The Cambridge Companion to

The Roman Republic

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he received very little formal rhetorical instruction as a youth. However, Crasus claims he did pick up a bit after serving as quaestor in the East; on his journey back from the Roman province of Asia c. 110 B.C. he stopped at Athens, where, as he says, "I would have remained longer, had I not been angry with the Athenians, because they would not repeat the [Eleusinian] mysteries, for which I had come two days too late."

The quaestorship was an entry-level office; it had limited powers, and in this period was usually held around age 30. Indeed, Crasus technically would have been superseded as an Athenian quaestor when he staggered into Athens and demanded a repeat performance of the mysteries — and with (surely) his own initiation at Eleusis. 11

Now in the Republic, magistrates who took up provincial appointments still had a full right to function as magistrates in Rome before departure. They also retained their full powers until they came back to Rome. We know this latter fact from a variety of literary sources and now from an important inscription, first published in 1974, that will figure below ("New Boundaries on Legitimate Power, 171–59 B.C."). Yet it still seems amazing that a low-level superseded magistrate could show this level of entitlement on his return journey to Rome and (to trust Cicero) exhibit no special self-consciousness in later recounting the episode to his peers. In this case, the Athenian officials stood up to the young Crassus. But there must have been countless instances in which Roman magistrates — or even provincial governors acting in an official capacity 12 — managed to cow the locals.

We have seen Cicero offering a lecture on how magistrates should restrain themselves from exercising their formidable powers to the fullest extent. Indeed, the political system of the Republic was predicated on this basic understanding. Most magistrates chose to obey this principle, to a remarkable degree, right up to the late 50s — in the city, that is. Outside Rome was a different matter. For there commanders did not face nearly as many restrictions on their official powers, and subordinates might often find themselves in semi-independent positions, without effective oversight. Before considering this dual state of affairs, however, we need to arrive at an understanding of what the Romans themselves meant by magistrates functioning "at home" and "abroad." 13

The Theology of Imperium

For the Romans, the story of legitimate power started on 21 April 735 B.C., give or take a year. Ancient tradition is unanimous that the

aspiration (literally, bird watching) undertaken by Roman on the day of the city's foundation — and confirmed by Jupiter through his sending of 12 vultures — in essence activated what are known as the "public auspices" (auspice publico). Possessing the auspices of the Roman people entailed the competence to request, observe, and announce Jupiter's signs regarding an important act and then to complete what was intended. Since aspiration preceeded every major action taken on the state's behalf, it formed the basis of regal and then, in the Republic, magisterial power. Hence patricians — an elite class that closed their ranks to new members c. 500 B.C., soon after the expulsion of the Tarquins — long sought to monopolize that right as exclusively their own. 15

The auspices — the priests who interpreted the rules surrounding the auspices — gave a spatial distinction to the spheres where public auspices were exercised. In the historical period (and perhaps well before it), the sacred boundary formed by the circuit of the old city wall (pomerium) delimited the urban public auspices; that area was known as doni ("at home"). Outside the city (militia, "in the field"), another set obtained, the "military" auspices.

The term imperium is the standard shorthand way our ancient sources denote the king's power. The term is generally thought to derive from parsae ("to prepare, arrange, put in order"), in which case it would have originally been a military term. 14 The greatest modern historian of Rome, Theodor Mommsen, (correctly) thought of imperium and the public auspices as largely overlapping concepts: "They express the same idea considered under different points of view." 16 He considered imperium to be an absolute power that entitled the king to do whatever he thought fit in the public interest. It was not simply a bundle of specific competences. Since imperium was vested originally in the person of the king alone, it was indivisible, and its power would have been no less on one side of the city boundary than on the other. Yet kings need some consent to rule effectively. Our sources report their consultation with an advisory body (consilium) of aristocrats, Rome's "senate." And presumably in some cases, especially those involving the making of peace and war, Rome's kings also sought the (well-organized) approval of the people in assembly (populus), as the ancient tradition unanimously holds.

