was followed in 159 B.C. by another consular lex de ambitu of Cn. Cornelius Dolabella and M. Fulvius Novilius. Livy's mention of this law is brief; lex de ambitu lata. From a remark of Polybius (VI-56) that bribery at elections was a capital offense, some scholars have been led to believe that the penalty imposed by this law was death. Botsford, after making the statement (Rom. Assemb. p. 348) that this law increased the penalty to death, adds, "Practically the punishment is exile." Strachan-Davidson on the other hand remarks: "In the free discretion of the magistrate to name whatever punishment he pleases for any offense is to be found the only probable explanation of the statement of Polybius that to win an office by bribery is a capital crime.

In view of the extreme mildness of Sulla's law . . . it is impossible to suppose that there was in the previous generation any positive law ordaining the punishment of death for that offense. That tribunes had from time to time instituted a capital crime against some persons suspected of it, is, however, quite likely, for the 'tribunician criminal procedure' as Mommsen says elsewhere, 'extended itself over the whole sphere of State trials'" (Prob. of Rom. Crim. Laws. Vol I, p. 106). Because of this passage also, Mommsen thinks he is justified in adding bribery at elections to the list of capital crimes recognized in the Twelve Tables. But it is not likely that the words of Polybius are to be taken literally.

In 149 B.C., by the enactment of the Calpurnian law, the first standing court of Rome was established. This permanent court was authorized to try all magistrates who had been guilty of peculation in office. Hence it was known as quaestio (perpetua) de (pecuniis) repetundis. The establishment of this court was the first step toward the organization which Sulla made in the next century of a fairly complete judicial system. One of the results of Sulla's reform was the establishment of a quaestio de ambitu to try those candidates who were accused of using unlawful means to secure office.

The lex Calpurnia, though not directed specifically against bribery, was, nevertheless, almost the direct outgrowth of bribery. The court established by this law was authorized to try those magistrates who were guilty of extortion in the provinces. Now it is a significant fact that the magistrates who plundered the provincials did so largely because they wished to reimburse themselves for the expenses incident to their election. In many cases the largest item of expense was incurred by the buying of votes.

Among the laws of this period (2nd. cent. B.C.) which had an indirect influence upon ambitus was the lex Villia (180 B.C.) which fixed the age at which candidates might sue for office. The lex Gabinia of 139 B.C. provided for secret balloting at elections. Previous to that time the voting had been open. The lex Cassia of 137 B.C. made the same provision for the meetings of the comitia as a judicial body, while the lex Papiria provided for a secret ballot for the comitia as a legislative body. These various laws were intended to check some of the evils attendant upon elections, but the shrewd office seeker of that time knew as well how to evade the law as the 'gum-shoe' politician of the present time.

It has been conjectured with great probability that a lex Cornelis de ambitu was an enactment of the dictator Sulla.

If the only direct mention of a Cornelian law (Schol. Bob. Orelli, onomasticon III-147) does refer to Sulla and not to some other Cornelius, the penalty consisted in a disqualification from office for ten years. This penalty is the same as that provided apparently by the lex Cornelia Baebia of which we have already spoken.

The Cornelian law evidently did not suffice, for we read that in 67 B.C. a new lex de ambitu was passed (Dio XXXVI-21). This enactment was proposed during the consulship of C. Calpurnius Piso and M'. Acilius Glabrio. Though a consular law, it was really brought about by the activities of the tribune C. Cornelius. The latter sought to have a new law passed inflicting severer penalties upon those convicted of corrupt practices at elections. The populace supported him in his efforts to secure such legislation. The pressure exerted to this end was so great that the senate took the matter in hand and instructed the consuls to bring in a compromise measure, for they deemed the proposal of Cornelius too severe.

Here was a comical situation. The consuls were asked to propose a law against bribery though it was just by such means that they themselves had secured office. Piso had won his election in 68 B.C. by the purchasing of votes. Accusers

appeared to threaten a prosecution, but he bought them off and was consul in 67 B.C. After he had served as governor of Transalpine Gaul the charge of extortion was brought against him by Caesar, but he was acquitted through the efforts of Cicero. Piso, though in an embarrassing situation, nevertheless proceeded to bring about the enactment of the law at the senate's bidding. The people were opposed to the measure, preferring the more stringent proposal of Cornelius. But Piso, with the assistance of a crowd of attendants, forced it through the assembly (Dio XXXVI -38).

