



**FRANCISCO PINA POLO** (ed.)

***CURSUS  
HONORUM:***

**PATHWAYS TO RANK  
AND POWER  
IN THE ROMAN REPUBLIC**

EDITORIAL UNIVERSIDAD DE SEVILLA  
PRENSAS DE LA UNIVERSIDAD DE ZARAGOZA

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Edited by  
*Francisco Pina Polo*

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# INTRODUCTION

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One of the most distinctive features of the political culture of the Roman Republic was the competition and rivalry among individuals and families of the social elite. This rivalry came to head at the annual elections for the appointment of the new magistrates entrusted with the administration of Rome and the empire, who had a wide range of duties that increased and changed over time: the maintenance of the city, the control of the state bureaucracy, the supervision of financial resources, the presidency of the courts, the command of the legions and so on. Every year, a number of Roman citizens ran for office and whereas some obtained sufficient votes from the people, others were defeated and had to wait for a new opportunity or abandon their political aspirations.

Depending on the magistracies, the candidates were of different ages, but they all belonged to the well-to-do because the Romans never considered the possibility of remuneration for those who held public office, which automatically excluded citizens without the means to devote their time to public service rather than working for a living: holding a magistracy was an honour (*honos*), and honours (*honores*) should not be remunerated – although they could offer opportunities for amassing wealth – because, in essence, they were conceived as a privilege of the ruling class. This state of affairs gave rise to an aristocracy of function and merit that was best exemplified by the Senate, the body to which former magistrates belonged for life and where Rome's domestic and foreign policy was determined. Obviously, there is no need to recall that this competition was the exclusive preserve of men.

The Roman Republican institutions as a whole were never created by a demiurge at a precise moment. The magistracies, in particular, were the result of a long process of adaptation to the needs of a growing state, based on the pragmatism that always characterised the Romans. The initial aim of the magistracies was to ensure the most efficient administration of a city in Latium that was progressively expanding into Italy, before subsequently being adapted to a power that eventually dominated the entire Mediterranean, thus requiring a provincial administration. The final result was a body of annual elective offices: quaestors, aediles, tribunes of the plebs, praetors and consuls, plus the censors elected every five years and the extraordinary dictators, to which were then added the promagistracies (proconsuls, propraeors and proquaestors) that became commonplace as of the 2<sup>nd</sup> century. The number of magistrates increased progressively throughout the Republic, and by the 1<sup>st</sup> century more than forty were elected every year. Consequently, the number of candidates involved in the annual elections could be considerable.

Although holding public office implied belonging to the elite, whose prestige and social recognition (*fama*, *dignitas* and, eventually, *auctoritas*) was enhanced as a result, not all magistracies granted their incumbents the same rank, which gradually increased with the holding of different offices and whose hierarchical structure was reflected in the Senate. The political career of a Roman citizen during the Republic always took the shape of an implicitly hierarchical ladder whose rungs corresponded to the age at which one or other magistracy was attained. While military command was generally in the hands of men of proven experience, young novices occupied positions, not without responsibility – the duties of quaestors, for example, were much more important than they might seem at first glance –, in which they had to prove their management and leadership skills in order to aspire to higher offices. Yet management skills were obviously not the only factor that was taken into account in an individual's potential promotion. Other random factors, such as specific political circumstances or, in particular, being a member of a prestigious and influential family, played a considerable role in the development of a political career.

This implicit institutional hierarchy – with its nuances, as can be seen in the initial relationship between praetors and consuls, less unequal than one might think – was apparently established at the beginning of the 2<sup>nd</sup> century, against the backdrop of fierce competition among the members of the aristocracy. As is commonly held, the *lex Villia annalis* of 180 resulted in a *cursus honorum*, viz. 'a career of honours', which thenceforth had mandatory

rules indicating the path that should be followed by those who wanted to pursue a political career and the order in which they should do so, as well as age requirements. If the hierarchy of power had been previously implicit, thenceforth it was explicit, which was reflected in the Senate where the ranks of *quaestorii*, *tribunicii*, *aedilicii*, *praetorii* and *consulares* were a clear indication of the highest office reached hitherto.

This book, which deals with the position of the *cursus honorum* in Republican history, addresses questions relating to how Roman citizens pursued political careers during the Republic. It not only examines the specific repercussions of holding magistracies for such careers but also the possible consequences of refusing to run for or take up office. Additionally, it reflects on the development of the *cursus honorum* throughout the Roman Republic, as well as on the way scholarship has constructed its image and political and social significance in Roman political culture.

In the first chapter, Federico Santangelo performs a detailed analysis of the initial historiographical approaches to the concept of *cursus honorum*. The patterns of office-holding of Republican magistrates have been a topic of much debate since the early modern period. As in so many other aspects, Mommsen's *Staatsrecht* led to the codification of a vision of Republican magistracies on which there has been a lasting consensus and which, to a great extent, still forms the basis of current research. Mommsen's construction was, however, the culmination of a body of scholarship that had already shed a fair amount of light on the patterns of office-holding in the Republican period.

Studies of the history of the Roman magistracies are usually based on the common conception that the *cursus honorum* governed the political careers of the Roman elite. While the moment in which this *cursus* was introduced is not stated explicitly in the sources, Livy assumes that the first critical piece of legislation was the *lex Villia annalis* in 180, when legislation would have replaced the ordering practice of tradition. Livy's reference is generally regarded as the year in which the formal *cursus honorum* was established. In his chapter, Hans Beck argues that the *cursus honorum* was never systematised in the sense suggested by constitutionalised interpretations of Roman Republican history: career paths were ever-changing and the *cursus honorum* was intertwined with the governance of the *res publica* as a whole.

The first centuries of the Roman Republic were, in any case, a period of institutional experimentation in which a firmly established political career path could hardly exist. This was particularly evident in the 5<sup>th</sup> century.



Thibaud Lanfranchi analyses the case of military tribunes with consular power (*tribuni militum consulari potestate*), an elusive but historical office that must be understood in relation to the context of the mid-5<sup>th</sup> century, on the one hand, and to the progressive establishment of Republican institutions during the period, on the other. Lanfranchi studies the role of consular tribunes in the evolution of the very idea of magistracy in Rome and in the development of the *cursus honorum*. Continuing in the period before the *lex Villia annalis*, Francisco Pina Polo examines the political career of ex-consuls in the 4<sup>th</sup> and 3<sup>rd</sup> centuries with an eye to shedding further light on the offices they held and other public roles they performed once they had attained the consulship. In short, the intention is to determine the shape the political career of a consular took in a period when Rome was involved in major wars in Italy, such as the Samnite wars and the conflict against Pyrrhus, and subsequently in the Mediterranean against Carthage.

The first contact a Roman citizen had with the administration before holding his first magistracy was through a wide range of junior offices (*tresviri capitales*, *duoviri navales*, etc.). Consequently, these little known and often neglected junior offices are essential components for reconstructing the Roman political system and culture during the Republic. In this vein, Marian Helm focuses on the *tribuni militum*, for whom we are relatively well informed in comparison to other lower offices. In a society in which the importance of military experience was beyond doubt for the Roman elite, unsurprisingly military service was of utmost importance – an obligatory prerequisite, according to Polybius – for anyone wanting to pursue a political career. Moreover, during their service the *tribuni militum* had the opportunity to demonstrate their military skills and to establish personal relationships with Roman and Italian elites that could be useful in their future political careers.

The tribunate of the plebs was created as result of the so-called ‘Conflict of the Orders’ in the 5<sup>th</sup> century, but progressively became a potential stepping stone in the political career of plebeians. The office was usually held in the early stages of a political career, and the attitude and ideological orientation of a tribune could either promote him in the future or, on the contrary, block his advancement. Accordingly, the tribunate of the plebs offers a particularly worthwhile case study of how individuals managed their progression through the *cursus honorum*. In her chapter, Amy Russell focuses on how a politician’s behaviour as a tribune of the plebs could affect his future career success.

Roman expansion in the Mediterranean led to an increase in the number of magistrates – in particular, praetors – and to the extension of the practice

of promagistracy in order to cover the new military and administrative needs in the provinces of the empire: provincial administration and the consequent temporary absence from Rome thus potentially became part of a political career. Alejandro Díaz Fernández analyses in detail the impact of provincial commands on the *cursus honorum* with a view to determining how the creation of permanent overseas provinces influenced the adaptation and standardisation of the *cursus honorum*, the real impact of a higher magistrate's performance in his province on Roman public opinion, and the extent to which military success in the provinces had a direct, decisive impact on future elections.

Those holding magistracies gained life membership to the Senate, on which the following two chapters focus. In the post-Sullan *res publica*, the Senate automatically acquired each year twenty new members who had held the quaestorship. The pre-Sullan Senate was constructed, however, by the censors through their *lectio senatus*. As a result, the tenure of magistracies was decoupled from membership to the Senate through the mediation of the censors. Catherine Steel explores the impact of the *lectio senatus* on the enrolment of new senators, and, as a consequence, on the *cursus honorum* and the composition of the Senate itself. For her part, Cristina Rosillo-López focuses on the commissions tasked with drafting *senatus consulta* and on the *consilia* of magistrates in Rome as a means for young senators to gain prestige within the senatorial group. The main aim is to explore the extent to which the participation of young senators in those commissions and *consilia* indicated their political clout and provided them with visibility in intervals between offices.

Strictly speaking, military legates were never magistrates but this official post could affect the political careers of men climbing the first rungs of the *cursus honorum*. David Rafferty analyses the changing role of *legati* within a new command structure in the early 1<sup>st</sup> century, when multiple smaller armies operated separately and each one was commanded by a legate under the overall command of an *imperator* – for instance the legates who served under Pompey in the Mithridatic war in the 60s. The questions that need to be answered in this respect have to do with the effect that this change might have had on political careers and with how the different ancient sources treat this change at the level of mentalities.

The following chapters address the *cursus honorum* from very different perspectives: pursuing victory at all costs and accepting defeat; resignation and refraining from running for office; and the refusal of an office after being elected to it. Martin Jehne makes a comparison between election campaigns

and senatorial structures in the early 2<sup>nd</sup> century and in post-Sullan Rome. Whereas in the decades after the Hannibalic war a number of candidates were defeated in their first bid but ran again for office and sometimes were only successful after two or three further attempts, after Sulla's dictatorship many candidates abandoned their political careers after one *repulsa*. This poses the question of why this was so and whether it had anything to do with the cost of election campaigning at that time.

In competitive Republican Rome, where many candidates wanted to run for office at any price, refusing to do so was apparently an anomaly. Robinson Baudry focuses on the refusal to continue a political career beyond a certain rung of the *cursus honorum*, whether this be the quaestorship, tribunate of the plebs, aedileship or praetorship, in the last two centuries of the Roman Republic. This refusal could occur when a candidate took up what was judged to be the last office of his career, during the election campaign for the next office or after an election defeat.

There are many documented cases of consuls and praetors declining provincial governorships throughout the Republican period, especially during the 1<sup>st</sup> century. Indeed, the word *excusatio* is used in the Latin sources to refer to the act of presenting an excuse for not taking up office or for not accepting undertakings after being elected to a magistracy. Julie Bothorel discusses this procedure and the possible consequences for a political career, such as the pretexts that could be used to decline a provincial governorship, what happened to magistrates who did so and whether they could continue to pursue their *cursus honorum* without difficulties.

The last two chapters are devoted to the final years of the Republic and the transition to the Principate, respectively. In her chapter, Elisabetta Todisco analyses the praetorship in the last century of the Republic, in particular the political actions undertaken by praetors between 49 and 43, a time when Varro wrote his linguistic treatise *De lingua Latina* and his historical work *De vita populi Romani*. In that historical and intellectual context, an attempt is made to determine whether and to what extent the etymology of *praetor* proposed by Varro in both works was influenced by the behaviour and political role of the praetors during those years.

Lastly, Frédéric Hurlet focuses on the Augustan age as a period of experimentation, in which a new and much longer *cursus honorum* based on its Republican predecessor was created, but with a different structure. This process involved the introduction of new offices that were neither regular nor

had the same significance, as was the case with the multiplication of the offices reserved for *consulares*. These offices were no longer *honores*, as had been the case during the Republic, but *officia*, as Suetonius describes them (*Aug.* 37.1 and *Tib.* 42), more precisely *nova officia* to distinguish them from the traditional Republican magistracies.

This book contains contributions that were initially presented at the conference ‘*Cursus honorum*: Hierarchy, Prestige and *auctoritas* in the Roman Republic’, held in Zaragoza in the Museo Pablo Gargallo on 14-15 March 2024. The colloquium was sponsored by the Research Group Hiberus (Gobierno de Aragón) and the Institución Fernando el Católico (Diputación Provincial de Zaragoza). Both the conference and the book have been mainly funded by the project ‘*Vir consularis*: el papel político y social de los consulares en la Roma republicana y en la época augústea (219 a.C.-14 d.C.)’ (PID2020-112622GB-I00; Agencia Estatal de Investigación, Ministerio de Ciencia e Innovación, Spanish Government). The Instituto de Patrimonio y Humanidades (Universidad de Zaragoza) has financially contributed to the publication of the book in open access.





# THE *CURSUS HONORUM* FROM BIONDO TO MOMMSEN

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## 1. Ancient Definitions

A concept of *cursus honorum* existed by the mid-first century BCE: a handful of passages of Cicero provide sufficient reassurance on that count. In the *De senectute* (60) Cato's emphatic celebration of one of the elder statesmen of mid-Republican Rome, M. Valerius Corvinus, stresses his longevity, his ability to engage in agricultural work well into his nineties, and the fact that forty-six years passed between his first consulship and the sixth one: the same period that was traditionally considered to mark the onset of old age coincided with the length of his *cursus honorum*. The only *honos* that comes into consideration here is the consulship, but we should not read too much into this single instance: Cicero's Cato has a specific point to make on the connection between old age and authoritativeness, and the forty-six-year gap is crucially instrumental to it. That *cursus honorum* might indicate the office-holding record of an individual in a wider sense is indicated by a comment in a letter that Cicero addressed in June 50 BCE to Ap. Claudius Pulcher (*Fam.* 3.11.2), consul in 54 BCE and his immediate predecessor in the governorship of Cilicia. In congratulating Pulcher on his recent acquittal from *maiestas* charges, he stresses his integrity and claims that his *cursus honorum* could not have possibly raised anyone's suspicions: the reference is clearly to his whole trajectory, which we know included the praetorship in 57, and would go on to include the censorship in 50. The expression, then, captures the path that an individual takes in pursuing public office: it is an individual undertaking, but

might follow a pattern that applies more widely. In his defence of Cn. Plancius (54 BCE), Cicero argues that his client – charged with electoral corruption – has made his way to the aedileship by following the *cursus* that is open to men of his standing (17), which happens to be the same as that of his advocate: he is the son of an equestrian and has been making his way up through the junior magistracies. Cicero plays on the contrast between the *cursus* followed by Plancius and those who crept their way to public office (*obrepisse ad honorem*).

Cicero never defines explicitly what *cursus honorum* might actually mean, and no other ancient source does that. The three passages in fact attach different meanings to the expression, and do not openly conjure up the notion of an upwards trajectory: *cursus* may even involve holding the same magistracy on a number of occasions, as is the case with Corvinus. In the opening paragraph of *De Oratore*, though, Cicero famously speaks of the rewards of *otium cum dignitate*, and reflects on his frustrated aspiration to be able to withdraw from political service and return to his intellectual pursuits (1.1). In that abortive plan, the two factors that might enable him to leave the fray were *decursus honorum* (“the completion of public offices”) and *aetatis flexus* (“a turning point in life”): again, a metaphor of two different (if complementary) movements is patently at play. *Decursus* is the most widely accepted reading (although part of the manuscript tradition gives *cursus*), and does appear to carry a distinctive emphasis: it points to the completion of a sequence of public offices, and of a set itinerary that has run its course. Cicero is here alluding to his consulship, and to the traumatic events of the ensuing years, which prevented him from following on with his aspiration to embrace *otium*. *Decursus honorum* is a hapax, but it summarises an important dimension of our problem. The idea that magistracies are stages of a trajectory on which one embarks is also conveyed by the word *gradus*, “step”, which is fairly frequently attested in the late Republican evidence: *per omnes honorum gradus* (*Planc.* 60), *ad honoris amplioris gradus* (*Leg.* 3.7), *summus atque altissimus gradus ciuitatis* (*Fam.* 1.7.9), *consularis dignitatis gradus* (*Off.* 3.99), to quote some examples. The idea of a progression does not necessarily entail the existence of prescriptive itinerary.

This concept, though, is explicitly conveyed in a passage of Cicero’s second speech *De lege agraria* (2.24), in which the provisions of Rullus’ bill are criticised. The obligation to present in person a candidacy for the committee of ten men that was put in charge of the land assignments is singled out for criticism: that clause, in Cicero’s view, was clearly intended to prevent Pompey from putting himself forward. He stresses that the obligation did not even apply to the magistracies “for which there is a fixed order” (2.24:

*ne in iis quidem magistratibus, quorum certus ordo est*). The procedural point he makes here is at the very least dubious; the periphrastic expression he resorts to is rather curious, and suggests that there was not a standard term to differentiate ordinary magistracies from one-off appointments.<sup>1</sup> What Cicero is referring to is close enough to what modern scholars term *cursus honorum* – but it is phrased differently.

Our concern in this volume is with the position of *cursus honorum* in Republican history; it is important not to lose sight of the fact that the concept retained some significance in the imperial period. That was partly a function of the fact that the new regime still had the appearance of a *res publica*, and the pattern of a predictable office-holding pattern fundamentally suited the demands of an autocratic setup, in which power and prestige had to be carefully apportioned by the monarch. In speaking of the steady rise of Ti. Vinius under Claudius, Tacitus says that it had unfolded *cursu honorum inoffenso*, “with his path through offices finding no obstacles” (*Hist.* 1.48.3). First, he rose to the praetorship, then to an important provincial command; he would go on to become one of Galba’s closest associates, and Tacitus takes an interest in him for that reason. Yet again, the notion of *cursus honorum* is so much more than a technical term: it is used to convey the sense of a stellar rise that finds no hurdles, and firmly determines the significance of an individual in the political domain.<sup>2</sup> It could neatly be put to the service of emphatic celebration. In the panegyric in honour of Manlius Theodorus, Claudian made sure to stress that the streak of offices he attained in the early part of his career were held continuously, with just a short intermission: speed was as worthy of celebration as the range and importance of the roles he held (*Pan.* 5.78: *tam celer assiduos expleuit cursus honores*).

## 2. Scholarly Currency

In the light of this background, it is perhaps unsurprising that the expression *cursus honorum* first appeared in modern historiography in a number of treatments of imperial history. As the study of the epigraphy of the Roman world developed and intensified, the trajectories of a growing number of individuals that were otherwise unknown or poorly attested come into

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1 See Manuwald 2018: 243-244.

2 Cf. Sen. *Herc.* 928-929: *astra inoffensos agant/ aeterna cursus*.

sharper focus: first, there was the need to reconstruct their ‘careers of marble’, the various offices they held, and the relative chronology; at a later stage, there was the need to establish principles of wider import on how these are recorded in the epigraphical evidence, and in which order. An early instance of that working method may be found in Gaetano Marini’s great edition of the records of the Arval Brethren, where the question of the order that tends to be followed in the epigraphically preserved lists of public offices is raised.<sup>3</sup> Marini recognised that increasing and decreasing sequences are both attested, but stressed the fact that they are internally consistent; the point was endorsed and was further developed by Bartolomeo Borghesi, a generation later.<sup>4</sup> The earliest occurrences of the expression *cursus honorum* appear in studies on the epigraphy of Lugdunum and North Africa;<sup>5</sup> by the end of the nineteenth century, the practice of listing magistracies in ascending or descending order is singled out for detailed discussion in some textbooks of Latin epigraphy, most notably in the great work of René Cagnat, which remains an invaluable (and in some respects unrivalled) resource to this day.<sup>6</sup> The topic seems to have resonated with the concerns of French historians. The earliest general history of ancient Rome in which the *cursus honorum* is singled out as a significant theme is the *Histoire des Romains* by Victor Duruy (1811-1894), where the senatorial *cursus* under the Principate is discussed in detail, and a perceptive remark may be found on the *cursus* of imperial officials as a window on the history of mobility in the empire.<sup>7</sup> In the historiography on the Roman Republic, the expression does not appear until the late nineteenth century, and somewhat infrequently at that. The epigraphical habit of the Republican period, as is well known, is fundamentally different, and the margin for the detailed study of the trajectories of individuals of non-senatorial standing is comparatively much narrower.

The patterns of office-holding of Republican magistrates have been a matter of substantial debate since the early modern period, and their study is an important aspect of the engagement with the institutional and political history of the Republic. In this respect, as in so many others, the second half of the nineteenth century is a turning point, and the first volume of Mommsen’s

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3 Marini 1795: 754.

4 Borghesi 1838: 6 = 1865: 106.

5 Monfalcon 1809: xii, 35, 41; de Boissieu 1846: 157, 159, 249, 273, 318; Hase 1837: 658.

6 Cagnat 1914: 88-156.

7 See respectively Duruy 1885: 5.291, 6.536-538; and 5.506 n. 5.

*Staatsrecht*, devoted to *Die Magistratur* (1874) is the codification of a vision of the magistracy in the Republican order that established a lasting consensus, and on which to a considerable extent we keep working to this day: a neat proof of that is A. E. Astin's choice to frame his short monograph on the *lex annalis* after Sulla as a sustained response to Mommsen's conclusion, in which not a single contribution predating the *Staatsrecht* is cited, with the exception of a handful of passages of Carl Ludwig Nipperdey's 1865 book (see below, §7).<sup>8</sup>

The extensive discussion of candidacies and eligibility to public office, "Qualifikation für Magistratur", where a substantial treatment of the regulations on office-holding also finds place, has a prominent role in the overall account of the role of the magistracies in the Roman order.<sup>9</sup> The expression *cursus honorum* occurs only once, in a footnote, as Mommsen takes issue with Nipperdey, a scholar who had worked on the topic a few years earlier;<sup>10</sup> the reader is left in no doubt, though, on the importance that the topic of access to public office and its regulation had in the overall vision of the Roman institutional order that is put forward here. The scale, detail, and rigour of Mommsen's treatment are simply unprecedented: in the second and third editions the topic is dispatched in just over one hundred pages. As is customarily the case throughout the *Staatsrecht*, the discussion is explicitly framed around the primary evidence, and makes sparing reference to prior historiographical debates. Mommsen's mighty construction, though, is the original endpoint of a body of scholarship that had been shedding light on the patterns of office-holding in the Republican period, and had taken an especially close interest in the *leges annales*, the pieces of legislation that set a number of restrictions to the tenure of magistracies. That debate has never been traced back in any detail, and has useful lessons to yield.

### 3. Setting the Scene: from Biondo to de Grouchy

An early and highly perceptive reader of the *Staatsrecht*, Jacob Bernays, argued that only two previous scholars had produced works that could barely be compared to it: Carlo Sigonio and Louis de Beaufort.<sup>11</sup> They will both be

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8 Astin 1958. Conversely, the important study of the *lex Villia* in Rögler 1962 does include some references to the works of Wex and Nipperdey (on which see further below, §6-7).

9 Mommsen 1877: 451-558.

10 Mommsen 1877: 524 n. 1.

11 Bernays 1885: 259-263.



relevant to our discussion, but the debate on Roman magistracies and their tenure may in fact be traced further back than Sigonio. Its foundational moment is the great ten-book treatise by Biondo Flavio (1392-1463), *Roma triumphans* (1459): the first major systematic overview of the institutions of ancient Rome, which are singled out as a model of healthy political and military order that deserves to be reproduced in modern polities. The work is opened by an overview of the religious institutions of ancient Rome, and of the structures through which the worship of the gods was conducted. Books 3 and 4 are devoted to the *administratio rei publicae*, and their centrepiece is a full-scale account of Roman magistracies. Biondo's main interest is in their respective duties, the different degrees of power and influence that they entailed, and the position that they had in the development of the political community. The order of the discussion is somewhat idiosyncratic, and reflects some broader considerations on their respective significance: the consulship is followed by the dictatorship, then by the praetorship, the tribunate, the quaestorship, the aedileship, the *magistratus minores*, and – after an excursus on *curiae* and tribes – the censorship, which he regards as the most revered and influential magistracy. Biondo has much to say about the holding of elections, the process through which candidates put themselves forward, and the membership and duties of the Senate.<sup>12</sup> He shows no explicit interest in the rules that presided over the competition for magistracies and the relevant age requirements, but he duly singles out the quaestorship as the entry-level office that grants access to the Senate and entitles one to stand for higher office: “quasi primordium gerendorum honorum sententiaeque in senatu dicendae”; in the same connection, the aedileship is identified as the other office that those who wish to seek election to the praetorship and the consulship are expected to hold. Biondo does not speak of a set career trajectory, but clearly thinks in terms of the stages (*gradus*) of an ascending trajectory, duly commensurate with experience and expertise.<sup>13</sup> In *Roma triumphans* the magistracies are standpoints on the range and complexity of the Roman institutional setup, from which wider problems, such as citizenship and colonisation, may be explored; they are, first and foremost, central features of the Roman order.

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12 On Biondo's discussion of Roman elections and its wider significance in early modern scholarship see Muecke 2016: esp. 282-297.

13 For a similar use of the expression *gradus honorum*, albeit not in a treatment of Roman institutions, cf. Budaeus (1508) praef. and f. CXXIII.

Biondo does not mention the *leges annales* anywhere: that is in itself noteworthy, since he does show a clear and consistent interest in Roman legislation and law-making. In this regard the turning point is Carlo Sigonio (ca. 1524-1584), albeit in a somewhat surprising venue. The rules on office-holding are not discussed in the *De antiquo iure civium Romanorum*, the major treatise that Bernays identified as a ground-breaking account of the institutional history of the Republic.<sup>14</sup> Sigonio's key contribution to the topic may be found in an earlier work, the *Scholia* to Livy that he published in 1555: a project where preoccupations with textual and historical issues are closely integrated. 40.10.1 is of course the passage in which the passing of the *lex annalis* of 180 BCE is laconically mentioned; in a few lines Sigonio sets the problem in new and firmer terms. His contribution is twofold. Firstly, he amends the name of the proponent of the law as transmitted by the manuscript tradition – L. Iulius – into L. Villius Annalis: a decisive insight comes from the fact that one of the consuls of 199 BCE was P. Villius Tappulus, making the presence of another Villius twenty years later inherently plausible.<sup>15</sup> Sigonio had recently been working on the edition of the *Fasti Capitolini*, and consular lists are duly brought into focus; the connection between epigraphy and the study of the *cursus honorum* seems to come into sharper focus. Secondly, Sigonio identified the problem of the historical significance of the *lex Villia*, and voiced his surprise at Livy's statement that it was the first law of its kind (*hoc anno primum lata rogatione*).

A passage from an earlier book of Livy (25.2.6) explicitly speaks of age restrictions for the holding of magistracies: in 213 BCE, when P. Cornelius Scipio put himself forward for the aedileship, he was challenged by the tribunes, who argued that he had not reached the *legitima aetas*. Sigonio does not elaborate on Scipio's ability to get elected, and on his claim that the support of the voters was the only relevant consideration: *si me omnes Quirites aedilem facere uolunt, satis annorum habeo*. He also invokes another precedent, recorded by both Livy (32.7.9-10) and Plutarch. In 199 BCE T. Quinctius Flamininus stood for the consulship having held only the quaestorship, prompting tribunician opposition to his candidacy. According to Plutarch, the objection was based on lack of experience: Flamininus had not yet been "initiated, so to speak, into the rites and mysteries of government" (*Flam.* 2.1: οἷον ἀτέλεστον ἔτι τῶν πρώτων ἱερῶν καὶ μυστηρίων τῆς πολιτείας). Livy

14 See Sigonio (2024) for an annotated Italian translation with facing Latin text.

15 Sigonio speaks in fact of a consul called L. Villius Tappulus, and in the same note somewhat confusingly states that "Villiae gentis ulla in libris impressis mentio relicta est" (77).

points to a wider and more deeply ingrained political issue: the tribunes argued that the intermediate offices were being treated with contempt, and that the *nobiles* tended to aim straight for the consulship whenever given the chance. In that case, the Senate was invested with the matter, and decided to devolve its resolution to the people, who voted him in before he turned thirty. Livy does allude to the existence of laws on office-holding: the Senate was happy for anyone who was not forbidden *per leges* to hold an office to be elected to it. It is clear enough that, whatever their terms were, these did not set restrictions on age and experience; the law of 180 BCE must have impacted on those areas. A fourth source is called into play: Cicero's Fifth *Philippic* (5.47-48), where the question of age restrictions to the consulship is turned into a pressing issue by Octavian's ambitions, and the introduction of the *leges annales* is explicitly connected with the stiffening of political competition. The exceptional cases of Scipio Africanus and Flamininus are duly and approvingly mentioned as late examples of a long-gone custom, whereby talent was the key qualification for the consulship. Sigonio is not interested in this aspect of Cicero's discussion: the passage is worth singling out because it gives direct evidence that the minimum age for the consulship was forty-three years (ten years older than Alexander's age at death, as Cicero somewhat circuitously puts it).

It may fairly be said that in the space of a brief note Sigonio gathered the dossier around which the scholarly debate would revolve for the following three centuries. His insight on the name of the proponent of the law was readily accepted by François Hotman (1524-1590) in his *De legibus*, where he offered a brief summary of the law, setting twenty-seven as the minimum age for the quaestorship.<sup>16</sup> Other scholars, however, explored the problem in greater depth, and with an even sharper awareness of its significance. Paolo Manuzio (1512-1574) a friend and collaborator of Sigonio during his Venice years, and one of the great printers of his generation, wrote an important *Liber de legibus*, first published in 1557. He accepted the attribution of the *lex annalis* to L. Villius, and then summarised some of the key sources for it, arguing at some length that the law only applied to the curule magistracies: a view he infers from circumstantial evidence, notably from the passage of Cicero's *De lege Manilia* in which Pompey is praised for reaching the consulship before the age at which it was lawful to hold any other magistracy.<sup>17</sup>

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16 Hotomanus 1557, 79.

17 Cic. *Man.* 62, with Manutius 1557: 54-55. Manuzio's treatment had some influence on later discussions: see e.g. the entry on the *lex Villia annalis* in Rosinus 1663: 628.

Antonio Agustín (1516-1586), who had spoken of a *lex Iulia* in the manuscript draft of his *De legibus* (written in the 1540s), added a remarkable note on the *lex Villia* in the *Praetermissa* that were included in the 1583 edition: like Manuzio, he proceeded by listing a range of cases that pointed to various office-holding patterns, accepting Cicero's point that the legislation was a late innovation, intended to create "gradus petitionis inter aequales".<sup>18</sup>

The most capable and combative contemporary reader of Sigonio's work was Nicolas de Grouchy (1510-1572): their longstanding controversy on a number of points of Roman public law was a defining moment in the history of classical scholarship in the early modern period. In the same year in which Sigonio set the general parameters of the problem of the *lex annalis*, and independently from him, Grouchy addressed the issue in a wide-ranging discussion of the Roman voting assemblies (*De comitiis libri tres*, 1555), where the regulations on candidacies and elections are part of the wider problem of the prerogatives and limitations of the assemblies. Setting age restrictions for office-holding is a way of curbing the power of voters, and is worthy of discussion in one of the early sections of that work, specifically devoted to the *comitia centuriata* (1.2: "De personis quarum interuentu centuriata comitia peragebantur"). Grouchy clearly sees the significance of the *lex annalis* of 180 BCE, which (unlike Sigonio) he still attributes to a L. Iulius Annalis; he then provides a lengthy set of relevant cases, which show the enforcement of the age limitations through an inductive process ("ex obseruatione antiquitatis eruere id conabimur"). He is also keen, though, to stress the significance of other kinds of restrictions. Notably, Sulla's law on the tribunate disqualified the holders of that office from running for senior ones, and is thus part of the wider problem within which the *leges annales* may be framed, along with the criminal sanctions that barred one from standing for or taking up office.

#### 4. The Importance of Small Steps

The regulations on office-holding did not turn into a theme of the long and complex controversy between de Grouchy and Sigonio, which tended to revolve around issues such as the *lex curiata* and the functioning of the *comitia*; neither did they become a prominent theme in other early modern discussions

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18 Agustín 1583: 330-332, esp. 331. See Ferrary 1992: 80 on the complex composition process of the work.

of the Roman magistracies. The *Reipublicae Romanae Commentariorum Libri Tres* (1558) by Onofrio Panvinio (1529-1568) include a systematic overview in which the magistracies are divided into “magistratus urbani”, “magistratus maiores extra ordinem”, and “magistratus minores”, with the latter category including the tribunate, the aedileship, and the quaestorship.<sup>19</sup> Panvinio touches upon a number of significant historical questions, such as the history of the tribunate and the causes of the fall of the Roman Republic (“excidium reipublicae Romanae”), but does not discuss the *lex annalis* and its implications.<sup>20</sup> Johannes Wilhelms (Janus Gulielmus, 1555-1584) followed a closely comparable taxonomy in his *De magistratibus reipublicae Romanae* (1577). He noted in passing that “honorum gradus annui” were followed and recognised (“quos vocant”) in Republican Rome, from the quaestorship to the consulship, but does not pursue the history of the problem, and is rather more interested in analysis the tasks and responsibilities of the magistracies. Other scholars did acknowledge the existence of a law that set restrictions on office-holding, but did not discuss its detailed provisions or its implications. In his posthumous work on the Roman magistracies and public order, the Protestant scholar Claude Prevost d’Issoudun (1525-1575) spoke cursorily of a *lex annaria* and of the prestige that one derived from holding the consulship *suo anno*.<sup>21</sup> Ianus Langlaeus’ compilation on legal matters – the *Semestria* (1611) – discusses at length the selection of office holders in antiquity and in his own time, and in that connection takes the view that a *lex annalis* was already in place when Scipio put forward his candidacy for the aedileship:<sup>22</sup> the point is historically questionable, as we have seen.

The Dutch antiquarian Stephanus Vinandus Pighius (Steven Winand Pigge, 1520-1604) granted the topic some prominence in his *Annales Romanorum* (2.334). An extensive note on the tribunate of L. Villius Annalis, which is largely indebted to Sigonio, briefly mentions the passage of Tacitus where the *lex annalis* is mentioned as a deviation from traditional practice: not even distinctions of age would be relevant back in the day when virtue was the only qualification for office (*Ann.* 11.22). That text offers a crucial, if tendentious insight into the problem: it only makes its first fleeting appearance in the debate in the early seventeenth century. Pighius offers a chronological

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19 Panvinus 1558: 627-636.

20 Panvinus 1558: 636-651.

21 [Prevost] 1578: 68-69.

22 Langlaeus 1611: 391.



overview of Roman history, and is not interested in providing an analytical survey of institutions; he is committed, though, to gathering and discussing the evidence for the key developments of each year – the *leges annariae*, as he terms them, taking his cue from Festus (25 L.), neatly fit the bill.

Marginally greater progress was afforded by the close engagement with specific pieces of ancient evidence, and by rather surprising sources, such as the note on a passage of the Life of Alexander Severus from the *Historia Augusta* that Marcello Donati (1538-1602), a learned physician from Mantua, included in his *Scholia sive dilucidationes* on a vast array of Latin texts. His gloss on a brief comment on Alexander Severus' decision to firm up *leges in annos* (*Alex. Sev.* 44.6: a reading that was later superseded by *leges agonis*) leads to a long summary of relevant evidence from the Republican period, explicitly indebted, but not confined to the case studies listed by Sigonio, and ends with what was probably the most explicit historical assessment of the problem until then: “quamuis nonnullos in historia obseruemus solutis legibus, vel nimia ipsorum potentia, uel Populi Romani fauore ingenti, antea ad Consulatum peruenisse, nec magistratuum adispicendorum ordinem seruasse.” The process would continue, and indeed intensify, in the Imperial period.

The interventions of Pighius and Donati were noteworthy, but of relative value. A fundamental development intervened with the major work of Justus Lipsius (1547-1606), *De magistratibus Romanis*, first published in 1592, where the *lex annalis* is firmly set as a key aspect of the topic, and is the focus of three substantial chapters. Lipsius is interested in the conditions that enabled one to access a public office, termed under the general notion of *aptitudo*: after exploring status distinctions, he discusses age limitations, taking Tacitus as his starting point, and setting the law of 180 BCE as the first legislative intervention in that remit; the evidence of 25.2.6 is explained away with an error on Livy's part.<sup>23</sup> Ch. 5 is the fullest illustration to date of the specific restrictions that applied to each magistracy, and ch. 6 is a brief summary of the evidence for the restrictions on the tenure of magistracies in provincial communities, and in the senatorial and equestrian orders. To my knowledge, this is the first instance in which time is identified as a key feature of the Roman political and institutional order, and a determining criterion for access to magisterial power and its allocation.

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23 Lipsius 1607: 12.

## 5. The Shift of the Mid-1700s

Much of what was written on the topic between the mid-seventeenth and the mid-eighteenth centuries rehearses the same point made in previous scholarship, with hardly any new insights. A notable exception is Willem Hendrik Nieupoort (Neoportus, 1670-1730), who produced a systematic treatment of magistracies in his *Rituum qui olim apud Romanos obtinuerunt succincta explicatio* (1712), where he argued that a twofold *aptitudo* was required to hold the magistracies: one deriving from the *gens* and one from the *anni*; that leads to a brief discussion of the *lex annalis* of 180 BCE, in which Neoportus tentatively contemplates the possibility that there was an earlier piece of legislation on this matter.<sup>24</sup> The 1750s marked a sudden shift, with a number of studies where the problem was given fresh consideration. The standpoint was no longer the magistracies, but the Senate and its membership – as we have seen, Ianus Langlaeus had been pursuing similar concerns. In the two tracts on the Senate published in 1750 by Conyers Middleton (1683-1750) and Thomas Chapman (1717-1780) the provisions of the *leges annales* receive special attention because they are deemed central to the proper definition of the senatorial order. Middleton draws attention to the qualifications of age and “estate”, and is especially keen to establish the minimum age for access to the Senate, which he confidently sets at thirty, tracing back the practice all the way to the early Republic on the basis of a passage of Dionysius.<sup>25</sup> Chapman, on the other hand, deals with the *lex annalis* within a wider discussion of the prerogatives of the Senate, and notably its ability to override existing legislation. The case of that piece of legislation shows, in fact, that dispensation from a law could only be granted by the same body that had produced it: hence the view that the established practice of the Senate was to refer the controversy on the eligibility of a candidate to the people, who might be entitled to exempt him from the legislation they had set.<sup>26</sup> In Chapman’s vision the people is a concurrent and superior force to the Senate; that ultimately proved fatal to the Republic, as the Roman people lacked the ability to address the demands of an increasingly complex and diverse political structure.<sup>27</sup> Had the Senate gained legislative powers, like a

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24 Neoportus 1712: 61-62.

25 *AR* 6.6; see Middleton 1750: 93-100, esp. 100.

26 Chapman 1750: 385-387.

27 Chapman 1750: 397-398.

representative assembly, the Republic would have survived. Even a committed critic of both works like Nathaniel Hooke (ca. 1687-1763) did not challenge their assessment of the *lex annalis*; the length of his riposte is evidence of the growing complexity and liveliness of the debates on Roman institutional history.<sup>28</sup> The boundaries between history and antiquarianism were also getting more porous: Hooke's interests were by no means confined to the exploration of a specific matter of public law, but fed into a wide-ranging account of Roman Republican history that was a first-rate contribution to the European debate at the time.<sup>29</sup>

In that very period the topic received its first full-scale treatment. In March 1765 August Friedrich Schott (1744-1792), a highly capable Law student who would soon embark on a distinguished academic career, defended a dissertation on the *lex annalis* at the University of Leipzig. The writing process was affected by some health difficulties, but was nonetheless brought to completion and was shortly afterwards published as a brief monograph. Schott based his discussion on a thorough engagement with previous scholarship, and the framing of his study is in most respects entirely conventional: the key aspect of interest of his contribution is that it takes the shape of a short monograph. Schott viewed the topic of the *lex annalis* as part of the wider problem of the ages at which Roman citizens entered different phases of their lives. The first part of the essay is thus taken up by a discussion of the process through which young Romans took up the *toga virilis* and entered military service, which is explicitly defined as “via ad honores”; elsewhere he also speaks of “honorum gradus”. There is then a discussion of the provisions that may have predated the *lex Villia*, which according to Schott did exist, but cannot be reconstructed in any detail. The discussion of the law of 180 BCE is compounded by an overview of the minimum ages at which magistracies may be held, and of the sequence in which they may be reached. Schott's key interlocutor in this section is Lipsius, with whom he takes issue on occasion, most notably on the minimum age requirement for the quaestorship.<sup>30</sup> There is no sustained discussion of the wider dynamics of political competition in the Republican period; the intention to bring a measure of control in that context is saluted as a positive development, but Schott is also complimentary on the degree of flexibility that was built into

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28 Hooke 1758.

29 Santangelo 2021: 378-380.

30 Schott 1765: 16-20.

the system when individuals of outstanding talent emerged.<sup>31</sup> He is disparaging, though, on the demise of any meaningful restrictions under the Principate, which are a direct consequence of the debasement of the political life: the starkest symptom of decline being the decision of the emperor Jovian to appoint as his consular colleague his young son Varronianus in 364 CE, shortly after rising to power.<sup>32</sup>

## 6. Visions and Puzzles: from de Beaufort to Wex

Schott was a highly competent compiler, whose interest in Roman history was tangential at best. Two years later, in 1767, Louis de Beaufort (1703-1795) integrated an account of the *lex annalis* into an incommensurably stronger interpretative framework. The fourth book of *La République romaine, ou plan général du gouvernement de Rome* is devoted to the magistracies, and is opened by a discussion of the nature and scope of the power that they entailed, and is predicated on several taxonomical differences: between ordinary and extraordinary magistracies, between patrician and plebeian ones, between magistracies with and without auspices, between curule and non-curule ones, and between urban and extra-urban ones. Having set those basic parameters, he then turns to the qualities that tended to determine access to public office: birth and age. The discussion of the *lex annalis* then leads to that of the laws that limited the power of the magistrates in office: those on *prouocatio* and against the iteration of a magistracy, and the oaths that serving magistrates were expected to take; no mention is made of *maiestas*, although the principle of the accountability of former magistracies before the law is duly acknowledged as an important consideration.

De Beaufort is clearly indebted to previous work on the topic, most consequentially to Lipsius; what marks his discussion out is the ability to bring different strands of factual information into a coherent descriptive and analytical framework, which does not just give a “general account” of the Republic, but is keenly sensitive to its historical development.<sup>33</sup> The project has a systematic outlook, and this opening section of book 4 is in explicit dialogue with the section of book 2 where access to the Senate is discussed in

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31 Schott 1765: 28.

32 Schott 1765: 32.

33 Raskolnikoff 1992: 446-454 remains an outstanding introduction to this work.

considerable detail, and much weight is given to the role of Sulla and to his decision to increase the minimum age for the quaestorship.<sup>34</sup>

Another striking feature of de Beaufort's account is the lack of any moralising notes. Unlike most of his predecessors, he is not interested in the interplay between the inset of ambition and the need to regulate the patterns of office-holding in that context. The new legislation was introduced because political competition became more intense, and there was an increasingly large pool of plausible candidates; de Beaufort does not venture into an explanation for that change, but does point out that in the mid-fourth century BCE the opening of the consulship to the plebeians had created the need to instate new magistracies that might offer avenues of distinction to ambitious patricians: hence the creation of a new praetorship and two aedileships.

A similar outlook was shared by Adam Ferguson (1723-1816) in his influential large-scale account of Republican history, whose first edition appeared in 1783: the *lex annalis* receives barely more than a fleeting mention, but at a revealing stage of the discussion. As the age of the transmarine wars is drawing to the close, the Roman public finances are on an increasingly strong footing, the recent colonial projects that the Republic has launched in Italy are not facing any challenges, and major public works are funded in the Urbs; however, that is also the moment in which luxury begins to gain hold in the city, and is vehemently denounced by the Elder Cato in his speech *ne quis iterum consul fieret*, probably in 151 BCE: the law of 180 is an early instalment of the same strategy, whereby political competition and private consumption are addressed through a joint effort.

Much of the historiography on the *lex annalis* revolved around some puzzles, prompted by the fragmentary state of the evidence and by the lack of explicit accounts of its provisions. The topic lent itself well to solid antiquarian discussions, as the case of Nieupoort already showed. Georg Christian Maternus von Cilano (1696-1773), an antiquarian, librarian, and teacher at the Christianeum Gymnasium at Altona, produced a crisp account of the *lex annalis* within a discussion of Roman magistracies, in a section entitled "Alter der Obrigkeiten", which is framed between a discussion of the *comitia* and one of the augural signs and auspicial matters.<sup>35</sup>

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34 De Beaufort 1767: 2.420-421.

35 Maternus 1775: 215-216.

Alexander Adam (1741-1809), the rector of the High School in Edinburgh, made a similar choice in framing the account of magistracies in his *Roman Antiquities*, first published in 1791, whose twelfth edition appeared in 1835: the *lex Villia* and the *lex Cornelia* are discussed under the heading “Division of Magistrates”.<sup>36</sup> This line of enquiry was further developed in the mid-nineteenth century, when the interest in the *lex annalis* was mostly pursued through the discussion of specific problems.<sup>37</sup> In 1845 Friedrich Karl Wex (1801-1865) devoted considerable ingenuity to how best to read the expression *suo anno*, which in his view does not refer to the age of the candidate, but to the fixed delay between one magistracy and another; he also made important points on the remit of the *lex annalis*, which also involved the quaestorship, and set the minimum age for it at thirty, rather than thirty-one years; he was the first to point out the significance of the expression *decursus honorum* and to interpret it as a series of magistracies that one could aspire to hold from the thirtieth to the forty-second year of age.

## 7. Larger Scale: Nipperdey and Becker

Wex was the rector of the Fridericianum at Schwerin, a prestigious Gymnasium in Mecklenburg-Vorpommern. It is perhaps not accidental that an antiquarian topic like the *lex annalis*, which lent itself to learned descriptive accounts, attracted the interest of several outstanding schoolteachers, from Maternus to Alexander and Wex. Two decades later an alumnus of that prestigious institution, Carl Ludwig Nipperdey (1821-1875), professor of Classical Philology at Jena, curiously chose to devote a monograph to the *leges annales* of the Republic. Again, his discussion starts from the exploration of a prosopographical puzzle, notably how the evidence for Caesar’s career may yield clues on the contents of the *lex annalis*, and ends with two *Anhänge* that explore specific matters of detail. His subsequent discussion picks up on important developments of the recent debates and stresses the importance of a record of military service along with the fulfilment of age requirements. The interest in senatorial careers is a distinctive theme throughout the tract, which clearly betrays the influence of Wilhelm Drumann’s recent prosopographical

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36 Adam 1835: 98.

37 Götting 1840: 371-372 is an exception to this principle: the brief reference to the *lex Villia* and the age restrictions it set rounds off a brief overview of the position of the nobility after the passing of the Licinian and Sextian laws.

reframing of Republican history. The close scrutiny of the evidence for office-holding yields insights of wider import, and leads to the suggestion that the requirement of ten years of military service was abolished soon after the Gracchi.

The strength of Nipperdey's work lies in its systematic approach and its ability to take stock of the key findings of his predecessors. There are occasional important insights: as he points out that the *lex Villia* introduced a set *Rangordnung*, he notes that the power of the tribunate and the censorship was not commensurate to the place they held in it.<sup>38</sup> Although no discussion is given of the prerogatives of the individual magistracies, there is some discussion of their respective influence and prestige. There is little interest, though, in discussing the historical implications of the topic.

Mommsen was unimpressed with Nipperdey's effort, as some references in the *Staatsrecht* show; Nipperdey had in turn reservations on some of Mommsen's arguments, including aspects of his recent edition of the *Monumentum Ancyranum*. He was much more appreciative, on the other hand, towards the treatment of the topic that Wilhelm Adolf Becker (1796-1846) gave in the *Handbuch der römischen Alterthümer* (1846). Section 2.2 of that monumental work is devoted to a discussion of "Die Magistratur", and the discussion of the *lex annalis* is presented right at the outset, as the transition from monarchy to republic is brought into focus, and the temporary nature of the power of the magistrates is identified as a key factor: the laws that set limitations to the possibility of standing for office are regarded as part and parcel of the topic. In a largely descriptive treatment, there is room for an important historical insight: the *lex annalis* was enacted with the purpose of preventing the formation of an office-holding oligarchy; at the same time, the Republic had to reckon with the need to recognise and reward military expertise, and the prorogation of *imperium* was duly introduced into the system in the light of those considerations. The *Staatsrecht* brought to completion the *Handbuch* project that Becker had started and Joachim Marquardt had continued: its systematic approach and its ability to combine antiquarian and historical insights are in keeping with the original inspiration of the project. They also built on four centuries of antiquarian, philological, and historical work.

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38 Nipperdey 1865: 36.



Towering achievements require deep and complex foundations. The case for focusing on the edifice itself, on its layout, its spaces, and its décor, is ever an attractive one. Underwhelming and unrewarding as they might seem at first glance, though, the deeper layers of the historiographical traditions on which we work do matter. They equip us to better understand the structural choices of those who designed and populated the scholarly homes we inhabit, and give us insights into the backdrop of our own concerns and biases. Most importantly, following the stages of their construction gets us to think harder about the potential of the material we are working on.<sup>39</sup>

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THE *CURSUS HONORUM*  
BEFORE THE *CURSUS HONORUM*:  
DEBUNKING THE *LEX VILLIA ANNALIS*

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Studies on the history of the Roman magistracy build on the common conception that the *cursus honorum* governed public careers of the Roman elite. The moment when this *cursus* was inaugurated is not stated explicitly in the sources, although Livy explains that the first critical piece of legislation was the *lex Villia annalis* in 180 BCE. His reference is generally viewed as the natal hour of the formalized *cursus*, that is, the sequencing of its ranks and setting of age requirements for candidates as they moved up from one step to the next, from quaestor to aedile, praetor, and consul. The *cursus* prior to the *lex Villia*, in turn, is typically considered less modulated, subject mostly to a piecemeal of traditional practices and procedures, and steered by occasional prescriptions. In other words, and more pointedly: by means of the *lex Villia*, legislative action superseded the ordering practice of *mos*, or tradition.

Such a view certainly has its merits, especially with regards to the capacity of Roman *leges* to govern and indeed alter the direction of politics. All the while, prioritization of a single piece of legislation over the long duration of the political process triggers obvious doubts. This paper contends that the *cursus honorum* was never systematized in the ways constitutionalized renderings of Roman Republican history suggest. Career paths were always in flux. While this is not a dramatic aperçu in itself, the study of career laws in the decades prior to the *lex Villia* demonstrates, in exemplary fashion, how the *cursus honorum* was intertwined with the governance of the *res publica* as a whole. Rather than stipulating career patterns, it is best understood as a

referential system in the negotiation between individual ambition and a poignant sense of collectivity among the Roman elite and its Republican traditions.<sup>1</sup>

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Livy is the only authority on the *lex Villia annalis*. At the end of his account of the consular year 180 BCE, he says: *Eo anno rogatio primum lata est ab L. Villio tribune plebis quot annos nati quemque magistratum peterent caperentque. Inde cognomen familiae inditum ut Annales appellarentur.*<sup>2</sup> The brief statement contains three pieces of information. First, that Villius stipulated “ages at which the magistracies might be sought and held”. Livy, secondly, prefaces this by observing, in fashion typical to Roman historiographic tradition,<sup>3</sup> that this was a first-time regulation: “in that year for the first time a motion was made”. Hence, the measure was noteworthy because it was a first that, by implication, lent a new, exemplary quality to the political process at Rome. Third, Livy explains that, following Villius’ legislation, a cognomen was given to his family so that subsequent members were called *Villii Annales*, which again highlights the impression the measure seems to have had on the future course of history. Note that Livy’s formulation does not speak of a *cursus honorum* legislation; the term does not appear anywhere in *ab urbe condita*. As a keyword in politics, the term occurs in the body of Republican literary tradition only in Cicero, who uses *cursus honorum* for the overall notion of a binding career path and *leges annales* for individual regulations pertaining to such a structure.<sup>4</sup>

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1 This article builds on my more comprehensive study on office-holding and aristocratic careers in mid-Republican Rome from 2005. The prosopographical data of early and mid-Republican offices holders remains largely unaltered since, the most significant addition being the names of some previously unknown quaestors from the inscribed bronze rostra from the Egadi Islands, cf. Prag 2014. Major research contributions after 2005 on the *cursus* and its offices include Flower 2010; Beck – Duplá – Jehne – Pina Polo 2011; Pina Polo 2011; Lundgreen 2011; Vervaeke 2014; Drogula 2015; Becker 2017; Pina Polo – Díaz Fernández 2019; Wilson 2021.

2 Livy 40.44.1.

3 The figure becomes tangible for the first time in Fabius Pictor FRH 1 F 23 = FRHist Fabius Pictor (F31).

4 Cic. *Sen.* 60; *De or.* 1.1; *Planc.* 17; *Cael.* 72; *Fam.* 3.11.2; *Leg agr.* 2.24; cf. TLL 4 (1906-1909) 1538-9 s.v. *cursus* II.2.c.

Lucius Villius had put forth a motion to establish minimum age requirements for the holding of individual offices. Whether or not this marked a new beginning of a new chapter in the history of the *cursus*, as suggested by Livy, and how deep the caesura was, is open to debate. For one, the motion merely codified practices that were already firmly established in the two decades prior to Villius' law.<sup>5</sup> To be sure, Livy does not mention the ages that were fixed, which has triggered a long and somewhat uninspiring debate over what the individual age limits might have been.<sup>6</sup> No matter the numbers, in the decades after 200 BCE the road up the career ladder was governed by quasi-obligatory patterns, including age prescriptions, that candidates found difficult to bypass or jump, let alone to ignore.

Much of this had to do with the experience of the Hannibalic War, in particular the suspension of traditional practices in the recruitment of imperium holders and the exceptional careers this created, both of mavericks (Q. Fabius Maximus, M. Claudius Marcellus) and of young shooting stars like P. Cornelius Scipio. The desire to steer clear from exceptional careers and endorse the principle of a broad pool of families represented in the annual slate of imperium holders coincided with the renewal of the aristocracy as a whole – the Punic War had torn visible gaps into the ranks of the senate that needed to be filled. Roughly a quarter of all plebeian consuls from the Hannibalic War to the *lex Villia* came from families that had never held the *maximus honos* before.<sup>7</sup> Their first-time success in consular elections points to the general openness of the nobility as a status-group, but it also adumbrates the fierceness of the political competition and the highly competitive climate in the aftermath of the Second Punic War; we shall return to this soon.

The numerical development of the *honores* aggravated the situation. From the inauguration of the provinces in Hispania (197 BCE), which brought the number of praetors up to six, only one in three praetors could

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5 Hence Hopkins 1983: 47: "This law seems only to have legalized contemporary practice." Cf. Flower 2010: 65-66, who is ambivalent about the role of the *lex*. On the one hand, it was "business as usual" (66) to the Romans, on the other it serves as point of distinction between two types of republics in Flower's overall investigation.

6 Major contributions (after Mommsen 1887/1888: 536-563) include Astin 1958: 7-19; Develin 1985; Evans – Kleijwegt 1992; Timmer 2005 and 2008: 67-95; Pina Polo – Díaz Fernández 2019: 59-61.

7 See below note 25.

mathematically achieve the consulate. Whether the praetorship was henceforth binding or not – in the year before it was not –, the normative force of the competition made it factually impossible for candidates to succeed at consular elections without the praetorship under their belt.<sup>8</sup> In turn, candidates for the praetorship were required to have distinguished themselves at the entry-level positions of the career ladder, no matter how far down this ladder is conceived. By implication, then, after 200 BCE all governing factors relevant to the success at the elections of magistrates added to the sequencing of *honores* and a corresponding age progression of candidates.

While subject to the political context of the years prior to its stipulation, the *lex Villia* also resonated with the long history of the magistracies. Livy's comment of a first-time motion is true only if understood in a rigid sense, and with regard to one aspect of career governance alone, that is, the stipulation of age requirements. Indeed, several prescriptions governing the access to the *honores* figure prominently in the literary tradition prior to 180 BCE. Each of these motions had its own thrust. Their prime focus was to respond to challenges arising from socio-political conflict, the Struggle of the Orders, and, in the course of the 3<sup>rd</sup> century, the necessity to endorse the coherence of the nobility as a status group in Roman society. Furthermore, numerical adjustments to the pool of *honores*, while relating to this, were inspired by the growing demand for office holders at home and away.<sup>9</sup> Despite these far-flung trajectories, the respective laws deeply impacted the circumstances under which careers were made; each one of them created new conditions and challenges for the members of the elite. Much has been written about these laws, on individual *leges* as well as on their convergence into a system of magistracies. For the purpose of this chapter, it is worthwhile to survey them by means of a brief overview.<sup>10</sup>

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8 For 198, T. Quinctius Flaminius was elected consul *ex quaestura*. According to Livy (32.7.11) the – contested – application was decided in favour of Flaminius not on legal grounds but on traditional practice. Cf. Beck 2003: 53 and 368-375; Pfeilschifter 2002: 52-68; Brennan 2000: 161 and 168. If the inauguration of the provinces in Hispania in 197 triggered a corresponding *cursus* law in 196, it cannot be determined with certainty but is not unlikely: Brennan 2000: 168-169, following Astin 1958: 27; Beck 2003: 37-38 and 54-55. From 196 to 166, all consuls can be shown to have held the praetorship before the *maximus honos*, most likely not a coincidence.

9 Cf. only Brennan 2000 who has fully charted the growing need for praetors in the city of Rome as well as abroad.

10 Cf. the survey remarks of Lanfranchi 2022: 194-195.

CONSPECTUS OF PRESCRIPTIONS PERTAINING THE HONORES  
(367/6 TO 200 BCE)

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367/6	<i>leges Liciniae Sextiae</i>
358	<i>plebiscitum Potelium de ambitu</i> (Elster 2003: #6)
342	<i>leges Genuciae</i> (Elster 2003: #19-20)
339	<i>lex Publilia de censore plebeio creando</i> (Elster 2003: #21)
300	<i>lex Ogulnia de auguribus et pontificibus</i> (Elster 2003: #46)
265	<i>lex Marcia</i> on the iteration of the censorship (Elster 2003: #65)
217	<i>plebiscitum de lege solvendis consularibus</i> (Elster 2003: #84)
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267	adjustment of number of quaestors from 4 to 6 (Elster 2003: #63)
244 (?)	adjustment of number of praetors from 1 to 2 (Ester 2003: #70)
227	adjustment of number of praetors from 2 to 4 (Ester 2003: #79)
198	adjustment of number of praetors from 4 to 6 (Elster 2003: #137)

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Beyond all changes to the imperial realm abroad and ongoing societal conciliation within, these measures suggest a dynamic, if not rapid, development of the career matrix. In the segment of offices with imperium, the number of available posts jumped from 3 (367) to 4 (244) and 6 (227) respectively – and soon enough to 8 (197). With the number of aediles set constantly to 4,<sup>11</sup> while at the same time raising the number of quaestors,<sup>12</sup> both sections, offices with and without imperium, witnessed a significant increase of internal hierarchization, simply because of the numerical development (between consuls and praetors, and between aediles and quaestors).<sup>13</sup> The stratifying force this process wielded upon the highest echelon of society can hardly be overstated. It is mostly agreed among scholars that the set of legislation labelled the *leges Licinae Sextiae* (367/6 BCE) established a triangular executive at the head of the *res publica*. Studies in the prosopography of office holding indicate that there was no clear hierarchy between the consulate and praetorship – if these designations were used in 367/6 already. The praetorship remained an office that orbited freely around

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11 For the dynamic development within, cf. now Becker 2017.

12 Cf. Pina Polo – Díaz Fernández 2019: 25-43.

13 The relation of consuls to praetors jumped from 2 : 1 before 267 to 2 : 6 in 197. Aediles to quaestors from 4 : 4 to 4 : 8/10 in the same time span.

the consulate. There seem to have been no binding rules for picking up the praetorship. The few authentic surviving office holders indicate that it was usually only held after the consulship, with deserving generals being the main candidates.<sup>14</sup>

Opening up and actually reserving one post among the higher magistracies for plebeians altered the career game; in a more general sense, the regulation marked the actual beginning for career patterns to evolve, providing aspirants with a calculable set of positions that could be sought and held, and thus became the object of competition. Only 25 years later, in the desire to keep the pool of positions in principle open and secure, a broad field of applicants was endorsed by L. Genucius (342), whose package of rogations included the prohibition of office holding within a ten-year period as well as the accumulation of offices in one and the same year.<sup>15</sup> Another two generations later, the *lex Marcia* reinforced the same principle with regard to the censorship.<sup>16</sup> The main thrust toward differentiation came however in the era of the First Punic War, when the praetorship was raised to 2 (c. 244) and soon enough to 4 (227) positions. Numbers games left aside, it has been argued that these additions were “a landmark moment in the separation of the consulship from the praetorship”<sup>17</sup> because they sat the latter apart from the former, ranking the praetorship second to the consulate.

Prosopography illustrates the case. In the period from the end of the First Punic War to the restart of Livy’s narrative in 219 BCE, of the known praetors whose office can be dated with certainty, all men held the post prior to the consulate. In other words, the orbital character of the praetorship had given way to a clearly situated, ranked place in the course of offices.<sup>18</sup> If the *leges Liciniae Sextiae* marked the beginning of the *cursus honorum* as a defined set

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14 See the *fasti praetorii* from 290 to 241, modified after Brennan 2000: App. B: L. Caecilius Metellus Dentor cos. 284, pr. 283; M’. Curius Dentatus cos. I 290, pr. 283; C. Genucius Clepsina cos. I 276, pr. 273?; A. Atilius Caiatinus cos. I 258, pr. 257; L. Postumius Megellus cos. 262, pr. 253; Q. Valerius Falto cos. 239, pr. 242.

15 Elster 2003: #19-20. The best account is still Hölkeskamp 1987/2011: 62-113 and Add.; cf. now Helm 2021: 207-210.

16 Val. Max. 4.1.3; Plut. *Cor.* 1.1; Livy 23.23.2 = Elster 2003: #65; cf. Bleicken 1975: 75.

17 Drogula 2015: 187-188.

18 C. Flaminius pr. 227, cos. I 223; M. Valerius Laevinus pr. 227, cos. I 220; L. Manlius Vulso pr. 219?, also-ran in the consular elections for 216; cf. also P. Cornelius pr. 234 (died in office); M. Claudius Marcellus pr. 225/223?, cos. I 222. The data is discussed, along with more uncertain cases, in Beck 2003: 66.



of offices, the measures pertaining to the praetorship in the 240s and 220s affected the principle of a transparent hierarchy. It is telling that the measure came in piecemeal, carefully adjusting existing practices of governance and extending the legal framework around them rather than making a big constitutional bang.

The depth and, presumably, intensity of the debates surrounding these measures can only be conjectured. Livy's account is lost; so it is hazardous to speculate how changes from the 240s to 220s were highlighted in his text. If we bear in mind the overall inaptitude of the Roman tradition to adequately spell out the complexity of political processes at various stages of their development, it might be best to put the issue to rest.<sup>19</sup> But the point in case remains. Over the period of four to five generations from 367/6, the organizational frame of the *honores* was shaped by persistent changes to the number and guidelines of admission to office. In addition to institutional advancement, accelerated change both in the foreign arena and in the ways this resonated within the *res publica*, inspired ongoing (re-)assignment of tasks and prerogatives to individual offices, the content of *honores*, as it were. Adjustments to the separation of executive realms and areas of responsibility further accentuated the outlook of each *honos*, both individually and in correlation to the evolving slate of magistracies as a whole – the creation of the *praetor urbanus* and *praetor peregrinus* in 227 is but one striking measure that captures this process. Building on experiences from ongoing, varied attempts to regulate the political organization by law, office holding from the mid-3<sup>rd</sup> century became a differentiated, stratified, and hierarchized affair, tightly interconnected with the evolving idea of orderly progression between offices.

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We already noted in passing that the Hannibalic War marked a deep hiatus in the history of office holding. The military pressures and corresponding death toll, also among the higher and highest segments of society, presented an existential threat. In the battle of Cannae alone some 80

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19 The increase in praetors in c. 244 and 227 was noteworthy enough to be covered in Livy *Per.* 19 and 20 (factual record, no further narrative). In Lydus *Mag.* 1.38 the measure is combined with adjustments to the organization of *tribus*. Pompon. *Dig.* 1.2.2.28 says the increase and subsequent division of areas of praetorian responsibilities was triggered by issues the growing number of non-Romans in the city had caused.

senators were killed,<sup>20</sup> and Polybius says that of 6,000 Roman cavalry, only 70 survived.<sup>21</sup> In the subsequent *lectio senatus*, performed by the dictator M. Fabius Buteo appointed to carry out this task only, 177 new senators were enrolled into the house.<sup>22</sup> For the time being, these pressures pushed concerns about access to the *honores* among the elites into the background. Although the measure is debated in scholarship, the most convincing interpretation of the so-called *plebiscitum de lege solvendis consularibus* from 217 BCE is to see the motion in precisely the light in which it is presented by Livy: “By the authority of the *patres* it was proposed to the people, and the people had ordained that, so long as the war remained in Italy, the people should have the right to reelect as consuls the men they pleased and as often as they pleased from the number of those who had been consuls.” In other words, to maximize efficiency on the battlefield, all prescriptions concerning office holding were temporarily lifted – Livy seems to think here about restrictions on the iteration and indeed continuation of the *maximus honos* first and foremost.<sup>23</sup>

Curiously enough, the return to practices in effect prior to the war was initiated as soon as this was somehow possible, that is, as soon as the situation on the battlefield allowed. While the special commands of personnel with imperium in Hispania continued until the end of the war, the recruitment of consuls steered into calmer channels as early as 208 (elections for 207): M. Livius Salinator, consul for the second time in 207, was appointed more than ten years after his first consulate in 219. From there to the *lex Villia*, only two other men iterated the consulship, both in compliance with a 10-year interval period.<sup>24</sup> So already before the end of the war, the practices of multiple iterations as well as premature iterations were discontinued. It is striking to see just how closely the patterns in the recruitment of imperium holders realigned in the first to decades of the 2<sup>nd</sup> century BCE, almost seamlessly so,

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20 Livy 22.49.

21 Polyb. 3.117.

22 On Buteo’s *lectio*, Wilson 2021: 245-249 and #78; cf. also Thibault 2022: 215, who diagnoses an inherent “conflict between these new senators and their descendants on the one hand, and the ancient families who wanted to regain their place, on the other.”

23 Livy 27.6.7 (under 210 BCE): *namque Cn. Servilio consule cum C. Flaminius alter consul ad Trasumennum cecidisset, ex auctoritate patrum ad plebem latum plebemque scivisse ut, quoad bellum in Italia esset, ex iis qui consules fuissent quos et quotiens vellet reficiendi consules populo ius esset*. Issues on the historicity of the law have been raised by some (Rögler 1962: 86-87; Bleicken 1975: 176), see however the debate in Rilinger 1978; Beck 2003: 48-51.

24 P. Sulpicius Galba, cos. I 211, II 200; P. Cornelius Scipio, cos. I 205, II 194.

with the period prior to the Hannibalic War, and prior to the First Punic War. In the 190s and 180s, both the iteration index and the quota of new families in the highest echelon of the elite, first-time holders of the consulship, were in accord with the corresponding numbers for the decades from the 260s to the 230s BCE.<sup>25</sup>

The circumstances under which public careers were pursued were, however, never frozen. This is also true for the aftermath of the Hannibalic War. On the one hand, the recruitment of office holders displayed a healthy fluidity of families, the situation was by and large inconspicuous. At the same time, the literary tradition attests to a particularly tight net of prescriptions governing the terms of office-holding in those decades: both the elections to the *honores* and the actual conduct of magistracies. It appears that more efforts were made in the 190s and 180s to keep recruitment patterns in sync with what the elite found desirable. It appears again helpful to survey the slate of motions by means of a short table.<sup>26</sup>

CONSPECTUS OF REGULATIONS FOR POLITICAL COMPETITION  
(200 TO 180 BCE)

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196	obligatory praetorship for candidacy for the consulship (?)
195	<i>lex Porcia de sumptu provinciali</i> (Elster 2003: #143)
191	<i>senatus consultum</i> on the votive games of P. Cornelius Scipio Nasica financed from spoils and <i>de sua impensa</i>
187	<i>senatus consultum</i> on the financial ceiling of the <i>ludi Magni</i> held by Fulvius Nobilior
182	<i>lex Orchia de cenis</i> (Elster 2003: #160)
182	<i>senatus consultum</i> on the finances of the aedilician games of Ti. Sempronius Gracchus
181	<i>lex Cornelia Baebia de ambitu</i> (Elster 2003: #161)
181	<i>lex Baebia de praetoribus</i> (Elster 2003: #162)
prior to 180	<i>rogatio Pinaria annalis</i> (Elster 2003: #163)
180	<i>lex Villia annalis</i> (Elster 2003: 164#)

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<sup>25</sup> Iteration index from 207 (Livius Salinator cos. II) to 180: 1.05. In the 260s and 230s: fluctuation between 1.0 to 1.06. Cf. Beck 2005: 96-105 for calculation and 101 (graph). Quota of new families from 240 to 219: 25%. In the 190s and 180s: 24%. Cf. Beck 2005: 147-154 for calculation, particularly 150 (graph).

<sup>26</sup> Cf. Coudry 2012; Beck 2019: 50; cf. also the compilation by Lanfranchi 2022: 197-204.

The high frequency of these measures is too striking to be ignored. On average, the senate and *comitia* made a motion every other year that targeted the political competition. How so? It is immediately clear that the liquid assets used in the organization of games and other public events with which future candidates recommended themselves to the people came under scrutiny. For instance, in 191 the senate advised the consul P. Cornelius Scipio Nasica to fund the games he had vowed as propraetor a few years earlier either from previous war spoils or “from his own money” (*sua ipse impensa*).<sup>27</sup> Whichever it was, Scipio went on to celebrate magnificent *ludi votivi* for a full ten days, most likely paid out of his own pocket.<sup>28</sup> Such a use of private funds complicated the matter, for if magistrates were allowed to resort to their family wealth when equipping games in the name of the republic, the accumulation of monetary assets itself would become an eminent tool in politics. One of the consuls in the same year 191, M. Acilius Glabrio, brought about one of the most iconic incidents to capture the connection between money and power. In 197 BCE he had been among the notorious plebeian aediles who held games that were repeated for a total of seven times in a row.<sup>29</sup> Praetor in 196 and consul in 191, he celebrated a triumph in 190. In the following year, he submitted – almost inevitably so – his candidacy to the censorship. According to Livy, Glabrio was the most promising candidate because of the lavish *congiaria* (presumably cash and other material assets) he had distributed to the people.<sup>30</sup> His generosity caused, however, fierce resistance among the senatorial elite. Pressured with legal charges over the correct – or incorrect – usage of war spoils from his previous campaigns, Acilius averted an impending conviction only by withdrawing his candidacy for the censorship.<sup>31</sup> His file was thus closed, but the issue of spending individual assets rather than more easily controllable public funds lingered on. It took the senate only four years to contain the development. When, in 187, the propraetor M. Fulvius Nobilior (cos. 189) requested to hold *ludi Magni* in accordance with a vow to Jupiter, he suggested that when his spoils went to the treasury, the funds for those games were to be encumbered and thus retrievable at a later date. The senate agreed to this in principle, but, in

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27 Livy 36.36.1-3.

28 Cf. Bernstein 1998: 272-274; Beck 2016: 131-132.

29 Livy 33.25.1-3; cf. Beck 2019: 34-35.

30 Livy 37.57.11.

31 Beck 2019: 42-44.

addition, stipulated that there should be an overall funding ceiling for Nobilior's games, no matter where the funds came from: HS 80,000 in total.<sup>32</sup>

Measures governing the conduct of canvassing, the use of financial funds in electoral campaigns in particular, were one way to steer the appointment to offices. At the same time, the basic architecture of the magistracies was targeted. The *lex Baebia de praetoribus* from 181, for example, stipulated that only four praetors were to be elected for 180 (rather than six, since 197). The measure complemented an ambitus law rogated by the same Baebius.<sup>33</sup> It appears that his legislation was designed to create an inherent connection between ambitus and the shape of the *cursus*, in order to get the fierce political competition under control that was created by the high number of praetorian candidates for the consulship. The issue failed, most likely because it affected that there were not enough praetors available to fill the resorts that were needed on a regular basis (two in the city and four *militiae*). It does give a hunch, however, just how tense the political competition was and how much the elite grappled with a meaningful solution to release at least some of the steam this had put upon the *res publica* as a whole.

The omnipresent dynamic of increase in those decades, the monetization of the political competition in particular, is well attested. Livy's narration of these years is truffled with thrilling electoral campaigns, staggering inventories of the influx of wealth from Africa, Greece, and Asia Minor, jar-dropping examples of the display of *luxuria* during banquets, triumphs, games, and on countless other occasions. Recent scholarship has made significant progress in the conceptual decoding of how this capitalization altered, or toppled prevailing political discourses at Rome: how, in a nutshell and in abstract terms, the sheer immeasurable influx of material objects built a new stage for the conduct of policy.<sup>34</sup> It is obvious how the *cursus* motions in the 190s and 180s related to this process, that is, how the legislation responded to and correlates with pressing issues of the day. What is not quite so obvious is how Villius' stipulation of age requirements would have helped to ease the situation, let alone solve the subject matter at hand – the staggering monetization of canvassing.

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32 Livy 39.5.7-10; Walther 2016: 26-42; cf. Beck 2016: 132.

33 Elster 2003: #161 and 162; Brennan 2000: 169-172; Beck 2019: 38-39.

34 Contributions with a decided thrust towards materiality and the changing objectscape of the city of Rome at the time include Davies 2017; Helm – Roselaar 2023; de Jong – Versluys 2023; Pons Pujol – Pérez González 2023. See also Hölkeskamp 2023, who now synthesizes much of his previous contributions on the dynamic of increase.

A century and a half later, Cicero observed that *leges annales* had become necessary and were first stipulated only because of the staggering increase in the competition for office-holding: “Our ancestors, those of an age long gone, had no *leges annales*. *Ambitio* led to these many years later, so that the rank of competition was between equals (i.e., between men of the same age).”<sup>35</sup> Cicero does not offer his views on when that increase came about but the observation ties in well with the heightened contest in the decades post-200 BCE. Reference to *leges annales*, rather than *cursus* laws, further suggests to seeing this legislation in connection with L. Villius’ motion in Livy: Villius was the first to put forth this type of legislation, which had become necessary in light of the exceptional political rivalry at the time. So, while Cicero’s general explanation is credible, i.e., that the dramatic increase in ambitus made a new type of legislation desirable, it remains puzzling how the competition between men of the same age, *inter aequales*, would have served as a remedy – even more so, since the progression of praetorship and consulate had also been observed since 197 BCE.

One solution to the conundrum is that Villius’ motion made the *cursus*, or rather age requirements for the *cursus*, for the first time the subject of legislation. The age of candidates was, for as far as we can see, not the main problem of the day, but the issue of the age of individual candidates was of course on the agenda of Republican discourses since the Hannibalic War at the very latest. In the second half of the 180s, Scipio Africanus had toyed with the idea of a candidacy for his third consulate in 184, which opened the old trenches over his early career.<sup>36</sup> In c. 181 Pinarius Rusca rogated a *cursus* law that addressed the issue of ages; according to Cicero it was referenced as *rogatio Pinaria annalis*.<sup>37</sup> The details of his motion are unclear, however, judging from Livy’s verdict that L. Villius’ *lex* was the first of its kind, Pinarius’ proposal seems to have fallen flat.<sup>38</sup> Already a decade earlier, the topic of age thresholds was addressed in another legal arena, that of Roman private law. Traditionally, minors were under the guardianship of an adult until a certain

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35 Cic. *Phil.* 5.47 (from Jan. 1, 43, arguing to suspend prevailing age prescriptions for Octavian, aged 20 at the time): ... *Itaque maiores nostri veteres illi admodum antiqui leges annalis non habebant, quas multis post annis attulit ambitio, ut gradus essent petitionis inter aequalis.*

36 See Beck 2005: 363-365 for the details, extrapolated from the tradition on the trials of the Scipios.

37 Cic. *De or.* 2.261.

38 Cic. *De or.* 2,261; Evans – Kleijwegt 1992: 181; Brennan 2000: 170.

point in puberty (around 14), when they acquired certain rights, for instance, to enter into contract or debt obligations. The authority of guardians, however, continued. In c. 193/191 BCE, the *lex Laetoria* set a firm age for the continuance of guardianship: it lasted until the age of 25 years, when minors became legally entitled adults. Little is known about the contents of the *lex Laetoria*, despite several references to it in the sources; it is also mentioned in the Table of Herakleia.<sup>39</sup> It is obvious, however, that the motion articulated the intention to protect young adults by declaring them minors until a certain age: according to contemporary Roman comedy, it targeted the fraudulent action of businessmen who lured young men into risky loans.<sup>40</sup> By declaring youths minors until a certain age, the law recognized their relative inexperience in certain areas of agency, the responsible use of economic resources in particular. More generally, it raised “a barrier to their impatience”.<sup>41</sup> In this sense, then, the *lex Laetoria* added to a public discourse about age and age requirements, and the creative possibilities they offered if placed under the scrutiny of the law.

So the topic was in the air and Villius presented a motion that spoke to the spirit of the day in one way or another. Cicero does not specify Villius’ law but it is of course possible that he had this in mind (among other regulations: plural!) when referring, generically so, to the *leges annales* of the past. Only Livy explicitly spelled out the motion, introducing it as a first-time regulation. All the while, Livy seems to have had something else in mind when earmarking the measure as a first-time law. In his condensed account, *primum lata est* accentuates the regulation, but in the text that follows the importance that derived from this is not tied to the development of the *cursum honorum*. Instead, it leads to the observation that Villius’ *familia* henceforth carried the *cognomen* Annalis. In other words: Livy speaks of the measure to explain the family name Villii Annales rather than announcing the advent of a new chapter in the history of the *cursum*. When the Villii Annales reappear in the historical tradition for the first time after the name-giving tribune of the plebs L. Villius from 180 (pr. 171) in the 50s and 40s BCE, their eagerness to highlight and promote path-breaking legal initiatives of one of their ancestors would have been an obvious, if not natural strategy to enhance family prestige. Livy surely would have been aware of and familiar

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39 Elster 2003: #147 and p. 311; Lanfranchi 2022: 211-213.

40 Cf. Lanfranchi 2022: 211, from Plaut. *Pseud.* 303-304 and *Rud.* 1380-1386.

41 Lanfranchi 2022: 216; cf. Timmer 2005: 61-63.



with these traditions. When combined with smokescreen references to good governance by Cicero, it is easy to see how Livy's passing mention of the *lex Villia* was vested with supreme meaning for the history of the *cursus honorum*. This turning point character of the motion was, however, most likely the result of political discourses prevailing in the 1<sup>st</sup> century BCE that made the law bigger and appear more effective in retrospect than it would have been in the 180s BCE.

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Commenting on Cicero's statement in *Phil.* 5.47, Jochen Bleicken observed that *leges annales* endorsed the idea of principle equality among the Roman elite vis individuals who threatened to jeopardize the comment of the collective. Along the way, *mos* was turned into *lex*.<sup>42</sup> In similar fashion, Christian Meier diagnosed that the conduct of politics, through *leges annales*, lost its elasticity. The *lex Villia* was indicative of a process where "cement replaced grown – and growing – wood".<sup>43</sup> Leaving the flowery language aside the point is well taken, much in accord with prevailing readings of the gradual, ongoing transformation of Republican politics over the course of three centuries and more. At the moment of its implementation, however, the *lex Villia* was but one piecemeal measure in the broad stream of things – and probably not a very efficient one, judging from the prevailing challenges at the time. Livy seems to have hastily lumped the *lex Villia* together with other miscellaneous information he had found in his sources to put it at the end of his account of the consular year 180 BCE. Looking back, in search of exemplary acts of law-giving that safeguarded conditions intuitive to the political competition among equals, the measure gained more attraction and importance than it could have claimed at the time. Competition was as fierce as ever, the circumstances under which it was carried out were in flux. To return to the starting observation of this contribution, as a formalized system that governed the careers of Roman elites, the *cursus honorum* before the *cursus* was as much of a phantom as it was after Villius' situational motion from 180 BCE.

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42 Bleicken 1975: 176-177.

43 Meier 1980: 60.



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MILITARY TRIBUNES  
WITH CONSULAR POWER, AUSPICES  
AND THE BIRTH OF THE *CURSUS HONORUM*

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## Introduction<sup>1</sup>

For anyone interested in the history of Roman magistrates, the case of the military tribunes with consular power (henceforth consular tribunes) is undoubtedly one of the most dispiriting. Indeed, there is no other case of a magistracy that lasted so long (77 years, from 444 to 367) about which we know so little and for which as many grey areas remain. As the corpus of sources on this topic has remained unchanged for a century now, the problem is all the more vexing, and we are often reduced to wandering from extrapolation to mere speculation.

The creation of this magistracy and the way in which it functioned have given rise to an abundance of literature, for which Mommsen, as is often the case, provides a convenient (and, for once, rather short) starting point.<sup>2</sup> Scholars have since mainly focused on the reasons for the creation of this

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1 This paper is part of an ongoing research project on the military tribunes with consular power. I would like to thank Frederik J. Vervaeet and Tim J. Cornell for the fruitful discussion on the topic. The ideas expressed in the following pages were also discussed during a seminar at the University of Bordeaux Montaigne: I wish to thank François Cadiou and Alberto Dalla Rosa for the invitation and for their invaluable observations.

2 Mommsen 1887: 2.181-192.

function, a point that is already debated in the ancient sources.<sup>3</sup> After Mommsen, the historiography on this magistracy can be roughly divided into two broad categories: those who deny its existence for various reasons, a trend that has developed recently;<sup>4</sup> and those who accept it and follow one of the three traditional explanations for its creation (political, military or administrative).<sup>5</sup>

The very existence of these magistracies has thus sometimes been purely and simply denied. In the following pages, I shall nonetheless assume that they are a historical fact, for reasons that I do not have space to dwell on, the main one being the data in our sources: however confused they might seem, they show regularities and patterns that are too striking to be the result of invention. Furthermore, trying to find the one and only good reason for their creation does not seem particularly appropriate: it is more sensible to seek a range of explanations than to decide between competing ones.

As it would be impossible to address all the issues raised by these magistracies, and in keeping with the theme of this volume, I would like to consider the consular tribunes from the vantage point of their role in the evolution of the very idea of magistracy and *cursus* in Rome. These elusive magistracies can indeed only be understood in relation to the historical context of the mid-fifth century on the one hand, but also to the incremental establishment of Republican institutions, in particular the various Roman magistrates and their internal hierarchy. In so doing, even if this cannot solve all the problems pertaining to the consular tribunate, it can enable us to look at it in a slightly different way. This is all the more useful in that we can benefit from the progress made in our understanding of the history of magistracies during the archaic republic.<sup>6</sup> In a sense, then, I shall simply build on Brennan's insight: "it very likely took almost a century and a half for

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3 See in particular Livy 4.6.8, 4.7.2 and 5.31.9 where one can already find the three major explanations: political, military and administrative.

4 E.g. Sohlberg 1993; Bunse 1998; Holloway 2008; Drogula 2015; Koptev 2018.

5 See in particular Richard 1990 for a good summary of historiography.

6 For a presentation of these heavily debated issues, see Cornell 1995: 215-239; Linke 1995: 132-172; Humm 2012; Giovannini 2015: 115-118; Lanfranchi 2015: 36-40; Bianchi – Pelloso 2020: 3-146; Martínez-Pinna 2020: 251-308; Lanfranchi 2021; 2022: 14-32; 2024; Martínez-Pinna 2024. Beloch 1926: 263-264 nevertheless defends the idea that the title of consul was indeed in use in the fifth century on the basis of the famous inscription regarding the *spolia opima* of Cornelius Cossus. The idea of the early establishment of the consulate still has its supporters, such as Martínez-Pinna. This issue is therefore still being discussed.

the Romans of the Republic to arrive at the concept of two grades of *imperium*”.<sup>7</sup> While I do not share his conclusions about the consular tribunes (he denies them *imperium* but not public auspices: see below), I do believe that the consular tribunes did play a pivotal role in the development of the *cursus honorum*, this notion being understood as a hierarchy of political functions organised according to their power (*potestas cum* or *sine imperio* on the one hand and *ius auspicandi* on the other hand): from the least important to the most important.

I shall therefore focus first on the similarities between praetors/consuls and consular tribunes, before tackling the central issue of the auspices. Then, I shall reintroduce the consular tribunes in the broader context of the birth of the *cursus honorum*.

## Differences and Similarities: A New Magistracy?

The main problem is the difference between these new magistrates and the pre-existing superior magistrates (whether they are called praetors or consuls).<sup>8</sup> It is particularly important in the eyes of the proponents of the political explanation: ceding a little power without ceding the supreme magistracy presupposed a difference either in nature or in degree between the two. A snippet from Zonaras sums up the substance of the issue:

Zonar. 7.19: ἵνα δὲ μὴ πρὸς τι χεῖρον χωρήσωσι, τοῦ μὲν ἔργου τῆς ἡγεμονίας οἱ δυνατοὶ αὐτοῖς παρεχώρησαν, τοῦ δὲ ὀνόματος οὐ μετέδωκαν, ἀλλ’ ἀνθ’ ὑπάτων χιλιάρχους ὠνόμασαν, ἵνα μὴ τὸ τῆς κλήσεως ἔντιμον τῷ σὺρφακι ὁμίλῳ καταρρυπαίνοιτο.

“So in order to prevent the populace from proceeding to some greater extremity, the nobles yielded to them the substance of authority, though they did not let them share the name; in place of consuls they named them consular

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7 Brennan 2000: 4. See also Beck 2011: 81 (“the capacity of a magistrate *cum imperio* (consul, praetor, dictator and *magister equitum*) underwent profound changes”), but the case of consular tribunes is left aside by these authors.

8 If we do not, of course, adopt Bunse’s hypothesis for instance. According to him, these consular tribunes did not replace the consuls (who never existed before), but constituted the college of praetors. They are called tribunes in the *Fasti* because at some point the names of the ordinary military tribunes were added, leading to confusion between the two functions. One of the tribunes was responsible for the defence of the city, the others for the external countryside, which would have introduced the distinction between *imperium domi* and *imperium militiae*. The consulship would only have been introduced in 367.

tribunes, in order that the honour of the former title might not be sullied by contact with the vulgar throng” (transl. Cary).

Are these two functions separated only by their names?<sup>9</sup> Probably not, and there must be something to differentiate them, but they also have a great deal in common.

The issue of *imperium* and *potestas* is the easiest one. Some historians have tried to support the idea that consular tribunes would have had a lesser *imperium*.<sup>10</sup> There is no real evidence to support this hypothesis, quite the contrary. Sources actually provide explicit confirmation of the equivalence of power of the consular tribunes with the classical higher magistrates. One of the clearest cases is provided by Livy:

Livy 4.7.2: *Sunt qui propter adiectum Aequorum Volscorumque bello et Ardeatium defectioni Veiens bellum, quia duo consules obire tot simul bella nequirent, tribunos militum tres creatos dicant, sine mentione promulgatae legis de consulibus creandis ex plebe, et imperio et insignibus consularibus usos.*

“Some say that on account of a war with Veii, which broke out in addition to the war with the Aequi and Volsci and the revolt of the men of Ardea, two consuls were unable to cope with so many wars at once, and therefore three military tribunes were created. These writers say nothing of the promulgation of a law about the election of consuls from the plebs, but record that the three tribunes enjoyed the authority and insignia of consuls” (transl. Foster).

And, again, in Livy:

Livy 5.14.1: *Haec eo anno acta; et iam comitia tribunorum militum aderant, quorum prope maior patribus quam belli cura erat, quippe non communicatum modo cum plebe sed prope amissum cernentibus summum imperium.*

“Such were the events of this year. And now the time drew near for choosing military tribunes and the Fathers were almost more concerned about the election than about the war, perceiving that the highest authority had been not merely shared with the plebs, but well-nigh lost to themselves” (transl. Foster).

The expression used even seems to bring up the *summum imperium auspiciumque* but, curiously, the matter of the application of the *summum imperium auspiciumque* to the consular tribunes is not addressed by F. J.

9 The name of these magistrates is a problem of its own. I shall address it elsewhere.

10 See in particular Badian 1990: 469 who gives the clearest version of an idea which can also be found in Sealey 1959: 529, then Brennan 2000: 51; Smith 2006: 222 or Armstrong 2016: 194.

Vervaeet.<sup>11</sup> The Lyon Tablet and Aulus Gellius also support Livy's view,<sup>12</sup> as do some Greek sources, in particular Plutarch.<sup>13</sup>

Any attempt at demonstrating the contrary based on some differences in designation is therefore to be rejected: the *potestas* mentioned in some sources is clearly a *potestas cum imperio*: how else could consular tribunes have held a military command (a fact attested on numerous occasions)?<sup>14</sup> As F. J. Vervaeet correctly writes: "the distinction between *consulare imperium* and *consularis potestas* is an absurdity that inevitably creates various difficulties".<sup>15</sup> Indeed, if these magistrates did not have *imperium*, does this mean that Rome would not have had any magistrates with *imperium* in those years? Such an idea seems unlikely (unless we take up Boddington's theory of consular tribunes as aides to the consuls),<sup>16</sup> and we can quote Mommsen's opinion on the matter: "Über die Kompetenz der Consulartribune genügt ein einziges Wort: sie ist der consularischen gleich".<sup>17</sup>

What was, then, the election assembly for the consular tribunes? According to E.S. Staveley one of the great changes introduced in 445 was precisely an election by tribes.<sup>18</sup> A. Bernardi also thinks of an election in another assembly, but favours the *comitia curiata*.<sup>19</sup> However, this assembly was almost certainly the same as the one in which the election of the higher magistrates took place, namely the *comitia centuriata*, as expressly stated by Livy.<sup>20</sup>

It is true that another passage in Livy may have cast doubt on the matter: this passage seems here to contradict itself, since it refers to *centuria* and tribes at the same time.<sup>21</sup> Regrettably, the manuscripts are corrupt on the word "prerogative" and Staveley drew upon this textual issue to reject this evidence

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11 Vervaeet 2014, see further below on this topic.

12 *CIL* XIII 1668 I ll. 33–6; Gell. *NA* 17.21.19.

13 Plut. *Cam.* 1.2.

14 Berthelet 2015: 152-153. I find Drogula's theory on *imperium* unconvincing.

15 Vervaeet 2014: 339 n. 115.

16 Boddington 1959.

17 Mommsen 1887: 2.188.

18 Staveley 1953.

19 Bernardi 1952: 42, but it became the *comitia centuriata* later. Same hypothesis of the *comitia curiata* in Palmer 1970: 243.

20 Livy 5.13.3 or 5.52.16 for instance.

21 Livy 5.18.1-3

and to maintain that the consular tribunes were elected in the *comitia tributa*.<sup>22</sup> However, Ogilvie has since provided a twofold solution to this problem. On the basis of a comparison with another passage in Livy,<sup>23</sup> he proposes correcting the text to *praerogativae* (an old suggestion of Sigonius) and seeing in it a reference to the ancient prerogative centuries known as the *sex suffragia*. Unfortunately, it is by no means certain that these existed at the time.<sup>24</sup> Ogilvie then relates the expression *iure uocatis tribubus* to the later reform of the *comitia centuriata*, which correlated *centuriae* and tribes. Livy would therefore be committing an anachronism by speaking of tribes because he had in mind the later functioning of the *comitia centuriata*.<sup>25</sup>

Staveley nonetheless builds upon two other elements to support his theory. He first makes a comparison with the later election of military tribunes of the legions in the *comitia tributa*. The argument does not seem conclusive because, at least since 367, the *comitia* used to elect a magistrate were not determined by the magistrate's name but by his rank. Superior magistrates were elected in the *comitia centuriata*, and consular tribunes were undoubtedly superior magistrates, whereas the military tribunes were inferior magistrates (if one can speak of a magistracy at all, since they did not enter the *cursus honorum*). Staveley then quotes another passage of Livy which speaks of the same freedom of choice in the election of quaestors as the people already enjoyed in that of consular tribunes.<sup>26</sup> However, the custom followed here has nothing to do with the kind of assembly. It is quite simply a hint at the fact that plebeians as well as patricians could stand for election, the people being free to cast their votes. Moreover, Staveley's final claim that Livy's occasional reference to the tribes should be preferred because it contradicts other references in Livy fails to win support, especially as the history of the *comitia tributa* makes it unlikely that it was used for this purpose so early. Only in 471 did the plebeians come up with the idea of a tribal assembly to elect their tribunes.<sup>27</sup> This new principle slowly gained ground and the creation of a full *comitia tributa* most probably dates from the second half of the fourth

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22 Staveley 1953: 34.