After the expulsion of King Tarquin the Proud from Rome (customarily dated to 509 B.C.), two magistrates — later to be known as consuls — were chosen from among the patricians. Each of the consuls received full public auspices and undefined imperium. But they differed from the kings in that their office involved collegiality (in case of conflict, the negative voice prevailed) and annual succession. And now both the
senate and (especially) the people grew in importance. Tradition held that, in the first year of the Republic, the consul P. Valerius Publicola introduced further restrictions. A Roman citizen now generally had the possibility of appeal (profection) to the people against a consul who exercised his power in the area enclosed by the pomerium plus one mile beyond. (Commanders in the field did not have their imperium thus restricted until the "Porcian Laws" sometime in the second century B.C.) Valerius also allegedly stipulated that, in the civil sphere, only one consul at a time should have the capacity for independent action, symbolized by 12 attendants bearing the emblematic ax and bundle of rods known as the fasces; the imperium and auspices of the other consul were to be dormant, except for obstruction. In special circumstances, the power of both consuls might fall dormant, with the initiative falling to a dictator appointed to hold imperium for a period of six months, notionally the length of a campaigning season. Through these means the Romans cleverly made the most of the executive branch of their government while mitigating the potential for conflict within it. Yet soon (after 491 B.C.) the powers of the plebeian tribunes would encroach further on the consuls' exercise of imperium. Indeed the tribunes had the power of veto against all regular magistrates, but only in Rome itself.

By the mid-fifth century, it became apparent that two consuls, with the possibility of a dictator in time of crisis, were not enough to look after Rome's ever increasing administrative and military needs. On the other hand, though they were often fighting wars against hostile neighbors on multiple fronts, the Romans at this point were reluctant to give imperium and, with it, full public auspices to too many men. One compromise attempt at a solution to the leadership crunch was the institution of the so-called military tribunes with consular power (potestas), first seen in place of the pair of actual consuls for 444 B.C. Now, every republican magistrate had potestas, that is, the legitimate and legitimizing power that was inherent in and peculiar to one's magistracy. Here the Romans devised a college of up to six magistrates who had the consular "power" to lead an army yet who did not have imperium and whose auspices were deficient in some way. (For instance, we know they could not celebrate the much prized ceremony known as the triumph.) The idea perhaps was to keep members of the plebeian class—who were eligible for the office—away from the highest public auspices. Yet the consular tribunate was an awkward institution, as it irregularly alternated with consular pairs on the basis of an ad hoc decision taken each year. What is more, each of a year's consular tribunes had veto power over other individual members of his college.

Social conflict between plebeians and patricians, as well as a prolonged military struggle with the Gauls (who had sacked Rome in 390 B.C.), forced the Romans to abolish the consular tribunate in 367. Under what is known as the Licinio-Seetian legislation, they finally let plebeians into the consuls'hip (or rather into one of the two consular slots) and introduced a new patrician magistrate, the praetor (either now or later known as the "urban praetor"), to serve as a colleague of the consuls. To create the praetorship, the Romans put a bold new construction on regal power. The praetor was to hold the king's auspices as well as an imperium defined as of the same nature as the consuls' imperium but minus imperium ("lexer") in relation to theirs. As a magistrate with this type of imperium and auspices, the praetor could do all that the consuls could do, save hold elections of consuls and (somewhat illogically) other praetors and celebrate the Latin Festival at the beginning of each year. All other activities of the consuls were open to the praetor, unless a consul stopped him. But a praetor could not interfere with the consuls.

Though it had some precedent, the invention of two grades of imperium—one lesser than that of the two chief regular magistrates—marked a real innovation. For the first time, the Romans were able to reconcile in a proper magistracy the concept of permanent subordination with what was essentially regal imperium. This in turn made or less permanently solved the problem of excessive conflict in command. A second praetor, called inter praesides ("over foreigners"), was added c. 347 B.C, in the context of the First Punic War. It may well be that the first such praetor was the original governor of Sicily, which was created as Rome's first permanent territorial province in 241. Sicily and Sardinia each received their own praetors c. 328, followed by Iberia (divided into Neearer and Further Spain) in 197. But after that, despite the accumulation of new administrative commitments, the Romans long resisted raising the number of praetors beyond six, apparently to keep power out of the consuls'hip for which the praetorship had become a prerequisite c. 196 B.C at acceptable levels.