The Calpurnian law provided that anyone guilty of ambitus should be forever disbarred from public office and from being a senator, and should furthermore be subject to a fine. This was the most drastic measure that had been proposed up to this time. The law seems to have been instrumental in causing action to be brought against those guilty of bribery. Not only was punishment meted out to the guilty, but the accusers themselves were honored. Thus we are told by Dio Cassius that when Marcus Cotta dismissed the quaestor Publius Oppius because of bribery and suspicion of conspiracy he was in turn accused of the same offense by Gaius Carbo. The latter was thereupon exalted with consular honors, notwithstanding the fact that he had served as tribune merely (Dio XXXVI-40).

It was through the provisions of the lex Calpurnia that P. Cornelius Sulla and P. Autronius Paetus were convicted of bribery. These men had been elected consuls in the year 66 B.C. However, a charge was brought against them of having secured their election by purchasing votes. They were accordingly brought to trial, convicted, and, in accordance with the provisions of the law, deprived of office. Autronius realizing that his political career was now closed became a conspirator, one of those who, with Catiline and Cn. Calpurnius Piso, participated in the first Catilinarian conspiracy. This incident is worthy of mention, first, because it shows that, corrupt as Rome was, the sense of civic righteousness was not altogether dead; second, because it indicates that the stigma of disgrace attached to bribery was great enough to practically preclude anyone who had once been convicted on such a charge from reestablishing himself in the public favor.

The preceding law was supplemented by the lex Fabia de numero sectatorum, a law mentioned by Cicero in his speech pro Murena (Cic. Mur. 34. 71). The date of this law is uncertain, but it was probably a plebiscitum of the year 66 B.C. (Rom. Assemb. p. 431. Note). As its title indicates, the law imposed some restriction on escort gangs. From

Cicero's speech in defense of Murena it appears that it was permissible for candidates to be attended by the poorer classes as long as they were not hired for that purpose (Cic.Mur.XXXIII, XXXIV). It was the sectatores who opposed the passage of the Fabian law as well as the decree of the senate which was passed in the consulship of Lucius Caesar (64 B.C.) (Cic.Mur.XXXIV).

The year 63 B.C. marks the consulship of C.Antonius and M.Tullius Cicero. In that year two important steps were taken to regulate ambitus. The first was accomplished when Cicero, soon after he had assumed office, had a decree passed through the senate which so extended the interpretation of the Calpurnian law as to apply to the hiring of sectatores, the granting of free seats to the tribes at the gladiatorial shows, and the giving of public dinners (Cic.Mur.XXXII-67). The second step was taken when, later on in the same year, the consuls brought forward a new lex de ambitu. To obviate any delay in securing the enactment of the law the consuls secured a dispensation from the Aelian and Fufian laws regarding the signs from heaven (Cic.Mur. 2.3, 3.5, 23.47, 32.67). The new statute increased the penalties on the divisores (Cic.Mur.23.47) and forbade anyone to give gladiatorial exhibitions within the two years preceding the announcement of a candidacy, except in the fulfillment of a will (Cic. Vat.15.37). The penalty for infringement of the law was ten

years' exile. A section of the law which had to do with the trial of the defendant contained a provision that illness would not constitute a legitimate reason for absents oneself from the trial (Cic.Mur.23. 47). The shamming of illness on the part of the accused was apparently responsible for this feature of the statute. In this year too a measure was passed which forbade candidacies in absentia; (cf.Rom.Assem. p.437. Note). Perhaps this measure also formed a part of the lex Tullia de ambitu as Botsford suggests (Rom.Assemb. p.436).

In 61 B.C. a curious proposal in regard to ambitus was brought forward by M. Aufidius Lurco, tribune of the plebs. It provided that promises of money made to the tribes should not be binding, but that the candidate who actually did pay should be liable for life to the payment - apparently annual - of 3,000 sesterces to each tribe. (Cic.ad. Att.1. 16. 12f; 18.3. Hartmann in Pauly-Wis. 1-1802). This proposal, though it never became a law, is worthy of note because it brings out quite forcibly the notion which the Romans seem to have had, that the giver, but not the receiver, of bribes should be punished. We have no evidence to show that those who received bribes were liable to punishment. All the legislative enactments against the purchasing of votes were directed against

the purchaser or his agents. One incident that occurred in 34 A.D. that might be produced to indicate that even the recipients of bribes were liable to punishment is related by Dio Cassius. He relates that Pomponius Labeo, who had once governed Moesia for eight years after his praetorship, was with his wife indicted for receiving bribes and voluntarily destroyed both her and himself (Dio 58-24). However, even if this story be true, it can hardly refer to bribery at elections.