23 Livy 10.22.1.

24 Humm 2005: 161-166 dates them to the late fourth century.

25 Ogilvie 1965: 667. The idea of the influence of this later reform on the Livian formulation is taken up by Richard 1990: 778.

26 Livy 4.43.3-5.

27 Lanfranchi 2015: 281-308.



century.<sup>28</sup> A last argument has been put forward by J.-C. Richard, for whom “il n’est guère pensable qu’au moment où la compétence de ceux-ci [*scil.* les comices centuriates] s’étendit au vote de la loi d’investiture des censeurs (Cic. *Leg. agr.* 2, 26), ils aient été dépossédés, même partiellement, du droit d’élire les titulaires de la magistrature suprême.”<sup>29</sup> It was therefore the same *comitia centuriata* that elected the praetors/consuls and the consular tribunes: there was no difference on this point.

Was there a difference after the election, then, when the *lex curiata* was passed? This idea has been put forward by C. J. Smith and F. J. Vervaet, who assume that these new magistrates were recognised as *iure creati* but that the lack of a *lex curiata* could mean for them a kind of diminution which would explain in particular their inability to triumph.<sup>30</sup> J.-C. Richard has, however, pointed out that the *Ab Vrbe Condita* bears an indirect trace of the existence of the *lex curiata* for the election of the consular tribunes. In 310, the dictator L. Papirius Cursor decided to postpone the vote of the law appointing C. Iunius Bubulcus Brutus Master of the Horse by the *comitia curiata* because the *curia Faucia* had been drawn to vote first. As this *curia* had already voted first on two occasions when Rome suffered major disasters (in 390 with the sack of Rome and in 321 with the defeat of the Caudine Forks), it was considered a bad omen. Thanks to this incident, we know that a *lex curiata* was passed in 390, a year in which consular tribunes were in office.<sup>31</sup> The Livian record here is quite probably based on old antiquarian traditions and cannot be dismissed out of hand. Moreover, as Y. Berthelet puts it, even at the end of the Republic, the absence of a *lex curiata* was a real liability for a magistrate. It would be odd if this had not been the case in the fifth century.<sup>32</sup>

As we can see, consular tribunes and praetors/consuls had many points in common,<sup>33</sup> with the result that one might well ask what was the point of creating these new magistrates. One crucial issue remains: the auspices.

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28 Humm 2005: 399-439.

29 Richard 1990: 778.

30 Smith 2006: 222 or Vervaet 2014: 338-340. See also Versnel 1970: 168 and 186-188 for whom a link exists between the absence of a *lex curiata* and the inability to triumph.

31 Livy 9.38.15-16.

32 Berthelet 2015: 103-137.

33 Mommsen 1887: 2.191 considered that they did not have the right to appoint a *praefectus urbi*, but Beloch 1926: 248 rightly pointed out that this is not attested anywhere and that the way the college of consular tribunes functioned (with one of them remaining in Rome) made the appointment of a *praefectus urbi* unnecessary. See also Ruciński 2009: 20-21.

## The Consular Tribunes and the Public Auspices: A Complex Situation

This initial list of commonalities shows that if there are actual differences, they probably pertain to the control of public auspices, a point that has been heavily debated. Fortunately, these auspices have been the subject of a great deal of scholarship in recent years, which has greatly advanced our knowledge of the problem, although sometimes by sidestepping the case of consular tribunes.<sup>34</sup> We can start from the fact that the auspices were an integral part of the magistrates' power. Although priests did indeed hold the auspices, only magistrates could do so on behalf of the Roman people, as already clearly stated by Mommsen: "Die Gewalt des Beamten ist die Befugnis als Vertreter der Gemeinde deren Geschäfte sowohl gegenüber den Göttern wie gegenüber den Menschen zu vollziehen, oder nach dem römischen Ausdruck, sie ist in ihrem höchsten und vollsten Ausdruck *auspicium imperiumque*."<sup>35</sup> A magistrate without auspices was thus unthinkable because it would have had serious consequences on the day-to-day political life of Rome. Furthermore, patrician magistracies were the only ones to hold *auspicium* in the sense that they necessarily and completely implied the possession of *auspicium*. Cicero's testimony is crystal clear here.<sup>36</sup> *Interregnum* thus remained a patrician privilege until the end of the Republic. The origins of this patrician monopoly on auspices is grounded in the royal era and in a gentilician reality reactivated at the beginning of the Republic in the context of the conflict of the orders.<sup>37</sup> Full control of the public auspices was therefore an essential part of the superiors patrician magistrates in Rome. But could the consular tribunes be considered a patrician magistracy? Probably not, because of several issues raised by our sources.

It must first be emphasised that the *fasti triumphales* do not mention a single triumph by consular tribunes, and one account (admittedly a late one) states that they were never able to celebrate a triumph.<sup>38</sup> This impossibility to triumph has of course been contested. According to K. J. Beloch, for instance,

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34 On the auspices, see esp. Van Haepelen 2013; Berthelet 2015; Berthelet – Dalla Rosa 2015.

35 Mommsen 1887 : 1.76. See also Berthelet 2015: 20-24.

36 Cic. *ad. Brut.* 1.5.4.

37 See Berthelet 2015: 36-73, with bibliography.

38 Zonar. 7.19.

the absence of triumph for such long periods is not an absolutely certain piece of evidence (fair enough) and, above all, he points out that the consular tribunes were able to appoint dictators who were themselves able to triumph. He infers that this must imply the right to triumph.<sup>39</sup> The fact remains that no such triumph is known.

In a recent book, F. J. Vervaeet provided decisive clarifications regarding the conditions of the right to triumph. He has shown that it presupposes the possession of an independent *imperium* and *auspicium*, as well as an effective role in the conduct of the war. Although the holder of the *summum imperium auspiciumque* obviously has a greater right to triumph than the other holders of the *imperium* (whether or not he actually commanded), this does not mean that the other ones do not have the right to triumph, as long as they have the *imperium auspiciumque* and have taken part in battle. The holder of this kind of *imperium* who fought *alieno auspicio* could claim a triumph, but only if he had personally participated in combats, whereas for the holder of the *summum imperium auspiciumque*, it was sufficient for victory to have been achieved *suis auspiciis*, whether or not he had actually led the fighting (*suo ductu*). It was up to the Senate to assess the situation and decide, which explains the possibility of multiple triumphs.<sup>40</sup> Insofar as the consular tribunes do indeed seem to have possessed a regular *imperium*, only two reasons could explain that they never triumphed: the absence of victory in a war in which a consular tribune personally took part (although we do have examples of such victories),<sup>41</sup> or a lack of *auspicia* for the office. This second interpretation is obviously most often followed.

Zonaras also mentions the fact that the consuls could appoint a dictator and that even the consular tribunes could sometimes do so, as if there was some anomaly here.<sup>42</sup> This text echoes the Livian account for 426. After a defeat against Veii, the appointment of a dictator was indeed considered in 426, but the absence of a consul raised a religious scruple. Once consulted,

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39 Beloch 1926: 248 (“Und da von ihnen ernannte Dictatoren mehrfach triumphiert haben, ist nicht abzusehen, wie ihnen selbst dies Recht gefehlt haben könnte”).

40 Vervaeet 2014: 68-130.

41 Ridley 1986: 459 added that no consular tribunes had ever won a victory worthy of triumph. The argument, which was based on common sense, raised a problem, however, because this merit was left to the Senate to decide (and could therefore be a matter of debate), and considerations other than simple military achievements could – and actually did – come into play.

42 Zonar. 7.19.

the augurs authorised the consular tribune who remained in Rome, A. Cornelius Cossus, to designate a dictator: Mam. Aemilius was chosen and he nominated A. Cornelius as *magister equitum*.<sup>43</sup> The need to consult the augurs implies that the ability of a consular tribune to appoint a dictator was open to debate, from a religious point of view, according to Livy. Such a religious issue could here only refer to the auspices.<sup>44</sup> However, M. Milani emphasised the ease with which the appointment of a dictator by a consular tribune was accepted thanks to the intervention of the augurs.<sup>45</sup> So there was no problem in lifting the ban. It should be noted that the consular tribune who selected the dictator was a patrician (Cornelius Cossus). We do have other examples of dictators being appointed by a consular tribune:

<i>Date</i>	<i>Name of the Dictator</i>	<i>Appointed by</i>	<i>Source</i>
418	Q. Servilius Priscus Fidenas (pat.)	C. Servilius Axilla (pat.)	Livy 4.4610-12
408	P. Cornelius Rutilus Cossus (pat.)	C. Servilius Ahala (pat.)	Livy 4.57.1-6
396	M. Furius Camillus (pat.)	Unknown and the college of consular tribunes was mixed and predominantly plebeian: 5 out of 6)	Livy 5.19.1-2
390	M. Furius Camillus (pat.)	A complex process. After the various votes of the Senate and the people, it can be assumed that the actual appointment should have gone to a magistrate. As the college of TMCP was then entirely patrician, it must have been a patrician.	Livy 5.46
389	M. Furius Camillus (pat.)	Unknown, but in this year again the college of TMCP was entirely patrician	Livy 6.2.1-6
385	A. Cornelius Cossus (pat.)	Unknown, but in this year again the college of TMCP was entirely patrician	Livy 6.11.9-10
380	T. Quinctius Cincinnatus Capitolinus (pat.)	Unknown, but in this year again the college of TMCP was entirely patrician	Livy 6.28.1-3

43 Livy 4.31.4-5.

44 Richard 1990: 779 doubts the veracity of the episode of 426, which he compared to another episode in 49 (when the augural college allowed the praetor M. Aemilius Lepidus to appoint Caesar as dictator), but without really developing his rationale. I can see no reason to dismiss this incident.

45 Milani 2018: 376-377.

<i>Date</i>	<i>Name of the Dictator</i>	<i>Appointed by</i>	<i>Source</i>
368	M. Furius Camillus (pat.)	Unknown, but in this year again the college of TMCP was entirely patrician	Livy 6.38-3-4
368	P. Manlius Capitolinus (pat.)	Unknown, but in this year again the college of TMCP was entirely patrician	Livy 6.38.10-6.39.4
367	M. Furius Camillus (pat.)	Unknown, but in this year again the college of TMCP was entirely patrician	Livy 6.42.4-5

It appears from this chart that no plebeian consular tribune ever appointed a dictator, which is obviously significant.<sup>46</sup> The only possible exception is 396: we cannot be sure that the dictator was appointed by a patrician, but neither can we say, as J.-C. Richard does, that Livy's narrative is not moved by the prospect of a plebeian appointment.<sup>47</sup> However, since all the other appointments were made by patricians, the most logical hypothesis is that this was also the case that year. Something made the alternative impossible for the Romans and they always turned to a patrician consular tribune. We can therefore hypothesize that if the augurs validated this possibility in 426, it was perhaps because the only consular tribune in Rome at the time was a patrician. They may have accepted it because a patrician was going to do it and that would create a precedent.

Since the auspices are a defining part of any magistrate's power, the question is therefore whether the consular tribunes had the auspices or not. The idea that they were completely devoid of auspices is an old one and was suggested by R. Laqueur, R. M. Ogilvie and R. Combès.<sup>48</sup> In a slightly different form, we already find it in Schwegler, who considered that only the patrician members of these colleges had the auspices.<sup>49</sup> If this suggestion fits well with what we have just said about the appointments of dictators, it raises great difficulties because it would suppose, in the case of mixed colleges, that only the patrician members could preside over the election of their successors, for instance, or command the army without any problem. If there are no clear direct testimonies of the holding of elections by plebeian consular tribunes, a

46 The idea of checking this point comes from a suggestion in Vervaeke 2014: 339 n. 116.

47 Richard 1990: 779-780.

48 Laqueur 1909: 228; Ogilvie 1965: 541 and 584; Combès 1966: 46-47.

49 Schwegler 1872: 112.

snippet from Livy seems to imply it when he describes the holding of elections in 399 for 398, after two years with mixed colleges.<sup>50</sup> Schwegler used this text to justify his idea that only patrician consular tribunes had access to auspices, but it does not seem possible to interpret it in this way. In addition, this would also be a problem for the command of the army, a case well-illustrated by the situation in 396 for which we have a largely plebeian college of consular tribunes. Now two plebeian members, Cn. Genucius and L. Titinius, led military campaigns against the Falisci and the Capenates without there being any mention in our sources of a command under someone else's auspices.<sup>51</sup> It is hard to imagine them leading the army without holding the auspices.

In 397, during the siege of Veii, at the time of the Alban Lake prodigy, a *haruspex* explained to the Romans what the origin of the prodigy was. He taught them the required procedure for the *procuratio* and his interpretation was later upheld by the ambassadors sent to Delphi. The latter added that traditional worship linked to the Latin Festivals had also been poorly performed. They eventually discovered the problem: according to Livy, an irregularity during the election of the consular tribunes did not make them fit to perform the ceremonies that they had nevertheless performed. It was therefore necessary for them to resign and for the rites in question to be restarted. A *senatus consultum* ordered their resignation as well as the appointment of an *interrex* to renew the auspices:

Livy 5.17.2-4: *Nihil profecto aliud esse quam magistratus uitio creatos Latinas sacrumque in Albano monte non rite concepisse; unam expiationem eorum esse ut tribuni militum abdicarent se magistratu, auspicia de integro repeterentur et interregnum iniretur. ea ita facta sunt ex senatus consulto.*

“Only one atonement for these errors was open to them, to make the consular tribunes resign their office, to take the auspices afresh, and to begin an interregnum. By decree of the senate the things were done” (transl. Foster).<sup>52</sup>

This text is a clear indicator that consular tribunes had the auspices. Another text goes in the same direction:

Livy 5.38.1: *Ibi tribuni militum non loco castris ante capto, non praemunito uallo quo receptus esset, non deorum saltem si non hominum memores, nec auspicato*

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50 Livy 5.14.2-4.

51 Livy 5.18.7-12.

52 The original translation gives “tribunes of the soldier”, a mistake for “consular tribunes”.

*nec litato, instruunt aciem, diductam in cornua ne circumueniri multitudine hostium possent.*

“There the consular tribunes, without having selected a place for a camp or fortified a position to which they might retreat, and, forgetting even the gods, to say nothing of men, without auspices or sacrificial omens, drew up their line with the wings extended to prevent being outflanked by the number of the enemy” (transl. Foster).<sup>53</sup>

The emphasis on *nec auspicato nec litato* shows that one would expect them to do so. Besides, it is difficult to imagine the Romans appointing senior magistrates totally devoid of auspices. In a final snippet, regarding the defeat of L. Genucius in 362, Livy makes clear:

Livy 7, 6, 8: *L. Genucio consuli ea prouincia sorte euenit. In exspectatione ciuitas erat, quod primus ille de plebe consul bellum suis auspiciis gesturus esset, perinde ut euenisset res, ita communicatos honores pro bene aut secus consulto habitura.*

“The consul L. Genucius was by lot intrusted with the conduct of it. The citizens were in a fever of suspense, since he would be the first plebeian consul to conduct a war under his own auspices, and they would judge by the sequel whether they had done well or ill to throw these honours open” (transl Foster).

The key clause here is *suis auspiciis*. Genucius was indeed not the first plebeian to lead an army, but the previous ones had done so as consular tribunes, not as consul.<sup>54</sup> Livy therefore insists here on something new, and C. J. Smith was right to say: “it appears that Genucius held his consulship as a result of the Licinian-Sextian laws in a different way to any plebeian who had held office before.”<sup>55</sup> In fact, Mommsen was already crystal clear on this topic:

“Den jedesmaligen Trägern der vollen Beamten-gewalt oder des Imperium kommen *auspicia maxima* zu. Es sind dies selbstverständlich der König, der Zwischenkönig, der Consul, der Prätor, der Dictator und jeder Beamte consularischer und prätorischer Gewalt, ohne Unterschied ob er als Magistrat oder *pro magistratu* fungirt, ob er zu den verfassungsmässigen Jahrbeamten gehört als Kriegstribun oder sonst wie *consulari imperio* bestellt ist.”

And he adds in a note:

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<sup>53</sup> The original translation gives “tribunes of the soldier”, a mistake for “consular tribunes”.

<sup>54</sup> Lanfranchi 2015: 320-325.

<sup>55</sup> Smith 2006: 223 n. 133.

“Für die Behauptung, dass die Auspicien der Consulartribune schwächer gewesen seien als die der Consuln, geben die Quellen keinen Anhalt und die juristische Konsequenz ist entschieden dagegen.”<sup>56</sup>

We therefore face a complex situation: the main point of difference between the praetors/consuls and the consular tribunes seems to revolve around the auspices, and yet the sources do not allow us to state firmly that the consular tribunes did not have the auspices.

### Towards a solution?

As A. Magdelain explains, the auspices are continuous and must in principle succeed one another without hiatus: the magistrates in place at any time must therefore have had them.<sup>57</sup> The fact remains that the sources do seem to indicate a form of difference between consular tribunes and consuls on this point. How can we make sense of it?

A cogent solution was proposed in 1990 by J. Linderski, who introduced a distinction between auspices that were simply used (by plebeian magistrates) and auspices that were used and held (by patricians).<sup>58</sup> For religious reasons, only patricians, as they owned the auspices in perpetuity, could keep them “in their pure and pristine state”,<sup>59</sup> which would explain why there was never a completely plebeian college of consular tribunes. Consular tribunes thus received a regular *imperium* and auspices, but only for use, not in ownership: “their auspices were not independent but as if borrowed, administered in lieu

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56 Mommsen 1887: 1.91-92. Unfortunately, the *interregnum* is of no help here. The list of all *interregna* known from 444 to 367 shows that people who had not held positions other than the consular tribunate could be *interrex* (L. Gohary’s work on the *interregnum* conveniently provides all the data). Even more, the *interregnum* of 396 and 389 only contain people in this case. On the other hand, this could once again only concern patricians since the *interregnum* was a patrician privilege: indeed, according to L. Gohary and Y. Berthelet, it is the rank of senator and patrician which determines the possibility of being *interrex*. And all the *interreges* mentioned come from families having acquired the status of patricians through the exercise of the consulate prior to 444. The argument is therefore not conclusive for the auspices of the consular tribune.

57 Magdelain 1990: 344.

58 Linderski 1990: 41-43 (= 1995: 567-569).

59 Linderski 1990: 44 (= 1995: 570).



of their rightful owners.”<sup>60</sup> The idea leads us to re-examine the situation of 426. The doubt probably did not relate to the ability to appoint a dictator: the augurs were undoubtedly consulted because opening this possibility to all consular tribunes called into question the fragile balance found in 445. As pointed out by Y. Berthelet, there had been a form of self-limitation from the patricians who renounced some rights (e.g. the right to triumph) when they were consular tribunes in order to maintain the function a notch below that of consul.<sup>61</sup> But opening the *dictio* of a dictator to all consular tribunes could challenge this balance. Hence the solution adopted: the answer was undoubtedly a ‘yes but’, reserving for patrician consular tribunes the possibility of the dictator’s *dictio*. From this point of view, the consular tribunate was a laboratory for the shared management of *auspicia*. It is even clearer if we come back to the complex problem of the *summum imperium auspiciumque*. On this point, in fact, there is scope to supplement Linderski’s theory.

As has been pointed out, one of the issues raised by the case of the consular tribunate is its relationship with other Roman institutions, notably to the hierarchy determined by the *summum imperium auspiciumque*. For Romans, it was essential to know at all times who held supreme command, but this does not always seem clear with consular tribunes. A key element here was the *turnus*, which existed in the army, every day. It is only attested when two consuls (or two magistrates of the same rank) share the same *provincia* at the same time and campaign together. However, the application of this principle does not seem so obvious in the case of consular tribunes. The college of 444 provides no information here since it had to resign being *vitio creatus*. The next college dates from 438 but we have no information on arrangements for a battle. The nature of the college of 434 is disputed and, in any case, the war was led by a dictator. The consular tribunes of 433 and 432 did not have to wage war and the threat of conflict led to consular elections

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60 Linderski 1990: 46 (= 1995: 572). He likens the distinction to that between ownership (*dominium*) and possession (*possessio*) in Roman law (Linderski 1990: 41 = 1995: 567). Linderski 1990: 44-45 (= 1995: 570-571) also mentions the possibility of another solution (for which he refers to K. Hanell and R. Werner but it was mainly developed by Bodington 1959): the consular tribunes would initially have been only the assistants of the praetors/consuls, and therefore they did not have the auspices. With Linderski, we will emphasize that this hypothesis supposes “a wholesale re-writing of the history of the supreme magistracy by the annalists – for no good reason”. Ockham’s razor must prevail here and the simplest solution preferred.

61 Berthelet 2015: 155-156.

for 431. The next consular tribunes' college dates from 426. Livy provides here a worthwhile narrative:

Livy 4.31.1-3: *Tribuni militum consulari potestate quattuor creati sunt, T. Quinctius Poenus ex consulatu C. Furius M. Postumius A. Cornelius Cossus. ex his Cossus praefuit urbi, tres dilectu habito profecti sunt Veios, documentoque fuere quam plurium imperium bello inutile esset. Tendendo ad sua quisque consilia, cum aliud alii uideretur, aperuerunt ad occasionem locum hosti; incertam namque aciem, signum aliis dari, receptui aliis cani iubentibus, inuasere opportune Veientes.*

“Four military tribunes with consular powers were elected, Titus Quinctius Poenus, who had just been consul, Gaius Furius, Marcus Postumius, and Aulus Cornelius Cossus. Of these, Cossus had charge of the City; the three others held a levy and marching against Veii gave a demonstration how unprofitable it was in war to parcel out authority. By pursuing each his own counsels, one having this opinion, another that, they gave the enemy room to take them at a disadvantage; for their army was confused when some bade sound the charge, while others commanded the recall; and at this favourable moment the Veientes fell upon them” (transl. Foster).

The expression *plurium imperium*, which literally means “command of a number of people”, seems to indicate that there was no hierarchy here between the consular tribunes, even though they were all assigned to the same *provincia*: Veii. Nothing determined whether one was superior to the other. The misadventure also led to the appointment of a dictator. The colleges of 425 and 424 did not wage war. We also have no mention on this topic for the college of 422 or for those of 420 and 419. On the other hand, we have crucial information in 418:

Livy 4.46.1-3: *Dilectum haberi non ex toto passim populo placuit: decem tribus sorte ductae sunt; ex iis scriptos iuniores duo tribuni ad bellum duxere. Coepta inter eos in Vrbe certamina cupiditate eadem imperii multo impensius in castris accendi: nihil sentire idem, pro sententia pugnare; sua consilia uelle, sua imperia sola rata esse; contemnere in uicem et contemni, donec, castigantibus legatis, tandem ita comparatum est ut aternis diebus summam imperii haberent.*

“It was determined not to make a general levy on the entire people, but ten tribes were chosen by lot. From these the two tribunes enrolled the men of military age and led them to war. The bickerings which had commenced between them in the City grew much hotter in the camp, from the same eagerness to command; they could not agree on anything; each strove for his own opinion; each desired his own plans and his own orders to be the only valid ones; each despised the other and was in turn despised by him, until at last, reproved by their lieutenants, they arranged to exercise the supreme command on alternate days” (transl. Foster).

In the same context of strife between the consular tribunes, the legates suggested the *turnus*, without much success, though, since it was also necessary

to appoint a dictator. The next two years were peaceful (417-416). War was averted in 415 and the military campaign of 414 against the Aequi was led by P. Postumius Regillensis alone. A series of consular years followed (413-409). In 408, the threat of war led to the appointment of a dictator in spite of the opposition from some consular tribunes. In 407 the Romans lost a garrison but without knowing whether Roman commanders were involved. The year 406 then marks not only the start of the war against Veii, but also, according to R. Stewart, a turning point in the way consular tribunes were appointed.

Again in 406, four consular tribunes were elected: three ravaged the Volscian countryside, leaving their colleague in Rome.<sup>62</sup> After 406, as shown by R. Stewart, the procedure for joint distribution between consular tribunes became fixed and regular. Tribunes posted outside Rome now operated in pairs in all cases, regardless of the importance of their campaign. This system seems to have existed before, but with exceptions and we see it working particularly clearly from this date onwards, as has been pointed out by R. Stewart.<sup>63</sup> Some examples illustrate the phenomenon:

<i>Date</i>	<i>Consular tribunes</i>	<i>Prouincia</i>	<i>Sources</i>
402	L. Verginius Tricostus Esquilinus M'. Sergius Fidenas	Veii	Livy 5.8
401	M. Furius Camillus Cn. Cornelius Cossus	Falerii and Capena	Livy 5.12.3-5
	M'. Aemilius Mamercinus K. Fabius Ambustus	Veii	
398	L. Valerius Potitus M. Furius Camillus	Falerii and Capena	Livy 5.14.5-6
397	L. Iulius Iullus A. Postumius Albinus Regillensis	Tarquinius	Livy 5.16.5
395	P. Cornelius Cossus P. Cornelius Scipio	Falerii	Livy 5.24.1-3
	Q. Servilius Fidenas M. Valerius Lactucinus Maximus	Capena	

62 Diod. Sic. 14.12.1; Livy 4.59.1-3 and Zonar. 7.20.

63 Stewart 1998: 52-94.

<i>Date</i>	<i>Consular tribunes</i>	<i>Prouincia</i>	<i>Sources</i>
391	L. Lucretius Tricipitinus C. Aemilius Mamercinus	Volsinii	Livy 5.32.1-2
	Agrippa Furius Fusus Ser. Sulpicius Camerinus	Sappina	
386	M. Furius Camillus P. Valerius Potitus Poplicola	Etruria	Livy 6.6 Livy 6.9
	L. Quinctius Cincinnatus L. Horatius Pulvillus	Volscii	
	Q. Servilius Fidenas Ser. Cornelius Maluginensis	Vrbs	

This mode of operation was based on *sortitio*, which attributed a shared lot to a pair of magistrates (unlike what happened later). This raises the question of whether operating in strictly equal pairs might have undone the principles of hierarchy, highlighting by contrast the need for hierarchy and specialisation. This fact is probably induced by the attribution procedure, as pointed out by R. Stewart: “I suggest that the lot established a collegial relationship as a concrete relationship of a shared lot: the provincial allotment among the consular tribunes created equally empowered officials, equally authorized to fulfil a particular function.”<sup>64</sup> But the consequences of these shared *prouvinciae* are not just military. This joint attribution implied an equal sharing of prerogatives within the *prouincia*: “a shared lot meant shared auspices”.<sup>65</sup>

The consular tribunes thus had *imperium* and *auspicia* as regular higher magistrates;<sup>66</sup> but given their perfect collegiality in *prouvinciae*, they could not personally hold the *auspicia*. My assumption is then that the operation of strictly equal pairs did prevent the principles of hierarchy from taking effect. The problem was thus not only the auspices, but the attribution of the *summum imperium*. Otherwise put, the customary rules governing the

<sup>64</sup> Stewart 1998: 70-71.

<sup>65</sup> Stewart 1998: 80. On the importance of *sortitio* in the evolution of Roman higher magistrates, see Humm – Lanfranchi (2025), building on Stewart 1998.

<sup>66</sup> A fact already highlighted by Stewart 1998: 61 e.g.

allocation of the *summum imperium auspiciumque* when two or more commanders holding the same official status and responsible for the same *provincia* existed, did not apply to the consular tribunes, further adding to the irregularity of this office as a stopgap institution in the age of transition and experimentation between purely patrician-controlled high office (with *imperium auspiciumque*) and shared (patricio-plebeian) controlled high office. This is the major difference with the praetors/consuls who preceded and followed them. This leads us to reverse the perspective: the issue regarding auspices was not due to intrinsically diminished auspices, but to the fact that they were systematically shared and never held in their own right through the always joint attribution of command, with a decisive role for the drawing of lots in that matter. In this way, they may have had some auspices (particularly within Rome) but not all.

Therein lay the subtle solution devised by the patricians in 445 to open up the high command to the plebeians without sharing it completely, by accepting a reduction of supreme power for themselves when they were consular tribunes. It was through this subtle trick that the patricians were able to reserve the auspicial monopoly for themselves and to avoid opening the higher magistracy to the plebeians. In this regard, we might reuse Ranouil's appropriate formula of a "consulat dilué".<sup>67</sup> From this point of view, in their review of Vervaeke's monograph, Y. Berthelet and A. Dalla Rosa highlight the difference in *auctoritas* between consul and proconsul, only the former being a true magistrate. Is it not quite extraordinary, then, that Dionysius of Halicarnassus once stated that the men elected to the first college of consular tribunes in 444 (A. Sempronius Atratinus, L. Atilius Luscus and T. Cloelius Siculus) "were the first to assume proconsular power" (οἱτοὶ παραλαμβάνουσι πρῶτοι τὴν ἀνθύπατον ἀρχήν)?<sup>68</sup> This means that, in his mind, these magistrates were the first to exercise a new type of power, not quite identical to that of the consuls, but similar, hence the connection with the proconsuls created later.

One could perhaps even speculate that it was the very problems caused in terms of the *summum imperium auspiciumque* (essentially the high command) by the creation of the consular tribunes that led to the development of an unwritten regulatory framework for the allocation of the *summum imperium*

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67 Ranouil 1975: 100.

68 Dion. Hal. *Ant. Rom.* 11.62.1.

between office holders holding the same official position. Before the consular tribunes, there were (overwhelmingly) only ever patrician consuls, whereas after the reforms of the 360s-340s, this was no longer the case, with the need for a framework governing the allocation of the high command becoming even more pronounced after the creation of the praetorship and the promagistracy. This undoubtedly also led to the possibility of a hierarchy of *potestates* and *auspicia*, mentioned in a famous text by Messala and which can be seen in the subsequent hierarchy of consuls and praetors.<sup>69</sup> From this point of view, the consular tribunate was of paramount importance for sharing auspices, experimenting with hierarchical relationships between magistrates and helping to invent the so-called *cursus honorum*.

## Overview: problems in context

At this point, the consular tribunate must be situated in its historical context if one is to grasp it fully. As has been noted, this was the first supreme magistracy to be shared between patricians and plebeians. Its creation must be reinserted into three intersecting chronological contexts. The first one, quite obviously, is the so-called “conflict of the orders”, a long period of political upheavals and institutional experimentation that lasted roughly from 509 to 367. It ended with the Licinio-Sextian plebiscites. The second chronological context is the one of the years 440-420, a period of great turmoil leading to the creation of the censorship, the doubling of the quaestorship,<sup>70</sup> the transformation of the Roman military machine. Even as sceptical a scholar as G. Forsythe places the creation of censorship in the context of a “major reorganization in the military structure of the Roman state” in the 440s, with the establishment of the military tribunate with consular power and the quaestorship.<sup>71</sup> Last but not least, the immediate aftermath of the decemvirate comes into play, with the *Lex Canuleia* which abolished the decemviral provisions on patricio-plebeian marriages. This bill is particularly important because, as shown by M. Humbert, the XII Tables did not abolish patricio-plebeian intermarriage,

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69 Messala in Gell. *NA* 13.15.4. See also Berthelet 2015: 147-151, who rightly points out the difference between *aequa auspicia* and *eadem auspicia*).

70 On this point, see most recently Berrendonner 2022: 59-118 and especially 116 (“la progressive définition des attributions questorienne, dans cette perspective, mettrait elle aussi en lumière la charnière des années 440-420 av. J.-C.”). Palmer 1970: 240 also seems to link the increase in the number of quaestors to the creation of the consular tribunes.

71 Forsythe 2005: 236.

but focused on the legal status of children born of such mixed unions.<sup>72</sup> It was obviously access to the patriciate – and therefore to the auspices – that was at stake here. As the closure of the patriciate was actually taking place, the violent reactions it triggered can easily be understood.

Furthermore, it is crystal clear that the model of the Roman city as it was born at the fall of the monarchy (i.e. at the end of the sixth century) was, at that time, reaching its first limits. Notably, the model of a somewhat indefinite Roman magistracy appeared to make it no longer possible to meet all the needs of the Roman State. This is why looking for a single explanation for the creation of consular tribunes is methodologically unsound. Their creation was part of the institutional dynamics of the fifth century and this function allowed the Romans to experiment widely: the military aspect was clearly not primary even if it undoubtedly played a role as well. Hence its importance in the history of the *cursus honorum*, because through it the Romans were able to move from a somewhat bipolar situation (opposing praetor/consuls to tribunes of the plebs, to put it rather roughly) to a more complex and more specialized one, with more magistrates, and hierarchy among them. To put it more concisely: it probably triggered some reconsideration of the institutions, the auspices and how to organize and share them.

The creation of the consular tribunes was therefore not based on a single reason – quite an unlikely scenario, when one thinks about it – but rather on a set of objectives and needs. It responded both to the real needs of a Roman community in full turmoil (the famous political-administrative and military necessities), but also to personal ambitions for which the increase in the number of consular tribunes could provide an outlet. This is a hypothesis raised by P. C. Ranouil, but which goes back to E. Meyer, U. von Lübtow and R. Werner: the real reason for the creation of the consular tribunes should be linked to the fierce struggle for power, to be invested with *imperium* and auspices, an essential requirement to be counted among the patricians.<sup>73</sup> Satisfying demands for access to power from a greater number of people

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72 Humbert 1999. See also Lanfranchi 2015: 132-146.

73 Ranouil 1975: 28-33, building on Meyer 1924: 303 (“So ergibt sicher, wie oben S. 281,1, schon bemerkt ist, daß bei der Bestellung der Consulartribunen der Gegensatz zwischen Patriciern und Plebejern, wenn überhaupt, so jedenfalls nur eine weit untergeordnetere Rolle gespielt hat, als das Ringen der führenden Patriciergeschlechter um die volle Machtbefugnis des consularischen Imperiums, die durch die Vermehrung der Oberbeamten wesentlich geschwächt wurde”), further developed by Lübtow 1955: 220-221 and Werner 1963: 284-286.

would explain this invention. It would also account for the trick devised by patricians to keep blocking access to the patriciate through their full control of the auspices: hence the link with the *lex Canuleia*. A passage from Cassius Dio (for the year 53 B.C.) further supports this hypothesis:

Dio Cass. 40.45.4: Καὶ διὰ τοῦτο καὶ ὁ Ρούφος ἐς τὸ οἶκημα ἐσέπεσε. καὶ οὗτος μὲν τὸν Φαουόνιον ἀγορανομοῦντα ἐς αὐτὸ ὕστερον ἀπὸ τινος οὐ μεγάλης αἰτίας, ἵνα δὴ κοινωνὸν τῆς ἀτιμίας λάβῃ, κατέθετο· πάντες δὲ οἱ δῆμαρχοι ἄλλας τε σκῆψεις ἐμποδίου ἐσέφερον, καὶ χιλιάρχους ἀντὶ τῶν ὑπάτων, ὅπως πλείους ἄρχοντες ὥσπερ ποτὲ ἀποδεικνύονται, καθίστασθαι ἐσηγοῦντο.

“This also was the reason why Rufus was put in jail. He later on brought Favonius, the aedile, to the same fate on some trifling charge, in order that he might have a companion in his disgrace. All the tribunes offered various objections, and proposed, among other things, that consular tribunes should replace the consuls, so that more magistrates might be elected, as formerly” (transl. Cary).

One can add a remarkable chronological coincidence: the tipping point in the history of the consular tribunates is located at the end of the fifth century with the transition to six consular tribunes taking place in 405. This is also the moment when the plebeian presence in these colleges becomes significant. However, this takes place at the same time as the conflict with Veii which ended with the Roman victory, the annexation of the defeated city and the integration of the Veians into the Roman city. A phenomenon of both military evolution and demographic growth undoubtedly accompanied these developments, even if we lack precise elements to be more specific. If the patricians undoubtedly resisted at first, the situation changed towards the end of the fifth century with the escalation of the patricio-plebeian conflict and the war against Veii.

The conclusion of this process came with the Licinio-Sextian reforms which redefined the mode of operation of the supreme magistracy on the basis of two consuls and a praetor. But only the experience of the consular tribunates made it possible: it enabled the evolution of the concept of *imperium* and *auspicium*. It was thus a milestone in the history of the *cursus honorum*.

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# THE POLITICAL CAREER OF CONSULARS IN THE 4<sup>TH</sup> AND 3<sup>RD</sup> CENTURIES BCE\*

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The ultimate goal of a young Roman starting out on his political career was to attain the highest office in the Republic, namely, the consulship. After having completed his term of office, for the rest of his life an ex-consul held the rank of *consularis* in both the Senate and society. A consular would of course remain a senator, although there is also the question of whether he could hold other offices and perform other official and public duties. Accordingly, this chapter analyses the political career of ex-consuls in the 4<sup>th</sup> and 3<sup>rd</sup> centuries, with the aim of shedding further light on the offices they held and other public functions that they performed.<sup>1</sup>

## The political career of consulars before the existence of a fixed *cursus honorum*

Compared to the last two centuries of the Republic, the political career of consulars in this period had some peculiarities that were inherent to a time

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\* All dates are BCE, unless otherwise stated.

1 On the political and social role played by consulars from 218 to 31, see Pina Polo 2025. I will not address here the question of whether the consulship existed from the beginning of the Republic. Suffice it to say that it was the highest office of the Roman Republic during the 4<sup>th</sup> and 3<sup>rd</sup> centuries. See Martínez-Pinna 2020.

when the *cursus honorum* had not yet been established by law.<sup>2</sup> In particular, this means that, although it cannot be said to have been commonplace, it was not exceptional for a *consularis* to hold a lower office after his consulship, namely, the praetorship, the aedileship or even the tribunate of the plebs.

C. Poetelius Libo Visolus is the only known case of an ex-consul who after his consulship became a tribune of the plebs in 360 and 358, respectively.<sup>3</sup> In the 4<sup>th</sup> century there are some examples of consulars who were elected as aediles: M. Popillius Laenas (cos. 359, aed. 357); perhaps M. Valerius Maximus Corvus, who might have been aedile in 345 after having held the consulship twice in 348 and 346;<sup>4</sup> C. Valerius Potitus (cos. 331, aed. 329); Q. Fabius Maximus Rullianus (cos. 322, aed. 299); and conceivably Ap. Claudius Caecus.<sup>5</sup> Although there are no known cases in the following century, it should be recalled that Livy's books 11 to 19 (both included) have not come down to us, meaning that information on the 3<sup>rd</sup> century is somewhat scarce, and in all likelihood, less accurate than that available for the 4<sup>th</sup> century.

At the time, the censorship could already be understood as the culmination of a political career, and censors were mainly elected from among consulars, thus standardising the usual consulship–censorship sequence in the *cursus honorum*.<sup>6</sup> Hitherto, however, consular status had never been a prerequisite for holding the censorship.<sup>7</sup> Indeed, several men are known to have been censors

2 See the chapter of Hans Beck in this volume.

3 In the 2<sup>nd</sup> century, M. Fulvius Flaccus was exceptionally tribune of the plebs in 123, after having held the consulship in 125.

4 Cf. Broughton MRR: 1.132; Plin. *HN* 7.157 asserts that Valerius Maximus Corvus held curule office twenty-one times. Since he was aged twenty-two when he first held the consulship in 348, Broughton suggests that his praetorships and aedileship should be established after this date.

5 According to his eulogy (*Inscr. It.* 13.3.12), Ap. Claudius Caecus was curule aedile twice. Broughton MRR: 1.158 established his first aedileship before his censorship in 312–311, and the second perhaps before his consulship in 307. Ferenczy 1965: 394 considered Broughton's suggestion to be impossible, contending that both aedileships should be dated to the years before his censorship. Ferenczy wrongly adds: "...après le consulat il ne pouvait plus exercer (pour la deuxième fois) l'édition, car on ne connaît dans toute l'histoire romaine qu'un seul exemple de ce cas d'édition après le consulat. Il a eu lieu à l'époque d'Auguste..." Cf. Humm 2005: 110–114.

6 It was exceptional to serve as a censor on more than one occasion, as was the case of the consular C. Marcius Rutilus, surnamed Censorinus, who was consul in 310 and censor in 294 and 265.

7 Of the known eighteen censors from the years 443 to 367, seven had not formerly been consuls (or consular tribunes). Cf. Suohlati 1963: 23.

without previously holding the consulship during the 4<sup>th</sup> and 3<sup>rd</sup> centuries:<sup>8</sup> C. Sulpicius Peticus (cens. 366, cos. 364); L. Papirius Crassus (cens. 318, he did not attain the consulship); Ap. Claudius Caecus (cens. 312, cos. 307); C. Plautius Venox (censor with Claudius Caecus in 312, he never held the consulship); and A. Manlius Torquatus Atticus (cens. 247, cos. 244).<sup>9</sup>

The last year in which two censors, M. Cornelius Cethegus and P. Sempronius Tuditanus (both subsequently consuls in 204), were elected without having previously held the consulship was in 209.<sup>10</sup> Although Livy offers no explanation as to why this was so, it might have been down to a lack of available consulars as a result of Roman casualties during the first half of the second Punic war and to fact that senior ex-consuls were holding the consulship more than once (more on this below), thus preventing younger men from attaining the highest office. This alleged shortage of available consulars can be glimpsed in the circumstances surrounding the election of two censors in 210: L. Veturius Philo (cos. 220) was a consular, whereas P. Licinius Crassus Dives was not (he subsequently held the praetorship in 208 and the consulship in 205). The death of Veturius forced Licinius Crassus to abdicate, which led to the election of the aforementioned Cethegus and Tuditanus in 209.<sup>11</sup> The election of three non-consulars among four censors in 210-209 is in any case an exception to the rule, for all the other censors elected during the second Punic war, before and after 210-209, were ex-consuls.<sup>12</sup> For the rest of the Republic, all censors would thenceforth be consulars.

Outside the *cursus honorum* there was an enormously prestigious political figure, the *princeps senatus*, viz. the leader of the Senate.<sup>13</sup> As he was appointed – or reappointed – by the censors in office every five years, the position was theoretically temporary. In practice, however, a *princeps senatus* retained his status for life.<sup>14</sup> His leadership was demonstrated by the fact that he was the first to be given the floor at all sessions of the Senate. With his *auctoritas*, the

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8 Suohlati 1963: 24.

9 Broughton MRR: 1.115, 1.155, 1.160, 1.216.

10 Livy 27.11.7.

11 Livy 27.6.17-18; 27.34.5-6.

12 In 214, M. Atilius Regulus (cos. 227) and P. Furius Philus (cos. 223); in 204, M. Livius Salinator (cos. 219, 207) and C. Claudius Nero (cos. 207).

13 On the figure of the *princeps senatus* see Suolahti 1972; Meier 1984; Coudry 2020 (1989): 702-709; 1993; Ryan 1998; 137-292; Mora 2003; Rafferty 2011.

14 Zonar. 7.19. Cf. Coudry 1993: 104. *Contra* Mora 2003: 503.

*princeps senatus* could thus try to steer the debate in a certain direction, while also having the privilege of tabling the first motion.<sup>15</sup>

Throughout the 3<sup>rd</sup> century, it seems that the requirements for being appointed as the *princeps senatus* included belonging to a patrician family and seniority in the censorship. Although there is no reference to the patrician requirement in the ancient sources, the fact is that none of the known *principes senatus* was a plebeian.<sup>16</sup> In addition to this criterion, the most senior surviving patrician censor was appointed leader of the Senate. As a matter of fact, all the *principes senatus* who are known to us during the 3<sup>rd</sup> century were patrician censorians when they were appointed. Moreover, all of them had held the consulship prior to the censorship.

As with the censorship, the procedure for appointing the *princeps senatus* was modified in 209, when the existing objective criteria were partially transformed into subjective ones. The appointment or reappointment of the new *princeps senatus* remained in the hands of the censors, but from 209 onwards it became merit-based.<sup>17</sup> One of the censors of that year, M. Cornelius Cethegus, argued that the traditional procedure should be followed, with the most senior living censor being chosen as leader of the Senate, signifying that T. Manlius Torquatus would have automatically assumed the role and title of *princeps senatus*. In reply, the other censor, P. Sempronius Tuditanus, stated that he would nominate the *princeps senatus* at his own discretion, rather than according to tradition, consequently appointing Q. Fabius Maximus Verrucosus, who was one of the consuls of 209 and who the censor described as Rome's first citizen (*princeps Romanae civitatis*).<sup>18</sup>

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15 Gell. NA 14.7.9: *singulos autem debere consuli gradatim incipique a consulari gradu. Ex quo gradu semper quidem antea primum rogari solitum, qui princeps in senatum lectus esset.*

16 This was already emphasised by Mommsen 1864: 92-94, his arguments subsequently being accepted. Cf. Suolahti 1972: 208; Coudry 1993: 106-107; Mora 2003: 502 (he rejects the criterion of seniority, which in his opinion never existed; however, he provides examples only from 199, when that criterion was no longer applied); Rafferty 2011: 2. Ryan 1998: 225-232, argues that the *princeps senatus* could be a plebeian, but the only evidence that he provides to support his claim is that the plebeian Cicero was allegedly the *princeps senatus* in 43. Nevertheless, this is incorrect: Cicero could be regarded as the leader of the Senate in his struggle against Antonius but he was never appointed *princeps senatus*.

17 Coudry 1993: 105: "Deux modèles s'opposaient: celui, alors en usage, de la promotion automatique, 'à l'ancienneté', qui réduit le rôle du censeur à une simple formalité, et celui, nouveau, de la promotion 'au mérite', fondée sur une primauté unanimement reconnue, mais laissée, de fait, à l'appréciation du censeur." Cf. Ryan 1998: 278.

18 Livy 27.11.11. Fabius Maximus was reappointed *princeps senatus* in 204, dying one year later (Livy 29.37.1).



As of 209, therefore, the seniority of the censors who were still alive was ultimately abandoned as the decisive criterion for appointing the *princeps senatus*, the role and title taking on a new political meaning in that it now acknowledged the highest *auctoritas* over the community as a whole, the leader of the Senate (*princeps senatus*) also now being the leader of Rome (*princeps civitatis*). Nonetheless, except in exceptional circumstances, it was still required that the person appointed be a former censor and a patrician.<sup>19</sup> Given that a *cursus honorum* in which a censor had to be consular was established at the beginning of the 2<sup>nd</sup> century, consular status was a prerequisite for achieving leadership within the Senate, as it had always been in practice.<sup>20</sup>

## Consulars in the military field

In this period of the Roman Republic, the main activity of consulars was military command. This explains why a certain number of them held the praetorship after the consulship, at a time when the hierarchy of the latter over the former was not as clear as it would be after the second Punic war.<sup>21</sup> In fact, a number of them were elected praetors in the very year following their consulship. This was the case of M. Atilius Regulus (cos. 294, pr. 293) and L. Papirius Cursor (cos. 293, pr. 292) during the third Samnite war; L. Caecilius Metellus Denter (cos. 284, pr. 283, when he was defeated and killed);<sup>22</sup> probably Q. Marcius Philippus (cos. 281, pr. 280), A. Atilius Calatinus (cos. 258, pr. 257) and L. Postumius Albinus (cos. 234, possibly pr. 233).<sup>23</sup> This ensured the continuity of their *imperium*, first as consuls, then as praetors, as was the case of Atilius Calatinus, who fought in Sicily as a consul in 258 and received the triumph *ex Sicilia de Poenis* in 257. In the other known examples, the ex-consuls who served as praetors did so years

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19 Coudry 1993: 112; Rafferty 2011: 3.

20 Rafferty 2011: 2: "All known *principes senatus* were of patrician ancestry and all had at least been elected consul, so it is reasonable to conclude that these were also requirements." Cf. Gell. *NA* 14.7-9.

21 See Bergk 2011.

22 Livy *Per.* 12; Polyb. 2.19.8; Oros. 3.22.13.

23 Broughton MRR: 1.225: Postumius Albinus was praetor before 216 (Livy 22.35.7), according to Broughton probably in the year after his consulship. Broughton's main argument is that "several praetors" in the 3<sup>rd</sup> century held the praetorship in the year following their consulship. While this was certainly the case, it was not a matter of course.

after their consulship<sup>24</sup> and usually played a very prominent role as military commanders. In 350, for example, when the consul L. Cornelius Scipio fell ill, the ex-consul P. Valerius Poplicola took command of the legions that he had received from the other consul.<sup>25</sup> It was not exceptional for a consular to hold the praetorship, before being elected consul again, even several times, as occurred with M. Valerius Maximus Corvus (cos. 348, 346, 343, 335, 300, cos. suff. 299, pr. 347? 308), Q. Publilius Philo (cos. 339, 327, 320, 315, pr. 336), L. Papirius Cursor (cos. 293, 272, pr. 292), M' Curius Dentatus (cos. 290, 275 274, pr. suff. 283), C. Genucius Clepsina (cos. 276, 270, pr. c. 273), A. Atilius Calatinus (cos. 258, 254, pr. 257), Q. Fulvius Flaccus (cos. 237, 224, 212, 204, pr. 215, 214), L. Postumius Albinus (cos. 234, 229, 215, pr. 233?) and M. Claudius Marcellus (cos. 222, 215, 214, 210, 208, pr. 216).

In times of war during the 4<sup>th</sup> and 3<sup>rd</sup> centuries there were also consulars who contributed with their combat experience as military legates and occasionally as military tribunes, both without *imperium* but always under the orders of commanders with *imperium*. Even though these consulars held a lower rank, they always performed tasks of great responsibility as the right-hand men of their respective commanders, generally at times when Rome was under imminent threat.

One such crisis occurred in 362, in the context of the war against the Hernici. The gravity of the situation is evidenced by the fact that the two consuls of that year were consulars, one of whom, L. Genucius Aventinensis, was killed in action, as a result of which Ap. Claudius Crassus was appointed dictator. Although he had not yet held the consulship (he would have to wait until 349), Claudius Crassus had been a military tribune with consular power in 403. While the dictator launched a recruitment drive and took command of Genucius' troops, the ex-consul C. Sulpicius Peticus was tasked with rallying the forces of the deceased consul and repelling an attack launched by

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24 The other consulars who were praetors are as follows: P. Valerius Poplicola (cos. 352, pr. 350); M. Valerius Maximus Corvus (cos. 348, pr. 308); Q. Publilius Philo (cos. 339, pr. 336), who was the first plebeian to hold the praetorship (Livy 8.15.9); L. Papirius Crassus (cos. 336, pr.? 332); L. Plautius (cos. 330, pr.? 322); P. Sempronius Sophus (cos. 304, pr. 296); C. Genucius Clepsina (cos. 276, pr. c.273); L. Postumius Megellus (cos. 262, pr. 253); Q. Fulvius Flaccus (cos. 237, pr. 215); T. Manlius Torquatus (cos. 235, pr.? 215); M. Pomponius Matho (cos. 231, pr. before 218 and in 217-216); P. Furius Philus (cos. 223, pr. 216); and M. Claudius Marcellus (cos. 222, pr. 216).

25 Livy 7.24.11.

the Hernici.<sup>26</sup> Sulpicius, who was acting as a military legate and had held the consulship in 364, was yet again elected consul for 361, which in practice indicates a convenient continuity of command.

It was during the third Samnite war when the greatest number of consulars fought as military tribunes or legates. In 297, whereas M. Valerius Maximus Corvinus (cos. 312) was a military tribune, L. Cornelius Scipio Barbatus was a legate after having held the consulship the previous year, both consulars serving under the consul Q. Fabius Maximus Rullianus.<sup>27</sup> In 295, C. Marcius Rutilus (cos. 310) was a military legate, also under the command of Fabius Maximus Rullianus, who again held the consulship that year.<sup>28</sup> In the final years of the war, other prominent consulars were also involved in the fighting. In 293, while the above-mentioned Scipio Barbatus commanded the left wing of the troops in Aquilonia, the ex-consul L. Volumnius Flamma (cos. 307) took charge of the right wing, both military legates fighting under the command of the consul L. Papirius Cursor.<sup>29</sup> The other consul, Sp. Carvilius Maximus, was joined by the consular L. Postumius Megellus (cos. 305 and 294), who avoided judicial prosecution thanks to his appointment as a legate.<sup>30</sup> The same Carvilius served under the consul D. Iunius Brutus Scaeva in Etruria in 292,<sup>31</sup> the same year in which the consul Q. Fabius Maximus Gurgus was defeated by the Samnites. When the Senate was toying with the idea of removing him from command, his father, the prestigious consular Fabius Maximus Rullianus, came to his defence. It was not his arguments that convinced the senators but his offer to join his son as a military legate. This is indeed what happened and, eventually, Fabius Gurgus as proconsul defeated the Samnites and celebrated a triumph in 291.<sup>32</sup>

During the 4<sup>th</sup> and 3<sup>rd</sup> centuries, a good number of consuls held the consulship more than once. In point of fact, it is easy to determine when

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26 Livy 7.7.1-3.

27 Livy 10.14.10 and 14.

28 Livy 10.29.5.

29 Livy 10.40-41.

30 Livy 10.46.16.

31 Zonar. 8.1.

32 Val. Max. 4.1.5; 5.7.1; Livy *Per.* 11; Plut. *Fab.* 24.3. Other cases of consulars serving as military legates: P. Decius Mus (cos. 312) in 310 under the dictator Papirius Cursor at Longulae (Livy 9.40); and C. Fabricius Luscinus (cos. 282) in 279, when he was wounded at Asculum (Oros. 4.1.21). On the second Punic war, see below.

Roman society felt a greater military threat, because in those years consulars served once again as magistrates with *imperium*.

In the middle of the 4<sup>th</sup> century, Rome was almost continuously at war, first against Tarquinii, Caere, Falerii and Tibur, before subsequently becoming embroiled in the first Samnite war in central Italy. This situation of quasi-permanent warfare, with moments when military pressure was particularly high, is reflected by the number of consulars commanding Roman armies. Between 357 and 340, more often than not either both consuls, or at least one of them, were consulars, this being taken to an extreme in 356 when both consuls, as well as the dictator C. Marcius Rutilus (cos. 357) and his *magister equitum* C. Plautius Proculus (cos. 358), commanding troops against Etruscan and Faliscan forces, were ex-consuls.<sup>33</sup> It is highly remarkable that all the magistrates who are known to us for the year 351 – not only the two consuls but also the dictator M. Fabius Ambustus and his *magister equitum* appointed to hold elections,<sup>34</sup> the two censors, and the *interreges*<sup>35</sup> – were consulars, irrespective of whether they had military command or not. Although 349 was the first year without at least one consular holding the consulship since 357, the practice was resumed in the following years with the two consuls of 346, 344 and 342 being consulars.<sup>36</sup>

During the years immediately following 340, ex-consuls were only occasionally elected again as consuls until the outbreak of the second Samnite war, when the dire situation again led to massive recourse to consulars as military commanders from 327 onwards. In 321, the year of the disaster at the Caudine Forks, in 320 and 319, and later on in 315, 313, 311 and 308, the two consuls were consulars. As had occurred in previous wars, the

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33 Broughton MRR: 1.123. In contrast, T. Manlius Imperiosus was appointed as dictator and given command against Caere in 353, without having previously been consul (he would reach the consulship for the first time in 347). Nor was his *magister equitum* a consular. On the office of *magister equitum*, see Jordan 2024 (for the *magistri equitum* between 367 and 219 in particular, see 92-103).

34 In 350, by contrast, the dictator and his *magister equitum*, who were appointed to hold elections, were not consulars.

35 Broughton MRR: 1.126-127.

36 Institutional flexibility allowed for various combinations. In 345, none of the consuls was a consular, but both the dictator and his *magister equitum*, with military command, were indeed. In 342, however, both consuls were consulars with military command, while the dictator P. Valerius Poplicola (cos. 352), also an ex-consul, was tasked with the expiation of prodigies (*procuratio prodigiorum*) (Livy 7.28.7-8). Cf. Broughton MRR: 1.131-132.

different possible institutional combinations allowed consular military expertise to be leveraged in a variety of ways. In 325, one of the consuls was the consular L. Furius Camillus (cos. 338). When he fell ill, the consular L. Papirius Cursor was appointed dictator *rei gerundae causa*.<sup>37</sup> For 324 no consuls were elected, and the same dictator who had held military command the previous year, Papirius Cursor, was reappointed.<sup>38</sup> In 322, none of the consuls was a consular but the dictator and his *magister equitum* were indeed. In fact, they were senior consulars, for the dictator A. Cornelius Cossus Arvina had been consul for the first time twenty years earlier, in 343, and his *magister equitum* M. Fabius Ambustus was three times consul, the first in 360.<sup>39</sup> As the consuls, the various dictators who were appointed and some of their *magistri equitum*, plus the *interreges*, were all ex-consuls in 320, it can be described as the year of consulars.<sup>40</sup> In the following years, consulars continued to hold magistracies: in 319, the two consuls and the only known censor were consulars; in 315, the consuls and the dictator, both with military command, were ex-consuls; in 310, one of the consuls, the dictator and his *magister equitum*, all with military command, had also previously held the consulship; and so forth.

After the end of the hostilities, consulars virtually disappeared from the offices with *imperium* in the final years of the 4<sup>th</sup> century, only to re-emerge following the same pattern with the outbreak of the third Samnite war. The gravity of the situation is clear from the fact that all the consuls of 297, 296 and 295 were highly experienced senior consulars, and that in 294 one of the two consuls was a senior consular too. Besides military experience and expertise, continuity of command was also pursued: the two consuls of 297, Q. Fabius Maximus Rullianus and P. Decius Mus, had their *imperium* prorogued in 296, and in 295 they were again elected consuls, Rullianus for the fifth time and Decius Mus for the fourth. Additionally, in 296 the praetor at Rome was the ex-consul P. Sempronius Sophus (cos. 304), and in 295, the twice consul Ap. Claudius Caecus. That year, all the promagistrates were also consulars. Moreover, as already observed, during these years consulars fought rather exceptionally as military legates or tribunes under the command of magistrates with *imperium*. In short, during the third Samnite war there was

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37 Livy 8.29.9. Cf. Broughton MRR: 1.147.

38 Broughton MRR: 1.148.

39 Livy 8.38. Cf. Broughton MRR: 1.149-150.

40 Broughton MRR: 1.152-153.

an impressive number of consulars in positions of military responsibility, both as holders of *imperium* and in intermediate posts.<sup>41</sup>

## Consulars during the second Punic war

The Hannibalic war is a good example of how consulars were a fundamental human resource in times of crisis. The danger that the presence of the Carthaginian army in Italy posed to Rome, together with the calamitous defeats suffered at the beginning of the war, made it necessary to call on the military experience of *ex-consuls*. Consequently, a number of consulars once again held offices with *imperium* and took to the field at the head of armies. It was therefore common for consulars, especially in the early years of the war, to be elected consuls or praetors, to be appointed dictators or to hold intermediate military positions.<sup>42</sup>

As had happened previously during the main wars in the 4<sup>th</sup> and 3<sup>rd</sup> centuries, some *ex-consuls* held the consulship again, particularly in the first

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41 A few years later, the same pattern was repeated during the war against Pyrrhus in southern Italy. In 280 and 279, Pyrrhus defeated the Romans at Heracleia and Asculum. As a consequence, in the following years consulars assumed military command: the two consuls of 278, 277 and 272, plus one of the two consuls of 276, 275, 274, 273 and 270 were consulars. It is surprising that during the more than twenty years that the first Punic war lasted, the number of consulars who held the consulship again was relatively low, and that they only became involved at very specific moments: in 255, just after the proconsul M. Atilius Regulus was defeated and captured, and between 250 and 246 (the two consuls were consulars in 250 and 248, and one consul was an *ex-consul* in 247, 246, 244 and 241, when the war ended). During the war against Teuta, the two consuls of 228 were consulars and again in 224 when the Roman legions defeated the Boii and crossed the Po for the first time.

42 Barber 2016 and 2019 has analysed the damage that the casualties of the early years of the second Punic war caused to the ruling elite, and in particular among the senators. Barber speaks of a 'lost generation' of junior Roman senators who were killed in the war, and concludes that "a lack of generational support goes some way in explaining the dominance of these elder elites in the years after 216 – particularly as they reappeared among the various *fasti* of the *imperium*-granting magistracies" (2019: 169). This demographic and generational approach should undoubtedly be taken into account in patterns of office-holding during the Hannibalic war. However, in my view the decisive factor that explains why consulars of the 'old guard' once again held offices with *imperium* (or intermediate positions with military responsibility) was their expertise in the military field and in the administration of the *res publica*: in a situation of extreme gravity such as that provoked by the initial defeats, Rome resorted to relying upon senior *consulares* as it had done repeatedly during the serious military crises of the 4<sup>th</sup> and 3<sup>rd</sup> centuries.

years of the Hannibalic war.<sup>43</sup> This begs the question of whether there was any specific law that during the second Punic war authorised the unlimited re-election of consulars to the consulship. The tribunes of the plebs C. and L. Arrenius opposed the nomination of the dictator Q. Fulvius Flaccus (cos. 237, 224) as consul for 209, who resorted to a law passed in 217, following the death of the consul Flaminius at Trasimene. According to Livy, this piece of legislation authorised “the people as long as there was war in Italy to elect to the consulship whomsoever they pleased, also any person who had been consul, and as often as they pleased”.<sup>44</sup> The dictator and the tribunes of the plebs appealed to the Senate for arbitration, which responded in the following terms: “In view of the critical situation, it is necessary that the conduct of affairs should be in the hands of old and experienced men who are skilled in war”.<sup>45</sup> Doubt has been cast on whether such a law actually existed,<sup>46</sup> but the re-election of ex-consuls to the consulship – and of both consulars and ex-praetors to the praetorship – was certainly frequent during the Hannibalic war, the main reason behind this being the need for men with proven military experience. Regardless of whether or not such a law existed, the fact remains that it supposedly allowed what actually happened.

In 217, C. Flaminius was the first consular to be elected consul but he perished at Lake Trasimene, the consular M. Atilius Regulus (cos. 227) being elected in his place as suffect consul. Again in 216, one of the consuls was a consular, L. Aemilius Paullus (cos. 219), whose experience as a commander did not prevent him from being killed at Cannae. In 215, L. Postumius Albinus (cos. 234, 229) was elected consul for the third time, only to be killed in Gaul while he was still a consul designate. His successor was the former consul M. Claudius Marcellus (cos. 222) and, despite the fact that his election was declared invalid and he was forced to abdicate, he was granted proconsular *imperium* for that year. Marcellus was replaced by Q. Fabius Maximus

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43 Three men held the consulship several times during the war: Q. Fulvius Flaccus (212 and 209), Q. Fabius Maximus (215, 214 and 209) and M. Claudius Marcellus (215, 214, 210 and 208).

44 Livy 27.6.7: *namque Cn. Servilio consule cum C. Flaminius alter consul ad Trasumennum cecidisset, ex auctoritate patrum ad plebem latum plebemque scivisse ut, quoad bellum in Italia esset, ex iis qui consules fuissent quos et quotiens vellet reficiendi consules populo ius esset.*

45 Livy 27.6.10: *patribus id tempus rei publicae visum est ut per veteres et expertos bellique peritos imperatores res publica gereretur.*

46 Röglér 1962: 86-87; Billows 1989; Feig Vishnia 1996: 51-54. In support of its authenticity, see Beck 2000: 85; 2005: 49-50, 96 and 102; Elster 2003: 197-198.



Verrucosus as *consul suffectus*, who had been consul in 233 and 228 and dictator in 217. It also warrants noting that the three suffect consuls elected in 217 and 215, including Marcellus, were consulars and that no other ex-consul was elected *consul suffectus* throughout the rest of the Republic.<sup>47</sup>

Fabius Maximus Verrucosus and Claudius Marcellus were elected consuls for 214, the former for the fourth time and the latter for the third, although it was Marcellus' second effective consulship. Unsurprisingly, Livy claims that there had not been such a strong duo of consuls for many years.<sup>48</sup> Marcellus' *imperium* was prorogued as proconsul for 213-211, after which he was elected consul again for 210, with his *imperium* also being prorogued as proconsul for 209, before finally attaining the consulship for the fifth time in 208, the year in which he was killed.<sup>49</sup> In other words, Claudius Marcellus was consul or proconsul uninterruptedly from 215 to 208 (additionally, he was praetor for the second time in 216).

In 213 one of the consuls was the ex-consul Ti. Sempronius Gracchus (cos. 215).<sup>50</sup> For his part, Q. Fulvius Flaccus (cos. 237, 224) held the consulship for the third time the following year,<sup>51</sup> his *imperium* subsequently being prorogued in 211 and 210, before finally being elected consul for the fourth time in 209 (his *imperium* was likewise prorogued in 208-207). As in the case of Marcellus, Fulvius Flaccus enjoyed *imperium* without interruption as consul or proconsul from 212 to 207. His colleague in 209 was the ubiquitous Fabius Maximus Verrucosus, consul for the fifth time.<sup>52</sup> Indeed, the consuls in 209 were actually the two living Romans who had held this office the greatest number of times. The last ex-consul to be elected consul again during the Hannibalic war was M. Livius Salinator (cos. 219) in 207,<sup>53</sup> after which no other consular held the consulship until 200 (P. Sulpicius Galba Maximus, cos. 211), although some of them were given military commands as proconsuls or propraetors in the closing years of the war.

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47 Cf. Pina Polo 2021: 215-216: whereas all the *consules suffecti* known in the 3<sup>rd</sup> century were ex-consuls, in the 2<sup>nd</sup> and 1<sup>st</sup> centuries no suffect consul was a consular: for all of them, becoming *consul suffectus* represented the culmination of their political careers.

48 Livy 24.9.7-8.

49 Livy 27.21.4; 27.26-27; Polyb. 10.32; Val. Max. 1.6.9; Plut. *Marc.* 29; App. *Hann.* 50.

50 Livy 24.43.5.

51 Livy 25.2.4.

52 Livy 27.6.2-13. Cf. Cic. *Brut.* 72. See Feig Vishnia 1996: 51.

53 Livy 27.34; 27.36.10; Val. Max. 7.2.6.



None of the praetors of 218 and 217 had previously held the consulship. In contrast, after the military disasters suffered by Rome at the beginning of the war, the four praetors of 216 were consulars, clearly a deliberate election. Livy emphasises that all higher magistrates in 216 were very experienced men – in fact, all of them were ex-consuls, with the exception of C. Terentius Varro who was consul for the first time – before concluding that “at such a time it seemed undesirable that a magistracy should be entrusted to new and untried men”.<sup>54</sup> Something similar happened in 215, when three of the praetors seem to have been ex-consuls.<sup>55</sup> One of them, Q. Fulvius Flaccus (cos. 237, 224), continued as praetor in 214, when he was the sole consular in the *collegium* of praetors.<sup>56</sup> Thenceforth, no ex-consul held the praetorship, which clearly suggests that what happened in 216-214 was an exception owing to the crisis.

The state of emergency in Rome also led to the appointment of dictators, all of whom were ex-consuls.<sup>57</sup> Yet only those of 217 and 216 performed military duties, Fabius Maximus Verrucosus in 217 and M. Iunius Pera in 216, whose main task was to enlist men for the legions. Iunius Pera was the last dictator *rei gerundae causa* before Sulla.<sup>58</sup> The rest of the dictators of the period – with the exception of Fabius Buteo, who was responsible for renewing the senators’ roll in 216<sup>59</sup> – were in charge of conducting the elections and remained in office only as long as necessary for these to be held. There were also consulars who held the office of *magister equitum*, although this was not a mandatory requirement.<sup>60</sup>

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54 Livy 22.35.7: ...*quia in tali tempore nulli novus magistratus videbatur mandandus.*

55 Livy 23.24.4.

56 Livy 24.9.5.

57 According to Livy, the law stipulated that dictators had to be ex-consuls: *Consulares legere; ita lex iubebat de dictatore creando lata* (Livy 2.18.5). Wilson 2021: 38-40, doubts that there was a general law in this respect during the Republic, positing instead that the law in question referred exclusively to the first dictator, with subsequent appointments being left in the hands of the consuls. This would explain why in the 5<sup>th</sup> and 4<sup>th</sup> centuries there were some dictators who had not previously held the consulship. However, as of the final decades of the 3<sup>rd</sup> century they were all consulars.

58 Wilson 2021: 18-22, 258-259 and 373-375. On Iunius Pera’s dictatorship, see Golden 2013: 38-40.

59 M. Fabius Buteo, a consular, was actually appointed dictator because he was the oldest living ex-censor.

60 The only consulars were as follows: M. Minucius Rufus in 217 (cos. 221); M. Pomponius Matho in 217 (cos. 231), but the dictator Veturius Philo abdicated *vitio creatus*, and with him his *magister equitum* following suit; Q. Fulvius Flaccus (cos. 237, 224) in 213; and L. Veturius Philo (cos. 206) in 205. With the exception of Minucius Rufus, all of them served under dictators appointed to hold elections. On the *magistri equitum* during the second Punic war, see Jordan 2024: 104-116.

As in earlier armed conflicts, during the Hannibalic war consulars usually held middle ranks, such as that of military legate not only under the command of consuls or consulars but also under that of *imperatores* who had not yet attained the highest office, or that of *praefectus classis*, as was the case with P. Valerius Flaccus (cos. 227) in 215.<sup>61</sup> In any event, these middle-ranking consulars always shouldered heavy responsibilities as the right-hand men of their commanders. One such example is the interesting case of Fabius Maximus Verrucosus. Having already held the consulship and dictatorship four times, in 213 he served under his son Q. Fabius Maximus, who was consul that year. When in 209 Verrucosus was elected consul for the fifth time, his son, then a consular, was his legate.

In short, in the emergency situation to which the second Punic war and, in particular, the presence of thousands of Carthaginian soldiers in Italy had given rise, a handful of senior consulars assumed both military and political leadership, once again holding offices with *imperium* at the head of the Roman armies, as well as in the Senate. It was a generation of politicians who had been consuls for the first time in the 230s, such as Q. Fulvius Flaccus (cos. 237), T. Manlius Torquatus (cos. 235) and Q. Fabius Maximus Verrucosus (cos. 233), or in the 220s, such as P. Valerius Flaccus (cos. 227), M. Claudius Marcellus (cos. 222) and M. Valerius Laevinus (cos. 220).

### Civilian tasks carried out by consulars

In addition to their fundamental military role, some consulars also performed civilian tasks during the 4<sup>th</sup> and 3<sup>rd</sup> centuries, especially as ambassadors and as those responsible for implementing the agrarian policy promoted by the Senate.

Rome's diplomatic activity in this period was, of course, nothing compared to what happened after the second Punic war, when the flow of diplomatic commissions, especially to and from the Eastern Mediterranean, was a constant, with consulars playing a decisive role.

For the 4<sup>th</sup> century, there is only news of the intervention of L. Cornelius Lentulus (cos. 327) at the conclusion of the *pax Caudina* in 321. After trapping the Roman army at the Caudine Forks, the Samnite leader Pontius informed

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61 Livy 23.34.4; 23.38.7-13.

the defeated consuls that Rome had lost the war and was therefore in no position to negotiate, before establishing his own terms and conditions that were obviously detrimental to the interests of Rome. When the Roman officers caught wind of this, there was a heated discussion on whether they were acceptable or not. According to Livy, the consular Cornelius Lentulus, who he calls *princeps legatorum* because of his personal qualities and because he had attained the consulship, took the floor and defended the need to accept the conditions of the peace treaty, as indeed happened.<sup>62</sup> In reality, Lentulus' action can hardly be seen as that of a legate on a diplomatic mission, even if the final result was a peace agreement (or a *sponsio*).<sup>63</sup> Cornelius Lentulus was there as a military legate under the command of one of the consuls, and it was his *auctoritas* as a consular that made him a decisive player in the deliberations.

The information available for the 3<sup>rd</sup> century is more plentiful and specific, above all in connection with the war against Pyrrhus in southern Italy. In 282, L. Postumius Megellus, three times consul (305, 294 and 291) was sent to Tarentum at the head of a Roman legation, the names of whose other members are unknown. Postumius was insulted by the Tarentines for his incorrect use of the Greek language and, more importantly, he failed in his mission.<sup>64</sup> After the Roman defeat at Heracleia at the hands of Pyrrhus, in 280 the Senate sent an embassy to the king to negotiate the ransom of the prisoners taken by him. The importance that the Senate attached to the mission is illustrated by the fact that the ambassadors C. Fabricius Luscinus (cos. 282), Q. Aemilius Papus (cos. 282) and P. Cornelius Dolabella (cos. 283) were all ex-consuls.<sup>65</sup> According to Appian and Plutarch, Fabricius was the leader of the legation, even though he was not the most senior consular.<sup>66</sup> This is in keeping with the fact that Cicero only mentions Fabricius as being a member of the embassy sent to negotiate with Pyrrhus.<sup>67</sup> All three consulars were still basking in glory following their victories as consuls. However, the fact that Fabricius had celebrated a triumph in 282 for his successes against the Samnites, Bruttians and Lucanians in southern Italy must have tipped the balance in favour of his

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62 Livy 9.4: ...*L. Lentulus, qui tum princeps legatorum virtute atque honoribus erat...*

63 On the *pax Caudina*, see Sánchez 2024: 204-207.

64 Dion. Hal. *Ant. Rom.* 19.5; App. *Samn.* 7.2; Livy *Per.* 12; Polyb. 1.6.5; Val. Max. 2.2.6. Cf. Stouder 2009; 2015: 54. On L. Postumius Megellus, see Gabrielli 2011.

65 Dion. Hal. *Ant. Rom.* 19.13.1.

66 App. *Samn.* 10.4: ... τὸν τῆς πρεσβείας ἡγούμενον Φαβρίκιον...; Plut. *Pyrrh.* 20.1. On Fabricius and the embassy of 280, see Stouder 2009. Cf. Berrendonner 2001.

67 Cic. *Brut.* 55. Cf. Livy *Per.* 13.

leadership of the embassy. Thus, Fabricius can be seen as a kind of ambassador with expert knowledge of the matter under negotiation or of the territory where those negotiations were to take place, and also as an important step in the process of the creation of the figure of ambassador at Rome.<sup>68</sup> Fabricius' good offices must have led to his re-election as consul for 278.

An example of Rome's opening towards the Eastern Mediterranean is the embassy sent in 273 to the court of Ptolemy Philadelphus in Egypt. The legation was headed by the consular Q. Fabius Maximus Gurgus (cos. 292), whereas the other two legates would become consuls years later. The king gave them gifts which they took back with them to Rome and which the Senate allowed them to keep, instead of depositing them in the public treasury.<sup>69</sup> The embassy appears to have been successful, but the details are unknown.

Some embassies including consulars among their members were dispatched during the second Punic war, in particular at the beginning of the conflict – the outbreak of war was actually preceded by intense diplomatic activity. In 219, the Senate sent a two-member legation to Saguntum in Hispania to meet with Hannibal, one of whose members was the consular P. Valerius Flaccus (cos. 227). They had very clear instructions: Hannibal was to abandon the siege of the Iberian town or an embassy would be sent to Carthage with an ultimatum.<sup>70</sup> The legation was unsuccessful, with Hannibal ultimately seizing Saguntum.

The Senate then sent what could be called an embassy at the highest level to Carthage. Livy refers to its members as men of age and with remarkable experience: of the five legates – and not three as was usually the case – four were former consuls.<sup>71</sup> In all likelihood, the ambassadors were M. Fabius Buteo (cos. 245 and the senior ex-censor at the time) – rather than the twice consul Q. Fabius Maximus Verrucosus<sup>72</sup> –, the two consuls of 219, M. Livius

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68 Stouder 2009. Cf. Clemente 1976.

69 Dion. Hal. *Ant. Rom.* 20.14; Val. Max. 4.3.9.

70 Livy 21.6.8; Cic. *Phil.* 5.27. Cf. Canali de Rossi 2007: 46-47 and 55-58.

71 Livy 21.18.1. On the uniqueness of this embassy, see Rich 1996: 31.

72 Scullard 1951: 42 and 274; Broughton MRR: 1.239 and 241 n. 7-10; Walbank 1957: 333; Lazenby 1978: 27. Without a clear conclusion, see Beck 2005: 282-283. Livy is sure that a member of the embassy was Q. Fabius, who he presents as its leader. Cassius Dio (fr. 55.10) and Zonaras (8.22), for their part, refer to M. Fabius, presumably M. Fabius Buteo. According to Broughton, the silence surrounding the episode in Fabius Maximus' *elogium*, in Plutarch's biography and in the *De viris illustribus* tends to favour Fabius Buteo (in the same vein, see Hoyos 1998: 229-230; Levene 2010: 14). Walbank *loc.cit.*, argues that the correct name of M. Fabius is to be found in Cassius Dio and Zonaras. Cf. Polyb. 3.20.6-9; 3.33.1-4; 3.40.2; App. *Hisp.* 13.

Salinator and L. Aemilius Paullus,<sup>73</sup> C. Licinius Varus (cos. 236) and Q. Baebius Tamphilus, one of the two senators who had journeyed to Saguntum and Carthage months earlier. Once it had become clear that the Carthaginians would not accept Rome's conditions, according to Livy the ambassadors followed the instructions of the Senate and moved on to Hispania in order to gain the alliance of local peoples north of the Ebro or at least to prevent them from joining the Carthaginians.<sup>74</sup> The envoys then continued to Gaul, travelling as far as Massalia, before returning to Rome.<sup>75</sup> Following the outbreak of war, there was little leeway for diplomacy.<sup>76</sup>

As the second Punic war entered its final phase, the Romans increasingly began to turn their eyes to the Greek world. Alleged complaints lodged in the Roman Senate by allied Greek cities in 203 led to the first embassy that was sent to King Philip of Macedon to inform him that such behaviour violated the treaty in force. The three senators forming part of the commission, headed by the consular C. Terentius Varro (cos. 216), made the voyage in three quinqueremes.<sup>77</sup>

To the foregoing should be added a different kind of embassy. In 205, an unusual "rain of stones" that had fallen during the year alarmed the people of Rome and led to the consultation of the Sibylline Books. The solution was to transfer the Magna Mater from her shrine in Anatolia to Rome and to build a temple for the goddess in the city.<sup>78</sup> The Senate sent an embassy to deal with King Attalus of Pergamum, headed by the twice consul M. Valerius Laevinus, who also had the advantage of having conducted military operations in Greece in the past and who had concluded a treaty with the Aetolians in 211.<sup>79</sup> On

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73 It made no sense for the two consuls to leave Rome while they were still in office. Therefore, they travelled to Carthage as consulars after their office expired probably on 15 March 218 (on 15 March as the date on which consuls took up office, see Beck 2005, 409-411; Pina Polo 2011: 13). Cf. Walbank 1957: 333-334. For Levene 2010: 188 n. 55, it cannot be categorically claimed that they were the consuls of 219.

74 Livy 21.19.6.

75 Livy 21.20. The historicity of this expedition to north-eastern Hispania and Gaul has been disputed. Cf. Canali de Rossi 2007: 59-60 and 87-89.

76 In 210 the Senate sent embassies to visit Syphax in Numidia and to other African kings, as well as to Ptolemy and Cleopatra in Egypt. Neither legation had consulars among their members. Cf. Livy 27.4.7-10.

77 Livy 30.26.2-4. Cf. Canali de Rossi 2007: 142-143 and 153-154; Stein 2021: 36.

78 Livy 29.10.4-8.

79 Livy 29.11.1-7. Cf. Cic. *Har. resp.* 27. For details of the expedition, see Alvar 1994; Roller 1999: 264-271. Cf. Canali de Rossi 2013: 105-106 and 122-124.

their way to Asia, the legates consulted the oracle at Delphi, before finally arriving in Pergamum, where Attalus gave them a friendly welcome, conducted them to Pessinus in Phrygia and handed them the sacred stone that the locals claimed to be the Mother of the Gods: she arrived in Rome in 204.

Consulars could form part of agrarian commissions in charge of the individual distribution of land or of the foundation of colonies. Very few commissions are known for the 4<sup>th</sup> and 3<sup>rd</sup> centuries, in contrast to the first decades of the 2<sup>nd</sup> century, when the agrarian policy promoted by the Senate really began to gather steam. In 334, *triumviri* were appointed to found the Latin colony of Cales. All three members of the agrarian commission were consulars in the following order, according to Livy: Kaeso Duillius (cos. 336), T. Quinctius (cos. 354 and 351) and M. Fabius (Ambustus, cos. 360, 356 and 354, or Dorsuo, cos. 345).<sup>80</sup> In 313, an agrarian commission was again appointed, in this case to found the Latin colony of Saticula, two of three of whose members were former consuls: M. Valerius Corvus, three times consul, and D. Iunius Brutus Scaeva (cos. 325).<sup>81</sup>

The other agrarian commission known in the period was appointed in 218, just before the outbreak of the Hannibalic war, in order to found the Latin colonies of Placentia and Cremona in the Po valley.<sup>82</sup> Livy and Polybius report that the Boii attacked the new settlers and the commissioners when they were in the midst of distributing the land, and that the Gauls captured the *triumviri*. Polybius asserts that the agrarian commission was formed by the consular C. Lutatius Catulus (cos. 220) and two ex-*praetors*, while Livy also claims that Catulus was certainly a member.<sup>83</sup> Catulus' presence is further confirmed because we know that he was released from captivity fifteen years later.<sup>84</sup> But, as to the other two members of the commission, Livy remarks that his sources mention several options. One of them was doubtless the praetorian C. Servilius Geminus, who was released together with Catulus in 203. If Polybius is right, the third commissioner must have

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80 Livy 8.16.13-14. Cf. Vell. Pat. 1.14.3. Cf. Broughton MRR: 1.141.

81 Fest. 458 L. Cf. Vell. Pat. 1.14.4. Cf. Broughton MRR: 1.159.

82 Livy 21.25.3-5; Polyb. 3.40.3-10.

83 The inclusion of Catulus at the head of the commission could perhaps be explained by the fact that, when he had been consul in 220, he had led a joint expedition with his colleague L. Veturius Philo as far as the Alps, which apparently meant that he was knowledgeable of the area (Zonar. 8.20). Cf. Gargola 1995: 60.

84 Livy 30.19.6-7.

been an ex-praetor. Nevertheless, Livy also mentions the ex-consul P. Cornelius Scipio Asina (cos. 221). It cannot be ruled out that there were two commissions, one for each colony or more likely a second one after the members of the first had been captured. The actual existence of that second commission could explain why Asconius states that a board of three men, among whom he mentions Scipio Asina but not Catulus, founded Placentia.<sup>85</sup> If two commissions really existed, there was almost certainly only one consular in each one, namely, Lutatius Catulus and Scipio Asina.

The economic crisis triggered by the defeats suffered by the Roman legions in the early years of the Hannibalic war led to the appointment in 216 of *triumviri mensarii*, three senators who formed an extraordinary commission entrusted with financial tasks.<sup>86</sup> The main reason given by Livy was the scarcity of money in circulation (*propter penuriam argenti*).<sup>87</sup> According to Livy, there was a precedent in the 4<sup>th</sup> century, when *quinqueviri mensarii* were appointed in 352 to deal with the serious debt situation at Rome, but none of these previous *quinqueviri* was a consular.<sup>88</sup> In contrast, two of the *triumviri* of 216 were consulars: L. Aemilius Papus (cos. 225) and M. Atilius Regulus (cos. 227, 217). This fact demonstrates the gravity of the economic crisis, while also suggesting that the powers granted to the commission were wide-ranging.<sup>89</sup> According to Livy's account, the work of the *triumviri mensarii*, whose appointment lasted at least until 210 – and probably longer – consisted of raising loans for the public treasury and recording them so that, when possible, the state could return them.<sup>90</sup> For a few years, the *triumviri*

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85 Asc. Pis. 3C: *De duxerunt III viri P. Cornelius Asina, P. Papirius Maso, Cn. Cornelius Scipio*. Cf. Walbank 1957, 375: "The alternative names may be those of a second and separate commission, rather than a doublet." Marshall 1985: 87-88, concludes that it is likely that in 218 there was more than one commission and that the names of all those serving on them were mixed up by the annalists who Livy and Asconius consulted. Tarpin 2021: 17, also defends the election of a new commission after the capture of the members of the first one by the Gauls. Cf. Broughton MRR 1.240-241 n. 12.

86 Nicolet 1963; Andreau 1987: 232-237; Feig Vishnia 1996: 86-90; Niczyporuk 2011.

87 Livy 23.21.6. Andreau 1987: 233: "Le mot *argentum* peut signifier soit le métal argent, soit plutôt la monnaie d'argent."

88 Livy 7.21.5-8. Cf. Broughton MRR: 1.126; Storchi Marino 1993.

89 See Nicolet 1963: 420 and 431; Niczyporuk 2011: 111-113.

90 At no point does Livy make any mention of whether the members might have been renewed. Cf. Feig Vishnia 1996: 86 and 89-90 (with n. 142): "Although we last hear of the *triumviri mensarii* in 210, it is very likely that the commissioners (although the members may have been changed) continued to function in the same capacity until the end of the war."



*mensarii* acted, therefore, as public bankers of a kind for the benefit of the Roman state in a dire situation.<sup>91</sup>

## Conclusion

At a time when the *cursus honorum* was not yet fixed, consulars occasionally held lower offices, such as the praetorship, the aedileship, and even on one occasion the tribunate of the plebs. For a few of them, the censorship was the culmination of their political career. In addition, consulars performed some civil tasks, such as sitting on commissions tasked with founding colonies, in particular Latin ones in view of the known examples (Cales, Saticula, Placentia and Cremona), and participating in embassies sent to negotiate on behalf of the Senate, both in Italy and, increasingly more, in other Mediterranean territories.<sup>92</sup>

During the 4<sup>th</sup> and 3<sup>rd</sup> centuries, however, the main goal of consulars seems to have been to gain one military command after another, such as the aforementioned praetorship, the dictatorship – yet many dictators were not appointed to command the army but to hold elections or to perform religious ceremonies – and even lower/intermediate military positions such as legates or tribunes, but above all further consulships. In practice, during the 4<sup>th</sup> and 3<sup>rd</sup> centuries it was very much a matter of course for former consuls to be re-elected as the highest magistrates of the Republic: during that period, as many as sixty-nine consuls held the consulship at least twice, even several times, like, for example, C. Sulpicius Peticus (five times consul), M. Valerius Maximus Corvus (six times) and Q. Fabius Maximus Rullianus (five times) in the 4<sup>th</sup> century, and Q. Fulvius Flaccus (four times), Q. Fabius Maximus Verrucosus (five times) and M. Claudius Marcellus (five times) in the 3<sup>rd</sup> century.<sup>93</sup>

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91 Andreau 1987: 235, calls them “une commission de banquiers d’État”.

92 To these tasks should be added two offices that were occasionally held by consulars. In 325, L. Papirius Crassus (cos. 336 and 330) was *praefectus urbi* (Livy 8.36.1: *...praeposito in urbe...*; Broughton MRR: 1.148). In 270, M’ Curius Dentatus (cos. 290, 275 and 274) was one of the *duumviri aquae perducendae* who had been appointed to complete the Anio aqueduct. When Curius died, the other *duumvir* completed the work. Consulars were also members of priestly colleges and it was common for them to become priests before reaching the consulship.

93 It is striking to note the, sometimes, enormous time lapse between the first and last consulship. For instance, Valerius Maximus Corvinus was consul for the first time in 348 and *consul suffectus* for the last forty-nine years later, in 299, plus C. Poetelius Libo Visolus, who was consul in 360, 346 and 326, namely, with a gap of thirty-four years between his first and last consulships.



Indeed, it is possible to identify indirectly the moments of acute crisis throughout the wars in which Rome was embroiled by browsing the *fasti consulares*, for it was at times like these when consulars were most frequently elected as consuls and therefore as supreme commanders of the Roman army. By doing so, the intention was to ensure that Rome's legions were led by men with military experience as *imperatores*, previously acquired as consuls.

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*HONORES TO THE HEROES –  
THE TRIBUNI MILITUM  
AND THE CURSUS HONORUM*<sup>1</sup>

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Following the successful conclusion of the Third Macedonian War, the *urbs Roma* witnessed an unexpected political controversy in the year 167 BCE. Despite the fact that the consul L. Aemilius Paullus had defeated king Perseus in battle, had brought back huge amounts of spoils, and had further enriched his soldiers with the brutal and unashamed plundering of Epirus, the vote to approve his *triumphus* nevertheless floundered in the *comitia tributa*.<sup>2</sup> Put in a nutshell, a large number of disgruntled legionaries had entered the city and the assembly, where their *tribunus militum* Ser. Sulpicius Galba agitated against approving the triumph so successfully that the *tribuni plebis* had to postpone the vote.<sup>3</sup> When the assembly was again called together the next day, the first *tribus* all voted against the proposal, prompting the shocked *principes civitatis* to intervene and to demand further debate in which M. Servilius Pulex Geminus berated the soldiers and Galba. Citing both his own and Aemilius Paullus' services for the *res publica* and showing off his numerous wounds to prove it, Servilius finally managed to convince the assembly to grant the triumph.<sup>4</sup>

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1 All dates BCE. I would like to thank Francisco Pina Polo for a great and inspiring conference in Zaragoza and I also owe thanks to Jeremy Armstrong, Michael Fronza, and Jordan Christopher for their comments on this paper.

2 Livy 45.35-40 on the whole episode. See Rich 2023: 230-231 for the staggering number of spoils totaling 30 million *denarii*.

3 Livy 45.35.8-36.5; Plut. *Aem.* 30.5-8.

4 Livy 45.36-9-39.20; Plut. *Aem.* 31-32. Cato might also have given a speech against Galba on this occasion, cf. Gell. *NA* 1.23.1; Briscoe 2012: 724-731.

This famous episode of Livy's Book 45 is usually cited to highlight the difficulties regarding the distribution of spoils, the power of public speeches and symbolic gestures, and the relationship between ordinary *cives* and the *nobiles* of the senatorial elite.<sup>5</sup> In contrast, less attention has been paid to the fact that the soldiers' discontent with their general was channelled and voiced by a *tribunus militum*, who complained that military service under Paullus had been exceptionally harsh.<sup>6</sup> Although Livy conveys the image of a populist malcontent, it is striking that Galba's agitation was neither opposed by the other *tribuni militum* of the army nor by the *tribuni plebis*, which indicates that he acted as a spokesman for the citizen-soldiers whom the 'civilian' voters in the assembly were willing to listen to. Apparently, his actions were deemed commensurate with the responsibilities of his office as a tribune of the soldiers, and it is noteworthy that the events did not adversely affect his subsequent career.<sup>7</sup>

In this context, we should also consider that the negative depiction of Galba and his soldiers by late Republican authors was likely influenced by the latter's negative contemporary experiences of an unrestrained army that was ruthlessly pursuing its own interests.<sup>8</sup> We should therefore be wary of retrojecting these conditions too easily to the mid-second century BCE, a period for which we have a contemporary source in the form of Polybius who puts great emphasis on Roman discipline and the election of officers. This junction of the political and military sphere in the Roman Republican army will be at the heart of the following argument, which aims to demonstrate that military service formed a crucial connector between the various groups that made up the vast *populus Romanus* in the period from the late fourth to late second century BCE.<sup>9</sup> The main focus of the

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5 Flaig 2003: 32-40, 123-136; Pittenger 2008: 246-274; Hölkeskamp 2023a: 103-105.

6 Livy 45.36.3-4 [...] *plus laboris, plus periculi, quam desiderasset res, iniunctum; contra in praemiis, in honoribus omnia artata; militiamque, si talibus succedat ducibus, horridiorem asperiorem(que) bellantibus, eandem victoribus inopem atque inhonoratam futuram*. See also Plut. *Aem.* 3.6-7.

7 Machado 2023: 254-260. Sulpicius Galba was at this point in his late twenties according to Münzer RE 4 A.1 (1931), 760. He became praetor in 151 and consul in 144. Cic. *Brut.* 86-88, *rep.* 3.42 also lists him as one of the *maximi oratores*.

8 Hoyos 2019; cf. Oakley 1997: 86-104.

9 Polyb. 2.24 lists 273,000 Roman citizens for the *tumultus Gallicus* of 225, which corresponds to the 270,212 citizens mentioned for the year 234 in Livy *Per.* 20. On manpower figures see Brunt 1971; Baranowski 1993; Taylor 2020: 25-41; cf. Hin 2013: 4-15 for a brief overview of the debates on demography as well as Appendix 1 (351-353) for the Roman census figures.

investigation will rest on the military tribunate, as this office was not only tied into the *cursus honorum* of the Roman nobility in Rome, but also created manifold opportunities to interact with thousands of Roman citizens during the campaign.<sup>10</sup> The multi-faceted nature of this office will be emphasized by a brief discussion of its evolution in the fourth century BCE and a subsequent analysis of the tasks and responsibilities of the *tribuni militum*. On this basis, it will be attempted to identify the various interactions and exchanges between the tribunes and the other members of the consular armies, allowing us to outline the social and political benefits of this particular type of military service as well as the tribunes' importance for the political integration of the *cives Romani* that lived outside the *urbs Roma* and its immediate environs.