Within a short period after the Licinio-Seetian legislation, other administrative developments come to our notice. In 327 B.C., it was decided that imperium could be extended beyond the year of the magistracy by popular ratification. This process came to be known as "proscription" (proscription). A proscripted consul is known as a pro consule ("in place of a consul"), a proscripted praetor as a pro praetore. Such extended magistrates were expected to operate exclusively in the field; indeed, they lost
their imperium if they stepped within the city boundary without special dispensation.

By the year 295 B.C., we see that a consular commander could delegate imperium — at the minor grade — in the fight to a nonmagistrate for activities outside Rome. Livy provides the background for the first attested case.9 A consul was departing from his military command in the most literal sense, in that he was literally sacrificing ("devoting") himself to the enemy in battle. Before changing to his death, he handed over his insignia of office to an ex-consul who was by his side, who then fought (significantly) pro praetore. The emergency years of the Second Punic War (218–201 B.C.) show the Romans coming up with other ways to give out imperium to private citizens, including popular legislation and even (for a special grant of consular imperium in 210 B.C.) pseudo-election in the centuriae assembly. After 197 B.C., the dispatch of praetors endowed with consular imperium to hold command in the Spain became a regular feature of the Republic; later, other distant provinces as they were created also received "enhanced" praetorian commanders (Macedon and perhaps Africa from 146 B.C., Asia starting in 126, Cilicia c. 110). And by the last third of the second century, we find that a consular commander could delegate imperium to a subordinate even while himself remaining in his assigned theater. Foundations such as these gave Rome the flexibility to build up its republican empire.

It so happens that we have from the late Republic an exposition of the theological underpinings of imperium that is based on an excellent source, distilling some centuries of innovation and rationalization. Aulus Gellius, writing in the second century A.D. but drawing on expert commentary by the augur M. Valerius Messalla (who was consul in 53 B.C.), discusses how the public auspices were divided into grades.49 Consuls and praetors possessed auspices of the highest level (auspices maxima), which were "stronger than those of others [magistrates]." One can extrapolate some important principles from this statement alone. It seems that auspices of the highest grade are a necessary prerequisite of imperium, though the two are not equivalent. Dictators, consuls, and praetors, all of whom had "highest auspices" both inside and outside the city boundary, held imperium. The situation of consuls, who also had highest auspices (according to Messalla), was different. The censorship was a high-ranking magistracy created originally for patricians in 443 B.C. to enable them to take over some important consular sacral duties, no doubt so that the newly created consular tribunes (some of whom might be plebeian) could not touch them. Consuls had highest auspices only in the civil sphere and did not have imperium.
74), after his formal departure for his province of Sicily as prœconsul, violated his military auspices by marching back — repeatedly — to the city of Rome to make nocturnal visits to his mistress. That in turn (it is clearly implied) vitiated anything he did of worth in his province.20

The one significant exception is the matter of recrossing the city boundary to do with the imperium. that is, the commander whose exploits have earned him his soldiers’ (ideally) spontaneous acclamation. A vote in the senate followed by popular ratification entitled such an individual to enter the city through Rome’s triumphal gate, which was in essence a hole in the augural space. A general who properly entered through it was entitled to retain his military auspices in the city for a single day so as to make a formal procession to the Temple of Jupiter on the Capitol. In the late Republic, we see commanders waiting outside Rome for periods up to almost five years in the hope of obtaining the requisite vote for that privilege, which brought lofty lifelong status. Their imperium remained valid in the meantime, even without explicit pronouncement.

Magistrates in Collision

With consuls and praetors as direct heirs (each to their own degree) of the old regal imperium, it would be natural for many of them to feel the temptation to throw their weight around. But when push came to shove, in the city at least, members of the same college almost never used imperium to check imperium. One outstanding exception is found for 93 B.C. In this year the consuls Q. Marcius Scaevola vetoed the decree of the senate (senatus consultum) that granted his consular colleague — L. Licinius Crassus, whose elderly conduct at Athens was noted earlier — a triumph for fighting some undistinguished tribes in Cilician Gaul.21 The two men had not been political enemies. It may be that Scaevola simply did not want to see Crassus benefit from the prestige of triumphing in the year of his magistracy. Thanks in part to the logistical problems posed by Rome’s ever-expanding empire, this had become a difficult feat even by the mid second century B.C. There are only about a dozen instances of such triumphs in the years 166–47 B.C., with the exceptional figures of Marius (in 104 and 103) and Sulla (in 87) accounting for three of them.