The next act of legislation in regard to improper practices at elections was the lex Licinia de sodaliciis passed in 55 B.C. In the previous year, the famous triumvirate consisting of Caesar, Crassus, and Pompey had been held at Luca. At the conference it was agreed that Pompey and Crassus should become consuls for the year 55 B.C. Notwithstanding the fact that the consuls themselves had been elected with the help of the clubs reestablished by the Clodian law of 58 B.C., they probably considered that such associations were a menace to themselves as well as to the public peace. Accordingly Crassus carried through the assembly a lex de sodaliciis which increased the penalty for ambitus committed through the agencies of clubs (Dio XXXIX-37,1).

This was not the first time that an attempt had been made to legislate against harmful political organizations.

We have already considered the futile effort made in 314 B.C. to do away with coitiones. The collegia and the sodalicia, most of which were originally organized for entirely legitimate purposes, as we have already seen, frequently developed into powerful organizations, whose chief purpose was to corrupt the elections for the benefit of those who formed a part of the machine. The influence which they exerted on the elections was all the more baneful because of the secrecy with which these organizations carried on their extensive operations. But the collegia and sodalicia were not always content to employ secret methods in the attainment of their ends. They would sometimes resort to violence. It was because of the disorders which arose as a result of their violent practices that these organizations were suppressed, except such as were useful to the state. This was in the year 65 B.C. In the year 58 B.C. they were restored by Clodius. Additional clubs consisting of the dregs of the city and of slaves were also formed.

Besides imposing penalties upon the clubs, the Licinian law provided that the jury which was to try the candidate accused of ambitus should be made up from any four tribes which the accuser might select, no matter how prejudiced they might be against the accused. The latter was to have

the privilege of rejecting the jurors from anyone of the four tribes thus selected (Cic. Planc. 15. 36; 16. 49; 17. 41). It is difficult to conceive how the defendant could under such circumstances secure a fair trial. But considerations of justice at this time did not always enter into the framing of laws. The latter were frequently passed to serve some partisan purpose; frequently, to afford opportunity to punish political enemies as was the case when the lex Pompeia de ambitu was enacted in 52 B.C., some-time after Cato had vainly sought to secure the passing of a law which made it obligatory for all elected magistrates to defend their election before a sworn court (Phil.min.44).

The lex Pompeia de ambitu was one of a series of laws passed in 52 B.C. while Pompey was sole consul. The purpose of the law was not so much to correct the evils of bribery and allied forms of corrupt practices as to furnish Pompey additional means to wreak vengeance upon his enemies and to secure his own advancement. For this reason he had the law so framed as to be retroactive to the time of his first consulship (70 B.C.). Caesar's friends opposed the law because they feared that it would be used against their patron; and there were undoubtedly others who feared

the enactment of such a measure. Two tribunes ventured to oppose the measure, but Pompey's threat to use armed force, if necessary, was sufficient to silence them.

The new law as well as the lex de vi passed at this time made possible quicker procedure in trials de vi and de ambitu by limiting the time allowed for the speeches of the prosecution and the defense (Cic. ad Att. XIII. 49). The customary laudationes were done away with. Regulations were instituted as to the number of advocates and prosecutors and as to the election of the quaesitor. The provisions in regard to fees (praemia) were also changed; while the penalties for the infringement of the law were made more severe. Dio relates that Pompey raised up as accusers against those who practices bribery those who had formerly been convicted of such an offense; thus offering the latter no small prize. For if anyone secured the conviction of two men on charges equal to that against himself, or even on smaller charges, or if of one man on a greater charge, he went scot free (Dio XL-52). In speaking of the conviction of Plautus Hypsaeus, Scipio, and Milo, he says, "though all three were guilty of bribery, Hypsaeus alone was condemned. Scipio was indicted and by two persons at that, but was not tried on account of Pompey. Milo was not charged with this crime (for the murder formed

a greater complaint against him), but being brought to trial on the latter charge he was convicted, as he was not able to use any violence." (Dio XL-53). In reality, however, Milo was prosecuted on not less than four charges: (1) for vis under the new law; (2) for ambitus under the new law; (3) for vis under the lex Plautia; (4) for sodalicia under the lex Iulia (Heitland Vol.III p. 245).