## The military tribuneship in the Roman Republic

The available body of evidence for the Early and Middle Republic uniformly points to the importance of military qualifications and success for Roman *nobiles*. Polybius, for example, explicitly states that ten years of military service were obligatory for any political career. Early inscriptions also frequently emphasize military success, which was displayed through the taking of spoils both on an individual level, where they could adorn houses or even cognomina as in the case of the *Manlii Torquati*, as well as through the public dedication of statues, temples, or *columnae rostratae*.<sup>11</sup> Considering the ubiquitous emphasis on military virtues, it is all the more surprising that the central military office of the *tribuni militum* has received comparatively little attention, apart from Jaakko Suolahti's 1955 monograph.<sup>12</sup> This disinterest in the military tribunate has direct implications for our interpretation of the

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10 Taylor 2018 and Machado 2023 demonstrate the benefits of analyzing the Roman army within the wider political context of the Roman Republic.

11 Cato the Elder, born in 234 (Cic. *Brut.* 61, 80; *Sen.* 32), started to serve at age seventeen (Plut. *Cat. Mai.* 1.6) and became quaestor at age thirty (Livy 29.25.11). See Hölscher 2019: 241-249 and Hölkeskamp 2023b: 371-383 on the military self-presentation of the Roman elite. In regard to the epigraphic evidence, we might draw attention to the monument and the detailed inscription of all the spoils that the consul C. Duilius had taken in his campaign against the Carthaginians in the year 260 (CIL I<sup>2</sup>, 25) or to the praise of military deeds in the epitaph of L. Cornelius Scipio Barbatus in the family tomb of the Corneli Scipiones (CIL VI, 1285).

12 See however the discussion of Clark 2016 on the introduction of the military tribuneship as well as McCall 2020 on the role of tribunes in a legion's chain of command. Nicolet 1980: 89-109 presents the relationship between army and citizen.

*cursum honorum*, as it sidelines an important element of Roman political careers. In this context, Beck has rightly emphasized the need to fully integrate the wide range of lower offices – such as the *tresviri capitales*, the *tresviri nocturni*, or the *duoviri navales* and the *praefecti socium* – into our reconstruction of the Roman political system and to allow for a less rigid *cursum honorum*.<sup>13</sup> While the body of evidence for these offices overall is very slim, we are comparatively well informed about the *tribuni militum*, for whom we have the detailed description of Polybius' Book 6, information regarding the introduction of the office, and numerous references regarding individual tribunes.<sup>14</sup>

Placing the office of *tribunus militum* both within its military context and in the context of the widely covered political culture and system of the Roman Republic also allows us to extend Roman politics and political participation beyond the 'Urban Republic' – literally a history of Rome that focuses mostly on the events, players, and institutions in the *urbs* – in favour of a broader and denser web of interactions between the *nobiles*, regional elites and the mass of *cives Romani* living in the *ager Romanus*.<sup>15</sup> After all, the most

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13 See Beck in this volume and Beck 2005: 40-42 and the emphasis on the popular election of these magistrates by the plebeian assemblies. Cf. Kunkel – Wittmann 1995: 532-551 on the *vigintisexviri*.

14 Polyb. 6.19-42. Suolahti 1955: 60-62 stresses the large number of *tribuni militum* (38,500 from 509 BCE to 14 AD) of whom fewer than 1% are known. The 348 individuals identified by him nevertheless constitute a reliable basis for analyzing this group. For the period under consideration in this paper (367 to 133) we can rely on references to ca. 110 tribunes. These consist of seven tribunes plus the notice that Ap. Claudius Caecus held the military tribuneship thrice for the period between 367 and 311. Another fourteen individual tribunes are attested for the years 311 to 218 and thirty names for the Second Punic War alone. An overall total of seventy-five tribuneships is mentioned for the years 200 to 133, although this number contains several iterations of the office: twice by Serv. Sulpicius Galba, and Cn. Cornelius Scipio Hispanus, thrice by L. Aemilius Paullus Macedonicus, P. Cornelius Scipio Nasica Corculum, P. Cornelius Scipio Aemilianus, T. Maenius, C. Sulpicius Galus, and L. Terentius Massaliota, and even four times by C. Cassius Longinus. It is evident that multiple tribuneships appear the moment that our literary sources become more abundant and reliable in the third and second century, suggesting that the military tribuneship was regularly held multiple times, including both consecutive and non-consecutive terms. See Suolahti 1955: 307-312 for a list of the known military tribunes based on Broughton MRR. It should be noted that Suolahti does not include references to anonymous *tribuni militum*, which regularly appear in the context of casualty lists, for example the 29 tribunes (Livy 22.49.15-16) that fell at Cannae or the 11 tribunes that were among the fallen at Herdonea (Livy 27.1.12).

15 Machado 2023: 18-23 on a social historical approach to the Roman army, which can also serve to emphasize relevant political developments and processes outside the city of Rome. See Barber 2020a: 97-234 on the 'long shadow' of Mommsen, Münzer, and Gelzer



diverse assembly of Roman citizens manifested itself in the annual levy of four legions that formed the two consular armies. Raised and disbanded each year, except in times of crises like the Second Punic War, this practice regularly assembled around 18,000 Roman citizens over a prolonged period of time.<sup>16</sup> Statistically, this amounted to 180,000 Roman citizens as well as 240 *tribuni militum* per decade, which is, of course, a hypothetical estimate, but it nevertheless serves to illustrate the scope and impact of military service on elites and citizen-soldiers alike.<sup>17</sup>

### The origins of the military tribuneship in the fourth century BCE

These staggering numbers still lay far in the future when the military tribuneship became an elected office in the fourth century, a crucial period that experienced the beginnings of Roman expansion and various processes of institutionalization that saw the consolidation or creation of most of the offices as well as a distinct Roman political culture.<sup>18</sup> The military tribuneship was no exception in this regard and underwent several evolutions and reinventions throughout the early Roman period, for example in the shape of

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and their focus on magistracies and the Roman nobility. Cf. Jehne 2021 on their long-term impact on German scholarship as well as David – Hurlet 2020 on the similar path chosen by French scholarship. Considering this tradition, it is maybe not that surprising that Taylor's 1960 monograph (reprinted and updated by Linderski in 2013) on the Roman *tribus* remains a standard reference in regard to the rural population as well as the rural tribes of the Roman Republic. How the rapidly expanding rural areas were integrated and remained attached to Rome remains a vexing question, although Nicolet 1980: 49-73 points out the importance of the *census* in this regard; cf. Tan 2023a on the *tributum* and the *tribuni aerarii*. Furthermore, the discussion of the *tribus* and their reform in the early Republican period by Humm 2005: 399-439 also emphasizes the need to integrate the rural population as does Linke 2006 who also draws attention to the various ways in which the rural population, at least its wealthy members, was involved in the political processes in Rome. However, neither of them identifies concrete mechanisms or practices, apart from the importance of the assemblies, for binding the rural population to the *urbs*.

<sup>16</sup> The armies thus constituted a significant assembly of Roman citizens, especially if we consider Mouritsen's estimate that the *comitium* could hold approximately 4,000, the *forum* maybe 10,000, and the *campus Martius* perhaps 20,000 people. Mouritsen 2017: 55-58.

<sup>17</sup> Following Polyb. 6.20.8-9. De Ligt 2007: 115-121, see also Rosenstein 2007: 137 and reference no. 14 on iterations.

<sup>18</sup> See for example Hölkeskamp 1987; Cornell 1995; Humm 2005; Raaflaub 2005; Helm 2022; Bernard – Mignone – Peralta 2023.

the *tribuni militum consulari potestate*. It is beyond the scope of this paper to discuss the nature of the consular tribunes and their role in regard to the development of the Roman upper magistracies, but it will fortunately suffice to say at this point that the early *tribuni militum* seem to have been responsible for commanding Roman forces on campaign.<sup>19</sup> It is in this military context that the office is mentioned by Livy when he states that the right to elect six *tribuni militum* was granted to the *comitia tributa* in the year 362, which suggests some connection to the *leges Liciniae Sextiae* and the consequent (re)introduction of the consulship in 367, a measure that is widely seen to have taken place in conjunction with a reorganization of the levy.<sup>20</sup> A faint memory of this early development might have been preserved as part of the biography of T. Manlius Torquatus and the many *exempla* that were associated with it. Allegedly, young Titus was elected a military tribune in 362 after he had shown extraordinary filial *pietas* that even led him to threaten a *tribunus plebis*.<sup>21</sup> It was probably during his subsequent service as a *tribunus militum* that T. Manlius earned his cognomen in a duel with a Celtic champion whose torque he took as a trophy.<sup>22</sup> However, Clark rightly cautions that Livy never calls T. Manlius a *tribunus* in this context, but rather *iuvenis* and *miles*, and she also points to the inconsistencies in dating this episode, leading her to dismiss the early date for the popular election of the military tribunes as unlikely.<sup>23</sup>

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19 Suolahti 1955: 36-40; Richard 1990; Sohlberg 1991: 259-262; Bunse 1998: 82-181; Meunier 2011: 358-360; Armstrong 2016: 189-199; McCall 2020: 212-218; see also Lanfranchi in this volume.

20 Livy 7.5.9: *et cum eo anno primum placuisset tribunos militum ad legiones suffragio fieri - nam antea, sicut nunc, quos rufulos vocant, imperatores ipsi faciebant*. Suolahti 1955: 36-39 accepts the date, cf. Oakley 2005: 391-393; Humm 2005: 278-279. On the larger military historical context see Armstrong 2016: 245-280, 2017: 140-145. The heavy defeat suffered by the first plebeian consul L. Genucius might also have played a role in granting the *comitia tributa* the privilege to elect six tribunes, see Engerbeaud 2020: 189-193; Helm 2022: 160-168. Hölkeskamp 1987: 150-153 emphasizes the importance of the officers' election by the *comitia tributa*.

21 Filial *pietas*: Cic. *off.* 3.112; Livy 7.5; Val. Max. 5.4.3; Sen. *benef.* 3.37.4; *Vir. Ill.* 28.1-2. See Linke 2014: 82-86 on the importance of this *exemplum*. The single combat found a similarly wide reception: Livy 6.42.5-6; 7.9-10; Claudius Quadrigarius FRH 14 F 10b (= Gell. *NA* 9.13.4-19); Cic. *Tusc.* 4.49; Eutrop. 2.5.1; Suet. *Cal.* 35.1; Val. Max. 3.2.6; Ovid. *Fast.* 1.601-603; Plin. *HN* 33.15; Quintil. *Inst. Or.* 5.11.10; Flor. 1.13.20; Amm. 24.4.5. Oakley 1998: 113-148.

22 For a detailed account of these stories see Clark 2016: 277-286.

23 Though not ruling it out completely, Clark 2016: 286-289.

Clark's skepticism is supported by the rather slim evidence for military tribunes before the year 311, which consists of only seven individuals to which we might add the notice that Appius Claudius Caecus had thrice served as a *tribunus militum*.<sup>24</sup> In addition to T. Manlius Torquatus, we also hear of M. Valerius Corvus (tr. mil. 349) and P. Decius Mus (tr. mil. 343), although their alleged deeds seem very much like doublets of Manlius' duel and the heroic action of Q. Caedicius in the First Punic War respectively.<sup>25</sup> Similarly suspect are the references to L. Quinctius (tr. mil. 326), L. Cominius (tr. mil. 325) and Q. Publilius (tr. mil. 321), all of whom held office in the first years of the Second Samnite War, which are among the more dubious parts of the Livian narrative of this conflict.<sup>26</sup> The seventh known officeholder is P. Salonius, whom Livy mentions in the context of the infamous *sedition* of 342: Salonius had held the posts of tribune and first *centurio* for several alternate years to the apparent displeasure of the soldiers.<sup>27</sup> Although a healthy dose of skepticism is warranted, it is noteworthy that these episodes – much like the political issues of the time – are mainly concerned with proper conduct, rotation, and fair practice in the army.<sup>28</sup> Even if the mentioned early office-holders were the products of fabrications, these would at least indicate how later authors of the second and first century imagined the role and responsibilities of military tribunes.

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24 On the military service of Appius Claudius Caecus, see Beck 2005: 165-169. Inscr. It. 13.3, 79 = CIL XI, 1827.

25 M. Valerius Corvus is reported to have bested a Celtic champion with the help of a crow; Dion. Hal. *Ant. Rom.*

15.1; Livy 7.26; Zonar. 7.25; Claudius Quadrigarius FRH 14 F 12 (= Gell. *NA* 9.11); cf. Oakley 1985: 393-394, 407-408. P. Decius Mus led a valiant rearguard action against the Samnites (Livy 7.34-37; 22.60.10; Plin. *HN* 16.11; Frontin. *Str.* 1.5.14, 4.5.9) that is very reminiscent of a similar rearguard action in the First Punic War (Cato FRH 3 F4,7a (= Gell. *NA* 3.7.1-19); Livy 22.60.11, *Per.* 17; Plin. *HN* 22.11; Flor. 1.18.13-14; *Vir. Ill.* 39; Oros. 4.8.2; Zonar. 8.12) and might have served to flesh out the otherwise meagre account of the so-called First Samnite War; Oakley 1998: 332-334.

26 Cornell 1989: 369-371; Grossmann 2009: 54; Engerbeaud 2020: 234-241. L. Quinctius is briefly mentioned as the commander of an advance guard that seized Neapolis in 326 (Livy 8.25.13). L. Cominius served in Samnium with the Roman cavalry (Livy 8.30.6; in contrast Val. Max. 6.1.11 mentions a *tribunus plebis* with name Cominius in regard to the condemnation of Laetorius Mergus, which took place in the first decade of the third century, see below). Q. Publilius was allegedly one of the tribunes that surrendered the army at Caudium and then fell into debt bondage (Dion. Hal. *Ant. Rom.* 16.5). Livy 8.28 reports the same story regarding the abolition of the *nexum* for the year 326 but makes no mention of Publilius' status as a *tribunus militum*.

27 Livy 7.41.3-7. Oakley 1998: 383-389; Clark 2016: 288-289; Helm 2022: 208-210.

28 Cf. Clark 2016: 291-292.

While it is certainly possible to follow Clark's dismissal of the year 362 as the beginning of the popular election of the *tribuni militum*, it seems more likely that the office developed over time and experienced several reconfigurations. This would also explain Livy's reference to a major reform in 311 that granted the people the right to elect sixteen tribunes of the soldiers as well as the *duoviri navales*.<sup>29</sup> Although this reform leaves some questions regarding the selection of the remaining eight *tribuni militum*, its authenticity has been largely accepted by modern scholarship since military tribunes thereafter appear with increasing regularity and less embellishment in the literary sources.<sup>30</sup> Furthermore, the date of the reorganization suggests that it was part of the various initiatives and reforms associated with the famous censor Appius Claudius Caecus, which included the alleged enrolment of *humiles* into the Roman *tribus* as well as the addition of *filii libertinorum* to the Senate.<sup>31</sup> These actions are of particular relevance in regard to the newly granted right of the *comitia tributa* to elect the *tribuni militum*. The large-scale enrolment of additional citizens increased the available manpower substantially, enabling the increase of the levy to four legions, which is supposed to have occurred as part of the *lex Atilia Marcia de tribunis militum*. In this context, the election of the military tribunes by the *comitia tributa* curtailed the consuls' power to appoint officers at will and thus strengthened communal control over military affairs.<sup>32</sup> Pointedly said, the expansion of the military levy went hand in hand with a growing participation of the citizens in the selection of their officers, allowing them to examine and choose the men that would command them on campaign.<sup>33</sup>

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29 Livy 9.30.3-4. Oakley 2005: 389-396; Clark 2016: 289-294; see Steinby 2007: 60-63 and Armstrong 2016: 269-272 on the *duoviri navales*.

30 By the Second Punic War all twenty-four tribunes of the first four legions were elected by the people while the consuls appointed the *rufuli*, Livy 7.5.9, 27.36.14. Clark 2016: 290-291 discusses the various emendations proposed in this context but makes a convincing case for sticking with the original *seni deni in quattuor legiones*, arguing for a multi-stage expansion of tribunes' elections; similarly, but very brief Suolahti 1955: 39-40. Cf. Humm 2005: 278-283; Helm 2022: 310-334 on the political and military consequences of the Roman defeat at Lautulae and Engerbeaud 2020: 252-261 for the military encounters of these years. See reference no. 14 for the increasing evidence for military tribunes after 311.

31 Humm 2005: 185-283.

32 Hölkeskamp 1987: 152-153; Armstrong 2016: 272-280; Helm 2022: 328-332. On the importance of elections in the military context see Taylor 2018. If one of the objectives was also to curtail the consuls' power, then this would to some extent mirror the emancipation of the Senate through the *lex Ovinia* as argued by Cornell 2000.

33 Taylor 2018: esp. 158-162.

## Prerequisites and responsibilities of the *tribuni militum*

The outcome of these elections had real consequences for those citizens that manned the legions in any given year, as demonstrated by Polybius' detailed description of the Roman army. Notably, his account of Roman military practices opens with the election of the military tribunes, in which he specifies that a minimum of five years of service was required to be eligible for fourteen tribuneships and a minimum of ten years for the remaining ten tribuneships.<sup>34</sup> If we follow Polybius, then the *tribuni militum* were probably men in their mid-twenties or older, although the example of T. Manlius Torquatus and the better-attested military tribuneship of Scipio Africanus in 216 demonstrate that it was possible to elect younger men – true to Scipio's famous saying *si me omnes Quirites aedilem facere volunt, satis annorum habeo* (Livy 25.2.7). While this seemingly confirms the assertion that the military tribuneship stood at the beginning of a political career, the sources also mention individuals like M. Porcius Cato (tr. mil. 214, and 191) and P. Cornelius Scipio Nasica Corculum (tr. mil. 168, 167, and 150), who served as tribunes even after they had reached the *maximus honos*, suggesting that the office was intertwined with the various stages of the *cursus honorum* rather than being its first step.<sup>35</sup>

Political experience, much like the military experience stressed by Polybius, might have helped to get elected in the first place, and a certain number of middle-aged *tribuni militum* in the colleges of six tribunes, guaranteed by the separate allocation of junior and senior tribunes to each legion, would have ensured their collective authority vis-à-vis the *principes* and *triarii* of a legion who were men in their later twenties and early thirties.<sup>36</sup> The question of authority should not be underestimated, since it fell to the *tribuni militum* to oversee and manage the legion's daily routine. Their central role in

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34 Polyb. 6.19.1-3. Livy 41.3.9 also indicates that the sequence of the elections translated into a hierarchy among the 24 tribunes, though it is not clear, how this hierarchy would have corresponded to the two age groups described by Polybius; see also Taylor 2018: 151-156.

35 Rosenstein 2007: 136-138 contra Suolahti 1955: 29-34 and Kunkel – Wittmann 1995: 12-13, 60-64 who describe the office as a preliminary stage of the *cursus honorum*. See also Pina Polo in this volume on consulars serving in the army as *legati* or *tribuni militum*. Broadly speaking, scholarship has either paid little attention to the *tribunus militum* or seen the office as an obligatory first step in a political career. The excellent *Companion to the Political Culture of the Roman Republic* (Prag – Arena 2022), for example, does not discuss them in detail. When military tribunes are mentioned, they are mostly discussed in their role as military officers, e.g. Sage 2008: 104-106.

36 Polyb. 6.21.7-9; Livy 8.8. See Timmer 2008: 242-247 on age and army structures.

this regard is highlighted by the fact that it was their responsibility to constitute the legions in the *dilectus*, the consul only set the appointed date for the recruits to assemble in Rome.<sup>37</sup> Separated into four groups according to their legion, the *tribuni militum* encountered each recruit personally when the assembled men were called up one *tribus* at a time, stepping forward in groups of four to be distributed among the legions, each legion being given first choice in turn to ensure an equal standard.<sup>38</sup> While we should not dismiss the chance for brief exchanges, especially if the tribunes knew some of the soldiers, it seems unlikely that any of the tribunes would nevertheless have been able to remember more than a few of the thousands of individuals they encountered in this process. The recruits themselves, however, were a different case and can be expected to have followed the whole spectacle with great interest, noticing who was picked first but also how the various tribunes conducted themselves. Even if they were chosen by a different legion, this would nevertheless have been a rare opportunity to get a close-up view of men like Q. Fabius Maximus Verrucosus (tr. mil. 238), L. Aemilius Paullus (three times tr. mil. before 195), P. Cornelius Scipio Africanus Aemilianus (tr. mil. 151, 149, 148), or the already mentioned M. Porcius Cato and P. Cornelius Scipio Nasica Corculum.<sup>39</sup> Although this encounter might have been fleeting, we can expect the selection process – akin to the thrilling practice of picking teams in modern PE classes – to have been charged with a degree of expectation and anxiety, creating a memorable experience topped off by the soldiers’ swearing of the *sacramentum* in front of the tribunes.<sup>40</sup>

### The *tribuni militum* as guardians of the soldiers’ rights

Once on campaign, the rank and file would have had further opportunity to form an in-depth opinion of the *tribuni militum* of their respective legion. Polybius’ detailed account of the camp and the attendant tasks and duties

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37 Livy 3.20.3-6, 22.38.1-6. It is likely that the levy became decentralized in the third century, although this does not need to have impacted the selection process described by Polybius. Kunkel – Wittmann 1995: 334-335 note that this would have placed even greater responsibility on the *tribuni militum*.

38 Polyb. 6.19.3-20.9. Nicolet 1980: 96-102. Jehne 2006: 250-256 emphasizes that this lengthy procedure took a long time, at least 15 days in his calculation. He also draws attention to the fact that the distribution of the recruits among the four legions neutralized any regional cohesion in the newly formed units, instead emphasizing their shared status as Roman citizens.

39 Suolahti 1955: 308-312.

40 Livy 22.38.1-6. Nicolet 1980: 102-105; Jehne 2006: 253-254.

shows that the *tribuni militum* were at the heart of the legion's day-to-day routine.<sup>41</sup> One example in this regard is the sequence in which the camp was set up: although the *praetorium* is mentioned first, it is noteworthy that the tents of the tribunes were pitched right in front of it, facing the camp's *via principalis* and flanking the entrance point to the *praetorium*.<sup>42</sup> Furthermore, Polybius explicitly states that the area in front of the tents functioned as the central public space for soldiers to meet. The coming and going in this area was further increased by the fact that the *quaestorium* and the *forum* were placed right behind the tribunes' tents, to the right and left of the *praetorium*, indicating that even less sociable soldiers had no choice but to pass through this area.<sup>43</sup>

Apart from random encounters in the public areas of the camp, soldiers and tribunes also became acquainted through the various camp duties listed by Polybius. These began with the tribunes' responsibility to take an oath from all the soldiers and all camp followers once a new camp had been set up.<sup>44</sup> Following this, they divided the twenty *manipuli* of the *hastati* and *principes* among themselves, with two *manipuli* assigned to take care of the already described space in front of the tribunes' tents, while each of the tribunes was allocated three *manipuli* to attend to him. Polybius specifies that the distribution was done by lot, and we might infer from this that the process was reiterated with each relocation of the camp. In practice, this would have ensured that each tribune would have come into contact with most of the *manipuli* of the *hastati* and *principes* in the course of a campaign. Even though Polybius stresses that the duty of attending the tribunes was a light one, they likely required at least some coordination with the *centuriones* of the assigned units and also with individual soldiers like those of the two guard units of

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41 Dobson 2008: 406-414 on the overlap between Polybius' description and the camps at Numantia.

42 Polyb. 6.27. Also note the emphasis on the connection with the Roman troops in 6.27.7: "The tents of the tribunes are at an equal distance from each other, and at such a distance that they extend along the whole breadth of the space occupied by the legions" (ἀφ' ἑστέων δ' ἀλλήλων μὲν ἴσον αἰ τῶν χιλιάρχων σκιναί, τοσοῦτον δὲ τόπον ὥστε παρ' ὅλον τὸ πλάτος αἰεὶ τῶν Ῥωμαϊκῶν στρατοπέδων παρήκειν). Dobson 2008: 72-82.

43 Polyb. 6.31.1; cf. Fest. 309 L: *Quintana porta appellatur in castris post praetorium, ubi rerum utensilium forum sit*. For the *via Quintana* see also Livy 41.2.11-13. Digest of Justinian (49.16.12.2) also mentions that the tribunes took care of the food supply and the sick and had to be frequently present at headquarters to respond to complaints by the soldiers.

44 Polyb. 6.33.1-2.



four soldiers each that were assigned to a tribune's tent and his baggage.<sup>45</sup> Over the course of several months such light interactions probably created a certain level of familiarity between the rank and file but also between them and their officers. In addition to the allocation of the Roman *manipuli*, Polybius stresses that the *tribuni militum* were overseeing all the work connected with the camp, and that a pair of tribunes was responsible for supervising all field operations for two months each. In this capacity, they formed the crucial link in the army's chain of command: every day at dawn, the cavalry officers and centurions were required to report to the tents of the tribunes, who gave them the orders of the day that they in turn had received from the consul.<sup>46</sup> This practice cannot have failed to acquaint the various officers with each other, and the tribunes will also have gotten into close contact with soldiers and officers through the management of the guard duties, which Polybius describes in great detail.<sup>47</sup>

Besides these supervisory duties, the tribunes were also responsible for punishing offenses.<sup>48</sup> In this context, much has been made of the draconian punishments meted out to soldiers that were found wanting, as well as to the unrestricted power of the holders of *imperium*. However, Polybius explicitly states, in regard to negligent guard duties, that the *fustuarium* was only administered if a court-martial of the legion's six tribunes had condemned the culprit.<sup>49</sup> Although he goes on to say that the tribunes were subject to the general, much like the legionaries were subject to them, it stands to reason that a consul or praetor would rarely have overturned the verdict of the tribunes.<sup>50</sup> It is noteworthy, in this context, that the sources stress the tribunes' responsibility to safeguard the rights of the citizen-soldiers. Dionysius of Halicarnassus, for example, explicitly emphasizes this point in his account of the punishment of M. Laetorius Mergus, a *tribunus*

45 Polyb. 6.33.7.

46 Polyb. 6.34.3. cf. Livy 40.41.8: *frater Q. Fulvi M. Fulvius Nobilior - secundae legionis tribunus militum is erat - mensibus suis dimisit legionem [...]*

47 Polyb. 6.34.7-36.9. Rosenstein 2012: 93-103; cf. Machado 2023: 131-156 on collective action by the soldiers.

48 Suolahti 1955: 49-50; Sage 2008: 225-234.

49 Polyb. 6.37.1. Cf. Taylor 2022: 118 who shows that such punishments only set in during the excessive violence of the civil war period.

50 Taylor 2018: 160-161. Cf. Cic. *Leg.* 3.6 and his insistence on *iusta imperia*, although he also specifies that there shall be no appeal in the field. The initial discussion of Aemilius Paullus triumph also serves to illustrate that harsh discipline came at a price.



*militum* who had tried to violate the rights of one of his soldiers during the later years of the Samnite Wars:

“[...] and the people unanimously condemned him, after fixing death as the penalty; for they were unwilling that persons who were of free condition and were fighting on behalf of the freedom of their fellow citizens should be subjected by those in positions of command to abuses that are irreparable and do violence to the male’s natural instincts” (Dion. Hal. *Ant. Rom.* 16.4.3).<sup>51</sup>

The conduct of the military tribunes at Locri during the infamous Pleminius-affair might serve as a further example in this regard. The *tribuni militum* had attempted to put an end to indiscriminate looting, which ran counter to the collection and orderly distribution of spoils among the soldiers, and eventually resorted to the use of force against the looters and the *legatus pro praetore* Pleminius himself. It is telling that the authority of the *tribuni militum* eventually prevailed in this situation, at least for the moment.<sup>52</sup> A less violent but no less consequential intervention of a *tribunus militum* is reported for the year 170, when the tribune Sex. Digitius informed the Senate in Rome of the defeats of A. Hostilius Mancinus in Macedonia and also drew attention to the large number of soldiers that had been granted leave from the army by the consul, thus causing a senatorial investigation.<sup>53</sup> The action of Sex. Digitius corresponds to other instances where the tribunes are shown to have

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51 See also Val. Max. 6.1.11. Clark 2016: 291-293. Dion. Hal. *Ant. Rom.* 16.4.3 καὶ ὁ δῆμος ἀπάσαις ταῖς ψήφοις τοῦ ἀνδρὸς κατέγνω τιμῆμα δίκης ὀρίσας θάνατον, οὐκ ἀξιῶν εἰς ἐλεύθερα σώματα καὶ προπολεμοῦντα τῆς τῶν ἄλλων ἐλευθερίας τοὺς ἐν ταῖς ἀρχαῖς ὄντας ὑβρίζειν τὰς ἀνηκέστους καὶ παρὰ φύσιν τοῖς ἄρρεσιν ὕβρεις. Münzer RE 12 (1924), 450 places the episode between the years 292 and 290.

52 Livy 29.8-9; cf. Diod. 27.4; Val. Max. 1.1.21; App. *Hann.* 55; Beck 2005: 347-348. It was only the subsequent intervention of Scipio, who ordered Sergius and Matienus sent back to Rome, that allowed Pleminius to throw them in chains and murder them. Other instances where military tribunes opposed their commanding officers include C. Flaminius (Beck 2005: 266; Livy 22.3.8-10; cf. Polyb. 3.82.4), and M. Fulvius Nobilior (Livy 40.41.7-11) who was punished for sending the soldiers of his legion home after the conclusion of the annual campaign. Considering the disastrous outcome of M. Atilius Regulus’ expedition to Africa, we might also wonder if the resistance of the tribune Nautius in 256 was more justified than Flor. 1.18.17 suggests.

53 Livy 43.11.10: *Exercitum consulis infrequentem commeatibus vulgo datis per ambitionem esse; culpam eius rei consulem in tribunos militum, contra illos in consulem conferre*. It is unlikely that the tribunes were responsible for this, since it was Digitius’ report that drew attention to the state of affairs in Macedonia in the first place. This is further corroborated by the report of a rather lax *dilectus*, Livy 43.14.

been concerned with the state and effectiveness of the army, an issue that impacted the safety of all its members. At the first Battle of Herdonea, for example, the *tribuni militum* argued in vain against the chaotic and overextended battle line of the praetor Cn. Fulvius Flaccus.<sup>54</sup>

These cases have in common that the *tribuni militum* were expected to represent the interests of the soldiers and to counter wrongful or arbitrary behaviour by commanding officers. They thus took on a hybrid role consisting of care and command, guaranteeing that the citizen-soldiers would be treated fairly and according to the rules.

### The price of leadership

In addition to managing the daily routine of their respective legions, the *tribuni militum* also had to measure up to the military demands and expectations that came with their posting. Pliny's account of the *laudatio funebris* for L. Caecilius Metellus (cos. 251 and 247) reflects the essential requirement for martial displays, as the list of aristocratic qualities is headed by being the first warrior (*bellator*), followed by oratory and military skills.<sup>55</sup> Bravery in battle was clearly expected and frequently displayed, as examples such as Marcellus and Caesar or Oakley's list of twenty formal duels alone – without figuring in ordinary fighting and attrition – demonstrate.<sup>56</sup>

Military tribunes were held to the same standards, as they appear frequently among the Roman casualty lists, which are coincidentally one of the main sources for the names of tribunes that neither distinguished themselves nor belonged to any of the great *gentes*. The most extraordinary

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<sup>54</sup> Livy 25.21.7.

<sup>55</sup> Plin. *HN* 7.140: *voluisse enim primarium bellatorem esse, optimum oratorem, fortissimum imperatorem...* While orator and imperator refer to the ability in regard to the political and military aspects of the *cursus honorum*, *bellator* claims precedence over these, making it clear that the performance in the line of battle was a necessary precondition. Cf. Lendon 2007: 509-512; Rosenstein 2007: 133-138. The price of this display of martial prowess could be high as Livy's casualty list for the Battle of Cannae confirms, which numbers more than half of the forty-eight military tribunes and an additional eighty senators or men eligible for elevation to the Senate among the fallen, Livy 22.49.16-17.

<sup>56</sup> Oakley 1985: 393-396; see McCall 2002: 69-72 for cavalry combat. Also note the references to heroic combat in Roman myths: e.g. M. Valerius Volusus at Lake Regillus (Livy 2.16.1; 2.20.1-3; Dion. Hal. *Ant. Rom.* 6.12.1 f.; Inscr. It 13.1.64); Horatius Cocles (Polyb. 6.55; Livy 2.10.2-11) the *spolia opima* of Cornelius Cossus (Livy 4.19-20).

example in this regard is certainly Cannae, where 29 tribunes lost their lives, but losses among this class of officers are also regularly attested for other engagements.<sup>57</sup> Such casualties are not surprising if we consider the various reports of tribunes directing troops on the battlefield and displaying considerable personal valor in the process. The Battle of Cannae can once again serve as an instructive example here, as it fell to the surviving *tribuni militum* to extricate the remnants of the Roman forces from the disaster. Cn. Octavius and P. Sempronius Tuditanus in particular are reported to have distinguished themselves in this situation by organizing the escape of some of the men that had managed to reach the safety of the Roman camps.<sup>58</sup> While spectacular, their conduct was far from exceptional, and the various references to the brave and competent performance of *tribuni militum* on the battlefield indicate that they were expected to play an active part in any engagement.<sup>59</sup> In this context, their rank and high profile among the troops will have ensured that their deeds did not go unnoticed and will have gone a long way towards

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57 Livy 22.49.14-18. The evidence for casualties mostly stems from the Second Punic War and the second century BCE. For example, eleven military tribunes were among the casualties at the second Battle of Herdonea in 210 (Livy 27.1.12). A. Manlius was killed alongside M. Claudius Marcellus in an ambush in 208 (Livy 27.26.12, 27.27.8). M. Maevius and M. Cosconius fell in battle against Mago in 203 (Livy 30.18.14-15). T. Iuventinus and Cn. Ligurius both fell fighting Gauls in northern Italy in 197 (Livy 33.22.8), as did M. Ogulnius and P. Claudius in the following year (Livy 33.36.5). M. Genucius, M. Marcius, Q. Marcius and four *praefecti socium* all died during a campaign in Gaul in 193 (Livy 35.5.14). M. Licinius Strabo died in Istria under the command of Manlius Vulso in 176 (Livy 41.2.9-10). The tribune Oppius was killed in the campaign against Numantia in 140 (App. *Hisp.* 78).

58 Livy 22.50.6-12; Frontin. *Str.* 4.5.7; App. *Hann.* 26. See also Pina Polo in this volume on Sempronius Tuditanus' subsequent political career and consulship, Livy 27.11.7.

59 The tribune Q. Caedicius commanded a rearguard in Sicily in 258 to allow the rest of the army of the consul Atilius Calatinus to escape (Cato FRH 3 F 4,7a = Gell. *NA* 3.7.1-19). In contrast, Livy *Per.* 17; 22.60.11, Flor. 1.18.13, and Oros. 4.8.2 name a certain M. Calpurnius Flamma, while Claudius Quadrigarius FRH 14 F41 = Gell. *NA.* 3.7.21 speaks of a Laberius. Front. *Strat.* 1.5.15, 4.5.10 lists all three names. Beck 2005: 234-235 argues for the existence of an authentic core of the story on the grounds that one of the consuls of 256 was also a Q. Caedicius. At the battle of Beneventum it was the *tribunus militum* L. Valerius Flaccus that exhorted his soldiers to follow the example of the allied soldiers that had already breached the enemy camp, suggesting that he had a close-up view of the fighting. Further examples are provided by L. Marcius, who rallied the defeated troops of the Cornelii Scipiones in 211 and managed to save the Roman position in Hispania (Livy 25.37-39, 26.17.3 (see Piso FRH 7 F35 and Acilius FRH 5 F6); Plin. *HN* 2.241; Val. Max. 1.6.2; 2.7.15; 8.15.11) and Aemilius Lepidus, whose actions saved the day at the battle of Magnesia in 190 (Livy 37.43.1-5; Zonar. 9.20; App. *Syr.* 36; Just. *Epit.* 31.8.6).

motivating such illustrious *nobiles* as P. Cornelius Scipio Africanus Aemilianus to seek distinction through single combat and memorable deeds.<sup>60</sup> Any successful display of *virtus* will also have been amplified by the Roman practice of distributing praise and rewards, which took place in front of the entire army according to Polybius. While he mentions that gifts and rewards encouraged the men to face danger, he also specifies that they were awarded publicly:

“For the recipients of such gifts, quite apart from becoming famous in the army and famous too for the time at their homes, are especially distinguished in religious processions after their return, as no one is allowed to wear decorations except those on whom these honors for bravery have been conferred by the consuls; and in their houses they hang up the spoils they won in the most conspicuous places, looking upon them as tokens and evidences of their valor.”<sup>61</sup>

Unlike other recipients, military tribunes – and maybe also other officers or the *centuriones* – are likely to have benefited even more from such a public acknowledgement of their *virtus* since they were already known to a large part of the army through the various duties described above. The importance of this assembled military public should not be underestimated, and Machado has rightly stressed the reach and influence of Roman soldiers in politics and their ability to weigh in on decision-making processes in the assemblies by contributing first-hand accounts of a candidate’s excellence or ineligibility. Sallust, for example, claims that C. Marius was elected to the tribuneship by all the tribes because his military deeds were widely known in the city.<sup>62</sup>

## The political potential of the military tribuneship

Military service, and the military tribuneship in particular, thus offered the opportunity to present and prove oneself to the military audience of the

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60 Scipio Aemilianus held his first military tribuneship in 151 during which he distinguished himself in single combat with a horseman in Hispania and by winning the *corona muralis* (Vell. 1.12.4; Polyb. 35.4-5; Livy *Per.* 48; Val. Max. 3.2.6; Plin. *HN* 37.9; Flor. 1.33.11; App. *Hisp.* 49 and 53-54). In his second tribuneship he served with distinction in Africa and saved a beleaguered force, which earned him the *corona obsidionalis* (Plin. *HN* 22.13; cf. Polyb. 36.8; Diod. 32.7-8, Livy *Per.* 49; App. *Pun.* 98-104)

61 Polyb. 6.39.9-10: οἱ γὰρ τυχόντες τῶν τοιούτων δωρεῶν χωρὶς τῆς ἐν τοῖς στρατοπέδοις εὐκλείας καὶ τῆς ἐν οἴκῳ παραχρῆμα φήμης καὶ μετὰ τὴν ἐπάνοδον τὴν εἰς τὴν πατρίδα τάς τε πομπὰς ἐπισήμως πομπεύουσι διὰ τὸ μόνοις ἐξεῖναι περιτίθεσθαι κόσμον τοῖς ὑπὸ τῶν στρατηγῶν ἐπ’ ἀνδραγαθία τετιμημένοις, ἔν τε ταῖς οἰκίαις κατὰ τοὺς ἐπιφανεστάτους τόπους τιθέασιν τὰ σκῦλα, σημεῖα ποιοῦμενοι καὶ μαρτύρια τῆς ἑαυτῶν ἀρετῆς.

62 Machado 2023: 260-261, Sall. *Iug.* 63.4. Cf. Rosenstein 2007: 142-143.

camp, which could result in tangible material, social, and political benefits.<sup>63</sup> In regard to the latter two categories, we have already seen how military service would have required the military tribunes to engage with most of the camp on a day-to-day basis. As we can infer from Polybius, this would also have entailed the upper echelons of the consular army consisting of the twelve *tribuni militum*, the quaestor, and the commanding general, who at times also brought friends or family members to advise him.<sup>64</sup> This fairly small number of higher officers was complemented by twelve *praefecti socium*, who commanded the two allied *alae*, ten *praefecti turmarum* per legion that commanded the citizen cavalry, and possibly the *praefectus fabrum* and the *praefectus equitum* in charge of *auxilia* units, although these were probably a late Republican development.<sup>65</sup> Even if we discount the latter, the officers of each consular army would nevertheless have numbered forty-six men of whom forty were Romans, if we accept that the *praefecti socium* were staffed by both Roman and Italian officers appointed by the consul.<sup>66</sup> Taking into consideration that the two consular armies were mobilized each year, it stands to reason that the annual requirement of twenty-four *tribuni militum* and approximately eighty officers in total far exceeded the capacities of the small group of elite families that formed the inner circle of the Roman nobility.<sup>67</sup> This demand would have increased considerably with every legion raised in addition to the regular levy, for which the consuls appointed additional *tribuni militum* known as *rufuli*.<sup>68</sup>

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63 See the articles in Helm – Roselaar 2023 on the material benefits.

64 Prominent examples are the Fabii and the Cornelii Scipiones. Q. Fabius Maximus Rullianus accompanied his son Q. Fabius Maximus Gurgus (cos. 292) as a *legatus* (Livy *Per.* 11; Val. Max. 4.1.5; 5.7.1; Zonar. 8.1; Plut. *Fab.* 24.3), while Scipio Africanus accompanied his brother against Antiochos III. (Livy 37.1.7-10; Polyb. 21.4-5; Cic. *Phil.* 11.17, *Mur.* 32; Val. Max. 5.5.1).

65 Suolahti 1955: 198-209.

66 Polyb. 6.26.5 only mentions that they were appointed by the consul. Hantos 2003 argues that the 6 *praefecti* were initially staffed by three Roman and three non-Roman officers, cf. Ilari 1974: 128-130. Jehne 2006: 244-246 and Pfeilschifter 2007: 33-34 disagree with this view and argue that the *praefecti socium* were exclusively Roman officers, which would increase the above-mentioned numbers even further.

67 Although troops were kept in the field for more than one campaign season, especially in the second century, the *tribuni militum* might have been replaced or kept in place alongside the consuls, e.g. Polyb. 21.5.13.

68 Livy 7.5.8-9; Fest. 316L *Rufuli tribuni militum appellabantur quos consul faciebat, non populus; de quorum iure Rutilius Rufus legem tulerit*. Note however, that the elected tribunes were held in higher regard than those that were appointed, Cic. *Clu.* 54.

Consequently, a significant number of these posts must have been filled by Roman elites that were not necessarily part of the nobility, but likely belonged to the upper class of the 18 *centuriae equitum* or the *prima classis*. This hypothesis is upheld by the occasional mention of otherwise little-known names like Laberius (tr. mil. 258), Nautius (tr. mil. 256), C. Aurunculeius (tr. mil. 207), P. Matienus (tr. mil. 205), M. Maevius (tr. mil. 203), Cn. Ligurius (tr. mil. 197), L. Atius (tr. mil. 178), or Sex. Digitius (tr. mil. 170) that only appear briefly or not at all among the senatorial elite.<sup>69</sup> Considering that the literary evidence regarding the *tribuni militum* is likely skewed in favour of the well-known senatorial *gentes* and those individuals that joined their ranks, for example M. Porcius Cato or C. Marius, this mention of otherwise obscure individuals is all the more relevant.

Sex. Digitius (170) is a particularly interesting example in this regard, since Livy reports that his father had been granted Roman citizenship by Scipio Africanus in recognition of his services in the siege of Carthago Nova, leading Münzer to conclude that the elder Digitius had been part of a naval contingent from the Latin colony of Paestum.<sup>70</sup> Similarly, the name of C. Aurunculeius, military tribune in 207, suggests that he might have been from the Auruncan territory that became part of the tribus Teretina in 299.<sup>71</sup> Another local elite family is attested in the form of N. Decimius, *praefectus socium* in 217, and C. Decimius Flavus who served as *tribunus militum* in 209. Livy explicitly states that N. Decimius was one of the *principes* not only of his hometown Bovianum *sed toto Samnio*, whose timely arrival saved the *magister equitum* M. Minucius Rufus from disaster.<sup>72</sup> Münzer suggested that this deed might have earned the Decimii the citizenship, which allowed his son C. Decimius Flavus to serve as a *tribunus militum* and another (maybe the same)

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69 This led Suolahti to conclude that this group probably made up a far larger percentage than our body of evidence suggests: Suolahti 1955: 111-114, 119-121, esp. 124.

70 Livy 26.48. Sex. Digitius was a *socius navalis* who was awarded a *corona muralis* by Scipio. Münzer 1920: 92-95.

71 Taylor 2013: 56-59. Apart from C. Aurunculeius, who also seems to have served as praetor in Sardinia in 209, we know of a L. Aurunculeius who was praetor urbanus in 190 (MRR I, 356).

72 Livy 22.24.12: *Numeri Decimi Samnitis deinde adventu proelium restitutum. hunc, principem genere ac divitiis, non Boviani modo - unde erat - sed toto Samnio, iussu dictatoris octo milia peditum et equites ad quingentos ducentem in castra, ab tergo cum apparuisset Hannibali, speciem parti utriusque praebuisse novi praesidii cum Q. Fabio ab Roma venientis. Cf. Zonar. 8.26.*

C. Decimius to become *praetor peregrinus* in 169.<sup>73</sup> However, it is also possible that N. Decimius already held Roman citizenship in 217, which might be indicated by the fact that he had been put in command of a considerable force that amounted to two *alae* by the dictator Q. Fabius Maximus.

In combination, these few examples demonstrate that the junior offices of the *tribuni militum* and the *praefecti socium* offered a unique chance to get in touch with Roman and Italian elites, establishing channels of communication, political alliances, and maybe even friendships – social capital that would also have enhanced their political status back home. It has to be stressed that such relationships were mutually beneficial since alliances with local elite families from the *ager Romanus* would have been of considerable interest to Roman *nobiles* and those politically ambitious men that aspired to join them. After all, local elite families and their followers could make a real difference in the heavily contested *prima classis* of the *comitia centuriata*, where candidates needed to assemble a diverse coalition, especially since the third-century reform, which coupled the reorganized seventy *centuriae* of the *prima classis* with the thirty-five *tribus*.<sup>74</sup> The ability to call on influential families like the *Digitii*, the *Decimii*, or the *Aurunculeii*, and also on their *amici* and *clientes*, would not only have provided additional votes, it would also have placed influential surrogates in the *centuriae* that could attest to the candidate's qualities. Viewed from this perspective, the decision of well-established *nobiles* like Cato or Scipio Nasica Corculum to serve as *tribuni militum* at fairly late stages in their careers does not seem so odd. Rather, it may indicate a shrewd political instinct and the wish to canvass for additional political support.

The importance and political weight of the military tribunes are further illustrated by the extraordinary *lectio senatus* conducted by Fabius Buteo following the catastrophe at Cannae. Buteo started to replenish the Senate by first enrolling former curule magistrates, before then adding all the former quaestors, aediles, and plebeian tribunes. Still lacking the necessary numbers, Buteo then started to call up those who had never filled the office of magistrate,

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<sup>73</sup> Münzer RE 4,2 (1901), 2271-2274. *Tribunus militum*: Livy 27.14.8. *Praetor peregrinus*: Livy 43.11.7; 43.15.3; 44.16.7.

<sup>74</sup> Hackl 1972: 139-145, 160-163; Beck 2005: 42-43. See Tan 2023b: 110-121 and his compelling argument that the reform of the *comitia centuriata* did not aim for a greater participation of less affluent citizens but instead changed voting power among the wealthy class in favour of those elites that lived further away from Rome.



preferring such men that had spoils taken from an enemy fixed up at their homes, or had received a civic crown.<sup>75</sup> As shown by Barber, this passage indicates that the most distinguished of the former *tribuni militum* were selected to replenish the Senate, likely drawing on local or regional elites that had existing ties with the political center and the institutions of the *urbs Roma* due to their previous service.<sup>76</sup>

Last but not least, it is also necessary to emphasize the importance of the mass of the citizen-soldiers. After all, the younger men among the ambitious *tribuni militum* would have had to run for the lower offices of the quaestorship, the aedileship or for the post of *tribunus plebis* before they could even think of the offices holding *imperium*. These elections were, however, conducted in the *comitia tributa*, where the members of each tribe had an equal say in deciding the vote of their *tribus*.<sup>77</sup> In such a situation, the positive or negative impression of former soldiers and comrades of a candidate could play an outsized role in swaying their fellow tribesman into one or the other direction.<sup>78</sup> Past scholarship has made the case that Roman politics were heavily determined by elite performance and rituals that also benefitted from a generally shallow preference of voters for individual candidates.<sup>79</sup> This might be correct, but it overlooks that a part of the electorate, at least from the late fourth to the late second century, was likely familiar with some of the candidates due to shared military service or camp gossip and thus would have had personal preferences for one candidate or the other.<sup>80</sup> Besides the case of C. Marius, who was elected by the *comitia tributa* because his military deeds were widely known, we might also mention the initially presented agitation of Sulpicius Galba in 167 or the case of Ti. Sempronius Gracchus, whose prosecution following the Mancinus-Treaty allegedly drew many former

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75 Livy 23.23. Barber 2020b: 12-17; cf. Linke 2022: 514-516.

76 Barber 2020b.

77 Hölkeskamp 2023a: 133-144.

78 The case of P. Cornelius Scipio Nasica Serapio is particularly illuminating in this regard. His careless joke regarding the calloused hands of a rural citizen reportedly spread like wildfire and cost him the election, Val. Max. 7.5.2. See also reference no. 80.

79 See the articles in Jehne 1996; Flaig 2003: 158-180; Mouritsen 2017: 54-104; see for example chapter 3 of Hölkeskamp 2023a: 61-144 on “Rituals of Participation”.

80 Rosillo-Lopez 2017: 78-97, 175-187. Although she focuses on the late republican period, her observations regarding the spread of rumors, gossip, and we might add, useful information, likely hold true for earlier periods as well. Cf. Jakobson 2006: esp. 395-396; Machado 2023: 260-263.



soldiers and their families that had been saved by his actions, thus effectively burying the case against him.<sup>81</sup> While this was clearly an exceptional occurrence, military service formed an important hinge between the nobility in Rome and those citizens and elites that lived in the rural *ager Romanus* from which both sides benefitted equally, the former by building up support for future elections and the latter by gaining some level of access or at least contact points in the *urbs* and its power centers.

## Conclusion

Returning to the theme of this volume we can confidently say that the office of *tribunus militum* in the late fourth to late second century did not exclusively form a preliminary stage of the *cursus honorum*, but rather interconnected with it at various points, depending on individual circumstances and preferences as well as military necessities at the time. In this regard, the observation of *nobiles* serving as *tribuni militum* after their consulship emphasizes the importance of the office, especially if we consider the frequent losses and the heroic (often life-threatening) deeds attributed to the tribunes. Far from indicating a militarized Roman elite, this paper has argued that it was the political potentials of military service – the public outreach to Roman and Italian peers and also to ‘ordinary’ Roman citizens that lived outside the city of Rome – that made it attractive for ambitious elites to seek the military tribuneship; although military prowess and martial skills were certainly required in this context. Coincidentally, these points would have especially helped young men to build up their reputation and to gather valuable experience at the beginning of their careers, both in military, administrative, and communicative skills, which might explain the prevalence of men in their twenties amongst the known cases.

By zeroing in on the hybrid political and military nature of the office, this paper has furthermore argued that the annually elected twenty-four *tribuni militum* represent a fairly high number of officers that can hardly have been filled by the senatorial elite alone. This hypothesis is upheld by our scant body of evidence for the *tribuni militum* that reveals a considerable number of otherwise unknown tribunes as well as tribunes whose families were based in the rural *ager Romanus*. In this regard, the *tribuni militum* can serve as one

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81 Plut. *Ti. Gracch.* 7.1.

concrete example for the various connections that existed between ‘city’ and ‘periphery’, and present one of the ways in which rural elite families could plug into the political web of the *res publica Romana* that was ultimately centered on the *urbs Roma*.

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# THE TRIBUNATE OF THE PLEBS AND THE *CURSUS HONORUM*

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The tribunate of the plebs offers a particularly worthwhile case study of how individuals managed their progression through the Republican *cursus honorum*.<sup>1</sup> It had unusually broad and visible powers, especially for a magistracy that was traditionally fairly early on the *cursus*. What is more, it was optional. As a result, the choices individuals might make at this point in their careers can be telling – and they had a clear choice to make.

I have argued elsewhere that the role of the tribunate of the plebs in Republican political culture could and did affect the self-presentation of those who took up the office.<sup>2</sup> In 63 BCE, Cicero commented on how Rullus had altered his very appearance upon becoming tribune. He aped the dress, hair, and even bodily hygiene of a tribune from the distant days of the Struggle of the Orders, apparently as a sign that he would use his tribunician powers as they did: Cicero claims that the plan was to attack the *res publica*, but Rullus would surely have said that he was defending the people.<sup>3</sup> Rullus was able to make use of an established form of presentation linked to the tribunate that happened to

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1 My thanks to audiences in London and Zaragoza, to Lea Beness and Tom Hillard for many stimulating discussions, and to Evan Jewell, Jeff Tatum, and Kathryn Welch for personal comments. All errors that remain are my own.

2 Russell 2022.

3 Cic. *Leg. agr.* 2.13. On the ideological weight of the tribunate, see also Arena 2012: 48-55; 124-129.

suit his personal goals; Cicero's words imply that Rullus, too, identified it as *popularis*.<sup>4</sup> But we even find someone like Cato the Younger, hardly the self-identified *popularis* type, acting like a tribune: during his tribunate just a year later, he proposed a grain dole, a measure linked in Roman minds to the agendas of Gaius Gracchus, Saturninus, and the younger Drusus.<sup>5</sup> Plutarch is clear that Cato intended his own dole as a stabilizing tool, and convinced the Senate that it was necessary; but it is no accident that he did so as a tribune.<sup>6</sup>

Structurally, the tribunes were the magistrates who were best positioned to oppose the consuls.<sup>7</sup> It was also the tribunes who had the power to convene the *concilium plebis* and propose plebiscites, and as a result they appear in our sources as the most frequent speakers to the people and legislators in the popular assemblies.<sup>8</sup> If a grain dole was needed, it would fall to a tribune to propose it, and the result was to strengthen existing perceptions of the tribunate as a reforming, or even radical, magistracy.<sup>9</sup> It is not a stretch to say that they are likely to appear *popularis*, though we must be careful to define the term.<sup>10</sup> All Roman politicians agreed on the importance of the *populus*,

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4 E.g. Cic. *Leg. agr.* 2.43: *volet esse popularis*.

5 Plut. *Caes.* 8.

6 Pina Polo 2021: 146-147, 152-155 lays out the case that Cato was no populist.

7 Bleicken 1981: 99-101, somewhat moderating the opinions of Bleicken 1955; Jehne 2000: 220-222, including thoughts on how this affected later careers; Russell 2022: 263-266.

8 Pina Polo 1989: 13, noting that Cic. *Cat.* 4.9 uses *contionator* to mean 'popularis tribune', 51-53; Thommen 1989: 171-179; Pina Polo 1996: 52-56, 186-187; Tan 2008; Russell 2013: 102-104.

9 Cicero's tendency to describe tribunes and the tribunate itself as seditious comes up in many of the episodes discussed below; for more context, see Seager 1972; Russell 2015; Gabrielli 2022: 75-80. One of my goals in this chapter is to test an approach that may square the circle between his view (and the positive version put forward by e.g. Polyb. 6.16; Sall. *Hist.* 3.49M; Plut. *Ti. Gracch.* 15) and that of modern scholars who see the tribunate of the historical period as essentially an instrument of aristocratic control (e.g. Bleicken 1955; Thommen 1989; Hölkeskamp 1990; Feig Vishnia 1996), even if it achieved that goal by providing a valve for popular discontent (most prominently, Meier 1966: 128; 144-151). For a recent overview that gives space to the radical possibilities of the tribunate, see Lanfranchi 2022; 2024.

10 The bibliography on the terms *populares* and *optimates* is vast, ranging from the attempts of Taylor 1949 to analogue them with political parties to the argument of Robb 2010 that we must abandon them entirely. Tatum 1999: 1-16 gives a sensitive overview. Recently, new suggestions have been made that they should be given ideological content: see especially Wiseman 2002; Arena 2012. For my purposes in this chapter, the key references are Meier 1965 (cf. Martin 1965), arguing that *popularis* describes a political method of working through the popular assemblies rather than the Senate; and Seager 1972, pointing out that Cicero uses the word consistently when he attaches it to his opponents. I attempt to avoid the similarly fraught definition of *optimates*, for which see Strasburger 1939; Stone 2005.



and the same slogans can be found across the political spectrum.<sup>11</sup> As Rome's main legislators in the popular assemblies, however, tribunes had a special connection with the people. They were often reformers in an ideologically neutral sense, and sometimes even *populares* in Meier's sense of politicians who work through the popular institutions rather than through the Senate. And they were also therefore the magistrates who had the best opportunity to be *popularis* in the negative sense Cicero attaches to Clodius and others: populists who, in his opinion, threaten the good government of the *res publica* by the *optimi*.

So how could a rising politician make the best use of this rung on his *cursus*? Some modern scholars see a pattern of young men, often tribunes, consciously adopting a style Cicero would call *popularis* as a deliberate tactic to enhance their future careers.<sup>12</sup> Performing some great *beneficium* for the people as tribune of the plebs – an agrarian law or a grain distribution, say – would have been a good way to build support for a run at the praetorship. Others disagree: for them, appealing too overtly to the people as tribune of the plebs could harm one's future electoral success, since it was the conservative aristocracy's support which was really needed in the centuriate elections for praetor or consul.<sup>13</sup> As we shall see, this second group of scholars have Cicero on their side: he twice inveighs against the idea that a turbulent or *popularis* (his word) tribunate could help a man up the *cursus*.<sup>14</sup> Yet the fact that he takes the trouble to disparage such a tactic only shows that others did pursue it.

In this chapter, I examine how a politician's behaviour as tribune of the plebs affected his future career success. I argue that Cicero is incorrect: politicians who attracted attention with a populist persona during their tribunates did not necessarily harm their career prospects. In the second half, I explore some potential mechanisms by which a candidate for higher office who had taken on a *popularis* persona as a tribune might mitigate the dangers that attended that choice. It is tempting to suggest that rising politicians might disclaim their tribunician behaviour as youthful folly, or claim to have repented; in fact, such rhetoric is surprisingly rare. One obvious solution to the problem

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11 Esp. Morstein-Marx 2004: 204-240.

12 Most forcefully, Morstein-Marx 2004: 205; cf. Taylor 1949: 14-15; Gruen 1968: 163-164; Gruen 1974: 23; Perelli 1982; Tatum 1999: 5; Morstein-Marx 2021: 58.

13 E.g. Pina Polo 1994: 84-85; 2021: 129; Flaig 2003: 201-202. The 'quiet' tribunates of Crassus Orator and Mucius Scaevola are frequently cited: Cic. *Brut.* 160-161.

14 See below, p. 132-133.

is to remember that the binary division of Roman politicians into popular and optimate is a mirage, one deliberately fostered by Cicero and followed too literally by some modern scholarship. But even if we leave his terms aside, we can still point to examples of men who made enemies of almost the entire governing class as tribunes and later went on to success. The explanation that makes the most sense of our evidence is that their tribunician behaviour was not understood as unbecoming of an elite man, but as characteristic of a tribune.

### Tribunician behaviour and the *cursus honorum*

In 63, Cicero warned the tribunes of the year that a ‘turbulent’ tribunate would not help their careers:

*quod si qui vestrum spe ducitur se posse turbulenta ratione honori velificari suo, primum me consule id sperare desistat, deinde habeat me ipsum sibi documento, quem equestri ortum loco consulem videt, quae vitae via facillime viros bonos ad honorem dignitatemque perducatur.*

But if any of you is prompted by the hope that you can spread your sails for success by following a turbulent path, first of all give up that hope while I am consul. Then take me myself, a man born into an equestrian family now before you as consul, as evidence of what kind of life most easily leads good men to honour and political office.<sup>15</sup>

The example they should follow is Cicero’s own: he avoided the tribunate altogether, choosing to make his name as aedile rather than tribune because he supported the ‘best men’.<sup>16</sup> Yet all we can actually deduce from this passage is that some tribunes of 63 did plan to make their name by following a ‘turbulent’ course.<sup>17</sup>

In the *pro Sestio*, the orator is even more vehement. Analysing the later careers of the tribunes of 59, he concludes that a *popularis* tribunate (his word, though note that he does not refer to the non-*populares* as *optimates*) is no way to lay the foundations for a successful career.<sup>18</sup> On his reckoning, two (Alfius Flavius and Vatinius) were *populares*, though Vatinius was by far the worse and Alfius a moderate nonentity. Three (Domitius Calvinus, Ancharius, and

15 Cic. *Leg. agr.* 1.27.

16 Dio Cass. 36.43.5. Cic. *Leg. Man.* 1 functions almost as an apology.

17 Compare Livy 6.39, discussed by Jehne 2000: 220–221: Licinius and Sextius complain (possibly anachronistically) that the *plebs* do not reward their benefactors with future votes, thereby implying that (later) popular champions assumed they should; *Rhet. Her.* 4.48.

18 Cic. *Sest.* 113–114.

Fannius) joined Bibulus in watching the skies and tried to attack Caesar. Three years later, Cicero crows that these three are on their way to success, while their *popularis* antagonists face failure. Calvinus and Ancharius, two of his non-*populares*, have been elected praetor, and Fannius is about to be; meanwhile, the moderate *popularis* Alfius Flavius has faded to nothing and the radical *popularis* Vatinius was defeated in his run for aedile. The data Cicero had at the time of the *Pro Sestio* served him well: two non-*popularis* elections, one *popularis* defeat.

Cicero's own example suggests that it might have been wiser to avoid the tribunate entirely. Yet there is qualitative evidence that, for most men, being tribune conferred a career advantage. In the *Pro Plancio*, Cicero is defending a successful tribunician candidate against bribery charges brought by one of his defeated opponents. One of his tactics is to insinuate that the prosecutor is a sore loser, in part by disingenuously consoling him that his career is not over. As part of his argument, he cites a list of men who failed to become tribunes but later went on to be consul.<sup>19</sup> The claim is that there is still hope; the larger implication, however, is that these men are exceptions. Similarly, Alexander Yakobson has taken Sulla's ban on ex-tribunes holding higher office as evidence that tribunes of whom he disapproved often did.<sup>20</sup>

In quantitative terms, the state of the evidence leaves much to be desired. Eric Kondratieff calculates that between 220 and 1 BCE, one quarter of all plebeian consuls are known to have been tribunes, in a period for which we know the names of an average of two tribunes per year.<sup>21</sup> It is therefore very likely that many more, perhaps even a large majority, of plebeian consuls had been through tribunates unrecorded in our sources. In the same period, about 18% of all known tribunes went on to hold a consulship. That is a better success rate than we might expect: there were ten tribunes per year but only two consuls, so at the most only 20% can achieve that goal, and taking into account the attested number of patrician consuls the expected figure is more like 15%. The figures are likely skewed, however: tribunes who went on to success are more likely to turn up in the historical record. For a slightly earlier period, Hans Beck has a different take: he avoids overall counts, but his most telling statistic is that of 30 known plebeians who were aedile between 200

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19 Cic. *Planc.* 52.

20 Yakobson 1999: 174-175, with a wider discussion of the electoral fates of *popularis* tribunes at 172-177. More broadly, he does not accept that any Roman Republican politician would deliberately have played a losing hand.

21 Kondratieff 2003: 89-94.

and 180, 28 have attested praetorships or consulships; the same is only true of 16 of 36 known tribunes.<sup>22</sup> The figures are less bleak when we remember that there were 10 tribunes but only 4 aediles each year. In any case, the tribunate does seem to have been part of the *cursus* of many future consuls.

Bare figures tell us nothing about how successful ex-tribunes had used their tribunate. Paul J. J. Vanderbroeck has attempted to divide tribunes by ideology, and finds that his 53 *popularis* and 35 optimate tribunes between 78 and 49 BCE advance at about the same rate: 57% of his *optimates* and 52% of his *populares* achieved further office.<sup>23</sup> But the schematic way he divides politicians into camps render his figures unpersuasive. To find out more, we must turn to ancient discourse and case studies. In what follows, I work roughly chronologically from the middle to the late Republic, seeking out examples of tribunes who might have made enemies of some large proportion of senators before running successfully in the praetorian or consular *comitia*.<sup>24</sup> Given the gaps in our knowledge, I make no attempt to compile statistics: I am more interested in highlighting lesser-known examples, showing that at least a few exist for each period, and observing how our sources describe them.

The prototype of the tribune who offends large numbers of senators is Gaius Flaminius, whose two consulships in 223 and 217 attest to his enduring electability after the agrarian law he passed in 232.<sup>25</sup> Livy's account of his tribunate is lost, but the surviving text gives us a flashback of his career when

22 Beck 2005: 86-95.

23 Vanderbroeck 1987: 36-38; he excludes consulates after 49. Beck 2005: 86-95 makes the interesting suggestion that *popularis* tribunes offered a specific advantage to *novi*, who had few other ways to gain visibility. Vanderbroeck's figures, such as they are, back him up: between 78 and 49, 62% of *novi* Vanderbroeck characterizes as *populares* have further careers, compared to only 45% of the non-*novi*. The proportions are reversed for his *optimates*: 43% of *novi* and 67% of non-*novi*.

24 In what follows I do not give full source details for well-attested consulships or praetorships; see *MRR* for references. For further information on the tribunes, see Niccolini 1934; Kondratieff 2003.

25 Polyb. 2.21, with an aside that positions him as a forerunner of the Gracchi; Cic. *Brut.* 57, adding that he was popular with the people. At *Acad.* 2.13 Cicero makes Lucullus name him as someone *populares* of his day claim as one of their own, because he passed his bill *invito senatu* (cf. Cic. *Sen.* 11); the other names of the middle Republic he mentions are L. Cassius, who as *tr. pl.* 137 introduced the secret ballot (also cited by Cic. *Sest.* 48 as an anti-optimate measure) but was consul in 127, and Q. Pompeius the consul of 141. Pompeius does not have an attested tribunate, but Cic. *Brut.* 96 claims that he won acclaim as a *novus* by his oratory, and the tribunate was surely the best place for that.

he is introduced as the consul-elect of 217: his tribunate is characterised as part of his *certamen patribus* – ‘quarrel with the Senate’, and more recently he has supported another tribune, C. Claudius, in limiting the size of vessels senators might own:

*res per summam contentionem acta invidiam apud nobilitatem suasori legis  
Flaminio, favorem apud plebem alterumque inde consulatum peperit.*

It was a matter of great controversy and won Flaminius, a supporter of the law, hatred among the nobles but popularity among the plebs, and indeed his second consulship.<sup>26</sup>

Electorally, the *favor* of the plebs seems worth the *invidia* of the nobles. As for Claudius, it is possible but not certain that he is the C. Claudius Flamen who was praetor in 208.

TABLE 1.  
SOME TRIBUNES WHO USED THEIR POWERS TO ATTACK THE CENSORS

<i>Tribune</i>	<i>Date</i>	<i>Activity</i>	<i>Sources</i>	<i>Future career?</i>
L.(?) Caecilius Metellus ( <i>RE</i> 73)	213	Attempted to prosecute the censors who had demoted him; vetoed by the other nine tribunes.	Livy 24.43	
Cn. Baebius Tamphilus ( <i>RE</i> 41)	203 <sup>27</sup>	Attempted to prosecute the censors; halted by a senatorial vote.	Livy 29.37; Val. Max. 7.2.6	Pr. 199, cos. 182
Q. Terentius Culleo ( <i>RE</i> 5)	189	Forced the censors to enrol new citizens.	Plut. <i>Flam.</i> 18.	Pr. 187
P. Rutilius ( <i>RE</i> 8)	169	Prosecuted one of the censors; he was narrowly acquitted.	Livy 43.16; Val. Max. 6.5.3	Pr. 166? <sup>28</sup>
Cn. Tremellius ( <i>RE</i> 2)	168	Vetoed the censors' request to extend their period of office, because they did not enrol him in the Senate.	Livy 45.15	Pr. 159
Ti. Claudius Asellus ( <i>RE</i> 63)	140	Prosecuted a censor who had demoted him. Tried to stop the consul leaving for his province.	Livy <i>Per. Oxy.</i> 140; Gell. <i>NA</i> 3.4; Lucil. <i>ap.</i> Gell. <i>NA</i> 4.17	
C. Atinius Labeo ( <i>RE</i> 10)	130	Tried to throw a censor from the Tarpeian Rock for demoting him; confiscated his property.	Livy <i>Per.</i> 59; Plin. <i>HN</i> 7.143-145; Cic. <i>Dom.</i> 123	Pr. ?122

<sup>26</sup> Livy 21.63

<sup>27</sup> Niccolini 1934: 100 suggests 204.

<sup>28</sup> See below, p. 137.

For some types of mid-Republican tribunician behaviour, there are just enough examples to make a pattern. Table 1 collects some tribunes who used their powers to attack the censors. The typical narrative is that the censors demote someone from the Senate or the Equites; he then stands for the tribunate, usually to prosecute them in a *iudicium populi*, though my final example, Atinius Labeo, tried to throw Metellus Macedonicus off the Tarpeian Rock. For four of the seven, there is no explicit evidence that they presented themselves as championing popular power. Still, a tribune who hauled a senior senator nearly to his death would both have attracted the crowd's attention and made enemies. Cicero describes Atinius lighting a brazier on the rostra to perform the ancient ceremony of *devotio* on Metellus' property, and Pliny gives a long narrative of how he dragged him through the city by the neck: a performance of a traditional role no less theatrical than Rullus'. A prosecution in the *iudicium populi* offered opportunities for populist grandstanding too.

The remaining three appear in our sources in ways that clearly recall Cicero's *populares*. In 203, Baebius thought he had *occasio crescendi* – 'an opportunity to benefit himself' – by prosecuting two unpopular censors, who were also quarrelling between themselves: one was Livius Salinator, whose salt tax had turned the people strongly against him.<sup>29</sup> Baebius, it seems, presented himself as the people's champion against aristocratic infighting, and in particular against a man who had reduced the people's *commoda*. The Senate, Livy claims, foiled his plans *ne postea obnoxia populari aerae censura esset* – 'to avoid censorial decisions being subject to popular whim'.<sup>30</sup> Baebius had a brother who was also tribune and consul;<sup>31</sup> and the tribune of 200, who persuaded the people to vote down the consul's proposition for war with Macedonia, was yet another Baebius.<sup>32</sup> The Baebius of 200 is not known to have held a higher magistracy; but our Baebius, tribune of 203, was consul in 182.

Perhaps Baebius had to wait a long time for future advancement. The same was not true of Terentius Culleo, tribune in 189. Plutarch tells us that he forced the censors to enrol new citizens, and ἐπηρεάζων τοῖς ἀριστοκρατικοῖς

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29 Livy 29.37.

30 Livy's use of *popularis* here, and his understanding of the entire episode, is surely conditioned by the Ciceronian meaning; we need not follow him, but the overall implication is still that the tribune found the entire Senate ranged against him – and suffered no career damage.

31 Livy 40.17.

32 Livy 31.6.

ἔπεισε τὸν δῆμον ταῦτα ψηφίσασθαι – ‘attacking the aristocrats, he persuaded the people to vote for it.’<sup>33</sup> Plutarch’s language is strong: ἐπηρεάζων implies that Culleo did not just disagree with the ‘aristocrats’ but insulted them viciously. And he was praetor just two years later.<sup>34</sup>

The episode of Rutilius in 169 perfectly illustrates how tribunes were structurally almost required to behave as popular champions and stand in opposition to the curule magistrates. In Livy’s version his attack on the censors begins as a squabble limited to Rome’s wealthiest: he had a personal grudge against them, and for that reason agreed to act on behalf of some *publicani* angry about the censorial contracts. The meeting he called to discuss the issue was rowdy, and he blamed the censor C. Claudius for the disturbance. Rutilius’ remedy made use of the specific powers of his office: he accused both censors of offending against tribunician *sacrosanctitas* by disregarding his veto and calling his audience away from him, declared the property of one forfeit to the gods, and arraigned both *apud populum*. His own intentions may have been purely instrumental, but his appeals to the religious foundations of tribunician power, and particularly the right of tribunes to speak unimpeded to the people, must have summoned to mind the reasons the tribunate was first created;<sup>35</sup> and surely it was not forgotten that these same censors had redistributed freedmen into the urban tribes, a measure Cicero says saved the Republic and at least one later source understands as unpopular with the people.<sup>36</sup> The vote on Claudius’ case was already in progress, and looked set to end in conviction, when the *principes civitatis* cast off their gold rings and made a formal supplication to the *plebs*; Claudius was narrowly saved. Because of the tools Rutilius’ office made available to him, we move from a personal dispute to a scene reminiscent of the Struggle of the Orders.<sup>37</sup> Rutilius’ future career cannot be confirmed, but a Rutilius was praetor in 166; if not the same man, then surely a close relative.<sup>38</sup>

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33 Plut. *Flam.* 18.

34 He failed in his consular campaign in 185, however: Livy 39.32.

35 The prohibition on calling a *contio* away from a tribune was the result of a highly ideologically-charged episode in the Struggle of the Orders: Dion. Hal. *Ant. Rom.* 7.15–17; Cic. *Sest.* 79; cf. Plin. *Ep.* 1.23.2, with Russell 2013: 102–103.

36 Cic. *De or.* 1.38; *De vir. ill.* 57.3.

37 Niccolini 1934: 405–406 believes that he also obstructed the levy later in the year.

38 Münzer (*RE* s.v. Rutilius) believes they cannot be the same, because our Rutilius should be the father of two Rutilii Rufi prominent in the next generation, and the praetor is a Rutilius Calvus (the only one known). Before this man, though, there were no prominent Rutilii at all; I am inclined to agree with Niccolini 1934: 127 that he and the praetor are one and the same.

TABLE 2. SOME TRIBUNES WHO OPPOSED THE GRANT OF TRIUMPHS

<i>Tribune</i>	<i>Date</i>	<i>Activity</i>	<i>Sources</i>	<i>Future career?</i>
Ti. Sempronius Longus (67)	200	Vetoed an ovation; persuaded to withdraw.	Livy 31.20	Pr. 196, cos. 194
P. Porcius Laeca (19)	199	Successfully prevented an ovation that had been voted by the Senate. Possible sponsor of one of the <i>leges Porciae</i> . <sup>39</sup>	Livy 32.7	Pr. 195
C. Afranius (3)	196	Interfered with a joint debate on two triumphs; one was eventually downgraded to an ovation.	Livy 33.22	Pr. 185
C. Atinius Labeo (8)	196	Worked with Afranius about the triumphs. Also argued successfully that a vote on peace and war must be put to the people.	Livy 33.22, 25	Pr. 195
C. Titinius (5)	192	Used the veto to delay a triumph.	Livy 35.8	
M. Titinius (20)	192	Worked with his brother to delay a triumph.	Livy 35.8	Pr. 178
P. Sempronius Blaesus (31)	191	Tried to veto a triumph; persuaded to withdraw.	Livy 36.39-40	
M. Aburius (2)	187	Vetoed a triumph; persuaded to withdraw.	Livy 39.4-5	Pr. 176

Table 2 lists tribunes who intervened in senatorial debates about triumphs and ovations. Again, at least part of the time the real issue must have been personal disputes among the elite; Livy tells us as much for 192 and 187. Where we have evidence for the arguments the tribunes themselves made, however, they do not phrase their objections personally. In 200 Sempronius Longus argues that they cannot break precedent and award a triumph to a man who was not in his year of office when his victory was won; and Sempronius Blaesus in 191 claims that the Ligurians have not yet been subdued. Both later back down, but Livy explicitly tells us that both faced the opposition of the united Senate.<sup>40</sup> Afranius and Atinius in 196 say that although they approve of one consul, C. Cornelius Cethegus', triumph, the

<sup>39</sup> Niccolini 1934: 424.

<sup>40</sup> On the strategy of making a popular splash only to back down and conserve alliances within the Senate, see Flaig 2003: 201-203.



other consul has not achieved enough to be granted the honour. The argument Livy ascribes to them brings up wider themes of aristocratic arrogance:

*non tamen nec illum nec quemquam alium ciuem tantum gratia atque opibus valuisse ut, cum sibi meritum triumphum impetrasset, collegae eundem honorem immeritum impudenter petenti daret.*

Although he [Cethegus] has achieved a well-deserved triumph, neither he [Cethegus] nor any other citizen has enough influence and resources to grant the same honour to the impudent request of an undeserving colleague.<sup>41</sup>

Any of these tribunes, opposing would-be triumphators who were often still serving consuls, could have used the rhetoric of representatives of the plebs attacking the senators' willingness to protect and reward their own. Meanwhile, their other acts suggest that at least Porcius Laeca in 199 and Atinius Labeo in 196 may have posed as the people's champion. All but two of these men achieved the praetorship, Atinius while still tribune: his tribunician persona did not stop him being elected to a magistracy with *imperium* in the *comitia centuriata*.

Once we lose Livy it is difficult to trace individual careers, or even tribunates, but there was plenty going on.<sup>42</sup> Individual examples like L. Cassius Longinus Ravilla (tr. 137, cos. 127), who brought the secret ballot to popular trials in 137 and whom Quintus in the *de Legibus* accuses of following the *popularis ratio*, and the committed Gracchan C. Papirius Carbo (tr. ?129, cos. 130), whose ballot law concerned legislative votes, stack up against the other two proposers of ballot laws, C. Licinius Crassus in 145 and A. Gabinius in 139, for whom no further office is attested.<sup>43</sup> I do not know whether, as Cicero (in his own character) claims, C. Coelius (tr. 107) *doluitque quoad vixit se ut opprimeret C. Popillium nocuisse rei publicae* – 'grieved as long as he lived that in order to condemn C. Popillius he had harmed the *res publica*' by extending the secret ballot to *perduellio* trials:<sup>44</sup> that sounds suspiciously like Ciceronian wishful thinking. But, with many enemies dead set against him (again according to Cicero), he was elected consul, a significant achievement for a *novus* in 94.<sup>45</sup> Two other tribunes of the generation before Cicero deserve note: L. Marcius Philippus and Cn. Domitius Ahenobarbus. Philippus proposed an agrarian law,

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41 Livy 33.22.

42 This is the period brilliantly covered by Taylor 1962, and again by Badian 1972: 694-701; see also Williams 2004, and now Urso 2021. For the 110s and 90s, see Doblhofer 1990.

43 The ballot laws are discussed in detailed (and furious) terms at Cic. *Leg.* 3.35-37; on their ideological import, see further Jakobson 1995, with references. On the date of Carbo's tribunate, Beness 2009.

44 Cic. *Leg.* 3.36.

45 Cic. *Verr.* 2.5.181, *non mediocribus inimicitiiis* – comparing him to Marius and Fimbria.

acting in a way that Cicero describes as *populariter*, though he was gracious when it failed; Ahenobarbus successfully passed a bill making priests directly elected.<sup>46</sup> Both are better-known for their later careers, Philippus as consul in 91, opponent of Lepidus, and eventual supporter of Pompey, and Ahenobarbus as pontifex maximus, consul in 96, and censor in 92.

The 80s and 70s are more or less entirely lost to factionalized chaos, and we must be mindful that the role of the tribunate in the system was not the same after Sulla's reforms, primarily because the consuls now took a more active role in day-to-day politics, but also because of the rise of the dynasts.<sup>47</sup> For the 60s, one possible sample is tribunes who made their name in the popular assemblies as adherents of Caesar or Pompey (Table 3); many did go on to higher office, though so did many who opposed them.

TABLE 3. SOME TRIBUNES ATTESTED AS WORKING WITH POMPEY AND CAESAR

<i>Tribune</i>	<i>Year</i>	<i>Acts</i>	<i>Sources (selected)</i>	<i>Future career?</i>
A. Gabinius (11)	67	Special command against the pirates	Cic. <i>Corn.</i> ; Asc. 59-81C	Pr. ?61, cos. 58
C. Manilius (10)	66	Special command against Mithridates	Cic. <i>Leg. Man.</i>	Convicted <i>de maiestate</i>
C. Memmius (8)	64	Stopped Lucullus' triumph and prosecuted him	Explicitly in Pompey's interest: Plut. <i>Cat. Min.</i> 29 <sup>48</sup>	Pr. 58
T. Ampius Balbus (1)	63	Legislated for Pompey to wear triumphal dress at the games	Vell. Pat. 2.40.4	Pr. 59
T. Labienus (6)	63	Collaborated with Ampius on Pompey's honours; prosecuted Rabirius for the murder of Saturninus; made priests directly elected	Vell. Pat. 2.40.4; Cic. <i>Rab. Perd.</i> ; Dio 37.37	Pr. ?59
Q. Caecilius Metellus Nepos (96)	62	Attacked Cicero; proposed recalling Pompey to fight the Catilinarians and allowing him to stand for consul <i>in absentia</i> ; fled Rome to join him	Cic. <i>Fam.</i> 5.2.7; Plut. <i>Cat. Min.</i> 26-29	Pr. 60, cos. 57
L. Flavius (17)	60	Tried to pass agrarian law for Pompey's veterans		Pr. 58

46 Neither tribunate has a secure date; perhaps 104 for both. *Populariter*: Cic. *Off.* 2.73; for Ahenobarbus, see below p. 145-146, 148-150.

47 The new realities of post-Sullan politics: Pina Polo 2011: 89. On the 70s, see Marshall – Beness 1987.

48 Plutarch misdates the episode and is not explicit that he was tribune at the time, but see Kondratieff 2003: 449-450 for a convincing argument that he was.

As Manilius found, the greatest danger of an attention-grabbing tribunate in these years was not future electoral defeat, but prosecution. The most obvious example of a tribune of the 60s who made active use of the his office's full powers and symbolic weight, C. Cornelius in 68, found himself swamped by court cases and, though acquitted, did not advance.<sup>49</sup> And the success of those who did win praetorships and consulships could be ascribed to their patrons, or, in the cases of Memmius and Metellus Nepos, to drastic changes in their political alignments.<sup>50</sup> But all this only goes to show that Cicero's schematic assertion that *popularis* tribunes will not prosper cannot hold, both because of the number of potential counterexamples and because the difficulty of assigning that label becomes harder and harder the more evidence available to us.

A high-visibility tribunate, in whatever vein, seems to have been a good stepping-stone for future office. Cicero might object that I am picking and choosing my examples; all these anecdotes do not add up to compelling statistical data. But he is vulnerable to the same charge. Recall his assessment of the tribunes of 59 at *Pro Sestio* 113-114: he boasted that two of the three men he approved of as enemies of the *populares* had since won the praetorship, and the third, Fannius, was surely about to; meanwhile, the hated *popularis* Vatinius had suffered defeat. Unfortunately, his future predictions did not turn out so well. Vatinius was praetor in 55, while Fannius, whose election he says is almost assured, probably failed. The other *popularis*, Alfius Flavus, is next found presiding over court cases in 54, maybe as praetor – and with Cicero's approval.<sup>51</sup>

## Repentance

It was at least possible, then, for a man to make powerful enemies in his tribunate but go on to success. How did they overcome the perils Cicero, and many modern scholars, see in a flashy or even *popularis* tribunate? One option is that they later recanted. It is sometimes held that Roman politicians only

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49 Cic. *Corn.*; Asc. 59-84C.

50 On changes in political alignment, see further below, p. 142. In general on the tribunes of the Caesarian period, see Lanfranchi 2023, esp 308, noting those ex-tribunes were rewarded by their patron with the consulship.

51 Fannius: Brennan 2000: 676-677; Vatinius: e.g. Cic. *Fam.* 1.9.19. Alfius: *MRR* 2.222 with n. 3; Cic. *Planc.* 43.

briefly flirted with the *popularis via*.<sup>52</sup> I am not sure that the state of our evidence allows us to insist on this as a general pattern;<sup>53</sup> but what we can do is examine how our sources talk about the possibility of repentance. Cicero, in particular, is less open to forgiveness than we might expect.

There are a few potential cases in our sources of politicians who played a *popularis* role as tribune before altering their personas completely. Cicero claims that C. Coelius (tr. 107) grieved that he had harmed the republic with his ballot bill, though I am sceptical.<sup>54</sup> Memmius, who attacked Lucullus in Pompey's interest during his tribunate in 64, behaved quite differently as praetor in 58, when he proposed an inquiry in the Senate into Caesar's illegal actions as consul, but we have no contemporary testimony about his own rhetoric in either year; citing him as a repentant *ex-popularis* is dangerously dependent on a binary model of Republican politics.<sup>55</sup> A better example is Metellus Nepos, as turbulent a tribune as any in 62, who presented a very different persona to Cicero, at least, by his consulship in 57, and was apparently entirely forgiven.<sup>56</sup>

These may not be representative examples, and other than Coelius' grief our sources give no hint of how they presented their change of heart.<sup>57</sup> A look through the scholarship throws up two potential explanations: a *popularis*

52 Meier 1965: 567, 572; Thommen 1989: 24; Doblhofer 1990: 116-117; Tatum 1999: 12-15, citing Cic. *Prov. cons.* 26, discussed below, p. 145.

53 For the majority of tribunes, we do not know enough about their later political behaviour to make a determination one way or the other. Flaig 2003: 201-202 points out that some tribunes put forward popular only to proposals to withdrew them, gaining the crowd's attention but also the nobility's gratitude; his explanation fits some examples, particularly in Livy, but in other cases the tribune did not relent and the damage was done.

54 See above, p. 139.

55 The suggestion that he was acting for Pompey in 64 is from Plut. *Cat. Min.* 29; praetorship: Suet. *Caes.* 38; *Schol. Bob.* 130; cf. Suet. *Nero* 2.2, with a more explicitly ideological slant but only naming his colleague Ahenobarbus.

56 Praetorship: Dio Cass. 37.51. Later attitude to Cicero: *ap. Cic. Fam.* 5.3.

57 I have tried to stick carefully to usages of the label *popularis* that are well-attested in Cicero. It is worth noting, though, that when Vanderbroeck 1987: Appendix A tries to use broader (and, in my opinion, faulty) methods to assign Roman politicians to two camps he finds more shifts from the *optimates* to the *populares* than vice versa. For the period 78-49 BCE, 2 of his 52 *populares* (all tribunes) and 9 of his 35 *optimates* change allegiance. He concludes that *popularis* activity as tribune burned bridges with the *optimates*; it was not possible to go back. His numbers, however, are more a product of the civil war period: ex-stalwarts of the senatorial rump gradually saw which way the wind was blowing and joined Caesar, many only after Pharsalus.

tribunate might be ascribed to youthful folly, or framed as the result of carrying a personal grudge too far. I will examine each in turn.<sup>58</sup>

### Youthful folly

Today, we might assume that young people are naturally more inclined to the radical politics of change and reform, while old age is the time for conservatism.<sup>59</sup> Maxims along the line of the quotation (incorrectly) ascribed to Churchill that ‘a man who is not a liberal at twenty has no heart; a man who is not a conservative at forty has no head’ seem to imply that their more staid elders should forgive them as they mature. Yet it is hard to find such notions in our ancient sources.

In one of his many digressions on the decline of Roman political *mores*, Sallust talks of young men who after 70 sought power and found it in the tribunate; as tribunes *senatum criminando plebem exagitare, dein largiundo atque pollicitando magis incendere* – ‘by attacking the Senate, they excited the plebs with giveaways and promises’: exactly the kind of behaviour Cicero labels *popularis*. Sallust paints them as emboldened by youth; but his overall point is not that young men are generally disposed to attack the Senate, but that this particular generation was irrevocably perverted by ambition and growing up among the horrors of civil war.

Romans did subscribe to the idea that youth is a time of intemperance and men acquire prudence later in life. In Cicero’s ‘boys will be boys’ defence of Caelius he argues that young men must be allowed some license, but he is talking about sexual, not political, wild oats.<sup>60</sup> There is more of a political shade to his later argument about Caelius’ prosecutorial career. Of Caelius has been a little over-zealous in his prosecutions, Cicero argues, it should be chalked up to his age: *iam aetas omnia, iam usus, iam dies mitigarit* – ‘soon age, habit, and time will make it all better’.<sup>61</sup> Cicero makes the same point more broadly in the *de Senectute*: young men put their states in peril, while old men save them.<sup>62</sup> But, as with Caelius’ prosecutions, his point is not

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58 Youthful folly: e.g. Taylor 1949: 14-15. Personal grudges and the *dolor* they provoked: Badian 1972: 692; Tatum 1999: 12-13.

59 Many of the scholars cited in n. 12 at least gesture towards this idea.

60 Cic. *Cael.* 28.

61 Cic. *Cael.* 76-77 (quote 77).

62 Cic. *Sen.* 20.

politicized or ideological: he claims that young men are rash and stupid, and not, as the modern quotation implies, that they are naively idealistic.

The *pro Caelio* is a telling example, because alongside the affairs and the prosecutions Cicero needed to explain away another, and more directly political, mistake Caelius made: for a while, he was connected with Catiline. Here, however, the orator makes no appeal to youth. Instead, he says Catiline was so charismatic that anyone might have been tempted: he, Cicero, was briefly taken in.<sup>63</sup> Even as he sets up a clear narrative in which wisdom comes with age and young men must be forgiven youthful peccadilloes, he does not attempt to use it of political behaviour or alliances.

## Dolor

The idea that individual tribunes who came into conflict with individuals in the Senate, or even the Senate as a whole, were motivated by personal grudges has more support in our sources. A Roman politician who had been insulted or snubbed might feel the properly aristocratic emotion of *dolor* or indignation.<sup>64</sup> This explanation could account for some tribunes who attacked the censors: they had often been downgraded in status earlier in the *lustrum*.<sup>65</sup> What is less clear, though, is whether *dolor* excused a tribune's actions, or merely made them more understandable.

In the *De Haruspicum Responso*, Cicero blames the actions of both Gracchi, Saturninus, and Sulpicius on a *causa* that is *gravis tamen et cum aliquo animi virilis dolore coniuncta* – 'a weighty one, attached to a certain *dolor* characteristic of a manly mind'.<sup>66</sup> Tiberius Gracchus was outraged because of events surrounding the treaty he had made at Numantia; Gaius was driven by the death of his brother; Saturninus was upset that the Senate had stripped him of control over the grain supply at Ostia when he was quaestor; and Sulpicius' tribunate began with an excellent but personal cause, his attack on Julius Strabo. *Dolor* explained their actions, but could never make them right:

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63 Cic. *Cael.* 11-15.

64 For further discussion of *dolor* and the tribunate, see Badian 1972: 692; Tatum 1999: 12-13.

65 Personal quarrels with the censors are attested for four of the seven: Q. Caecilius Metellus, tr. 213; Livy 24.43; Cn. Tremellius, tr. 168; Livy 45.16; Claudius Asellus, tr. 140; Gell. *NA* 3.4; Atinius Labeo, tr. 130; Livy *Per.* 59, Cic. *Dom.* 123, Plin. *HN* 7.143. Tremellius and Labeo are known to have advanced further; for Metellus and Asellus we do not know.

66 Cic. *Har. resp.* 43; for Saturninus, he makes the same case at *Sest.* 39.

for these men, nothing could. But the fact that Cicero suggests this excuse, if only to disclaim it, might suggest that some accepted it.

Cicero reaches for *dolor* again in his clearest discussion of the possibility that a *popularis* might recant. In the *de provinciis consularibus*, he argues that a man might be driven to the *cursus popularis* by the *dolor* of some setback; but, if he repents, he should be welcomed back into the fold. If this opinion was widely shared, it could explain the electoral success of many ex-tribunes in a stroke. In context, though, this hypothetical penitent is not just any man – nor, indeed, is it a former tribune. This is Caesar, whom Cicero cannot simply write off, and who he desperately hopes will change. The same leeway does not apply to everyone; in the *in Vatinius* Cicero is clear that it does not apply to the ex-tribune Vatinius!<sup>67</sup>

In both discussions of *dolor*, Cicero is grasping at straws. In the *de Haruspicum Responso*, his main objective is to find any way, no matter how outlandish, to make Clodius look uniquely bad. If he has to make partial excuses for the Gracchi and Saturninus along the way, so be it. In Caesar's case, he is sheepishly trying to explain his own volte-face after Luca; in private, he was furious at being forced to offer Caesar his forgiveness.<sup>68</sup> Narratives of *dolor* that reduce the actions of men he actually considered enemies of the *res publica* to a personal grudge act as a smokescreen not to excuse them, but to excuse Cicero himself for failing to take a harder line against them. The difference is subtle but telling.

In at least one more episode Cicero tried to explain away tribunician actions as mere personal enmity, in defiance of the facts and, I argue, as a way to deny that they were *popularis* at all. In his tribunate in 104, Cn. Domitius Ahenobarbus (of whom more later) prosecuted Junius Silanus *apud populum* for starting the Cimbric war *iniussu populi*. Silanus was easily acquitted,<sup>69</sup> but the case itself was an indictment of senatorial governance, echoing the successful attacks made by other tribunes on Q. Servilius Caepio for his incompetent generalship in the same war.<sup>70</sup> We know about the grounds of

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67 Cic. *Vat.* 15.