The power relationship between consuls and praetors had in complexities. The augur Messalla made it clear that consuls had the praetors as their colleagues, albeit lesser ones. After all, they were elected (at least originally, before the number of praetors swelled) on the same day in the same session of the centuriate assembly and thus under the same auspices. That said, occasionally we see consuls using their superior brand of imperium against individual praetors, curtailing their activities in the realms of law, both civil (115, 77, and 67 B.C.) and criminal (57 B.C.), or in the matter of convening the senate (91 B.C.). Yet on one of these occasions (that of the year 67) we find a remarkable show of praetorian solidarity in the face of a distinctly “uncolligial” show of consular power. When a consul smashed a praetor’s ceremonial chair for not rising in his presence, this praetor and his praetorian colleagues effected a “work slowdown” for the rest of the year, giving judgments only on routine legal matters.22

It is significant that for the later Republic we do not have a single secure instance of a praetor in the city using his imperium to veto a current colleague’s actions, even in the realm of civil law.23 Litigants who did not like a praetor’s actual decision customarily appealed, not to another praetor of the year, but to a tribune of the plebs, sometimes a consul. In cases where magistrates fail to show self-restraint on a larger scale, it is the tribunes or senate that might step in, usually in a reactive way. That sometimes even gave rise to a low-circumstantial behavior deemed offensive. A show of consensus by Rome’s ruling establishment often was an effective brake on those magistrates who insisted on exercising their full powers in the city — though of course that became less and less true in the last generations of the Republic, until we finally get to a situation such as that of 44 B.C., which we glimpsed earlier (“A Lecture on Legitimate Power”).

Let us leave aside for the moment the question of dynamics between magistrates outside the city and the senate and people. In the field, even in periods of relative stability, there was plenty of opportunity for mixed signals and conflicts just between Roman officials and their staffs. And when things heated up, neither tribunes nor senate were on the spot to intervene. One problem was that some provinces normally could not even be reached without trampling on others. A land march in the later Republic to furth Spain demanded transit across two Gallic provinces and Neoter Spain. Britons and Celtsian governors did not absolutely need to cut across part of Roman Asia, but they commonly did so anyway. When military glory was at stake, the chances of collision or noncooperation between ambitious magistrates and their staffs rose dramatically. This could lead to major military disaster, as the events of the year 105 B.C. show.24 But even subsequent to this fiasco, the battle of Arausio, reluctance on the part of Roman commanders to fight joint campaigns is simply documented.
Livius offers us an example of another variety of magisterial conflict in the field. In 195 B.C. a certain praetor named M. Helvius was marching out of Further Spain after two inactive years in that province. His successor had given him a legion as a bodyguard for safe passage. However, Helvius is said to have taken over this force, fought a major battle against the native Celtiberians, and then put all the adults of a nearby town to death. On his return to Rome, he then asks for a triumph. That the senate denied him "because he had fought under another's auspices and in another's province"—that is, in his successor's province or in transit through Nearer Spain (the geography of the incident is unclear). Yet, surprisingly, Helvius—despite his dubious technical claim and not particularly elevated social status—somehow managed to get an ovation, a lesser form of triumph. How did he do it? Perhaps he threatened to celebrate a present triumph solely by virtue of his imperium on the Alban Mount (37 kilometers southeast of Rome), as a disgruntled consul had done in 197, Helvius' own magisterial year.35

New Boundaries on Legitimate Power, 171–59 B.C.

Twenty-five years after the Helvius incident, the senate was in a less compliant mood. In 171 B.C., the consul C. Cassius Longinus crossed out of his proper province of "Italy" to attack Macedonia (though the war there had been allotted to someone else). The senate sent three legates to catch up with the consul, now on the move. The members of the embassy were not particularly distinguished, but whatever message they delivered obviously gave the consul Cassius quite a fright. He stayed as a military tribune in the East at least through the year 168, surely to avoid disciplinary action at Rome.