The trial of Milo called forth a large multitude of people. The friends of Clodius were there to see if possible that Milo should not escape conviction. The defense had appealed to Pompey for protection. Troops were on hand to preserve order, while Pompey himself watched the proceedings from a point of vantage. Cicero had charge of the defense, but when he arose to speak, such a howl was raised by the friends of Clodius that the orator was completely unnerved and could only make a few feeble statements. The speech pro Milo which we now have was written by Cicero after the trial. It shows what Cicero could have done if he had been able to speak under more favorable circumstances. Milo was convicted and sentenced to exile in Massalia. While there Cicero sent him a copy of the speech which he had written after the trial, but the disappointed man received it with a sneer. During the same year (52 B.C.), Pompey had a law

passed which, though intended to put restrictions on the ambitions of unscrupulous office seekers, had the immediate effect of precipitating the conflict between Pompey and Caesar, which resulted in the overthrow of the republic. This lex de provinciis, as it was called, embodied the provisions of a senatus consultum of the year before. It ordered that five years should intervene between the expiration of a magistracy and the beginning of the corresponding pro-magistracy (Dio XL. 46-2; LVI. 1; cf. XX. 1).

The lex Pompeia de ambitu was the last legislative act directed against corrupt practices during republican times. With the establishment of the empire, elections assumed an entirely different aspect. Though the popular form of elections was still retained under Octavius it was inevitable that the new form of government should place the magistracies largely in the hands of the emperor. Yet in the year 18 B.C., Octavius found it necessary to pass a new law against ambitus. It seems to have embodied the provisions of earlier enactments. The penalty imposed was five years' incapacity to hold office (Dio LIV-16). It seems that the law was only directed against bribery. Mommsen (a.a.O. 72) has conjectured that the crimen sodalicii also from now on was treated in the same way as the ordinary ambitus. The

provisions with reference to remuneration of the accusers were reenacted. Provisions were also made in regard to laudationes.

When the elections were transferred from the people to the senate during the reign of Tiberius, ambitus in its proper sense could no longer exist. Trajan, however, was obliged to pass an ordinance directed against those who sought to win office by giving gifts to senators (Pliny.ep.VI. 19). The enactment of Octavius, commonly known as lex Iulia, applied also to the elections in the municipia and the provinces. It was, however, modified by senatorial decrees. Modestinus, a Roman jurist who wrote about the third century after Christ, thus comments on the lex Iulia de ambitu: "This law is now obsolete in the city, because the creation of the magistracies is the business of the princeps and does not depend on the pleasure of the populace; but if anyone in a municipium should offend against the law in canvassing for a sacerdotium or a magistratus, he is punished according to a senatus consultum with infamy, and subject to a fine of 100 aurei" (Dig. 48, tit.14). In the municipal charter of Malaca (about 58 A.D.) is found a provision which imposes a fine of 10,000 sesterces for every action intended to interfere with an electoral assembly. In late imperial times, the conception of ambitus had an extended application

and was punished by deportation. (Hartmannin Pauly Wissowa).

### CONCLUSION.

In the preceding pages we have considered, we believe, all the laws which dealt directly or indirectly with ambitus. When we consider that these laws were passed throughout a period of about 500 years their number does not surprise us. We are rather surprised and disappointed perhaps because of their inefficiency,- for they do not seem to have been other than inefficient. Political corruption and sharp practices at elections went hand in hand with the decay of political morality which was inevitable under the Roman <sup>republic</sup> empire,- inevitable because the control of the State offices belonged always to comparatively small groups of men whose chief desire was to continue themselves or their friends in office. To do this they did not hesitate to employ means, fair and foul; and when leaders employ foul means the unthinking populace as ever follow. It is a noteworthy fact that very few, if any, of these laws emanated from patriotic

motives. They were practically without exception political measures passed by some politician or group of politicians for the purpose of gaining some advantage over their political rivals.

The political nature of the laws would be well attested by one particular phase if other proof were lacking; the laws always provided for penalties to be laid against the giver, not the receiver of the bribe. In other words, the politicians were unwilling to incur the displeasure of the electorate by proposing that it should be punished when they could embarrass a political foe by penalizing him. It may be objected that the penalty was laid upon the giver of the bribe in accord with a principle of Roman law; if so, the answer can and should be made that the principle of law, in this case at least, is what the statesmen and magistrates make it, and hence their attitude in this regard cannot be thus excused. We may well think that the condition of affairs was discouraging and disgusting and need not wonder that Tiberius took away from the people the right of voting for State-officials. We can well realize that it may have seemed to be the most effective manner in which to check evils which had thrived under 500 years of adverse legislation.