68 Cic. *Att.* 4.5.1.

69 Asc. 80C.

70 Livy *Per.* 67. The trial of Norbanus, the tribune who had prosecuted Caepio for treason, became a textbook example (*Rhet. Her.* 1.24; Cic. *Part.* 105) of how the same actions – whipping up the crowd to riotous anger against the Senate – could both be attacked as seditious and harmful to the *res publica* and defended as a righteous expression of popular



the prosecution from Asconius, who also reports that Ahenobarbus published a pamphlet about how Silanus' act had been the start of Rome's woes.<sup>71</sup> If we only had Cicero's evidence, we would not be aware of all the political ramifications of the trial: he reports neither the charge nor the pamphlet, instead saying that Ahenobarbus chose to prosecute Silanus because of a personal insult done to a friend of Ahenobarbus' father.<sup>72</sup> The pamphlet, however, implies that publicity and an appeal to the public good were part of his strategy. Perhaps Cicero is correct to insinuate that the insult contributed to Ahenobarbus' underlying motivation; but it does raise the question of whether Cicero might have deliberately underplayed the populist personas of some tribunes, substituting a rhetoric of *dolor* not to excuse their behaviour before welcoming them back into the fold but as a way of papering over cracks in elite consensus.

### Political expediency

The only actual example of rhetoric a politician did or could use to disclaim his past *popularis* acts and win back the favour of powerful senators relates not to a tribune, but to Cicero himself. In the *Commentariolum Petitionis* he is advised that he needs to win the goodwill of the *nobiles*, and especially the consulars. To do so he must convince them that *semper cum optimatibus in re publica sensisse, minime popularis fuisse* – 'he has always agreed with the *optimates* politically, and has never been *popularis*'. He must explain that any of his acts that might have seemed *popularis* were in fact merely attempts to win Pompey's goodwill.<sup>73</sup> This passage does not, as is often claimed, provide straightforward evidence that it was normal to take up and put down a *popularis* persona as the situation demanded. In fact, the young Cicero's apparent flirtation with *popularis* politics demands an explanation, and can best be forgiven if he paints it as a purely instrumental

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power. Cicero's extended discussion of the defence speech, given by his mentor Antonius Orator, at *de Or.* 2.124, 199-204, is one of our most important sources for the type of rhetoric he calls *popularis*. Incidentally, another of the tribunes who attacked Caepio, Q. Cassius, is also ascribed both a political and a personal motive: Asc. 78C.

71 Asc. 80C.

72 Cic. *Div. Caec.* 67 (disapprovingly) and *Verr.* 2.2.118 (approvingly). The trial is also mentioned in the *pro Cornelio*, but Asconius' commentary is needed to make sense of Cicero's tone; see below p. 148-150.

73 *Comment. pet.* 5.



ploy. We should not forget, too, that Cicero is not trying to explain away a tribunate. He merely spoke in favour of the *lex Manilia*. For the man who proposed it (and much besides), forgiveness was not an option: he had already been tried and convicted of *maiestas*.<sup>74</sup>

### Not *popularis*, but tribunician

*Popularis* tribunes, then, could not routinely expect to gain the support of the senatorial elite in their later careers by disclaiming their acts as youthful folly; *dolor*, an explanation discounted by Cicero, might have worked for some, and others could potentially have followed the advice of the *Commentariolum* by claiming political expediency. But can *dolor* or political expediency alone explain how men who made powerful enemies in their tribunates still went on to electoral success? In my opinion, the phenomenon demands a more systematic explanation.

In a sense, the answer is obvious: it is Cicero's personal agenda, taken too seriously and twisted even beyond the limits he prescribes, that inclines us to label Roman politicians as either *popularis* or *optimatus*.<sup>75</sup> Nor were the wealthy voters in the *comitia centuriata* or the leaders of opinion in the Senate a monolithic bloc of *optimates*: behaviour Cicero finds seditious would not upset all, and might even please some. The same applies to the tribunes themselves, whose political activity often frustrates any attempt to slot them into a binary.<sup>76</sup>

One final explanation draws on my earlier argument that the tribunate itself structurally and ideologically pushed many men into adopting a populist slant to their persona. There are traces in our sources that Romans themselves were aware of this phenomenon, and even approved of it. Cato's grain bill in 62 may be a model: we (and Plutarch) do not think of it as *popularis* in ideology, but that is only because we know more about Cato's own professed ideological leanings than we do for the vast majority of Roman politicians. Perhaps other tribunes I have discussed were also above suspicion, and

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<sup>74</sup> Asc. 60C.

<sup>75</sup> Seager 1972; Mandel 1983, esp. 294-295.

<sup>76</sup> For this reasoning applied to the tribunes of 99-97, see Russell 2013. Consider also Gaius Marius, tr. 119: Plut. *Mar.* 4 says he opposed an agrarian bill as a deliberate ploy to balance out the populist persona he had built with a ballot measure (cf. Cic. *Leg.* 3.38).

explained away their ‘turbulent’ acts as required by their magistracy. Obstructing a triumph, for example, is just what tribunes do;<sup>77</sup> more generally, their duty is to protect the interests of the people and follow their will.<sup>78</sup> If a tribune was just doing his job, who could hold it against him?

Cicero comes closest to saying this in his treatment of Cn. Domitius Ahenobarbus, tribune in 104, consul in 96, and censor in 92, during his most out-of-character speech, the *pro Cornelio*.<sup>79</sup> Earlier, I argued that in other works Cicero attempts to explain away some of Ahenobarbus’ tribunician actions by reducing his prosecution of Silanus to a personal quarrel, when in fact it may have been presented as a blow for the people against the incompetent nobility (though an unsuccessful one). In the *pro Cornelio*, however, as part of a longer discussion of Ahenobarbus, he strikes a different tune.<sup>80</sup> Ahenobarbus was better-known for his measure to make priests directly elected by the people. It is with this in mind that Cicero includes him in a list of disruptive tribunes that Catulus, one of the prosecutors and Ahenobarbus’ nephew, must surely allow were worse than Cicero’s client Cornelius:

Sed si familiariter ex Q. Catulo sapientissimo viro atque humanissimo velim quaerere: utrius tandem tibi tribunatus minus probari potest, C. Corneli, an - non dicam P. Sulpici, non L. Saturnini, non Gai Gracchi, non Tiberi, neminem quem isti seditiosum existimant nominabo, sed avunculi tui, Q. Catule, clarissimi patriaeque amantissimi viri? quid mihi tandem responsurum putatis?

But if I wanted to make a friendly inquiry of Quintus Catulus, that wisest and most humane of men: whose tribunate do you think was worse, that of Cornelius or – I won’t say Sulpicius, or Saturninus, or Gaius Gracchus, or Tiberius, or any of those seditious characters, but, Catulus, your uncle, that most illustrious and patriotic man? What do you think he would reply?<sup>81</sup>

Unlike the others in the list, of course, Ahenobarbus was not killed; instead, he was elected *pontifex maximus*, and we next meet him in 100 fighting against Saturninus.<sup>82</sup>

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77 Livy 38.44.

78 Plut. *Ti. Gracch.* 15.

79 Jewell 2023, 194-195 also discusses Cicero’s construction of Ahenobarbus in this speech.

80 All the more striking because with hindsight many view the bill on electing priests as a humorously petty piece of revenge after he was not coopted to fill his late father’s place: Suet. *Nero* 2.1. Asc. 21C tells us that he also prosecuted Scaurus, one of the recalcitrant members of the college.

81 Cic. *Corn. ap.* Asc. 80C.

82 Election: Livy *Per.* 67; 100: Cic. *Rab. Perd.* 21.

Ahenobarbus' tribunate cannot merely be assigned to youthful caprice; instead, his measure to turn over the privilege of choosing priests to the people falls into longstanding narratives about popular power.<sup>83</sup> But it is also part of a longstanding narrative about tribunician activity. Cicero does not attack Ahenobarbus for inconsistency because he later opposed Saturninus or, alternatively, claim that he should be forgiven because he was only putting on a front, was motivated by *dolor*, or later changed his mind: he says he was a patriotic citizen, without qualification. The snippets preserved in Asconius suggest that he ran through more of Ahenobarbus' acts as tribune, pointing out the ways in which they challenged the traditional hierarchy, but concluding that a tribune like Ahenobarbus is preferable to one like Terpolius.<sup>84</sup> Asconius gives us the information we need to make sense of the comparison: Terpolius, tribune in 77, was the most contemptible of those who held the tribunate during the time in which Sulla had relieved it of many of its powers and made ex-tribunes ineligible for further office.<sup>85</sup> During his tribunate, Terpolius did nothing.

An active tribunate, Cicero implies, is to be applauded, even if it vexes the Senate and the best men. He expects Catulus to be proud of his uncle Ahenobarbus' career, while also disapproving of the substance of his acts as tribune. In light of the various tribunician careers I have explored in this chapter, Cicero may be allowing that Ahenobarbus did the correct thing as tribune by playing up to a tribunician persona. As tribune, he could do things which would have been inappropriate at other times.<sup>86</sup>

Romans of the Republican period would not have agreed with our modern assumption that young men can or should be forgiven for flirting with radical politics. Those who explain away the tribunates of men like

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83 At Asc. 79-80C Cicero asks, sarcastically, whether Catulus thinks it passed *favente nobilitate* – 'with the nobility's support'.

84 At Asc. 80C he even refers to Ahenobarbus' prosecution of Silanus, which in two other speeches he dismisses as motivated by a personal grudge (above, p. 145-146); here, the brief quotation of his own words does not exclude, and Asconius' commentary suggests, that he framed it as an attack on the nobility.

85 Asc. 81C; see Marshall – Beness 1987: 366.

86 So Lintott 1999: 208, who, however, still tends to see the tribunate as the 'valve' of Meier 1966: 144-151. We should remember that this is the Cicero of the *pro Cornelio*, where (somewhat unusually for him) he is defending the tribunate and its potential to do good in the Republic; though compare *Leg. agr.* 2.19, where he praises Ahenobarbus for the fact that his innovations did not exceed the boundaries of religious law. His position in the *pro Cornelio* may not be his true opinion, but he expected his listeners to be receptive.

Ahenobarbus as youthful caprice, or suggest that it was normal to ‘play the popular card’ at the start of one’s career before returning to conservatism in maturity, are incorrect. Yet Cicero is also wrong to say that a *popularis* tribunate was not a good career move: plenty of men did build their *cursus* on attention-grabbing, populist tribunician exploits, even as they made enemies of powerful senators or even the entire Senate along the way. The explanation for this apparent contradiction is threefold. Firstly, the idea that *popularis* tribunes could not thrive on the *cursus* cannot hold if we move beyond a simple optimate-*popularis* dichotomy. Secondly, the electoral success of tribunes who openly attacked the Senate must imply that the senatorial aristocracy did not have as strong or as united a hold on the *comitia centuriata* as some modern scholars have assumed. Beyond these, however, there was one saving grace for a man who had made enemies while tribune: the tribunate itself could go some way towards excusing certain forms of behaviour, not as an amusing caper or an instrumentalist piece of political manoeuvring, but as the correct performance of the duties of a tribune. Although it is hard to build a strong argument on something Cicero is only grudgingly willing to admit, I believe he was an outlier.<sup>87</sup> The tribunate, with its full ideological baggage, was understood by most of Cicero’s contemporaries as a vital and even admirable part of Rome’s political culture.<sup>88</sup> Some tribunes faced prosecution after their year of office, or even death during it, but plenty of those who acted in ways Cicero would describe as *popularis* went on to success.

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87 It is dangerous to slide too far into psychoanalysis, but perhaps the idea that men choose the wrong path because of *dolor* was another way Cicero tried to overcome the cognitive dissonance (clearly on display at *Leg.* 3.19-26: Russell 2013) of knowing that at least some his peers thought of *popularis* tribunes as a good and important part of their political culture?

88 *Contra* David 1993: 225; the culture of innovation he and Russell 2013 find is itself part of the *mos maiorum*.

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# WHAT IMPACT DID THE PROVINCIAL MANAGEMENT HAVE ON THE ROMAN *CURSUS HONORUM*?\*

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Among the most noteworthy episodes in Cicero's political career is a well-known anecdote, recounted in his speech *Pro Cn. Plancio*,<sup>1</sup> which is particularly revealing not only of the distinctive character of the orator, but also of the level of interest shown in Rome in the day-to-day running of the provincial administration. Cicero relates that upon his return from Sicily in 75, where he had served as quaestor under the praetor Sex. Peducaeus,<sup>2</sup> he landed on the Italian coast at Puteoli, confident that his commendable work in the province had become the main topic of conversation among the Romans (*sic tum existimabam, nihil homines aliud Romae nisi de quaestura mea loqui*). Whilst in Sicily he had sent large quantities of wheat to Rome at a time of notable scarcity of corn in Italy.<sup>3</sup> At the same time, he had exhibited qualities such as *iustitia*, *liberalitas*, *abstinentia* and *diligentia* towards the

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1 Cic. *Planc.* 64-65.

2 Cicero's quaestorship in Cic. *Div. Caec.* 2; *Verr.* 2.5.35; *Planc.* 64-65; *Fam.* 13.38; *Brut.* 318; *Tusc.* 5.64; Plut. *Cic.* 1.6; 6.1; Ps.-Asc. 185 Stangl. Broughton 1952: 98.

3 Cic. *Planc.* 64; *Verr.* 2.3.215-217; Plut. *Cic.* 6.1; cf. Sall. *Hist.* 2.45-46 M.



*negotiatores, mancipes*, and the provincial population. His work had been so praiseworthy that the Sicilians had considered awarding him unusual honours in recognition of his impeccable service (*excogitati quidam erant a Siculis honores in me inauditi*). However, Cicero was deeply disillusioned to discover that the people he encountered at Puteoli were unaware that he had been in Sicily, although he accepted this disappointment with a certain resignation. Some believed he had come from Rome, while others assumed he was returning from the province of Africa. Only one individual recalled that he had served as quaestor in Sicily, but mistakenly thought that he had been in Syracusae rather than Lilybaeum, where he had actually held the magistracy.

Cicero had high expectations after his work in Sicily, and had even hoped to receive a tribute in Rome for his work on the island (*itaque hac spe decedebam ut mihi populum Romanum ultro omnia delaturum putarem*), but his quaestorship had apparently gone unnoticed by most of the Romans whose support he needed to continue his political ascent and, in short, to complete the *cursus honorum*. We must not forget that Cicero was a *homo novus*, a newcomer who had come to Roman politics lacking the advantage of a distinguished *nomen*.<sup>4</sup> Thus, it is unsurprising that the quaestorship of this relatively unknown thirty-year-old from Arpinum (just another of the young men from the Italic aristocracy who every year gained entry into Roman politics) went virtually unnoticed by his fellow citizens, even though his notable work in Sicily had been exemplary by the standards of Roman administration. Nevertheless, Cicero successfully ascended the *cursus honorum* and, after his quaestorship, he held aedileship, praetorship and consulship *suo anno*, at the youngest possible age.<sup>5</sup> Cicero tells us that he learnt his lesson on his return from Sicily and came to understand that the Romans may not have had good hearing, but they had good eyesight. Consequently, if he aspired to succeed politically, he had to stay in Rome, reside in the *forum*, be accessible and maintain proximity to the people.<sup>6</sup> Again in his speech *Pro Cn. Plancio*, Cicero notes that so much was taking place in Rome, making it challenging to keep abreast of developments in the provinces (*sed ita multa*

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4 Cic. *Leg. agr.* 2.3-4; 100; cf. *Phil.* 6.17; *Pis.* 1-3; *Fam.* 3.7.5; Q. Cic. *Comment. pet.* 2; 4; 7; 11; 14-15. See Van der Blom 2010: 29-59; on the electoral challenges of a *homo novus*, Wiseman 1971: 100-107.

5 See Cic. *Leg. agr.* 2.3-4; cf. *Phil.* 5.48; *Off.* 2.59; also, *Pis.* 2-3.

6 Cic. *Planc.* 66. Van der Blom 2010: 290-291.



*Romae geruntur ut vix ea quae fiunt in provinciis audiantur*).<sup>7</sup> Moreover, in contrast to what seemed to be the custom, Cicero did not return to the provinces in the years following his quaestorship, either as a magistrate or as a legate. After presiding over the *quaestio de pecuniis repetundis* as praetor in 66, he was not sent to any of the provinces, and is known to have declined his province after being elected consul with C. Antonius Hybrida in 63.<sup>8</sup> Despite having no more merit in the provincial governance than his year as quaestor in Sicily, Cicero won both the aedileship and the praetorship with more votes than any other candidate.<sup>9</sup> Several years later, he was likewise elected consul, beating better-known contenders with much more experience in the provinces, including C. Licinius Sacerdos, propraeor in Sicily from 74-73 and legate under Q. Caecilius Metellus in Crete from 68-67,<sup>10</sup> and L. Sergius Catilina, who had governed the province of Africa in 67.<sup>11</sup>

Despite what the episode at Puteoli and Cicero's career might lead us to think, the provinces were one of the most important places for a Roman to go forward in his *cursus honorum* and advance in public life, especially if he took on governmental duties, whether as praetor or consul. Cicero recalls his quaestorship in the *Verrinae*, stating that he held the magistracy with the awareness that all eyes were on him, as if his work in Sicily were a kind of theatre open to everyone (*sic obtinui quaesturam in Sicilia provincia ut omnium oculos in me unum coniectos esse arbitrarer, ut me quaesturamque meam quasi in aliquo terrarum orbis theatro versari existimarem*).<sup>12</sup> We must bear in mind, however, that the impact of a quaestor's work differed significantly from that of a praetor, let alone a consul, once they had taken command of a province as *imperator*. A magistrate in this position was the highest representative of the Roman people and the Senate, and, therefore, the highest authority in the

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7 Cic. *Planc.* 63.

8 Cic. *Pis.* 5; *Cat.* 4.23; *Fam.* 5.2.3; 15.4.13; *Att.* 2.1.3; cf. Sall. *Cat.* 26.4; Dio Cass. 37.33.4; Plut. *Cic.* 12.4. Cicero's *provincia* as praetor, in *Clu.* 147; *Rab. Post.* 9.

9 Cic. *Pis.* 2: *me cum quaestorem in primis, aedilem priorem, praetorem primum cunctis suffragiis populi Romanus faciebat*; also, *Man.* 2; *Brut.* 321; *Off.* 2.59.

10 Cic. *Verr.* 2.1.27; 2.2.21-22; 68; 81; 2.3.90; 2.5.108; Ps.-Asc. 185 Stangl. Brennan 2000: 485-486. C. Licinius Sacerdos' *legatio* in Cic. *Planc.* 27.

11 Cic. *Cael.* 10; Asc. 66; 85; 89; 92 Clark. L. Sergius Catilina was later prosecuted in a trial *de pecuniis repetundis*; see Q. Cic. *Comment. pet.* 10; Sall. *Cat.* 18.2-3; cf. Alexander 1990: no. 212; Broughton 1991: 29-30, no. 24. Brennan 2000: 545. See Q. Cic. *Comment. pet.* 7-8, where Quintus questions the worthiness of P. Sulpicius Galba, L. Cassius Longinus, C. Antonius Hybrida and L. Sergius Catilina as candidates, despite their *nobilitas*.

12 Cic. *Verr.* 2.5.35.

province. While Cicero may have asserted otherwise in *Pro Cn. Plancio*, it is likely that what happened in the provinces reached Rome in one way or another. Cicero himself seems to imply as much in his well-known letter to Quintus, then proconsul in Asia, in which he alludes to the comments circulating in Rome regarding his brother's government.<sup>13</sup> We can therefore conclude that the role played by a higher magistrate in his province had an impact on Roman public opinion, for better or worse. Thus, success in the form of a military victory could lead to the granting of a *supplicatio*, an ovation or a triumph, and subsequent public recognition. Conversely, an accusation of misconduct or military failure could have a markedly negative impact on a magistrate's image and, in some cases, lead to a judicial trial that could ruin their political career.<sup>14</sup>

Some decades ago, W. V. Harris, in his *War and Imperialism in Republican Rome*, was unequivocal in his assertion that military success was of paramount importance for a Roman aristocrat seeking advancement in public life. He highlighted that a praetor's prospects of winning the race for the consulship were considerably improved if they had been granted a triumph.<sup>15</sup> This conclusion is particularly evident in the records for the period 227-79, which show that fifteen of the nineteen praetors who had celebrated triumphs went on to become consuls.<sup>16</sup> Harris is clear that military distinction led to greater success in a public career, thereby reinforcing the Roman disposition towards war.<sup>17</sup> As is well known, according to Polybius, any Roman who wished to hold a magistracy and, therefore, embark on the *cursus honorum*, had to first serve ten years in the army, making the military the gateway to a political career.<sup>18</sup> It is therefore unsurprising that the Romans attached so much

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13 Cic. *Q. fr.* 1.1.36; 41-42. Livy mentions the letters and reports that arrived in Rome with news of what was happening in the provinces: for instance, in 178 T. Aebutius sent his son to Rome with letters informing the Senate of a major insurrection in Sardinia, which ultimately led to the senators entrusting the province to a consul in 177; cf. Livy 41.6-5-7. See García Riaza 2019: 85-105, on letters announcing military successes and their impact on public opinion.

14 See Díaz Fernández 2019: 107-112.

15 Harris 1979: 30-34.

16 Harris 1979: 32 and 262-263; see below. On the accession of the praetors to triumph in the early second century, Richardson 1975: 52-57.

17 See Harris 1979: 33: "Given the desirability of fame acquired in war, it would not be surprising to find Roman aristocrats bellicose in their behaviour towards foreign states."

18 Polyb. 6.19.4; cf. Plut. *CG* 2.5. A discussion on Polybius' passage in Harris 1979: 11-14. Sulla's legislation may have changed the conditions of access to the public career; see Keaveney 1982: 144.

importance to military responsibilities, which were normally carried out, to use Cicero's words, in the *theatre* of the provinces. A number of passages in Cicero's legal writings are usually quoted to support this view.<sup>19</sup> Cicero, for instance, defends Cn. Plancius against those who criticised him for not having the necessary merits to hold the aedileship, highlighting the military services his client had rendered in the provinces of Africa, Crete and Macedonia.<sup>20</sup> Moreover, in a passage from *Pro L. Murena*, Cicero directly asserts that military *dignitas* took precedence over every other aspect of a Roman's public life, especially when aspiring to the consulship (*qui potest dubitari quin ad consulatum adipiscendum multo plus adferat dignitatis rei militaris quam iuris civilis gloria?*).<sup>21</sup> Cicero uses similar arguments in his *Pro L. Flacco*, highlighting L. Valerius Flaccus' experience in several provinces and his military distinction, but, in this case, with the intention of countering the accusations *de pecuniis repetundis* made against Flaccus for his government in Asia (63-62).<sup>22</sup> Indeed, he highlights the potential for military success to help exonerate a Roman commander in a trial for maladministration in his province. In one of his speeches against C. Verres, Cicero indicates that appeals to military virtues had become a common *locus* in defending the accused against any kind of charge (*sit fur, sit sacrilegus, sit flagitiorum omnium vitiorumque princeps; at est bonus imperator*).<sup>23</sup> Hence, Cicero expected Q. Hortensius Hortalus to employ similar rhetorical strategies in his *defensio* of Verres (despite the latter's questionable military abilities) and he himself also made use of these techniques years later in support of L. Valerius Flaccus.<sup>24</sup>

As evidenced in Cicero's speeches, military merit acquired during a tenure in a province could confer considerable social prestige, and enhance a Roman's prospects of advancement in public life, to the extent that it had

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19 See Harris 1979: 10-41; Waller 2011: 18.

20 Cic. *Planc.* 27-28; 61; 98-99; cf. Schol. Bob. 153 Stangl. See Broughton 1952: 177 and 197; Pina Polo and Díaz Fernández 2019: 296.

21 Cic. *Mur.* 22; cf. *de Orat.* 1.7; *Off.* 1.74.

22 Cic. *Flacc.* 6; 63; 100; also, fr. Med. 5; cf. fr. schol. Bob. vi-xi (ed. T. B. L. Webster, Oxford, 1931); fr. Cus. 14.

23 Cic. *Verr.* 2.5.4.

24 Cic. *Verr.* 2.5.1-5; see *Flacc.* fr. Cus. 15. Cicero cites as an instance the case of M'. Aquillius (*cos.* 101), who was found guilty of *avaritia* during his stay in Sicily, but was exonerated of the charges due to his successful campaign against the slaves; *Verr.* 2.5.3-5; cf. *Flacc.* 98. See Alexander 1990: no. 84, with sources.

become a common device in legal rhetoric. A second passage from Cicero's *Pro L. Murena* even suggests that military success not only enhanced the reputation and public projection of the victorious commander by catapulting his political career, but also paved the way for his descendants to attain the higher magistracies. Cicero here emphasises the *dignitas* of Murena and his family by recalling that his father, also called L. Licinius Murena, had achieved a distinguished triumph after becoming praetor, thus handing his son the consulship on a platter—a magistracy that his father had in fact deserved to win (*cum amplissime atque honestissime ex praetura triumphasset, hoc faciliorem huic gradum consulatus adipiscendi reliquit quod is iam patri debitus a filio petebatur*).<sup>25</sup> Harris uses this passage to support his claim that a praetor with an outstanding military reputation resulting from a triumph was unlikely to lose the next election for the consulship.<sup>26</sup> L. Licinius Murena (who had probably been praetor in 88) celebrated a triumph *de Mithridate* in 81 having defeated Mithridates' troops in Asia ca. 84-81,<sup>27</sup> and his son was indeed consul in 62, having attained the praetorship in 65 and ruled the province of Gallia in 64-63.<sup>28</sup> However, despite Harris's conclusion, the *triumphator* Murena never became consul, as Cicero himself implies in his speech.

When appealing to the military merits of his clients in his speeches, Cicero is undoubtedly acting in a self-interested manner, with the aim of delegitimising the accusations made against those who, in his opinion, had

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25 Cic. *Mur.* 15.

26 See Harris 1979: 32, quoting Cicero's passage in footnote: "The careers of praetors who celebrated triumphs offer a test—if military repute was important, hardly any *triumphator* should have lost a subsequent consular election."

27 L. Licinius Murena's praetorship in Broughton 1952: 61-62, n. 4; 1986: 123; Brennan 2000: 556-557; on his political career, Arkenberg 1993: 337-339. Murena was one of the senatorial envoys sent to L. Licinius Lucullus ca. 70 (see Broughton 1952: 129, with sources), and probably died soon before his son was elected consul in 62 (Cic. *Mur.* 90). His command in Asia, in Glew 1981: 110-120; Keaveney 1992: 182-187; Kallet-Marx 1995: 262-263 and 273-275; Dmitriev 2000: 91-93; Díaz Fernández 2015: 200-201 and 452-453, with sources and bibliography; cf. App. *Mith.* 64-66; Memn. fr. 26. Murena's triumph, also in Cic. *Man.* 8; Gran. Lic. 36.5.

28 L. Licinius Murena was *praetor urbanus* (Cic. *Mur.* 35-37; 41; 53) and subsequently sent to the province of Gallia (Cic. *Mur.* 42; 53; 89; *Har. res.* 42; Sall. *Cat.* 42.3), from where he returned at the end of 63 to present his candidacy for consul. See Brennan 2000: 450-452 and 577-578; also, Broughton 1952: 158; 163; 169; Badian 1966: 913-916; Arkenberg 1993: 341-342.

rendered so many good services to the *res publica*, which is similar to the approach taken by Q. Hortensius Hortensius in his defence of C. Verres.<sup>29</sup> While it is beyond doubt that the *nobilitas* attached significant importance to military duties, as evidenced by the sources, it is equally true that there is a considerable amount of Ciceronian rhetoric in the passages quoted above. Thus, when Cicero highlights the distinguished careers of L. Licinius Murena and his father in the provinces, it is primarily to respond to the criticisms levelled by Ser. Sulpicius Rufus, a prominent orator and jurist, who had been defeated by Murena in the consular elections for 62 and had accused the latter *de ambitu* for having obtained the consulship undeservedly.<sup>30</sup> It is no coincidence that one of Sulpicius Rufus' criticisms of Murena was his lack of *adsiduitas* ("presence") in Rome, since Murena had been absent from the *forum* for an extended period and yet still had had the audacity to run in the consular elections against candidates who, like Sulpicius Rufus, had remained in the city to follow political events.<sup>31</sup> It would appear that the lesson Cicero had learnt on his return from Sicily did not help Ser. Sulpicius Rufus to become consul.

Q. Cicero also discusses the importance of *adsiduitas*, describing it as a necessary value in the pursuit of the consulship in his advice to his brother on how to gain the highest magistracy.<sup>32</sup> It is noteworthy that Quintus criticises C. Antonius Hybrida, Cicero's rival in the election, for having preferred to hold a *legatio* overseas instead of being present in Rome and soliciting the people's vote.<sup>33</sup> Cicero also defends Cn. Plancius against the criticism of his rival, M. Iuventius Laterensis, by reproaching the latter for not having been more present in Rome during his career, particularly during his tenure as quaestor in Cyrene, and for having put his virtues at the service of the *socii* rather than the Roman people (*desiderarunt te, inquit, oculi mei, cum tu esses Cyrenis; me enim quam socios tua frui virtute malebam, et quos plus intererat, eo*

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29 Cic. *Verr.* 2.5.1-2.

30 Cic. *Mur.* 7-8; 11; 15-54. Yakobson 1991: 91-96; see Broughton 1952: 172-173; Alexander 1990: no. 224.

31 Cic. *Mur.* 21.

32 Q. Cic. *Comment. pet.* 41-44.

33 Q. Cic. *Comment. pet.* 8: *in petitione autem consulatus Cappadoces omnis compilare per turpissimam legationem maluit quam adesse et populo Romano supplicare*; cf. 43. *Cappadoces* (instead of *caupadoces*) was proposed by Bücheler 1869: 29; some manuscripts read *caupones*; cf. the edition by D. R. Shackleton-Bailey (Stuttgart, 1985).

*plus aberat a me, cum te non videbam*).<sup>34</sup> However, in the aforementioned passage from the *Pro L. Murena*, Cicero is contemptuous of the *adsiduitas* to which Ser. Sulpicius Rufus had appealed, considering it annoying and tiresome to the Roman people (even when he himself acknowledges that it had helped him to advance in his career).<sup>35</sup> Cicero's testimony, therefore, may seem puzzling at first sight, but it is simply a response to the specific circumstances of each judicial process. We must therefore ask ourselves how far we should follow Cicero's line when he states so bluntly (and self-interestedly) that military *dignitas* took precedence over all other merit in the race for the highest magistracy.<sup>36</sup> Moreover, is Harris right in claiming that the triumph was an almost certain—and immediate—passport to the highest *honores* of the Republic? Did military success in the provinces really have such a direct and decisive impact on elections? At the very least, this conclusion is called into question by L. Licinius Murena's case. Similarly, it is difficult to reconcile Cicero's *cursus honorum* with his own observations regarding the significance of the merits acquired in the provinces for Roman political advancement, as evidenced in the passages above. We need to go beyond Cicero's writings and legal rhetoric to determine the impact of provincial management on a Roman's public career, and enable us to respond to the question posed in the title of this paper.

Harris emphasised the need for a more detailed quantitative study into the impact of military merits on consular elections.<sup>37</sup> More recently, M. Waller has responded to Harris's suggestion by conducting a statistical study analysing the impact of military campaigns on the public careers of the consuls and praetors who were involved in war during the periods 343-91 and 218-91, respectively.<sup>38</sup> Waller not only focused on victories but also examined defeats, following in N. Rosenstein's footsteps. Decades earlier, in his controversial *Imperatores Victi. Military Defeat and Aristocratic Competition in the Middle and Late Republic*, Rosenstein had pointed out that, contrary to expectations, the sources did not demonstrate that military defeats significantly reduced the chances of electoral success for those responsible for such failures

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34 Cic. *Planc.* 13.

35 Cic. *Mur.* 21.

36 Cic. *Mur.* 22; *de Orat.* 1.7; cf. *Off.* 1.74.

37 Harris 1979: 32.

38 Waller 2011: 28-29.

—a conclusion that certainly casts doubt on Harris’ thesis.<sup>39</sup> Nevertheless, Waller’s work was more in line with Harris, concluding that the electoral success rate of those who had won a victory (not necessarily a triumph or ovation) as praetor or consul was significantly higher than that of those who had not.<sup>40</sup> The results are particularly revealing in the case of the praetors, as over half of those attested for the period in question would have held the consulship after achieving military success in a province. However, the success rates were lower for those magistrates who had suffered a military defeat, which consequently calls into question the validity of Rosenstein’s conclusions —although they do not necessitate a complete rejection of his thesis, as will be discussed in further detail below.<sup>41</sup>

Waller’s work focused in any case on the electoral impact of military campaigns, which constituted only one aspect of the responsibilities of a Roman magistrate in his province. As the title indicates, the scope of this paper extends beyond the military aspects to encompass an assessment of the impact of the provincial administration as a whole on a Roman’s prospects of promotion in the *cursus honorum*. It is clear that military duties constituted the most significant aspect of provincial management, but they were not the only ones. Moreover, as Roman rule gradually became consolidated in the provinces, theatres of war were scaled back, so that by the end of the Republic many provinces were seemingly quiet. Consequently, success in provincial command was also contingent upon diplomacy, administrative management,

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39 Rosenstein 1990a: 9-53; see 46-47: “despite all the censure, criticism, and outrage that a defeat could provoke, these had no overall effect on aristocratic competition. Numerous defeated generals went on to hold the highest elective offices in the Republic, the consulate and censorship; proportionally, about as many of them did so as their undefeated peers, and, as nearly as can be determined, their advancement to these offices came with roughly the same rapidity.” Rosenstein’s thesis, also highlighted in 1990b and 1992, was disputed by Tatum 1991 and 1992; also, Dondin-Payre 1992; Erskine 1992; Hölkeskamp 1994. A recent discussion in Rich 2012; cf. however Clark 2014: 128-130.

40 Waller 2011: 23: “These samples are large enough for validity, even allowing for all the marginal uncertainties, and accordingly provide firm confirmation of Harris’ claim that victorious commanders enjoyed a significant electoral advantage over their peers.” See also Rich 2012: 85-88.

41 Waller 2011: 24: “This analysis has also shown that, disadvantaged as they may have been when compared to victorious commanders, defeated commanders were not only able to still gain subsequent elective office, but were also able to do so in numbers approaching the overall average. This conclusion is not all that far from that reached by Rosenstein.” See Clark 2014: 128-129; also, Rich 1991: 401-404; 2012: 88.



the magistrate's judicial duties and his treatment of not only the provincial communities, but also the Italic people and the Roman citizens residing in the province.<sup>42</sup> As quaestor, Cicero seems to have done a commendable job in Sicily, demonstrating virtues such as *iustitia*, *abstinentia* and *diligentia*, which were not only essential for the effective administration of a province but also highly regarded when standing for a higher magistracy.<sup>43</sup> Nevertheless, as mentioned above, his work attracted little interest in Rome, and it appears that his subsequent election as aedile in 69 was not due to the reputation he had acquired in Sicily—despite Cicero's assertion that there was no quaestorship on the island more distinguished and celebrated than his (*non vereor ne quis audeat dicere ullius in Sicilia quaesturam aut clariorem aut gratiorem fuisse*).<sup>44</sup> In any case, our knowledge of Cicero's administration in Sicily is derived from the information he provides about his quaestorship in his speeches. Apart from military deeds, the sources do not devote much attention to the administrative activities of Roman magistrates and seldom address the impact of provincial governance on elections. In addition, cases such as Cicero's, where we have detailed knowledge of each phase of his political career, are uncommon in the Republic. Thus, it is particularly difficult to quantify in absolute terms the extent to which the provincial administration facilitated or impeded the ascent of the *cursus honorum*. It is important to note that the success rates highlighted by Waller are relative, as the necessary data is not available for a comprehensive statistical study. Notwithstanding the undeniable merit and interest of Waller's work, the author did indeed acknowledge that the conclusions of his study had some limitations, and they could at best point to certain "trends". The application of statistical methods to historical periods about which we have such an incomplete knowledge is, at the very least, a risky undertaking. Hence, Waller exercised caution in interpreting the trends evident in the data, which nonetheless corroborated the conclusions posited by Harris.<sup>45</sup>

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42 See Cic. *Q. fr.* 1.1; cf. Brennan 2000: 614-617.

43 See Q. Cic. *Comment. pet.* 1; 11; 15-16; 33; 50; 55. Many of these virtues are also highlighted by Cicero in his letters as proconsul of Cilicia (Cic. *Att.* 5.9.1; 5.16.3; 5.17.2-5; 5.18.2; 5.21.5-11; *Fam.* 15.2.1-5; 15.4.8-10; 15.5.1-3); cf. *Q. fr.* 1.1.4; 1.1.32. See on this issue Dubouloz 2014: 71-75; Morrell 2017: 238-243; Díaz Fernández 2022: 39-49.

44 Cic. *Planc.* 64.

45 Waller 2011: 21-22. See Rich 2012: 85-88, on Waller's and Rosenstein's calculations; cf. Rosenstein 1990a: 179-204; Tatum 1991: 149-152. Many of the criticisms of Rosenstein's thesis are in fact based on the lack of sufficient data to reach such conclusions; contrary to his



Waller's study covers a period that is indeed characterised by a considerable number of gaps, particularly due to the loss of Livy's account. A quick glance at T. R. S. Broughton's work demonstrates that our knowledge of Roman magistrates from 166 to the time of Sulla is severely constrained. In fact, for several years our knowledge is limited to just the names of the consuls alone.<sup>46</sup> In terms of statistical studies, it would be preferable to use the period 202-167 as a sample, spanning from the end of the Second Punic War to the final year entirely preserved in Livy. During this time, seventy-four consuls were appointed, comprising two for a period of thirty-six years and two *consules suffecti* nominated in 180 and 176. As shown in the tables below (Table 1), six consuls were elected without having previously held a higher magistracy (although L. Cornelius Lentulus, *cos.* 199, and C. Cornelius Cethegus, *cos.* 197, had been proconsuls *extra ordinem* in Hispania<sup>47</sup>), five iterated consulships (two of them without having previously held the office of praetor), while the *provincia* the five others held as praetors is unknown. M. Popillius Laenas (*cos.* 173) and P. Licinius Crassus (*cos.* 171), who had been nominated praetors of Sardinia and Hispania Citerior in 176, declined to assume their provinces for various reasons (although this did not prevent them from being elected consuls a few years later).<sup>48</sup> Apart from these cases, eleven of the remaining fifty-six consuls had previously served as praetors in Sicily, six in Sardinia and thirteen in the provinces of Hispania (six in Hispania Citerior, six in Hispania Ulterior and one who governed Hispania as a single province). A further fourteen had previously presided over the *iurisdictio urbana*, while five had presided over the *iurisdictio peregrina*. Moreover, five had been sent to non-permanent *provinciae* in Italy (Bruttium, Gallia, Tarentum and Ariminum) and two had taken the command of the *classis*.<sup>49</sup>

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assertion, we do not know the names of "all Roman magistrates, promagistrates, and legates who suffered defeats against foreign enemies, survived, and returned to Rome between 390 and 49 B.C." See Tatum 1992: 639-641; Erskine 1992: 239; cf. Clark 2014: 128-130.

<sup>46</sup> See Brennan 2000: 393; cf. Waller 2011: 21.

<sup>47</sup> Livy 29.13.7; 30.41.4-5; 31.49.7; cf. 28.38.1. Broughton 1951: 299 and 320. See Richardson 1986: 64-75; Salinas de Frías 1995: 30-33.

<sup>48</sup> Livy 41.15.6-11. Brennan 2000: 147-148. See in this book the chapter by Julie Bothorel.

<sup>49</sup> C. Livius Salinator (*cos.* 188) and A. Atilius Serranus (*cos.* 170) had iterated praetorship, so in these statistics only the second praetorship is considered: Livius Salinator was praetor in Bruttium in 202 and commanded the fleet in the Aegean in 191, while Atilius Serranus took the command of the fleet against Nabis in 192 and served as *praetor urbanus* in 173. See Brennan 2000: 170-171.

TABLE 1. PREVIOUS PUBLIC CAREERS OF THE CONSULS ELECTED  
IN THE PERIOD 202-167

	Number	Percentage	Triumph	Percentage
No previous praetorship	6	8.1%	0	0
Praetors who declined their provinces	2	2.7%	0	0
Praetors in an unknown <i>provincia</i>	5	6.7%	0	0
Consul <i>iterum</i>	5	6.7%	2	40%
Praetor urbanus	14	18.9%	0	0
Praetor peregrinus	5	6.7%	0	0
Praetor Bruttium/Gallia/Tarentum/ Ariminum	5	6.7%	1	20%
Praetor classis	2	2.7%	1	50%
Praetor in Sicily	11	14.8%	0	0
Praetor in Sardinia	6	8.1%	0	0
Praetor in Hispania (197-167)	13	17.5%	7	53.8%
Total	74	-	11	14.8%

TABLE 2. SUBSEQUENT PUBLIC CAREERS OF THE PRAETORS ELECTED  
IN THE PERIOD 202-167

<i>Provincia</i>	<i>Praetors attested</i>	<i>Those who became cos.</i>	Percentage	<i>Triumph and cos.</i>	Percentage	<i>Triumph but no cos.</i>
<i>urbana</i>	36	15	41.6%	-	-	-
<i>peregrina</i>	25	6	24%	-	-	-
Sicily	33	10	30.3%	0	-	0
Sardinia	26	5	19.2%	0	-	1
Hispania	37	14	37.8%	7	50%	5
<i>varia</i> <sup>50</sup>	22	6	27.2%	2	30%	0
<i>classis</i>	9	4	44.4%	2	50%	1
unknown	10	4	40%	-	-	-
Total	198	64	32.3%	11	17.1%	7

50 This section includes the non-permanent *provinciae* of Apulia, Ariminum, Bruttii, Campania, Gallia, Pisae, Tusci, Tarentum and Illyricum (cf. Livy 30.27.8; 30.40.5; 31.6.2; 31.8.9; 32.1.2; 32.8.5-8; 33.43.5-8; 37.2.1; 38.42.6; 44.21.4-10); Brennan 2000: 182-215.

According to these tables (and contrary to what one might expect), the highest percentage of the consuls elected during this period were those who had previously been *praetores urbani*. Furthermore, fifteen of the thirty-six praetors who held the *iurisdictio urbana* between 202 and 167 subsequently became consuls (see Table 2), a somewhat higher proportion than that observed among the praetors of Hispania who later attained the consulship (fourteen out of thirty-seven), but significantly larger than that observed among those who had been praetors in Sicily (ten out of thirty-three) and Sardinia (five out of twenty-six). As we can see, the statistics indicate that during the period between 202-167, the chances of a senator becoming a consul were no greater if he had held the praetorship of an overseas province than if he had remained in Rome and had presided over an *iurisdictio*. The success rate of the *praetores urbani* in consular elections probably declined as the number of permanent provinces and praetors increased in the later decades of the Republic. However, this appears to have been the result of heightened competition for the magistracy rather than a better appreciation of the work conducted in the provinces compared to the legal duties undertaken in Rome.<sup>51</sup> As a matter of fact, examples such as that of Cicero, who only intervened in the provincial administration during his quaestorship and, decades later, presided over the *quaestio de pecuniis repetundis* as praetor before becoming consul in 63, demonstrate that a lack of experience in the provinces (and in warfare) was not a barrier to promotion to the consulship in the Late Republic.

As we have seen, the statistics show that the command of Hispania provided a better chance of success in the race for the consulship in comparison to the rule of Sicily or Sardinia. This may be attributed to the intense military activity carried out by the governors of Hispania, which would have bestowed greater prestige upon these praetors and therefore a greater chance of being elected consul (in line with the conclusions of Harris and Waller). Livy, Appian and other sources show that Hispania was engaged in an almost constant state of war from 197 onwards.<sup>52</sup> A total of twelve praetorian triumphs and ovations *ex Hispania* (plus two *extra ordinem* ovations and one consular triumph) are recorded in the thirty-six years from 202 to 167.<sup>53</sup> Moreover, half of the praetors of Hispania who later became

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51 See Brennan 2000: 168-172 and 392-394.

52 See Richardson 1986: 75-109; 123-125; cf. Livy 33.21.6-9; App. *Hisp.* 39.

53 Richardson 1975: 52-56; 1986: 95-104.

consuls (seven out of fourteen) had celebrated a triumph or an ovation as a result of their military successes on the peninsula; this would serve to justify the greater electoral success of the commanders of Hispania compared to those of Sicily and Sardinia. As far as we know, Sicily was a relatively quiet province during this period, with no evidence of military campaigns (or triumphs) being recorded on the island between 202 and 167.<sup>54</sup> However, this is not the case for the province of Sardinia, where there are reports of important military interventions during the period in question.<sup>55</sup> Such was the level of military activity in Sardinia that in 177 it was granted as a province to the consul Ti. Sempronius Gracchus (as had already occurred in Hispania Citerior in 195), who even celebrated a triumph *ex Sardinia* for his victories on the island.<sup>56</sup> Just a few years later, in 172, the propraetor C. Cicereius (*pr.* 173) celebrated a triumph *in Monte Albano* for his successes in Corsica, indicating that the province of Sardinia was far from a quiet destination.<sup>57</sup> Nevertheless, the proportion of praetors from Sardinia who attained the consulship (only five out of twenty-six) is demonstrably lower than that of the magistrates from Sicily and those who held the *iurisdictiones urbana* and *peregrina*.

C. Cicereius is in fact one of the seven praetors from the period 202-167 who celebrated a triumph or ovation but did not attain the consulship, despite their military successes. In contrast to Cicereius, seven out of the twenty-nine provincial praetors who became consuls achieved a triumph or ovation for their victories *ex praetura* (all of them *ex Hispania*), to which we can add four other praetors who triumphed in non-permanent *provinciae* (*de Gallis, ex Asia de rege Antiocho navalem, ex Macedonia et rege Perse navalem* and *de rege*

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54 Nevertheless, in the years 191-188 the province of Sicily was militarily involved in the war against Antiochus; Brennan 2000: 145-146.

55 See Brennan 2000: 146-150; Mastino 2005: 93-100.

56 Livy 41.8.3-5; 41.9.8; 41.12.4-7; 41.17.1-4; 41.28.8-10; Polyb. 25.4.1; *Act. Tr. s. a.* 175; Itgenshorst 2005: no. 194. T. Aebutius, praetor in Sardinia in 178, had previously called for aid against an insurrection by the Ilienses and the Balari; Livy 41.6.5-7 (see above). Some years earlier, in 181, the Corsi and Ilienses had also revolted in Corsica and Sardinia and had been defeated by the praetor M. Pinarius Rusca; Livy 40.19.6-7; 40.34.12-13 (see below). In 174, the praetor M. Atilius was given the command for the war in Corsica, while [Ser.] Cornelius [Sulla?] (*pr.* 175) remained on the island of Sardinia; Livy 41.21.1-2. Mastino 2005: 93-97. In 195, Hispania Citerior had been granted to the consul M. Porcius Cato; Livy 33.43.1-5; Nep. *Cat.* 2.1; App. *Hisp.* 39; see Broughton 1951: 339, with additional sources.

57 Livy 42.1.3; 42.7.1-2; 42.21.6-7; *Act. Tr. s. a.* 172. See Triantaphyllopoulos 1966: 859-874; Brennan 2000: 148-149; Itgenshorst 2005: no. 199.

*Gentio et Illuriei*) and were also elected consuls.<sup>58</sup> Thus, eleven of the eighteen praetors who celebrated a military victory during this period became consuls. This indicates that almost forty percent of the praetors (seven out of eighteen) who are known to have been awarded a triumph or ovation between 202 and 167 were unable to attain the consulship—a proportion that appears not to support some of Harris's conclusions. As previously mentioned, Harris noted that only four out of the nineteen praetors who triumphed in the period 227-79 failed to secure the consulship, but the proportion changes considerably if those magistrates who celebrated an ovation are included in the statistics. Indeed, Harris asserted that ovations also increased the likelihood of success in consular elections, so it seems more appropriate to include this variable into the analysis.<sup>59</sup> According to T. Itgenshorst's list, the number of praetors who certainly achieved a triumph or ovation between 227 and 79 but who did not subsequently become consuls amounted to ten out of a total of twenty-six commanders (thirty-eight per cent).<sup>60</sup> These figures qualify the success rate in the consular elections of those who had celebrated a triumph or ovation *ex praetura*, as they show that a military victory did not necessarily guarantee electoral success in the *comitia*. Furthermore, these statistics do not include those cases identified by Itgenshorst which were of questionable nature (*triumphi incerti*), nor those praetors who, despite achieving military victories, were unable to secure a triumph or ovation, and neither were they elected as consuls.<sup>61</sup> Such was the case, for instance, of M. Pinarius Rusca (*pr.* 181), who had achieved a decisive victory over the Corsi and the Ilienses in Sardinia, yet he did not ascend in his political career.<sup>62</sup> As Waller observed, military success

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58 L. Furius Purpurio, in 200 (Livy 31.49.1-2; Itgenshorst 2005: no. 165); Q. Fabius Labeo (*pr.* 189), in 188 (Livy 37.60.6; 38.47.5; *Act. Tr.* s. a. 188; Itgenshorst 2005: no. 179); Cn. Octavius (*pr.* 168), in 167 (Livy 45.42.2-3; Vell. Pat. 1.9.5-6; *Act. Tr.* s. a. 167; Itgenshorst 2005: no. 201); L. Anicius Gallus (*pr.* 168), in 167 (Livy 45.43.1-10; Polyb. 30.22.1-11; Vell. Pat. 1.9.5; *Act. Tr.* s. a. 167; Itgenshorst 2005: no. 202). See Brennan 2000: 210-214.

59 Harris 1979: 32: "In the years between 227 and 79 fifteen out of nineteen securely attested praetorian *triumphatores* reached the consulship—a very high ratio—and one or perhaps more of the four exceptions may have died before their turns came. The praetorian triumph was a relatively rare event, but it reveals the practical value of the repute enjoyed by successful commanders. The celebration of an ovation also increased the likelihood that a man would succeed in winning the consulship."

60 Itgenshorst 2005: 266-269.

61 Waller 2011: 21-22 did include in his statistics all those who won a military victory, regardless of whether they triumphed or not; cf. Harris 1979: 262-263.

62 Livy 40.34.12-13. See Broughton 1951: 384; Brennan 2000: 147; Mastino 2005: 93-94.

in a province might provide a Roman with a better chance of obtaining the highest *honores* in the Republic, but the statistical evidence does not appear to be robust enough to conclude that military victories played such a decisive role in political promotion or that they virtually ensured a candidate's subsequent election.

Beyond the statistical evidence and the trend that allows us to identify—which are particularly uncertain after 167, when we no longer have a complete list of Roman magistrates or a complete record of triumphs and ovations—the sources report a number of cases, such as that of M. Pinarius Rusca, also suggesting that success in provincial management (even in military matters) did not necessarily result in immediate promotion in the *cursus honorum*. A good example of this is L. Cornelius Sulla's career. Born into a branch of a patrician family that was in decline, Sulla became quaestor in 107 at the age of thirty-one, the customary age for holding the first magistracy.<sup>63</sup> He enjoyed a remarkably distinguished career during these early years, serving as quaestor (and, later, as *proquaestor pro praetore*) under the consul C. Marius in Numidia (107-105). He also played a pivotal role in ending the war with Jugurtha by capturing the Numidian warlord with the assistance of King Bocchus of Mauretania. Both Sallust and Plutarch attribute a decisive role to Sulla in determining the outcome of the war, a success that is reflected in the coins minted by Sulla's son Faustus, which depict the sculptural ensemble that Bocchus dedicated in Rome years later in commemoration of Jugurtha's delivery to Sulla.<sup>64</sup> Plutarch says that after his time in Numidia, Sulla ceased to be an unknown figure and began to gain a degree of renown in Rome (ὄν καὶ τότε πρῶτον ἐκ βίου ταπεινοῦ καὶ ἀγνωστος ἔν τινι λόγῳ γεγονὼς παρὰ τοῖς πολίταις, καὶ τοῦ τιμᾶσθαι γευόμενος), which in turn prompted Marius to have misgivings.<sup>65</sup> Apparently, Sulla's quaestorship in Numidia had a greater impact on public opinion in Rome than Cicero's in Sicily. In the years following his stay in Numidia, Sulla continued to serve as a *legatus* and a *tribunus militum* under the consuls C. Marius and Q. Lutatius

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63 Plut. *Sull.* 3.1; Sall. *Iug.* 95.1; Val. Max. 6.9.6. Broughton 1951: 551; 554; 556. See Keaveney 1982: 12-21; Pina Polo and Díaz Fernández 2019: 247; cf. 53-63, on the age for holding the quaestorship. Both Sallust and Plutarch underline Sulla's patrician condition: Sall. *Iug.* 95.3; Plut. *Sull.* 1.1-2; Keaveney 1982: 5-7.

64 See Crawford 1974: no. 426/1; cf. Hölscher 1994: 56-60 and 227-229; Stein-Hölkeskamp 2016: 224-227. Keaveney 1982: 38-39. See Sall. *Iug.* 105.1-113.7; Plut. *Sull.* 3.1-4; 6.1-2; *Mar.* 10.3-6; 32.2-3; *Mor.* 806c-d; also, Broughton 1951: 556, with additional sources.

65 Plut. *Sull.* 3.4.

Catulus in Gallia (104-102). During this period, he amassed considerable power and reputation (εἰς δύνάμιν ἅμα δόξῃ προήει), and achieved important merits, including the capture of the Tectosagian leader Copillus and the establishment of an alliance with the Marsi.<sup>66</sup>

Sulla had enjoyed a distinguished career in the provinces, first as quaestor, then as legate and military tribune, and all the signs pointed to his imminent ascent to the higher magistracies. According to Plutarch, Sulla was confident of success and ran for the praetorship (possibly in 99 for 98) convinced that the military prestige he had acquired since becoming quaestor—undoubtedly much greater than that of the other candidates for praetor—would be sufficient to secure his election (ὁ δὲ Σύλλας οἰόμενος αὐτῷ τὴν ἀπὸ τῶν πολεμικῶν δόξαν ἐπὶ τὰς πολιτικὰς πράξεις διαρκεῖν). However, contrary to all expectations, Sulla was unsuccessful in his bid for the praetorship *suo anno*. Apparently from Sulla's own memoirs, Plutarch attributes this defeat to the Roman populace's preference to have Sulla appointed aedile rather than praetor; this was so that he could hold hunting shows featuring animals from Africa, a pursuit facilitated by his well-known friendship with Bocchus. Sulla did not give up his quest for the praetorship and was elected to the post the following year, largely due to the attentions he paid to the people and the money he had invested, as Plutarch indicates (τοῦ δήμου τὸ μὲν τι θεραπεία, τὸ δὲ καὶ χρήμασι προσαγαγόμενος).<sup>67</sup> Whatever the reason for his initial failure, it is evident that neither his *nomen* nor his prominent activity in the provinces, nor his role as the architect of the capture of Jugurtha, ending a war that had aroused considerable popular indignation, was sufficient to tip the balance in his favour.

L. Cornelius Sulla was therefore appointed praetor possibly in 97, a year later than the minimum age required.<sup>68</sup> According to the sources, he was first appointed *praetor inter cives* (*praetor urbanus*) and, after completing his duties in Rome, was sent as proconsul to Cilicia, a province where he may have spent five years and where he once again achieved notable successes.<sup>69</sup>

66 Plut. *Sull.* 4.1-4; cf. *Mor.* 806c-d. Keaveney 1982: 25.

67 Plut. *Sull.* 5.1-2; Val. Max. 7.5.5. Broughton 1991: 36, no. 4; Brennan 2000: 442. See Keaveney 1982: 28-29; Yakobson 1999: 35-36; 2024: 87-91; Russell 2019, 134-135.

68 Discussion on the date of Sulla's praetorship, in Brennan 1992: 103-158; cf. Broughton 1952: 14-15; 1986: 73-75; Keaveney 1982: 29, n. 15.

69 Plut. *Sull.* 5.3-6; also, Livy *Per.* 70; *De vir. ill.* 75.3-4; App. *Mith.* 57; *BC* 1.77. Keaveney 1982: 29-33; Brennan 1992: 103-132; 2000: 358; Kallet-Marx 1995: 355-361; Santangelo 2007: 26-32. Also, Broughton 1952: 14-15 and 18, with sources.



Plutarch highlights Sulla's involvement in a dynastic conflict within the kingdom of Cappadocia, where he supported Ariobarzanes, and his celebrated encounter with Orobazus, an ambassador of Arsaces, which marked the first direct diplomatic contact between Rome and the Parthian kingdom.<sup>70</sup> Sulla continued to advance in his career, and all indications suggested that his well-known *τύχη* would persist on his return to Rome, as a Chaldean seer he had encountered in the province had foretold.<sup>71</sup> He could indeed have won the consulship on his return from Cilicia, around 92, given that he was well over the minimum age for the magistracy and had been praetor some years before. Nevertheless, he was not elected consul until 88, at the age of fifty.<sup>72</sup> On his return to Rome, Sulla was accused by C. Marcus Censorinus of having accepted bribes in the form of gifts from the Parthian emissaries, but the charges were eventually dropped when the prosecutor failed to appear on the day of the trial.<sup>73</sup> A. Keaveney attributed the subsequent slowdown of Sulla's career to this episode, which was perhaps quietly orchestrated by Marius, but it appears that his initial indictment was ultimately of little consequence.<sup>74</sup> While the *Bellum Italicum* did indeed break out and Sulla served as legate during this period, adding substantial achievements to his already distinguished career, there is no evidence that this prevented him from standing for election as consul.<sup>75</sup> Sulla probably had one of the most diverse and accomplished military careers of the period for a praetorian senator, with much of it forged in provinces such as Numidia, Gallia and Cilicia. However, this does not seem to have facilitated his accession to the consulship.

Sulla's *cursus honorum* illustrates that a successful career in the provinces, however distinguished and even with outstanding military merits, did not guarantee immediate electoral victory. Moreover, the case of Sulla shows that in evaluating the impact of provincial governance on a Roman's prospects of political advancement, it is essential to consider not only whether or not the candidate was elected to a specific magistracy, but also the time it took to

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70 Plut. *Sull.* 5.4-5; Livy *Per.* 70; Vell. Pat. 2.24.3; cf. Flor. 1.46.4. Keaveney 1981: 195-199; Dmitriev 2006: 289-293; cf. Kallet-Marx 1995: 249, n. 108.

71 Plut. *Sull.* 5.5-6; Vell. Pat. 2.24.3. Keaveney 1982: 33-35.

72 Plut. *Sull.* 6.10.

73 Plut. *Sull.* 5.6. Alexander 1990: no. 92.

74 Keaveney 1982: 35-38.

75 See Plut. *Sull.* 6.2-9.



attain those *honores*. Attaining a magistracy *suo anno*, as Cicero did, held a different significance than attaining it years later. Among the fifteen praetors who celebrated a triumph and became consuls between 227-79, a considerable number of individuals had to wait several years before being elected consul.<sup>76</sup> L. Furius Purpurio was consul in 196 after having triumphed *de Gallis* as praetor in 200.<sup>77</sup> Q. Fabius Labeo, praetor in 189, triumphed in 188 as a result of a naval victory in Lycia over Antiochus' fleet, but it was not until 183 that he became consul.<sup>78</sup> C. Calpurnius Piso, praetor in 186, was awarded a triumph in recognition of his achievements in Hispania Ulterior in 184, and became consul in 180.<sup>79</sup> L. Postumius Albinus, praetor in 180, defeated the Vaccaeii and the Lusitanians in Hispania and triumphed in 178, but did not become consul until 173.<sup>80</sup> L. Anicius Gallus, the praetor who defeated King Gentius in Illyria in 167, attained the consulship seven years later, in 160, having been praetor in 168.<sup>81</sup> L. Mummius, praetor in Hispania Ulterior in 153, triumphed in 152 but did not become consul until 146.<sup>82</sup> Q. Caecilius Metellus, who as praetor in 148 subdued Macedonia and celebrated a triumph in 146, was not consul until 143.<sup>83</sup> P. Servilius Vatia, who may have been praetor in 90 and celebrated a triumph in an unidentified province (perhaps Sardinia or Hispania Ulterior) in 88, became consul in 79, although he may well have stood for the consulship in 87.<sup>84</sup> Harris himself notes that "all these elections were influenced by other factors." Nevertheless, it seems evident that for the senators mentioned above (eight out of fifteen), the fact that they had triumphed as praetors did not in any way accelerate their rise to the consulship.<sup>85</sup>

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76 Harris 1979: 262-263. See Brennan 2000: 170-171.

77 Livy 31.49.1-2; Itgenshorst 2005: no. 165.

78 Livy 37.60.6; 38.47.5; *Act. Tr.* s. a. 188. Itgenshorst 2005: no. 179. Broughton 1951: 366. According to Livy (following Valerius Antias), Q. Fabius Labeo's triumph was much discussed, as he had apparently not carried out any major military action; Brennan 2000: 212. Broughton 1991: 11, no. 16.

79 Livy 39.42.2-3; Itgenshorst 2005: no. 183.

80 Livy 41.6.4; 41.7.1-3; *Act. Tr.* s. a. 178. Itgenshorst 2005: no. 192.

81 Livy 45.43.1-10; Polyb. 30.22.1-11; Vell. Pat. 1.9.5; *Act. Tr.* s. a. 167; Itgenshorst 2005: no. 202. Broughton 1951: 434. Brennan 2000: 211-214.

82 App. *Hisp.* 57; Itgenshorst 2005: no. 208.

83 Cic. *Mur.* 31; *Pis.* 61; Val. Max. 7.5.4; Livy *Per.* 52; cf. Polyb. 38.12-13. Itgenshorst 2005: no. 208; Broughton 1951: 467, with sources; cf. 1991: 8-9, no. 8. See below.

84 See *Act. Tr.* s. a. 88; Itgenshorst 2005: no. 242. Broughton 1952: 30, n. 5; 43; 1986: 197; Brennan 2000: 477. See Plut. *Sull.* 10.3; Broughton 1991: 17, no. 33a.

85 Harris 1979: 263; cf. 33.

L. Aemilius Paullus deserves special mention. As praetor and proconsul in Hispania Ulterior (191-189), he reversed his initial defeat and secured an important victory over the Lusitanians. According to Livy, his success had a notable impact in Rome (*huius victoriae fama tranquilliores in Hispania res fecit*) and led to *supplicationes ex senatus consulto*.<sup>86</sup> Some sources indicate that he was awarded a triumph *ex Hispania* in 189 (which should be added to the two he undoubtedly won as consul in 181 and 167), but there are serious doubts about this.<sup>87</sup> A well-known bronze inscription concerning the situation of the *Hastensium servei* who lived *in turri Lascutana*, also documents the diplomatic work carried out by Aemilius in his province.<sup>88</sup> It seems likely that L. Aemilius Paullus returned to Rome in 189, but immediately joined the senatorial commission sent to Cn. Manlius Vulso to discuss peace with Antiochus in Asia.<sup>89</sup> As a result, it may have been impossible for him to stand for election to the consulship until 187. In any case, it was not until 183 that he was elected consul following three unsuccessful attempts, as noted in *De viris illustribus*.<sup>90</sup> Valerius Maximus also states that Aemilius Paullus ran for the consulship on several occasions, but adds that the people finally granted him the magistracy in appreciation of his insistence (*pertinacia*), rather than in recognition of his *nobilitas* and character, nor, we might add, of his successful rule in Hispania.<sup>91</sup>

Livy includes L. Aemilius Paullus among the patrician *veteres candidati* who stood for election to the consulship in 184 and were again defeated, as was the aforementioned Q. Fabius Labeo, who had triumphed *ex Asia de rege Antiocho* in 188, and Ser. Sulpicius Galba, *praetor urbanus* in 187.<sup>92</sup> Among the plebeian candidates of that year who had also been rejected in previous

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86 Livy 37.57.5-6; 37.58.5; Plut. *Aem.* 4.1-4; cf. 37.46.7-8; Oros. 4.20.23. See Clark 2014: 120-122.

87 See Vell. Pat. 1.9.3; *CIL* I<sup>2</sup> 1, pp. 194 and 198 (*Inscr. Ital.* 13.3.71b and 81). Broughton 1951: 362. Igenshorst 2005: no. 177a; Clark 2014: 121-122.

88 *CIL* I<sup>2</sup> 614; II 5041; *ILS* 15.

89 Livy 37.55.7; cf. Plut. *Aem.* 4.4. Broughton 1951: 363; 1991: 6-7.

90 *De vir. ill.* 56.1. Broughton 1991: 6-7, no. 4.

91 Val. Max. 7.5.3: *nullus error talis in L. Aemilio Paulo conspectus est, sed tamen aliquotiens frustra consulatum petiit, idemque, cum iam campum repulsis suis fatigasset, bis consul et censor factus amplissimum etiam dignitatis gradum obtinuit. cuius uirtutem iniuriae non fregerunt, sed acuerunt, quoniam quidem ipsa nota accensam cupiditatem summi honoris ardentiorum ad comitia detulit, ut populum, quia nobilitatis splendore et animi bonis mouerentur potuerat, pertinacia vinceret.*

92 Livy 39.32.5-6. Broughton 1991: 11, no. 16, and 18, no. 35.

consular elections, Livy mentions L. Porcius Licinus, praetor in Sardinia in 193, Q. Terentius Culleo, who had held the praetorship in 187 over the *iusdictio peregrina*, and Cn. Baebius Tamphilus, who as praetor had been defeated in 199 by the Insubres in the *provincia Ariminum*.<sup>93</sup> Livy indicates that the *veteres candidati* were confident that they had a better chance of being elected because they had previously been denied the consulship. As Livy's account indicates, the prevailing view was that Q. Fabius Labeo and L. Porcius Licinus were the likely victors. However, only Porcius was ultimately elected consul from among the *veteres candidati* (nine years after his praetorship in Sardinia), while the other post went to P. Claudius Pulcher, who was probably praetor in Tarentum in 187 and the only *novus candidatus* of all those who ran that year.<sup>94</sup> Shortly before the elections, P. Claudius' brother, Ap. Claudius Pulcher, who was serving as consul, rushed back to Rome from Liguria with the intention of arriving before his colleague M. Sempronius Tuditanus, in order to preside over the *comitia* and thus support his brother's candidacy, which he duly did. It would appear that the controversial support of the consul Ap. Claudius Pulcher, which was strongly criticised by the majority of the Senate, tipped the balance in P. Claudius' favour, despite the initial assumptions of Roman public opinion and the notable achievements of other candidates such as L. Aemilius Paullus and Q. Fabius Labeo in both provincial and military matters.<sup>95</sup>

Aemilius Paullus's disappointment on his return from Hispania was probably similar to that experienced decades later by Q. Caecilius Metellus (*pr.* 148) following his triumph in *ex Macedonia*. All the sources indicate that Metellus' success was of considerable importance, since his campaigns not only put an end to the resistance in Macedonia, but also determined the course of the war against the Achaeans, which, as Valerius Maximus points out, was ultimately concluded by L. Mummius.<sup>96</sup> Nevertheless, and "in spite of the very considerable and well-recognized achievements", in Broughton's words, Metellus had to wait until 143 to become consul, having been rejected

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93 Broughton 1991: 8, no. 7, and 19, no. 38, with sources.

94 Livy 39.32.6-9. P. Claudius Pulcher's praetorship is controversial; see Broughton 1951: 367, n. 1 and 368; cf. Brennan 2000: 731.

95 Livy 39.32.9-13.

96 See Val. Max. 7.5.4; also, Livy *Per.* 52; Vell. Pat. 1.11.2; Flor. 1.32.3; Oros. 5.3.2-5; *De vir. ill.* 60.1-2; 61.1-2; Broughton 1951: 465-467. Kallet-Marx 1995: 42-49.

*suo anno* in 145, and again the following year.<sup>97</sup> Valerius Maximus himself shows surprise at the fact that the Roman people denied the consulship to the man who had subdued Achaëa and Macedonia (*eine ergo populus consulatum negare potuit, cui mox duas clarissimas provincias aut daturus erat aut debiturus, Achaiam et Macedoniam?*). Metellus' successive electoral defeats must have undoubtedly caused surprise in Rome, but, above all, they caused despair for the candidate, who, having been rejected in the *comitia*, returned home dejected and ashamed, accompanied by a sombre retinue of friends (*Q. autem Caecilium Metellum pauci et maesti amici consulatus repulsa adflictum tristitia ac rubore plenum domum reduxerunt*).<sup>98</sup>

Among the candidates who had defeated Metellus in the consular elections (none of whom had distinguished themselves in their careers in the provinces) was Ser. Sulpicius Galba. A praetor in 151, Galba was the renowned governor of Hispania Ulterior who, following a series of setbacks, made a pact with the Lusitanians and then treacherously killed thousands of them, selling the rest as slaves.<sup>99</sup> Galba's unacceptable action did not go unnoticed in Rome, and in 149 the tribune L. Scribonius Curio proposed freeing the enslaved Lusitanians and condemning the senator for misconduct in command. According to the sources, the trial aroused considerable controversy in Rome. Curio's proposal was even supported by the veteran M. Porcius Cato, a much-respected senator. However, Galba was able to use his rhetorical abilities and wealth to secure an acquittal, despite the overwhelming evidence indicating that he should be convicted.<sup>100</sup> Appian asserts that Galba was particularly detested in Rome, primarily due to his avarice (he had appropriated the majority of the spoils of war),<sup>101</sup> and it seems that his betrayal of the Lusitanians and his controversial acquittal did little to change the minds of the Roman people. Yet none of this prevented him from being elected consul in 144 by the very Romans who had previously expressed their disdain for him. Moreover, it appears that the controversy surrounding his praetorship in Hispania had not yet abated by the time Galba became consul. Valerius Maximus records the intense debates that took place in the Senate that year

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97 Broughton 1991: 8-9; see *De vir. ill.* 61.3.

98 Val. Max. 7.5.4. See Russell 2019, 130-131.

99 App. *Hisp.* 58-60; Val. Max. 9.6.2; Suet. *Gal.* 3.2; Oros. 4.21.10.

100 See Livy *Per.* 49; Val. Max. 8.1.abs 2; 8.7.1; cf. Alexander 1990, no. 1, with additional sources. See Hall 2014: 8-10.

101 App. *Hisp.* 60.

to determine which of the two consuls should be sent (precisely) to Hispania Ulterior to fight Viriathus. Scipio Aemilianus was able to persuade the Senate that neither Galba nor his colleague L. Aurelius Cotta should be dispatched to Hispania, a decision that was likely influenced by the memory of Galba's actions against the Lusitanians.<sup>102</sup>

Ser. Sulpicius Galba's victory in the consular elections was by no means immediate, but, as we have seen, it took no longer than that of other praetors who, unlike him, had demonstrated excellence and even achieved a triumph in their provinces. Among other aspects, Galba's consulship demonstrates that just a success in provincial management by no means ensured political advancement, controversial or discreditable conduct in the provinces was not an insurmountable obstacle to a successful public career, even if it had led to prosecution or eventual conviction. Similarly, according to Rosenstein's conclusions, military failures could also be overlooked. As noted above, the statistical data presented in Waller's work on the electoral success rates of defeated commanders certainly qualify Rosenstein's thesis, but they do not negate the validity of certain claims.<sup>103</sup> As J. Rich observed, while many of Rosenstein's arguments are open to debate, he is correct in asserting that suffering a military defeat did not always hinder the career of the commander in question.<sup>104</sup> By way of example, we can cite the case of the abovementioned Cn. Baebius Tamphilus, Aemilius Paullus' colleague in the consulship of 182, who years earlier, in 199, had suffered a significant defeat at the hands of the Insubres, resulting in the loss of over six thousand men. Livy states that the impact of this disaster was such that the consul L. Cornelius Lentulus immediately departed for Gallia to assume control of the situation and reprimand Baebius, whom he ordered to leave the province and return to Rome.<sup>105</sup> Baebius' defeat might have meant the end of his public career. Indeed, he did not become consul until seventeen years later, a period of time that presumably reflected the extent of the resentment his failure had aroused. However, Baebius did attain the consulship, a position that, as we have already

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102 Val. Max. 6.4.2. See Rosenstein 1990a: 31-32. Some scholars have assumed that Galba's trial might be linked to the approval of the *lex Calpurnia de pecuniis repetundis*; see Lintott 1981: 166-167; Hall 2014: 10, n. 18; cf. Richardson 1986: 137-140, with bibliography.

103 Waller 2011: 28-29.

104 Rich 2012: 88: "Rosenstein's statistical claims were thus over-confident. Nonetheless, he did draw attention to an important truth, namely that suffering a defeat was not fatal for a commander's subsequent career." Similar conclusions in Clark 2014: 128-129.

105 Livy 32.7.5-7; Zonar. 9.15. Rosenstein 1990a: 182, no. 8; Clark 2014: 110.

seen, other commanders who had achieved notable successes in their provinces were not able to achieve.

As in the case of Cn. Baebius Tamphilus, many other examples collected by Rosenstein demonstrate that commanding a province with certain shortcomings did not substantially reduce the chances of electoral success or present an insurmountable obstacle to political promotion.<sup>106</sup> The well-known case of C. Hostilius Mancinus, the consul who was prosecuted and condemned for his controversial *foedus* with the Numantians in 137, shows, despite its singularity, that even in the most unfavourable circumstances, there was a possibility of success in a public career. We must not forget that, despite being expelled from the Senate (and having lost his citizenship), Mancinus was later elected praetor again.<sup>107</sup> Neither his shameful surrender to the enemy, nor his *turpis foedus*, nor even the memory of having been handed over to the Numantians prevented Mancinus from returning to public life and becoming praetor. When, in 104, the tribune L. Cassius Longinus proposed a law that would expel from the Senate anyone who had been condemned or deprived of *imperium* by the Roman people, he may have done so not only to primarily punish Q. Servilius Caepio for his recent disaster against the Cimbri and the Teutons, but also to avoid further cases of senators who had prospered in politics despite having acted improperly in the provinces and even been condemned for doing so.<sup>108</sup>

J. H. Clark has gone even further and, following Rosenstein's line, has suggested that military failure could in some cases prove advantageous for the defeated commanders and, perhaps even more surprisingly, for their descendants.<sup>109</sup> This assumption is supported by the data provided by Rosenstein, who had already noted that "no general pattern can be detected indicating that a military defeat passed any stigma on to succeeding generations".<sup>110</sup> We might therefore conclude that, paradoxically, being the

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106 Rosenstein 1990a: 179-203; cf. Waller 2011: 30-38.

107 See *De vir. ill.* 59.4; Pompon. *Dig.* 50.7.18; Brennan 1989: 486-487; Rosenstein 1990a: 148-150; also, 1986: 244-252.

108 Asc. 78 Clark; see Broughton 1951: 559.

109 Clark 2014: 128-130; see 129: "the pattern, as presented by these calculations, suggests that it could be an electoral advantage to have been defeated, or to have a father who had been defeated, without a subsequent victory. Indeed, it appears as if having a defeated father gave a praetorian or consular candidate an active advantage in his percentile chances of success."

110 Rosenstein 1990a: 46; cf. Clark 2014: 129, n. 106.

son of a defeated commander may have had a similar impact on a Roman's chances of political promotion as being the son of a *triumphator*, as Cicero asserts regarding L. Licinius Murena's successful career.<sup>111</sup> Most probably, it is not necessary to go so far in our conclusions, nor should we rely too much on statistics which, as pointed out above, are based on very limited data. What the testimonies presented here actually show is that Roman politics was much more complex than has sometimes been assumed. The trends noted by Waller indicate that success in the provinces *could* help in attaining a higher magistracy, and that commanders who had celebrated a triumph were *somewhat* more likely to be elected than other candidates. Conversely, military defeats and actions deemed censurable in the provinces *could* act as a handicap to those seeking to advance a political career, and, indeed, the success rate of defeated commanders in elections is lower than that of their victorious counterparts. These trends undoubtedly illustrate the weight that military *dignitas* had in Roman society, as Harris highlighted, but they do not provide support for some of the claims he made in his work.

As previously stated, the statistical data available are not conclusive enough to claim that the success or failure of a magistrate in a province inevitably determined the development of his public career. If military *dignitas* were indeed a decisive factor in the *cursus honorum*, it would be reasonable to expect a significantly higher electoral success rate for both victorious and defeated commanders. However, the statistics for the period in question are not just black and white, but present a wide range of greyscales. This conclusion is also supported by the cases discussed above. Moreover, while the statistics derived from Livy's account for the period between 202-167 are not necessarily applicable to the entire Republican period, the success rates noted above demonstrate that the examples presented here are not exceptions, but rather reflect the complex patterns by which the *cursus honorum* was in fact governed. In addition to personal merits and the eventual successes and setbacks in the provinces, a number of other factors were also at play. These included social status, personal contacts, political influence, reputation, presence in Rome, direct contact with citizens, popular sympathies and

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111 Cic. *Mur.* 15. Beyond Ciceronian rhetoric, it cannot be denied that the military prestige of ancestors could play a role in a Roman's political success. Hence, many moneyers minted coins alluding to the military achievements of their ancestors, as in the case of Faustus Sulla; Crawford 1974: no. 426/1; see also, for instance, nos. 273/1; 372/2; 401; 437/1a/2a-b. See Van der Blom 2016: 46-49; Hölkeskamp 2016: 187-188; Roy 2024: 57-58.



resentments, and even bribery and coercion. All of these played a role in the elections and, therefore, in the chances of promotion of a Roman citizen.<sup>112</sup> Success or failure in the *comitia* depended on so many variables, that arguments of such weight as military *dignitas* or even triumph were many times diluted among other often unpredictable factors. A brief examination of the chapter Valerius Maximus devotes to electoral rejections reveals that Roman elections were subject to a multitude of circumstances, some of which were capable of altering the direction of a vote against all the odds.<sup>113</sup> According to *De viris illustribus*, Q. Caecilius Metellus lost two consular elections simply because the plebs hated his *severitas*, not because he had less merit in his career than other candidates (quite the contrary).<sup>114</sup> What we must ask ourselves is what happened in 143 to make the same people who had previously despised Metellus to change their minds and end up electing him consul (as they had done a year earlier with the no less hated Ser. Sulpicius Galba). We cannot fail to recall here another passage from the speech *Pro Cn. Plancio*, in which Cicero alludes to the fickleness of the Roman electorate and their lack of reasoned judgment in electing their magistrates, since the merits of the candidate were seldom rewarded, except when the gravity of the situation demanded it.<sup>115</sup>

Beyond Cicero's prejudices regarding the political role of the people, it is clear that Roman elections were subject to multiple constraints, as both Waller and Rich have pointed out in order to explain the perhaps not so surprising electoral successes of some defeated commanders.<sup>116</sup> As previously

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112 See Van der Blom 2016: 46-66. An anecdote recorded by Pliny (*NH* 35.23) also highlights the importance of promoting military merit in elections.

113 Val. Max. 7.5; see, for instance, 7.5.2.

114 *De vir. ill.* 61.3. See Broughton 1991: 8-9, no. 8.

115 Cic. *Planc.* 7: *quid? tu in magistratibus dignitatis iudicem putas esse populum? fortasse non numquam est; utinam vero semper esset! sed est perraro et, si quando est, in eis magistratibus est mandandis quibus salutem suam committi putat; his levioribus comitiis diligentia et gratia petitorum honos paritur, non eis ornamentis quae esse in te videmus*; cf. 8-12; 62; *Mur.* 36; 38-39.

116 Rich 2012: 111: "How then are we to account for the subsequent success enjoyed by some defeated commanders? The explanation must surely be found in the complexity of Roman political life, in which electoral and other successes will always have been the result of a multiplicity of factors. When deciding whom to vote for, electors will always have been influenced by a range of considerations, reflecting both reputation and influence. Defeats will surely sometimes have had some negative impact on candidates' chances, but we should not be surprised that this could often enough be outweighed by other considerations"; 1991: 404. Also, Waller 2011: 25-26.



noted, Harris himself had no choice but to acknowledge that “many other factors were important in consular elections”, although he concluded that “in determining both which members of the *nobilitas* obtained the consulship, and which few outsiders did, a good reputation gained in war could be of decisive value.”<sup>117</sup> Moreover, in an effort to present the most robust statistical evidence, Harris sought to provide a rationale for each of the *triumphatores ex praetura* who did not become consuls in the period 227-79, thus positing the possibility that at least two of them may have died before running for the magistracy (which would indeed increase the success rates Harris had noted and support his thesis that military reputation decisively tipped the balance in favour of the *triumphatores*).<sup>118</sup> This is of course possible, but it cannot explain all the known cases, especially if we include the victorious commanders who did not achieve a triumph *sensu stricto*, such as C. Cicereius. With regard to Cicereius, it is known that he participated in two senatorial embassies to Illyria in 172 and 167, demonstrating that he was actively engaged in public life several years after his success in Sardinia and that he also had gained some recognition within the Senate.<sup>119</sup> Harris attributed the Senate’s refusal to allow Cicereius to celebrate the triumph to his modest social status, as he had been a *scriba* of Scipio Africanus (as the *Acta Triumphalia* indicated when they recorded his triumph *in Monte Albano*), which may also explain why he did not attain the consulship.<sup>120</sup> However, there are other instances where the same rationale cannot be applied; the abovementioned case of L. Licinius Murena is an example.<sup>121</sup> It is evident, therefore, that even in the Late Republic, a triumph was by not necessarily the prelude to any other higher *honos*. Moreover, if Caesar gave up his triumph *ex Hispania* in order to run in

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117 Harris 1979: 33. He nevertheless assumed that this factor declined in somewhat importance during the second century.

118 Harris 1979: 262-263. According to Harris, L. Aemilius Regillus (*pr.* 190), who celebrated a triumph *ex Asia de rege Antiocho navalem* (Itgenshorst 2005: no. 177) in 189, and L. Cornelius Dolabella, who triumphed *ex Hispania Ulteriore de Lusitaneis* (Itgenshorst 2005: no. 238) in 98, may have died prematurely.

119 Livy 42.26.6-7; 45.17.1-4.

120 Harris 1979: 32, n. 3. Brennan 2000: 148 and 623; Pittenger 2008: 46-47; Hartmann 2020: 122. See Val. Max. 3.5.1.

121 According to Cicero (*Att.* 13.6a), L. Licinius Murena participated in the senatorial commission sent to Asia in 70, thus many years after his praetorship and his triumph. Nor did C. Pomptinus (*pr.* 63) ever become consul, although he triumphed over the Allobroges in 54 and was later Cicero’s legate in Cilicia; see Itgenshorst 2005: no. 259; also, Broughton 1952: 176; 185; 225; Brennan 2000: 578-580.

time for the consular elections (which he in fact won), it may be concluded that the victory celebration was no longer as pivotal as Harris proposed.<sup>122</sup>

A. Keaveney also tried to justify Sulla's surprisingly slow public career (despite his remarkable achievements in the provinces) by pointing out that Marius' successes and subsequent rivalry with him (which might have led to C. Marcius Censorinus' aforementioned accusation) hindered Sulla's chances of immediate promotion to the praetorship and the consulship.<sup>123</sup> Keaveney's proposal is certainly interesting and even plausible, but it primarily responds to our specific need to explain why a senator with a career as brilliant as Sulla's did not attain the higher magistracies at the minimum age required. As we have seen, Sulla apparently attributed his victory in the praetorian elections to the money he had invested and to the fact that he had made himself more accessible to the people. Plutarch's passage, which is plausibly derived from the dictator's memoirs, seems here to vindicate the *adsiduitas* which, according to Q. Cicero, was a key factor for a candidate.<sup>124</sup> As previously mentioned, Cicero himself seems to attribute much of his success in his public career to this same *adsiduitas*, emphasising the closeness and presence he began to display in Rome following his underwhelming return from Sicily.<sup>125</sup> Both Sulla and Cicero learned from their quaestorships that the *cursus honorum* was played out primarily on the political stage of Rome, rather than in the theatre of the overseas provinces. Perhaps this *adsiduitas* explains why urban praetors were the magistrates statistically most likely to become consuls, at least in the period 202-167. This is certainly not to say that the work carried out in the provinces was unimportant or played no part in the electoral race. While Cicero's commendable quaestorship in Sicily did not generate interest in Rome or directly influence his promotion to other magistracies, it did indirectly contribute to the projection of his public career. We must bear in mind that Cicero gained notoriety in Rome through his prominent role in the trial of C. Verres, who was defended by the renowned orator and then consul Q. Hortensius Hortalus. And, if Cicero assumed the role in the trial, it was precisely due to his previous experience as quaestor in Sicily, where he had left a positive impression.<sup>126</sup>

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122 Plut. *Caes.* 13.1-2; *Cat. Mi.* 31.3-6; Dio Cass. 37.54.1-2; App. *B Civ.* 2.8; Suet. *Iul.* 18. See Van der Blom 2016: 59.

123 Keaveney 1982: 28-36.

124 Plut. *Sull.* 5.1-2; Q. Cic. *Comment. pet.* 43.

125 Cic. *Planc.* 66; *Mur.* 21.

126 Cic. *Div. Caec.* 2-3.

As Cicero states, it is possible that not all events occurring in the provinces were heard amidst the political noise of Rome. However, there is no doubt that provincial administration had an impact on public activity. Indeed, the institution of the permanent overseas provinces was one of the most decisive factors in the adaptation and standardisation of the *cursus honorum*: both the creation of additional praetorships for the governance of each province from 227 onwards, and the introduction of successive measures aimed at regulating access to the magistracies, determined the development of the Roman public career. At the same time, other aspects of the provincial service such as networking and the involvement in private business may have played an important role in the political advancement of the Roman senators. Moreover, it should also be noted that, in contrast to the examples presented here, there are numerous cases which indicate that effective governance in a province, coupled with military success, could propel a candidate directly to electoral victory, especially if this success occurred in circumstances that were particularly important for the Roman community (as Cicero points out in the passage above).<sup>127</sup> The remarkable careers of figures such as Scipio Aemilianus and Pompey can be explained not only by the prestige that their military victories brought them, but also by the unique circumstances in which they occurred. This does not mean, however, that this type of merit was always so decisive in the *cursus honorum*, much less that it was indispensable for attaining the highest magistracies. If this were the case, Cicero, Q. Hortensius Hortalus, M. Pupius Piso and other Roman senators who resigned from provincial command at various points in their careers would hardly have become consuls. Work in the provinces undoubtedly played a role in determining success or failure in the *cursus honorum*, but it was only one of the factors that contributed to this outcome.

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127 Cic. *Planc.* 7.

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THE *CURSUS HONORUM*, THE SENATE,  
AND THE *LECTIO SENATUS*  
IN THE LONG SECOND CENTURY BCE<sup>1</sup>

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In the post-Sullan *res publica*, the link between the *cursus honorum* and membership of the Senate was clear, and clearly defined: men became senators as the result of election to the quaestorship. By means of the automatic enrolment of those who had held the quaestorship, the Senate acquired twenty new members each year, and if these men sought election to higher office, they would do so as senators.<sup>2</sup> Those who reached the consulship would have over a decade's experience of senatorial membership and of the range of activities which were expected or demanded of senators.

This close integration of Senate and *cursus honorum* was not, however, the case prior to Sulla's dictatorship.<sup>3</sup> The pre-Sullan Senate was constructed

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2 For the quaestorship and senatorial membership in the post-Sullan period, see below, n. 47.

3 The role of the censors in selecting senators was ascribed to the *plebiscitum Ouinium*, which is generally dated to the later fourth century. This paper considers the institution of the *lectio* as it was established by the *plebiscitum Ouinium*, though in practice it concentrates on the period from the outbreak of the second war against Carthage down to Sulla's dictatorship. On the *plebiscitum Ouinium*, Cornell 2000; Humm 2005: 185-226; Clemente 2018; Barber 2020; Padilla Peralta 2023: 93-101; on the *lectio senatus*, Willems 1878: 239-262; Astin 1988; Clemente 2016; Welbourn 2018: 154-165.



by the censors through their *lectio senatus*, and the consequence of the existence of the *lectio* was to separate the tenure of magistracies from entry into and membership of the Senate. Election to office by the people remained the bedrock for senatorial membership, but the process by which it led to membership was mediated by the censors. As a result of this mediation, men entered the Senate somewhat older, and often at a more advanced stage of the *cursus honorum*, than was the case after Sulla.

The purpose of this chapter is to explore the impact of the process of the *lectio senatus* on the enrolment of new senators, and, as a result, on the *cursus honorum* and on the composition of the Senate itself. It argues that as a result of the *lectio* the profile of men as they entered the Senate was different from the case after Sulla; and that the *lectio* itself involved a process of choice by the censors from among a larger group of those who were in principle in a position to enter the Senate. The pre-Sullan *lectio* was far more concerned with inclusion than with exclusion, in contrast to post-Sullan *lectiones* conducted by censors who had no discretion over those who became senators, but who retained the capacity to expel.<sup>4</sup>

### Choice and the senatorial *lectio*

The fullest indication of the normal conduct of the *lectio* comes, somewhat surprisingly, from Livy's account of the emergency *lectio* which the dictator M. Fabius Buteo conducted after the battle of Cannae, the only occasion on which the *lectio senatus* was not conducted by censors.

“When he had climbed the rostra with his lictors he said that he did not approve of the existence of two dictators at one time, something which had never previously happened, nor of a dictator without a master of horse, nor of the censorial power being entrusted to a single man, and to one who had held it previously, nor the grant of *imperium* for six months to a dictator except one appointed for military operations. He would impose limits on the irregularities created by luck, the situation and necessity: he would not remove from the Senate anyone whom Gaius Flaminius and Lucius Aemilius had enrolled; he would simply order their names to be written down and read out, so that judgement and decision concerning the reputation and behaviour of senators should not sit with one man. He would fill the places of the dead in such a way as to appear to prefer rank to rank, not man to man. Having read out the old Senate he chose first in the places of the dead those who had held curule office after the censors Lucius

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4 This is the model that Cicero accepts with approval (*Leg.* 3.27.2).



Aemilius and Gaius Flaminius and had not yet been enrolled in the Senate, in the order each had been elected; then he chose those who had been aediles, tribunes of the plebs or quaestors; then from those who had held a magistracy those who had enemy spoils displayed in their house or had received the civic crown. In this way when one hundred seventy-seven had been enrolled in the Senate, to people's great approval, he immediately abdicated his magistracy, dismissed his lictors and descended from the rostra a private individual, and slipped away into the crowd of people carrying out their private business, deliberately wasting time to stop a crowd escorting him from the forum."<sup>5</sup>

Buteo was responding to a crisis caused by the deaths of senators in battle and the resulting shrinking in the size of the Senate.<sup>6</sup> He deplores the anomalous nature of his *lectio*, particularly the fact that it is being conducted by one man rather than two, and seeks to reassure his contional audience by explaining how he will mitigate these circumstances. He does so, in Livy's account, by explicitly eschewing personal judgement about individuals: he will employ objective criteria alone. But it seems reasonable to assume that in other respects he followed the censors' normal process insofar as he could. Buteo's distaste for the innovatory aspects of his role does not seem to be compatible with his introducing a radical new method of identifying senators.<sup>7</sup>

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5 Livy 23.23.1-8: *is ubi cum lictoribus in rostra descendit, neque duos dictatores tempore uno, quod nunquam antea factum esset, probare se dixit, neque dictatorem sine magistro equitum, nec censoriam uim uni permissam et eidem iterum, nec dictatori, nisi rei gerendae causa creato, in sex menses datum imperium. quae immoderata fors, tempus ac necessitas fecerit, iis se modum impositurum; nam neque senatu quemquam moturum ex iis quos C. Flaminius L. Aemilius censores in senatum legissent; transcribi tantum recitarique eos iussurum, ne penes unum hominem iudicium arbitriumque de fama ac moribus senatoriis fuerit; et ita in demortuorum locum sublecturum ut ordo ordini, non homo homini praelatus uideretur. recitato uetere senatu, inde primos in demortuorum locum legit qui post L. Aemilium C. Flaminius censores curulem magistratum cepissent necdum in senatum lecti essent, ut quisque eorum primus creatus erat; tum legit qui aediles, tribuni plebis, quaestoresue fuerant; tum ex iis qui magistratus cepissent, qui spolia ex hoste fixa domi haberent aut ciuicam coronam acceperant. ita centum septuaginta septem cum ingenti adprobatione hominum in senatum lectis, extemplo se magistratu abdicauit priuatusque de rostris descendit lictoribus abire iussis, turbaeque se immiscuit priuatas agentium res, tempus hoc sedulo terens ne deducendi sui causa populum de foro abduceret.*

ex iis qui magistratus cepissent: *codd*; ex iis qui magistratus non cepissent: *Sigonius*

6 Eighty senators died at Cannae, in addition to the consul and some military tribunes who had held curule office (Livy 22.49.14-17); there were presumably also senatorial deaths at Trasimene, where the overall number of casualties was a little under a third that at Cannae, though Livy records specifically only that of the consul Flaminius.