This incident crystallized a principle evident already in the Helvius episode: that a magistrate or praetor was expected to confine his activities to his assigned theater (province) except in emergencies or by special permission. That would seem to a basic restraint essential to the smooth functioning of the Republic.36 But as it happens, our first clear example of the senate's micromanagement of provincial commanders comes also from the year 171 B.C. It has to do with a praetor's stern treatment of two pro-Macedonian towns in Boeotia that had surrendered to him. The senate instigated a fact-finding commission on the matter and soon passed at least one decree critical of the praetor's conduct in the field. He later was condemned for those actions after his magistracy, a condemnation that led to his exile.

The case is important. The senate of course had some long-standing rights simply by established custom. One understandable formula was for magistrates departing for the field first to obtain the senate's vote for funds and equipment. If a magistrate was travelling to his province by sea, the senate might circumscribe the route to be taken. (The return trip generally carried no stipulations regarding route or speed.) Or the senate might instruct the magistrate in his province or on the move, whether coming or going, to carry out special duties. However, commanders in the general period of the middle Republic were very rarely successfully prosecuted for offences committed in the field—otherwise only for "treason" (pistorius) after major losses of Roman troops. The prejudicial decree of 171 B.C. is in fact an apparently unprecedented example of the encroachment of the senate on a magistrate's (originally absolute) powers of imperium within his province.

There was a similar case in the next year, also concerning the East. The first provincial extortion trial came in the year 171. Soon afterward (169 B.C.) we find senatorial regulation even of the requisitions of magistrates in a theater of war.37

It was not only the magistracy that lost ground to the senate in Rome's "constitution" at this time. As it happens, in roughly this same period, the senate seems to have stopped submitting its decisions regarding the extension of legati in Rome's organised territorial provinces (Sicily, Sardinia, the Spains) to popular vote, as it scrupulously had done down to at least the mid 190s B.C. Henceforth the senate acquired, in addition to its long-standing power of specifying magisterial provinces, sole right of "prorogation"—now a misnomer, since there was no regio (Latin for "legislative bill") in the process.38 Still, the term praesides persisted in official contexts down through the Republic—a good example of the sometimes confusing conservatism of Rome's administrative language. It is a pity that we lose Livy's continuous account in 166 B.C., before we can adequately trace developments like these further. But by the year 100 we know for a fact that there existed a small forest of regulations concerning administration not just in the territorial provinces but also in transit to and fro. We owe that knowledge to the discovery of a major inscription from Knidos in southeastern Asia Minor—a substantial fragment of a previously known pirate law—that dates to the year 101 or 100 B.C.
In the Koine text we learn that even in case of abridgment the commander was empowered, until his return to Rome (and so outside the assigned province), "to investigate, to punish, to administer justice, to make (legal) decisions, to assign arbitrators or foreign judges," and to handle sureties, restitution of properties, and summarizations in the same way "just as in his magistracy it was permitted." Apart from the surprising - indeed, paradoxical - point about abridgment, this last section of the text offers a good summary of some of the attributes of imperium and the activities a commander might be expected to perform in his province and in Rome. Yet the Koine inscription also mentions limitations under a "Ptolemaic law" - apparently new - on the movements of the commander and his staff. Without a decree of the senate, the commander is not to lead a military expedition outside his province. He must prevent members of his staff from doing so, too.

Quite possibly the M. Porcius Cato who passed this bill (as praetor, although his precise identity and date are disputed) had taken over an old prohibition on a commander's marching beyond his province - we have seen that the issue had been a burning one about three-quarters of a century earlier, in 171 B.C. To make his law, he simply added a new proviso, namely, the extension of the prohibition to a general's staff. In truth, it probably had long been a recognized principle that a commander was liable for the public actions of his travelling companions. But to turn that principle into law would be another thing, for it gave the senate a particularly effective handle on the conduct of commanders in the field. Cicero, for instance, in prosecuting C. Verres on his return from Sicily in 70 B.C., made much of the rule that a commander had vicarious liability for underlings.

The comprehensive law on treason (maleficia) passed by L. Cornelius Sulla as dictator in 81 B.C. really marks a watershed in the history of this type of restrictive legislation. What details we can expressly assign to the law mostly have to do with ensuring orderly succession in the provinces, necessary for the smooth working of a new administrative system that Sulla had set up. For instance, Sulla demanded that a praetor could spend at least one full year in his territorial province. That must be new, since we know that one governor of Asia of the mid-90s B.C. left his province after a mere nine months, with no personal repercussions. And under Sulla's law a commander had to quit the province thirty days after succession. Before that law, some commanders were presumably hanging on for more than a month. One of the most significant things about Sulla in general was the scale on which he sought to transform the restraints of ancestral custom into positive law. The provisions on succession nicely illustrate the point.