7 Cornell 2000: 82 emphasises Buteo's innovation ('What is certain is that Fabius did not adopt the procedure normally followed by the censors') but his discussion indicates that he understands the divergence to consist of Buteo's decision not to exercise his personal

The process that Buteo followed had four stages. He enrolled first all those who had been enrolled by the censors in 220 (that is, he did not use the censorial capacity to remove existing senators from the Senate, since he had no colleague to confirm those judgements); then, those who had held curule office since the most recent censorship; thirdly, all those who had held the (plebeian) aedileship, tribunate of the plebs, or quaestorship; and finally those who had held a more junior magistracy than the quaestorship and had also been decorated for military bravery.<sup>8</sup>

This account gives a clear indication of normal censorial practice in conducting the *lectio*. The censors first reviewed the list of existing senators and determined whether any should be expelled. They then enrolled those who had held curule office since the previous census and were not already senators, with the option, it appears, of passing over an individual if they decided he was not suitable for senatorial membership. They then turned to holders of the plebeian aedileship, tribunate of the plebs and quaestorship, again with the capacity to pass over individuals on the basis of their shared judgement. However, the final category from which Buteo drew new senators in 216 does not appear normally to have featured in the censors' deliberations; there is no indication that men who had not held at least the quaestorship entered the Senate through a *lectio* on any other occasion. The explanation for Buteo's divergence from normal practice is not difficult to discern. In 216 there were not enough men from the group of those who had held magistracies from the quaestorship and above to fill the enormous number of vacancies. Buteo was therefore faced with the choice of leaving the Senate smaller than usual, or of adding senators drawn from an additional category. In doing so, however, he maintained the principle of popular election; and since the total number of holders of positions more junior than the quaestorship was too great for his purpose, he identified an additional objective criterion of military decoration to permit him to select from this group without having to choose on the basis of his personal assessment of an individual's claims.<sup>9</sup> The total

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judgement. There is no suggestion that Livy wished his readers to think Buteo *disapproved* of censorial judgements about senators' *fama* and *mores*, but simply of such judgements being made by one man without a collegial check.

8 For this interpretation, which involves rejecting Sigonius' emendation inserting *non* into the phrase *tum ex iis qui magistratus cepissent, qui spolia ex hoste fixa domi haberent aut ciuicam coronam accepissent*, Barber 2020.

9 Barber 2020: 343-348.

number of new senators that Livy records – 177 – does not indicate that Buteo was aiming for a fixed number for the Senate; as he was applying objective criteria, he enrolled everyone who met those criteria. It can be assumed that in determining his process Buteo was conscious of a notional target total number of senators, which seems to have been around 300, but only to the extent of devising criteria which gave a reasonable fit.<sup>10</sup>

The censors, then, chose new senators from those who had held office since the previous *lectio*, and did so on the basis of the seniority of the office that had been held: that was how the censors put into operation the people's injunction to choose the *optimi*.<sup>11</sup> It seems highly likely that the censors expected to enrol those who had held curule office – Buteo's first category among new enrolments – and would only fail to do so in cases where they deemed the individual unfit for the position.<sup>12</sup> No such case is in fact attested. It is also quite clear that the censors regularly enrolled from among Buteo's second category of ex-plebeian aediles, ex-tribunes of the plebs and ex-quaestors.<sup>13</sup> Livy records three *lectiones* in the second century at which

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10 In fact, he may have been comfortable in overshooting on this occasion, given that many senators were absent from Rome as they were serving in the army; perhaps also there was uncertainty over when it would next be possible to conduct the census. A light is also thrown by Buteo's *lectio* on the quality of Roman administrative records; he was – we should assume, given the nature of the crisis – working fast, yet was able to access records of military decorations and cross-refer to junior elected positions.

11 It is sometimes argued that the censors also had the capacity to choose men who had not held elected office (Rich 1976: 131-134; Cornell 2000: 89). This remains possible, though it does not fit well with the compelling picture of popular choice harmonising with censorial choice that emerges if office were a pre-requisite for senatorial membership. The only clearly attested example of a man who had not held an elected office becoming a member of the Senate in the period under review is that of C. Valerius Flaccus, who became *flamen Dialis* in 209, and then successfully asserted what he claimed was a historic right of the *flamen Dialis* to sit in the Senate, though it had been in abeyance for decades (Livy 27.8.4-10). This case underscores the normal expectation of elected office as a pre-requisite for senatorial membership. It is possible that subsequent *flamines Dialis* also enjoyed senatorial membership on the basis of Flaccus' assertion of the rights of the office; the *flamen Martialis* and the *flamen Quirinalis* did not face comparable practical barriers to holding public office, and many of the known holders in the period did also hold curule office.

12 Hölkeskamp 1987: 144-145. The fact that this category existed at all indicates that there were men who had either not held one of the more junior non-curule offices; or they had and had still not been enrolled on that basis; or they had held both non-curule and curule office since 220. The significance of the first two possibilities are considered further below.

13 Cornell 2000: 86-87 sets out the numerical consequences of enrolling as senators only those who had held curule office.

senators were expelled but none of the expelled had held curule office.<sup>14</sup> Non-curule senators are known in the epigraphic record of senatorial decrees.<sup>15</sup> What is more difficult to assess, however, is the extent to which the censors recruited from this group of ex-quaestors, ex-tribunes of the plebs and ex-plebeian aediles. That is, was it normally the case that only a proportion of this group were chosen by the censors, with the censors making an active choice among those potentially qualified and not merely rejecting the obviously unfit; or did they normally enrol all men in this category on the same basis as they did all ex-curule magistrates, rejecting only on the basis of demonstrable unfitness for the position of senator?

Explicit evidence for the censors' enrolment practices in relation to the quaestorship and the plebeian aedileship is lacking. In the case of the tribunate of the plebs it has been argued that the *plebiscitum Atinium* made enrolment of ex-tribunes into the Senate mandatory or extended the privileges of senatorial membership to them.<sup>16</sup> This measure is known only from a passage in Gellius:

“Iunius says that the praefect in charge of the city for the Latin festival cannot summon the Senate, since he is not even a senator and does not have the right to offer his opinions, as the praefect comes from the age group which is not senatorial. But Marcus Varro in the fourth book of his *Epistolicae Quaestiones* and Ateius Capito in the fourth book of *Coniectanea* say that he certainly has the right of summoning the Senate; and on that topic Capito reports that he agrees with Tubero, against the view of Iunius: he says, ‘For tribunes of the plebs also had the right of summoning the Senate even though they were not senators before the Atinian plebiscite.’<sup>17</sup>

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14 Livy 29.37.1 (204), *notati septem, nemo tamen qui sella curuli sedisset* (seven were expelled, none however who had sat on a curule chair); 34.44.3 (194), *tres omnino senatores, neminem curuli honore usum, praeterierunt* (they passed over three senators in total, none who had held curule office); 38.28.2 (189), *quattuor soli praeteriti sunt, nemo curuli usus honore* (only four were passed over, none who had held curule office). The verb *praetereo* is regularly used of rejecting existing senators as well as passing over potential new ones.

15 See Rosillo-López in this volume.

16 Willems 1878: 227-232 argues that the *plebiscitum Atinium* extended the so-called *ius sententiae dicendae* to tribunes; he is followed by Tatum 2010. Vishnia 1989 and Badian 1996 argue for senatorial membership for all tribunes. All date the measure to the second or very early first century BCE. Pesaresi 2016 also argues for senatorial membership for all tribunes but places the measure in the third century BCE. Ryan 1996 draws attention to the connection between the *plebiscitum Atinium* and censorial choice pre-Sulla.

17 Gell. *NA* 14.8: *praefectum urbi Latinarum causa relictum senatum habere posse Iunius negat, quoniam ne senator quidem sit neque ius habeat sententiae dicendae, cum ex ea aetate praefectus fiat quae non sit senatoria. M. autem Varro in IIII epistolarum quaestionum et*

However, in Gellius' report Capito's words are ambiguous: the quotation might also mean that before the plebiscite tribunes were not senators in the sense that they were not *able* to be senators. In that case, the measure would have removed a prohibition on senatorial membership, without in any way mandating it for all tribunes subsequently.<sup>18</sup> These difficulties in establishing the scope of the *plebiscitum Atinium* mean that it provides no clear assistance in determining censorial practice on enrolling tribunes of the plebs.<sup>19</sup>

There is some direct evidence for censors' selectivity in enrolling men who had held more junior magistracies from two episodes in which men are attested as having been passed over during the *lectio*. In 168 the tribune Cn. Tremellius vetoed a request by the censors C. Claudius Pulcher and Ti. Sempronius Gracchus for an extension to the length of their censorship, "because he had not been chosen for the Senate".<sup>20</sup> In 131 the tribune C.

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*Ateius Capito in coniectaneorum IIII ius esse praefecto senatus habendi dicunt; deque ea re adsensum esse se Capito Tuberoni contra sententiam Iunii refert: 'Nam et tribunis' inquit 'plebis senatus habendi ius erat, quamquam senatores non essent ante Atinium plebiscitum.'*

18 Develin 1978; Cornell 2000; Ungern-Sternberg 2006; this view appears to place the *plebiscitum Atinium* prior to 358, when the consular Poetilius is said to have held a tribunate and in that case it was almost certainly prior to the *plebiscitum Ouinium* which set up the process of censorial *lectio*: the ban would have affected consular choice of their annual Senate. The difficulty with this interpretation is that it forces Capito to use a poor argument. The point of his remark was to provide an example of a case where someone who was not a senator could summon the Senate, to bolster his argument about the (contested) question of whether the *praefectum urbi Latinarum causa relictum* could also do so. But if the *plebiscitum Atinium* was a measure from the third century BCE which removed a ban on tribunician membership of the Senate, then the entire period between the *plebiscitum Ouinium* and Sulla's dictatorship was rich in examples of tribunes who were not members of the Senate, any of which would have provided a more recent example to support his argument.

19 Another interpretation of the *plebiscitum Atinium* would be to place it in the context of the measures in the 70s BCE which restored tribunician rights. It would then have enrolled tribunes in the Senate in the same way that quaestors were enrolled after Sulla, which would be particularly significant if the *lex Aurelia* had facilitated transitional arrangements which permitted tribunes to stand for higher office without the quaestorship. Lack of other notice of this measure is perhaps understandable, since in the slightly longer term the *lex Aurelia* reintegrated the tribunate into a *cursus* which now began with the quaestorship. Capito's use of the term *plebiscitum* rather than *lex*, if accurate, would indicate passage in 70 BCE or afterwards.

20 Livy 45.15.9, *quia lectus non erat in senatum*. Exceptionally, Livy records the senatorial and equestrian *lectio* of 169 twice, at 43.15.6 and 44.16.8-10. The explanation is presumably that the censors' initial attempt, in the summer of 169, was disrupted when the tribune P. Rutilius prosecuted them for *perduellio* at the conclusion of a dispute about the letting of public contracts (Livy 43.16.1-16). The censors were tried and acquitted towards

Atinius Labeo attempted to throw the censor Q. Metellus Macedonicus from the Tarpeian rock because he had not been enrolled in the Senate.<sup>21</sup> In neither case, however, is there an indication of the censors' rationale for not enrolling, and it is therefore possible that each was a special case, perhaps on grounds of moral depravity, set against a background in which censors normally did enrol all in this category. Indeed, the reactions of Tremellius and of Atinius may suggest that they had received an unusual insult.

However, indirect evidence for censorial practice is recoverable from a consideration of the size of the Senate in relation to recruitment possibilities. The pre-Sullan Senate, as noted above, had somewhere in the region of 300 members, declining gradually in size between one *lectio* and the next before new members brought the numbers up again. The *lectio*, therefore, was the mechanism which maintained the size of the Senate. It is immediately evident why the censors could not enrol only those who had held curule office: given that consuls had, under normal circumstances, held the praetorship, there were at most eight new senators each year after the number of praetors rose to six in 197, and usually only seven or six, given that many curule aediles' careers will have continued.<sup>22</sup> Recruitment that was confined to those who had held curule magistracies would thus produce between thirty and forty new senators each *lectio*, and require a life expectancy at the time of enrolment of seventy-five or more to maintain the Senate at its attested size.<sup>23</sup> The

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the end of September 169; they then completed the *lectio* on December 13<sup>th</sup> (44.16.8). However, Livy's description of what they did in December concerns only their decisions about membership of the equestrian order as a whole; that in turn suggests that their *lectio senatus* was completed at the point at which Livy records it in book 43 and they did not revisit it. If that reconstruction is correct, then the censors did not consider Tremellius' tribunate in reaching their decision given that the elections would not yet have been held, and the office they ignored must have been a quaestorship; nor can the incident throw any light on whether the censors considered current as well as former office-holding in their decisions.

21 Livy *Per.* 59; Plin. *NH* 7.143; Cic. *Dom.* 123 refers to the attempt by Atinius to consecrate Macedonicus' property but does not record a motive. In this case the *lectio* occurred when Atinius was tribune and may indicate that current office influenced censorial decision-making, though a prior quaestorship cannot be ruled out.

22 On the benefits of the aedileship for subsequent careers, Deniaux 2016; 2017; on the temporary return to four praetorships in some years after 181, Brennan 2000: 169-173.

23 Curule offices were held by men no younger than their late thirties, and new senators would have on average to live through 7.5 censuses (37.5 years) if there were eight each year, and 10 (50 years) if there were six, to maintain a Senate of more or less 300 members. This seems improbable, even accounting for the privileged economic position of the senatorial class and the likelihood that chronic ill-health was regarded as incompatible with a public career.

additional numbers generated by extending enrolment to the quaestorship, tribunate of the plebs and plebeian aedileship made up the gap, though the extent to which it did, and the consequent degree of selectivity that the censors could exercise, can only be established between very broad parameters.

Although the number of positions is more or less secure, neither their place in individual careers, nor the extent to which they were held sequentially by the same individuals, can be firmly established.<sup>24</sup> Neither quaestorship, tribunate of the plebs, nor aedileship were essential elements in the *cursus honorum* prior to Sulla, at which point the quaestorship became requisite.<sup>25</sup> Indeed, of the three offices, only the quaestorship was open to all. Patricians could not hold the tribunate of the plebs or the plebeian aedileship and additionally, sons of men of plebeian status who had held curule office were also unable to hold those positions while their father was alive.<sup>26</sup> The epigraphically attested *repetundae* law from the later second century suggests that by that point, an elected office more junior than the aedileship was an expected part of the *cursus*. Its exclusion of men from consideration as potential jurors, which extends beyond senators to a much wider group of men to capture the close connections of members of the Senate, should logically be comprehensive.<sup>27</sup> It states:

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24 There were ten tribunes and two plebeian aediles; the pre-Sullan number of quaestors was almost certainly eight (Prag 2014; Pina Polo – Díaz Fernández 2019: 25-35) and eight is assumed in the calculations below. Were there twelve quaestors, the case for censorial selectivity becomes correspondingly stronger.

25 The tribunate of the *plebs* was never accessible to patricians and the aedileship was regularly skipped (indeed, after 197 BCE it was arithmetically impossible for it to be an essential part of the *cursus*); on the position of the quaestorship, Kleijwegt and Evans 1992: 182 n.6.

26 Knowledge of this restriction depends on Livy's account of the career of C. Servilius Geminus (cos. 203), who was tribune in 211 and plebeian aedile in 209; in the latter year the legitimacy of his tenure was called into question on the grounds that his father, who was thought to have been killed by the Boii in 218, was reported still to be alive in captivity (27.21.1). In his later discussion of the younger Servilius' consulship and his success in freeing his father from captivity (30.19.9) Livy notes that 'A law was presented to the people to protect Gaius Servilius from that fact that, unaware that his father, who had sat on a curule chair, was alive, he had been tribune of the *plebs* and plebeian aedile contrary to what was permitted by the laws.' (*latum ad populum est ne C. Servilio fraudi esset quod patre qui sella curuli sedisset uiuo, cum id ignoraret, tribunus plebis atque aedilis plebis fuisset contra quam sanctum legibus erat.*) See further Mommsen 1887: 487 n.2; Vishnia 1996 (both sceptical that Livy reports the situation accurately); Develin 1981; Ungern-Sternberg 2005: 315.

27 Sherwin-White 1982; Crawford 1996: 98-99.



“...provided he does not choose any of those who are or have been tribune of the plebs, quaestor, *triumvir capitalis*, tribune of the soldiers for any of the first four legions, *triumvir* for the granting and assigning of land, or who is or has been in the Senate...”<sup>28</sup>

Given that an individual would face a delay in senatorial enrolment until the next *lectio* was held, this formula would only succeed in removing all potential members of the wider senatorial class if at least one of the more junior positions listed in the earlier part of the clause were now a normal part of the *cursus*. If this were not the case, then it would be possible for a case to occur of an individual whose first elected office was the aedileship or praetorship; he would remain eligible for jury service under this law until the next *lectio* occurred, which is presumably not what the law’s drafters intended. However, this formula does not preclude the possibility that some men chose to stand for the curule aedileship or praetorship on the basis of prior experience of elected office that extended only to the military office of tribune of soldiers and/or a minor magistracy and since those offices did not lead to senatorial enrolment, such individuals would not become eligible for enrolment in the Senate until they had held the curule aedileship or praetorship.<sup>29</sup>

Uncertainty over the position of the quaestorship, tribunate of the plebs and plebeian aedileship in the *cursus* is one factor limiting certainty over the extent to which senators were enrolled from among those who had held these offices. Additionally, as with the curule positions, the degree of overlap between them – that is, the extent to which they were held sequentially by the same individual – is a matter for speculation. However, the range of possibilities suggests that the censors were probably obliged to be selective when identifying senators from those who had held these offices but not (yet) a curule position. The lowest number of potential new senators is created by a high degree of overlap between offices and a low number of men seeking curule office without holding any of these three positions: this might produce slightly

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28 Crawford 1996: 1.67: ...*d]um ne quem eorum legat, quei tr(ibunus) pl(ebis), q(uaestor), IIIuir cap(italis), tr(ibunus) mil(itum) l(egionibus) III/I primis aliqua earum, trium uir(um) a(gris) d(andis) a(dsignandis) siet fueritue, queiue in senatu siet fueritue...*

29 Buteo’s *lectio* in 216 involved the enrolment – as new senators – of men who had held curule office since the previous *lectio*. This category could point to the rejection of at least some ex-quaestors, ex-tribunes and ex-aediles by the censors, some of whom went on to be elected to curule office having stood as a non-senator; but it is also compatible with some men eschewing entirely this group of positions.



under 60 potential new senators each *lectio*;<sup>30</sup> if this total is combined with a life expectancy of sixty, then a Senate of around 300 would be maintained only by recruiting all in this category, subject only to the omission of a small number of men on the grounds that they failed to demonstrate satisfactory personal qualities. As soon as any of those underpinning assumptions shift, selectivity becomes necessary. If more than two quaestors a year did *not* hold the tribunate of the plebs, or if the aedileship, both plebeian and curule, was a regular entry point into the *cursus*, or indeed if senatorial life expectancy at 35 was greater than 60, then the censors would be compelled to make choices; with a low degree of overlap, a high number of men eschewing these three offices, and an elevated life expectancy, the censors might need to reject as many as twenty eligible men each *lectio*.<sup>31</sup> The actual, unrecoverable figure is likely to sit between these two extremes.<sup>32</sup>

The following can therefore be concluded about the *lectio senatus*. The censors constructed it on the basis of the previous *lectio*, removing the names of those who had died and – if they chose – of those whom they considered to be unfit for senatorial membership. They then added the names of all those who had held curule office since the last *lectio* who were not yet members of the Senate. Finally, they enrolled from those who had held the quaestorship, tribunate of the plebs and plebeian aedileship and it is very likely that at this point they exercised some degree of choice, beyond the application of a minimum threshold of moral acceptability, the result of which was that some men were “passed over”, despite a *cursus* comparable to those who were enrolled in the *lectio*.

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30 That is, a model where six quaestors (out of eight each year) went on to hold the tribunate of the plebs and every plebeian aedile had held the quaestorship and/or tribunate, which generates twelve eligible men each year or sixty over a cycle of five years, some of whom – more, let us assume, than held curule office without any of these three prior positions – died before the *lectio*. This model assumes an average age on enrolment of thirty-five (meaning that a senator, on average, was chosen at five successive *lectiones*); this may be slightly high, given that the quaestorship could be held at thirty, and 60% of this hypothetical cohort held the quaestorship.

31 That is, a model where only two quaestors each year went on to hold the tribunate of the plebs, one aedile or praetor each year had not held one of these three prior offices and senators' life-expectancy on enrolment was 65.

32 For probabilistic approaches to problems of this kind in ancient history, Lavan 2016. These parameters are, it should be noted, compatible with interpreting the *plebiscitum Atinium* as imposing mandatory tribunician enrolment on the censors; the effect, if combined with low overlap and higher life expectancy, would be to reduce the censors' capacity to enrol ex-quaestors.

## The timing of the censorial *lectio* and career delay

Before turning to consider the effects of the censorial *lectio* on the composition of the Senate it is important also to note the consequences of the periodic nature of the census. Valerius Maximus records an encounter in 149 between a senator and a non-senator:

“Such was their deep love for their homeland that for many years no senator announced the secret deliberations of the conscript fathers. Only Q. Fabius Maximus – and he only through carelessness – told Publius Crassus, whom he met on the road as he headed for the country and Crassus was returning home, what had happened secretly in the Senate about declaring the third Punic war. He remembered that he had held the quaestorship three years earlier, but was unaware that he had not yet been enrolled in the senatorial order, which was the sole route into the Senate House even for those who had already held office. Even though Fabius’ mistake was innocent, he was severely reprimanded by the consuls; they wanted silence, the best and safest bond in the administration of affairs, never to be undermined.”<sup>33</sup>

Q. Fabius thought that Crassus was a senatorial colleague, but although Crassus had held an office which made his enrolment probable, a *lectio* had not occurred since he had held the position, and he was, therefore, not yet a senator.<sup>34</sup> The length of the delay caused by the need to wait for the next *lectio*

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33 Val. Max. 2.2.1a: *adeo autem magna caritate patriae tenebantur, ut arcana consilia patrum conscriptorum multis saeculis nemo senator enuntiauerit. Q. Fabius Maximus tantum modo, et is ipse per imprudentiam, de tertio Punico bello indicendo quod secreto in curia erat actum P. Crasso rus petens domum reuertenti in itinere narrauit, memor eum triennio ante quaestorem factum, ignarus nondum a censoribus in ordinem senatorium allectum, quo uno modo etiam iis, qui iam honores gesserant, aditus in curiam dabatur. sed quamuis honestus error Fabii esset, uehementer tamen a consulibus obiurgatus est: numquam enim taciturnitatem, optimum ac tutissimum administrandarum rerum uinculum, labefactari uolebant.*

34 Valerius’ retelling makes Fabius very confused, as he knows when Crassus held office but has overlooked the (rather obvious) fact that there has been no census since then. Less credulity is strained if Fabius remembered that Crassus had been quaestor, but not exactly when. Either way the story – if taken at face value – rather suggests that Fabius was not a frequent senatorial attendee at this point in time, but did make it to a crucial meeting on war with Carthage. That might throw light on his age. He is generally thought to be Servilianus (RE 115); Aemilianus (RE 109) can be ruled out, as he was praetor in Sicily in 149. However, it is possible that Servilianus, who was consul in 142, may himself not have been enrolled in 153, the date of the most recent census, and these men’s adoptive father (RE 105), who was praetor in 181 and whose date of death is unknown, is perhaps a more likely candidate. P. Licinius Crassus is normally identified with the consul of 131 (RE 72) but a delay of at least twenty years between quaestorship and consulship is unparalleled (Sumner 1973: 52). An

inevitably varied given that the census occurred at intervals whilst election was an annual process, but in some cases it could be five or more years. The effect was to delay the point at which a man became a senator.

This delay, combined with the possibility of avoiding some of the more junior positions on the *cursus*, indicates that the age at which men entered the Senate was considerably higher in the pre-Sullan period than the age of thirty which is regularly assumed to be the case in the post-Sullan period.<sup>35</sup> This is the case even with the most expansive model of senatorial membership, one based on the assumptions that the quaestorship did lead to inclusion in the next senatorial *lectio*, and that it was a normal element in the *cursus*. In this case, the delay is however on average a little under three years.<sup>36</sup> If, however, the censors did not regularly enrol ex-quaestors, or if the quaestorship, despite being an office which potentially qualified its holder for senatorial membership, was regularly omitted from the *cursus*, then the potential age of men on enrolment to the Senate rises quite considerably. A man who held the aedileship at thirty-six, probably the minimum age after the *lex Villia annalis* of 180,<sup>37</sup> and had not held the quaestorship or tribunate, would be between thirty-six and forty-one on entering the Senate; someone who held none of the earlier offices before the praetorship would be in his forties on becoming a senator. A praetor who had not held the aedileship might still not be a senator during the tenure of his praetorship, depending on when the census occurred.<sup>38</sup> The result

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alternative might be the tribune of 145 (RE 52), C. Licinius Crassus, who might have held the quaestorship; an error over the praenomen is not unusual in Valerius. But since the point of the story is not the participants but a mistake over senatorial membership, it is not impossible that Valerius has simply misremembered the names of those involved. It is also conceivable that Valerius misreports the office that Crassus had held, since the quaestorship had been the qualifying office for the Senate for a century by the time he wrote; and even if the quaestorship was the office in question, the story cannot be taken as evidence that the quaestorship invariably led to senatorial membership. Crassus' background seems to fit very well with the kind of men likely to get into the Senate as ex-quaestors (see below) within a competitive situation.

35 Of course, the average age of entry in the post-Sullan period is better understood as early thirties, since not all men will have held the quaestorship *suo anno*.

36 Between 209 and 154 the census is held with absolute regularity at five-year intervals; between 153 and 82 there are thirteen *lectiones*, at an average of just over five and a half years; in other words, one fewer than would have been expected in the period; Astin 1982.

37 On the *lex Villia annalis*, see Hans Beck's chapter in this volume.

38 So, for example, the curule aediles of 192, P. Iunius Brutus and M. Tuccius, if either had not held the quaestorship; their tenure was too late for their enrolment by the censors of 194 and they both held the praetorship in 190. If so, they were, we can assume, enrolled as

was that many elected magistrates in the pre-Sullan Senate were not senators during the tenure of their office.

This phenomenon may explain the existence of a mechanism which enabled non-senators to participate in Senate meetings: the so-called *ius sententiae dicendae*, though the exact phrase itself is not attested prior to the imperial period.<sup>39</sup> A distinction between being a senator, and the capacity to speak in the Senate, was made, in Livy's report, in an edict issued by the consul Scipio Nasica in 191 as war with Antiochus loomed: "None of those who were senators, or who were allowed to speak in the Senate, or who were minor magistrates, should be further away from Rome than a day's journey, and five senators should not be absent from Rome at one time."<sup>40</sup> Gellius, in paraphrasing Varro, records the same distinction in the edict which consuls – presumably at the end of the Republic – used to summon the Senate: "this was the meaning of the edict which consuls even now, to preserve tradition, use in a standard form when they call senators to the Senate House: 'senators and those who are allowed to speak in the Senate.'<sup>41</sup>

The nature of this distinction is generally held to be connected to the delay in becoming a senator as a result of the periodic nature of the *lectio*. On that interpretation, men who met the enrolment criteria for the Senate but were not yet senators, because a *lectio* had not been held since they became eligible, possessed the *ius sententiae dicendae* until they did become senators.<sup>42</sup> Valerius Maximus' story of the meeting between Fabius Maximus and Crassus is an obstacle to this view: whatever the difficulties with the details of the anecdote as it appears in Valerius, its kernel is precisely the non-senatorial

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senators by the censors of 189; neither will have entered the Senate until their return from their propraetorian commands late in 188 or in 187, by which point both will have been at least forty-two. The same may have applied to the curule aediles of 193, M. Aemilius Lepidus and L. Aemilius Paullus, depending on the speed with which the censors of 194 held the *lectio*.

39 The earliest attested use of the phrase is Tac. *Ann.* 13.49.9.

40 Livy 36.3.3: *qui senatores essent quibusque in senatu sententiam dicere liceret, quique minores magistratus essent, ne quis eorum longius ab urbe Roma abiret, quam unde eo die redire posset, neque uno tempore quinque senatores ab urbe Roma abissent.*

41 Gell. *NA* 3.18.7-8: *hoc significabat edictum, quo nunc quoque consules, cum senatores in curiam uocant, seruandae consuetudinis causa tralaticio utuntur. uerba edicti haec sunt: 'Senatores quibusque in senatu sententiam dicere licet.'; cf. Festus 454L. The distinction, and the phrase *ius sententiae dicendae*, is also used in the chapter in Gell. *NA* 14.8, on the *plebiscitum Atinium* discussed above.*

42 Willems 1878: 225-234; Ryan 1998: 72-87.

status of eligible men in the interval between office and *lectio* and the resulting possibility for confusion.<sup>43</sup> This interpretation of the *ius sententiae dicendae* also appears to create a tension with the censorial *lectio*. As discussed above, the censors exercised a degree of *choice* in compiling their list; they could pass over men as well as expel them. It seems *prima facie* unlikely that every ex-quaestor and ex-tribune would automatically spend a period, perhaps as many as five years, in the Senate before finding out whether or not their office-holding might lead to membership.<sup>44</sup>

There is however a much simpler explanation for the existence of a group of non-senators who needed to attend the Senate: magistrates who were not senators. As this chapter has shown, in the pre-Sullan Senate many elected magistrates would not be senators. A quaestor would seldom be a senator;<sup>45</sup> and many aediles and even some praetors might not be, either because they had not held the quaestorship or, more likely, no *lectio* had been held since their quaestorship or they had been passed over by the censors at that *lectio*.<sup>46</sup> It was clearly important, even essential, that the Senate be open to these men, given its role as an advisory body for magistrates, and in the light of the possibility that it required information from them in the course of its deliberations. Allowing magistrates to attend Senate meetings, regardless of whether or not they had been enrolled as senators, did not encroach on censorial autonomy insofar as it responded to the objective criterion of popular choice, and once office-holding ended the need for senatorial attendance

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43 Gabba 1955: 222, followed by Vishnia 1989: 171, interprets this passage as proving that Crassus did possess the *ius sententiae dicendae* in the period after his quaestorship (thus explaining Fabius' confusion, insofar as he would then have seen Crassus in the Senate in the interval); but, if so, it must be accepted that senators could discuss senatorial business outside the Senate with other senators, whether or not their interlocutor had been present at the meeting in question; but not discuss senatorial business outside the Senate with non-senators who possessed the *ius sententiae dicendae* even though their interlocutor might well have been present at the meeting in question. It is difficult to understand the rationale for this model.

44 One notable silence, if this interpretation of the distinction is adopted, is that nowhere does performance in the Senate during this non-senatorial period feature in accounts of the censorial *lectio*.

45 It is likely that some holders of the quaestorship in the period after 216 were men who had been enrolled by Buteo on the basis of a more junior office and a military decoration. Apart from this possibility, quaestors would only be senators before Sulla if they were in office when the censorial *lectio* occurred and censors included current office-holding when determining senatorial membership.

46 Vishnia (1989: 172) notes and rejects this interpretation.

ended, too.<sup>47</sup> The need for this mechanism vanished with Sulla's changes, even though the wording apparently persisted, and perhaps it is not surprising that its meaning seems to be misunderstood in some imperial writers.

## Conclusions

Two conclusions follow from this argument. The first concerns the relationship between the *cursus honorum* and the Senate. The two were intimately entwined, but prior to Sulla's dictatorship, largely distinct. Success in the *cursus* led to membership of the Senate; but ascent of the *cursus* to a large part preceded membership of the Senate. The majority of senators were men who had already held the offices that would form their individual *cursus*. This distinction between office and senatorial membership is therefore radically different from the post-Sullan situation, in which men were senators from the very start of their *cursus* with their election to the quaestorship.<sup>48</sup>

The second relates to the role of the censors before Sulla. They chose the members of the Senate; and, this paper suggests, the degree of choice that they exercised may not have been trivial in scale. A man who had been elected to the quaestorship or tribunate of the plebs since the previous *lectio* could well hope to be enrolled at the next opportunity; but he could not rest secure in that hope until his name was read out. If disappointed, his only recourse was continued success in the *cursus*. There is no indication that the censors ever considered men passed over at a previous *lectio* who had subsequently remained *priuati*; but a disappointed ex-quaestor or ex-tribune who held subsequent elected office would return to consideration and if the subsequent office was curule, his claims were unlikely to be rejected.<sup>49</sup> Censorial intervention allowed elite judgement to trump popular judgement, by denying or subsequently

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47 One consequence would be that, in theory, some men on leaving an office in the middle of the *cursus* would continue to attend the Senate, as senators, while their peers, demitting the same office, would not; but such gradations were integral to a system of choice which involved a meritocratic element.

48 It remains unclear whether election to the quaestorship after 81 led automatically to membership of the Senate, or if it remained to be confirmed by the next census with the holder enjoying the rights of senatorial membership until that time; but there appear to be no practical implication to the distinction. Gabba 1956; Santangelo 2018; Pina Polo – Díaz Fernández 2019: 51; Díaz Fernández – Pina Polo 2023. On the kind of Senate created by automatic enrolment, Flower 2011: 117-134.

49 It is however likely that Buteo in 2016 did enrol former quaestors, tribunes of the plebs and plebeian aediles regardless of when they had held those positions (Barber 2020: 346).

reversing the normal result of electoral success; it thus asserted a hierarchy of judgement which permitted the censors to shape the choices of the people.<sup>50</sup> But popular choice could not be ignored repeatedly.

This model of the *lectio* raises the question of the factors that censors took into consideration when they made their selection: how, that is, they understood the injunction of the *plebiscitum Ouinium* to choose the *optimi*. Buteo said he would not look at *mores* and *fama*, implying that censors did.<sup>51</sup> This was a complex bundle of qualities, in which judgement about a man's ethical standards could be combined with other factors such as birth and family and the tenure of priesthoods; and it is perhaps also possible that military decorations were an advantage.<sup>52</sup> What, however, remains unclear is whether such characteristics were regarded as those fitting senators, or instead if in practice they tended to be accompanied by networks of influence that could be brought to bear on the censors. A *lectio senatus* that involved not only the capacity but also the obligation to choose was the site of enormous patronage; that opportunity was an element in the office's attractiveness and was accompanied, it must be assumed, by active lobbying on behalf of individuals in the period between the censorial elections and the finalisation of the *lectio senatus*.

The pre-Sullan *cursus honorum* was, therefore, at one remove from the Senate. Men competed with each other for office bestowed by the people; success in that competition fitted them to join the Senate, but the translation of that fitness – the people's indication that they regarded a man as *optimus* – into the position of senator was dependent on the judgement of the censors – themselves chosen by the people – as expressed in the *lectio*. The nature of this process should focus our attention back on the role of the censors in (re)creating the Senate every five years, with the *lectio* a far from trivial item in the extraordinarily broad overall censorial portfolio. It also draws attention to the bureaucratisation of the post-Sullan Senate, full of men with limited experience of the *res publica* whose activity was overwhelmingly concentrated on judicial administration and subaltern military activity.<sup>53</sup> That, however, is a different inquiry.

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50 It remains unclear whether the censors ever refused to enrol an individual who had been elected to a curule office, as opposed to expelling men enrolled at a previous *lectio*.

51 Livy 23.23.4; see further above.

52 On the moral aspects, Astin 1988; Wiseman 1971: 98 suggests that the censors were most inclined to exclude new men. Buteo's method in 216 may suggest that military decorations were relevant at other *lectiones*.

53 On senators and jury service, Steel 2014; on the development of the legateship in this period, see Rafferty in this volume.



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IN THE “THICK OF POLITICS”:  
THE ROLE OF DRAFTING COMMITTEES  
AND *CONSILIA* IN THE *CURSUS HONORUM*  
OF YOUNG SENATORS (2<sup>nd</sup>-1<sup>st</sup> CENTURIES BCE)

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Studies on the *cursus honorum* have focused mainly on magistracies, considering only tangentially other procedures and occasions that allowed a young senator to gain prestige and make a name for himself within the senatorial group. Among these, there were the commissions for drafting *senatus consulta* and the *consilia* of the magistrates (especially the consuls) in Rome, which have been studied previously but without being related to each other or considered part of the senatorial career.<sup>1</sup>

In these pages I propose the following hypothesis: participation in the magistrates' councils in Rome and in the senatorial drafting commissions constituted an important stage in the political career of a young senator, since his appointment to them represented an indicator of his political weight, allowed him to collaborate and weave links with other senators, and also provided him with important visibility in the period between one magistracy and the next office. Thus, I will first study the composition of the *consilia* and the drafting commissions, with the aim of estimating the number of *aedilicii*, *tribunicii* and *quaestorii* who participated in them. I will analyse next the appointment procedure and the dynamics of these councils and commissions, which will allow to assess the extent to which they were important in the political life of a young senator.

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1 All date are BCE, unless otherwise stated. This research has been funded by the research project, “El censo romano en época monárquica y republicana” (PID2019-103973GB-I00, Agencia Estatal de Investigación, Ministerio de Ciencia e Innovación).

## Drafting commissions and *consilia*

The procedure for the approval of a *senatus consultum* involved a vote on a *relatio* or proposal after the senators had expressed their opinions on it; if the vote was affirmative, this proposal was transformed into a decree of the Senate. The procedure did not end at this point, since a senatorial commission was responsible for drafting the text of the *senatus consultum*. The *relator* then deposited it in the *aerarium Saturni* and a scribe of the urban quaestors copied it into the registers (*tabulas publicas referre*). The consuls also kept a record of the *senatus consulta* passed during their term of office; there was also a third copy, deposited in the temple of Ceres (at least until the year 11).<sup>2</sup>

The drafting commission is described in the *senatus consulta* as *qui scribundo/ scribendo adfuerunt* (γραφομένοι παρήσαν in the *senatus consulta* translated into Greek). Some historians have defined the members of this commission as witnesses, but in fact their role went beyond that: they should also be considered as those responsible for drafting the final text, which was based on the proposal that had been submitted together with any additional provisions suggested during the debate.<sup>3</sup> For this reason, the term “drafting committee” is more accurate in defining its nature. In the 2<sup>nd</sup> century BCE these commissions were generally composed of two or three members; their number increased exponentially in the second half of the 1<sup>st</sup> century BCE, reaching eight members in the *SC de provinciis consularibus* in 51 and even 27 members of the drafting commission of the *SC de Plasarensibus et Aphrodisiensibus* in 39.

The present study focuses on the *consilia* of the magistrates in Rome; however, it should be kept in mind that many of these young senators would have been part of military *consilia* during their time in the army, as *legati* or other kind of young officers.<sup>4</sup> The *consilium* of the magistrates in Rome was an institution whose purpose was to advise the magistrate and help him to make a decision. Although the procedures were very similar, *consilia* may be divided into two types: firstly, those convened by the consuls, once the Senate delegated in them a particular decision; secondly, the councils convened by

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2 See O'Brien Moore 1935; Sherk 1969: 4-13; Coudry 1989: 554-573; 1994; Buongiorno 2016; Verrico 2017; Baudry 2017.

3 E.g. Baudry 2017 as witnesses. Responsible for the final text: Coudry 1994: 72; Pina Polo 2022.

4 Johnston 2008 on the military *consilia*.

the magistrates on their own initiative.<sup>5</sup> In both cases, it was the magistrates who decided on the composition of the councils, which was probably *ad hoc*, for each issue.<sup>6</sup> One of the unwritten rules of Roman politics implied that, at the moment of making a decision, a magistrate had to convene a *consilium* to hear its opinion. This does not mean that the council had a decision-making power or that the magistrate was obliged to follow the opinion of the majority; the expression *consilii sententia* suggests that this could be the case, but legally the role of the council was purely consultative, since the final decision rested solely and exclusively with the magistrate. The presence of the *consilium* was not superfluous: it indicated that the magistrates had followed the usual procedures, that the matter had been debated in public and that the opinions of those present had been heard, whose identities were also public, since the names of the members of the *consilium* were recorded in the *senatus consulta*. In the Roman political imagination, tyrants and despots ruled without *consilia*; the council, on the other hand, guaranteed the *conspectus populi*.

## Composition

It is significant that the literary sources mostly name *consulares* as members of the *consilia*. For example, Cicero mentioned Laelius and Scipio Aemilianus in the *consilium* that advised the commission that judged the followers of Tiberius Gracchus in 132.<sup>7</sup> This composition does not accurately reflect reality, since epigraphic sources present us with another picture: for instance, we do know for certain that there was no senator with that status

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5 Rosillo-López 2021 on the *consilia* of the magistrates and Rosillo-López 2023 on delegation of decisions on the consuls. There is few information available on the composition of the *consilia* of magistrates other than the consuls, although the sources mention *consilia* of censors, triumvirs, aediles and probably also of *decemviri agris dandis adsignandis*. Censors: Varro, *Ling.* 6.87. Triumvirs: *Lex Fonteia* (Crawford 1996: no. 36), ll. 9-10 (Cos fragments 1 and b): ἀπό συμβουλίου γνώ[μης —]v. Aediles (even though the reference belongs to Imperial times): Juv. *Sat.* 3.161: *quando in consilio est aedilibus*. *Decemviri agris dandis adsignandis*: Cic. *Leg. agr.* 2.5, 32-35 and 57, especially 2.33. The *consilium* of the praetors was linked to the tribunals and, therefore, its composition and dynamics differed from the aforementioned councils.

6 See below.

7 Plut. *Ti. Gracch.* 20.3; Cic. *Amic.* 37; Val. Max. 4.7.1. Among the followers on trial was the philosopher Blossius of Cumae, a friend of Tiberius Gracchus, whose conversation with Laelius in the context of this *consilium* was transmitted by later sources as an *exemplum* on the limits of friendship.

in the *consilium* of the SC on Oropos.<sup>8</sup> In the case of the senatorial commissions, consulars were present, but they constituted a minority within the commission.<sup>9</sup>

How many young senators were members of the commissions and *consilia*, and which percentage did they represent? With regard to senatorial commissions, the first difficulty lies in the impossibility of identifying many of the senators mentioned in them; in fact, of the 22 commissions attested for the Republican period up to 39 BCE, the composition of 11 of them is completely unknown to us.<sup>10</sup> Senators were listed in the drafting commissions according to their rank but, within that rank, as Pina Polo has recently proposed, the order of seniority was not respected.<sup>11</sup> This hypothesis regarding the absence of seniority compels us to revise the assumptions that have allowed to identify the year in which some senators were magistrates.

For the present study, I have chosen to analyse only those in which we can identify young senators with relative certainty, in order to assess their presence in these commissions. In those where at least the category of some of their members can be identified, young senators are omnipresent, even when the number of the members of the commission is reduced, as was the case in the 2<sup>nd</sup> century BCE. Thus, the commission that drafted the *SC de Tiburtibus* in 159 was composed of a consular, a *praetorius* and an *aedilicius*, i.e. the juniors represented a third of it.<sup>12</sup> The commission of the second *SC de Thisbensibus* in 170 was composed of three members: the first could be a consular (Publius Mucius Scaevola, cos. 175) and the second could be a *tribunicus* (Marcus Claudius, RE 225, trib. pleb. 171, praet. 169); the rank of the third (Manius Sergius) is unknown. In this case, young senators would represent about two thirds of the commission, although we should be cautious because the identifications have a margin of uncertainty.<sup>13</sup> In 73, the

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8 The text mentions the first senator as Q. Caecilius Q.f. If we accept the date of 129 for the SC, it could be identified with Metellus Macedonicus (cos. 143; see Taylor 1960; 198); if the date was 101, he would be the praetor of that year, Metellus Nepos, or Metellus Balearicus (cos. 123, although it is uncertain whether he was alive in 101; see Mattingly 1972: 423).

9 Pina Polo 2022 on the presence of *consulares* in the drafting committees of SCs.

10 Baudry 2017 has compiled a list of the composition of the drafting commissions of *senatorial consuls*, both in the Republican and Imperial periods.

11 Pina Polo 2022.

12 *CIL* 14.3584.

13 Sherk, *RDGE* 2, ll. 14-60. Manius Sergius could be the legate who, according to Polybius (31.9), was sent to Achaea and Asia in 164 (Foucart 1906: 319; Broughton 1950:

commission that drafted the SC on Oropos was composed of three senators, supposedly unknown. However, the first on the list (T. Menius) appears again in the *senatus consultum* in the fourteenth place of the *consilium*, which makes him most certainly a *quaestorius*; this would make the other two members of the commission mentioned below him, Q. Rancius, Q.f. Claudia and C. Visellius Varro, C.f. Quirina, would also be *quaestorii*.<sup>14</sup> In this case the commission would be composed exclusively of senators at the beginning of their careers. This was not unusual; the commission that drafted the first SC *de Thisbensibus* in 170 was composed exclusively of two *quaestorii*, Manius Acilius Glabrio and Titus Numisius Tarquiniensis.<sup>15</sup>

From the 1<sup>st</sup> century BCE onwards, the number of senators on these commissions increased enormously, and the high number of young senators remained a constant. The commission that drafted the SC *de provinciis consularibus* of 51, transmitted by Caelius in a letter, was composed of 8 persons, including a *tribunicus* and three *quaestorii*, i.e. half of the commission.<sup>16</sup> Two epigraphic *senatus consulta* have been preserved for the year 39. The SC *de Panamara* records a drafting commission of ten people: they could be a consular, two *praetorii*, a possible *aedilicius* and six unknown senators after him, who would then be *aedilicii* or *quaestorii*, i.e. the young senators would represent two thirds of the commission.<sup>17</sup> The SC *de Plasarensibus et Aphrodisiensibus* mentions a commission of 27 members, of whom the last *praetorius* identified with certainty is listed in tenth place: Publius Sestius, Cicero’s friend, who was probably praetor in 54 or in the

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439-440). The commissions that drafted two other *senatus consulta*, the SC *de Priensium et Samiorum litibus* in 135 and the SC *de Thasiis* in 80, were composed of a *praetorius* and two unknown senators in the first case, and a *praetorius* and an unknown senator in the second. These unknowns could be *praetorii* or senators of lower rank; I have chosen not to take these commissions into account for this analysis as the identifications are very uncertain.

14 See below on the members of this *consilium*. We know the rank of Menius because he is preceded by the *quaestorius* M. Tullius Cicero, in the eighth place.

15 Sherk, *RDGE* 2, ll. 4-5; Foucart 1906: 318 on their identity. In this case, it was a preliminary decision of the Senate appointing a commission of five senators to investigate the petitions of the citizens of Thisbe. Baudry 2017: 330 considers them of unknown rank.

16 Cic. *Fam.* 8.5-6. The other two members were two *consulares* and two *praetorii*.

17 Sherk, *RDGE* 27. The possible *aedilicius* would be P. Attius (RE 6), in the fourth place (Broughton 1951: 466, even though he did not provide arguments for such identification); his presence in this SC is the only known reference to that senator.

following years.<sup>18</sup> The senator mentioned in twelfth place, C. Hedijs Thorus, also appears in the commission of the *SC de Panamara* in seventh place, so he could be considered an *aedilicius* or a *quaestorius*, especially as he appears at the bottom of the list.<sup>19</sup> If we accept this assumption, this would mean that junior senators were at least those between the twelfth and twenty-seventh places on the *SC de Aphrodisiensibus*, that is, almost 60% of the commission. This figure is in line with previous drafting committees, where juniors accounted for between half and two thirds of the commissions.

In the case of the *consilia*, we have two complete lists: the *consilium* cited in the *SC de agro Pergameno*, composed of 55 members, and the 15 members of the council of the SC on Oropos in 73. The identification of junior senators among the 55 members of the *consilium* of the *SC de agro Pergameno* is particularly difficult, since the date of the text is debated (129 or 101?), so the identities of the members of the council depend on the chosen date. The current *communis opinio* considers the date of 101 to be more plausible, the hypothesis on which I base my analysis.<sup>20</sup> Furthermore, Badian wisely warned that the identification of the persons who appear in the *SC de agro Pergameno* is in any case very uncertain and full of speculations with little or no basis, since many of them do not appear in other sources.<sup>21</sup>

Taking into account the date of 101, the first junior senator who could be identified with some certainty appears in tenth place: C. Coelius C.f. Aemilia. Badian convincingly argued for his identification with C. Coelius Caldus (tr. pl. 107, cos. 94), who was a *homo novus*, that is, he had no

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18 Raggi – Buongiorno 2020: 100 add three more senators to the list of Reynolds 1982. On Sestius, see Raggi - Buongiorno 2020: 96; Badian 1984: 106. Many names are incomplete due to the fragmentary state of the inscription.

19 Broughton 1960: 100; Badian 1984: 102.

20 See Sherk 1969: 69-71 (more details in Taylor 1960) on the identity of the senators if dated in 129. If we consider correct the date of 101, see the complete list of members in Mattingly 1972: 419-423; Di Stefano 1998: 741-748. Brennan 2000: 671-673 has attempted to identify the *praetorii* taking into account the date of 101.

21 Badian 1986: 16 on the *senatus consultum de agro Pergameno*: “Since most of the senators on the *consilium* are in fact unidentifiable – a useful warning against facile prosopography, in an age when we demonstrably have very little information – we cannot be sure where each grade begins. [...] And in the whole of the rest of the list not one person is securely identifiable: it becomes a catalogue of names attesting to the unsuspected complexity of families that we sometimes think we know well, to the survival of families that would otherwise be regarded as long extinct, and to the relative prominence of families unknown to us (at least in the second century and sometimes altogether).”



ancestors who had been senators, allowing thus to rule out homonymous relatives.<sup>22</sup> Following this assumption, Badian suggested that he would have been praetor in 100 or 99, what made him consider him a *tribunicus* in the list of the *consilium*.<sup>23</sup> This category of *tribunicus* is somewhat confirmed by the *cursus honorum* of the two senators listed below, although the data are admittedly scanty. The senator in eleventh position, P. Albius P.f. Quirina was probably a *praetorius* in 91, but the sources do not allow to identify with certainty the year of his magistracy. No. 12, M. Cosconius M.f. Teretina may have been praetor ca. 135; Mattingly assumed that he already held the rank of *praetorius*, but Badian considered that, taking into account the possible age of his father, he must have been born in 140, so he would have been too young for that office.<sup>24</sup> In any case, neither of them seems to be a *praetorius*, so the tenth place in the *consilium* list could be the starting point of the young senators.<sup>25</sup>

Brennan has proposed that the seventh senator on the list, L. Julius Sex. f. Falerna, identified as the son of Sex. Julius Caesar (cos. 157) and the father of the consul of the year 90, was an *aedilicius*, what would also entail the inclusion in this category of the senators in the eighth and ninth places (C. Annius C.f. and C. Sempronius C.f.), before reaching the aforementioned tenth senator and *tribunicus*, C. Coelius. Brennan builds on the hypothesis of Mattingly and Badian, who suggested that L. Julius was a senior *praetorius* in 101, although both were puzzled by his lower position in the list within the *praetorius* group; to solve this problem, Brennan has proposed to consider him an *aedilicius*.<sup>26</sup> However, as already noted, in many drafting commissions and *consilia* the order of seniority within each category was not respected, so nothing would prevent L. Julius from being considered a *praetorius*, since the year of his magistracy would then be irrelevant in this respect.<sup>27</sup>

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22 Badian 1986.

23 Brennan 2000: 673 ponders the possibility that he may have been praetor, for instance, in 103, and was thus a *praetorius* in 101. But, in that case, he would have been *monetalis* in 104 (*RRC* I 324, n° 318), what would imply an improbable and forced *cursus honorum*.

24 Mattingly 1985: 119; Badian 1986: 16.

25 The first one to have been identified, totally hypothetically, with a *quaestorius* is number 25, Cn. Octavius L. f. Aemilia. Badian 1990: 406 suggested he may have been Cn. Octavius Ruso, quaest. 105. See Pina Polo – Díaz Fernández 2019: 291 on him.

26 Mattingly 1985: 119; Badian 1986: 16; Brennan 2000: 672.

27 Pina Polo 2022.

Therefore, sticking exclusively to the most plausible and probable identifications, I will consider in the case of the *SC de agro Pergameno* only those listed from the tenth place (C. Coelius) onwards to be of lower rank than *praetorius*. Probably not all 55 members of the list were senators, since it is likely that a certain number (probably not very numerous) of those listed at the end were *equites*.<sup>28</sup> In any case, taking into account the most conservative identifications, the *consilium* of the *SC de agro Pergameno* would be composed of a maximum of 45 senators below the rank of *praetorius* (or an unknown number, accompanied by a smaller number of *equites*), that is, they would represent between 75-80% of the members of the *consilium*. The presence of young senators is overwhelming.

Although the identifications of senators mentioned in epigraphic *senatus consulta* always have a point of uncertainty, in the SC on Oropos in 73 we have an unquestionable point of reference: the presence of the *quaestorius* Marcus Tullius Cicero in the eighth place on the list. Thus, the senators who appear after him are certainly *quaestorii*.<sup>29</sup> However, the possibility that other senators appointed before Cicero were also *quaestorii* should not be ruled out. If we take into account Pina Polo's convincing proposal on the non-observance of an order of seniority within the offices, the identifications of the members of the *consilium* of the SC on Oropos would have to be revised. Taylor suggested that the fifth senator, L. Voluscius L.f. Arn. could be an *aedilicius*, but without providing arguments.<sup>30</sup> Broughton considered *aedilicii* the fifth, sixth (L. Lartius L. f. Pap.) and seventh (C. Annaeus C. f. Clu.) senators, but again without arguing his hypothesis.<sup>31</sup> The second and fourth senators, C. Claudius Glaber and C. Licinius Sacerdos, have been identified with certainty as praetors.<sup>32</sup> Therefore, the senators listed fifth, sixth and seventh

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28 Rosillo-López 2021: 418-421 on the presence of *equites* in the *consilia*.

29 The exception would be the last person on the list, L. Claudius L. f. Lem. in fifteenth place; we know that the person named in fourteenth place, T. Menius T.f. Lem. was a senator, since he appears as a member of the drafting committee of the *senatus consultum*, so L. Claudius could have been a senator or an *eques*; as already mentioned, the presence of *equites* in the *consilia* was not unusual. Linderski in Taylor 2013: 384 speculates on the possibility that he may be an *eques* although, without providing any explanation, he considers this option unlikely.

30 Taylor 1960: 267.

31 Broughton 1951: 114-115.

32 Taylor 1960: 204 suggested that the second one, C. Claudius Glaber, would not be the praetor of 73, but an earlier praetor, since, C. Licinius Sacerdos, praetor in 75, appeared in the fourth place. This hypothesis is based on the supposed order of seniority within each

(i.e. immediately before Cicero) could be *praetorii*, *aedilicii* or *quaestorii*. In short, if we consider again the most conservative option, seven out of 15 members were certainly *quaestorii*, so that the presence of young senators represents almost half of the members of the *consilium*.

The revision of certain identifications in the light of the hypothesis that rejects the existence of an order of seniority within each category allows us to qualify previous assertions that the *praetorii* constituted the majority of the members of the *consilia* and of the drafting commissions. For example, Taylor extrapolated the numbers of *praetorii* in the Senate to conclude that they constituted one third of the senators cited in the *SC de agro Pergameno*; however, in reality the number of *quaestorii* entering the Senate each year was, especially for the first century BCE, greater than the number of *praetorii*.<sup>33</sup> If we stick to the identifications that seem most reliable and best documented, in reality between half and three quarters of the members of these *consilia* and of the senatorial drafting commissions were *aedilicii*, *tribunicii* and *quaestorii* (see table in appendix).

This large number of young senators has somewhat puzzled some historians and has even led to identifications that may be called into question. For example, the *SC de Priensium et Samiorum litibus* of 135 was drafted by a commission composed of three members, of whom the last two (C. Annius and L. Annius) cannot be precisely identified.<sup>34</sup> The first senator on the list is L. Tremellius C.f. (RE 6), identified with the quaestor of 143 or 142; he was a praetor at some point because a descendant of his, who participates in Varro's *Res rusticae*, is proud of his ancestor and of the seven generations of praetors in his family.<sup>35</sup> The *communis opinio* has opted to establish his praetorship before 135 in order to consider him *praetorius* at the time of the writing of the *senatus consultum*; however, this hypothesis is not based on any kind of evidence, only on the assumptions that there should be a *praetorius* in

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rank; if we dispense with this assumption (as proposed by Pina Polo 2022), it is most logical to suppose that Claudius Glaber was the praetor of 73. It is noteworthy that Taylor was dissatisfied with her own hypothesis, since at one point in the same work (Taylor 1960: 176, n. 22) she considered the contrary solution: that the second senator in the list could be the praetor of 73 and thus Licinius Sacerdos the praetor of 75.

<sup>33</sup> Taylor 1960: 176.

<sup>34</sup> Sher, *RDGE* 10.

<sup>35</sup> Varro, *Rust.* 2.4.2. Pina Polo – Díaz Fernández 2019: 327 consider that there is insufficient evidence to determine whether he should be considered quaestor in Macedonia in 143 and pro-quaestor in 142, or quaestor in both years.

the commission.<sup>36</sup> As we have seen, there were drafting commissions composed only of young senators, so the presence one of them in the first place would not be an exceptional occurrence. This is not an isolated case; in his prosopographical appendix, Brennan assumes on several occasions that the presence of a senator at the head of a senatorial drafting committee could imply that he was a *praetorius*. For example, he considers that C. Fannius C.f. (RE 8) was praetor before 81 simply because he appears first in the drafting commission of the *SC de Stratonicensibus* in 81.<sup>37</sup> Similarly, in his opinion, L. Faberius L.f. could have been *praetorius* before 78 only because he appears first in the drafting commission of the *SC de Asclepiade*.<sup>38</sup> In these last two cases (though not in that of Tremellius), Broughton was more cautious and considered them simply senators, which is consistent with the existence of commissions composed exclusively of young senators.<sup>39</sup>

## Appointments and dynamics

Sources are not explicit about the identity of the person, persons or institution who/that appointed the members of the senatorial drafting commissions. Willems suggested that it was the president of the Senate session, i.e. the consul or praetor in charge of it, basing this hypothesis on the fact that nowhere is it mentioned that the members were appointed by lot by the Senate.<sup>40</sup> However, as Baudry rightly points out, no ancient source confirms (or disproves) Willems' hypothesis.<sup>41</sup> Baudry has emphasized that political and personal factors played an important role in the appointment of the members of these commissions. Verrico points to the desire to claim a certain political position as a reason for being on a commission. Other factors, such as legal knowledge or knowledge of the subject matter of the decree, should not be ruled out.<sup>42</sup> On several occasions the sources mention that the author of the *sententia* was a member of the drafting commission, which was

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36 Broughton 1951: 487.

37 Sherk, *RDGE* 18, ll. 20-21. Brennan 2000: 744, n. 207. In this same commission, C. Fundanius C.f. appears in third place; he was urban quaestor in 101 (Pina Polo – Díaz Fernández 2019: 259), although there are no sources on his later *cursus honorum*.

38 Sherk, *RDGE* 22, ll. 4-5; Raggi 2001.

39 Broughton, 1951: 491 (Fannius); 490 (Faberius).

40 Willems 1885: 2.207-208, n. 1.

41 Baudry 2017: 322.

42 Baudry 2017: 322-329; Verrico 2017: 38-40; Pina Polo 2022.

logical, bearing in mind that in many cases the proposals were already drafted and taken to the Senate.<sup>43</sup>

The decision on the composition of the *consilia* depended on the magistrate or magistrates who convened them; this was true both in the case of *consilia* linked to a suggestion by the Senate and those of a more private nature, convened on the magistrate’s initiative. In this respect, the sources are clear. With regard to the first case, two *senatus consulta* (*SC de agro Pergameno*, 129 or 101, and *SC de Itanorum et Hierapytniorum litibus*, 112) have preserved the section in which the Senate delegates a decision to the consuls; in it, there is no mention of any kind of *consilium*, but it is simply suggested that they reach a decision “in accordance with the best interests of the *res publica* and in accordance with their own *fides*”.<sup>44</sup> These same documents mention that the consuls came to a decision aided and abetted by a *consilium*, which indicates that its convocation was part of the usual procedure and that it was convened by the consuls, not by the Senate.<sup>45</sup> A comment by Cicero reinforces this hypothesis: although after Caesar’s assassination the Senate ratified all the laws and appointments he had made, the consul Antony claimed months later the validity of the legislative measures drafted in Caesar’s papers, which had been given to him by his widow Calpurnia.<sup>46</sup> In October 44 the Senate decided that the consuls should review these acts and proceed to judge the validity of these measures.<sup>47</sup> There are two extant versions of this affair by

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43 Coudry 1994: 73. E.g. Crassus (Cic. *De or.* 3.5) was the author of a *sententia* and a member of the commission that drafted the resulting SC.

44 For instance, in the *senatus consultum de Itanorum et Hierapytniorum litibus* (Sherk, *RDGE*), ll. 73-74. *Senatus consultum de agro Pergameno* (Sherk, *RDGE*) ll. 19-20 (the formulation is fragmentary). The Greek text is a translation of the Latin sentence *ita ut ei e re publica fideque sua videbitur esse* (abbreviated as R P F S V E). This formula is customary in *senatus consulta* (e.g. in the *senatus consultum de Thisbensibus*, ll. 39-40 and 44-45) and in law-making (*lex agraria*, l. 34 and ll. 77-78; *lex de provinciis praetoriis*, Delphi copy block B, l. 15, both edited in Crawford 1996). On *fides*, see Hellegouarc’h 1972: 23-28, 275-276. Cicero asserted that the *res publica* was entrusted to the *fides* of the magistrates (Cic. *Off.* 1.124); see Moatti 2018: 56 and Rosillo-López 2023.

45 Sherk, *RDGE*, *Senatus consultum de Itanorum et Hierapytniorum litibus*, ll. 78 y 97.

46 Calpurnia had handed her husband’s papers over to him; Antony’s enemies claimed that he had tampered with them (Plut. *Ant.* 15; App. *B Civ.* 2.125).

47 Cic. *Phil.* 2.100; 4.14. See Matijević 2006. Cristofoli 2019 has clarified the issue’s complicated chronology. There were three *senatus consulta* regarding the *acta* and the *chirographa Caesaris*. The first one, dated 17 March 44, confirmed the *acta* (Cic. *Att.* 15.4.3). A second one, between the end of March and the beginning of April, forbade the publication of the *chirographa* and ordered them to be submitted to the Senate (Cic. *Phil.* 2.91). The

Cicero; one of them is found in the Second Philippic, and is a furious attack on Antony, accusing him of not having convened a *consilium* and of having decided in a quasi-*consilium* manner that the measures were valid:

“But the resolution was in these terms, that after the Kalends of June you should enquire into Caesar’s dispositions with a commission. What commission was there? Have you ever summoned anyone?”<sup>48</sup>

The fact that Cicero complains that he did not convene a *consilium* (*quem umquam convocasti?*) indicates that it was the consuls who said whether or not to convene a *consilium* and decided on its members.

Previous studies on the composition of the *consilia*, especially those of the *SC de agro Pergameno* and the one on Oropos, have focused essentially on trying to identify each of the members and on dating the inscription. Studies of the senatorial commissions, on the other hand, have concentrated mainly on the drafting procedure and its dynamics. Beyond individual identifications, the present study aims to analyse the performative dimensions of the *consilium* and the senatorial commissions: to what extent did they enable the visibility of young senators, and were they important milestones in their political careers?

The presence in the drafting commissions and *consilia* was an important part of a senator’s political career, especially in the first steps of the *cursus honorum*. Drafting committees and *consilia* provided visibility and presence within the Senate as an institution and with the senators as individuals. In addition, the *consilia* provided public visibility, understood as presence in front of the citizens, which was of vital importance among magistracies, and even more so for young senators who still had to make a name for themselves.

Where did the members of the commission for the drafting of the *senatus consultum* meet? Was it at the place of the Senate session or at the house of the magistrate who convened the session? The sources are not talkative regarding this question. There is a little more information on the *consilia* linked to a

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third one, in the middle of April, tasked the consuls with verifying the *chirographa*. Pace Ramsey 1994, who merges the second and third *senatus consulta* into one. Cristofoli 2019: 178 explains that Cicero alternatively employed the terms *commentarii*, *chirographa*, *libelli* or even *cogitata* to describe them.

<sup>48</sup> Cic. *Phil.* 2.100: *at sic placuerat ut ex Kalendis Iuniis de Caesaris actis cum consilio cognosceretis. quod fuit consilium, quem umquam convocasti ...?*

delegation of decision by the Senate: the *senatus consulta* on Pergamum, Itanus and Oropos specify that the *consilium* met in the Comitium, in the first case, and in the basilica Porcia in the following two matters.<sup>49</sup> The latter was commissioned by Cato in 184 and probably replaced the atrium Regium, the first Roman basilica, as a place for receiving ambassadors; it makes sense, therefore, that the *consilia* concerned with embassy claims met there.<sup>50</sup> In all likelihood, the *consilium* would convene there to discuss the matter alone and then make a public appearance with the consul (or consuls) when the latter announced his decision.<sup>51</sup> The performative dimensions of this moment were relevant; the consul would be flanked by the members of the *consilium*, all together representing the majesty and power of Rome.

There are no surviving contemporary testimonies about the deliberations of these *consilia* in order to judge about the internal dynamics of the conversations. In any case, members of the *consilium* were aware that their opinion was only an advice and that the final decision was in the hands of the magistrate or magistrates who had summoned them, so this certainly mediated their arguments. The *Rhetorica ad Herennium* and Cicero’s *De inventione* agree that the *deprecatio*, a figure of speech by which a person was asked to be pardoned, could not be used in court, but could be used in the Senate or in a *consilium*; if a person had decision-making power, he had no reason to plead.<sup>52</sup>

On the other hand, *consilia* convened by magistrates on their own initiative usually met at home, which provided a different kind of visibility.<sup>53</sup>

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49 *Senatus consultum de agro Pergameno* l. 21; *Senatus consultum de Itanorum...*, l. 76-77; *senatus consultum de Oropiorum...*, l. 6.

50 Welch 2003; Pina Polo 2011: 75-76.

51 This procedure is analogous to that of the *consilia* of provincial governors, in which a private meeting in the *praetorium* was held first, followed by a public announcement of the verdict (Johnston 2008: 31-49).

52 *Rhet. Her.* 1.24; *Cic. Inv. rhet.* 2.105. By contrast, comparatively speaking, there are sources on the deliberations of royal councils in the Persian Empire and in the Han China, which allow us to analyse the dynamics of conversations in those cases, even though the asymmetrical power relationship between the king and his councilors is obviously much greater than that between a consul and senators. Persia: Landauer 2019, who offers a new perspective; also Strootman 2014. China: Giele 2006. Brennan 2015 and Pina Polo 2021 have compared Chinese and Roman *consilia*.

53 In the case of the *consilium* convened by Cicero in 63, it took place in the house of a friend since the rites of the Bona Dea were being celebrated in his own house (Plut. *Cic.* 19-20.). Vitruvius *De arch.* 6.5.2 mentions the architectural necessity of basilica-like rooms for the celebration of *consilia publica* and *privata iudicia arbitriaque*.



Nicolaus of Damascus offered in his *Vita Caesaris* a reconstruction of the *consilium* convened by the consul Antony in 44 to discuss Octavian's alleged attempts to assassinate him.<sup>54</sup> Antony set out the issue at hand, followed by a long silence only broken when one of those present advised him that, if there was no further evidence, it would be wise to await events in order to avoid unpleasant consequences.<sup>55</sup> However, a certain degree of uncertainty about the veracity of the situation should be maintained, as it may have been influenced in some way by the dynamics of the councils of Augustan times.

The presence at *consilia* recognised the young senator as someone politically relevant; furthermore, he took part in the deliberations, perhaps even taking the floor and expressing his opinion, and also witnessed the dynamics of power and influence that could develop in a *consilium*. Johnston has spoken of military *consilia* as places of “training” for future senators; in this sense, *consilia* in Rome allowed young Romans entering the *cursus honorum* to carve out a political figure within the senatorial group.<sup>56</sup> In addition, the relationships established during the (perhaps long) hours spent together in a *consilium* might have led to closer relations between senators, facilitating more informal conversations later on.<sup>57</sup> Similarly, the presence in a drafting committee meant training and learning about the legal language in which senatorial decisions were expressed and the sometimes complex formulation of these decisions.

Although the following case involves a *praetorius*, it clearly exemplifies the importance of being chosen to sit on a *consilium* convened by a magistrate on his own initiative. The year 66 proved to be a complex time from an electoral point of view, as the two winning candidates for the consulship, P. Autronius Paetus and P. Cornelius Sulla, were accused of electoral corruption by their rivals and condemned; these accusers, L. Aurelius Cotta and L. Manlius Torquatus, were victorious in a new election. Paetus and Sulla joined Catiline in an alleged “first conspiracy”, the existence of which has been doubted, to assassinate the new consuls. In any case, Cicero, compelled to defend himself from being aware of these circumstances, chose to argue his ignorance on the grounds that he had not been part of Torquatus' *consilium*.

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54 Nic. Dam. *Vit. Caes.* 124-126.

55 Nic. Dam. *Vit. Caes.* 128.

56 Johnston 2008: 19-23.

57 See Rosillo-López 2022 on the importance of conversations for Late Republican politics.



The speaker’s justification, which he addresses to Torquatus’ son, and its tone, are relevant:

“You know that I did not take part in the deliberations of your father, a man of great worth and a most excellent consul; you know that, there was the greatest intimacy between you and me, that I knew nothing of what happened, or of what was said in those times. I imagine (*credo*) because I did not yet move in the intricacies of politics, because I had not yet reached the goal of the high office that I had set myself, and because my ambition and my forensic work kept me away from all those political deliberations.”<sup>58</sup>

It has been debated whether we should consider the verb *credo* ironically. I agree with Berry that Cicero was clearly offended at not being included in the consul’s *consilium*, especially since he had already been a member of the *consilium* of Oropos in 73; we should therefore understand his excuses about how busy he was with his forensic work in an ironic way.<sup>59</sup> It is interesting to highlight that Cicero mentions that he was not called despite his frequent dealings with Torquatus’ son; such familiarity would have implied his presence in the council, and so the speaker was forced to justify his absence. The presence in a *consilium* was not only a way of establishing ties and relationships, but was also a way of openly enunciating close political relationships and friendships: it is no coincidence that his brother Quintus, who was *aedilicius*, and his *amicissimus* Nigidius Figulus (who would become tribune of the plebs in 59) were present in the *consilium* convened by Cicero during his consulship.<sup>60</sup> In any case, and returning to Cicero’s justifications, it is clear that being on a council implied that one was in the “thick of politics” (*penitus in re publica*), a very clear sign about the present and future career prospects of a young senator.

Both in the case of the drafting commissions and in the *consilia* linked to a delegation of the Senate, the names of the participants were engraved on the corresponding *senatus consultum*, which was then displayed in public.

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58 Cic. *Sull.* 11: *Patris tui, fortissimi viri atque optimi consulis, scis me consiliis non interfuisse; scis me, cum mihi summus tecum usus esset, tamen illorum expertem temporum et sermonum fuisse, credo quod nondum penitus in re publica versabar, quod nondum ad propositum mihi finem honoris perveneram, quod me ambitio et forensis labor ab omni illa cogitatione abstraherat.*

59 Berry 1996: 153. *Ibid.*: 154 refers to other interpretations that do not see an ironic tone in Cicero’s words.

60 Plut. *Cic.* 19-20. *Amicissimus*: Cic. *QFr.* 1.2.16

Likewise, the composition of these *consilia* and drafting commissions was also recorded in the decision of the consul or consuls and was also noted in their *commentarii*.<sup>61</sup> In both cases, whether they were exhibited in Rome and/or in the cities that had appealed to the Senate, the name and role of these senators was publicly displayed for all to see. Again, the importance of this fact should be noted: 53 lines of text of the *SC de agro Pergameno* have been preserved, of which twenty full lines are devoted to the names of all the members of the *consilium*.<sup>62</sup> In the *SC de Oropiorum et publicanorum controversiis* the *consilium* was smaller, but still occupied 11 of the 69 lines of text. In the case of *consilia* convened at the initiative of a magistrate, the text of the *Pro Sulla* makes it clear that participation in them was a public event, what agrees with the nature of this institution, i.e. a symbol of transparency in the decision-making process.

Senatorial drafting commissions were always mentioned at the beginning of the *senatus consultum*, a pre-eminent place. Obviously, mentions of the members of these commissions did not occupy much space in the text when they were composed of only two or three senators. However, the increase in the number of members of these commissions during the 1<sup>st</sup> century BCE meant that they came to occupy a significant part of the text: in the *SC de Plasarensibus et Aphrodisiensibus* of 39, the names of the participants in the commission occupy 12 of the 78 lines of the senatorial decision. In short, being part of a *consilium* or drafting commission not only allowed possible to establish connections and confirm that a certain young senator was a political asset to be reckoned with in the future, but also provided important public visibility, which was recorded in the *senatus consulta* deposited in the *aerarium* and engraved on bronze or stone. Some of these texts were also displayed at Rome (*propositio*), usually on the *Capitolium*.<sup>63</sup>

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61 *Senatus consultum de agro Pergameno*, l. 21; *senatus consultum de Itanorum ...*, ll. 80-81; *de Oropiorum ...* l. 31 y l. 59. The composition was also recorded in the case of the *consilia* of the provincial governors: Cic. *2Verr.* 5.52-54. On the *commentarii*, Sherk 1969: 9-10; Raggi – Buongiorno 2020: 124-129.

62 Sherk, *RDGE*, *SC de agro Pergameno*: ll. 1-23: text of the SC and reference to the decision of the consuls; ll. 23-53, members of the *consilium*.

63 The *SC de Asclepiade*, l. 25 mentioned specifically the Capitolium. Suetonius mentioned that, on the fire of the Capitol 69 CE, more than three thousand bronze tablets bunt down, including ... *senatus consulta, plebiscita de societate et foedere ac privilegio cuicumque concessis* (Suet. *Vesp.* 8.5). Raggi - Buongiorno 2020, *SC de Aphrodisiensibus*, l. 92 have reconstructed the name of a temple (missing in the stone) to that of Jupiter Optimus Maximus. On the *propositio* of the SC related to international affairs, see Raggi 2001: 89; Raggi – Buongiorno 2020: 130.

Let us return to the above figures of *aedilicii*, *tribunicii* and *quaestorii* present in *consilia* and drafting commissions; taking into account the total number of senators grouped in these categories, we must emphasise something obvious, namely that it was not possible for everyone to take part in these commissions and councils and that a large group of young senators would never be part of them. Like other aspects of the *cursus honorum*, there is an agonistic component which, in this case, did not depend on the votes of the citizens, but on the decisions (in all likelihood) of the consuls or praetors.<sup>64</sup> The appointment to a *consilium* or a commission constituted a signal and an extra positive judgement on that young senator.

Did the presence of young senators in these commissions have any impact on their political career? It is impossible to isolate this factor from the multitude of variables that made a senator's *cursus honorum* successful (or unsuccessful), or his electoral victories, which depended as much on him as on his rivals. The case of Cicero would be exemplary: present in the *consilium* of the SC of Oropos in 73, he was elected aedile of the plebs in 69, praetor in 66 and consul in 63. Two other junior members of the same *consilium* reached the praetorship: Q. Pompeius Rufus (no. 11 of the SC of Oropos) was praetor and proconsul in Africa 62-59.<sup>65</sup> Q. Minucius Thermus (no. 13 of the SC of Oropos) was tribune of the plebs in 62, praetor before 51 and proconsul of Asia 51-50. If we consider the date 101 for the *SC de agro Pergameno*, the first identified junior senator, C. Coelius Calvus, *homo novus*, also became praetor in 100 or 99. However, these cases mask the reality: if it is already difficult to identify the senators mentioned in these commissions, we are in the dark about the *cursus honorum* of most of them. The four cases mentioned might suggest that presence in these committees would be beneficial, especially when we know of a relatively immediate electoral victory, as would be the case of Coelius Calvus. However, how much did his presence in the *consilium* of Oropos in 73 contribute to Cicero's election as an aedile three years later? More or less than having supplied the city with grain during his quaestorship? More or less than his presence in the tribunals or in the Senate meetings? In this context, I consider Cicero's justifications for his absence from consul Torquatus' *consilium* to be significant: a well-connected young senator *was expected* to be present. In the

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64 It should be recalled that we do not know for sure who decided the composition of the drafting commissions. See above.

65 Cic. *Cael.* 73-74.

context of close election campaigns and contested political careers, every kind of public visibility had to be explored and exploited.

In conclusion, the drafting commissions and the *consilia* of the magistrates in Rome were two occasions where young senators could advance their political careers and improve their visibility, especially in the eyes of their peers.<sup>66</sup> It is noteworthy that a significant part of the members of these commissions and councils, between half and two thirds, were young senators in the first steps of their *cursus honorum*. Bearing in mind that these commissions sometimes included occasional consular members, they could include almost three generations of senators, with a difference of twenty or thirty years between the oldest and the youngest members. We do not know whether these younger senators played an active role in the *consilia* and in the senatorial commissions or whether they merely listened to and endorsed what older senators suggested. Taking into account the dynamics of Senate speech-taking and Ryan's hypothesis of a relatively frequent participation of junior senators in the Senate, we may understand the *consilia* as a place where a more varied and less hierarchical conversation could take place.<sup>67</sup> In any case, the presence of young senators was considered necessary, as they were present in all known *consilia* and in a good part of the drafting commissions. A young senator had an interest in being part of these groups: firstly, being elected was a sign of his relevance or his political ties; secondly, it allowed him to make contacts with other senators, either of the same rank or of higher status; thirdly, this appointment guaranteed him extra visibility, since his name appeared in the engraved *senatus consultum*. All this gave him extra renown, which was likely to be useful in the next election campaign. Being part of a drafting commission or a *consilium* was not an unwanted burden, but a privilege and a benefit, and as such it was recognised by these young senators who wanted to advance their careers; this is what lies, in my opinion, behind the irony with which Cicero explains his absence from Torquatus' *consilium*. To be included in them implied "being in the thick" of the *res publica*.

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66 See Steel in this volume.

67 Ryan 1998.

APPENDIX:  
PERCENTAGE OF JUNIOR SENATORS IN DRAFTING COMMISSIONS  
AND IN CONSILIA

Commission of the <i>SC de Thisbensibus</i> (1), 170 BCE.	100%
Commission of the <i>SC de Thisbensibus</i> (2), 170 BCE	66%
Commission of the <i>SC de Tiburtibus</i> , 159 BCE	33%
<i>Consilium</i> of the <i>SC de agro Pergameno</i> , 129 or 101 BCE	75-80%
Commission of the SC on Oropos, 73 BCE	100%
<i>Consilium</i> of the SC on Oropos, 73 BCE	46-66%
Commission of the <i>SC de provinciis consularibus</i> , 51 BCE	50%
Commission of the <i>SC de Plasarensibus et Aphrodisiensibus</i> , 39 BCE	59%
Commission of the <i>SC de Panamara</i> , 39 BCE	70%

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# LEGATI PRO PRAETORE AND THE RISE OF AN ALTERNATIVE *CURSUS HONORUM*

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In this chapter I argue that, in the early first century BCE, the Romans embraced a new way to run military campaigns: multiple smaller armies operating separately and each commanded by a *legatus*, under the overall direction of an imperator (who might himself also command an army). This campaigning model, and its associated command structure, emerged during the Social War and was common during the ensuing decades. My particular focus during this chapter is on the changing role of the *legatus* within this new command structure. The military reality changed first, but we see flow-on effects in career structure and in the values and rhetoric surrounding military command. *Legatus* was never a magistracy under the Republic, but it was still an official post, and one which affected the career calculations of rising men and so began to worm its way into the *cursus honorum* in practice. Furthermore, it was in these decades that the first steps were taken towards the legateship which was such an important cog in the government of the empire during the Principate. Proud Roman aristocrats learned to obey: this helped make the relative stability of the Principate possible.

This chapter has three sections. In the first, I show that this change in command structures actually happened in historical reality: this is a question of empirical research. In the second, I trace the effects of this change on political careers, using one particular group of *legati* as an example: those who served under Pompeius Magnus in the Mithridatic War in the 60s. And in the third, I explore how different sources treat this change at the level of mentalities: rhetoric, values, and some of the anxieties and disquiet which the

change caused among the Romans. As we shall see, this disquiet centred on the *legatus's* right to glory, and so to engage in the glory-seeking behaviour which had won Rome its empire in the first place.

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The second century, after Livy's narrative breaks off in 167, is well known as an evidentiary black hole. Our only extended narrative source for warfare is Sallust's *Bellum Jugurthinum*; beyond that we have a smattering of inscriptions, biographies, and Appian. All this provides little detailed information about how the Romans conducted wars.<sup>1</sup> But what evidence we do have points to a tendency for Roman armies to stay together under the command of the emperor in his *provincia*, with (at most) temporary detachment of smaller forces. *Legati* exist, but they do an officer's job. For instance, in Sallust's account the Roman army in Numidia largely operates as a unit. At one stage the *legatus* Marius commands the cavalry (*Jug.* 46.7); at the battle at the River Muthul (*Jug.* 49-53) Marius and Rutilius are officers assigned specific tasks with temporary detachments. Only a few years later, Plutarch (*Sull.* 4.1-3) suggests that Sulla operated independently under Marius and Catulus in Gaul. Perhaps, but we cannot press this too far: the source is likely to be Sulla's own memoirs, and Plutarch's wording only requires that this source emphasised Sulla's role.<sup>2</sup>

The epigraphic evidence is more helpful, and does show *legati* in the later second century operating independently. The key example is Cn. Domitius in Asia in the 120s: M'. Aquillius was the emperor who left a detachment of troops with Domitius (who is explicitly designated ἀντιστράτηγος, i.e. *pro praetore*) and then marched away with the greater part of the army into the interior, while Domitius conducted operations locally. Domitius was later succeeded in this role by Q. Caepio, and Caepio is independently attested as *legatus*.<sup>3</sup> This is only a step on the road to first-century practice, however; the implication is that Aquillius is pursuing the main war elsewhere (there is mention of him capturing fortresses with difficulty) while Domitius (and later Caepio) garrison a backwater. Also relevant here are L. Hirrus, commanding

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1 Taylor 2022.

2 See Badian 1970: 8-9 on the possible political and military reality in this campaign.

3 Sherk 1984 no. 43 (= Iasos 612 = Holleaux *REA* 21, 1919, 1-19). Caepio as *legatus* (πρεσβευτο[ῦ] [Ῥωμαίω]ν): *TAM* 5.528.

M. Antonius's fleet around the Isthmus of Corinth *pro praetore* c. 101 (*ILLRP* 342) and the quaestor M. Annius, who successfully took command of Roman troops in Macedonia in 119 following the death of the emperor Sex. Pompeius.<sup>4</sup> Three things stand out about these men: each commands a substantial force, in the absence of the emperor (or at a great distance from him), and they do so for a long period of time.

Starting in 91, the Romans ran the whole Social War in this fashion; the Social War marks a clear break in the way military campaigns were conducted. What we see is the consuls in overall command of a particular theatre, and themselves commanding armies, but also with several *legati* commanding armies separately for extended periods.

In both 90 and 89, fighting was concentrated in three main theatres (from the Roman point of view):

- a northern theatre, based in Picenum and aimed south towards Asculum;
- a central theatre, from Rome itself and directed east against the Marsi and Paeligni; and
- a southern theatre, with fighting in Campania and Samnium.

There were also less important theatres in the far south, with campaigns driving north from Apulia and Lucania. In his preliminary summary of the war (i.e. before he launches into its detailed narrative), Appian tells us that “[t]aking into account the complicated nature of the war, the Romans sent out the best men of the day as legates to assist the consuls”.<sup>5</sup> He then lists ten *legati* active in 90, five for each consul. P. Rutilius Lupus was the consul active in the centre theatre, against the Marsi; under him were Cn. Pompeius Strabo (*cos.* 89), Q. Servilius Caepio, C. Perperna, C. Marius, and (probably M.) Valerius Messalla. The other consul, L. Iulius Caesar, operated in Campania, and under him were P. Cornelius Lentulus, T. Didius (*cos.* 98), P. Licinius Crassus (*cos.* 97), L. Cornelius Sulla (*cos.* 88), and M. Claudius Marcellus.<sup>6</sup>

4 Sherk 1984 no. 48 (= *Syll.*<sup>3</sup> 700).

5 App. *B Civ.* 1.40. In his new Loeb translation, McGing adds “and its many theaters of operation” to the war’s complicated nature, but the Greek only implies complexity: τὸ τε ποικίλον τοῦ πολέμου καὶ πολυμερῆς ἐνθυμούμενοι ὑποστρατήγους τοῖς ὑπᾶτοις συνέπεμψαν τοὺς τότε ἀρίστους. Note also ὑποστρατήγος instead of πρέσβευτής for *legatus*: Magie 1905: 15.

6 Badian 1964: 52-53 argues that Q. Lutatius Catulus (*cos.* 102) was also among L. Caesar’s *legati*; compare Broughton, *MRR* 2.27 and note.

These were indeed the best men around: those whose careers we can trace had at least reached the praetorship, three were triumphators (another two would triumph in the future), while M. Antonius (*cos.* 99) is the only triumphator known to be alive who was not on active service. Many praetors and prorogued praetors also fought independently in 90 and 89 (e.g. L. Porcius Cato in Etruria) but, curiously, not in these major theatres.<sup>7</sup> Appian also says specifically that the country was divided between these *legati* (*B Civ.* 1.40), but we should not regard this as a blanket truth: Appian is prone to misunderstanding things.<sup>8</sup>

To the extent that we can reconstruct the course of the war, many of these *legati* operated independently and commanded substantial forces.<sup>9</sup> First, we examine the events of 90, treating each theatre separately. In the centre, under P. Rutilius, the *legatus* Perperna commanded an army of 10,000 men and was defeated. For this reason, Appian tells us (*B Civ.* 1.41), “the consul Rutilius relieved Perperna of his command and assigned his division (τὸ μέρος) of the army to Gaius Marius.” Soon after, we see Marius operating in close conjunction with the consul at the battle of the Tolenus River, but clearly with his own separate army (that inherited from Perperna). When P. Rutilius died in this battle, Marius was left in de facto command of both armies. Another of the consul’s *legati*, Cn. Pompeius Strabo, led an independent army in Picenum.<sup>10</sup> In the south, the consul L. Caesar directed his main effort toward the relief of Aesernia, and both Sulla and Marcellus seem to have fought as part of his army. Yet Sulla is twice attested commanding independently in this year: in relieving Aesernia (*Oros.* 5.18.16, unless we should also regard this as a self-aggrandising claim from Sulla’s memoirs) and

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7 So Brennan 2000: 374.

8 Compare Brunt 1971: 436-437, who suggests that the magnates sent over the winter to maintain political control in regions where they were influential (*App. B Civ.* 1.38) raised troops when the fighting started and fought in these areas. On this reading, calling such men *legati* merely gave official cover to the reality on the ground and integrated them into the command structure. This suggestion also shows continuity with the picture Armstrong 2016 provides of the traditional social mechanics for raising Roman armies, with allowance for the chaotic situation over the winter of 91/90.

9 See Dart 2014: 125-170 for a detailed military narrative of 90 and 89.

10 Sex. Julius Caesar (*cos.* 91) was also active in Picenum as proconsul, so it is surprising that Pompeius was explicitly Rutilius’s *legatus* rather than Sex. Caesar’s (unless Appian is also wrong about this, or unless Pompeius operated initially under Sex. Caesar and then came under Rutilius’s command after Caesar died). But in any case, Pompeius fought as an independent commander in Picenum; that much is clear.

in his co-operation with Marius (App. *B Civ.* 1.46, in an account studded with detail). Another of L. Caesar's *legati*, P. Crassus, operated in Lucania with his base at Grumentum. As Grumentum lay 150km away from L. Caesar across a large bloc of insurgent territory, this must have been a wholly independent campaign.

The same pattern recurs in 89.<sup>11</sup> The previous year's *legatus* Cn. Pompeius Strabo was now consul. He continued his campaign in the northern theatre towards Asculum, which fell late in the year. The other consul, L. Porcius Cato, fought in the central theatre against the Marsi. He probably commanded the army that had fought under C. Marius, but he died very early in the year near the Fucine Lake. That left a hole: just like in the previous year, no suffect consul was chosen. Two *legati* (whose names are corrupt) continued L. Cato's campaign against the Marsi. Sulla is called Cato's *legatus* (Livy *Per.* 75; Plin. *HN* 3.70, 22.12), but fought a wholly separate campaign in southern Campania; another *legatus* active in this region was T. Didius (who died in June), but the command relationship between Didius and Sulla is unknown. A. Postumius Albinus is also named a *legatus*; he too died at some point during the year, murdered by his own troops whom Sulla then took command of. However, we do not know the imperator to whom Albinus was attached.

What we see in both years is clear: there is an overall commander-in-chief in each theatre, the consul, and he himself commands an army. Yet there are also other independent armies commanded by *legati*, operating separately from the consul but under his overall direction; these *legati* are his subordinates. This is not the same thing as *legati* or other officers commanding detachments at a tactical level: such detachments might be away from the army for only a few days. By contrast, the *legatus*-led armies we see in the Social War operated independently for several months at a time. They were ongoing entities: their commanders needed to maintain military discipline and to interact authoritatively with local civilians – both activities which fell under *imperium* in Roman law. I believe it was the unusual military conditions of the Social War which gave birth to this: fragmented, small-scale and local fighting, without clearly defined enemies, and in battlegrounds which were home to

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11 It is revealing that “successful generals in the field [were] continued in the same region and almost certainly with the same soldiers” (Dart 2014: 150), although conspicuously not C. Marius, who is absent from the fighting in 89. Plutarch records, however, that he retired from fighting during the Social War due to ill-health (*Mar.* 33.3).

both sides. But as interesting a question as that would be to explore, it does not concern us now. I am interested in the fact of the new style of command, which proved its effectiveness in these years.

A great deal of scholarly effort has gone into working out the titles of these commanders. Brennan rightly remarks that “our sources are often unclear as to what individuals served as praetors, prorogued praetors, *privati cum imperio*, or simply *legati* in this conflict.”<sup>12</sup> We can establish some parameters, however. The men in question were certainly not prorogued magistrates. I think it unlikely they were *privati cum imperio* (i.e. men given *imperium* directly by a law of the People): there is no positive evidence for this, none such had been created since the 190s, and the only indirect evidence we have is that the idea was conceivable in 88, when the *lex Sulpicia* gave the *privatus* C. Marius the command against Mithridates. Appian’s narrative tells us little about titles (commanders on both sides are normally called στρατηγός), but the Livian *Periochae* is both explicit and consistent in its terminology of command. The *Periochae* for the Social War (books 73-76) call eight men *legati*; three of these men (Marius, Caepio, and Sulla) appear in the list of ten consular *legati* for 90 discussed above (App. *B Civ.* 1.40), while Appian does not mention the rest. But the *Periochae* also calls Italian commanders either *dux* or *praetor*, while the other Roman commanders are scrupulously consul or praetor or proconsul. This exactness alone provides some confidence, but that confidence is confirmed by comparing the *Periochae* for book 110, which covers the Caesarian civil war. The epitomator there calls seven men *legati*, and all but one of them is known from other sources to have borne that title.<sup>13</sup> We should have faith in the *Periochae* on this question, if no other.

We must deal with a problem before we leave the Social War: the status of Marius and Caepio after the consul’s death in 90. *Periochae* 73 says that “Quintus Caepio, a *legatus* of Rutilus, was surrounded and had succeeded in breaking through the enemy, and for this success his military authority was made equal to that of Gaius Marius” (*Q. Caepio, legatus Rutili, cum obsessus*

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12 Brennan 2000: 374.

13 Six of the seven (with explicit evidence): C. Trebonius (Caes. *B Civ.* 1.36.5), L. Afranius, M. Petreius and M. Varro (Caes. *B Civ.* 1.38.1), C. Antonius (Suet. *Iul.* 36) and C. Curio (on whose confused status, see Cic. *Att.* 10.4.9-10, Offermann 1977 and, explaining the symbolic and constitutional issues, Konrad 2022). The seventh is D. Brutus, not explicitly named as *legatus* in any other source, but clearly equal in authority to Trebonius at Dio Cass. 41.19.3 and Caes. *B Civ.* 1.36.5.

*prosperè in hostes inrupisset, et ob eum successum aequatum ei cum C. Mario esset imperium*). Note first that both men are called *legati* (Marius in the previous sentence). Our first question is why Caepio was promoted at all. Some scholars look at Caepio's greater aggressiveness in command, others to factional politics in Rome.<sup>14</sup> To me this misses the central point, which is that Caepio and Marius were to command independently. The recent historical context matters here. Only fifteen years before, Caepio's own father had been responsible for one of Rome's greatest ever defeats, a defeat the Romans seem to have blamed on divided command – and which therefore resulted in Marius's successive consulships.<sup>15</sup> Arausio was as traumatic a defeat as the Romans ever suffered and it seems unlikely that they would repeat this mistake when so many of the same men were still in the Senate. Rather than an equal command, what the Senate made clear in mid-90 was that the younger Caepio and Marius would command separate armies: that was the point at issue. The narrative bears this out: in the anecdote Appian gives us about Caepio's ambush and death, Marius is nowhere to be seen. It was only after Caepio's death that his soldiers were given to Marius, and the next we hear of them is in the following year. This detail is further (albeit indirect) support for separate commands by *legati*.

On the legalities and titles, the simplest explanation is that both Marius and Caepio had been and remained *legati pro praetore*, rather than supposing that they were appointed as *privati cum imperio* after Rutilius's death, whether by a *lex* or directly by the Senate.<sup>16</sup> First, we know *legati pro praetore* already existed, from the epigraphic record. Second, there are parallel cases of quaestors (that is, officials without independent *imperium*) taking command after the death of their superior and waging aggressive and successful war without any suggestion that the Senate had to change their status.<sup>17</sup> The simplest explanation for Caepio's promotion by the Senate is that, with the consul dead and so unable to give direction to his *legati*, the situation needed to be organised. The

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14 Dart 2014: 138.

15 Granius Licinianus's account (33.6-7 Criniti) blames the defeat at Arausio in 105 on the proconsul Caepio senior not merging his army with that of the consul Mallius, and so causing each army to be defeated in detail. This seems to be behind the special blame attached to Caepio in the broader tradition, e.g. Livy *Per.* 67; Cic. *De Or.* 2.199-201.

16 Contra Brennan 2000: 375.

17 Note the case of M. Annius in Macedonia in 119, already discussed, or C. Cassius in Syria after the disaster of Carrhae. Note also that both these men are formally referred to by their quaestorial title (e.g. Cic. *Fam.* 15.14).



Senate was nearby and able to act.<sup>18</sup> That is, the Senate simply organised who was to command which army and directed that Caepio would operate separately rather than being under Marius's command.<sup>19</sup> This is the simplest and most practical solution, and does not require us to suppose that Marius and Caepio were given full independent *imperium* (that is, were created *privati cum imperio*) by either Senate or People. This explanation also avoids the constitutional enormity of the Senate granting *imperium* by its own authority – even though, a few years later, it would engage in much more ambitious power grabs. Rather, Marius and Caepio (like Sulla and Didius the following year), commanded armies with *imperium* delegated from a dead man.

The unique circumstances of the Social War gave birth to this new command structure. The civil war of 83-82 cemented its usefulness, and I think it is in these years that it became clear to the Romans that this was the best way to run large, complex wars. That is, the new mode of command made possible a new way to fight.

The pattern of subordinate commanders leading independent armies under a central commander-in-chief was renewed in 83 and 82: certainly on the Sullan side, but also on the Marian. However, the legal status of these subordinate commanders was ambiguous, especially on the Sullan side. Given that this was a war of disputed legitimacy and that Sulla himself had been stripped of his *imperium*, it could hardly be otherwise. But this means I pay more attention to the realities of command than to speculating on each commander's title or source of authority.

Sulla landed at Brundisium in spring 83 and for the remainder of that year kept most of his army together, campaigning cautiously. The year 82, by contrast, was marked by widespread campaigning in Italy and Cisalpine Gaul. Sulla himself fought against the consul C. Marius (the younger) in Campania and Latium, shutting him inside Praeneste and fighting the battle of the Colline Gate in November. The situation north of Rome was much more complex: C. Carbo (as consul) commanded the Marian forces, with

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18 This raises another issue, which was why the Senate did not repeat its general approach from the period of Hannibal's invasion, which was to separately assign responsibilities to magistrates and promagistrates each year, reserving the overall direction of the war to itself. That is an interesting question, but beyond my scope.

19 Compare App. *B Civ.* 1.44, which simply says the Senate gave command of Rutilius's army to Marius and Caepio.



help from C. Norbanus (now proconsul), C. Carrinas (whose status is uncertain) and a number of men recorded in the Greek sources only as στρατηγοί.<sup>20</sup> Multiple Sullan commanders faced them: Q. Metellus Pius, Cn. Pompeius Magnus, M. Crassus, M. Varro Lucullus, and P. Servilius Vatia (the future Isauricus). These men are found operating either alone or in various combinations through the year (App. *B Civ.* 1.88-93), which strongly suggests that each man commanded his own army (even though the forces assigned to each might vary). Throughout the civil war, the *Periochae* (books 85-89) is scrupulous in using titles. Marian commanders are variously consul or praetor, while only three of Sulla's men are mentioned by name: L. Philippus is explicitly *legatus*, Pompeius is not given a title before his arrival in Sicily at the end of 82 (at which point he is *in Siciliam cum imperio a senatu missus*), and Q. Ofella is simply "a man of the Sullan faction" (*Sullanaram partium viro*). But when the commanders of both sides are mentioned as a collectivity, they are *duces*; Sulla's commanders are collectively *legati*.

The Sullan war effort was coordinated and commanded by Sulla himself; in Vervae's language, he held the *summum imperium auspiciumque* for the war.<sup>21</sup> For his commanders, their only claim to *imperium* (and thus, their claim to the right to command Roman citizens) was through delegation from him. Metellus Pius was the exception to this – his *imperium* dated from the Social War.<sup>22</sup> Sulla faced both a military and a political problem in this war: militarily, he had to coordinate far-flung campaigns, while he also had to retain political control in a civil war where political decision-making really mattered. Above all, he lacked a Senate which could do both of these things. Yet he had from the Social War a model and precedent of using *legati* as subordinate-yet-separate commanders. This command structure solved both his military and political problems. I think it was this experience of civil war which cemented that command structure in place as *the* way to conduct large and complex wars.

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20 Brennan 2000, 182: 379-381; Vervae 2023: 195-199.

21 Vervae 2014.

22 I leave aside here the status of Pompeius's *imperium*, which has occupied scholarly attention (e.g. Girardet 2001; Koptev 2018). My focus here is on the war in Italy, which I separate from Pompeius's activity in Sicily and Africa and his subsequent triumph. I note only that he was sent to Sicily after Sulla had gained control of Rome, and so of the legal machinery necessary to bestow *imperium* – if he was even interested in doing so. I also pass over Pompeius's status in the *Bellum Lepidanum* of 77, not least because the management of that affair was both political and ad hoc.

What of the Roman wars of the 70s and 60s? Is there any indication of this campaign model in them? Indeed there is, although the evidence is piecemeal – and it is surely no coincidence that the commanders in those wars had mostly fought either for or against Sulla. In the Sertorian War, we find independent armies commanded by Sertorius's quaestor Hirtuleius and Metellus's *legatus* (presumably) Thorius (Plut. *Sert.* 12.3-4). Later, at Valentia, Pompeius defeated Herennius and Perperna, whom Plutarch explicitly calls Sertorius's generals.<sup>23</sup>

We see this command structure used more extensively in the Third Mithridatic War, both by Lucullus and Pompeius. It was required by the huge distances separating Roman armies which were nominally under a single commander, and this was true from the beginning. With M. Cotta mostly shut in Chalcedon, and the main field army roving with Lucullus, our sources mention several commanders operating semi-independently: L. Murena besieging Amisus, L. Triarius at Apamea, Mamercus.<sup>24</sup> C. Salluvius Naso is known only from an inscription (*ILS* 37), which calls him *legatus pro praetore* and mentions his activities in Mysia and Phrygia. By 68, Lucullus was campaigning in Mygdonia while his *legati* Fabius Hadrianus and Triarius fought Mithridates around Comana, some 600km away. After Pompeius took command in 66, he ranged even further afield, of necessity leaving *legati* in charge of quite large operations. For example, L. Afranius campaigned in Armenia and down to Syria, and A. Gabinius even more remotely, at a time when Pompeius was fighting in the Caucasus (Plut. *Pomp.* 34.1; Dio Cass. 37.5.2-5). Somewhat later, when Pompeius was in Armenia, it fell to Q. Metellus Nepos, L. Lollius and M. Scaurus to capture Damascus and campaign in Judea. The scale of Lucullus and Pompeius's operations in Asia was so vast that there was simply no alternative to semi-independent *legati*.

Our final example before Caesar's Gallic war comes from the account in Cassius Dio of C. Pomptinus's little war against the Allobroges in the Rhône valley in 62-61 (37.47-48; the passage below is from 37.47.1 and is a slight modification of the Loeb translation):

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23 Plut. *Pomp.* 18.3: ἄνδρας ἡγεμονικοῦς τῶν πρὸς Σερτώριον καταπεφευγῶτων καὶ στρατηγούντων ἐκείνῳ. See also Konrad 1995: 183, who notes that Hirtuleius held multiple independent commands under Sertorius even though he was not an imperator, and Sall. *Hist.* 2.86.6R, where Herennius is called *dux hostium*.

24 Murena: Plut. *Luc.* 15.1. Triarius: App. *Mith.* 77; Memnon 28. Mamercus (otherwise unknown): Oros. 6.2.16. For Lucullus's campaign as a whole, see Keaveney 1992: 72-128.

“The Allobroges were devastating Gallia Narbonensis, and Gaius Pomptinus, the governor, sent his *legati* against the enemy, while he himself took up his quarters at a convenient spot for keeping watch of what occurred, so that he might be able to give them opportune advice and assistance, as their advantage might from time to time dictate.”

Ἐν μὲν οὖν τῇ πόλει ταῦθ' οὕτως ἐπράχθη, τῶν δὲ Ἀλλοβρίγων τὴν Γαλατίαν τὴν περὶ Νάρβωνα πορθούντων Γάιος Πομπτήνος ὁ ἄρχων αὐτῆς τοὺς μὲν ὑποστρατήγους ἐπὶ τοὺς πολεμίους ἐπεμψεν, αὐτὸς δὲ ἐν ἐπιτηδείῳ ἰδρυθεὶς ἐπετήρει τὰ γιγνόμενα, ὅπως κατὰ καιρὸν πρὸς τὸ ἀεὶ χρήσιμον καὶ γνώμην σφίσι διδόναι καὶ ἐπαμύνειν δύνηται.

As Dio tells the story, one force under Manlius Lentinus ravaged the area around Valentia; another under L. Marius and Ser. Sulpicius Galba (the latter of whom would, as praetor in 54, illegally push through Pomptinus's triumph: Dio Cass. 39.65) ravaged Solo. When these operations had flushed out the main enemy force under Catugnatus, Pomptinus himself assembled the whole army and defeated it (cf. Cic. *Prov. Cons.* 32; Livy *Per.* 103). Pomptinus's campaign shows us that it was not only reasons of scale which led the Romans to fight this way. It was a better way to win wars.

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*Legatus* was not a formal magistracy. But serving as a *legatus* formed part of the career calculations of aspiring Roman politicians, particularly from the sixties on. If we examine Lucullus and Pompeius's *legati* from the Mithridatic war we will see that, in the right circumstances, service as a *legatus* could be an excellent career move.

First, the money: *legati* did very well financially out of the war which ended Mithridates' kingdom. Pliny (*HN* 37.16) gives us the sum of 4,000 talents – one hundred million sesterces – distributed among Pompeius's quaestors and *legati* on his return to Italy. This probably includes those from the pirate war. No figures are given for Lucullus's *legati*, but we may guess based on the figures for his ordinary soldiers, who did comparably well to Pompeius's, especially out of the booty from Tigranocerta. Plutarch gives the figures of 800 drachmas per man from Tigranocerta (*Luc.* 29.3) and 950 drachmas per man at Lucullus's triumph (*Luc.* 37.4), although it is unclear whether this latter sum included the earlier amount or was in addition to it. By comparison, Plutarch tells us that the soldiers in Pompeius's army with the lowest shares still received 1500 drachmas each (*Pomp.* 45.3). Whether or not one accepts Pliny's figure literally, being a *legatus* in a successful war was very lucrative.

Pompeius's *legati* did similarly well in their careers. The numbers are, in fact, stark. We know ten *legati* and two quaestors who served under Pompeius against Mithridates: of these twelve men, five made it to consul and another four reached the praetorship.<sup>25</sup> That is a staggering success rate (especially considering that two of the four praetors were M. Scaurus and M. Plautius Hypsaesus, who were consular candidates when they fell victim to the purge of 52). To put it another way: at least one former Pompeian *legatus* was consul in four out of the five years after Pompeius's return to Italy at the end of 62. These men were not successful only because of their tie to Pompeius, of course (there are patricians and Metelli in that list), but to an extent that does not matter. The point is that service under Pompeius resulted in career advancement.<sup>26</sup> But this was true only of Pompeius's *legati*: of the men who served under Lucullus, Murena alone reached the highest office. And other long-serving (and war-winning) imperators such as Metellus Pius or Varro Lucullus did not successfully promote their *legati*.

A natural consequence of this is that aspiring Roman politicians began to see the legateship as a useful stepping stone on the career ladder. This is not a startling observation: Gruen already noted that "professional military men made reputations as Pompeian officers, and some reached high magisterial posts in Rome as a consequence".<sup>27</sup> But there is a tendency for us to read this as patronage, that the *commendatio* of the Great Man persuaded voters of the merits of his underlings. I think it better to see the legateship as an opportunity for Roman politicians (*not* "professional military men", but members of the political class who sought high office) to display their virtues of command. Cicero's *Pro Murena* shows this, as we will see below. But as long as Roman voters valued military competence (i.e. always), the existence of such opportunities was bound to affect the *cursus honorum* in its meaning of an actual pattern of careers (as Hans Beck argues elsewhere in this volume).

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25 Consuls: M. Piso (*cos.* 61), L. Afranius, Q. Metellus Celer (both *cos.* 60), A. Gabinius (*cos.* 58), Q. Metellus Nepos (*cos.* 57). Praetors: L. Valerius Flaccus (*pr.* 63), M. Scaurus (*pr.* 56), M. Plautius Hypsaesus (*pr.* 55), A. Plautius (*pr.* 51). Both Broughton (*MRR*) and Brennan 2000: 749 tentatively assign a praetorship to L. Lollius, but Brennan's note (p. 914, n. 322) shows this rests on a very shaky foundation. Among Pompeian *legati*, that leaves without a higher magistracy only Manlius Priscus and Servilius, who are otherwise unknown. Finally, C. Antonius Hybrida (*cos.* 63) was possibly also a Pompeian *legatus* in Cappadocia, but this depends upon a doubtful reading of Q. Cic. *Comm. Pet.* 8. Tatum 2018: 196 interprets this as a *legatio libera*.

26 In a smaller way, Pompeius's earlier war in Hispania also had this effect: both L. Afranius and M. Varro reached the praetorship off the back of their service there.

27 Gruen 1995: 64.

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The *legatus's* new role may have been a military reality first, but that military reality was soon debated at the level of aristocratic values. Unelected men were now, in practice, commanding Roman armies in battle. We can trace this as an issue in political debate in three sources: the speech by 'Catulus' against the *lex Gabinia* in Cassius Dio book 36, Cicero's *Pro Murena*, and comments by Caesar scattered across both his surviving works.

The *lex Gabinia* of 67 gave Pompeius command of the war against the pirates everywhere in the Roman world and (most importantly for this chapter) gave him the right to nominate fifteen *legati pro praetore*.<sup>28</sup> Cassius Dio uses the struggle over this law to stage a major debate on the constitutional issues at play. He devotes much more space to it than any other source (36.23-37), including three speeches, the most relevant of which is that of Q. Lutatius Catulus (36.31-36). The speech as we have it is likely Dio's own creation and not a reworking of a real speech by Catulus, although Catulus did speak against the law. The speech also shows a good understanding of late-Republican political issues, even if these are refracted through Dio's own concern with institutional malaise and the growing power of military commanders.<sup>29</sup> We should regard this speech as a good source for late Republican mentalities. Dio's 'Catulus' makes three arguments against the law:

1. It is a bad idea to keep giving commands to the same men for long periods of time: that is what led to the evils of Marius and Sulla.
2. It is a bad idea to create a new office when you (the Roman People) already elect consuls and praetors to do these jobs. We once created the dictatorship to be such a replacement, but we now agree the dictatorship is a bad idea.
3. The war is too great for one man, and so Gabinius has requested that Pompeius have assistants (*legati*). Yet it would be better for these assistants to be chosen by you rather than by Pompeius.

The third argument is what interests us. Unlike the other two, there is no trace of it in Cicero's *Pro lege Manilia*, which some scholars believe was Dio's

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28 See *MRR*. The scholarly literature on this law is vast, but is particularly concerned with the nature of Pompeius's *imperium*.

29 Rodgers 2008; Coudry 2015; 2016; Burden-Strevens 2016; 2018; 2020: 84-89.

starting point.<sup>30</sup> Nor, indeed, does ‘Gabinus’ mention *legati* in the speech which Dio gives him immediately before (36.27-29): his focus is rather on Pompeius himself. But even within the longer speech, it is notable what ‘Catulus’ does *not* argue (at least in that part of the speech which survives; the end is lost). He does not suggest that, if subordinate commanders were elected, they would be more beholden to the People than to Pompeius, even though that seems like an obvious line of attack to us. ‘Catulus’ does not suggest that Pompeius should not be in charge: his proposal would still have a single commander in the war, directing a group of subordinate commanders (which in itself shows how the new command structure was accepted as the only way to run this type of war). Rather, ‘Catulus’ is concerned with the *status* of these subordinate commanders. His argument is the oligarchic one: honour within the ruling class should be shared equally.

‘Catulus’ accepts that the war requires many commanders to prosecute it; that is, he accepts the reality and usefulness of the new campaign model. He notes the proposal in Gabinus’s bill that these men should be *legati* chosen by Pompeius himself, but argues against it. Rather, these men should be (a) chosen by the People and (b) receive “independent authority” (αὐτοτελής ἡγεμονία). By the latter, Dio clearly means *imperium* in the technical sense (cf. 43.44.2). But that does not mean that (as Burden-Strevens claims) ‘Catulus’ thinks Pompeius’s “authority should instead be delegated to a number of commanders”.<sup>31</sup> That would only be true if we refuse to accept that imperators (i.e. men holding full independent *imperium auspiciumque*) could also be subordinates. In fact, the opposite is the case. Independent imperators (with praetorian *imperium*) could perfectly well operate within Pompeius’s *provincia* and under his *summum imperium auspiciumque*; that is, under his overall direction of the war.<sup>32</sup> Close reading of the speech shows exactly where the problem lay. At 36.36.1 ‘Catulus’ asks “Is it not much more just and advantageous that these men destined to serve under him be chosen by you beforehand for this very purpose and receive independent authority from you?”<sup>33</sup> Immediately below at 36.36.3 he contrasts his and Gabinus’s

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30 Burden-Strevens 2020: 85: “I think that there are strong grounds for believing that Dio reconstructed Catulus’ speech on the basis of the testimonia found in [Cicero’s speech].” Cf. Coudry 2015: 52.

31 Burden-Strevens 2020: 44.

32 On the *summum imperium auspiciumque* as a constitutional principle, see Vervaeke 2014.

33 πῶς οὐ πολὺ δικαιότερον καὶ συμφωρότερον (ἐγὼ γὰρ ἂν εἶποιμι) καὶ τί κωλύει τούτους αὐτῶν τούτων ὑπάρξαι ἐκείνῳ μέλλοντας καὶ προχειρισθῆναι ὑφ’ ὑμῶν ἐπ’ αὐτὸ τοῦτο καὶ τὴν ἡγεμονίαν παρ’ ὑμῶν αὐτοτελῆ λαβεῖν.

proposals: “The question remains, then, whether actual commanders or assistants should be sent, whether generals or lieutenants (καὶ στρατηγούς ἢ ὑποστρατήγους), and whether they should be commissioned by the entire populace with full authority, or by the commander alone for his assistance”.<sup>34</sup> It is precisely the status of Pompeius’s subordinate commanders which concerns ‘Catulus’ (or where he thought Gabinus’s proposal was most vulnerable to attack).<sup>35</sup> But ‘Catulus’ does *not* argue for getting rid of Pompeius altogether (at least in this part of the speech): the subordinate commanders would still be subordinate, and Pompeius would still be in charge of the war.

Why does ‘Catulus’ think his suggestion is both more just and more useful? He gives two reasons:

1. Commanders with *imperium* will not be able to blame another for their negligence. They will be forced to take responsibility (see below on this question in Caesar’s writing).
2. The various commanders will compete more keenly for glory, because they themselves will get the credit for any victories, rather than such credit going entirely to Pompeius.

We may or may not agree with the psychological reasoning. But what is clear is triumphal law: had the proposal of ‘Catulus’ been adopted, Pompeius would still have taken ultimate credit for any victories won by his subordinate imperators, but they also would have been eligible for triumphs.<sup>36</sup> In Roman terms, the key concepts are *ductus* (personal leadership, in the sense of physically commanding in a battle) and fighting either *suis auspiciis* or *alieno auspicio* (under one’s own auspices, or under another’s). Subordinate imperators would possess their own auspices but would fight under Pompeius’s (as he would hold the *summum imperium auspiciumque* in the *provincia*). Pompeius would thus have first claim on triumphal honours, even if he was nowhere near the battle for which they were awarded. But, because the subordinate commanders would also hold full independent *imperium auspiciumque*, they could still claim triumphs for any victories

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34 λοιπὴ δὲ δὴ σκέψις ἐστὶ πότερον ποτε ἄρχοντας αὐτοὺς ἢ ὑπάρχοντας, καὶ στρατηγούς ἢ ὑποστρατήγους, καὶ πρὸς τοῦ δήμου παντός ἐπ’ αὐτοκράτορος τινοῦς ἡγεμονίας ἢ πρὸς ἐκείνου μόνου ἐφ’ ὑπηρεσίᾳ αὐτοῦ, πεμφθῆναι δεῖ.

35 As acutely observed by Vervaeke 2014: 216-217.

36 Vervaeke 2014: 78-117; cf. Lundgreen 2014.



won under their personal command, their *ductus*. The operative *exemplum* here is the double triumph of C. Lutatius Catulus and C. Valerius Falto in 241; given the family link, we should not be surprised that the later Catulus (or ‘Catulus’) was sensitive to such matters.<sup>37</sup>

The central issue, then, was what right to credit or glory a subordinate commander had for victories won under his own command. This could be construed narrowly (should he have the right to triumph?) or broadly (how was an imperator different from a *legatus*?). At a broad level, Cicero and Caesar present us with opposing cases: Cicero arguing for the glory of the *legatus*, Caesar for the superiority of the imperator.

Cicero’s speeches contain reflections on *legati* and their proper conduct. Murena’s legateship was *clarissima* (*Mur.* 53); he is *fortissimi animi, summi consili, maximi laboris* (34); Flaccus is *diligentissimum ducem, temperatissimum legatum quaestoremque* (*Flacc.* 8). On the negative side is (predictably) Verres, who as *legatus* brings discredit (*invidia*) on his imperator Cn. Dolabella by his actions and later, when Dolabella is on trial, not only fails to support his former superior but actually gives evidence against him.<sup>38</sup> Imperators’ reputations could be damaged by their subordinates’ misconduct; against this, imperators could dismiss these subordinates. The hierarchical relationship is clear, as is the importance of trust (*fides*).<sup>39</sup> On the other hand is the extended picture Cicero provides of Murena’s service under Lucullus (*Mur.* 20; Berry translation):

“He served as a legate under that most valiant and wise man, the great general Lucius Lucullus. In that posting he led an army, engaged in pitched battles, joined in close combat, defeated numerous enemy forces, took some cities by storm and others by siege, and in crossing that Asia of yours, so crammed with wealth and pleasures, he left behind not a trace of avarice or luxurious living; in that greatest of wars his conduct was such that he performed many great deeds without his commander – while his commander performed none without him.”

*Fortissimo et sapientissimo viro, summo imperatori legatus, L. Lucullo, fuit; qua in legatione duxit exercitum, signa contulit, manum conseruit, magnas copias hostium fudit, urbis partim vi, partim obsidione cepit, Asiam istam refertam et eandem delicatam sic obiit ut in ea neque avaritiae neque luxuriae vestigium*

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37 See the detailed argument at Vervaet 2014: 120-125.

38 Cic. *Verr.* 1.11: *cum eum, cui et legatus et pro quaestore fuisset, et in invidiam suis maleficiis adduxit, et in ipsius periculis non solum deseruit, sed etiam oppugnavit ac prodidit*; cf. *Verr.* 2.1.41.

39 On the *fides* a *legatus* owed his superior, see Caes. *B Civ.* 1.84.3.



*reliquerit, maximo in bello sic est versatus ut hic multas res et magnas sine imperatore gesserit, nullam sine hoc imperator.*

The importance of Murena having led armies is restated at s. 89: *ad Orientisne partis in quibus annos multos legatus fuit, exercitus duxit, res maximas gessit.* And Cicero makes it clear that this praise of Murena comes with Lucullus's blessing and is not prettied up for the trial: it was all in the original despatches (*Mur.* 20):

“In these despatches Lucius Lucullus is far more generous in his praise of Murena than any commander who was either self-seeking or jealous would have needed to be when writing about the contributions made by the officers under him.”

*Quibus L. Lucullus tantum laudis impertiit quantum neque ambitiosus imperator neque invidus tribuere alteri in communicanda gloria debuit.*

This has the air of heading off criticism and it becomes clear from Plutarch's *Life of Lucullus* (based on Sallust and, on Hillard's argument, also on Archias's poem) that “self-seeking and jealous” is *exactly* the right description of Lucullus's attitude to his *legati*.<sup>40</sup> The problem of an emperor's jealousy towards his *legati*'s achievements will return when we look at Caesar. But it also resonates with the speech which Dio gives ‘Catulus’. Although he does not directly criticise Pompeius (that would not serve his purpose), ‘Catulus’ implies the emperor's jealousy: why else would Pompeius not let his *legati* gain any glory, unless he wanted it all for himself?<sup>41</sup>

Our best author for exploring these issues is, of course, Caesar; in him we have emperor, author, and politician all rolled into one. His principal concern as author is always his own glory, but he also had to consider how he represented his senior officers (who were, after all, social peers and often men of noble families); Welch has explored how he does this in the *Bellum Gallicum*.<sup>42</sup> This was a particularly sensitive issue for a man with as many enemies as Caesar, and Welch has highlighted some of the problems. Failures (such as the attack on the winter camps in Book 5) had to be explained away.

40 Hillard 1987: 39-41.

41 The timing was also propitious: Mithridates' defeat of Triarius (Lucullus's *legatus*) had only recently occurred (Plut. *Luc.* 35.1-2; App. *Mith.* 89; Dio Cass. 36.12-13). Plutarch blames Triarius's own ambition (although Appian is neutral and Dio's version largely exculpates Triarius); cf. Hillard 1987: 46 and n. 142.

42 Welch 1998.

Friends and allies back in Rome would be pleased to read praise of their relatives (which may explain why Q. Cicero and Crassus's son Publius emerge looking so good), especially when those relatives had elections to win in the future: one can easily imagine Cicero delivering sequels to the *Pro Murena* for men who were making their names in Gaul. But Caesar could not share too much glory, even with really able men such as Labienus, and even if he had wanted to: "Those who enjoyed the thought of Caesar's demise would be among the first to attribute the real success to Labienus and to look for any sign of dissension among the two men."<sup>43</sup>

Yet Caesar clearly used his *legati* to conduct independent campaigns, at least some of the time, even if he normally led the main army himself. That is, he used the campaign model I am talking about. A few examples should suffice. In Book 3, Caesar was absent for much of the year, probably only arriving in Gaul in June.<sup>44</sup> P. Crassus, now definitely a *legatus* (Dio Cass. 39.31.2: τῷ Καίσαρι ὑπεστρατήγει), conducted an independent campaign in Aquitania, displaying all the behaviour of an emperor. Simultaneously, Sabinus fought independently against the Venelli with another army. Later, in Book 7, Caesar sent Labienus against Lutetia (with four legions!) while he was at Gergovia (7.57-62), while Hirtius's Book 8 describes a series of parallel campaigns fought by *legati* commanding armies of a legion or two. Welch suggests, rightly I think, that this represents the reality of Caesarian campaigning, but that we do not see it because Caesar focuses so relentlessly on himself.<sup>45</sup>

Unlike Cicero, Caesar avoids direct praise of his *legati*. In the *Bellum Gallicum*, the only virtue ascribed to them is *diligentia*, and their actions are mostly presented neutrally.<sup>46</sup> In the *Bellum Civile* there is more focus on *fides* (see above); Curio gets more praise than any officer in the *Bellum Gallicum*, but then Curio was safely dead. Indeed, Welch seems right to say that "caution and obedience, not initiative, are a Caesarian legate's most important attributes".<sup>47</sup> But not entirely: these men are still Roman commanders. The first key passage is *B Gall* 3.17:

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43 Welch 1998: 98.

44 Raaflaub – Ramsey 2017: 24-26.

45 Welch, 1998: 88: Book 8 "demonstrates what Caesar might have done had he been a different person or the commentaries had a different purpose".

46 *Diligentia*: P. Crassus (3.20), T. Labienus (5.58), Q. Cicero (6.36).

47 Welch 1998: 93.

“The real reason for his [Sabinus’s] inaction was his opinion that a subordinate (*legatus*) ought not to engage such a large enemy force, especially in the absence of his commander-in-chief, without having either an advantage of position or some particularly favourable opportunity.”

*Id ea de causa faciebat quod cum tanta multitudine hostium, praesertim eo absente qui summam imperii teneret, nisi aequo loco aut opportunitate aliqua data legato dimicandum non existimabat.*

Sabinus does not think himself forbidden from fighting in the absence of his imperator, only from fighting at a disadvantage.<sup>48</sup> The second key passage is *B Civ.* 3.51:

“But his [P. Sulla’s] decision does not seem to deserve criticism, for *legati* and imperators have different roles. The one ought to do everything as instructed, the other to act freely in view of the overall situation. Sulla had been left by Caesar in camp, and once his men had been extricated he was content with this and unwilling to decide matters with a battle – which might have a disastrous outcome – lest people think he had assumed the imperator’s role.”

*Cuius consilium reprehendendum non videtur. aliae enim sunt legati partes atque imperatoris; alter omnia agere ad praescriptum, alter libere ad summam rerum consulere debet. Sulla a Caesare castris relictus liberatis suis hoc fuit contentus neque proelio decertare voluit, quae res tamen fortasse aliquem reciperet casum, ne imperatorias sibi partes sumpsisse videretur.*

This is the counterpart of the argument of ‘Catulus’ in Dio: a *legatus* should indeed just obey orders and not take risks. He should *not* act, in the conventional phrasing of legal texts, “just as shall seem to him to be according to the public interest and his own good faith” (*ita uti ei e re publica fideque sua videbitur esse*).<sup>49</sup>

Cicero and Caesar display different attitudes to subordinate commanders; to some extent these attitudes emerge from their different positions. Caesar is the imperator: he wants his *legati* to do what they are told and to contribute to his victory, for which he will get the lion’s share of the glory.<sup>50</sup> He is the man in the field. Cicero is in Rome, championing the *legatus* and trying to secure that man as much glory as possible. But, also, championing the values of aggressive battlefield command which had won Rome her empire. Murena had led Roman armies to victory: surely he is deserving of glory? Which in

48 Contra Welch 1998: 93.

49 Crawford 1996: xxiv.

50 Compare Offermann 1977.

turns recalls the speech of Dio's 'Catulus'. Did Cassius Dio perhaps draw on the *Pro Murena* as well as the *Pro lege Manilia* to construct his argument?

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The Romans learned their history through *exempla*, and some of those *exempla* taught that disaster threatened when rivalry for glory went too far (Arausio, for instance). When commanders sought glory for themselves, divided command could lead to defeat. Yet a single general could not be everywhere at once. Hence, I suggest, part of the appeal of this new command structure in the early first century. Semi-independent *legati*, with their own armies, allowed more sophisticated and effective warmaking. Indeed, the new command structure allowed a new type of *provincia* – large, spread out – and a new style of campaigning, one which placed a premium on planning and organisation. These were Pompeius's qualities; it is no wonder he thrived in such an environment. This new command structure meant that large, coherent, coordinated campaigns could be fought at a great distance from Rome, without the Senate playing the coordinating role which it had during the Hannibalic War. This brought military success.

But the change was not only military. The emperor commanding *legati* could as easily be the faction-leader. We have seen the usefulness of this model of command during the Sullan civil war. A few decades later, the triumviral period saw extensive experimentation with command structures, attempting to institutionalise autocracy.<sup>51</sup> As *legati*, Roman aristocrats could command armies while still being subordinates, thousands of kilometres from their emperor. Many of those triumviral experiments proved to be dead ends. But this one formed one of the bases of the Augustan peace.

Finally, the *cursus honorum* was, in practice, always evolving. Rome's military and political requirements changed: this placed new demands on, and created new opportunities for, the Roman men who filled these roles. And the public life of the Roman community provided many opportunities for these changes to be debated, for orators to suggest mollifying their downsides or praising their advantages. The late Republic was a period when Roman political actors had their eyes open as the technical and expressive sides of their constitution acted on each other.

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51 See for example Díaz Fernández 2020.

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# THE *CURSUS HONORUM* AND RIVALRY: SOME EPISODES ABOUT WINNERS, LOSERS AND DEBTS

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The *cursus honorum* was a development of the Middle Republic.<sup>1</sup> It was precisely in its later period that a one-year term in the city and a chronological order for the elective offices were established in the Roman community. So the *cursus honorum* was a career ladder, for there could not be any *cursus* without a hierarchy of positions. Moreover, a timespan of at least one, often two years as a private citizen was the rule between two elective offices in the community.<sup>2</sup> In Early Rome, there was apparently no clearly defined sequence of offices, as a 5<sup>th</sup>-century example seems to confirm. For T. Quinctius Capitolinus Barbatus, the following offices are listed in Mouritsen's *Digital Prosopography*: consul in 471<sup>3</sup> and 468, *triumvir agro dando* in 468, consul in 465, proconsul in 464, quaestor in 458, consul in 446, interrex in 444, consul in 443 and 439, and *legatus* in 437. Although accounts of the Early Republic certainly should not be taken at face value, this list without a clear bottom-to-top pecking order was evidently an honourable career but by no means a *cursus honorum*.<sup>4</sup>

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1 See, for instance, Pina Polo 2012: 63-64. Cf. Jehne 2012: 422-428. – I owe the improvement of my text to Thomas MacFarlane, whom I would like to thank most sincerely for his help.

2 Cf. Astin 1958: 7-14; Evans – Kleijwegt 1992: 184-185.

3 All dates are BCE, unless otherwise stated.

4 The fact that Quinctius Capitolinus seems to have begun his career with the consulship is a sure sign that a succession of offices had not yet been established in the 5<sup>th</sup> century – but in fact, we do not really know whether or not regular supreme offices had

In the early 2<sup>nd</sup> century, the order of offices and their minimum age requirements were already regulated to a certain extent, even if only with the *lex Villia* of 180 those rules were apparently established more precisely.<sup>5</sup> The order in which the important political offices should be held thus established, it seems to have been broken only rarely in individual cases. An important new rule was that only private citizens, and not current officeholders, were allowed to run for office. Despite the fact that the quaestorship often served as the first step towards a senatorial career, it did not lead to admission to the Senate until Sulla's reforms in the late 80s. Only then could a quaestor become a member of the Senate more or less automatically when his term of office expired. The next office, the aedileship, had been the entry level to the Senate from the 3<sup>rd</sup> century onwards. The subsequent offices of praetor and then consul marked the gradual ascent to the highest levels of the Senate, in which the regular succession of offices held was reflected in the order in which senators were given the floor at meetings. These well-known facts clearly show that it took a minimum of eight years to reach the pinnacle of the *cursus honorum*.

In practice, however, it took longer in most cases, and if someone did not succeed in holding the top offices, this could be seen in the Senate for the rest of his life when he was asked for his opinion only after the higher-ranking senators had already spoken.

## Defeat without loss of prestige?

In his biography of Lucius Aemilius Paullus, Plutarch begins his account of the career of this successful Roman politician and general as follows: "The first higher office he applied for was the aedileship, and he was preferred to twelve other candidates who, it is said, later all reached the consulate."<sup>6</sup> This sentence is all we have about the number of candidates when, after holding the quaestorship, Paullus took the next step in the *cursus honorum* and, owing

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already been established in this early period. That Quinctius is said to have been quaestor between consulships is a hint to the absence of a hierarchical *cursus*. For information on T. Quinctius Capitolinus Barbatius, see the Digital Prosopography (DPRR) of Mouritsen 2024: s.v.; for the quaestorship of Quinctius Capitolinus, see Livy 3.25.2-3; 29.6; cf. Dion. Hal. *Ant. Rom.* 10.23.4; 24.3. See also Pina Polo – Díaz Fernández 2019: 10; 55.

5 See Beck 2019: 31-45. See Beck and Baudry in this volume.

6 Plut. *Aem.* 3.1.



to his success, entered the Senate. If Plutarch is to be believed, it provides some interesting information on competition in an election campaign.

Aemilius Paullus became an aedile in 193. As he was a patrician, it is therefore clear that he ran for the office of curule aedile. The curule aedileship was perhaps created as early as in the middle of the 4<sup>th</sup> century, but certainly in the latter part of the 3<sup>rd</sup> century, although this is not the place to enter into the ongoing debate on this issue. It is certain, though, that shortly before the outbreak of the Second Punic War – probably in 220 at the latest – the rule was that both patricians and plebeians were only allowed to stand for the curule aedileship every other year, namely, every two years. The *fasti* for the time of Aemilius Paullus, which are fairly reliable as they have come down to us in greater detail, especially in Livy's work, confirm this biennial rule by regularly listing plebeians and patricians as curule aediles for even- and odd-numbered years, respectively. How long this rule was in force is unclear – the last team of patricians as curule aediles is recorded for 160. In any case, at some point both patricians and plebeians were allowed to run for the office of curule aedile at the same time.<sup>7</sup>

Regardless of when this annual rotation of the curule aedileship between plebeians and patricians started and ended, there is no doubt that it was already firmly established when Aemilius Paullus started out on his career. As Paullus was a patrician, it follows that his twelve unsuccessful rivals must have also been patricians. In addition, it is clear that there were actually fourteen candidates in the race. As the curule aedileship, as with other offices, was always held by two incumbents, there were always two successful candidates. Actually, we know that the colleague of Paullus in 193 was M. Aemilius Lepidus, a distant relative coming from an even more prominent family than that of Paullus.<sup>8</sup> In contrast to Aemilius Paullus, Lepidus had already been a member of the pontifical colleague till 199. So, it seems reasonable to assume that he had just as large a following among the voters as Paullus. Assumptions aside, both of them were ultimately successful, while the other twelve candidates were not elected. So the rate of winners and losers was evidently two to twelve.

Taking into consideration only the well-heeled, wealthy plebeians almost certainly outnumbered affluent patricians. Accordingly, I would hazard a

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7 See especially Becker 2017: 145-167.

8 For Aemilius Lepidus and Aemilius Paullus as *aediles curules* in 193, see Livy 35.10.12.

guess that the number of rich patricians who wanted to enter the *cursus honorum* was considerably smaller than that of their plebeian rivals. Bearing this in mind, that there were fourteen candidates for the two offices, in itself an impressive number, is even more striking because they were all patricians. For Aemilius Paullus and Aemilius Lepidus, the two who are known to us, it is possible to speculate on their date of birth. Aemilius Paullus was perhaps born in 228 and Aemilius Lepidus conceivably in 230.<sup>9</sup> Should this have been the case, Paullus would have been about 35 when he became an aedile and Lepidus about 37. It is feasible that the other candidates were not much younger or older than their successful rivals, and since they were all patricians, most of them were members of well-known families, no doubt. The fact that there were fourteen candidates standing for the two aedileships in 194 means that this was the most bitterly contested election campaign in Republican Rome on which there is information. As there was only a 14.3 per cent chance of success, this begs the question of why all those patricians became involved in a campaign with such long odds.

Plutarch's short account ends on an interesting note: all the candidates subsequently became consuls, viz. not only the winners but also the losers achieved the highest office. This probably was not any coincidence but only to be expected for young candidates from prominent patrician families. Yet, Plutarch's very succinct résumé should be treated with caution, for it ignores the time problem. If all the twelve candidates who were defeated in the elections for the curule aedileship in 193 were obliged to stand for election to the office at a later date, before making further progress up the *cursus honorum*, it would have taken twelve years for all of them to have achieved this – for there could only be two winners every other year.

As praetorships were awarded yearly to six successful candidates,<sup>10</sup> climbing this rung of the ladder was not so time consuming. Nonetheless, the praetorship seems to have been awarded to only two patricians per year, so the twelve unsuccessful candidates of 193 would have needed at least six years to hold this office. Lastly, as to the consulship, there could only be one successful patrician candidate at a time, thus implying that those twelve losers would

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9 See Rüpke – Glock 2005: 2. 737 (n. 507, for Lepidus); 2. 741 (n. 521, for Paullus).

10 This was decided in around 197 (Livy 32.27.6), but was modified again in 181, when the decision was made to rotate the number of praetors annually, i.e. to alternate between four and six praetorships every year (Livy 40.44.2). In around 177, there was a return to six praetors for each year. See Evans – Kleijwegt 1992: 181-182.

have taken another twelve years to hold the highest office. Altogether, the twelve patricians defeated in the elections of 193, all of whom reached the consulship, according to Plutarch, would have needed at least twenty years to do so. Moreover, my illustration below (see appendix) is based on the utopian assumption that those twelve men won all the offices to which they could aspire in those years, so other patrician candidates lost those elections. Indeed, the sources indicate that not all the known patricians who succeeded in becoming *aediles curules* in the twenty-one available timeslots between 193 and 173 subsequently attained the consulship: only eleven of the twenty-two curule aediles of this period are known to us, and of this group only seven became consuls.<sup>11</sup> Everything considered, that all of the twelve unsuccessful candidates for the curule aedileship of 193 were subsequently elected to the consulship, as Plutarch claims, is highly implausible.

During the first half of the 2<sup>nd</sup> century, it is fairly clear that several election defeats did not necessarily spell the end of a career. Consequently, candidates could plunge into campaigns in the knowledge that they were not placing their political future in jeopardy. An election defeat was not the end of the world. On the other hand, electoral success was no guarantee for future bids for office. In point of fact, we actually know what happened next to Aemilius Paullus and Aemilius Lepidus, the two victors of 193. As Livy praises their exceptional aedileships,<sup>12</sup> it should not come as a surprise that the next step in their career pathways was painless. Aemilius Lepidus was elected praetor in 191, the first year in which he was allowed to stand for election again, after his aedileship. But following this, he was defeated twice in the consular elections of 189 and 188, only succeeding in his third attempt in 187.<sup>13</sup> In the following years, Aemilius Paullus' career was similar but only in part. He was successful in standing for the praetorship of 191, which meant that he was on the same level again as his colleague in the curule aedileship of 193, but afterwards he had to wait quite a bit longer. After three *repulsae* in a row from 186 to 184, he finally became consul in 182 – five years after Aemilius Lepidus.<sup>14</sup>

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11 For the *fasti* of those years, see Mouritsen 2024.

12 Livy 35.10.12.

13 See the information on M. Aemilius (68) Lepidus (AEMI1067) in Mouritsen 2024.

14 See Pina Polo 2012: 65-72 and DPRR 2024: information on L. Aemilius (114) Paullus (AEMI1134). It is odd that Paullus does not appear to have run for the consulship for three years after holding the praetorship together with Lepidus. In contrast, Lepidus ran for three years in a row, beginning in the earliest year possible (189). After two *repulsae*, he was successful in his third attempt. A not entirely absurd, but totally unprovable assumption,

Regarding career pathways from the end of the Second Punic War until the discontinuation of Livy's text in 167, the *cursus* rules seem to have worked fairly well, especially after the *lex Villia* of 180. Little is known about quaestors, which might be down to the fact that an election to the quaestorship was not linked to automatically gaining entrance to the Senate before Sulla's reforms, so it is seldom mentioned in the 2<sup>nd</sup>-century sources. In their brilliant book on the quaestorship, Francisco Pina Polo and Alejandro Díaz Fernández identify only seventeen quaestors for the period from 202 to 167.<sup>15</sup> Aediles are documented more often, perhaps owing to the fact that this office was the stairway to the Senate. Mouritsen's "Digital Prosopography" lists fifty-one aediles for the aforementioned period, whereas two hundred eleven praetors and seventy-four consuls are documented for the same period.

One episode clearly illustrates the unpredictability of consular elections, and once again Aemilius Paullus takes centre stage. After failing three times in his bid for the consulship, he finally succeeded in 182, but then lost once more in the elections of 171 – the achievements of the commander, awarded a triumph in 182, apparently did not count for much in those last elections. It was not until his next attempt in 168 that he succeeded. As consul, Aemilius Paullus was then able to take charge of the war in Greece, where he won the famous Battle of Pydna, which made him a legendary figure in Roman history. That he had been defeated four times in consular elections clearly did not tarnish his fame. Evidently, in the initial decades of the 2<sup>nd</sup> century, even multiple election defeats were by no means an impediment for a candidate.

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could be as follows: after the successful praetorships of Lepidus and Paullus, their families met to discuss possible solutions for preventing them from running against each other for the consulship (since these two rising stars were both patricians, either one or the other could win but not both at the same time, which was not the case as regards the aedileship and praetorship, offices that were open for two patricians in the same year). It was agreed that Lepidus, who was older and had already been elected *pontifex*, should be given priority for the consulship, while Paullus served as a *legatus* and proconsul in the Empire. Therefore, when Lepidus unsuccessfully ran in the consular elections of 189, he did so at the earliest opportunity, while also being defeated in the following year (apparently as a consequence of his enmity with M. Fulvius Nobilior, cf. Develin 1985: 167-169; Evans 1991: 114-115; 1994: 32). However, he was third time lucky in 187. Paullus consequently ran for the consulship the following year, in 186, a defeat followed by two more. After those three failed attempts, he took a year off, before succeeding in being elected consul for 182. The families had achieved their goals.

15 Cf. Pina Polo – Díaz Fernández 2019: 337.

## The *cursus* in a pandemic – panic and a female scapegoat

In 181, Q. Fulvius Cn.f. Flaccus stood for the consulship for the third time and lost again. He was born in around 220, served as a *legatus* to the famous Titus Quinctius Flamininus in 198 and became an *aedilis plebis* in 189. Two years after, as per usual, he attained the praetorship and received the province of Sardinia by lot. So far, his career had been immaculate but now he had to fight to get through the usual bottleneck: the consular elections. Unfortunately for him, his progress came to a grinding halt when he was defeated twice in a row for the years 183 and 182. After these setbacks, Fulvius served again as a *legatus*, this time under the command of the consul Aemilius Paullus, the former *aedilis curulis* of 193 who now led an army in Liguria. In 180, Fulvius made another bid for the consulship but failed for the third time.

So far, so good. But Livy, the one and only source for this episode, recounts an unexpected turn of events, which Richard Evans, who analysed it meticulously, rightly termed “a strange affair”.<sup>16</sup> According to Livy, Quarta Hostilia, the mother of the defeated candidate Fulvius and at the same time the wife of the successful candidate C. Calpurnius Piso, is said to have been furious about her son’s new defeat. So she told him to prepare for a new campaign, vowing that she would see to it that he became consul within two months.<sup>17</sup> Actually, the consul elect Calpurnius Piso died shortly afterwards. As Livy writes, the sudden death of the consul raised the suspicions of the people who believed that Hostilia had murdered her husband.<sup>18</sup> When Q. Fulvius Flaccus was elected in Piso’s place as *consul suffectus*, the mood of the plebs became even darker and foreboding.<sup>19</sup> Since Hostilia had so boldly announced that she would see to her son’s election as consul, the subsequent developments convinced them that there had been foul play. Consequently, Hostilia was put on trial and convicted.<sup>20</sup>

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16 Evans 1994: 28-34.

17 Livy 40.37.6: *et testes existebant, qui post declaratos consules Albinum et Pisonem, quibus comitiis Flaccus tulerat repulsam, et exprobatum ei a matre dicerent, quod iam ei tertium negatus consulatus petenti esset, et adiecisse: pararet se ad petendum; intra duos menses effecturam, ut consul fieret.*

18 Livy 40.37.5: *Suspecta consulis erat mors maxime. Necatus a Quarta Hostilia uxore dicebatur.*

19 Livy 40.37.6: *Ut quidem filius eius Q. Fulvius Flaccus in locum vitrici consul est declaratus, aliquanto magis infamis mors Pisonis coepit esse.*

20 Livy 40.37.5-7.

Nevertheless, Livy's account does not ring true. It is highly unlikely that Hostilia fixed her son's election to the consulship by murdering her husband, and even if she had actually been willing to go to such drastic lengths, it would be necessary to assume that she kept her mouth shut. Moreover, it is improbable that Fulvius would have been elected *consul suffectus* shortly after the death of his stepfather if many Romans were already convinced that his mother had presented him this golden opportunity by murdering her husband.

Livy's account should perhaps be interpreted differently. When Hostilia instructed her son to prepare for another campaign, she could have urged him to stand for the consulship again in the following campaign which evidently did not begin immediately after the recent elections. A period of two months from the official announcement of candidacies to election day was probably the usual interval, which would explain Hostilia's choice of words. It was only when Calpurnius Piso died suddenly and Fulvius became his successor that the rumours about Quarta Hostilia murdering him to promote her son began to spread.

But Livy also intermingles Hostilia's fate with a different story.<sup>21</sup> He recounts that in 180 a plague was causing such havoc in Rome and its surroundings for the third year running that the authorities were having serious difficulties in enlisting the required number of soldiers. Moreover, Livy reports the death of the praetor Tiberius Minucius, who was followed to the grave shortly afterwards by the consul C. Calpurnius Piso and many other prominent men of all ranks. True to form, the Romans believed that the disaster was a *prodigium* and assigned C. Servilius, the *pontifex maximus*, the task of encountering a way of appeasing the gods.

The foregoing points to a much more reasonable explanation for the death of C. Calpurnius, put forward by Richard Evans some years ago, namely, the epidemic in Rome and its surroundings which had already claimed many human lives.<sup>22</sup> Indeed, Livy mentions different expiatory rites in Rome to placate the gods. In light of these terrifying events, the Romans became anxious and began to suspect that it was a man-made catastrophe. As a result, the praetor C. Claudius was ordered to look for evidence of poisoning in a radius of ten miles from the city, while C. Maenius was tasked with conducting an enquiry in the area beyond.<sup>23</sup>

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21 Livy 40.36.13-37.4.

22 See Evans 1994: 31-32.

23 Livy 40.37.1-4.

As these incomprehensible deaths, which were accompanied by rumours that they had been caused by deliberate poisoning, led to widespread panic, I am of the view that this explains the strange story about Quarta Hostilia. The consul Calpurnius' sudden death gave rise to the impression that it could not be a coincidence, with his wife as the prime suspect. This was probably partly owing to the jittery Romans' obsession with poisoning in those uncertain times, for it was generally regarded as a typically female crime.<sup>24</sup> But according to Livy, the fact that the consul was succeeded by his stepson Fulvius, who had only recently been defeated by his stepfather in the consular elections, only added fuel to the fire. The rumour mill went into overdrive, churning out the horror story that Quarta Hostilia had killed her husband in order to promote her son.

Although the story of Quarta Hostilia as a mother willing to resort to murder to further her son's political career can therefore be safely ruled out, the episode reflects an interesting phenomenon: in the Middle Republic, it was totally feasible to run three, four or more times for high office, and even though a candidate had already suffered quite a few defeats, he always had a chance of winning. The struggle to reach the pinnacle of the *cursus honorum*, which was ferocious, began with the lower offices in which candidates had to make themselves known and gain popularity. But the bottleneck to the consulship was the main problem, for candidates necessarily had to conduct a good election campaign, while it was equally essential for them to have influential supporters, some ready cash for making donations and defraying the cost of public events, patience and also simply luck to prevail against their opponents.

In principle, however, a defeat in the consular elections does not appear to have signified any major public humiliation or loss of face or assets that made further candidacies impossible. This is supported, for instance, by the fact that in the eleven years between 192 and 182, for which there is fairly detailed information on the elections in Livy, there were twenty-two successful consular candidates and twenty-four unsuccessful bids for the highest office (that we know of). Those twenty-four defeats were suffered by fifteen candidates, seven of whom on only one occasion<sup>25</sup>, eight twice and two thrice. Two of the candidates who were defeated twice never reached the

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24 Cf. Sommer 2022: 104-111; 209-210.

25 In this category, I have placed L. Porcius Licinus, who was defeated in at least one consular election but perhaps in more (see Pina Polo 2012: 65).



consulship but the two who made even three unsuccessful bids are the central figures of my research on the early 2<sup>nd</sup> century: L. Aemilius Paullus and Q. Fulvius Flaccus.<sup>26</sup>

## The late Republican struggle for office: get in, get out, hold out

As to the next episode, it occurred in the Late Republic and is recorded by Cicero. Owing to the fact that many of his works have come down to us, we are also fairly well informed about his candidacy for the consulship of 63. After holding all the lower offices at the earliest possible date, Cicero also wanted to be elected consul *suo anno*, which was not at all a matter of course for a *homo novus*. In order to achieve his goal, Cicero closely observed his potential rivals, writing to his friend Atticus as early as in the middle of 65 to express his views on the current situation.<sup>27</sup>

In his letter, Cicero mentions nine candidates, himself included. According to him, only the patrician P. Sulpicius Galba had already started to press the flesh, which seemed to be inappropriate.<sup>28</sup> In fact, Galba's rash outburst of activity gave Cicero an edge over him because many of those who the former had approached to garner their support justified their refusal by claiming that they had prior obligations towards Cicero. Three of his rivals – besides Galba also C. Antonius and even Q. Cornificius – seemed to be fairly optimistic about their chances, with Cicero expecting his friend Atticus to laugh or groan at the last candidate. However, Cicero also considered that Caesonius was in the running, expecting Atticus to despair at the prospect of having this individual as a candidate. For his part, Aquilius was hardly to be reckoned with because he had categorically denied having any ambition to join the fray owing to his failing health. Catilina would certainly be a rival if a judgement was passed in his trial that confirmed that it was 'pitch dark at noon'. Cicero did not believe that Atticus was expecting Aufidius and Palicanus to stand for the consulship – he obviously assumed that these gentlemen were not eligible for the highest office.

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26 For the list of unsuccessful candidates during this period, see Pina Polo 2012: 65. See also the *fasti* in Mouritsen 2024 (DPRR).

27 Cic. *Att.* 1.1.1-2. Regarding Cicero's candidacy and rivals, see, for instance, Neuendorff 1913: 27-34; Gruen 1974: 136-139; Jehne 2016: 200-201.

28 Cic. *Att.* 1.1.1: *Prensat unus P. Galba, sine fuco ac fallaciis more maiorum negatur*. For Galba, see also Q. Cic. *comm. pet.* 7; Cic. *Mur.* 17 (see n. 34).



For most of the candidates named by Cicero, neither was it certain that they would actually enter the running, even though it was sometimes implied that they would, nor was it a foregone conclusion that other candidates would not decide to stand closer to the date of the elections. In any case, it was clear that Cicero was determined to take up the gauntlet. Accordingly, in the same letter he informed Atticus that his intention was to announce publicly his candidacy for the consulship of 63 as early as on 17 Quintilis 65,<sup>29</sup> which was not the rule, for this was at least one year before the usual period for doing so. Cicero's willingness to enter the running so early surely was not shared by all of his rivals. Nevertheless, he decided that it was a risk worth taking.

When assessing the consular elections scheduled to be held in 65, Cicero initially informed Atticus that Lucius Caesar was regarded as a safe candidate. As to his colleague in the consulship for 64, a very close race between Thermus and Silanus was expected. Cicero mockingly claimed that both had such poor contacts and reputations that even Turius could be fielded as a rival. If he was thinking of his own interests, however, then it would certainly be best for Thermus to be elected alongside Caesar. If Thermus was defeated and then stood again the following year, he would probably be Cicero's strongest rival – especially as he was now the curator of the Via Flaminia and would have successfully completed the task by then.<sup>30</sup> Cicero's wish came true. In the elections held in 65, L. Caesar and Thermus were elected consuls for the following year.<sup>31</sup>

It was not so rare for senators who had already started to canvass for the consulship to suddenly drop out of the race or for others to enter the running late. Asconius recounts that Cicero had six rivals for the consulship.<sup>32</sup> First, he mentions the patricians Galba and Catilina – the latter had been acquitted in 65 but too late to allow him to stand for the consulship of 64. Asconius then refers to the *nobiles* C. Antonius, who was already on Cicero's list, and L. Cassius Longinus, who apparently launched his campaign later on. There were two further candidates who came from families that had not yet had the honour to hold office or had hardly received any honours at all, namely Q.

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29 Cic. *Att.* 1.1.1: *Nos autem initium prensandi facere cogitaramus eo ipso tempore, quo tuum puerum cum his litteris proficisci Cincius dicebat, in campo comitiis tribuniciis a. d. xvi Kalend. Sextilis.*

30 Cic. *Att.* 1.1.2.

31 Minucius Thermus had been adopted by a Marcius Figulus and therefore assumed the name of C. Marcius Figulus (see Mouritsen 2024 s.v.; Broughton 1991: 14 no. 26).

32 For this group of rivals, cf. the remarks of Urso 2019: 150-151.

Cornificius, who was also included on Cicero's initial list of rivals, and C. Licinius Sacerdos, who had only decided to stand for election at a later stage.<sup>33</sup> However, we do not know whether all seven candidates actually held on to their candidacies until the two winners were announced. The fact that Asconius mentions only Antonius and Catilina, together with Cicero, in the voting for the consulship might suggest that there were only three candidates left.<sup>34</sup> However that may be, Asconius emphasises that Catilina and Antonius joined forces and thus had considerable resources at their disposal. Crassus and Caesar are said to have supported the alliance, but this is still a moot point.<sup>35</sup> Anyway, Cicero made the most of the situation by delivering his speech *In toga candida* particularly against Catilina but also against Antonius.<sup>36</sup>

The timing of the official announcement of candidacies was obviously very different. Cicero's decision to do so very early on was undoubtedly courageous. Regrettably, it is hard to tell what was really behind it, but it is conceivable that he wanted to compensate the handicap of being a *homo novus*. To this end, he was probably under the impression that the longer he tried to convince the people with his strong presence, amazing eloquence and quick wit, the better the result. His qualities were certainly intimidating for his rivals, some of whom might have decided that it was pointless to stand against certain patricians and one special plebeian who seemed to be able to outwit many of his opponents. Having said that, there were undoubtedly many other reasons why candidates withdrew from the contest. The main problem was certainly money because it was not uncommon for candidates to reach the middle of the race with an empty purse, when they still had to stump up on the home stretch.<sup>37</sup>

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33 Asc. 82 C.

34 In this respect, see, for instance, Taylor 1966: 98; 155 n. 37. But in the speech for Murena delivered in the middle of 63, when Cicero was already *consul*, he mentions Catilina and Galba as his patrician rivals in the consular elections, while praising Galba as a modest and excellent man who he surpassed in influence (Cic. *Mur.* 17). Cicero never mentions that Galba withdrew before election day.

35 Asc. 83 C. assumes that Crassus and Caesar tried to prevent the consulship of Cicero; cf. Tatum 2018: 101. All in all, the evidence, albeit reasonable, is not compelling. See Urso 2019: 149; 155-159.

36 Asc. 82-94 C. Urso 2019: 150 stresses that Cicero began to attack Catilina and Antonius and not the other way round.

37 For the monetary problems of active politicians in the Late Republic, see, for instance, Giovannini 1995; Rollinger 2009.

If they decided to remain in the running until election day, those candidates who suffered defeat often found themselves in dire financial straits. This was especially the case of Catilina who was in a difficult situation in 65 when an embarrassing trial prevented him from attempting to be elected consul for 64. The strategies usually implemented to whip up support were expensive, no doubt, but he slipped further into debt with the costly and ultimately fruitless election campaign for 63. After that, he had to stand trial again, this time for his involvement in the proscriptions organised by Sulla almost twenty years earlier.<sup>38</sup> That Catilina was acquitted for a third time did not prevent him from being defeated again at the polls for 62.

The background of L. Sergius Catilina was not particularly favourable. Formally, he was a patrician, but the Sergii had not played an important role in Roman history. The last known incumbents, who may be regarded as relatives of Catilina because of their identical *nomina gentilia*, served as praetors in 200 and 197. The term *homo paene novus* has been coined to describe groups of patricians without impressive ancestors, which is a fairly accurate description of Catilina's situation.<sup>39</sup>

Catiline's second defeat was in no way predictable. The competition did not consist of outstanding personalities, and Catilina's efforts to distinguish himself by standing up for the poorer people were not hopeless. It was probably above all the incumbent consul Cicero who positioned himself firmly against Catilina and endeavored to derail his plans.<sup>40</sup> When Catilina was defeated again, he slipped even deeper into the debt trap, for which there was no compensation in sight. But he was not alone in his disappointment and frustration. He was now surrounded by men of different backgrounds and positions who were also feeling equally hard done by. Various senators, but also men who did not belong to the Senate, gathered to complain about the deplorable situation in Rome. Pecuniary difficulties seem to have been the main factor of discontent.<sup>41</sup> Overall, the frustration fuelled a desire for change but not necessarily a conspiracy aimed at overthrowing the government – this overstatement was in all likelihood initially Cicero's doing.<sup>42</sup> For it was ultimately the consul Cicero who took the

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38 For this process, cf. Urso 2019: 153-155.

39 See Märtin 2012: 78-79 who seems to have been the inventor of this labeling. It is adapted by Schietinger 2017: 154-155.

40 Cf. the analysis by Schietinger 2017: 174-183.

41 See, for instance, Giovannini 1995: 15-16; Rollinger 2009: 41-45.

42 See the summary in Urso 2019: 212-213.

leading role in bringing the conflict first to a head and then to an end: the Catilinarians were executed and Catilina, who had left Rome some time before, now joined the rebel army in Etruria and fell in battle.<sup>43</sup>

After being defeated in the consular elections for the second time, Catilina probably had the feeling that he was the innocent victim of many foes.<sup>44</sup> He then held nocturnal meetings in which people of one mind complained to each other about how unfairly they had been treated by their enemies. Catilina seems to have entertained the idea that the Roman establishment was unwilling to give him his due as a descendant of a patrician family and a brave soldier, with his associates being similarly obsessed. Instead, he had been accused several times and, despite having been always acquitted, he was still regarded as a shady rabble-rouser who should not be entrusted with the consulship. When Cicero was elected by a large margin in 64, Catilina probably thought that it was a ludicrous outcome, if only because he had come in far behind the *homo novus*. Moreover, even the alliance with C. Antonius, formed to prevent Cicero from attaining the consulship, had not helped Catilina, for in the end he was narrowly defeated by his plebeian colleague.<sup>45</sup>

The fact that Catilina's election campaigns had ruined him and that he did not have many rich supporters who could place him on a firmer financial footing had terrible consequences: he was at risk of being permanently ostracised by Roman society. It is interesting to note that Cassius Longinus, who had also tried in vain to obtain the consulship, allied himself with Catilina after his defeat, possibly because he encountered himself in a similar situation.<sup>46</sup> Catilina's attempt to champion the impoverished masses<sup>47</sup> might

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43 Cf., for instance, Ungern-Sternberg 1997: 93-97; Urso 2019: 133-199.

44 For some hints about Catilina's view that he should take revenge forthwith, see Sall. *Cat.* 26.5-28.1, but for Sallust's inaccuracies and for his conviction that Catilina and his supporters organised a huge conspiracy, see the criticism of Urso 2019: 210-211; see also Giovannini 1995: 29-31 against the propaganda that Catilina wanted to abolish debts either wholly or in part.

45 Asc. 93-94 C.: *Ceterum Cicero consul omnium consensu factus est: Antonius pauculis centuriis Catilinam superavit, cum ei propter patris nomen paulo speciosior manus suffragata esset quam Catilinae*. Schietinger 2017: 167 emphasizes that C. Antonius was in fact the only one of the candidates with a real reputation ("der einzige *nobilis* von Rang").

46 For Cassius Longinus, see Q. Cic. *comm. pet.* 7. He apparently announced his candidacy fairly late; cf. Evans 1991: 122.

47 He is said to have already launched his first campaign in 64, with the promise that he would advocate for *tabulae novae* (Sall. *Cat.* 21.2). See also Cic. *Cat.* 2.18; cf. Giovannini 1995: 15-16.

have been a ploy to gain recognition and influence. But the senatorial majority brushed aside the issue of the poverty-stricken plebs and lost no time in attacking Catilina as a criminal – to their mind, all the members of his clique were more or less criminals and all those who were in a precarious financial situation had only themselves to blame for it.<sup>48</sup> When the five imprisoned supporters of Catilina were awaiting the decision of the Senate, Caesar's proposal to deal a little more leniently with them seemed reasonable enough, but Cicero and others wanted to see blood flow at any price.<sup>49</sup> This kind of polarization did not help to stabilize the Roman Republic.

### Post-Sullan senators inside and outside the Senate

In the Republic after Sulla, candidates for senatorial office seem to have generally had money worries, as the games, banquets, clients and, in general, the lifestyle befitting their status came at a high cost. The situation of Roman campaigners was similar to that of US presidential candidates: most of them make an early exit from their campaigns, usually owing to the lack of cash donations because their supporters no longer believe in their chances of success. The Roman Senate had been enlarged considerably, if only because now quaestors entered it after holding office at the rate of twenty newcomers per year, which was a Sullan innovation. Sulla also stipulated that the *cursus honorum* had to begin with the quaestorship.<sup>50</sup> Whether the number of senators was increased to 450 or 600, owing to the influx of quaestors, is still an open question. However, as it is clear that the previous number of senators was around 300, the size of the Senate increased considerably. Calculated roughly, twenty new quaestors per year, standing for the quaestorship at the minimum age of 30/31, would have produced 600 new senators over thirty years – but only on the idealistic assumption that all of them became senators at the earliest possible date and that no one died before the age of sixty.<sup>51</sup>

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48 See, for instance, Sall. *Cat.* 14.1-6; cf. Giovannini 1995: 16-17.

49 For the discussion of the Senate on how to deal with the Catilinarians, cf. Sall. *Cat.* 50.3-55.6; Cic. *Cat.* 4.1-24. See also above n. 41.

50 Regarding Sulla's regulations for quaestors, see Pina Polo – Díaz Fernández 2019: 51-54; Díaz Fernández – Pina Polo 2023.

51 It has yet to be demonstrated that the number of senators was increased to 600. Santangelo 2006: 7-15 has argued in favour of around 450 members. For some reflections on the number of senators, see also Steel 2014: 665.

Evidently, Sulla's reforms had one key effect: rivalry for the consulship became considerably fiercer. The old rule that only two consuls could be elected for each yearly term of office remained unchanged. But since the number of praetors had been increased from six to eight, there was now a greater number of potential candidates for the consulship each year.<sup>52</sup> Be that as it may, nor does this paint an accurate picture of reality insofar as there were certainly praetors who made no bid for the elusive consulship, plus others who, after testing the waters, withdrew in time – as already seen in the battle for the consulship of 63 (see above).

Another Sullan intervention also brought about far-reaching changes in the *cursus*: the dictator had stipulated that those who reached the consulship and held it for one year could not be elected to serve as consuls again for at least ten years,<sup>53</sup> which albeit not a new rule was one that had not been generally observed over the past decades. Yet, in the post-Sullan Republic, the multiple consulships of the 2<sup>nd</sup> and early 1<sup>st</sup> centuries was now a thing of the past – except for Pompey and Crassus, although they were re-elected to the highest office not earlier than after at least ten years (actually only after fifteen years in 55 after a first appointment in 70).<sup>54</sup>

The public appearances of senators outside the Senate are an interesting topic.<sup>55</sup> Evidently, to enjoy a certain degree of popularity with the people was in their best interests, for it served to reinforce their status and influence on decision-making in the assemblies. This meant that senators had to present themselves in a way acceptable to the people, which does not imply that they had to conceal their elevated status or differences of opinion. Usually, they were recognised as senators due to the *latus clavus*, the broad purple stripe on the fore part of their tunics, which, as with senatorial shoes, was an exclusive emblem of their office. Similarly, senators wore elegant garments and often extravagant headdresses. Consequently, the superior status of a senator standing in the first rank listening to a colleague's *contio* was never in doubt. Furthermore, 'you will never walk alone' would have been an appropriate motto for Roman senators, for they were always accompanied by a number of slaves and clients, and more often than not by friends and younger

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52 See Evans – Kleiwegt 1992: 184; Brennan 2000: 389-392.

53 App. *B Civ.* 1.100 (468); cf. Cic. *Leg.* 3.3.9.

54 When Pompey became *consul sine collega* in 52, he formally violated the 10-years rule, but this was an emergency measure to restore order in Rome.

55 In this respect, see Jehne 2022: 364-365.

members of the upper class. In other words, a senator with his retinue was difficult to miss when taking a stroll in the forum, where the idea was to be seen and to make one's presence felt.

Another aspect of the public appearances of senators is the fact that their emblems of office were essentially identical. As a consequence, passers-by were able to identify a senator as such, but they could not recognize his senatorial rank if they did not know him as an individual. The *latus clavus*, which was worn by all senators, only indicated differences in rank in comparison with *equites* whose togas had a narrow stripe. However, archaeological research on garments depicted particularly in sculptures has shown that the *angustus clavus* of knights could be so wide that it could have been mistaken for the senatorial *latus clavus*.<sup>56</sup> Footwear was often equally ambiguous, at least as regards monumental statues in which local bosses were immortalised wearing shoes that did not differ from those of Roman senators.<sup>57</sup>

The only element of formal hierarchy in the Roman Senate was the order in which senators took the floor according to their rank. As many senators did so only to express their agreement with some or other earlier speaker, discussions were often over fairly soon. As contended by Frank Ryan, however, the number of speeches delivered by senators at the bottom of the pecking order shows that the Senate was by no means as hierarchically organised in this aspect as is often assumed. In such a case, it would be necessary to re-examine the post-Sullan Senate under a different light, for the willingness to take the floor might have been a less important differentiating factor between senators of higher and lower rank than first meets the eye.<sup>58</sup>

As senators wore the same insignia of rank, it was hard for ordinary citizens, who did not know 450 or more senators and could not tell them apart, to identify individuals. The effect was ultimately positive for the large group of minor senators, for conformity suggested a certain equality among senators. This was probably most important at the games, because in the theatre there

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56 That the *latus clavus* could not always be identified very clearly in comparison with the *angustus clavus* of *equites*, is convincingly demonstrated by Bergemann 1990: 23-24; cf. Boschung 2005: 98; see also Scholz 2005: 419-420. Nevertheless, the *clavi* were conspicuous enough to make it impossible to mistake a senator for an ordinary plebeian.

57 Senatorial shoes, which must be distinguished from patrician shoes (cf. Goette 1988: 449-464), were not always an accurate indication that the person wearing them was a senator (see above n. 56).

58 See Ryan 1998: 64-95.



was a clear seating arrangement according to group, with the senators sitting at the very front, followed by the knights and so on. The fact that they all appeared wearing togas and senatorial insignia made them a homogeneous group in which less successful and less well-known members were not relegated.<sup>59</sup>

The formal equality of senators outside the Senate made lifelong membership to this institution an appealing prospect, even when there was no great interest in, or opportunity to, finally rise from quaestor to higher office. In this connection, it does not seem too bold to assume that some quaestorians might have been perfectly content with their current status, without feeling the need to climb further up the ladder. There were many Roman merchants and other businessmen, some of whom with large fortunes, and it was not so difficult to stand for a lower-level Senate seat and to be elected. Following their election, they could primarily engage in long-distance trade, as before, and take a seat in senatorial robes at any public event in the Roman Empire. In other words, they could present themselves not only as Roman merchants but also as members of the central political institution in Rome and in the Empire as a whole. In the Late Republic, moreover, the *legatio libera* was useful in that it freed senators from their usual duties in Rome and allowed them to visit one or more provinces of the Empire as its representatives but without any official obligations.<sup>60</sup> In the main, the formerly bloated Sullan Senate soon became accustomed to the fact that many formal members rarely or never attended meetings.

## Surviving defeat: a question of wealth

In my brief analysis of election campaigns and senatorial structures in the 2<sup>nd</sup> and 1<sup>st</sup> centuries, I have considered two different time frames: the early 2<sup>nd</sup> century, especially the 190s and 180s; and the period of the post-Sullan Republic. As far as how election campaigns were conducted and the chances of winning are concerned, the differences are remarkable.

In the initial decades after the Hannibalic War, it is striking that there were plenty of candidates not only for the consulship but also for other offices. As most of them seem to have persevered until election day, there were many

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59 For the seating order and communication at Roman games, see Rawson 1987: 94-98; Jehne 2020: 46-54.

60 For the *legatio libera*, see, for instance, Suolahti 1969: 113-118; Jehne 2012: 419-422.



disappointments. However, many of those who had suffered a defeat did not wait long to stand again and were sometimes only successful after two or three attempts.

In the final years of the Roman Republic, after Sulla had pushed through his reforms, career pathways were obviously very different. The offices comprising the *cursus* continued to be hotly contested, this being particularly true of the consulship. However, the times when someone like Aemilius Paullus had stood for the consulship three times in four years, failing each time, were now seemingly unthinkable. Of the twenty *repulsae* that have come down to us for the consular elections between 80 and 49, we know of only five candidates who went on to become consuls – actually only three because for 65 Aurelius Cotta and Manlius Torquatus finally obtained the consulship, when their rivals and actual victors in the elections – Cornelius Sulla and Autronius Paetus – were convicted of *ambitus* and therefore forfeited the office.<sup>61</sup>

Why did not the politically ambitious Romans of the post-Sullan Republic behave like their ancestors in the early 2<sup>nd</sup> century? Why did they not continue to seek office on a regular basis after defeat until they finally won the election? The answer is obvious: election campaigns had become too expensive.<sup>62</sup> It was now really difficult to fund a further campaign after a *repulsa*, let alone two. Catilina is a good example of this problem. Although he might have been an unusual figure in his time, he essentially went to the same lengths as other members of the Roman elite to win the consulship, both in terms of generosity towards the people and in those of belittling his opponents. Nor were the outbreaks of violence in Rome exclusively related to Catilina but also to other politicians at the time.<sup>63</sup>

It is remarkable that Catilina, after missing the elections for 64 due to a lawsuit and those for 63 by an unsuccessful attempt, immediately stood for the consulship the following year – this is precisely what was common practice

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61 For the *repulsae* from 80 to 49, cf. the *Digital Prosopography* of Mouritsen 2024; see also Pina Polo 2012: 67-68.

62 A famous example is Iulius Caesar with his attempt to be elected *pontifex maximus* in 63. Caesar is said to have told his mother on the morning of election day that he would return home as a winner or not at all (Suet. *Caes.* 13). The story is possibly apocryphal, but it is probable that he was deep in debt after his excessive campaigning during the year (for *pontifex maximus* and for a praetorship).

63 For an overview on violence in Rome in the post-Sullan Republic, cf. Lintott 1968: 212-215.

in the early 2<sup>nd</sup> century, but not in the post-Sullan Republic. When Catilina was defeated again, his financial situation was not only precarious but critical after having made such heavy investments in two failed election campaigns, a fear that was shared by the ruling class in general. The fact that Catilina's enemies were trying to oust him from their ranks for good left him little choice but to take up arms. The consequences are well known.<sup>64</sup>

*APPENDIX: A CALCULATION OF THE MINIMUM TIME NECESSARY  
FOR THE TWELVE PATRICIANS TO REACH THE CONSULSHIP AFTER HAVING  
BEEN DEFEATED IN THE ELECTION FOR THE CURULE AEDILESHIP IN 194*

<i>Year</i>	<i>Aedileship</i>	<i>Praetorship</i>	<i>Consulship</i>
194	14 candidates for the two positions as <i>aediles curules</i> for patricians		
193	Paullus + Lepidus		
192	---		---
191	2	Paullus + Lepidus	---
190	---	---	---
189	2	2	---
188	---	---	---
187	2	2	Lepidus
186	---	---	1
185	2	2	1
184	---	---	1
183	2	2	1
182	---	---	Paullus
181	2	2	1
180	---	---	1
179	---	2	1
178	---	---	1
177	---	---	1
176	---	---	1
175	---	---	Lepidus
174	---	---	1
173	---	---	1

<sup>64</sup> Of the huge amount of literature on the conflicts and their escalation in relation to Catilina, the in-depth analysis of the last years 63/62 performed by Urso 2019: 167-199 seems to me to be particularly well-balanced.

The twelve patricians defeated in the elections for the aedileship in 193 needed at least twenty years to reach the consulship – according to my calculation of an optimal career after the initial defeat: all twelve losers of 193 gradually occupied all twelve curule aedileships available in the following years (up to and including 181); all these patricians reached the praetorship two years after their aedileships; then they also became consuls as early as possible, whereby this took some years, since only one consulship per year was free for patricians.

Evidently, the calculation is improbable, and so is Plutarch's claim that all twelve became consuls.

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REFRAINING FROM RUNNING FOR OFFICE  
IN THE LAST TWO CENTURIES  
OF THE ROMAN REPUBLIC:  
VOLUNTARY REFUSAL, CONSTRAINTS  
AND STRATEGY

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In Republican Rome, a society in which, as Nicolet observed, politics was “status-generating”, abstention was apparently an anomaly, an exception to the rule, all the more so at the end of the period when the moral discourse was constantly decrying *ambitio* and its consequences.<sup>1</sup> This was undoubtedly the case for noblemen who had to maintain their rank because of the importance of social reproduction, about which their family, the rest of the aristocracy and the people constantly reminded them and which was also internalised.<sup>2</sup> All the more so at the end of the Roman Republic, when aristocratic competition intensified to such an extent that it became necessary on several occasions to regulate the *cursus honorum* and to intensify the legal repression of *ambitus*.<sup>3</sup> In a city where a political career path was referred to metaphorically as a way, itinerary or course (*uia*, *iter* or *cursus*), divided into steps (*gradus*), in

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1 Nicolet 1992: 66. Returning to his own case, the new man Sallust decries the *cupido honoris* (Sall. *Cat.* 3.5). See Jehne’s chapter in this volume.

2 To offer just one example among many, in a letter of consolation that Ser. Sulpicius Rufus sent to Cicero in March 45, after Tullia’s death, the former wonders what her life and pleasures would have been like, which would have included children “destined to seek honors according to the regular order (*honores ordinatim petituri essent*)” (Cic. *Fam.* 4.5).

3 Dio Cass. 36.38.2, referring to the legislation against electoral corruption passed in 67, mentions that many were pursuing magistracies: “Factions and cabals multiplied ad infinitum with regard to all offices (συστάσεις καὶ παρακελευσμοὶ παμπληθεῖς ἐφ’ ἀπάσαις ταῖς ἀρχαῖς ἐγίγνοντο).”

which *dignitas* depended to a large extent on *honor*, it was scarcely conceivable to stop halfway.<sup>4</sup> Indeed, the sources are replete with anecdotes about candidates who wanted to run for office at all costs, even *in absentia* or going to the extreme of leaving the province that they were governing in haste, not to mention those who tried, or even succeeded, in running for office before the legal age.

Abstention not only presupposed a subject (in this case, a virtual candidate for office) and an object (in this case, an elective honour), but also a horizon of expectations. Abstention was the absence of action (running for office) which was only visible if such a horizon of expectations existed and was shared by the people and by the other aristocrats. If the expressions *anno suo* and *legitimis annis* suggest the existence of expectations about the time interval between offices, one suspects that these were self-evident when it came to running for them. It is understandable, however, that this horizon of expectations changed depending not only on the social status of the person concerned<sup>5</sup> but also on his career pathway (whether or not he had been a monetary triumvir, had served as a tribune of the plebs and, above all, as an aedile, and had been given military commands in the provinces), on his public activity (his political and judicial speeches, military achievements, activity in the Senate; although had he, on the other hand, suffered any reversal of

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4 See, among other examples, Cic. *Leg. agr.* 1.27: “If any of you flatter yourselves with the hope of pushing yourselves by the ways of disorder into the career of honors (*ratione honoris*), let them first abandon this hope as long as I am consul, and then let them learn by my own example, seeing in me a consul who has emerged from the equestrian order, what is the path in life that most easily leads good people to honors and consideration (*quae uitae uia facillime uiros bonos ad honorem dignitatemque perducit*),” as well as Cic. *Mur.* 18 and Cic. *Sest.* 137 about the *uia* [...] *laudis et dignitatis et honoris*. Cic. *Phil.* 1.33 evokes *iter gloriae*. Cic. *Phil.* 5.47 writes about a *gradus petitionis*. A rapid career was undoubtedly an element of distinction, even in the Triumviral period, as evidenced by Hor. *Sat.* 1.6.6-8, with regard to Persius: “He was a bitter man, hated beyond even Rex, arrogant, puffed up with pride, so acrimonious in his words that he was, to overtake the Sisennas and Barruses in the quarry, as fast as a team of white horses (*durus homo atque odio qui posset uincere Regem, / confidens, tumidus, adeo sermonis amari, / Sisennas, Barros ut equis praecurreret albis*).” On the need to run for office for both *nouii* and nobles, see Tatum 2007: 109-135.

5 This ambition also applied to new men, as illustrated by the example of Cicero, as atypical as he might have been. Note the reaction of his entourage to the hesitation that he felt on his return from the East: “But since he was naturally ambitious, and his father and friends urged him on, he devoted himself to pleading. It didn’t take long for him to rise to the top: his fame burst forth immediately, and he left his rivals in the forum far behind” (Plut. *Cic.* 5).



fortune – a trial, military defeat or physical disability – which excluded him from the race for honours?) and on the context.<sup>6</sup>

Defined in such a generic way, abstention could take several forms. The first was the refusal to pursue a political career, as was the case with Atticus. Similar to *otium* which, according to Nicolet, was tantamount to a “refusal of politics”,<sup>7</sup> this was comparable to political retirement. Lucullus’ decision to withdraw from political life on his return from the East is well known, yet it warrants noting that it was not complete, for he ran for a priesthood and did not fully relinquish his influence in the Senate.<sup>8</sup> Then there was the refusal to continue a career past a certain position, whether this be the quaestorship, tribunate, aedileship or praetorship, the structure of the *cursus*, with the progressive reduction in the number of magistracies, encouraging this.

It is precisely this situation that is examined here because it was more convoluted than first meets the eye, for it could occur when a candidate took up what was judged to be the last office of his career (refusal as an abstention), during the election campaign for the next office (refusal as a withdrawal or abandonment), or simply his decision not to stand again for a magistracy after an election defeat.<sup>9</sup> Albeit following a slightly different rationale, there was a fourth possibility, namely, refusing to run for optional intermediate offices, in this case the tribunate of the plebs and the aedileship. Nonetheless, it is necessary to consider yet another situation: temporary abstention or circumstantial refusal, motivated by specific political strategies. Although I

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6 An example of this social pressure, here motivated as much by rank as by political profile and context, can be found in a letter that Cicero sent to the Caesaricide C. Cassius Longinus in June 43 (Cic. *Fam.* 12.9.2: “For the hope that can be founded on the Republic is slim – I’d hate to say ‘nil’ – but, whatever it may be, it rests on the year of your consulate (*exigua enim spes est rei publicae (nam nullam non libet dicere), sed, quaecumque est, ea despondetur anno consulatus tui*).”

7 Nicolet 1966: 709 refers to Atticus’s “political abstention”, while in his chapter on equestrian *otium* he distinguishes between this *otium*, which could be *honestum*, and that, deemed incomprehensible, of knights who were senators’ sons, two of whom are known to us thanks to Cicero’s pleas: C. Appuleius Decianus and L. Gellius Poplicola.

8 On the continuity and reshaping of Lucullus’s political action at the end of his life, see Lundgreen 2019, 81-126.

9 This second situation was studied by Broughton 1991: 20-30; 37-39; 44, who also included those whose candidatures were prevented. The corpus on which his survey is based differs from mine in two respects: it is both broader (it includes candidatures that were prevented, whether by violence or by decision of the electoral officer) and narrower (it does not take into consideration refusals to stand for election before campaigns).

have no intention of dwelling on this last situation because I have already dealt with it elsewhere, it should not be ignored here because the line between temporary and permanent abstention was thin and the two situations had a lot in common.<sup>10</sup> A temporary abstention soon became permanent when the opportunity had passed. On the other hand, neither will I include the refusal of provincial governorships, dealt with in this volume by Julie Bothorel, nor that of priesthoods, which by my reckoning falls into a different category, because candidatures were conditional on the proposal of one of the members of the college in question.<sup>11</sup>

The problem arose above all after the introduction of legislation on the *cursus honorum* in 180. Nevertheless, several examples are provided here from the time of Hannibalic War, a period during which the *cursus* was beginning to take shape in practice and which was marked by fiercer aristocratic competition, exacerbated by the ballot laws.<sup>12</sup> This problem was expressed in different terms, which are included here by way of comparison, from the Caesarian dictatorship through to the formation of the Triumvirate.

The main sources addressing this phenomenon, which are exclusively literary, include the Ciceronian corpus, the Roman histories of Livy and Cassius Dio, and the biographies of Plutarch. As is often the case, tensions can arise between contemporary and later accounts, which sometimes idealise or at least simplify the past.

The study of abstention at the end of the Republic poses two main questions. Was it a global and coherent social, political and cultural phenomenon or should the issue be approached from a typological perspective? Did this phenomenon undergo any substantial changes during the period under study? In other words, was abstention a symptom of the crisis of the Republic or did it form part and parcel of the inner workings of Republican political life?

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10 Baudry forthcoming.

11 See Cic. *Phil.* 2.4, where in reply to Antony's claim that he decided not to present his candidature for the augurate, so as not to stand in his way, Cicero asserts that he was proposed by all the members of the college. Antony's remark is interesting in that it implies that abstention could be a gift of sorts, which required another in return, albeit only applicable to elections to a single post, another pointer to the specificity of priestly elections.

12 Regarding their effects on electoral competition, see Yakobson 1995: 426-442.

## Abstention in the sources and its forms

First of all, there is the question of what the sources have to say about abstention. The two simplest forms that can be identified, among other cases, are the explicit references to an individual who refused to stand for election and to another who withdrew his candidature. In the first instance, the Latin and Greek authors refer to a candidature but in negative sentence structures, and in the second, employ the verb *concedere*, signifying the action of withdrawing.<sup>13</sup>

However, such occurrences are rare, for, more often than not, abstention is not mentioned and can only be inferred by comparing sources. For example, on the subject of the consular elections in 63, various extracts from Cicero's correspondence, in which he describes the electoral landscape as early as in July 65 and how it evolved over the following months, can be compared to the *Commentariolum Petitionis*, which calls to mind the situation at the beginning of 64, and Asconius' commentary of the speech *In toga candida*, which indicates who had presented their candidatures by July 64.<sup>14</sup> However, such comparisons are seldom possible and, more often than not, the reasoning is more complex and therefore more ambiguous. For instance, for the elections held in the late 60s and throughout the 50s there is sometimes news about who, at one time or another, intended to stand for election. In the main, however, it is not known who actually stood, apart from the two elected candidates and a few notorious cases of defeat, previously listed by Broughton and subsequently by Konrad and Pina Polo.<sup>15</sup>

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13 For the first situation, see Sall. *Iug.* 63.6: *consulatum adpetere non audebat*.

14 Cic. *Att.* 1.1.1 (July 65) offers an initial overview of the situation, one year before the elections. Cicero considers other possible candidates, particularly those currently in the provinces, whose return to Rome and decision to run are both difficult to predict. He is also wary of those who might be defeated in the elections for 64. A second, less exhaustive assessment of the situation, focusing on the *nobiles* (P. Sulpicius Galba, L. Cassius Longinus, C. Antonius Hybrida and Catilina), appears six months later in the *Commentariolum petitionis* (Cic. *Comment. pet.* 7-8). Asc. 82C mentions seven actual candidates: Cicero, P. Sulpicius Galba, Catilina, C. Antonius Hybrida, L. Cassius Longinus, Q. Cornificius and C. Licinius Sacerdos.

15 See the study of the elections for 59 performed by Grummel 1954: 351-354; Gruen 1974: 87-89. Cic. *Att.* 2.5.2 states that the election of A. Gabinius and Ser. Sulpicius Rufus was expected. Did the latter actually remain in the running? The elections were held on 18 October 59, eventually presided over by Caesar, instead of Bibulus, which might have discouraged some candidates. On the chronology of events, see Linderski 1965: 423-442. A convenient table of candidates for the consulship, for the period 218-49, has been drawn up by Evans 1991: 111-136, but to my mind it seems to underestimate the number of people who withdrew from the race. For a list of candidates who were certainly defeated, see Broughton 1991: 1-64; Konrad 1996: 104-143; Farney 2004: 246-250; Pina Polo 2012.

Of the many other issues, I only intend to offer three examples that hinder documentary research on this subject.

The first concerns Cato the Younger. In the course of his career, there were perhaps three cases of abstention, or rather, a desire to abstain, or even a simulation of abstention, in the first two. One tradition suggests that he had resolved not to stand for the praetorship, at least *anno suo*, and that he only decided to run in order to obstruct Pompey and Crassus, the probable consuls of 55.<sup>16</sup> It is also consistently held that he had no intention of running for the consulship and only did so out of his desire to spite Caesar.<sup>17</sup> In both cases, the abstention was only virtual and did not go beyond an expression of intent. In the end, according to Plutarch, Cato gave up the idea of running for office again, after suffering defeat.<sup>18</sup> In this case, the circumstances made his abstention definitive.

The historicity of the first two cases is difficult to gauge because of the weight of the Catonian mirage in the historiographical tradition. Later sources emphasise his detachment from honours and his devotion to the *res publica*. As this story was already circulating during Cato's lifetime, it is likely that he was its author, delaying his decision to stand for election in order to present himself more as a senator driven by a sense of service to the Republic than as an ambitious man anxious to climb the career ladder by any means available.<sup>19</sup> Here, abstention would have been a pretence, a sort of *recusatio imperii* designed

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16 Plut. *Cat. Min.* 42.1.

17 Dio Cass. 40.58.1: "Cato had no ambition for office" (Ο δὲ δὴ Κάτων ἄλλως μὲν οὐδεμιᾶς ἀρχῆς ἐδεῖτο).

18 Plut. *Cat. Min.* 50.3: "Cato replied, accordingly, that he had lost the praetorship, not because the majority wished it to be so, but because they were constrained or corrupted; whereas, since there had been no foul play in the consular elections, he saw clearly that he had given offence to the people by his manners. These, he said, no man of sense would change to please others, nor, keeping them unchanged, would he again suffer a like disaster" ("Ἐλεγεν οὖν ὁ Κάτων, ὅτι τῆς μὲν στρατηγίας οὐ κατὰ γνώμην ἐξέπεσε τῶν πολλῶν, ἀλλὰ βιασθέντων ἢ διαφθαρέντων, ἐν δὲ ταῖς ὑπατικαῖς ψήφοις μηδεμιᾶς κακουργίας γενομένης ἔγνωκε τῷ δήμῳ προσκεκρουκῶς διὰ τὸν αὐτοῦ τρόπον, ὃν οὔτε μεταθέσθαι πρὸς ἐτέρων χάριν οὔτε χρώμενον ὁμοίῳ πάλιν ὅμοια παθεῖν νοῦν ἔχοντος ἀνδρός ἐστι). On Cato's reaction to his defeat in the consular elections, see Baudry 2023: 277-292.

19 The question is a complex one, for we know that the Stoics did not abandon *utilitas communis* or *salus communis*, as Cicero has Cato himself remark in a fictitious dialogue after his suicide at Utica (Cic. *Fin.* 3.64). There is no contradiction because renouncing an office did not mean renouncing political participation, which in this case took the shape of senatorial activity.

to make an electoral difference.<sup>20</sup> This type of behaviour is also totally consistent with Cato's concern not to attach too much importance to the electoral campaign, since *contentio petitionis* was no substitute for *contentio dignitatis*.

The second example has to do with Aemilius Scaurus, who entered the running for the consulship in 54. He was certainly a candidate but whether he eventually withdrew his candidature is anyone's guess. Cicero chronicled this campaign, which was marked by bickering and constant postponements of the *comitia*. In particular, he points out that Pompey eventually withdrew his support.<sup>21</sup> Abstention here was really a forced withdrawal, rather than a free choice.

The third example concerns Quintus Cicero. As is common knowledge, Quintus completed his *cursus honorum* four years after his elder brother. Although he did not excel in oratory, he had the advantage over Marcus of being able to count on the latter's influence and popularity, which paved the way for his election to the praetorship in 63, for the following year, while his brother was consul and, probably, presided over the elections. The first difference with his brother's career was the fact that he was entrusted with the government of Asia, a wealthy province with no prospect of a war of conquest. However, Quintus' term of office was extended twice, which prevented him from standing for the consulship *anno suo*: he did not return to Rome until the beginning of 58, which meant a two-year delay in his *cursus*.<sup>22</sup> In this respect, his situation was somewhat akin to that of Catilina, who was detained in Africa and unable to present his candidature before the established deadline.<sup>23</sup> This begs the question of whether, during his time in government, Quintus had any intention of running for consul, or had given up on the idea, and if so, when. Cicero's famous letter to him at the beginning of 59 suggests that Quintus' ambition was still intact at the time.<sup>24</sup> Subsequent events prevented him from standing.

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20 Another example of ostentatious disinterest in the consulship, poorly masking his desire to be elected to it, is that of Marius, according to Plut. *Mar.* 14.13-14.

21 Cic. *QFr.* 3.6[8].

22 Cic. *QFr.* 1.1.1 (early 59), which refers to the Senate's decision on a new extension.

23 Sall. *Cat.* 18. 3 refers to the impossibility of running, without deciding on the reason: an accusation *de repetundis* or having returned from his province after the legal deadline.

24 Cic. *QFr.* 1.1.43: "Since circumstances have dictated that I should administer public affairs in Rome itself, as a magistrate, and you in a province, if in the role I have had to play I have been inferior to no one, see to it that in yours you eclipse all your rivals (*fac ut tua ceteros uincat*)"; 45 "This speech of mine is not, moreover, intended to rouse you from a nap, but rather to stimulate your running (*ut currentem incitasse uideatur*)?"

In 58, the year in which Pison and Gabinius held the consulship and when Clodius' actions had led to the exile of his brother, a consular candidature would have seemed inappropriate to say the least: the two brothers' fortunes were at their lowest ebb at the time.<sup>25</sup> In 57, however, the situation was very different. The consular elections coincided with the discussions on Cicero's recall from exile, of whom one of the consuls, Cornelius Lentulus Spinther, was a political ally. There is no evidence, though, that Quintus entered the running: it was certainly too soon and the two brothers feared that such a candidature would stand in the way of the eldest brother's desire to return, at a time when the theme of Cicero's *regnum* was still fresh in people's minds. In the consular elections of 56 for 55, the dual candidature of Pompey and Crassus dashed any hopes he might have had.<sup>26</sup> By then, Quintus seemed to have missed the boat, even if it is conceivable that he did not throw in the towel, considering his legateships under Caesar, after the Lucca agreement, which might have been a consolation prize or a possible springboard.

Defending this last alternative, Wiseman deduces from letters exchanged with his brother in 53 that he had set his sights on running for the consulship in 52,<sup>27</sup> before returning to the events that might have made him entertain that idea. This was due in particular to the career of Milo, who had Pompey's undying support and who could have been Quintus' colleague in the consulship of 52 or, failing that, a supporter for the consulship of 51. His plans were thwarted by a number of factors including the political unrest that

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25 Cic. *Dom.* 59 paints a pathetic picture of his brother Quintus' situation on his return to Rome, sometime after his own departure.

26 Even in 57, Quintus' ambitions would have still been at half-mast. According to Wiseman 1966: 112, Quintus accepted a legateship in Sardinia, as part of Pompey's *cura annonae*, to repay his debt to him rather than as a stepping stone to the consulship. Wiseman 1966: 113, observes that Quintus had no further prospects in the autumn of 56, judging by a letter from Cicero to Atticus, informing him that Pompey had already chosen the consuls for the coming years (Cic. *Att.* 4.8a.2). However, Cicero would not have failed to specify whether his brother had been included on this list. It is also worth noting that, when he draws a parallel between his own fate and that of his brother on his return to Rome (Cic. *Red. pop.* 5), the orator points out that the consulship was the culmination of his career, whereas all he mentions about Quintus is the latter's affection for him.

27 Wiseman 1966: 108-115. The decisive passage would be Cic. *QFr.* 3.1.12. This proposed candidature would explain why Cicero kept his brother informed about the elections for 53, insisting in particular on the probable victory of their friend Messalla. Quintus could count on his support, in his position as president of the elections for the following year, and could wait until the consuls of 53 were elected to begin his campaign.

prevented elections from being held in 52 and Quintus' misfortunes in Gaul.<sup>28</sup> According to Wiseman, Quintus ultimately abandoned his consular dreams in the second half of 53.

Two conclusions can be drawn from this long example. Albeit never explicitly mentioned in the sources, abstention could come in several forms: refusals, be they forced or the result of delaying tactics, to enter the running, or the decision not to do so again, namely, renouncing the consulship once and for all. As for Quintus, he might have made that decision twice: in 58, when all that mattered was survival, and in 53. Thenceforth, it was irrevocable, even if, as Wiseman notes, Quintus father and his son's dealings with Caesar after Pharsalus, which were marked by the orator's systematic denigration, support the hypothesis that Quintus still harboured some hopes in this respect.<sup>29</sup> In any case, it seems that the author of the *Commentariolum petitionis* was never in a position to stand for consul.

If the cases of Cato and Quintus Cicero are ambivalent, it is because the abstentions mentioned in the sources correspond to an actual or putative, temporary or definitive refusal to stand for election and not to a withdrawal from the consular race, as was perhaps the case with Milo. A formal distinction must be drawn between the two situations. Withdrawals occurred in a specific time frame: after a candidate had launched his unofficial campaign and before the start of the official one, viz. before the *professio*. Several of Cicero's competitors for the consulship of 63 did so. Lucceius, who was a probable candidate for 59, might have also opted for this solution, but he continued to procrastinate.<sup>30</sup> This situation should be distinguished from that of a withdrawal after the *professio*, more than likely forced, as was perhaps the case with Milo, or sometimes voluntary, as was the case with the patrician candidates for the consulship for 216.<sup>31</sup>

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28 On this last point, McDermott 1971: 711 offers a more nuanced interpretation.

29 Cic. *Att.* 11.8.2; 11.10.1; 11.11.2; 11.12.1.

30 The first mention of this campaign appears in Cic. *Att.* 1.17.11 (5 December 61). At the time, Lucceius had only two certain competitors, Caesar and Bibulus, both of whom were seeking to ally themselves with him. In June 60, Cicero did not know whether he intended to stay the course: Cic. *Att.* 2.1.9 (mid-June 60). Asc. 91 C specifies that he had applied for the consulship: *consulatum quoque petiit*. Suet. *Iul.* 19.1-3 also mentions these three candidates, although from his account it is unclear whether Lucceius withdrew his candidature or not. On Lucceius and his ties with Pompey, see Stanton – Marshall 1975: 215-217.

31 Liv. 22.34-35. On this event, see the analyses by Sumner 1975: 250-259; Gruen 1978: 61-74; Twyman 1984: 285-294. As noted by Chillet 2023: 520, it is the verb *concedere* that expresses the action of withdrawing, a withdrawal occurring after the *professio*.



Lastly, there is another difference, already mentioned above, between those who decided not to run again for an office to which they had failed to be elected and those who had never stood for election, whatever the post.

## The reasons behind abstention: causes and contexts

The cases considered above had different causes and contexts, which need to be identified. The first reason was when the electoral landscape was particularly uncertain, not to say dangerous; we are all familiar with the procrastination resulting from Caesar's candidature for the consulship for 59.<sup>32</sup> For his part, Marius refused to stand in the censorial elections, after his role in the repression of Saturninus and Glaucia had undermined his popularity. In this case, abstention was motivated by a desire to avoid defeat.<sup>33</sup> Yet the consular elections held in 55 are the most remarkable example. According to the accounts of Plutarch and Cassius Dio, the political violence unleashed by Crassus and Pompey was such that the only other candidate, despite Cato's encouragement, decided to withdraw.<sup>34</sup> Plutarch states that, when this occurred, the other candidates had already done so: "However, while the other candidates were giving up their bids for the consulship, Cato persuaded L. Domitius not to give up."<sup>35</sup>

There were two types of withdrawal: the withdrawal of candidates during the unofficial campaign, before the *professio*, when the candidature of Pompey and Crassus was announced; and the withdrawal of Domitius at the end of the campaign, on the eve of the elections, if Cassius Dio is to be believed. Generally speaking, Evans considers that during the three years for which Pompey was elected consul there were no real elections, to which should be

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32 Contemporary sources mention the candidatures of Caesar and Bibulus and, perhaps, Luccius. However, as Wiseman 1966: 112 recalls, there would have been many possible candidates: in addition to Quintus Cicero, who was ultimately retained by his provincial governorship in Asia, he cites Carbo, Philippus, Messalla, as well as half a dozen former praetors, who held this office between 66 and 63.

33 This is the version of events recounted by Plut. *Mar.* 30.5.

34 Cic. *Att.* 4.18a.2; Plut. *Cat. Min.* 41.3-8; *Crass.* 15.3-7; *Pomp.* 52.1-2; App. *B Civ.* 2.17.64; Dio Cass. 39.30-31. For an analysis of this popular violence, see Courrier 2014: 804. The names of the candidates who withdrew from the race are not specified in any source. Evans 1991: 135 conjectures that they were Ap. Claudius Pulcher and L. Cornelius Lentulus Crus, both praetors in 58, as well as T. Ampius Balbus, praetor in 59.

35 Plut. *Pomp.* 52.1.



added the five years during which Marius monopolised the consulship, not to mention the *Cinnanum tempus*.<sup>36</sup> This category also includes withdrawals prompted by the fear of a trial or electoral defeat due to the hostility of the president of the elections.<sup>37</sup>

A second reason, which is the most frequently attested in the sources, had to do with the evolution of public opinion during an election campaign, even if the results were unpredictable.<sup>38</sup> Understandably, this reason is sometimes confused with the first.

The third reason, which is related to the previous one, was that an electoral defeat often persuaded the candidate in question to accept the judgement of the people – which was now open and had nothing to do with opinion or rumour – and to refrain from standing for election again.<sup>39</sup> This was probably the case with Cato, who refused to stand for consul again after his defeat in the elections for 51. To a certain extent, this decision was consistent with his behaviour during the campaign, characterised by his refusal to court the plebs.<sup>40</sup>

The fourth reason is specific, for it involved the refusal of optional intermediate offices, namely, the tribunate of the plebs and the aedileship. The choice to hold the office of tribune of the plebs, after the Sullan reforms, cannot be considered as a refusal of other magistracies, as this legislation was contested very early on and was undoubtedly rejected by those who chose to run for this office.

The fifth – and very different – reason was a lack of ambition or, at the very least, one tempered by a concern for the public good and aristocratic values, or even a lack of appetite for the trials and tribulations of election campaigns. As has been seen, Plutarch suggests that Cato did not initially intend to stand for the praetorship in 55 and that it was to hinder the action of

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36 Evans 2016: 80-100. The victims of Marius' monopolisation of the consulship included C. Billienus. See Cic. *Brut.* 175: *C. Billienus homo per se magnus prope simili ratione summus euaserat; qui consul factus esset, nisi in Marianos consulatus et in eas petitionis angustias incidisset.*

37 The opposition of the consul L. Volcarius Tullus dissuaded Catilina from running in 66. See Asc. On this event, see the analyses performed by Sumner 1965: 226-231 and Ryan 1995: 45-48.

38 See the stimulating considerations of Jehne 2009: 495-513. Cic. *Mil.* 42 is indicative of the anxiety of candidates, always alert to the reactions of their fellow citizens.

39 On the consequences of electoral defeats, see Baudry 2013: 117-143.

40 As to Cato's attitude, see Tatum 2007: 112-113.

Crassus and Pompey that he finally decided to do so.<sup>41</sup> A few years later, the same lack of ambition was evident, judging by the account offered by Cassius Dio who, on the subject of the consular elections in 51, has the following to say:<sup>42</sup>

“Cato did not aspire to any office, but he saw the power of Caesar and Pompey growing to the point of being incompatible with the constitution of the Republic. He foresaw that they would seize the government together, or that they would divide and cause violent seditions, or that the one who would have the upper hand would be the sole master of sovereign power. He therefore wanted to overthrow them before they became enemies, and asked for the consulship to fight them, because he would have no strength if he remained in private life.”

The sixth reason was a declaration of invalidity or, in other words, the inability to hold office. A very specific case is that of T. Manlius Torquatus who when appointed consul by the prerogative *centuria* for 210, even though he had already held this office twice, argued that he was too old and physically unfit to request a new vote.<sup>43</sup>

Reluctance to compete against friends or political allies was the last reason. C. Scribonius Curio decided not to stand for the consulship for 77, so as not to risk defeating Mam. Aemilius Lepidus Livianus, who ultimately lost the consular elections in 78.

Evidently, all these reasons involved different situations, which suggests the heterogeneity of political abstention, as defined here. Nonetheless, they can plausibly be reduced to two types, namely, temporary abstention, whatever the reason, and definitive abstention, whenever it occurred in the electoral process: the first was a strategic move; the second, a sign of withdrawing from the race. However, the dividing line between the two could be hazy, as shown by the example of Quintus Cicero, for a temporary abstention could turn into a permanent one.

### Abstention: perception, stigmatisation and legitimisation

As could not be otherwise, the foregoing poses the question of how abstention was perceived in Rome and of whether its different versions were interpreted as a rational whole. As to this last question, the absence of a unified, coherent vocabulary suggests that they were not. Apart from the verb *concedere*,

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41 Plut. *Cat. Min.* 42.1.

42 Dio Cass. 40.58.

43 Livy 26.22.3-15.

which signifies the action of withdrawing a candidature, a practice that is well attested, there is no term for designating abstention. The term *otium* is too general and only partially corresponds to the phenomenon under study.

As to the question of whether abstention was stigmatised in Rome and, if so, whether this applied to all of its forms, the answer can perhaps be deduced from the existence of a “discourse of apology” for the practice.<sup>44</sup> This is illustrated by the situation of C. Aquillius Gallus, praetor in 66, as described by Cicero in his letter to Atticus in July 65, in which he mulls over who his competitors might be for the consular elections scheduled to be held the following year:<sup>45</sup>

*Aquilium non arbitrabamur, qui denegavit et iuravit morbum et illud suum regnum iudiciale opposuit.*

“C. Aquillius, I don’t think so: he assured us otherwise, apologised for his poor health and emphasised his judicial obligations.”

He puts forward two reasons: his judicial activity and his physical incapacity. The use of the verb *iurare* is interesting as it suggests the existence of many constraints from which he must free himself in order to abstain. Another of Cicero’s accounts supports this view. This is a letter to Fadius in which the orator claims that the fact that he was obliged to abandon the race because of a court conviction was a godsend.<sup>46</sup> Fadius, though a new man, had to continue his career and stand for the praetorship.

The existence of such a discourse is an indication that abstention was not self-evident and therefore required a justification, for a senator could not renounce his duty to serve the *res publica*, which included the holding of magistracies. Nor could he renounce his ambition, voluntarily evading the judgement of the people.<sup>47</sup> For if he did so, how could he then speak in

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44 Etcheto 2012: 69.

45 Cic. *Att.* 1.1.1.

46 Cic. *Fam.* 5.18 (to Fadius, end of March 52): “What your merits have won you, fortune has taken away: for you have arrived where new men seldom arrive, and what you have lost, how many men of the highest nobility have lost it too! Finally, the laws, the administration of justice, the whole of political life are taking such a threatening turn that this one, it seems, had the best chance, to whom a conviction as benign as possible allowed to get out of the game.”

47 See Cic. *Rab. Post.* 27: “This L. Flaccus who, throughout his political career and especially in the exercise of magistracies, in the priesthoods and religious ceremonies over which he presided, showed such diligent activity, shall we condemn him, now that he is no more, as guilty of an awful crime, of parricide?” (*L. Flaccum, hominem cum semper in re publica, tum in magistratibus gerendis, in sacerdotio caerimoniisque quibus praeerat diligentissimum*). It was through honours that personal excellence was achieved.

the Senate or the Forum? There was no room for modesty or renouncing the aristocratic *ethos*, which could be seen as a lack of *industria* and a form of *ignavia*, *desidia*, *socordia*, according to a moral interpretation of political conduct.<sup>48</sup> Nor could they dismiss their social obligations, for those who had pursued a career had established give and take relationships that they could only honour by continuing to exert political influence.<sup>49</sup> Only someone like Cato could resort to moral rhetoric appealing to *virtus* that was capable of legitimising an abstention. And even then, he could only do so after his defeat in the consular elections and not everyone saw it in the same light.

The foregoing begs the question of whether birth was an acceptable excuse or even an habitual one and whether aristocrats expected new men to stand aside and refrain from challenging their pre-eminence, as Metellus' speech to Marius suggests.<sup>50</sup> Here, abstention would have been legitimate, for the nobility at least, in that it would be the recognition of a precedence, an expression of the hierarchies inherent to the aristocracy. Yet it was a point of view that was not necessarily shared by all: the claim that they were obliged to pursue honours, in particular the consulship, was actually a reflection of the rivalry between the members of the aristocracy, although Sallust mentions the existence of this phenomenon of self-censorship with respect to the consulship.<sup>51</sup> In addition to reaffirming the superiority of this socio-honorific

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48 Levick 1982: 54, based on Sall. *Cat.* 4.1, required to defend himself from all accusations of *desidia* and *socordia*, on the grounds that he had renounced all political activity.

49 On the nature and extent of the debts run up by candidates and their effect, which could turn an election campaign into a personal tragedy, see Jehne 2009: 495-513.

50 Sall. *Iug.* 64 develops Metellus' response to Marius' request. He expresses his astonishment, paternalistic attitude, class contempt and the prospect of an electoral defeat, which he considers to be legitimate (*iure*).

51 Sall. *Iug.* 63.5-7: "After this magistracy, he successively conquered the others, and in all the offices he held, he conducted himself in such a way as to appear worthy of filling a more important one. However, up until this time - for it was ambition that later lost him - a man of such merit did not dare to set his sights on the consulship; it was still the time when, while the plebs had access to the other magistracies, the nobility reserved this one for themselves, passing it from hand to hand. There was no new man, no matter how great his glory and exploits, who was not judged unworthy of such an honor, and as if tainted by some stain" (*Deinde ab eo magistratus alium post alium sibi peperit, semperque in potestatibus eo modo agitabat ut ampliore quam gerebat dignus haberetur. Tamen is ad id locorum talis uir - nam postea ambitione praeceps datus est - < consulatum > adpetere non audebat: etiam tum alios magistratus plebes, consulatum nobilitas inter se per manus tradebat. Nouos nemo tam clarus neque tam egregiis factis erat, quin si indignus illo honore et quasi pollutus haberetur.*)

category, the contemptuous rhetoric of the nobility was also intended to discourage potentially dangerous candidates.<sup>52</sup>

Paradoxically, refraining from holding optional offices, such as the tribunate or aedileship, could come in for criticism, even though it did not mean renouncing a career. As is generally known, the pressure was on and there was speculation about who would run for office.<sup>53</sup> The reasons for pursuing one office or another were different: tribunes were expected to take legislative action, whereas aediles were supposed to organise games. The best known case is that of Sulla, who was allegedly defeated in his bid for the praetorship in retaliation for skipping the aedileship, which for the plebs was even more difficult to swallow because they expected sumptuous games due to the links between Sulla and Bocchus.<sup>54</sup> This omission could also be seen as an indication of the *superbia* of the *nobilis* who, unlike the ambitious new men, saw no need for holding intermediate offices.<sup>55</sup>

### For a unitary history of abstention? Abstention as a symptom

As to the question of whether abstention can be quantified and whether any trends can be observed, by definition it cannot be owing to the fact that it has left very few traces in the sources which are, moreover, rare and unevenly distributed over time. Any prosopographical survey is doomed to failure because, for example, praetors who were candidates for the consulship cannot be compared to those who refused to stand, since in most cases only the former are known. The phenomenon could not have been exceptional, at least

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52 According to the letter that he sent to Q. Lutatius Catulus, Catilina is said to have judged several of his fellow citizens unworthy of the honours bestowed upon them: should we deduce from this that he considered them unworthy of canvassing? Sall. *Cat.* 35.3: "I saw men showered with honours who had no right to them" (*non dignos homines honore honestatos uidebam*).

53 Cic. *De or.* 1.25 comments on the protagonists of the dialogue: "C. Cotta, a candidate for the tribune of the plebs, and P. Sulpicius, who, according to popular opinion, was to run for the same office immediately afterwards" (*C. Cotta, qui [tunc] tribunatum plebis petebat, et P. Sulpicius, qui deinceps eum magistratum petiturus putabatur*).

54 Val. Max. 7.5.5; Plut. *Sull.* 5.1. This version of the events is generally accepted, especially as it derives from Sulla's autobiography. See Cagniard 1991: 286. Sumner 1978: 395-396 gives credence to the account according to which Sulla, after his failed bid for the praetorship, held the office of aedile, while also maintaining that he was aedile in 98. The ongoing discussions focus on the dating of the episode and of Sulla's praetorship.

55 The idea was put forward by Wiseman 1971: 161.

as regards consular elections, especially after the number of praetors had been increased from six to eight during the dictatorship of Sulla. Two pieces of evidence confirm this hypothesis. That pertaining to the consular candidates for the year 63 shows this in a paradoxical way: some are rather grey individuals, yet it is those whose possibilities are deemed fanciful or hopeless who astonish the letter writer, despite being a new man.<sup>56</sup> At the height of the unofficial campaign, there were ten candidates in the running, four of whom had been praetors in 66, one in 68, one in 69 and another in 75.

This last example also underscores the importance of social status in the decision to stand or not. Sulpicius Galba's candidature was considered to be doomed from the outset by both Cicero and his brother Quintus, yet this noble patrician went through with it, probably because family and, more broadly, social pressure was too strong. Signs of support, irrespective of whether or not they appeared during these months of unofficial campaigning, gave an idea of the outcome of the vote, even though the results were always unpredictable. Abandoning ship in the middle of a campaign was not, however, to be taken for granted: promises had been made and expenses incurred. The only way to make this difficult decision was to weigh up the pros and cons.

The second example, which is more eloquent, concerns those in the running for 59. Six months before the consular elections, Cicero was considering only three candidates: Caesar, Bibulus, both of whom, it should be noted, had been curule aediles, and the undecided Lucceius, who was counting on an alliance (*coitio*) with one of his two candidates to get himself elected.<sup>57</sup> Neither is there any mention of the five other praetors for 62 or of the candidates defeated the year before. However, in addition to C. Papirius Carbo, Q. Cicero and C. Vergilius Balbus, there were two future consuls: L. Marcius Philippus and M. Valerius Messalla Rufus. If in the last two cases their abstention was tactical and temporary, it was perhaps different for C. Papirius Carbo and C. Vergilius Balbus. There was indeed a remarkable

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56 Some forty years earlier, the *nobilis* Metellus had expressed astonishment at the fact that the *homo novus* Marius should have the nerve to stand for consul (Plut. *Mar.* 8.6). The passage is tendentious, since it overplays the antagonism between *nobiles* and *ignobiles*, but nonetheless reveals the existence of preconceived ideas about how new men were expected to behave.

57 Cicero emphasises the small number of competitors. Cic. *Att.* 1.17.11 (5 December 61): *duo enim soli dicuntur petitori.*

phenomenon of abstention, of self-censorship, before the unofficial campaign or even at the beginning of it.

This does not seem to have been so much the case in the Caesarian period, for the dictator's control of political life upset the balance and emboldened those who would normally have had more modest ambitions. In a letter to Atticus, written on 19 May 45, Cicero expresses his indignation, "What an age! One day we will see Curtius [an ardent supporter of Caesar] hesitate to run for the consulship!"<sup>58</sup> Indeed, in a speech that Cassius Dio attributes to Gabinius, the "honour seekers" were already being decried.<sup>59</sup>

Despite the fact that there is no evidence of abstention as regards the other magistracies, it is unlikely that all former quaestors stood for the praetorship, especially once their number had doubled.

Even though it was normal for defeated candidates to stand again, they rarely did so more than once. In point of fact, rivalries were expected to pit *aequales* against each other.<sup>60</sup> At the end of the Republic, the case of Ser. Sulpicius Rufus, consul in 51, after a first bid eleven years before, was the exception rather than the rule.

Despite the moral discourse permeating it, abstention formed part of the normal game of competitive politics, in which defeat, albeit demeaning, did not disqualify a candidate for life and abstention was hardly more dignified. Running and then withdrawing was an acceptable compromise but not without its difficulties. A structural necessity, abstention was newsworthy when it was the result of an exceptional political situation, which became increasingly more frequent, as in the elections for 59 and 55. More broadly speaking, during the 50s there was what might be called a politicisation of elections, which discouraged some candidates and encouraged others.<sup>61</sup> Candidates had to position themselves in relation to the triumvirs. The situations of Ser. Sulpicius Rufus and Cato, both contenders for the consulship

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58 Cic. *Att.* 12.48-49.2 (19 May 45).

59 Dio Cass. 36.27.3.

60 Cic. *Phil.* 5.47: "That's why our ancestors, in their truly ancient wisdom, had no annal laws; many years later, they were caused by electoral rivalries (*ambitio*): they wanted to establish a hierarchy of candidacies between people of the same age (*ut gradus essent petitionis inter aequalis*). And so, time and again, a great soul bent on virtue has died before it could render any service to the Republic."

61 On the specific nature of the 50s, see Flower 2010: 149-153.

for 51, were in stark contrast. C. Claudius Pulcher who, Cicero claims, was intending to stand for the consulship for 53, might well have paid the price for this situation: he was never a consul, but neither is it known whether he was able to stand for this office nor when his abstention became a reality.<sup>62</sup> In addition to the desire to avoid the dishonour of defeat, there was also – and this is an essential point – the fear caused by the unleashing of political violence, as occurred in the consular elections of 55.<sup>63</sup> The frequent postponement of elections during the 50s may have acted as a deterrent and led to withdrawals, sometimes forced by legal proceedings.<sup>64</sup>

When summarising the careers of new men, however, Cicero also envisages cases of delay, due to repeated failures or deferred candidatures, but not the hypothesis of definitive abstention.<sup>65</sup> The contradiction is easily resolved: here Cicero is only considering new men who had been elected to the consulship, but not those who had withdrawn from the race.

Abstention was the result of different situations, which should be distinguished because they did not necessarily have the same meaning. Be that as it may, some common features can be identified. Refusing to pursue honours was not something that could be taken for granted and called for a justification, especially on the part of the *nobiles* who were under a great deal of social pressure, which could be sound enough to make abstention socially acceptable. The last years of the Republic, particularly the 50s, witnessed the oligarchisation of political life and the more frequent use of violence, forcing

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62 On his alleged, but likely, desire to attain the consulship, if not from 53 at least at some moment after his return from the provinces, see Cic. *Scaur.* 31-36, plus the analysis of Broughton 1991: 24.

63 See the analysis performed by Jehne 2009: 512-513.

64 This is why the elections scheduled for 53 were not held until the summer of this year, in July or August: Dio Cass. 40.17.2; 40.45.1; App. *B Civ.* 2.19. For a chronology and analysis of these events, see Sumner 1982: 133-139. The elections for the consulship for 55 were not held until the beginning of this year, some six months after the scheduled date.

65 Cic. *Leg. agr.* 2.3: “Certainly, if you recall your memories, you will recognize that, among the new men, those who were made consuls without experiencing failure, were done so at the cost of prolonged efforts and on a few occasions; that they had run for this dignity several years after their praetorship and long enough after they had reached the legal age; that those who were candidates at the fixed age were not elected without failure; that I am the only one of all the new men we can remember who, having run for the Consulate as soon as the law authorized him to do so, was elected Consul on his first candidacy. So much so that this honor, which I owe to you, solicited from the legal term, was not, it seems, surprised by another candidacy, nor begged for by incessant prayers, but granted on the basis of recognized merit.”



some politicians to abstain from running<sup>66</sup>. Here, abstention was no longer a strategy but undoubtedly one of the symptoms of the crisis affecting the Republic at the time.

Even though this situation did not change in the Imperial period, there was nonetheless a certain degree of continuity, starting with the social imperative for senators and their descendants to hold offices. Pliny the Younger bears witness to this in a letter to Pomponius Bassus: “For the beginning of our life and its middle must belong to the fatherland and its end to us” (*Nam et prima uitae tempora et media patriae, extrema nobis impertire debemus*).<sup>67</sup>

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66 On violence and its consequences, see Gabrielli 2022.

67 Plin. *Ep.* 4.23.3.

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*PROVINCIAM NEGLEXIT.*  
THE CONSEQUENCES OF WAIVING  
THE RIGHT TO GOVERN A PROVINCE  
FOR THE OF ARISTOCRATS  
DURING THE LATE ROMAN REPUBLIC<sup>1</sup>

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*Excusatio* is used several times in the Latin sources<sup>2</sup> to refer to the act of publicly presenting a satisfactory excuse, pretext or exemption, for not taking up office or for not accepting undertakings, after being elected to a magistracy. Through this procedure, which was common in Republican and Imperial Rome, candidates or magistrates-elect could thus turn down different offices: an aristocrat who had stood for election could eventually withdraw his candidacy;<sup>3</sup> a senator could refuse to attend a Senate session or to sit on a *quaestio* when his presence was required;<sup>4</sup> a young girl who met the requirements to become a Vestal Virgin could, depending on her family situation, choose not to participate in the Vestal *sortitio*;<sup>5</sup> magistrates could decline to cast lots for their provinces during their term of office or to govern the province they had just been assigned; and so forth.

It is this last type of *excusatio*, with which it was possible to relinquish a provincial governorship, that is discussed here. The focus is placed on the curule

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1 I would like to warmly thank Francisco Pina Polo for inviting me to this conference and Thomas MacFarlane for his careful proofreading of my text. All dates are BCE, unless otherwise stated.

2 E.g. Caes. *B Civ.* 1.85.8-9; Cic. *Phil.* 9.8; Livy 41.15.6-11.

3 Livy 26.22.5-8. On refraining from running for office in the late Republic, see Baudry's chapter in this volume.

4 Ryan 1998: 49-50.

5 Gell. *NA* 1.12.6-7.

magistrates, who became provincial governors at the end of their careers, during or immediately after holding the consulship or praetorship. There are many documented cases of consuls and praetors declining provincial governorships throughout the Republican period. This was particularly the case in the 1<sup>st</sup> century, especially between 80 and 52, viz. between the dictatorship of Sulla and the enactment of Pompey's provincial law, which profoundly changed the way in which provinces were distributed and limited the casting of lots for them exclusively to consulars and praetorians who had not yet governed one. One of the best examples of this phenomenon is certainly the career of Cicero (more on which later on) who waived his right to govern a province following his praetorship in 66 and then to govern a consular one in 63, before being forced to set off for Cilicia to take up office in 51, by virtue of the *lex Pompeia*.

Despite the importance of the phenomenon, which historians have underscored on several occasions,<sup>6</sup> the procedure for waiving the right to govern a province is still a moot point, as are the practical consequences for the political careers of late Republican aristocrats. The questions that remain unanswered include the following: What pretexts could be used to decline the governorship of a province? What happened to magistrates who did so? Could they then continue to pursue the *cursus honorum* or to undertake missions linked to their rank? The frequency of this practice also challenges the current understanding of the *cursus honorum*, for it contradicts the widely held notion that provincial governorships were much sought after mainly for financial reasons or for aristocratic glory-seeking and *dignitas*. This begs the question of why so many magistrates actually refused to govern provinces and what this reveals about the evolution of consular and praetorian careers at the end of the Republic.

## Waiving the right to govern a province, a common practice in the late Republic

Although it is only in 1<sup>st</sup>-century sources, such as Cicero, that the term *excusatio* begins to be clearly used in reference to the act of publicly presenting a satisfactory excuse for not taking up office or for not accepting undertakings, after being elected to a magistracy,<sup>7</sup> probably because the large number of

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6 Giovannini 1983: 89; Brennan 2000: 400-402; Pina Polo 2011: 239-241. See recently Blösel 2016; for a different point of view: Rafferty 2019: 122-132.

7 E.g. Cic. *Phil.* 9.8.

*excusationes* helped to identify and codify this procedure more effectively, it seems that the possibility of declining a province (*prouincia*) existed from the beginning of the Republic and was as old as the allocation procedure itself, both of which went hand in glove. As military tribunes with consular powers (*tribuni militum consulari potestate*), who were in charge between 444 and 367, are mentioned in the sources as having declined the province they had received by lot or from the Senate,<sup>8</sup> it can be assumed that *praetores*, then consuls and praetors after 367, also had the same right. By way of example, according to Livy, in 381 M. Furius Camillus, who was then a military tribune with consular powers for the sixth time, wanted to relinquish the command of the war against the Volscians, which the Senate had given him directly, *extra ordinem, parato in uerba excusandae ualetudini solita*; it was the protests of the people and his taste for battle that forced him to back-pedal.<sup>9</sup>

The sources, albeit more abundant due to the preservation of books 21 to 45 of Livy's *Roman History*, show that recourse to this practice remained limited during the early and middle Republican period (218-167). The manner in which the provinces, which could involve judicial, administrative or military undertakings, were distributed each year is now well known for this period. They were distributed among the colleges of magistrates, praetors or consuls, usually on the day of their investiture, by casting lots; although magistrates theoretically had the right to resort to *comparatio*, namely, reaching an amicable agreement on their distribution, instead.<sup>10</sup> Two aspects stand out in this period: in light of the fact that there are only two instances of this practice in the 3<sup>rd</sup> and 2<sup>nd</sup> century, in 205<sup>11</sup> and in 176,<sup>12</sup> consuls and praetors seem to have sought provincial governorships; furthermore, both of these instances involved extra-urban provinces (an important point discussed in further detail below).

A radical change then took place at the end of the Republic, when many consuls and praetors declined to govern extra-urban provinces. For consuls, the use of *excusationes* was particularly common in the post-Sullanian period, as illustrated by the well-known examples of Pompey and Cicero, who refused to

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8 On the military tribunes with consular powers, see Lanfranchi's chapter in this volume.

9 Livy 6.22.7: *exactae iam aetatis Camillus erat, comitiisque iurare parato in uerba excusandae ualetudini solita consensus populi restiterat; sed uegetum ingenium in uiuido pectore uigebat uirebatque integris sensibus, et ciuiles iam res haud magnopere obeuntem bella excitabant.*

10 Bothorel 2023: 31-134.

11 Livy 28.44.11; cf. 28.38.12 and Plut. *Fab.* 25.4.

12 Livy 41.15.6-10.

set off for their provinces after their consulships in 70 and 63, respectively. The following table lists the consuls who declined provincial governorships from 80 to 52, indicating the sources and why it is assumed that this was the case:

TAB. 1 – LIST OF CONSULS WHO DECLINED THE GOVERNORSHIP OF A PROVINCE BETWEEN 80 AND 52<sup>13</sup>

<i>Consuls</i>	<i>Consular year</i>	<i>Excusatio</i>
L. Cornelius Sulla	cos. 80	Sulla remained in Rome, probably for the duration of his dictatorship and consulship, until he renounced the latter (cf. e.g. App. <i>B Civ.</i> 1.450; 478-490). He is said to have refused to govern Cisalpine Gaul: Gran. Lic. 36.11.
D. Iunius Brutus Mam. Aemilius Lepidus Livianus	coss. 77	The Senate wanted to send them to Hispania to wage war against Sertorius; when the two consuls refused, Pompey was finally entrusted with the mission: Cic. <i>Phil.</i> 11.18; cf Plut. <i>Pomp.</i> 17.4. No provincial governorship is known for either of the two.
L. Gellius Poplicola Cn. Cornelius Lentulus Clodianus	coss. 72	They were commissioned by the Senate to wage war against Spartacus in 72 (and not in 73, meaning they were not appointed by virtue of the <i>lex Sempronia</i> ); after their defeat, they were dismissed by the Senate in favour of Crassus. Neither of them is known to have held the office of provincial governor and both became censors in 70, which means they were still in Rome in 71: Cic. <i>Verr.</i> 2.5.15; <i>Cluent.</i> 120; <i>Flac.</i> 45.
P. Cornelius Lentulus Sura	cos. 71	Expelled from the Senate in 70: Plut. <i>Cic.</i> 17.1; Dio Cass. 37.30.4.
Pompey Crassus	coss. 70	For Pompey and Crassus: Plut. <i>Pomp.</i> 23.3-4: Ἐκ τούτου διαλλαγέντες ἀπέθεντο τὴν ἀρχήν. For Pompey only: Vell. Pat. 2.31.1; Zonar. 10.2.

13 The list was compiled by Blösel 2016: 68 n. 4, on the basis of consuls known to have remained in Rome during their consulship and for whom the exercise of provincial government is not attested. It does not include consuls who died during their term of office. I have added Mam. Aemilius Lepidus (cos. 77) and references to the sources. See also Pina Polo 2011: 239; Giovannini 1983: 89. According to Rafferty 2019: 124, only four consuls renounced provincial governorships.

<i>Consuls</i>	<i>Consular year</i>	<i>Excusatio</i>
Q. Hortensius Hortalus	cos. 69	Plut. <i>Pomp.</i> 29.2; Dio Cass. 36.1a [Xiph.]; Schol. Bob. 96 Stangl; cf. Cic. <i>Verr.</i> 2.2.76; Diod. Sic. 40.1; App. <i>Sic.</i> 6.1 and 2.
L. Aurelius Cotta	cos. 65	Censor in 64; Cic. <i>Dom.</i> 84; Plut. <i>Cic.</i> 27.3; cf. Dio Cass. 37.9.4. Moreover, he was excluded from the <i>sortitio</i> in 49 (Caes. <i>B Civ.</i> 1.6.5), probably because he was close to Caesar, which suggests that he was a potential candidate for a consular province under Pompey's law of 52 and, therefore, had not yet governed one.
L. Iulius Caesar		Appointed <i>duovir perduellionis</i> in 63 to try Rabirius for <i>perduellio</i> : Dio Cass. 37.27.
C. Marcius Figulus	cos. 64	One of the consular senators who voted in favour of the death penalty for the conspirators who had joined Catiline in 63, before seconding the motion to thank Cicero publicly for saving the Republic: Cic. <i>Att</i> 12.21.1; <i>Phil.</i> 2.12.
Cicero	cos. 63	Cic. <i>Att.</i> 2.1.3; <i>Pis.</i> 5; <i>Fam.</i> 2.12.3; <i>Mur.</i> 42. Cf. Plut. <i>Cic.</i> 12.3-4 and Dio Cass. 37.33.
M. Calpurnius Bibulus	cos. 59	Proconsul of Syria in 51 by virtue of Pompey's law of 52, which implies that he did not govern a province as a consul, since only former magistrates who had never held such an office did so.
L. Marcius Philippus	cos. 56	Certainly opposed, like his colleague Marcellinus, to the candidacy of Pompey and Crassus for the consulship in 55, it is likely that Philippus was not given a province to govern or turned down the opportunity so as to remain in Rome. Like Cotta (see before), Philippus was later excluded from the <i>sortitio</i> in 49 (Caes. <i>B Civ.</i> 1.6.5), probably because he was close to Caesar, suggesting that he had not yet governed a province.

As the table clearly shows, during this period, almost fifteen consuls, that is to say a quarter of the consuls,<sup>14</sup> forsook their provinces after performing urban tasks (such as presiding over the *comitia*) – most of the time, they then

14 Blösel 2016: 68. See also Pina Polo 2011: 239-242.

left Rome for their provinces usually a few weeks before the end of their term of office (which they governed *ex consulatu*).<sup>15</sup> Although there is no information on the provinces that twelve consuls received,<sup>16</sup> it would not be surprising if some of them declined to govern them: Cn. Octavius (cos. 76); Cn. Aufidius Orestes (cos. 71); L. Volcatius Tullus and M'. Aemilius Lepidus (coss. 66); L. Licinius Murena (cos. 62); M. Valerius Messalla Niger and M. Pupius Piso Frugi Calpurnianus (coss. 61); Q. Caecilius Metellus Celer (cos. 60);<sup>17</sup> Cn. Cornelius Lentulus Marcellinus (cos. 56); L. Domitius Ahenobarbus (cos. 54); Cn. Domitius Calvinus and M. Valerius Messalla Rufus (coss. 53). In the words of W. Blösel, "It amounts to not quite half of the total of fifty-five consuls who held office during this period."<sup>18</sup>

Although the number of waivers was particularly high after Sulla's dictatorship, the first instances of this practice might possibly date from the 2<sup>nd</sup> century, with the paucity of sources for the years 130-80 not accounting for this. After the enactment of the *lex Sempronia de prouinciis (consularibus)* in 123, which stipulated that consular provinces should be assigned before the consular election,<sup>19</sup> there was in any case no major changes in the procedure until the enactment of Pompey's law in 52, by virtue of which they were distributed among former consuls who had been out of office for at least five years. For consuls, however, only one *excusatio* is mentioned for the early 1<sup>st</sup> century, namely, that of Q. Mucius Scaevola (*prouinciam ... deposuerat*).<sup>20</sup> Even though the meaning of this expression, which might signify that either Scaevola left his province or that he declined it, as well as the date on which he renounced Asia, have been the subject of much debate, F. Pina Polo has clearly shown that he declined the province assigned to him by lot during his consulship.<sup>21</sup>

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15 Giovannini 1983: 90 has clearly shown that the expression *ex consulatu* should not be equated with *post consulatum*, "after the consulate". In the 1<sup>st</sup> century, curule magistrates remained in Rome, where they held civil offices, usually setting off for their provinces before completing their term: Pina Polo 2011: 229-240.

16 Blösel 2016: 68-69 n. 5.

17 He died in Rome in April 59, without having completed his *profectio*: Cic. *Cael.* 59; cf. Dio Cass. 37.50.4-5.

18 Blösel 2016: 69.

19 Bothorel 2023: 165-171; for a different point of view, see Vervaeet 2006, followed by Rafferty 2019: 64-69, for whom the *lex Sempronia* would not have required the assignment of the consular provinces before the elections.

20 Asc. p.15 C.

21 Pina Polo 2011: 244-246.



As to praetors, it seems that many of them also declined to govern extra-urban provinces *ex praetura* during the late Republic.<sup>22</sup> Although this phenomenon might have appeared before Sulla's dictatorship – something that is not apparent from the sources – there are institutional reasons to believe that *excusationes* became more frequent after the Sullanian period. On the one hand, even though it is now accepted that he never issued a law divorcing this magistracy from the promagistracy,<sup>23</sup> Sulla certainly boosted the number of candidates for the praetorian *sortitio* by increasing the number of praetors to eight. Then, on the other, as I have recently attempted to show, there is plenty of evidence to suggest that Sulla also introduced a double praetorian *sortitio* in which the praetors cast lots for the urban provinces after their election or investiture, and for the extra-urban provinces in the autumn and probably before 5 December of the year of their magistracy.<sup>24</sup> The aim of this practice, combined with the greater number of praetors, was to swell the ranks of magistrates eligible to govern provinces, at a time when recourse to prorogation was commonplace because of the dearth of aristocrats holding *imperium*, regardless of whether they were expected to exercise judicial or military functions. It also had consequences for the system of *excusationes*, since praetors could thenceforth waive their right to govern extra-urban praetorian provinces, after fulfilling their civic duties for almost their entire term of office.

As with consuls, the literary sources rarely mention the way in which praetors declined to take up office as provincial governors and focus chiefly on the cases of Lucullus (pr. 78) and Cicero (pr. 66). The prosopographical information available is also hard to interpret for several reasons: the exact dates of praetorships are generally rather vague, due not only to the gaps in the sources but also to the differences of opinion among historians on how

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22 On this expression, which implies that the praetors departed *before* the end of their term of office, see Hurler 2010: 56-57.

23 Giovannini 1983: 83-101.

24 This practice is evidenced by some cases. For instance, in 74, C. Verres drew lots for the urban praetorship (Cic. *Verr.* 2.1.104: *sortem nactus est urbanae prouvinciae*; cf. 2.5.38) and then, before the end of the year, for the government of Sicily (Cic. *Verr.* 2.2.17: *ei sorte prouincia Sicilia obuenuit*), while we know that two praetorian *sortitiones* were organised this year. On the double praetorian *sortitio*, see Rafferty 2019: 47-60 and 73-86; Bothorel 2023: 194-201. The existence of a double praetorian *sortitio*, on the other hand, has been firmly rejected by Giovannini 1983: 92-93; see also the doubts expressed by Pina Polo – Díaz Fernández 2019: 136-137.

Sullanian legislation should be reconstructed. The following table, which updates the list proposed by W. Blösel and T. C. Brennan by taking into account only the period from 80 to 52,<sup>25</sup> includes those praetors known to have turned down provincial governorships or for whom no such governorship *ex praetura* is known. It gives an idea, albeit imprecise, of how widespread this practice was:

TABLE 2 – LIST OF PRAETORS WHO (PRESUMABLY) DECLINED PROVINCIAL GOVERNORSHIPS BETWEEN 80 AND 52

<i>Praetor</i>	<i>Year of praetorship and urban province obtained, when known</i>	<i>Excusatio (for governing an extra-urban province ex praetura)</i>
L. Licinius Lucullus	pr. 78	Dio Cass. 36.41.1: τῆς δὲ δὴ Σαρδοῦς ἄρξαι μετ’ αὐτὴν λαχῶν, οὐκ ἠθέλησε. <sup>26</sup>
C. Calpurnius Piso	pr. 71? ( <i>praetor urbis</i> : Val. Max. 7.7.5)	No known province.
C. Antonius (Hybrida)	pr. 66 ( <i>urbanus</i> ?)	Q. Cic. <i>Pet.</i> 8.
Cicero	pr. 66 ( <i>repetundae</i> )	Cic. <i>Mur.</i> 42; <i>Flac.</i> 87.
C. Aquillius Gallus	pr. 66 ( <i>ambitus</i> )	Cic. <i>Att.</i> 1.1.1.
L. Cassius Longinus	pr. 66 ( <i>maiestas</i> )	No known province.
C. Orchivius	pr. 66 ( <i>peculatus</i> )	No known province.
Ser. Sulpicius Rufus	pr. 65 ( <i>peculatus</i> )	Cic. <i>Mur.</i> 42.
Q. Gallius	pr. 65 ( <i>maiestas</i> )	He was tried under the <i>lex Calpurnia de ambitu</i> in 64. See Alexander 1991, n. 214.
Q. Voconius Naso	pr. before 60	No known province.
L. Domitius Ahenobarbus	pr. 58	No known province.
Cn. Domitius Calvinus	pr. 56 ( <i>ambitus</i> )	No known province.
P. Vatinius	pr. 55	He was tried under the <i>lex Licinia de sodaliciis</i> at the end of August 54. See Alexander 1991, n. 292.
T. Annius Milo	pr. 55	No known province.

<sup>25</sup> Blösel 2016: 75; cf. Brennan 2000: 400–402.

<sup>26</sup> This passage refers to Lucullus’ praetorship in 78 and not to that of L. Luceius, commonly dated to 67, as shown by David-Dondin 1980.

<i>Praetor</i>	<i>Year of praetorship and urban province obtained, when known</i>	<i>Excusatio (for governing an extra-urban province ex praetura)</i>
M. Porcius Cato (Vticensis)	pr. 54 ( <i>repetundae</i> )	No known province.
L. Aemilius Paullus	pr. 53	Consul in 50, no known province.
Q. Minucius Thermus		Propraetor of Asia in 51 (Cic. <i>Fam.</i> 13.53, and 55, and 56), immediately after the vote on Pompey's provincial law. If this law was indeed enacted in 51, he must have been praetor before 57 (all the praetors of this year are known) and, therefore, declined the governorship of a province <i>ex praetura</i> in the first half of the 50s.
M. Nonius (Sufenas ?)	pr. before 51 (= before Pompey's law was implemented)	He governed an eastern province at least between 51 and 49 (Cic. <i>Att.</i> 6.1.13; cf. 8.15.3). The same argument as for Q. Minucius Thermus.
Cn. Tremellius Scrofa		He governed an eastern province in 51-50 (Cic. <i>Att.</i> 6.1.13; cf. 7.1.8). The same argument as for Q. Minucius Thermus.
P. Silius		Propraetor of Bithynia and Pontus in 51-50 (Cic. <i>Fam.</i> 13.61-65; cf. <i>Att.</i> 6.1.13; 7.1.8). The same argument as for Q. Minucius Thermus.

Of the 131 known praetors between 80 and 52 (out of a theoretical total of 232), eleven (or even twelve if L. Aemilius Paullus, pr. 53 and cos. 50, is included) presumably declined to govern a province later on, either because their excuses are recorded in the sources or because this can be gleaned from a closer examination of their careers.<sup>27</sup> In addition, there are eight praetors who are not recorded as having governed an extra-urban province, accounting for a total of about twenty praetors or around fifteen per cent of the overall number of praetors.<sup>28</sup> The case of Q. Caecilius Metellus Nepos (pr. 60) is not

<sup>27</sup> Rafferty 2019: 125, suggests that only four praetors declined to govern extra-urban provinces.

<sup>28</sup> Blösel 2016: 69-70.

included on the list because a letter from Cicero, dated April 59, suggests that he left Rome.<sup>29</sup>

According to W. Blösel, this figure of fifteen per cent would be in any case a bare minimum. Indeed, when contrasting the number of praetors who did not receive an extra-urban province with that of known praetors, almost one in three of them assigned an urban province might have declined to take up office.<sup>30</sup> It was therefore probably to combat the frequent refusal of provincial governorships that Pompey's law of 52 explicitly reserved the extra-urban provinces for former praetors (and probably also former consuls) *neque in provincia cum imperio fuerunt*.<sup>31</sup>

Lastly, the importance of this practice in the 1<sup>st</sup> century is confirmed by references to two excuses made by quaestors in the sources: in 83 when M. Pupius Piso Frugi Calpurnianus, who was supposed to serve under the command of the consul L. Cornelius Scipio Asiagenus, refused to join him, according to Cicero;<sup>32</sup> and in 58 C. Calpurnius Piso Frugi, Cicero's son-in-law, who decided not to accept the governorship of Bithynia and Pontus in order, according to the orator himself, to help him to return from exile.<sup>33</sup> On the other hand, there is no record of a quaestorian province being turned down in the 3<sup>rd</sup> or 2<sup>nd</sup> century.

## How and under what pretext could magistrates decline provincial governorships?

The “*excusatio* procedure” itself can be reconstructed from the few detailed accounts of how magistrates declined their provinces (mainly those relating to 205, 176, 78, 70, 66 and 63). Most importantly, they could not do so whenever they wished. Judging from the sources, the circumstances were clearly established: they could either decline to cast lots for the provinces, like the consul P. Licinius Crassus in 205,<sup>34</sup> or, more commonly, reject the results,

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29 Cic. *Att.* 2.5.2: *quoniam Nepos proficiscitur*.

30 Blösel 2016: 71-72.

31 Cic. *Fam.* 8.8.8.

32 Cic. *Verr.* 2.1.37.

33 Cic. *Red. Sen.* 38. Regarding the renunciation of quaestors, see Díaz Fernández – Pina Polo 2025: 125-126.

34 Livy 28.44.11: *ideo in sortem tam longinquae prouinciae non uenit*.

such as the praetor Lucullus who refused to set off for Sardinia in 78.<sup>35</sup> In the latter case, the *excusatio* probably had to be presented and examined before the magistrate completed his *profectio*, since if he had accepted the results, this would have created a binding obligation between him and the province allotted to him.<sup>36</sup> If it was possible to reject a “first assignment” by casting lots or *extra sortem*, it is not so clear that prorogations could be declined, for in this case the magistrates were away from Rome and could not offer excuses; at the end of the Republic, moreover, they had to wait for the arrival of their successors before returning to the city, in accordance with the *lex Porcia*.

In any case, the vocabulary testifies to the solemn nature of the *excusatio*. The verbs *deponere*, *contemnere*, *neglegere* and *repudiare* (or ἀποτίθημι in Greek) are regularly used to denote the act of refusing a province.<sup>37</sup> The verb *nolle* (to refuse), which belongs to the augural lexicon, is also employed in this sense, and Cicero’s use of this technical term is surely no coincidence in that the orator himself was an augur.<sup>38</sup> Magistrates wishing to renounce a provincial governorship first had to present an apology to the senators<sup>39</sup> who could either accept or reject it, as possibly illustrated by the case of the praetors of 176. In this case, the Senate accepted the justification offered by M. Popillius Laenas (*probata Popili excusatio est*) but ordered P. Licinius Crassus (and probably M. Cornelius Scipio Maluginensis) either to leave for his province or to swear before the assembly that he was prevented from doing so because he had to perform a solemn sacrifice.<sup>40</sup>

Magistrates then had to decline to participate in the casting of lots for their provinces under oath, at the request of the Senate and probably *in* (or *pro*) *contione*. Cicero, for instance, delivered the speech in which he declined the governorship of Gaul to the people in a *contio*, probably after his *excusatio* had been presented to (and accepted by) the senators.<sup>41</sup> Although the approval of the people was not mandatory, it was important for magistrates, who were

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35 Dio Cass. 36.41.1.

36 Bothorel 2023: 135-142.

37 *Deponere*: Cic. *Att.* 2.1.3; *Pis.* 5; Asc. p. 15 C. *Contemnere*: Cic. *Fam.* 2.12.3. *Neglegere*: Cic. *Cat.* 4.23; *Fam.* 15.4.13. *Repudiare*: Cic. *Cat.* 4.23. See also Plut. *Pomp.* 23.3: Ἐκ τούτου διαλλαγέντες ἀπέθεντο τὴν ἀρχὴν and Dio Cass. 36.41.1: οὐκ ἠθέλησε.

38 Cic. *Mur.* 42: *Postremo tu in prouinciam ire noluisti*. Cf. Ps. Asc. p. 233 St. and *Vir. Ill.* 82.3-4. See Brennan 2000: 401.

39 Pina Polo 2011: 240-241; *contra* Rafferty 2019: 131.

40 Livy 41.15.8-10.

41 Cic. *Att.* 2.1.3; *Pis.* 5.

ultimately accountable to them and wished to preserve their *dignitas*, to obtain it. The example of Camillus, who finally agreed to command the war against the Volscians because of the protests of the people (*consensus populi restiterat*) and his taste for battle, shows, despite the difficulties of interpretation, that it was hard to go against the opinion of the crowd.<sup>42</sup>

The sources allow us to list the official or legal pretexts that could be offered by magistrates who wished to decline a provincial governorship. The procedure thus refers to a whole “system of excuses”<sup>43</sup> that could be accepted and which were gradually codified in the second half of the 1<sup>st</sup> century and in the imperial age.<sup>44</sup>

First of all, magistrates could claim that they had to fulfil religious obligations, as was the case in 205, when the consul P. Licinius Crassus, who was also *pontifex maximus*, asked to be excused from participating in the *sortitio* for the consular provinces,<sup>45</sup> and in 176, when the praetor P. Licinius Crassus, who had been assigned Hispania Citerior by lot, also asked to be excused because of a sacrifice he had undertaken to perform.<sup>46</sup> This type of excuse was still acceptable at the end of the Republic, as was the fact that family circumstances sometimes required the presence of magistrates in the *Vrbs*.<sup>47</sup>

Magistrates could also contend that they were unable to leave Rome owing to bad health (*excusatio ualeitudinis*).<sup>48</sup> Nonetheless, in 49 L. Aelius Tubero was confirmed by a *senatus consultum* as a candidate in the *sortitio* of praetorian provinces and a tablet with his name on it was promptly cast into the *urna*, although he was absent and even ill.<sup>49</sup> Indeed, Cicero points out

42 Livy 6.22.7.

43 Chevreau 2014: 142.

44 For example, the *lex coloniae Iuliae Genetivae*, which was probably drafted during Caesar's dictatorship and promulgated by Antony in the following years, explicitly stated that the following excuses could always be invoked for exemption from the office of judge: serious illness, funerals, sacrifices, purgatory rites, trials or magistracies (*RS* 1, no. 25, 393–454). The literary genre of the *libri de excusationibus* was subsequently developed as of the end of the 2<sup>nd</sup> century AD to provide a framework for apologies to guardians: Chevreau 2014.

45 Livy 28.44.11: *qui ne a sacris absit pontifex maximus, ideo in sortem tam longinquae prouinciae non uenit*; cf. Livy 28.38.12 and Plut. *Fab.* 25.4.

46 Livy 41.15.9: *sacrificiis se impediri sollemnibus excusabat*.

47 Tac. *Ann.* 3.35.2–3 (AD 21).

48 On the link between the ill health of Roman magistrates and their ability to carry out their political duties, see Baroin 2010.

49 Cic. *Lig.* 21: *cum ipse non adesset, morbo etiam impediretur; statuerat excusari*.

that the procedure followed was not in accordance with the traditional rules because Tubero was not given the opportunity to excuse himself. The *excusatio ualetudinis* must have been an old one, as it was sometimes used by magistrates who wished to withdraw their candidacy for an office.<sup>50</sup>

Magistrates could also argue that they were too old to command an army. As already seen, when attempting to resign his command of the war against the Volscians,<sup>51</sup> Camillus did just that, an excuse that was still acceptable at the end of the Republic. As F. X. Ryan observes, the two most common excuses offered by senators in the late Republic for not attending certain Senate sessions or sitting on the permanent tribunals were illness and age.<sup>52</sup> However, nothing is known about the age at which magistrates were allowed to decline to govern a province in Republican times. It can be assumed that only those over sixty, the age limit for serving in the army, could employ old age as an excuse. Another argument supporting this assumption is that during the Empire senators over the age of sixty were no longer required to attend all senate sessions.<sup>53</sup> However, documents from the same period mention higher age limits. In his *Controversiae*, Seneca the Rhetorician, for example, states that a senator over sixty-five years of age could not be forced to come to the Senate – but could not be prevented from doing so, either.<sup>54</sup> As for the fifth Cyrene Edict, it stipulates that “no one over seventy” can be chosen by lot.<sup>55</sup> In any case, candidates who had reached the age of sixty must have been few and far between.

This begs the question of whether these “classic” excuses were always true or sincere. If they were acceptable and allowed a magistrate to decline a provincial governorship without damaging his *dignitas*, it cannot be said for

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50 In this regard, see Livy 26.22.5-8. In this passage, Livy refers to T. Manlius Torquatus, who turned down his election to a third consulate because he had an eye disease: *oculorum ualeitudinem excusauit*; cf. Baroin 2010: 58-59 and *Dig.* III.1.1.5 (Ulpian, *VI ad ed.*) about the blind in both eyes who could not, in certain cases, be magistrates. See also Cic. *Phil.* 9.4 (Ser. Sulpicius Rufus, cos. 51, is said to have tried to renounce his position as legate against Antony on the grounds that he was ill).

51 Livy 6.22.7.

52 Ryan 1998: 49-50.

53 Sen. *Brev. Vit.* 20.4: *a sexagesimo senatorem non citat*. See also Chapter 44 of the *lex Irnitana* (*AE*, 1986, 333): *qui minores quam LX annorum erunt*.

54 Sen. *Rhet. Contr.* 1.8.4: *senator post sexagesimum et quintum annum in curiam uenire non cogitur, non uetatur*.

55 De Visscher 1940: 24-25, l. 112: κληρούσζω δὲ μηξένα, ὃς ἄν ἑβδομήκοντα ἢ πλείω ἔτη γεγονῶς.

sure that advanced age or illness should be considered as a realistic excuse.<sup>56</sup> In any case, the assessment of age and health was subjective in the ancient world, when the year of birth was rarely known with any degree of accuracy and health was not evaluated in the same way as it is today. Moreover, there was absolutely nothing to prevent an elderly or sickly consul from participating in a *sortitio*, for there was no examination before the casting of lots comparable to the δοκιμασία practiced in the Greek world. Magistrates were in fact the sole judges of their haleness and their ability to govern a province or not.<sup>57</sup>

In the 1<sup>st</sup> century, in addition to these “classic” excuses, consuls and praetors began to offer additional pretexts for declining provincial governorships, like invoking the interests of the state.<sup>58</sup> Although this type of excuse was not new, it does not seem to have been widely used before the last century of the Republic. One such case occurred in 176, when M. Popillius Laenas recalled that Sardinia, which he had been assigned by lot, was currently commanded by Ti. Sempronius Gracchus and that it would have been counterproductive to replace him at a time when he was in the process of pacifying the province.<sup>59</sup> This argument was accepted by the Senate probably because the continuity of command was an important issue at the time – the *lex Baebia* of 181 had established the election of four praetors (instead of six) and, by extension, the prorogation of commands in Hispania every other year. The troubled times also explain why the consul Q. Petilius was able to remain in Rome at the beginning of 176: he received no favourable *omina* and his colleague Cn. Cornelius died during the year.<sup>60</sup> Before the 1<sup>st</sup> century, however, invoking the interests of the state was of secondary importance, especially as it was preferable to send sitting magistrates to govern the provinces, rather than resorting to prorogation.

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56 See Cic. *Phil.* 9.4, as regards the excuse offered by Ser. Sulpicius Rufus, who “pleaded his illness as an excuse more by the truth of the fact than by any laboured plea of words” (*quem cum uideretis re magis morbum quam oratione excusantem*).

57 The same can be said for the exercise of offices, even if certain disabilities were sometimes the target of jokes or disparaging remarks that could injure the *dignitas* of an aristocrat. See in this sense Baroin 2010: 68: “si un magistrat ou un sénateur peut conserver, malgré une infirmité physique, congénitale ou acquise, ses attributions politiques et militaires, les atteintes qui marquent son corps lui font courir des risques sur le plan social – le premier étant celui du rire et de la moquerie d’autrui –, voire sur le plan politique.”

58 Morrell 2017 has argued that improving the standards of provincial government was at the heart of Pompey’s project as consul in 70: 22-56; cf. 225-226; Rafferty 2019: 124-127.

59 Livy 41.15.7-8.

60 Livy 41.15-16.



On the contrary, thenceforth magistrates often justified their decision to decline provincial governorships by vaguely insisting on their honesty and their concern for preserving the integrity of the state. As can be imagined, this was a valid argument at a time when governing a province often made it possible to enrich oneself at the expense of the provincials or the state. Cassius Dio, for example, in an illustrative literary passage, reports that the praetor L. Licinius Lucullus turned down Sardinia, which he had been assigned by lot in 78, because he did not want to hold an office that most provincial governors held without any concern for honesty.<sup>61</sup> If Cicero is to be believed – a biased source since he himself had twice refused to govern a province – it was much wiser to turn down the province assigned to him by lot than to accept it and fail in his mission. The orator criticised Verres for accepting his quaestorian province, instead of refusing it, and for subsequently failing to fulfil his duties, such as overseeing the financial management of the consul to whom he was attached. On the other hand, he praised the conduct of M. Pupius Piso Frugi Calpurnianus (q. 83), stressing that he betrayed neither his *fides* nor tradition nor the obligations arising from the *sortitio* of quaestorian provinces.<sup>62</sup>

Following the Ciceronian Corpus, the act of declining a provincial governorship would have thus reflected the moral and civic values of the individual in question, a complete reversal of the situation in the middle Republic, when service to the *res publica* was inseparable from the conduct of war and provincial administration. The pretexts Cicero offered in 63 for declining a provincial governorship thus formed part of this new rhetoric, since he recalled the oath he had taken in January to remain in Rome to guarantee the safety of the state, plus the political circumstance that required his presence, namely, the conspiracy of Catiline.<sup>63</sup>

As before, it is unclear whether these excuses should be taken at face value. The argument of honesty or the good of the state could indeed vary and did not presuppose the moral qualities of the individual deploying it. In a letter written in 50, Cicero stressed that he had demonstrated his integrity as much as by despising provincial governorship as by saving Cilicia, which he

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61 Dio Cass. 36.41.1.

62 Cic. *Verr.* 2.1.37.

63 Cic. *Leg. agr.* 1.26; *Pis.* 5; *Cat.* 4.23.

had governed in 51-50, from ruin.<sup>64</sup> As with age and health, these acceptable official excuses provided magistrates who did not want to leave Rome a face-saving way out. Better still, they allowed them to exalt their moral and civic qualities, thus reflecting a “standard ideal” that developed at the end of the Republic. The recurring and stereotyped nature of the apologies presented in the 1<sup>st</sup> century also suggests, as T. C. Brennan has argued, that a standard speech of renunciation, which must have been similar to that attributed to Lucullus by Dio, spread in the post-Sullanian period.<sup>65</sup>

It is telling that despite being a common practice, the sources do not mention any cases of rejected excuses in the 1<sup>st</sup> century. As R. Seager points out, the system for allocating provinces, which was based on the casting of lots among the magistrates in office chosen by the Senate and the allocation of other provinces to magistrates who had retired, “could work only if every magistrate were compelled by law to take a province at the end of his year of office [*sc. ex magistratu*], but in fact they was no compulsion, nor even indeed any pressure.”<sup>66</sup> This raises the question of whether the absence of rejected *excusationes* signifies that they were no longer examined or that the Senate encouraged magistrates to decline provincial governorships.

This is the explanation put forward by D. Rafferty, according to whom the greater number of *excusationes* after Sulla was due to the fact that there were more magistrates eligible for governing the “territorial” provinces than there were provinces to be allocated. In his view, the Senate would have encouraged magistrates to present *excusationes* in order to bring the number of “territorial” provinces into line with the number of praetors.<sup>67</sup> By my reckoning, there are several problems with this explanation, particularly because it is based on the idea that the Senate had to allocate a fixed number of “territorial” provinces each year. This is, to my mind, far from certain, firstly because the dates on which provinces were created are not well known and a province could be assigned to both a consul and a praetor, and secondly because the extra-urban praetorian provinces were not necessarily territorial (praetors could also receive military commands).<sup>68</sup> In reality, as in the 3<sup>rd</sup> and

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64 Cic. *Fam.* 2.12.3: *me integritatis laudem consecutum; non erat minor ex contemnenda quam est ex conseruata prouincia.*

65 Brennan 2000: 401-402.

66 Seager 1994: 202.

67 Rafferty 2019: 25 and Chap. 7.

68 Bothorel 2023: 57-64.

2<sup>nd</sup> centuries, the assignation of praetorian provinces by lot was based on the idea that each praetor was entitled to one, with none of them losing out (the province that a praetor received made it possible to define the field in which he could exercise his *imperium*); recourse to prorogation then allowed governors to be appointed to provinces that had remained *sine imperio*. In view of this, it is unlikely that the Senate would have encouraged the presentation of *excusationes* because it would have reduced the number of eligible magistrates, as well as posing institutional problems.

If *excusationes* were not rejected outright, it was not because the Senate encouraged them but because they were legally permissible and, above all, because sophisticated strategies were implemented to avoid provincial governorship, despite the Senate's wishes. The examples of Pompey in 70<sup>69</sup> and Cicero in 63 show that magistrates sometimes – on their own accord – swore an oath not to accept a provincial governorship during their inaugural address; they could then officially present their *excusatio* to the people during their term of office. For example, in 64, the consuls Cicero and C. Antonius (Hybrida)<sup>70</sup> received Macedonia and Cisalpine Gaul, respectively, under the *lex Sempronia*. As has been seen, in his inaugural address at the beginning of 63, Cicero undertook to decline the government of a province in order to ensure the safety of Rome.<sup>71</sup> As to the question of whether he had already been assigned a province by lot<sup>72</sup> or had pledged not to govern one at all,<sup>73</sup> it is impossible to say for sure. Nevertheless, it seems more likely that the speech was delivered before the *sortitio* because, on the one hand, this was usually held on 1 January, after the consuls had reported on the state of the *res publica*,<sup>74</sup> and, on the other, because no province is mentioned in Cicero's speech.

In any case, after the consuls had cast lots for their provinces, with Cicero receiving Cisalpine Gaul and Antonius, Macedonia, and the Senate had voted

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69 Vell. Pat. 2.31.1: *qui, cum consul perquam laudabiliter iurasset se in nullam provinciam ex eo magistratu iturum idque seruasset*; cf. Brennan 2000: 401. The expression *in nullam provinciam ex eo magistratu iturum* suggests that the oath was taken before the provinces were assigned. The same oath might have been sworn by Crassus.

70 Buongiorno 2006 showed that Hybrida was not a *cognomen* but an informal nickname referring to the different status of her parents.

71 Cic. *Leg. agr.* 1.26.

72 Allen 1952: 235.

73 Rafferty 2017: 162 n. 93.

74 Bothorel 2023: 177-182.

supplies for them (*ornatio provinciae*), they decided to exchange them.<sup>75</sup> The sources do not specify the legal terms of this exchange, with Cicero simply using the term *commutatio* to describe it, which does not imply a *comparatio*, since the consular provinces had already been assigned by lot (Cicero stresses that he declined a *prouinciam ornatam*), but rather the completion of an exchange, a *permutatio*. The Senate presumably prompted them to do so precisely because Cicero had been assigned by lot the highly strategic province of Macedonia and had announced at the time of his investiture that, if necessary, he would decline a provincial governorship. The senators preferred that Macedonia be entrusted to the other consul, Antonius (thus ensuring that the consular armies of Macedonia were commanded by a consul), and that Cicero be given Cisalpine Gaul, a province close to Italy from which he could easily return in the event of unrest. Cicero then officially declined Cisalpine Gaul *in contione* in the autumn of 63 at the latest, on the occasion of his sixth consular speech,<sup>76</sup> when he announced the existence of a conspiracy promoted by Catiline.<sup>77</sup> Cicero thus remained faithful to the oath he had taken at his investiture.

### What happened to magistrates who declined their provinces?

Despite the paucity of information available in this respect, there is every reason to believe that magistrates who declined to travel to their provinces remained in office. *Excusatio* differed in fact from *abdicatio*.<sup>78</sup> Whereas the latter was the voluntary renunciation of power or high office, without having to offer any explanation, the former was an “involuntary” and circumstantial renunciation (because of ill health, advanced age, etc.). Aristocrats who declined to govern their provinces with an *excusatio* were therefore required to retain their magistracy and to remain in Rome, although the sources offer no clues about the exact nature of the duties they performed there.

On this last point, a distinction must be made between the situation of consuls and that of praetors. The renunciation of a province did not pose any

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75 Cic. *Pis.* 5: *quam cum Antonio commutavi*. Cf. *Catil.* 4.23; *Fam.* 15.4.13.

76 Cic. *Att.* 2.1.3; *Pis.* 5; *Fam.* 2.12.3; *Mur.* 42. Cf. Plut. *Cic.* 12.3-4 and Dio Cass. 37.33.

77 Brennan 2000: 401 n. 101.

78 On the appointment of guardians in the imperial age, see Chevreau 2014:141-144, who states that *abdicatio tutelae* (voluntary renunciation, often accompanied by moral condemnation) differed from *excusatio tutelae* (a refusal accompanied by an apology).

major institutional problems for consuls who did not need a specific province or mission to exercise their *imperium domi*. In fact, in the 1<sup>st</sup> century it was at matter of course for consuls to remain in the city for most of their term, either because of the increase in urban duties or to keep an eye on the tribunes of the plebs, especially after the restoration of their powers in 70.<sup>79</sup> On the other hand, nor did it mean that they were deprived of the exercise of the *imperium militiae* because they could still be entrusted with military commands or tasks during their term of office. The consuls of 72 who waged war against Spartacus during their consulship<sup>80</sup> and the consuls of 63 who were obliged to raise troops to fight against Catiline are just two examples of this.<sup>81</sup> An agreement could also be reached between consuls to allow one of them who had given up his province to accept a military command, as evidenced by the exchange of provinces between Cicero and Antonius in 63. Another more illustrative example is when, in 205, after the consul P. Licinius Crassus had declined to cast lots for the consular provinces for religious reasons, these were actually distributed that year by *comparatio* and not by *sortitio*, giving Crassus the province of Italy and Scipio, the future *Africanus*, Africa (*extra sortem*, since no lots were cast).<sup>82</sup> The allocation procedure thus made it possible to give both consuls a province, while respecting the religious obligations of Crassus, who was *pontifex maximus*.

The situation of praetors who waived their right to govern a province was probably more complex from an institutional point of view. In the 3<sup>rd</sup> and 2<sup>nd</sup> centuries, unlike consuls, the assignation of a province determined the type of *imperium* that praetors were to exercise, since they could receive “urban” provinces, that is, linked to the city and the exercise of the *imperium domi*, or “extra-urban” ones, namely, *extra pomerium* and linked to the exercise of an *imperium militiae*. Like consuls, praetors who declined extra-urban provincial governorships could certainly remain in Rome. It is conceivable that in the middle Republic the Senate entrusted praetors who remained in the city with specific tasks, as was the case when an incident

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79 The supervision of Rullus’ proposals for an agrarian plebiscite was one of the reasons given by Cicero in January 63 when he promised not to govern any province: Cic. *Leg. agr.* 1.26.

80 Sall. *Hist.* 3.106 Maurenbrecher; Livy *Per.* 96; Plut. *Crass.* 9.7-10.1; *Cat. Min.* 8.1-2; App. *B Civ.* 1.542-546; Flor. 2.8.10; Eutr. 6.7.2; Oros. 5.24.4.

81 Sall. *Cat.* 36.3.

82 Livy 28.44.11; 28.38.12; Plut. *Fab.* 25.4. Cf. Bothorel 2023: 103-106.

forced it to entrust the praetors with an extraordinary mission which they had to carry out before setting off for their provinces.<sup>83</sup>

Since there is no information in Livy's account about what happened to the praetors who declined to govern their provinces in 176, as it is known that one of the consuls died,<sup>84</sup> perhaps the Senate requested them to help the other consul to organise new elections and raise armies. After Sulla, the situation changed, as all the praetors who left Rome to govern a province had already performed urban tasks. To give just one example, Cassius Dio recalls that when Lucullus resigned his Sardinian command in 78, to which he had been appointed by lot, he had already completed his praetorship in Rome.<sup>85</sup> In this connection, praetors who declined to govern a province posed fewer problems, since they usually did so at the end of their one-year term, after they had already exercised the *imperium domi*. The introduction of the double praetorian *sortitio* undoubtedly increased the number of *excusationes* in the praetorian colleges, since it offered these magistrates the possibility of declining governorships of extra-urban provinces but without having to renounce the exercise of their magistracies.

This leads us to the question of whether the renunciation of a province prevented aristocrats, in the long run, from pursuing the *cursus honorum* or from undertaking further missions linked to their rank. It seems that this was not the case, as excuses (and therefore renunciations) were of a temporary nature. An examination of some famous and distinguished careers, such as those of Sulla, Pompey and Crassus, clearly shows that this was not held against magistrates and did not prevent them from standing in subsequent elections – even in the case of a *homo novus* like Cicero. Be that as it may, they had to offer genuine excuses, for on the contrary they could be condemned for perjury, as was perhaps the case with Maluginensis, who was finally expelled from the Senate in 174.<sup>86</sup>

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83 For example, when the Bacchanal affair forced the Senate to entrust the praetors with an extraordinary mission, before they set off for Apulia: *L. Dronio praetori cui provincia Apulia euenerat adiecta de Bacchanalibus quaestio est* (Livy 40.19.9, in 181). On the *provinciae adiectae*, Bothorel 2023: 145-148.

84 Livy 41.16.7.

85 Dio Cass. 36.41.1: Λούκιος δὲ δὴ Λούκουλλος τὴν μὲν στρατηγίαν τὴν οἴκοι διῆρξε.

86 Livy 41.15.10. F. Münzer, *RE*, 4/1, 1900, col. 1431-1433, n° 325 *s.v.* *Cornelius* links Maluginensis' expulsion from the Senate to the oath he took in 176 to renounce Hispania; cf. Brennan 2000: 147. However, it is not certain that his apology was accepted in 176, since according to Livy 41.27.2, Maluginensis was praetor in Hispania (*qui biennio ante praetor in Hispania fuerat*).

In practice, consuls who had declined to leave Rome to govern a province could, for example, stand for election to the censorship, as did L. Gellius Poplicola and Cn. Cornelius Lentulus Clodianus (coss. 72), who were elected to this office for 70. Praetors in this position could run for the consulship or be chosen as legates, thus still leading armies into battle, albeit under the command of another magistrate, as well as receiving a substantial share of the spoils in the event of victory. For instance, C. Antonius (Hybrida) (pr. 66) was Pompey's legate during the war against Mithridates, immediately after his praetorship.<sup>87</sup>

The same phenomenon is attested for quaestors, with M. Pupius Piso Frugi Calpurnianus, who had refused to join L. Cornelius Scipio Asiagenus during his quaestorship in 83, becoming praetor c. 72 and consul in 61.<sup>88</sup> Finally, the fact that he declined to govern a province did not prevent him from taking part in another *sortitio* and governing another province. By the same token, M. Popillius Laenas, one of the praetors of 176 who had declined the governorship of a province, became consul in 173 and received Liguria, while his colleague, P. Licinius Crassus, who had also turned down his praetorian province in 176, held the consulship in 171. His consular colleague, C. Cassius Longinus, recalled on this occasion that five years earlier Licinius had waived his right to govern the praetorian province of Hispania Citerior, which he had been assigned by lot, swearing under oath that he was unable to leave Rome. According to Cassius, Licinius was still bound by this oath in 171, forbidding him to cast lots for a consular province outside the city. He therefore asked that Macedonia be given to him *extra sortem*. The answer of the Senate was unequivocal: Licinius had been duly elected and was therefore entitled to one.<sup>89</sup> The senators then ordered the consuls to cast lots for the provinces of Macedonia and Italy.

In the 1<sup>st</sup> century, magistrates who declined one province could therefore subsequently govern another, as is clearly evidenced by the career of Cicero, who declined to govern an extra-urban province during his praetorship in 66 but was allowed to cast lots for the consular provinces in 63; after having again renounced the post, he was ultimately sent to Cilicia in 51.

Lastly, it should be noted that the renunciation of a province had direct consequences for the allocation procedure, since the province left *sine imperio*

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87 Blösel 2016: 75 n. 21; Brennan 2000: 450.

88 Díaz Fernández – Pina Polo 2025: 88-89.

89 Livy 42.32.

had to be entrusted to another magistrate; in this sense, the *excusatio* did not only affect the magistrate presenting it but also had repercussions for the careers of others.

As already noted, when a magistrate waived his right to cast lots for a province because his presence was required in Rome, a *comparatio* could sometimes be held, as was the case in 205 and 63. However, the possibility of having recourse to a *comparatio* or *permutatio* depended on the provinces assigned to the magistrates, who did not always receive those linked to the city or to Italy, and on the nature of the excuse given. More often than not, when a consul or praetor declined to participate in a *sortitio*, the unassigned province could not be entrusted to one of his colleagues but had to be given to another (pro)magistrate. In 63, the year in which Cicero finally abandoned Cisalpine Gaul, the Senate allowed it to be included among the provincial governorships destined to be allocated by lot to the praetors of 63 who had already performed their urban duties, with Q. Metellus Celer (pr. 63) receiving Cisalpine Gaul with the same troops and supplies as Cicero. The orator's use of the senatorial calendar to decline his province probably explains why he implied in a letter to Celer that he had worked to have Cisalpine Gaul entrusted to him.<sup>90</sup>

### *Excusationes*: revealing changes in the pursuit and perception of aristocratic careers

After confirming that those magistrates who declined provincial governorships could continue to pursue their careers and even end up governing a province at some time or another, there remains the question of why so many of them chose to do so. This attitude reflects a change in the way careers were pursued and appraised throughout the Republic. In the early days, casting lots for provinces was an important moment in a magistrate's career and recourse to *excusationes* was still very rare. Provincial governorships often offered magistrates the chance to achieve military greatness and/or to amass a fortune, especially at a time when the state did not have the wherewithal to keep tabs on their activities in the provinces and therefore to hold them to account on their return to Rome. On the other hand, the sources report several cases of magistrates who wanted to govern extra-urban provinces

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90 Cic. *Fam.* 5.2.3.



but were exceptionally forbidden by a decree of the Senate and a law of the people to travel to the those they had been assigned by lot, on the grounds that they were also major *flamines* and that their religious obligations took precedence over their civic duties.<sup>91</sup> The invocation of the superiority of sacred law over those governing the *sortitio* also sometimes served as an argument for an aristocrat who wished to appropriate the province that a magistrate who was also a major *flamen* or *pontifex maximus* had been assigned by lot, as shown by the confrontation between Crassus and Scipio in 205.

Conversely, the growing number of excuses given by consuls for not governing a province in the late Republic (and maybe as early as the passage of the *lex Sempronia*) shows that it was gradually becoming a less important and valued part of their career paths. While we should refrain from diagnosing late Republican aristocrats as having an “*otium* problem” and from describing them, in the words of E. Badian, as “proven cowards and open self-seekers”,<sup>92</sup> the increase in the number of *excusationes* certainly calls into question the idea that consuls and praetors unanimously wished to become provincial governors in order to replenish their coffers after an expensive election campaign.

Furthermore, although governing a province could be profitable and, just as important, expand one’s relational network with equestrians and senators, it cannot be said for sure that provincial governments were always that lucrative and the price to be paid when an aristocrat returned to Rome after having governed an extra-urban province must have sometimes seemed higher than the expected gain. The personal integrity argument, often deployed as a justification for not leaving Rome, thus shows that the legal arsenal against *crimen repetundarum* and *peculatus* had already been deployed and that in all likelihood magistrates declined provincial governorships less out of a desire to show how upright they were than out of fear of being accused of embezzlement on their return. This brings to mind Cicero, who had built much of his political career on pleading cases in the *quaestio de repetundis* and perhaps feared being accused himself if he governed a province. Moreover, it sometimes might have been more advantageous to

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91 Livy 37.51.1-4 (in 189) or Cic. *Phil.* 11.18 (in 131). On these conflicts, see Lundgreen 2011: 121-136; Bothorel 2023: 153-158.

92 Badian 1970: 32; Blösel 2016: 74.

decline a province in exchange for a financial or political deal with colleagues or lesser magistrates than to govern it.<sup>93</sup>

Beyond these economic explanations, the fact that magistrates insisted on the importance of their presence in the city as a pretext for turning down provincial governorships also shows that for some members of the political class leaving Rome for a province was not necessarily a profitable strategy: carrying out urban tasks relating to the *comitia* or courts, on which the curule magistrates had a strong influence,<sup>94</sup> had become central to the political careers of aristocrats.<sup>95</sup> In addition to the risks posed by long-distance travel, being out in the sticks prevented them from making political decisions and limited their chances of being tasked with lucrative missions or concluding contracts.<sup>96</sup> As Cicero recalls, “it is in Rome where you must dwell. In this light you must live”.<sup>97</sup> Finally, those governing provinces also ran the risk of offending prominent equestrians (especially the *publicani*) and senators, as the experiences of Cicero’s clients reveal and as is explicit enough in the orator’s famous letter to his brother Quintus, governor of Asia in 59, which presumably reflects normal, if not normative, expectations of provincial administration.<sup>98</sup>

The increase in the number of praetors who declined provincial governorships also indicates that many of them preferred to remain in Rome to run for the consulship after a *biennium*. For example, L. Domitius Ahenobarbus (pr. 58) was consul in 54, and Cn. Domitius Calvinus (pr. 56), in 53. To these should be added the cases of praetors who are known to have stood for the consulship but were not elected, such as L. Cassius Longinus (pr. 66) who failed in 63,<sup>99</sup> and T. Annius Milo (pr. 55) who might have been a candidate in the consular elections for the year 52.<sup>100</sup> If praetors did indeed

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93 In 63, for example, Cicero might have swapped Macedonia with his colleague Antonius, probably after having agreed to share the profits of their respective administrations: Cic. *Att.* 1.12.2; cf. *Fam.* 5.5.2-3. The government of Macedonia was particularly lucrative for Antonius: Dio Cass. 38.10; Cic. *Cael.* 74; *Vatin.* 27-28.

94 See, in this sense, the refusal of Q. Hortensius Hortalus (cos. 69) to leave Rome in order to continue to exercise his authority over the Roman courts: Dio Cass. 36.1a [Xiph.].

95 On the importance of *adsiduitas* or “presence” in Rome, see Q. Cic. *Comment. Pet.* 41-44 and Díaz Fernández’s chapter in this book.

96 Blösel 2016: 80.

97 Cic. *Fam.* 2.12.2.

98 Cic. *Q.fr.* 1.1.

99 Pina Polo 2012: 65-72.

100 Asc. p. 30 C.

accept to govern a province, they often had to bide their time for several years after their praetorships before standing for the consulship, as governors had to wait for their successors to relieve them (which did not always leave them enough time to return to Rome for the elections) and many of them had their terms prorogued several years in a row.<sup>101</sup> For all these reasons, W. Blösel estimated that the probability of being elected consul was greater for those who had declined to govern a province than for those who had accepted to do so; they also progressed in their careers more rapidly, evidenced by the fact that most praetors who had declined provincial governorships were elected after a *biennium*<sup>102</sup> – in this way, governing or not of an extra-urban province did not change the way in which aristocratic careers were built<sup>103</sup> but rather their pace. The introduction of rules governing the *cursus honorum* from the 2<sup>nd</sup> century onwards, reinforced by Sulla in the 80s, contributed to this change in career strategies. After the advent of a *cursus honorum* with firmly established rungs, it was easier to plan a long-term career and design and implement strategies for the next election campaign than in the 3<sup>rd</sup> century, when it was possible to run for the praetorship after the consulship.

Finally, the relative lack of interest shown by magistrates in becoming involved in provincial administration was linked to changes in legislation in this regard. As already noted, the introduction of the double praetorian *sortitio* had consequences for the system of *excusationes*, since praetors could thenceforth waive their right to govern extra-urban praetorian provinces, after fulfilling their civic duties for almost their entire term of office. With respect to consuls, as is well known, until 52 the *lex Sempronia* of 123 had required the Senate to assign provinces to future consuls by decree before their election. During his dictatorship, Sulla established the date of the elections in July (even though the elections could have been postponed to a later date in the post-Sullan period, like in 63),<sup>104</sup> which further extended the period between the establishment of the consular provinces and the departure of the consuls to govern them: almost a year and a half now elapsed between the two, which certainly led to more

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101 Steel 2012: 91.

102 According to Blösel 2016: 74-76, nine of the twenty praetors (= 45%) who refused provincial governorships *ex praetura* were elected to the consulship, while only 25 per cent of praetors became consuls. *Contra* Brennan 2000: 793 n. 96.

103 See Díaz Fernández's chapter in this book about the difficulties in quantifying in absolute terms the extent to which provincial administration facilitated or hindered the ascent of the *cursus honorum*.

104 Ramsey 2019.

frequent recourse to *excusationes* among consuls who were reluctant to govern the provinces they had received from the Senate a long time ago, whereas the commanders of major wars were regularly chosen by plebiscite, without the casting of lots (*extra sortem*), as in the case of the extraordinary commands given to Pompey and Caesar. Consuls who did not have the necessary prestige or support to obtain lucrative provinces or important military commands from the people could sometimes choose to remain in Rome for their year in office with an eye to currying the favour of the plebs. The same goes for praetors hoping to be chosen as legates of *imperatores* who had been given major military commands, such as Pompey.<sup>105</sup> Depending on which provinces were allocated to consuls and praetors, however, *sortitiones* could still be heavily contested and sometimes tainted by corruption. Furthermore, the increase in the number of *excusationes* does not mean that aristocrats had lost interest in war as such because there was still fierce competition for top military commands. So, caution should be taken when talking about the “demilitarisation”<sup>106</sup> or “politicisation”<sup>107</sup> of magistracies because the conduct of a war or the celebration of a triumph was more than ever a decisive factor, as illustrated by the careers of Pompey and Caesar, plus the desire of Cicero, who had declined to govern a province *ex praetura* and *ex consulatu*, to achieve a triumph in 50. The most important development was that the command of the most prestigious wars was now often achieved by plebiscite or *extra sortem*, rather than in a *sortitio*.

The widespread use of *excusationes* was ultimately a factor in the development of the *cursus honorum*. It helped to reinforce the division between the administration of the urban provinces, which was linked to the exercise of magisterial authority, and that of the extra-urban provinces, which increasingly appeared to be optional. According to Frédéric Hurlet, the elevation of the *praetorium imperium* to the *consular imperium* from the end of the 80s onwards could therefore be explained by the Senate’s desire to limit the number of magistrates who declined provincial governorships, which, in turn, would suggest that this was already a common practice.<sup>108</sup>

It was with the *lex Pompeia de prouinciis* of 52 that the magistracy was finally divorced from the promagistracy, but the law was only implemented in

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105 See Rafferty’s chapter in this book. For Blösel 2016: 74-75, it was easier for a praetor to gain a military reputation by serving as a legate than by governing certain provinces.

106 Blösel 2011; 2016: 80-81.

107 On this expression, cf. Millar 1998: 110-111; Pina Polo 2011: 307; 331-332.

108 Hurlet 2012: 108.

51 and 49 in times of trouble. According to this new law, the two consuls and the eight praetors in office were henceforth to be assigned urban provinces by lot after their election or investiture, whereas the *sortitio* for the extra-urban provinces, which took place in the spring, was reserved for consuls and praetors who had been out of office for at least five years. To prevent magistrates from refusing to govern a province, Pompey's law of 52 expressly reserved the government of extra-urban provinces for former praetors who *neque in provincia cum imperio fuerunt*,<sup>109</sup> the same clause applying to former consuls. Although Pompey did not deprive candidates of the chance to waive their right to participate in the *sortitio* or to reject its results, his regulations might have also placed greater restrictions on *excusationes* in order to ensure that there were sufficient candidates for the promagistracies.

This is shown, for example, by the fact that Cicero seems to have been forced to accept the governorship of Cilicia in 51. Similarly, Tubero also had to depart for the province of Africa in 49, which had been assigned to him by lot, although he was absent and even ill.<sup>110</sup> Moreover, it is impossible to say for sure that old age was still considered as an acceptable excuse after 52. In this regard, Caesar, in his reply to L. Afranius, a Pompeian, mentions that after the passage of the *lex Pompeia de provinciis*, “even the plea of age is of no avail to prevent men approved in former wars being called out to control armies”.<sup>111</sup> It is, however, difficult to confirm this last point for there are no examples of consulars or praetorians who were summoned to take part in a *sortitio* when their advanced age would have been sufficient reason to decline. As far as we know, the oldest consul to participate in a *sortitio* was Cicero, who was aged 55 in 51 and could not have therefore claimed to be too old to govern a province. In plain English, age was no longer a problem because, as Wolfgang Blösel observed, “[...] this law was presumably not designed to produce consuls (consulars, rather) older than forty-eight years”.<sup>112</sup>

To conclude, between 80 and 52 there was an unprecedented increase in the number of consuls and praetors who declined to govern an extra-urban province, evidenced by the fact that, even though the *excusatio* was a practice as old as bestowing honours, which was based on voluntary action during the

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109 Cic. *Fam.* 8.8.8.

110 Cic. *Lig.* 21.

111 Caes. *B Civ.* 1.85.8-9: *in se aetatis excusationem nihil ualere, quod superioribus bellis probati ad optinendos exercitus euocentur.*

112 Blösel 2016: 78.

Republic, very few provinces seem to have been turned down before the 1<sup>st</sup> century. An examination of the sources shows how magistrates were able to decline a provincial governorship: excuses had to be presented before the Senate and then to the people, using a specific vocabulary which led to the development of standard speeches of renunciation; the pretexts given, whether related to personal or family circumstances or, in a more moral and abstract way, to the interests of the state, formed a veritable catalogue of more acceptable than realistic excuses that allowed a magistrate to turn down a post while enabling him to preserve his *dignitas*.

The relative lack of interest shown by consuls and praetors in governing the extra-urban provinces was a complete reversal of the situation in the middle Republic, when they were much sought after. This can be explained by the importance attached to civic duties in the city of Rome for furthering aristocratic careers – even if it is impossible to talk about a demilitarisation or politicisation of magistracies – by the fear of being accused before the *quaestio de repetundis* or *de peculatu* on their return, or by the change in the rules governing the allocation of provinces, the most prestigious of which were often awarded to the most influential senators at the end of the Republic by virtue of laws passed *ex* or *sine senatus consulto*.

The fact of solemnly waiving the right to govern a province by presenting an *excusatio*, which was different from the *abdicatio* and essentially temporary, thus offered those who declined to leave Rome the opportunity of retaining their magistracy and rank by performing civic duties during their term of office, or even of standing in subsequent elections and obtaining other provincial governorships. Many praetors who waived their right to govern provinces *ex praetura* even seem to have been elected to the consulship after a *biennium*. Illustrating the discrepancy between institutional rules and practice, the increased use of *excusationes* helped, in turn, to change the rules governing the *cursus honorum* in the medium term by contributing to draw a greater distinction between the exercise of the magistracy and that of the promagistracy, a separation that was later formally established by Pompey's provincial law of 52.

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# PRAETORS AND DOMESTIC POLITICS IN LATE ROMAN REPUBLIC: 49-43 BCE

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## Introduction

In what remains of Varro's writings, several etymologies of institutional matters can be traced, among many others. They have been investigated mainly for their linguistic and erudite value.<sup>1</sup> Never, or almost never, have they been investigated as a response to an urgency, or a solicitation posed to the author at the time in which he wrote, and above all in which he lived and acted. And yet, certain clues are scattered in Varro's works in this regard; the author's own biography and the literary genre of some of his writings suggest that we should venture along this path in order to draw new sources for the historical-political reconstruction of those years, and develop the reflection started by Wiseman precisely on Varro "the politician".<sup>2</sup>

This contribution is specifically dedicated to the praetorship and the praetors in the last century of the Republic, in particular a handful of years: 49 BCE - 43 BCE.<sup>3</sup> One cannot, consequently, fail to reflect, in the direction illustrated, on the etymology of *praetor* contained in the linguistic treatise *De lingua Latina* and in the historical work *De vita Populi Romani*, both written

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1 As for Varro's etymologies, see *infra*.

2 Wiseman 2009: 112-120; Arena – Mac Góráin 2017: 1-7; Todisco 2016a: 477-486; 2017: 49-60.

3 For a complete list, see *infra* table 2.

in these years.<sup>4</sup> In this light, Varronian etymologies can reveal useful glimpses into the understanding of the Roman Republic.<sup>5</sup>

While the role of the praetors in foreign politics has been comprehensively analysed in Brennan's extensive work,<sup>6</sup> their role in domestic politics remains understudied in historical scholarship. The activities of these magistrates in Rome extended far beyond their fundamental responsibility of *iuris dictio*. The praetors' prerogatives allowed for a more intense political involvement, notably through the *ius agendi cum patribus* and the *ius agendi cum populo*, enabling them to convene the senate (in the absence of the consuls) and the assemblies. These actions were particularly prominent in the final years of the *res publica*.

While individual praetors who acted in the *Urbs* have been studied, a comprehensive work on this subject is still lacking. A recent investigation on *praetores* in domestic politics between 133 and 60 BCE highlights an increase in the praetors' participation in political life from the late 2<sup>nd</sup> century BCE on.<sup>7</sup> This heightened prominence is evidenced by cases of *praetores* who vigorously and sometimes disruptively inserted themselves into the political framework; their actions were perceived as subversive by their contemporaries: three of the most infamous examples include Glaucia (100 BCE),<sup>8</sup> Damasippus (82 BCE),<sup>9</sup> and Caesar (62 BCE).<sup>10</sup> Despite varied outcomes, these instances demonstrate the strength of *praetores'* power when operating outside their traditional frameworks.

In light of the subjects of this volume, the study proposed in these pages focuses, specifically, on the short period 49-43 BCE to test the praetorship, or rather the praetors, during a time embracing a complete cycle of significant and transformative events that upend the existing order: the end of the traditional Republic with Caesar's victory over Pompey, the new *forma rei publicae* under Caesar's dictatorship, its apparent collapse following Caesar's assassination, and the beginning of a new effort to *rem publicam constituere*

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4 As for the dating of these Varro's works, see below, notes 15 and 16.

5 Piras 2017: 9; 11; Todisco 2016b: 487-495; Arena 2021: 591-592; 608-609.

6 Brennan 2000.

7 Caputo 2022.

8 Brennan 2000: 397-398; Spadavecchia 2009-2010: 95-113; Korolenkov 2020: 37-44.

9 Caputo 2020: 1-28; 2024.

10 Frolov 2017: 977-995; Tariverdiera 2021: 907-924; David 1995: 375 purposes the examples of Sempronius Asellio (89 BCE) and Gratidianus (85 BCE).

with the Triumvirate. During these years, Caesar effectively stripped the magistracies, particularly the consulship, of their substance, as reflected in the list of consuls dominated by his person or his close associates.<sup>11</sup> Generally, he subverted the normal mechanism of recruitment and functioning and prerogatives and duties of the magistracies.

In this context, the question driving this research is how the *praetores*, specifically those operating in Rome, such as the *praetor peregrinus* and the *praetor urbanus*, fit into this dynamic, and how they reacted. This question becomes even more intriguing considering that many of the conspirators of the Ides of March in 44 BCE were or had been *praetores*.<sup>12</sup> In this regard an attempt will be made to understand whether and to what extent the etymology of *praetor* proposed by Varro was influenced by the condition of praetorship during those years.

### Varro's etymology of *praetor*

Nonius Marcellus in his *De compendiosa doctrina* cites Varro's *De vita populi Romani* etymologies of *consul* and *praetor*: *Consulum et praetorum proprietates, quod consulant et praeant populis, auctoritate Varronis ostenditur, de vita populi Romani lib. II: quod idem dicebantur consules et praetores; quod praeirent populo, praetores, quod consulerent senatui, consules*.<sup>13</sup>

There are many studies dedicated to Varro's etymologies, but most of them are devoted to their linguistic or philosophical value without considering what etymologies are for Varro.<sup>14</sup> In the Varronian perspective, etymologies are a sort of "genealogy of words". So, etymologies allow us to penetrate history and reach the origin of the words: phenomena, behaviours, things which propagated them; they are important to recover these aspects forgotten due to the passage of time. Varro extensively employs etymologies in his works, using them with various aims depending on the specific work and audience; he also plays around with the elements of the etymologies, in

11 See *infra*, table 1.

12 Epstein 1987: 566-570; Morstein-Marx 2021: 556 (with n. 293).

13 Non. p. 35.31 Lindsay = 68 Riposati = 383 Salvatore = 67 Pittà. The last edition of the *De vita populi Romani* is Pittà 2015 (from now P); previous editions here cited are Riposati 1939 (from now R) and Salvatore 2004 (from now S).

14 Among the main studies on this subject, see Romano 2003: 99-117; Blank 2008: 49-73; Piras 2017: 8-20; Amendolara 2021: 47-66; Oniga 2022: 4-25; Lazzarini 2023: 279-312.

particular with the explanation of the tie between etymon and word; it can change from one work to another: because of this the Varronian etymologies and first of all their explanations are extraordinary tools to penetrate the late Republican history. The *De vita populi Romani* is an excellent example of how Varro tests the efficiency of etymologies and their political and civic value in a historical work.

In this respect it is useful to investigate the institutional etymologies contained in this work, specifically that of *praetor*.<sup>15</sup> We find the etymology of *praetor*, together with that of *consul*, also in the treatise *De lingua Latina: incipiam ab honore publico. Consul nominatus qui consuleret populum et senatum, nisi illinc potius unde Accius ait in Bruto: qui recte consulat, consul cluat. Praetor dictus qui praeiret iure et exercitu; a quo id Lucilius: Ergo praetorum est ante et praeire*.<sup>16</sup>

It is important to analyse and compare it with the one of the *De vita populi Romani*. When Varro wrote the *De vita populi Romani*, perhaps after 43 BCE,<sup>17</sup> he had already written, among other important works, the *De lingua Latina*<sup>18</sup> and the *De antiquitatibus humanarum et divinarum*.<sup>19</sup> In these earlier works Varro proposed a classification of knowledge organised by categories aimed at reconstructing Roman identity in crisis through a rational review of the past.<sup>20</sup> This means that Varro approaches the *De vita Populi Romani* from the perspective of the expert of *antiquitates*. This is not a negligible element.

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15 As for the etymology of *curia*, see Todisco 2016b: 489-497. As for the etymology of *consul*, see Arena 2021: 592-599; Todisco 2024: 99-103.

16 Varro *Ling.* 5.80: "I shall start from the offices of the state. The consul was so named as the one who should *consulere* 'ask the advice of' people and senate, unless rather from this fact whence Accius takes it when he says in the Brutus: Let him who counsels right, be called the Consul" (transl. R.G. Kent, LOEB). In this contribution, only a cursory reference to the consul will be made in the final part of the work; as for studies on this topic, see n. 13.

17 Pittà 2015: 8.

18 De Melo 2019: 4-5.

19 The dating of the *De antiquitatibus humanarum et divinarum* is controversial; scholars have proposed a range of dates from 56 to 46 BCE. Drummond 2013: 415 has proposed a date towards the end of the 50s BCE, although he assumes its preparation started earlier, while more recently, De Melo 2019: 3 suggests that it was begun in 55 and completed in 47. See also Leonardis 2019: 21 (n. 50); Lazzarini 2023: 282.

20 See *supra*, footnote 14. As for the importance of classification and of the rational mind in Rome, I refer to the fundamental studies of Claudia Moatti, particularly Moatti 1997.

The *De vita populi Romani*, composed of four books, was conceived with a different purpose compared to the two other works. Its title already reveals, as Wiseman underlines, Varronian political intention.<sup>21</sup> He places the people at the centre of his work and even focuses (in the fourth book) on the present. But, here, he adapts his antiquarian interests to his contemporary historical sensibility, his experience, and his political perspective. In his literary pursuits, he harbours the aspiration to craft his works for a more expansive and diverse audience than the one of the *De lingua Latina* or the *De antiquitatibus*, which were much more complex works and therefore addressed to the intellectual elite.<sup>22</sup>

In the fourth book of the treatise, Varro depicts the ruin and the putrefaction of the present moment. According to the physiological perspective of history taken from Dicaearchus' βίος Ἑλλάδος, Varro sees the present moment as the last age of the life of the Roman people; his intention is to show his fellow citizens a way out of the social, political and institutional turmoil and to point them to an ethical and political renaissance. Varro believes that looking to the past can provide such a solution because it exhibits a behavioural model useful to reset the *res publica*.<sup>23</sup>

Let us delve into the etymology of the Roman *praetor*. The etymological explanation of *praetor*, like those of *consul* and of *curia*, changes from the *De lingua Latina* to the *De vita populi Romani*.<sup>24</sup> Scholars have supposed that Varro here considers consulship and praetorship two functions fulfilled by the same person,<sup>25</sup> but specific considerations, already put forth, suggest that Varro was referring here to two distinct magistracies.<sup>26</sup>

Allow us to return to the explanation of the etymology of *praetor*. If we compare *praetor* in the *De lingua Latina* and *praetor* in the *De vita populi Romani*, we find that what Varro changes from the *De lingua Latina* to the *De vita populi Romani* is not the etymon but the etymological explanation, *i.e.* the relationship between *praetor* and *praeire*. As previously highlighted, this is not the sole instance in which the author proposes such a change.

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21 Wiseman 2009: 115; Todisco 2017: 56-57.

22 Purcell 2003 (=2005): 15, consistent with Wiseman 2009: 107-129.

23 Moatti 1997: 222

24 See above n. 14.

25 Pittà 2015: 278; Arena 2021: 592-593; 596.

26 Todisco 2024: 99-103.

It is interesting to explore the conditions that may have led Varro to revise the explanation of the etymological tie *praetor/praeire* from the *De lingua Latina* to the *De vita populi Romani*. Considering Varro's *modus operandi*, it is challenging to regard this choice as merely coincidental.

Before addressing this point, it is important to focus on what was happening at the praetorship in the 40s BCE, while Varro was writing, first the *De lingua Latina* and then perhaps the *De vita Populi Romani*.

### Remarkable episodes in which *praetores* are involved in 49-43 BCE

As mentioned at the beginning of this contribution, the urban and peregrine praetors always held a significant role in the life of the city. The history of this magistracy is deeply connected with the history of the city and its citizens.<sup>27</sup> As Jean-Michel David in 1995 pointed out, *praetores*, as well as *tribuni plebis*, were the magistrates in closest contact with the citizens:<sup>28</sup> they were custodians of the *concordia populi Romani*.<sup>29</sup> During the late Republic their influence on the balance of internal politics appears to increase.<sup>30</sup>

The focus of this section<sup>31</sup> is to draw attention to some extraordinary and meaningful events involving *praetores* and praetorship between 49-43

27 Among the many duties in which the praetors were engaged, in addition to their judicial responsibilities, there were those related to the convening of the Senate and, in some cases, the execution of its decrees. Furthermore, having the authority to summon the assembly, they could also act as *rogatores*. As for the relationship between the *praetores* and the Senate and the *praetores* and the assemblies between 133-60 BCE, Caputo 2022. We have been working at University of Bari, for the last two years, on the *rogationes*; in particular the results of a research about praetorian *rogationes* and laws are forthcoming (2025).

28 David 1995: 371: "À Rome, sous la République et pendant très longtemps encore sous l'Empire, la préture fut la magistrature qui avait le plus d'importance pour la vie quotidienne des citoyens. C'était d'elle en effet que dépendait l'essentiel de la vie judiciaire. Le préteur énonçait le droit, ouvrait et sanctionnait les procédures. Le rôle qu'il jouait le mettait au cœur de la vie sociale et civique romaine. Il était, sans doute avec les tribuns de la plèbe, celui dont les citoyens attendaient le plus, ou redoutaient d'avoir affaire, dans l'exercice quotidien de leurs activités."

29 David 1995: 373.

30 As for the influence of the consuls in the internal politics in the previous years, see *infra*, footnote 33.

31 In this paper, praetorians' ordinary initiatives and activities between 49-43 BCE will not be discussed.

BCE, and to evaluate the political approach of these magistrates, or rather of some of them, in the face of the sudden and violent institutional and political changes taking place. It is a delicate, epochal moment in which there is the will to rewrite the *forma rei publicae*.<sup>32</sup> In this atmosphere magistracies are overwhelmed: *consules*, for example, who in the previous years had experienced a period of increasing political prominence in internal affairs,<sup>33</sup> lost their traditional and important role,<sup>34</sup> and undoubtedly the gradual fade of the consulship put praetorship at the forefront.

The context within which praetors operated in these years was clearly altered: all the magistrates found themselves in a subordinate position to Caesar's authority and were subjected to revisions regarding their specific and customary competencies.<sup>35</sup> Among them there were men close to Caesar, including his earliest friends and supporters and those who had gradually aligned with him during the civil war.<sup>36</sup> They shared his plans and, at least initially, did not feel the backlash of the new measures Caesar implemented. However, this was not the case for everyone in all instances.

Several salient facts occurred in those years regarding which the sources, with various nuances and tendentiousness, give an account. The anomalies in the management of the magistracies were apparent from the very outset. In 49 BCE, both *consules*, C. Claudius Marcellus and L. Cornelius Lentulus Crus, close associates of Pompey, left Rome to join Pompey.<sup>37</sup> In their absence, and with great juridical controversy, M. Aemilius Lepidus, urban praetor, proposed and obtained dictatorship for Caesar.<sup>38</sup> Caesar appointed M. Aemilius Lepidus to take charge of Rome; simultaneously the tribune of

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32 Todisco 2013: 121-144.

33 See Millar 1998: 124; Lintott 1999: 105; 107-109; Pina Polo 2011: 237-248.

34 Regarding the gradual loss of autonomy of the consuls, due first to their subordination to Caesar and later to the Triumvirs, see Pina Polo 2018: 99-114; 2020a: 138-152; 2020b: 49-70 (particularly Pina Polo 2020a: 151: "the consulship was... a secondary and subordinate magistracy under the triumvirate").

35 Arena 2021: 607.

36 *E.g.* as for Brutus, see Tempest 2017: 76.

37 Broughton 1952: 256.

38 Canfora 1999: 317-320, on the ancient sources and the debate concerning the legitimacy of M. Aemilius Lepidus' actions (Cic. *Att.* 9.9.3; 9.15.3), and anomaly presented by Sulla's appointment as dictator.

the plebs M. Antonius was appointed to take charge of Italy and of the army (*tribunus cum imperio*).<sup>39</sup>

As a direct result of the facts just mentioned, in 49 BCE, the consuls left Rome, leaving the city undefended and in Caesar's hands, who, however, lacked institutional legitimacy. It was the urban praetor who managed to grant Caesar the legitimacy he sought at a delicate moment in his political and institutional life. Having unseated the consuls and lacking the support of the Senate, Caesar found a bulwark in the praetorship, particularly in the praetor M. Aemilius Lepidus.<sup>40</sup>

At the end of that year, Caesar made a substantial and surprising change in the mechanism of assigning the *provinciae praetoriae*: he personally appointed praetors for each *provincia*, eliminating the sortition (*sortitio*), which had been the guarantee of the absolute autonomy of the praetors in the exercise of their functions.<sup>41</sup> This new procedure caused considerable discontent and, in some way, albeit indirectly, contributed to an attempted, though ultimately unsuccessful, uprising led by the *praetor peregrinus* M. Caelius Rufus, as we shall see. Caesar's personal management of the magistracy manifested in several other moments as well. In this overview, we can only proceed by jumping from one episode to another.

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39 Plut. *Ant.* 6.4: ὡς δ' οὖν ἐπελθὼν ἐκράτησε τῆς Ῥώμης καὶ Πομπήιον ἐξήλασε τῆς Ἰταλίας, καὶ πρὸς τὰς ἐν Ἰβηρίᾳ Πομπήϊου δυνάμεις ἐπιστρέφειν ἔγνω πρότερον, εἴθ' οὕτως παρασκευασάμενος στόλον ἐπὶ Πομπήϊον διαβαίνειν, Λεπίδῳ μὲν στρατηγοῦντι τὴν Ῥώμην, Ἀντωνίῳ δὲ δημαρχοῦντι τὰ στρατεύματα καὶ τὴν Ἰταλίαν ἐπέτρεψεν. ("And so he came up against Rome and got it into his power, and drove Pompey out of Italy; and determining first to turn his efforts against the forces of Pompey which were in Hispania, and afterwards, when he had got ready a fleet, to cross the sea against Pompey himself, he entrusted Rome to Lepidus, who was praetor, and Italy and the troops to Antony, who was tribune of the people") (transl. B. Perrin, LOEB). See Canfora 1999: 198.

40 In this regard, Welch (1995: 417) emphasises the importance of the role of the urban praetor for Caesar during this period. He cites a passage from a letter Cicero wrote to Atticus on January 23, 49 BCE (*Att.* 7.13): *Huic tradita urbs est nuda praesidio, referta copiis. Quid est quod ab eo non metuas qui illa templa et tecta non patriam se praedam putet? Quid autem sit acturus aut quo modo nescio, sine senatu, sine magistratibus; ne simulare quidem poterit quicquam πολιτικός*. Welch identifies this as corresponding to the attitude of the urban praetor Cornutus, who remained in Rome once the consuls C. Vibius Pansa and A. Hirtius had departed (Cic. *Fam.* 10.12.3: *Cornutus... qui, quod consules aberant, consulare munus sustinebat more maiorum*).

41 Bothorel 2023: 250-251.



Caesar in 45 BCE dared to refuse the province's attribution to L. Minucius Basilus, who will be among the conspirators of the Ides of March, and repaid him with a large sum of money. But Basilus was not satisfied with the arrangement.<sup>42</sup> The absolute control that Caesar showed he has over the magistracies is made clear by Cassius Dio: they were magistracies nominally only (λόγω) elected by the people's assemblies;<sup>43</sup> Dio compares Caesar to a businessman who buys consensus through money and offices: some citizens were unconcerned about the harm they represented to the community, while others were outraged, says Cassius Dio.<sup>44</sup>

All these are surely well-known episodes, which refer to a broader political scenario, *i.e.* the construction by Caesar of another (*aliqua*) *forma rei publicae* different from the past,<sup>45</sup> where old institutional structures and procedures are completely modified or deprived of meaning. Magistracies are included in

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42 Dio Cass. 43.47.5: συχὰ δ' οὖν ὁμῶς καὶ ἐν ἀργυρίῳ τῇ τε πράσει τῶν χωρίων ἔστιν οἷς ἐνεῖμε· καὶ Λουκίῳ τινὶ Βασιλίῳ ἡγεμονίαν μὲν ἔθνους οὐδεμίαν καίτοι στρατηγῶντι ἐπέτρεψε, χρήματα δὲ ἀντ' αὐτῆς πάμπολλα ἐχαρίσατο, ὥστε καὶ ἐπιβόητον αὐτὸν ἐν τε τούτῳ γενέσθαι, καὶ ὅτι προπηλακισθεὶς ἐν τῇ στρατηγίᾳ ὑπ' αὐτοῦ ἀντεκαρτέρησε (“Nevertheless, he granted ample gifts to some persons in the form of money or the sale of lands; and in the case of a certain Lucius Basilus, who was praetor, instead of assigning him a province he bestowed a large amount of money upon him, so that Basilus became notorious both on this account as well as because, when insulted during his praetorship by Caesar, he had held out against him”) (transl. E. Cary – H.B. Foster, LOEB). Epstein 1987: 568 acknowledges this reason as the primary motive that compelled Basilus to join the conspiracy against Caesar. See also Morstein-Marx 2021: 557-558.

43 Dio Cass. 43.47.1: οἱ δὲ δὴ ἄλλοι ἄρχοντες λόγω μὲν ὑπὸ τε τοῦ πλήθους καὶ ὑπὸ τοῦ δήμου κατὰ τὰ πάτρια (τὴν γὰρ ἀπόδειξιν αὐτῶν ὁ Καῖσαρ οὐκ ἐδέξατο), ἔργῳ δὲ ὑπ' ἐκείνου κατέστησαν καὶ ἔξ γε τὰ ἔθνη ἀκληρωτὶ ἐξεπέμφθησαν (“The remaining magistrates were nominally elected by the plebs and by the whole people, in accordance with ancestral custom, since Caesar would not accept the appointment of them; yet really they were appointed by him, and were sent out to the provinces without casting lots”) (transl. E. Cary – H.B. Foster, LOEB).

44 Dio Cass. 43.47.6: ταῦτα δὴ πάντα τοῖς μὲν λαμβάνουσι τι ἢ καὶ προσδοκῶσι λῆψεσθαι ἀρεστὰ ἐγίγνετο, μηδὲν τοῦ κοινοῦ προτιμῶσι πρὸς τὸ αἰεὶ δι' αὐτῶν αὔξεσθαι· οἱ δὲ δὴ ἄλλοι πάντες δεινῶς ἔφερον, καὶ πολλὰ γε ἐλογοποιοῦν πρὸς τε ἀλλήλους, καὶ ὅσοις γε καὶ ἀσφάλειά τις ἦν, παρρησιαζόμενοι, καὶ βιβλία δὲ ἀνώνυμα ἐκτιθέντες (“All this suited those citizens who were receiving or even expecting to receive something, since they had no regard for the public weal in comparison with the chance of the moment for their own advancement by such means. But all the rest took it greatly to heart and had much to say about it to each other and also – as many as felt safe in so doing – in outspoken utterances and the publication of anonymous pamphlets”) (transl. E. Cary – H.B. Foster, LOEB).

45 Todisco 2013: 121-144.

these patterns. In certain situations, we find the praetors, sometimes in agreement with the *tribuni plebis*, trying to assert their autonomous position and express their disagreement towards these new methods. It is mostly believed that they were driven by personal ambition for power, or by personal resentment against Caesar; however, this motivation alone is insufficient to fully explain their actions. We can endeavour to reflect on further motivations, particularly in light of the fact that these were not isolated episodes; on this subject we can cite only a handful of significant instances. Among the cases of praetors who committed acts of insubordination for what were considered personal reasons are M. Caelius Rufus,<sup>46</sup> and the most notably C. Cassius Longinus.

The sources point out the displeasure of M. Caelius Rufus (*praetor peregrinus*) in 48 BCE with respect to Caesar's attribution to himself of the peregrine praetorship rather than the urban one which Caesar attributed to Gaius Trebonius, later also one of the conspirators;<sup>47</sup> in 44 BCE C. Cassius Longinus (*praetor peregrinus*) had the same reaction when Brutus was given urban praetorship, instead of himself.<sup>48</sup>

It may be of benefit to mention a few emblematic details of the political dynamic of the *pratores'* actions deemed subversive by those who were the targets of the attack. The institutional procedure within which these insubordinate actions are situated, and the measures put in place, are striking.<sup>49</sup> It is revealing starting from M. Caelius Rufus: before firmly opposing towards *lex Iulia de pecuniis mutuis*,<sup>50</sup> he contrasted, as previously stated, the legitimization of Caesar's way to attribute *provinciae*. His attack was rooted in typically popular issues: he opposed the *lex Iulia de pecuniis mutuis* by which Caesar also established an audit of debtors' possessions, and proposed a *rogatio* more favourable to debtors. M. Caelius Rufus' hostility to this law resulted in procedures that generated public disorder involving institutional subjects.<sup>51</sup>

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46 For example, Pierre Cordier, in a paper written thirty years ago (1994: 533-577), explained Caelius' political behaviour not only with reference to his personal ambition, as many scholars did, but also to his political affiliation to the *boni*; obviously, this reason is overshadowed by the pro-Caesarian political vision.

47 See Tempest 2017: 90-91.

48 Plut. *Brut.* 7.1-3; *Caes.* 62.2; App. *B. Civ.* 4.57.

49 Canfora 1999: 205 discusses about "reazione di Cesare al sovversivismo", citing two examples: M. Caelius Rufus and Dolabella.

50 Rotondi 1922<sup>2</sup>: 415; Pinna Parpaglia 1976: 30-72; 1983: 115-141; Canfora 1999: 320; Morstein-Marx 2021: 528 (with n. 182).

51 Canfora 1999: 205-207.

He perhaps intentionally used the debt issue, a traditional praetorian theme, in popular perspective against the urban praetor;<sup>52</sup> the exasperation of the conflict is marked by a sequence of extraordinary actions/reactions: Trebonius' escape, once attacked, fleeing the lynching of the crowd by abandoning his *signa* (perhaps to obfuscate himself);<sup>53</sup> the senate decree suspending his magistracy;<sup>54</sup> the unsuccessful veto of the *tribunus plebis* to the senate;<sup>55</sup> the decision of the senate to ignore it and to go forward; the consul's action.<sup>56</sup>

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52 Caes. *B Civ.* 3.20; Dio Cass. 42.22.3; David 1995: 376-378. Canfora 1999: 205-207 notes that Caesar possesses the abilities and expertise to counter the *popularis* policies of M. Caelius Rufus more effectively than anyone else.

53 Dio Cass. 42.22.3-4: καὶ προσέτι τοῖς ὀφείλουσι τι βοηθήσειν ἐπὶ τοὺς δεδανεικότας καὶ τοῖς ἐν ἄλλοτριῶν οἰκοῦσι τὸ ἐνοίκιον ἀφήσειν ἐπηγγέλλετο. (4) προσθέμενος δὲ ἐκ τούτου συχνοὺς ἐπήλθε μετ' αὐτῶν τῷ Τρεβωνίῳ, κἄν ἀπέκτεινεν αὐτὸν εἰ μὴ τὴν τε ἐσθῆτα ἠλλάξατο καὶ διέφυγε σφας ἐν τῷ ὄχλῳ. διαμαρτῶν δὲ τούτου νόμον ἰδίᾳ ἐξέθηκε, προῖκά τε πᾶσιν οἰκεῖν διδοὺς καὶ τὰ χρεῖα ἀποκόπτων ("But he also gave notice to such as owed anything that he would assist them against their creditors, and to all who dwelt in other people's houses that he would release them from payment of the rent. Having by this course gained a considerable following, he set upon Trebonius with their aid and would have slain him, had the other not managed to change his dress and escape in the crowd. After this failure Caelius privately issued a law in which he granted everybody the use of houses free of rent and annulled all debts") (transl. E. Cary – H.B. Foster, LOEB).

54 Caes. *B Civ.* 3.21: *De quibus rebus Servilius consul ad senatum rettulit, senatusque Caelium ab re publica removendum censuit.* See also Dio Cass. 42.23.2.

55 Dio Cass. 42.23.1: ὁ οὖν Σερουίλιος στρατιώτας τέ τινας ἐς Γαλατίαν κατὰ τύχην παριόντας μετεπέμματο, καὶ τὴν βουλὴν τῇ παρ' αὐτῶν φρουρᾷ συναγαγὼν προέθηκε γνῶμην περὶ τῶν παρόντων, καὶ κυρωθέντος μὲν μηδενός (δήμαρχοι γὰρ ἐκόλυσαν) συγγραφέντος δὲ τοῦ δόξαντος ἐκέλευσε τοῖς ὑπῆρέταις καθελεῖν τὰ πινάκια ("Servilius consequently sent for some soldiers who chanced to be going by on the way to Gaul, and after convening the senate under their protection he proposed a measure in regard to the situation. No action was taken, since the tribunes prevented it, but the sense of the meeting was recorded and Servilius then ordered the court officers to take down the offending tablets") (transl. E. Cary – H.B. Foster, LOEB).

56 Dio Cass. 42.23.2-3: ἐπειδὴ τε ὁ Καίλιος ἐκείνους τε ἀπήλασε καὶ αὐτὸν τὸν ὕπατον ἐς θόρυβον κατέστησε, συνῆλθον αὐθις φραζάμενοι τοῖς στρατιώταις, καὶ τὴν φυλακὴν τῆς πόλεως τῷ Σερουλίῳ, ὡσπερ ἄνω μοι πολλάκις περὶ αὐτῆς εἴρηται, παρέδοσαν. (3) καὶ ὁ μὲν οὐδὲν ἐκ τούτου τῷ Καίλιῳ ὡς καὶ στρατηγοῦντι πρᾶξαι ἐφήκεν, ἀλλὰ τὰ τε προσήκοντα τῇ ἀρχῇ αὐτοῦ ἄλλῳ τῷ τῶν στρατηγῶν προσέταξε, καὶ αὐτὸν ἐκείνου τοῦ τε συνεδρίου εἴρξε καὶ ἀπὸ τοῦ βήματος καταβοῶντά τι κατέσπασε, τὸν τε δίφρον αὐτοῦ ("When Caelius drove these men away and even involved the consul himself in a tumult, they convened again, still protected by the soldiers, and entrusted to Servilius the guarding of the city, a procedure concerning which I have often spoken before. After this he would not permit Caelius to do anything in his capacity as praetor, but assigned the duties pertaining to his office to another praetor, debarred him from the senate, dragged him from the rostra while he was delivering some tirade or other, and broke his chair in pieces") (transl. E. Cary – H.B. Foster, LOEB). As for the praetorship of M. Caelius Rufus, see Volponi 1970: 265-276; Claus 1990: 531-540; Cordier 1994: 533-577; David 1995: 376-377; Canfora 1999: 205-207; Scott 2019: 224-230.

It cannot be entirely ruled out that these actions had political motivations related to the dynamics and functioning of institutional life. As we have seen, this conflict involves some of the most important protagonists of institutional life, with a succession of controversial actions against legitimate politics, which also involved the *populus*: the urban praetor and the peregrine praetor faced each other;<sup>57</sup> the Senate, as in the days of Caesar's praetorship, employed the tool of suspension of the magistracy's prerogatives in political life. The crowd close to *popularis* political issues, regardless of their supporters, often succeeded in shaping public decisions; a significant instance of its influence is evident in the pressure it exerted on the Senate, leading to the reversal of the suspension of Caesar's praetorship imposed by senatorial decree in 62 BCE.<sup>58</sup> It is noteworthy that within fifteen years, as far as we know, praetorian prerogatives were suspended twice. On both occasions, it appears that an emergency Senate deliberation entrusted the consuls with the responsibility of securing the public safety of the city, which had been jeopardised by the actions of praetors who were exercising the full power of their magistracy.

It is not implausible that the events of 48 BCE were among the reasons that prompted Caesar's decision of 46 for the year 45 BCE:<sup>59</sup> he, before leaving for Hispania and until his return, called *comitia* only for the election of the *aediles plebis* and *tribuni plebis*; he provided for entrusting the duties, hitherto assigned to quaestors, aediles curules and praetors of the city to a college composed of six or eight prefects of the *Urbs* appointed by him:<sup>60</sup> they were attributed praetorian rank.<sup>61</sup>

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57 David 1995: 376, in his examination of the praetorship, particularly the episode involving Caelius Rufus in 48 BCE, emphasises the contrast between the two praetors, M. Caelius and C. Trebonius. He also specifically discusses the spatial arrangement: M. Caelius Rufus, serving as a *praetor peregrinus*, strategically placed his tribunal next to that of the urban praetor, thereby facilitating his intervention on behalf of debtors seeking his aid.

58 Suet. *Iul.* 16: *Ceterum Caecilio Metello tribuno plebis turbulentissimas leges adversus collegarum intercessionem ferenti auctorem propugnatoremque se pertinacissime praestitit, donec ambo administratione rei publicae decreto patrum submoverentur*. On the episode, see Cordier 1994: 554-559; Brennan 2000: 473; Tatum 2006: 196; Scantamburlo 2011: 133; Frolov 2017: 983-986; Morstein-Marx 2021: 108-109; Caputo 2022: 208-210.

59 Suet. *Iul.* 76.2; Dio Cass. 43.28.2.

60 The uncertainty about the number is in Dio Cass. 43.28.2, who inclines to six. See Welch 1990: 53.

61 Suet. *Iul.* 76.2: *pro praetoribus: ita ut medio tempore comitia nulla habuerit praeter tribunorum et aedilium plebis, praefectosque pro praetoribus constituerent, qui absente se res urbanas administrarent*.

Among the typically praetorian duties assigned to *praefecti urbis*, we find mention of the organisation of the *Ludi Apollinares*.<sup>62</sup> This is, yet again, a divergence from traditional custom; in fact, the responsibility of the *ludi*, starting with the *praetoria lex Licinia de ludis Apollinaribus* of 208 BCE, proposed by the urban praetor P. Licinius Varus, was granted to the urban praetor.<sup>63</sup> It is yet another indication of Caesar's disregard for the institutional framework of the magistracies, specifically in the case of the urban praetorship, and of his intent to build an efficient system with men chosen by him.<sup>64</sup> There is, however, a pivotal moment where the praetors play a prominent role: the murder of Caesar. Without purporting to address this central episode in Roman history here, it is noteworthy to underscore the praetors or ex-praetors among the conspirators.

The leading figures of the conspiracy were two praetors, the *praetor peregrinus* C. Cassius Longinus and the *praetor urbanus* M. Iunius Brutus; similarly, among the conspirators there were some of the former praetors of 45 BCE, L. Minucius Basilus and L. Tillius Cimber, and of 54 BCE, Ser. Sulpicius Galba. The *tribuni plebis* were also present: L. Pontius Aquila, among the *tribuni plebis* of 45 BCE, and C. Servilius Casca, among the *tribuni* of 44 BCE. The only consular attested is C. Trebonius.<sup>65</sup>

To complete the pattern of the murderers, we must cite a sort of conspirator *ex post*: L. Cornelius Cinna, who was among the praetors of the year 44 BCE; it is uncertain whether he was among the early conspirators; however, despite being Caesar's brother-in-law and Pompey's son-in-law, he did not hesitate to join the crowd in the forum after the assassination and rail against Caesar.

It is helpful for this paper to emphasise the crucial and emblematic moments of his gesture in the *forum*:<sup>66</sup> he cast aside his toga and the *honos* it

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62 Dio Cass. 43.48.3.

63 Liv. 27.23.7; Rotondi 1922<sup>2</sup>: 260; Elster 2003: 246-248. Santangelo 2013: 163-164 explores the practice of divination in Rome and the role of praetors in this context, including the *ludi Apollinares*.

64 See Welch 1990: 58, who believes that "the *praefectura Urbis* was selected to fill these needs".

65 Epstein 1987: 566-570; Morstein-Marx 2021: 557-560.

66 App. *B Civ.* 2.121.508-510: Ὅθεν οὐ δυσχερῶς ἐκ τοσῶνδε καὶ τοιῶνδε ἀνδρῶν πλῆθος τι τοῖς ἀμφὶ τὸν Κάσσιον ἐς τὴν ἀγορὰν εὐθὺς ἀγήγηρτο· οἱ καίπερ ὄντες ἔμμισθοι τὰ μὲν γενόμενα ἐπαινεῖν οὐκ ἐθάρρουν, δεδιότες τὴν Καίσαρος δόξαν καὶ τὸ πρὸς τῶν ἐτέρων ἐσόμενον, ὡς δ' ἐπὶ συμφέροντι κοινῶ τὴν εἰρήνην ἐπεβόων καὶ θαμινὰ τοὺς ἄρχοντας ὑπὲρ αὐτῆς παρεκάλουν, τέχνασμα τοῦτο ἐς τὴν τῶν ἀνδροφόνων σωτηρίαν ἐπινοοῦντες· οὐ γὰρ

symbolised, as it was a gift from the ‘tyrant’.<sup>67</sup> The reasons for this statement, which is closely connected to the praetorship, are most likely found either in his belonging to the group of sons of those proscribed by Silla recalled to Rome by Caesar and admitted to the magistracies, or in the attribution of the magistracy to him through Caesar’s mechanism of bestowing offices, which had also led to an increase of praetors to sixteen, as highlighted by Cassius Dio.<sup>68</sup> The levity and vacuity of the magistracies is further evidenced by the fact that Cinna resumed his position the following day, March 17, when he appeared at the Senate session as praetor.<sup>69</sup>

The Ides of March in 44 BCE did not mark the end of the political activities of the *praetores*, as many of them were involved in the ensuing events

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ἔσσεσθαι τὴν εἰρήνην μὴ γενομένης αὐτοῖς ἀμνηστίας. (509) ὧδε δὲ αὐτοῖς ἔχουσι πρῶτος ἐπιφαίνεται Κίννας δὲ αὐτοῖς ἔχουσι πρῶτος ἐπιφαίνεται Κίννας στρατηγός, οἰκεῖος ὢν ἐξ ἐπιγαμίας τῷ Καίσαρι, καὶ παρὰ δόξαν ἐπελθὼν ἐς μέσους τὴν τε ἐσθῆτα τὴν στρατηγικὴν ἀπεδύσατο, ὡς παρὰ τυράννου δεδομένης ὑπερορῶν, καὶ τὸν Καίσαρα τύραννον ἐκάλει καὶ τοὺς ἀνελόνας τυραννοκτόνους, καὶ τὸ πεπραγμένον ἐσέμνυνεν ὡς ὁμοιότατον μάλιστα τῷ προγονικῷ καὶ τοὺς ἄνδρας ὡς εὐεργέτας καλεῖν ἐκέλευεν ἐκ τοῦ Καπιτωλίου καὶ γεραίρειν. (510) καὶ Κίννας μὲν οὕτως ἔλεξεν, οἱ δὲ τὸ καθαρὸν τοῦ πλήθους οὐχ ὀρῶντες ἐπιμινύμενον αὐτοῖς οὐκ ἐκάλουν τοὺς ἄνδρας οὐδὲ τι πλέον ἢ περὶ τῆς εἰρήνης μόνης αὐθις παρεκάλουν (“As a result, there was no difficulty in immediately collecting a crowd in the Forum from so many men of this kind to support Cassius and his colleagues. Although they had been bought, they did not have the courage to praise what was happening, as they feared Caesar’s reputation and what the other side would do. So they shouted for peace as being in the common interest, and repeatedly called on the magistrates to support it, intending this as a device to secure the safety of the assassins; for they said there would be no peace without granting them an amnesty. Such was their position when the praetor Cinna, a relation of Caesar by marriage, was the first to make an appearance Unexpectedly advancing into the middle of the crowd, he took off his praetor’s robe, despising it as the gift of a tyrant, and called Caesar a tyrant and his killers tyrannicides. He solemnified their deed as being very like that of their ancestors, and urged that they invite the men down from the Capitol as benefactors, and honor them. This is what Cinna said, but the hired men noticed that they were not being joined by the part of the crowd that had not been bribed, and they did not summon the men on the Capitol. Indeed, they did nothing more than continue to repeat their pleas for peace”) (transl. B. McGing, LOEB).

67 As for the praetorship of L. Cornelius Cinna, see Brunt 1966: 4; Moles 1987: 124-128; Tempest 2017: 110-119.

68 Fourteen praetors in 45 BCE, Dio Cass. 43.47.1; sixteen praetors in 44 BCE, Dio Cass. 43.49.1

69 Plut. *Brut.* 18.13; App. *B Civ.* 2.126.526-528. The sequence of Cinna’s actions is debated in scholarly history; it is known, however, unanimously from the available sources, that against him the pro-Caesar people rose up to lynch him. As for the praetorship of L. Cornelius Cinna, see Brunt 1966: 4; Moles 1987: 124-128; Tempest 2017: 110-119.

of 43 BCE, and continued or ended their lives in various ways. The urban praetor, M. Caecilius Cornutus, left by Hirtius and Pansa to fulfil consular duties, committed suicide upon hearing that Octavian had taken Rome.<sup>70</sup> Manius Aquillius Crassus was proscribed.<sup>71</sup> M. Censorinus, a supporter of Antony, was declared a public enemy, but was later saved.<sup>72</sup> Minucius, discovered while presiding over an election assembly, came to know that he had been proscribed and subsequently died.<sup>73</sup> L. Plotius Plancus was proscribed and killed.<sup>74</sup> P. Ventidius Bassus was declared a public enemy, left the praetorship and assumed the consulship.<sup>75</sup> (Villius) Annalis was proscribed.<sup>76</sup>

As previously stated above, the thesis that personal ambition drove numerous political actions (e.g. M. Caelius Rufus) has been invoked and debated; the same hypothesis has been suggested regarding Caesar's assassins.<sup>77</sup> However, it would be more insightful to expand this perspective and interpret ambition in a broader sense. The members of the traditional elite, first and foremost, experienced a significant attack on their cultural and value system during the years of Caesar's dictatorship. This system had its points of reference in the traditional *res publica*. Therefore, the dismantling of this structure threatened their position. What might be perceived as individual ambition or the defence of personal power was, in fact, the defence of the power position of a group<sup>78</sup>. This explains, without entirely dismissing the personal reasons that certainly played a part, their opposition to Caesar's *constitutio rei publicae*. Some of the members of the aforementioned elite, despite initially begrudgingly accepting Caesar's rise to power, later believed he could offer a solution to the

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70 Broughton 1952: 338; App. *B Civ.* 3.92.381.

71 Broughton 1952: 338; App. *B Civ.* 3.93.384-94-386.

72 Broughton 1952: 338-339; Cic. *Phil.* 11.11; 13.2.

73 Broughton 1952: 339; App. *B Civ.* 4.17.68.

74 Broughton 1952: 339; App. *B Civ.* 4.12.46.

75 Broughton 1952: 337; 339; Cic. *Ad Brut.* 1.5.1.

76 It is uncertain if (Villius) Annalis was among the conspirators, but it is useful to describe the atmosphere of this period to underscore the conclusion of his political biography: as praetor, he supported his son's campaign for quaestor. Ultimately, he was betrayed by his son, who was rewarded with the office of *aedilis* (App. *B Civ.* 4.18.69-70). As for (Villius) Annalis, see Tansey 2013: 98-102, who includes him among the praetors of 43 BCE, *contra* Broughton 1952: 339.

77 This hypothesis is explicitly stated in Epstein's title *Caesar's Personal Enemies on the Ides of March* (1987). More recently Tempest 2017: 92-94 (as for Brutus); Morstein-Marx 2021: 556-557, who states that this motivation is "suggestive rather than decisive".

78 See Cordier, above n. 46. According to Tatum 2024: 113-116, the conspirators sought to restore the Republic, fearing Caesar's absolute power (*dictatura perpetua*), but were driven not only by personal ambition but also by aristocratic privilege.



reconstitution of the crisis-stricken *res publica* and joined his ranks, but ultimately changed their minds in light of the substantial changes Caesar was implementing (e.g. C. Trebonius).<sup>79</sup> This same attitude also occurred in some cases among his early supporters. During these years, the praetorship, particularly the urban praetorship, due to its structural characteristics and the arena in which it operated, represented for Caesar a magistracy to manage which was both useful and necessary for his plans, but at the same time dangerous; a tool to be exploited to his advantage but also to be limited due to its potential. It is perhaps for this reason that among praetors, both incumbent and former, political initiatives emerged aimed at defending the traditional institutional and legal framework.

### Varro's etymology of *praetor*: conclusions

In 43 BCE, faced with the deep institutional crisis of the time, Varro had to draw upon both his knowledge and his political experience in his *De vita populi Romani*. It is important to remember that he himself maybe had held the praetorship.<sup>80</sup> The fragments attributed to the fourth book of this work suggest the image of an ethical and political wasteland, also dealing with magistracies that were evidently, as previously mentioned, devoid of any political value and no longer guarantors of the *res publica*. There are some references to the degeneration of the role and function of the magistrates in various fragments from the Varronian *De vita populi Romani*. It is useful to cite just some of them, related to magistracies:

121R=434S=115P: *Tanta porro invasit cupiditas honorum plerisque, ut vel caelum ruere, dummodo magistratum adipiscantur, exoptent.*

122R=435S=116P: *Itaque propter amorem imperii magistratus gradatim seditionibus sanguinolentis ad dominatus quo appellerent.*

As mentioned elsewhere, the intent of the *De vita populi Romani*, which more than ever reveals the political aspect of Varro, is to restore *concordia*.<sup>81</sup> For this purpose, he aims to thoroughly and relentlessly analyse the reasons for the conflict and propose solutions to the crisis that arose starting from the time of C. Gracchus on.<sup>82</sup> The recovery of past models of behaviour and

79 Canfora 1999: 340-342; 351; 365.

80 Broughton 1952: 466; Wiseman 2009: 113.

81 Varro *De vita populi Romani* 124R=148S=106P.

82 Varro *De vita populi Romani* 114R=425S=108P; Todisco 2018-2019: 121-136.



values, that enabled Rome to become an imperial Republic, is a crucial step in this regard: Varro evidently scattered throughout his writings – unfortunately not all of which have survived to our present day – useful prototypical reference models for reconstructing the *res publica* now in crisis. As anticipated in the introductory part of this paper, some etymologies, at least some of them, may have been employed by Varro for this purpose. The etymologies of *honores* might very well be those to which Varro entrusts his concept of magistracy, in response to the current state of degeneration within it.

As previously stated, Varro in the structure of etymologies changes the justifications to explain the relationship between etymon and word, shifting from one work to another: this is the aspect that deserves the most attention. This mindset indicates Varro's constant attitude of updating the antiquities: he compares the ancient data with the reality before him or the current problem he intends to address. In this perspective, it becomes clear why Varro changes the etymology of *curia*, from the *De lingua Latina* to the *De vita populi Romani*. In both works, the etymon is *cura* (a verb in the *De lingua Latina*, a noun in the *De vita Populi Romani*); however, in the definition from the *De lingua Latina*, it is the Senate as a whole that cares for the *res publica*.<sup>83</sup> In the definition from the *De vita populi Romani*, the focus is on the individual senator, who is portrayed with a paradigmatic behaviour: he is constantly attentive to the needs of the *res publica*, both in public and in private.<sup>84</sup> This change reflects Varro's intention to propose a model of senator revived from the past, with respect to the degeneration of the present; a servant of the *res publica*, constantly present in public life.<sup>85</sup> It is hard not to recognise in this definition the serious problem of senatorial absenteeism from the *Curia*, which Augustus himself would attempt to resolve after 27 BCE.<sup>86</sup>

To return to *praetor*'s etymology, Varro alters the syntactic construction and the object of the sentence containing it from the *De lingua Latina* to the *De vita populi Romani*:

*De lingua Latina* 5.80: *Praetor dictus qui praeiret iure et exercitu; a quo id Lucilius: Ergo praetorum est ante et praeire.*

*De vita populi Romani* 383S=68R=67P (...) *quod praeirent populo, praetores (...)*

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83 Varro *Ling.* 6.46.

84 Varro *De vita populi Romani* 70R=385S=69P.

85 Todisco 2016b: 489-497.

86 Todisco 2018: 387-410, with bibliography; Coudry 2020<sup>2</sup>: 256-260.

He adopts the verb *praeo* intransitively in both the *De lingua Latina* and the *De vita populi Romani*.<sup>87</sup> In the *De lingua Latina*, the verb is followed by the ablatives of limitation *iure* and *exercitu*. Varro also cites in this definition a verse by Lucilius, where the verb is used without a direct or indirect object; Lucilius places the adverb *ante* before the verb *praeire* followed by the conjunction *et*. In this definition, it is therefore clear that *praeire* means “to go before/take the lead in law and the army”. Hence, Lucilius says: “so it is the duty of the praetores/praetors to *praeire*, to go before and in front”.<sup>88</sup> Conversely, in the *De vita populi Romani*, the verb is followed, unlike in the verse cited from Lucilius, by the indirect object *populo* (dative case), and references to *ius* and *exercitus* disappear. There is some doubt about the Italian translation of the etymology of *praetor* in the *De vita populi Romani*: “pretori poiché marciavano alla testa del Popolo”.<sup>89</sup> To better understand the value of *populus*, it is useful to refer to the fragment 94R=407S=97P of the same work dedicated to an exemplary praetor: *P. Aelius Paetus cum esset praetor urbanus et sedens in sella curuli ius diceret populo, picus Martius advolavit atque in capite eius adsedit*.

In particular, the fragment refers to an exemplary story of the gens *Aelia*, from the Second Punic War, reported in a more extended form and with variations by Valerius Maximus, Pliny the Elder and Frontinus.<sup>90</sup> The essence of the story, when combining the different versions, is as follows: as the urban praetor sits administering justice for the people, a *picus* of Mars stands on his shoulder; the haruspex interprets this act as a choice to be made by the praetor: if he allows the *picus* to survive, his gens will have happiness and the *res publica* a baleful fate; conversely, if he kills the *picus*, his gens will have a nefarious end and *res publica* a *felicissimus status*. The praetor immediately kills the *picus*.<sup>91</sup>

Some aspects present in Varro’s version deserve to be highlighted: Aelius is an urban praetor; his intent on exercising jurisdiction for the people (*ius dicere populo*); the reference to the *sella curulis*, often mistreated together with the toga, in some episodes from these years<sup>92</sup>, which is absent in other versions

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87 OLD 1968: 1572-1573, s.v. *praeo*: “to lead the way to the people” (n. 1).

88 De Melo 2019: 301.

89 Pittà 2015: 278.

90 Val. Max. 5.6.4; Plin. *HN* 10.41; Frontin. *Str.* 4.5.14.

91 For the variations in the story as presented in the versions provided by the authors, Pittà 2015: 416-417.

92 M. Caelius Rufus (*sella curulis*): Caes. *B Civ.* 3.20.1; Dio Cass. 42.23.3; L. Cornelius Cinna (*toga*): App. *B Civ.* 2.121.509.

of the story. Based on our knowledge of the story's outcome, we are dealing with a praetor who puts his own and his family's interests after those of the *res publica*. In this depiction, the praetor takes care of the people, even placing the interests of the community above everything else.

The model of the praetor represented by P. Aelius Paetus must be considered now in relation to the stylized figure of the praetor in Varro's etymology. In Varro there is a reference to *populus*, in dative case.<sup>93</sup> The praetor is portrayed in his role executed precisely in relation to the people: in the case of Aelius Paetus, with reference to his judicial function; in the case of the praetor's etymology, without limitations regarding his function. His action appears generally aimed at leading the people, consistent with the choice made by Aelius Paetus at the time. In this regard, once again, the centrality of *populus* in Varro's vision of the *res publica* must be emphasised.

To complete the discussion, it is worth noting that the etymology of praetor is accompanied by that of consul. Referring the discussion on the consul to other works,<sup>94</sup> it is noteworthy that in this instance Varro makes a distinct choice in the *De vita populi Romani* compared to the *De lingua Latina*. He maintains the etymology *consulere* in both versions but employs different constructions of the verb. In the *De lingua Latina*, he prefers *consulere* followed by the accusative *senatum*, indicating "to consult the Senate"; as a secondary option, he mentions the use found in Accius' version, where the verb is used without an object, implying "to make a decision". In the *De vita populi Romani*, however, he uses *consulere*, followed by dative case, *senatui*, meaning "to take care of the Senate; to pay attention to Senate, to give thought to Senate."<sup>95</sup> This approach somewhat emphasises the consul's responsibility towards the Senate.

Varro's framework of magistracies, as presented in the etymologies found in *De vita populi Romani*, likely composed after Caesar's assassination amid a period of widespread institutional upheaval and social instability, outlines the roles and responsibilities of magistrates and senators tasked with the urgent need to rebuild the *res publica*. It is significant that Varro emphasises individual accountability and responsibility in his depictions (for instance, for the senator

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93 It is important to underline that this is the only known attestation of *ius dicere* followed by *populo* in the dative case.

94 Todisco 2024: 99-103.

95 OLD 1968: 423, s.v. *consulo* (n. 6).

in the etymology of *curia* as well as for consuls and praetors) toward the senate and the populus, and in general the *res publica*<sup>96</sup>. Concerning the praetors, particularly those who exercised their duties in Rome, it is notable that their unique bond with the citizens and the city, at times reinforced and at other times strained during these years (consider the conflict among praetors in 48 BCE), was strongly underscored. The effort of reconstruction required the reconstitution of the *res publica*, deeply fractured (*biceps civitas*); for this purpose, a general assumption of responsibility was necessary. Magistrates were expected to set aside individualism and the desire for power (*amor imperii*), and to reclaim the functions for which the magistracies were created: in particular way the praetor was tasked with leading the entire populace in all areas of his competence<sup>97</sup>.

TABLE 1: CONSULS 49-43 BCE

49 BCE	C. Claudius M.f. M.n. Marcellus L. Cornelius P.f. -n. Lentulus Crus	Broughton 1952: 256
48 BCE	C. Iulius C.f. C.n. Caesar P. Servilius P.f. C.n. Isauricus	Broughton 1952: 272
47 BCE	Q. Fufius Q.f. C.n. Calenus P. Vatinius P.f.	Broughton 1952: 286
46 BCE	C. Iulius C.f. C.n. Caesar M. Aemilius M.f. Q.n. Lepidus	Broughton 1952: 293-294
45 BCE	C. Iulius C.f. C.n. Caesar (consul without a colleague) <i>Consules suffecti:</i> Q. Fabius Q.f. Q.n. Maximus C. Trebonius C.f. C. Caninius C.f. C.n. Rebilus	Broughton 1952: 304
44 BCE	C. Iulius C.f. C.n. Caesar M. Antonius M.f. M.n. <i>Consul suffectus:</i> P. Cornelius P.f. Dolabella	Broughton 1952: 315-316
43 BCE	C. Vibius C.f. C.n. Caetronianus A. Hirtius A.f. <i>Consules suffecti:</i> C. Iulius C.f. C.n. Caesar Q. Pedius M.f.	Broughton 1952: 334-336

96 On the subject of the responsibility of the human agent in the construction of the future, Cicero dwelt in the same period (after Caesar's murder) in two treatises, *De fato* and *De divinatione*, recently Begemann 2022: 134-149.

97 For a possible interpretation of the fragment and its textual structure, in relation to consulship and praetorship, see Todisco 2024: 101.

TABLE 2: PRAETORS 49-43 BCE

49 BCE	M. Aemilius Lepidus A. Allienus C. Coponius M. Favonius L. Manlius Torquatus L. Roscius Fabatus P. Rutilius Lupus C. Sosius	Broughton 1952: 257-258. Brennan 2000: 755-756
48 BCE	M. Caelius Rufus ( <i>pr. peregrinus</i> ) C. Caninius Rebilus (?) M. Coelius Vinicianus (?) C. Cosconius (?) Q. Fabius Maximus (?) Q. (Marcius) Philippus (?) Q. Pedius C. Rabirius (Curtius) Postumus (?) P. Sulpicius Rufus C. Trebonius C. Vibius Pansa Caetronianus (?)	Broughton 1952: 273-274
47 BCE	M. Acilius Caninus/Caninianus (?) L. Nonius Asprenas	Broughton 1952: 287
46 BCE	C. Calvisius Sabinus (?) C. Carrinas (?) T. Furfanius Postumus (?) A. Hirtius Q. Marcus Crispus (?) C. Sallustius Crispus L. Volcatius Tullus	Broughton 1952: 295-296
45 BCE	C. Asinius Pollio Q. Cornificius Q. Hortensius D. Iunius Brutus Albinus L. Minucius Basilus L. Munatius Plancus A. Pompeius Bithynicus T. Sextus L. Staius Marcus L. Tillius Cimber	Broughton 1952: 306-307

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	T. Annius Cimber	
	C. Antonius	
	M. (Calpurnius or Pupius) Piso	
	Q. Cassius	
	C. Cassius Longinus (pr. peregrinus)	
	C. Cestius	
	L. Cornelius Cinna	
44 BCE	L. Cornelius Lentulus (Cruscellio?)	Broughton 1952: 319-322
	M. Cusinius	
	M. Gallius (?)	
	M. Iunius Brutus ( <i>pr. urbanus</i> )	
	L. Marcus Philippus	
	P. Naso	
	Sp. Oppius	
	C. Turranius	
	M. Vehilius	

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	L. Aelius Lamia	
	M. Aquillius Crassus	
	M. Caecilius Cornutus	
	L. Cestius (?)	
	Q. Gallius	
43 BCE	L. Marcus Censorinus	Broughton 1952: 338-339
	Minucius	
	C. Norbanus Flaccus	
	L. Plotius Plancus	
	P. Rupilius Rex (?)	
	P. Ventidius Bassus	

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# BEING A *CONSULARIS* UNDER AUGUSTUS: A CAREER WITHIN THE CAREER

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Epigraphists, most of whom are specialists in the Imperial period due to the growing number of inscriptions from that time, are familiar with the practice of highlighting the title of consul, abbreviated to COS, in senatorial careers in descending order by placing it at the beginning of the inscription just after the senator's name, even though this magistracy was usually no longer held at the end of a career.<sup>1</sup> This particularity might theoretically suggest that the abbreviation COS is actually short for *co(n)s(ularis)*, rather than for *co(n)s(ul)*, since the consular powers exercised by those who had held the office were the last and highest in the *cursus honorum* of the Imperial period, ranging from imperial legateships and proconsulships (of Africa and Asia) to the urban prefecture.<sup>2</sup>

Yet such an interpretation, apart from being hypothetical and effectively undermining the reference to the consulship, is redundant. Rather, the reference to the consulship immediately after the name of the senator should be interpreted as that of the priesthoods of the four major colleges, also held at the very beginning of the *cursus honorum*: the placement of the abbreviation

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1 On the practice of placing the title of consul at the beginning of inscriptions, see in particular Cagnat 1914<sup>4</sup>: 97; Lassère 2005, II: 644 who points out that albeit a general practice, there were exceptions to the rule; Bruun 2015: 209-210.

2 Regarding senatorial careers under Augustus and during the Early Empire, see Eck 1974; 1995; 1998; 2012a; Jacques and Scheid 1990: 52-60 and 361-365; Hurlet 2023 ed.

COS at the beginning of the inscription and the play on the height of the letters are intended to underscore the enormous prestige that consuls, as well as pontiffs, augurs, *quindecimviri* and *septemviri*, continued to enjoy in the Imperial period, even though these offices did not, or had ceased to, confer important political, military<sup>3</sup> or religious powers on their incumbents in the strictest sense, compared to those of the *princeps*.

In the specific case of the consulship, the fact that COS appears just after the name of the senator was also a way for him, or those honouring him, to indicate from the outset that he had held this prestigious traditional magistracy, while at the same time making it clear that he had been able to continue working his way up the *cursus* by holding office as a former consul. This analysis illustrates how, under Augustus, the consulship was still the highest aspiration, to the extent that it continued to be a source of fierce rivalry between members of the aristocracy, and how it was now followed by other equally sought-after positions. It thus became a higher level that had to be passed in order to be considered part of the upper fringe of the aristocracy.<sup>4</sup> As for consular status, it was only gradually established: it is not until the Severan period that the title *consularis* – in Greek ὑπατικός or ὑπατος used as an epicene adjective – is epigraphically attested to describe the institutional position of a senator in a formal context, viz. as part and parcel of the *cursus*.<sup>5</sup>

Even though the *cursus honorum* of the Republican period did not end with the consulship, as Francisco Pina Polo has shown,<sup>6</sup> its imperial counterpart underwent a major reorganisation, increasing the number of offices held by former consuls, while indicating the order in which they

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3 As to the practical impossibility for a consul to exercise the military component of his *imperium* from the principate of Augustus onwards, see definitively Ferrary 2001: 102-115.

4 For the consulship in the Augustan period, see recently Hurlet 2011; Dalla Rosa 2016; Hurlet – Pina Polo 2023.

5 See Pflaum 1970; Rémy 1986; Christol 2007. See also the most recent in-depth study of the title *consularis* during the Imperial period in Salomies 2010, who in light of his analysis of all the epigraphic attestations of *consularis*, notes that this title only appears twice in the Augustan period (*CIL* II 4129 = *RIT* 137 = *CIL* II<sup>2</sup>, 14, 974 = *AE* 2006, 693, Tarraco; *CIL* XIV 178 = *AE* 2007, 282, Ostia), plus in a less formal context to characterise a list of the ancestors of an aristocratic Roman woman in Tarraco (*[consu]laris filia*, [*L. Canini Galli VIIui]ri epulonum*, [*consularis neptis*, *C. Antoni] consularis [proneptis]*), and in Ostia to indicate that an individual belonged to the *domus* of a senator of the Roman aristocracy (*ex domo Roma [Vol]usi Saturnini consularis*).

6 See Pina Polo 2025.

should be held, which ultimately became firmly established. From this perspective, the Augustan period served as a sort of hinge between two systems, those of the Republican and Imperial periods, with an evolution that was more empirical than systematic.<sup>7</sup> It was a period of experimentation in which a *cursus honorum* based on its Republican precursor was created, albeit with a different structure. The main feature of the Augustan *cursus* was that it was much longer than its forerunner. This process involved the inclusion of new offices that had not previously existed, were not regular or did not have the same meaning, and which were gradually integrated, initially to meet specific needs, before becoming widespread. Strictly speaking, these were not *honores*, yet Suetonius describes them as *officia*, a term to which he adds the adjective *noua* to distinguish them from the traditional magistracies.<sup>8</sup>

### The rise of the suffect consulship: a non-linear development

One of the most significant innovations has to do with the regularisation and multiplication of the offices reserved for former consuls, who can justifiably be grouped together under the heading of *consulares*. The key factor in this development was the regularisation of the suffect consulship as of 45, a fundamental aspect that had a major impact on the careers of senators.<sup>9</sup> The change was considerable. Whereas previously, ordinary consuls who took office on January 1 remained in it throughout the year and were only replaced in the event of death, illness or procedural irregularities, from that moment on they began to abdicate voluntarily to make way for other consuls, called “suffects” to indicate that they were “substitutes”, this being the meaning of *suffectus*. It was a question of rewarding supporters with the consulship as part of an increasingly more personal exercise of power as of the time of Caesar’s dictatorship (decennial, then perpetual), as much as, if not more than, the need for more people at the top of the senatorial aristocracy to perform the ever-growing number of tasks required to govern an increasingly vast Empire.

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7 See recently Hurllet 2023 ed.

8 Suet. *Aug.* 37.1 and *Tib.* 42. The term *officia* was precisely chosen as part of the title of the recent edited book devoted to the senatorial career of the Triumviral and Augustan periods, in association with the noun *honores*: *honores* and *officia* (Hurllet 2023 ed.).

9 On the regularisation of the suffect consulship from Caesar to the Triumviral period, see Pina Polo 2018; Hurllet – Pina Polo 2023: 365-368.

The first result of this development was an increase in the number of consulars in the Senate. Before addressing this matter, it is first necessary to provide some figures. Between 45, the date on which Caesar introduced the practice of appointing suffect consuls almost every year,<sup>10</sup> and 29, the year in which Augustus abolished this practice on his return from the East as part of the official restoration of the *res publica*,<sup>11</sup> there were seventy consuls, both ordinary and suffect, in those seventeen years,<sup>12</sup> in contrast to the thirty-four that would be expected in the seventeen years prior to this period. To these should be added all those who had held the consulship before 45 and were still alive, implying that, over time, the number of consulars increased. At the end of the triumvirate, before the departure of several hundred senators for the East in 32, where they rejoined Mark Antony, they accounted for barely ten per cent of a Senate of around 1,000 members. Albeit a minority, they wielded much influence because they included all those who counted and spoke out. It was certainly a statutory unit, even if the conflicts between the two remaining triumvirs caused a political rift within the Senate.

Augustus' seizure of power coalesced the Senate around the victor of the civil war and strengthened the ties between those who had survived, at the expense of a decline in their numbers resulting from a combination of at least four factors: the sidelining of the consular supporters of Mark Antony, by freezing them out of discussions (Sosius and Ahenobarbus spring to mind) or even excluding them from the Senate during the *lectio* of 29;<sup>13</sup> the systematic neglect of the suffect consulship from 28 onwards;<sup>14</sup> Augustus' monopolisation of one of the two ordinary consulships until 23;<sup>15</sup> and the election of two of his close friends, Agrippa and T. Statilius Taurus, who had already held the office once, to the ordinary consulship in 28, 27 and 26.<sup>16</sup>

In light of this information, in the five years between 28 and 24 there were only two new consuls, in 25 and 24 (M. Iunius Silanus and C. Norbanus

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10 Three suffect consuls in 45: Q. Fabius Maximus, C. Trebonius and C. Caninius Rebilus.

11 One suffect consul in 29: Potitus Valerius Messalla.

12 List of suffect consuls from 45 to 29 in Pina Polo 2018: 6-7.

13 See Ferriès 2007; Hurlet 2021/2022.

14 See Hurlet 2009: 78. Between 28 and 20 there was only one suffect consul in 23; thereafter during the 10s, the use of suffect consuls was occasional (19, 16, 12), before becoming widespread again from the end of the decade preceding the change of era, under conditions to which I will return.

15 Augustus was consul uninterruptedly from 31 to 23.

16 Agrippa was consul in 37, 28 and 27 and T. Statilius Taurus in 34 and 26.

Flaccus), even though there would have been at least ten in the Republican period, or even more than twenty at the end of the Triumvirate. The proportion of consulars in the Senate also fell at the very beginning of the Augustan period because the *princeps* had not really managed to cut it down to size during the *lectio senatus* of 29. The inevitable deaths of older consuls were not compensated for by the election of new consuls. It can nevertheless be assumed that this decline was gradual, relative and moderate, and that the members of the consular group strengthened their position thanks to the greater political cohesion resulting from their adherence to the new regime, whether sincere or strategic.

The institutional changes under the Augustan principate contributed to modify the proportion of consuls in the Senate in two stages, again gradual. The first stage was the new *lectio senatus* of 18, following that of 29, during which, after a complex procedure alternating elections and the casting of lots, Augustus managed to reduce the number of senators to 600.<sup>17</sup> There was little or no change in the number of consulars as a result of this operation and their proportion within the Senate remained stable or even decreased considering that Augustus favoured sons over their fathers.<sup>18</sup> However, as time went by, their numbers dwindled with the successive deaths of the consulars of the 50s, 40s and 30s, born in the 90s, 80s and 70s.

It was at this point that Augustus increased, substantially and definitively, the number of suffect consuls by deciding to appoint them initially on an occasional and circumstantial basis from 5 to 2, and then more regularly from 2 or 1 BC, when a rotation was introduced whereby two suffect consuls replaced the two ordinary consuls in the middle of the year, on 1 July.<sup>19</sup> However, this was not (yet) a regular practice in that, for example, when one of the two ordinary consuls was a member of the imperial family, he remained in office throughout the year without abandoning it,<sup>20</sup> or when one or both of the ordinary consuls also remained in office throughout the year<sup>21</sup> for

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17 A procedure described by Dio Cass. 54.13. See Cosme – Christol – Hurlet – Roddaz 2021: 74-75.

18 Dio Cass. 54.14.2 recalls the cases of several senators.

19 In this respect, see Hurlet 2018.

20 Caius Caesar in AD 1 and Germanicus in AD 12.

21 M. Aemilius Lepidus in AD 6; Q. Caecilius Metellus Creticus Silanus in AD 7; M. Furius Camillus in AD 8; T. Statilius Taurus in AD 11; C. Silius or L. Munatius Plancus in AD 13; Sex. Pompeius and Sex. Appuleius in AD 14.

reasons still unknown. The fact remains that the number of consulars increased significantly. Taking 5 BC as an intermediate date for performing the count, there were forty-three new consuls during the two decades of the period 25-5 and sixty-six during those at the end of Augustus' principate (5-AD 14), namely, around a third more; the increase is much the same if 1 BC is taken as the intermediate date.

As a result, by the end of Augustus' principate, the number of consulars must have been around 100, probably slightly fewer due to the deaths of the oldest who had held the consulship at the beginning of the principate, with a steady upward trend: as time went by, their proportion increased as more suffect consuls were appointed. Recalling that the overall number of senators was 600 at the most, the consulars represented a numerically significant proportion (between 10 and 15%) and were all the more influential as they were the senators who most often took the floor for reasons of both institutional precedence and individual *auctoritas*. The social group that they had already formed in the Republican period became more cohesive, a state of affairs that had many implications which are addressed below.

### The reorganisation of the *cursus* and rivalry: from the consulship to consular powers

The figures presented above may seem rather technical, but this is an essential step for gaining a better understanding of one of the major changes in the *cursus honorum* in the Augustan period. The increasingly more systematic appointment of suffect consuls had the automatic consequence of devaluing the consulship as a magistracy. By allowing more than two people a year to be raised to the formerly supreme magistracy, it made the *honos* a little more accessible than before and, therefore, a less exclusive and exceptional distinction. This development was accompanied by another, which only reinforced it, namely, the fact that a single man, the *princeps*, set himself up as head of the *res publica* and the political system, from the moment he abdicated the consulship (in 23) and shored up his position with an unprecedented combination of military *imperium* and tribunician power. The consulship lost some of its appeal because the holders of this magistracy were no longer the supreme authorities of the *res publica* during their one-year term, for they were supplanted by the *princeps*. There was also another development that ultimately undermined the Republican career path, as it had come to be known, namely,



the disappearance of the censorship,<sup>22</sup> which was exercised for the last time in 22 by a college made up of L. Munatius Plancus and Paullus Aemilius Lepidus, neither of whom belonged to the imperial family, and whose powers were then wielded by Augustus in the form of *ensoria potestas*.<sup>23</sup>

This did not mean that rivalry between members of the high aristocracy disappeared or diminished in intensity. Quite the opposite occurred.<sup>24</sup> It moved down the career ladder, becoming fiercer and more drawn out. Albeit slightly easier than before, it was still difficult to attain the consulship but once that office had been held continuing a career and exercising powers, which could be described as consular, was a veritable grind. Such powers had existed during the Republican period but they were neither as numerous nor as regular as before. From Augustus onwards, a new, or rather reorganised, career path was established, which regularly involved continuing the *cursus* beyond the consulship in several positions reserved for consuls. Hence the title of this chapter, for the intention here is to show that it was really “a career within the career”, the part following the consulship, which was a prerequisite, being of special interest.

In the Imperial period, the number of consular posts multiplied to give shape to a consular career based on successive stages, as evidenced by the following offices listed in ascending order: civil curatorships, imperial legateships, proconsulships of Africa or Asia and the urban prefecture. There are two aspects that stand out. On the one hand, the order of these consular offices should not be seen as a rigid system in which advancement was automatic, like current administrations or military ranks, which would have required climbing one or other rung before being able to move up the ladder to the next. This is confirmed by the fact that not only in Augustan times, but also afterwards, some of these levels could be skipped and their order far from being set in stone, could be adapted to specific situations. Furthermore, the consular career was only established very gradually in a non-linear fashion and in response to specific needs.

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22 On the censorship in the Augustan period and its disappearance, see Bur 2023.

23 For the censorship of L. Munatius Plancus and Paullus Aemilius Lepidus, which only lasted for a few days in 22, see Vell. Pat. 2.95.3; Val. Max. 6.8.5; Plin. *HN*, 13.25; Suet. *Claud.* 16; *Ner.* 4; Dio Cass. 54.2.1. The title *ensor* is attested by epigraphy: *CIL* X, 6087 = EDR 152842 (*ILS* 886), Formiae; *Fast. Colot.*; *Fast. Biond.*; *AE* 1993, 579 = EDR 178419; *CIL* VI, 1316 = *AE* 1999, 196 = EDR 109074 (*ILS* 41); EDR 185894, Scolacium; see also *CIL* XIV, 4261 = *AE* 2014, 396 = EDR 131547, Tibur, with most of the content restored.

24 See Hurlet 2009: 94-98; 2011: 332-334.

## The embryo of the consular career: the reform of January 27

The Augustan senatorial career came into being with the reform of January 27, which divided the Roman Empire into two types of provinces, public and imperial, governed by the proconsuls (of Africa and Asia) and imperial legates respectively, all of whom were consulars.<sup>25</sup> This was tantamount to a break with the past not because it gave provinces to former consuls, a phenomenon well known from the practices of the Roman Republic, or because it introduced unprecedented procedures for granting provinces,<sup>26</sup> but because it established a thenceforth fixed list of provinces. The existence of a pool of provinces that no longer varied from one year to the next as of this moment had consequences for the ongoing territorialisation of the Empire, as I have already had occasion to underscore elsewhere.<sup>27</sup>

As far as the consulars were concerned, in the reform of 27 the government of Africa and Asia was reserved for them, for which, after casting lots and at least five years after holding the consulship, two would depart each year. It also meant that the proconsulships in these two provinces now formed an integral part of the consular career.<sup>28</sup> By establishing a systematic rotation

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25 On the provincial reform of 27, see Hurlet 2006a: 25-49; 2023: 438-447.

26 Legateships had already proliferated in the Triumviral period; Pompey's law on the provinces of 52 contained provisions similar in many respects to those of Augustus' provincial reform of 27 (see Hurlet 2006b).

27 Hurlet 2021a.

28 In the forty-one years between the provincial reform in 27 and the death of Augustus in AD 14, if the *princeps* and the members of his family (Tiberius, Drusus the Elder, Caius Caesar and Germanicus) are excluded, there were 107 consuls, ordinary and suffect. According to the evidence currently available, of these forty-five are known to have been proconsuls of Africa or Asia. In chronological order (data provided by the "Broughton augustéen" research programme), the list is as follows: M. Lollius (cos. 21 BC); P. Silius Nerva (cos. 20 BC); C. Sentius Saturninus (cos. 19 BC); P. Cornelius Lentulus Marcellinus (cos. 18 BC); P. Cornelius Scipio (cos. 16 BC); L. Domitius Ahenobarbus (cos. 16 BC); L. Calpurnius Piso (cos. 15 BC); Cn. Cornelius Lentulus (cos. 14 BC); M. Licinius Crassus Frugi (cos. 14 BC); P. Quinctilius Varus (cos. 13 BC); L. Volusius Saturninus (cos. 12 BC); Paullus Fabius Maximus (cos. 11 BC); Iullus Antonius (cos. 10 BC); Africanus Fabius Maximus (cos. 10 BC); C. Marcius Censorinus (cos. 8 BC); C. Asinius Gallus (cos. 8 BC); Cn. Calpurnius Piso (cos. 7 BC); C. Antistius Vetus (cos. 6 BC); L. Passienus Rufus (cos. 4 BC); L. Cornelius Lentulus (cos. 3 BC); M. Plautius Silvanus (cos. 2 BC); L. Caninius Gallus (cos. 2 BC); Cossus Cornelius Lentulus (cos. 1 BC); L. Calpurnius Piso (cos. 1 BC); A. Caecina Severus (cos. 1 BC); M. Herennius Picens (cos. AD 1); P. Vinicius (cos. AD 2); L. Aelius Lamia (cos. AD 3); L. Volusius Saturninus (cos. AD 3); L. Valerius Messalla Volesus

between them that required two consulars each year, Augustus automatically lengthened the *cursus honorum*. In so doing, he ensured the integration of the aristocracy into the *res publica*, which he claimed to have restored, by broadening the scope of competition. At the same time, he provided the human resources for an increasingly territorialised Empire, which required a large number of provincial governors who he chose exclusively from the upper echelons of the new senatorial order under construction, in other words, from among the consulars.

Alongside the fact that the proconsulship became part of the career, both at a praetorian and consular level, the other consequence of the reform of 27 was the regularisation of the imperial legateship.<sup>29</sup> The novelty did not lie in its existence but in its continuity through the permanent renewal of Augustus' *imperium* over the imperial provinces, which at the same time perpetuated the use of imperial legates. It was the conversion of Augustus' military *imperium* into a life-long power that made the imperial legateship a permanent position and which helped to make it a stage of a senatorial career that, if not compulsory, was at least regular, if the figures are anything to go by (there were more imperial provinces than public ones).<sup>30</sup> As with the proconsuls,

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(cos. AD 5); C. Vibius Postumus (cos. AD 5); M. Aemilius Lepidus (cos. AD 6); L. Nonius Asprenas (cos. AD 6); M. Furius Camillus (cos. AD 8); Sex. Nonius Quinctilianus (cos. AD 8); A. Apronius (cos. AD 8); A. Vibius Habitus (cos. AD 8); Q. Poppaeus Secundus (cos. AD 9); P. Cornelius Dolabella (cos. AD 10); C. Iunius Silanus (cos. AD 10); Q. Iunius Blaesus (cos. AD 10); M. Aemilius Lepidus (cos. AD 11); C. Fonteius Capito (cos. AD 12); Sex. Pompeius (cos. AD 14). To these can be added another five names, although the evidence in this regard is still open to question: M. Iunius Silanus (cos. 25 BC); C. Norbanus Flaccus (cos. 24 BC); M. Vinicius (cos. 19 BC); C. Iunius Silanus (cos. 17 BC); P. Sulpicius Quirinius (cos. 12 BC).

<sup>29</sup> See Augier – de Méritens de Villeneuve 2023: 417-427.

<sup>30</sup> In the forty-one years between the provincial reform in 27 and the death of Augustus in AD 14, if the *princeps* and the members of his family (Tiberius, Drusus the Elder, Caius Caesar and Germanicus) are excluded, there were 107 consuls, ordinary and suffect, of whom thirty are known to have been legates of consular rank in the Augustan period. In chronological order (data provided by the “Broughton augustéen” research programme), the list is as follows: L. Sestius Albinianus Quirinalis (cos. 23 BC); M. Lollius (cos. 21 BC); P. Silius Nerva (cos. 20 BC); C. Sentius Saturninus (cos. 19 BC); M. Vinicius (cos. 19 BC); L. Calpurnius Piso (cos. 15 BC); Cn. Cornelius Lentulus (cos. 14 BC); P. Quinctilius Varus (cos. 13 BC); L. Volusius Saturninus (cos. 12 BC); P. Sulpicius Quirinius (cos. 12 BC); Paullus Fabius Maximus (cos. 11 BC); Cn. Calpurnius Piso (cos. 7 BC); C. Calvisius Sabinus (cos. 4 BC); M. Valerius Messalla Messallinus (cos. 3 BC); M. Plautius Silvanus (cos. 2 BC); A. Caecina Severus (cos. 1 BC); L. Aelius Lamia (cos. AD 3); L. Volusius Saturninus (cos.

the consulars were reserved the government of the most important imperial provinces, viz. those that were the most militarised (*Galliae*, *Hispania Citerior* and Syria). The fact that the legate was a subordinate of the *princeps* explains why his position in the *cursum* was below that of a proconsul, who held an independent *imperium* and took the auspices in complete liberty, plus why the imperial legateship of consular rank ended up being held before the proconsulship of the same rank. Be that as it may, this always flexible order was only established very gradually. This can be seen in the time of Augustus, during which it was rather the imperial legateship that represented the final rung, as well as the crowning achievement of a career, as can be seen, for example, in those of Paullus Fabius Maximus and Cn. Calpurnius Piso, both legates of *Hispania Citerior* several years after having been proconsuls (of Asia and Africa, respectively).<sup>31</sup>

There are two reasons for this peculiarity of the Augustan period. On the one hand, the inferiority resulting from being someone else's delegate was compensated by the fact that it involved representing the *princeps* and governing militarised provinces in his name. On the other, the gap between the consulship and the proconsulship was usually slightly longer than the required five years but sometimes shorter,<sup>32</sup> which gave aristocrats who had been proconsuls at around the age of 40, or earlier in the case of patricians,<sup>33</sup> the opportunity to hold other offices, which could be imperial legateships. By the Augustan period, consular offices had multiplied to the point of

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AD 3); Cn. Sentius Saturninus (cos. AD 4); M. Aemilius Lepidus (cos. AD 6); L. Arruntius (cos. AD 6); L. Nonius Asprenas (cos. AD 6); Q. Caecilius Metellus Creticus Silanus (cos. AD 7); A. Apronius (cos. AD 8); C. Poppaeus Sabinus (cos. AD 9); P. Cornelius Dolabella (cos. AD 10); Q. Iunius Blaesus (cos. AD 10); C. Visellius Varro (cos. AD 12); C. Silius (cos. AD 13); L. Munatius Plancus (cos. AD 13). To these can be added another five names, although the evidence in this regard is still open to question: L. Domitius Ahenobarbus (cos. 16 BC); M. Licinius Crassus Frugi (cos. 14 BC); C. Marcius Censorinus (cos. 8 BC); M. Servilius (cos. AD 3); C. Vibius Postumus (cos. AD 5).

31 Paullus Fabius Maximus was legate of *Hispania Citerior* in 5/2 BC, 4/1 BC or 3BC/AD 1, after having been proconsul of Asia (on his government of *Hispania Citerior*, see *ILS* 8895 = *Eph. Ep.* 8, 280 = *ILER* 1028; *CIL* II, 2581 = *IRLu*, 19; *IRLu*, 20; *AE* 1993, 1030; on the date, see Syme 1986: 408; Alföldy 2007: 340, n. 64). Cn. Calpurnius Piso was legate of *Hispania Citerior* in AD 9/10, perhaps from 4 to 10 (on his government of *Hispania Citerior*, see Tac. *Ann.* 3.13.1 and *CIL* II, 2703 = *ILER* 1029; for the date, see Alföldy 2007: 339-340; Olmo López 2018: 524).

32 See Hurlet 2006a: 52-54.

33 For patricians, see Baudry 2023: 49-52.

being integrated into the career and representing an extension of it, but the process by which they followed one another in regular succession was still far from complete.

### The (very) slow emergence of the urban prefecture

In the Imperial period, the culmination of a senatorial career was the urban prefecture, which was all the more sought-after as it was held by a single person for life. Throughout the Early Empire, there were far fewer urban prefects than proconsuls of Africa and Asia (75 known urban prefects for the period from Tiberius to Diocletian,<sup>34</sup> i.e. almost three centuries, in contrast to around 600 proconsuls of Africa and Asia for the same period, i.e. an approximate ratio of 1 to 8). However, this office only very gradually rose to the top of the pecking order, at any rate not until the end of Augustus' principate at the earliest, and was accorded the powers it had enjoyed in the Imperial period.

The history of the urban prefecture is enlightening and exemplary because it shows how Augustus leveraged a traditional function, attested for the Period of Kings and the early days of the Republic, by giving it a new meaning that corresponded to the needs of the time.<sup>35</sup> Although this office had originally been created to compensate for the absence of both consuls from Rome, it was reintroduced at the beginning of Augustus' principate, in 25 rather than 27 or 26, when it was entrusted to M. Valerius Messalla Corvinus, but in an entirely different context.<sup>36</sup> The aim was not to replace the two consuls, since one of them had remained in Rome – whether it was Agrippa in 27, T. Statilius Taurus in 26 or M. Iunius Silanus in 25 –, but one of them, the *princeps*, who was away from Rome on a mission in the western provinces and who chose a relative of his to stand in for him. This experiment failed after a few days with the abdication of M. Valerius Messalla Corvinus, who recognised that it was an *incivialis potestas* and who was incapable of exercising such a power:<sup>37</sup> not that he was particularly incompetent, but the uniqueness of a power that was not based on any precedent undermined his legitimacy.

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34 See the list in Wojciech 2010: 253-353.

35 See Hurler 2021b: 375-378; Landrea 2023.

36 See Wojciech 2010: 254-255; Landrea 2021: 144-154; 2023: 458-463.

37 Tac. *Ann.* 6.11.3; Hier. *Chron.* p. 164 Helm.

Some ten years later, in 16 BC, the same cause – Augustus' departure for a tour of the West – had a different outcome, as the *princeps* chose another urban prefect, T. Statilius Taurus, also one of his closest supporters, who remained in office for several years, the time that the great man was away from Rome. He probably abdicated in 13 BC, however, when the prince returned.<sup>38</sup> It was not until the very end of Augustus' principate or the beginning of Tiberius', in AD 13 or 14, that a third urban prefect, L. Calpurnius Piso, was appointed, this time for life and while the prince, whoever he was, was in Rome. His task was no longer to represent the *princeps* but to manage urban affairs.<sup>39</sup> To this end, he was invested with powers that allowed him to command troops, the soldiers of the urban cohorts, which were strengthened over time, particularly as regards judicial affairs. It is easy to see the extent to which the consular career was built up gradually and haphazardly. It was only after a period of trial and error that the office of urban prefect became a permanent position to which the most senior consuls and those closest to imperial power aspired.

### An exemplary case study: the *cura aquarum*

Finally, there were other offices to which consulars could aspire from the principate of Augustus onwards and which invested their holders with purely civil powers. Of these, the *cura aquarum* is the one for which the circumstances of its creation are best known, showing how the consular career gradually took shape.<sup>40</sup> It was created in 11 BC to alleviate the difficulties that Agrippa's death in 12 BC had caused by disrupting the public service that he had created, which was essential to the prince's popularity because it dealt with issues, such as the supply of water to homes and public buildings especially the thermal baths, that were popular with the urban plebs. It was therefore to solve a specific problem that it was given for the first time to a senator of consular rank, M. Valerius Messalla Corvinus, chosen because he was close to Augustus and appointed for life.<sup>41</sup>

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38 Tac. *Ann.* 6.11.3; Dio Cass. 54.19.6. See Wojciech 2010: 255-256; Landrea 2023: 464-468.

39 Vell. Pat. 2.98.1; Sen. *Ep.* 83.14; Plin. *HN* 14.144-145; Tac. *Ann.* 6.10.3 and 11.3; Suet. *Tib.* 42.1; Dio Cass. 58.19.5. See Wojciech 2010: 256-258.

40 On the *cura aquarum*, see Rodgers 1982; Bruun 1991; 2006.

41 Frontin. *Aq.* 99.4. See Landrea 2021: 154-156.

However, this new position did not immediately form part of the consular career. This is evidenced by the fact that it remained vacant after the death of its first incumbent in AD 8 at the latest, until AD 13 when Valerius Messalla Corvinus' successor, Ateius Capito, was appointed *curator aquarum*.<sup>42</sup> This five-year period is reminiscent, *mutatis mutandis*, of the much longer period that separated the various urban prefectures during the Augustan period. Such vacancies in these offices for several years underline the fact that they were not yet firmly established rungs on the senatorial career ladder. In this respect, things changed at the very end of Augustus' principate, for the years AD 13-14 coincided with the *princeps*' decision to appoint incumbents of the *cura aquarum* and the urban prefecture, which were then automatically rotated and never again left vacant for such a long time. This chronology is in line with the conclusions of a recent collective study in which it is emphasised that the last years of Augustus' principate witnessed a proliferation of commissions to represent a *princeps* in his dotage, forming the central core of what was becoming a truly imperial administration.<sup>43</sup>

### The consular *cursus* within the senatorial *cursus*

The addition of several offices held after the consulship and qualified as consular was empirical and gradual but undeniable and lasting. This phenomenon responded to the specific needs of the administration, which

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42 The history of the *cura aquarum* under Augustus poses a well-known problem of chronology. Frontinus clearly states that Ateius Capito succeeded M. Valerius Messalla Corvinus in AD 13 (*Aq.* 102.2), but this passage does not indicate whether the succession took place immediately after the latter's death or following an interval of several years. The first solution may seem *a priori* obvious considering that according to Jerome's account (*Chron.* p. 154 and 171 Helm), Messalla Corvinus was born in 59 and died at the age of 72, which places his death in AD 13, but it has been shown that the date of birth proposed by Jerome gives rise to many insurmountable problems, and that it should rather be backdated to 64, which would signify that Messalla Corvinus died in AD 8 (Syme 1986: 201 and 220; Rüpke 2005, 2: 1352, no. 3414; Landrea 2021: 143, n. 12; for an overview, see also *PIR*<sup>2</sup> V 143). The second solution, which assumes that the office of *curator aquarum* remained vacant for five years, between AD 8 and 13, is the only one that is technically feasible. It emphasises the empirical nature of the administration of Rome at the time of its reorganisation by Augustus and the use of consulars to run the main departments; Syme 1986: 221 adds that "the *cura aquarum* was less important and (as will emerge) lower in prestige than might have been fancied. No strain therefore on belief should it lack a tenant from 8 to 13."

43 Hurler 2025: 29-30.



should be determined as precisely as possible. This development has often been explained by the need to multiply the number of administrators of an empire that had continued to expand briskly throughout Augustus' principate and was now fully territorial. Albeit correct, this explanation is incomplete, since another question that should not be overlooked is why Augustus chose senators – and not knights – for all these new offices. In his description of the provincial reform of 27, Cassius Dio emphasises this point, recalling that Augustus “indicated that only senators would be appointed governors ... except in Egypt”.<sup>44</sup>

The answer can be found in the fundamentally ultra-conservative nature of the Augustan revolution, which involved a “re-aristocratisation” of society, in keeping with the project to restore the *res publica*, and which required the unflagging cooperation of the highest-ranking senators.<sup>45</sup> The solution was to extend their careers by reserving the most prestigious positions for those of their number who had already been consuls. This had the advantage of further integrating the senatorial aristocracy into the very heart of the new regime, which in turn facilitated the acceptance of the prince on the part of this social group. In this respect, adding consular offices to the *cursus* was as much a political decision as it was an administrative one, if not more so.

Egon Flaig's research has clearly shown that, in order to retain power, the prince needed the acquiescence of the main social groups, of which the senators formed part.<sup>46</sup> One of the instruments of the ever-fragile *consensus universorum*, which Augustus claimed for himself, was therefore the multiplication of consular offices. One of the ways in which this affected the functioning of political culture in Rome was that it encouraged competition and strengthened hierarchy in the Senate. In order to sustain the administrative system, it was necessary to have senators at the top who were chosen from among those with the most seniority and who vied among themselves for a limited number of posts. The regularisation of consular offices as of the principate of Augustus added a new, higher level to the senatorial *cursus*, the existence of which further staggered the already highly hierarchical Roman aristocracy. From Augustus onwards, there were not only those who had been consuls but also those who had held consular office as former consuls and who occupied the place previously reserved for former censors in the Senate.

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44 Dio Cass. 53.13.2.

45 Hurlet 2012: 49.

46 Flaig 2019<sup>2</sup>.



## Conclusion

One of the major developments in the *cursus honorum* in ancient Rome, over the course of a history which, it must be recalled, was hundreds of years old, was the widespread introduction, from Caesar onwards, of the *suffect* consulship, which enabled a greater number of former praetors to hold the highest magistracy in the Republican career. The result was the gradual, empirical introduction of a system in the Augustan period that somewhat smoothed the way for aristocrats into the consulship, but nonetheless did not diminish the rivalry between them, while even intensifying it by shifting it from before the consulship to after it.

From the time of Augustus onwards, it was necessary not only to become consul – a position that continued to be reserved for the aristocratic elite and remained selective despite everything – but also to hold consular office afterwards, which became a widespread practice at a specific pace: first and very swiftly, from 27, the proconsulship of Africa or Asia and the imperial legateships in the most militarised imperial provinces; then the urban prefecture, which became a lifetime appointment at the end of Augustus' principate or at the beginning of Tiberius', after a period of trial and error marked by two initial attempts, those of M. Valerius Messalla Corvinus and T. Statilius Taurus; finally, the *cura aquarum*, used here as a case study because the history of its creation evinces how important the role played by historical circumstances was in the making of the consular career.

This new system prefigured the career of the Imperial period, which was characterised by a gradual increase in the proportion of consulars, to the point that the number of consuls from the reign of Antoninus onwards has been estimated at just under half that of senators, and the lengthening of the *cursus* with the inclusion of consular offices.<sup>47</sup> As with the consulship, the competition among the aristocracy for these posts was doubtless fierce and bitter, but they were now supervised and arbitrated by the *princeps*.<sup>48</sup> The principate of Augustus appears once again, but from a new angle, as a pivotal period marked by a hybrid political system which created nothing new by turning traditional institutions into consular offices, yet gave them a new significance in a new context and political regime, which was fundamentally monarchical.

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47 See Eck 2012b.

48 Hurlet 2012.

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This volume addresses a crucial issue for the political culture of the Roman Republic: competition among individuals and families of the social elite. This rivalry came to head at the annual elections of new magistrates: every year, a number of candidates ran for office and whereas some obtained sufficient votes from the people, others were defeated. The political career of a Roman citizen therefore took the shape of a hierarchical ladder (*cursus honorum*) whose rungs corresponded to the age at which one or other magistracy was attained. The book deals with the position of the *cursus honorum* in Republican history, reflects on the way scholarship has constructed its political and social significance for the political culture of the period, and discusses questions relating to how Roman citizens pursued different political careers. The outcome is a groundbreaking and essential contribution to a better understanding of the Roman Republic.