Yet in the decades after Sulla we find others who are even more pessimistic about a Roman magistrate's capacity for self-restraint. Cicero's letters to his brother Quintus as governor of Asia in 60 and 59 B.C. are a mine of information on the formal and informal rules that now restricted a magistrate in his province. The end result of the process was Caesar's hyperdetailed extortion law of 59 B.C., so comprehensive (and so severe) that it remained in effect all the way to the days of Justinian in the sixth century A.D. Among other things, Caesar even legally limited the number of the commander's travelling companions, his "cohort of friends." What is more, Sulla's treason law remained in effect down to the end of the free Republic, alongside Caesar's extortion measure.

Yet for all the creep of legislation, Roman commanders were highly skilled at finding the loopholes. The overarching impression we get is that it was no easy thing to call magistrates to account in the late Republic, especially if they were well connected. Furthermore, it is ironic that the same society that had such an appetite for legislation concerning provincial administration also acquiesced in the creation of any number of special mega-commands in which a single commander simultaneously held multiple provinces over a duration of several years. The most unusual of these was the five-year Spanish command Pompey received in his second consulship (55 B.C.), since he did not like the notion of actually going to Iberia. "His plan," says one source, "was to set legates subdue Spain while he took in own hands affairs of Rome and Italy." And that is what he did, allowing two senior legates to hold Spain down through 49 B.C. There were precedents for sorts for this (most notably a consul of 67 who exercised control over Transalpine Gaul from Rome). But it was Pompey's example that Augustus later seized on and expanded when he was seeking ways to place himself firmly at the center of his imperial system of government.

"ENHANCED" IMPERIUM, SUCCESSION, AND DELEGATION

Pompey in his third consulship (52 B.C.), instituted a thoroughgoing reform of Rome's administrative system. Now, Sulla as dictator in 81 had introduced a scheme in which both consuls and all the praetors -
had brought their number to eight—were normally to remain in Rome for the year of their magistracy, to tend to civil affairs and the various standing courts. They then theoretically went as ex-magistrates to fight Rome's wars and govern the various territorial provinces. Whether ex-consul or ex-praetor, Sulla gave such enhanced (i.e., consular) imperium, including the senatorial power, to nearby Sicily and Sardina.

Pompey modified some of these features. In an attempt to stem electoral bribery and stymie his rival Caesar, should he win a second consulship further down the road, there was now to be a five-year gap between magistracy and praetorship. Pompey also attempted to fix a curious built-in structural flaw of the Sullan system. Oddly, Sulla had allowed that an ex-consul or ex-praetor could refuse a territorial province after he had drawn a lot for it in the mandatory sortition. Pompey reversed the "voluntary" aspect of Sulla's system and compelled previous winners, such as Cicero (consul in 63 B.C.), to fill vacant provincial slots. The Pompeian law on provinces had one additional important feature: under this law, only ex-consuls were to receive consultum imperium; ex-praetors got praetorius imperium.

At the time of Pompey's reforms, Rome had fourteen territorial provinces: Sicily (acquired in 241 B.C.), Sardinia (385), Neatner and Further Spain (organized in 197), Macedonia and Africa (acquired in 140), Asia (bequeathed to Rome in 33 and secured by 129), Cilicia (acquired c. 100, no doubt to keep wealthy Asia safe from piracy), Tramulina and Cilicinian Gaul (acquired in the mid 90s), Cyrene (acquired 200 years after 67), Crete (acquired in 66 or 63), and Cithaesia (with Pontus) and Syria (organized in 63). Our evidence suggests that, by the late Republic, the majority of commanders in armed provinces received the charismatic appellation imperium—and quickly, too. Where we can check—and this is one place where the summate evidence comes in handy—they invariably were designated imperator within a few months of arrival, no doubt as a hedge against supersession. For down to the year 146 B.C., the senate seems, wherever and whenever feasible, to have aimed at a policy of annual succession, though promotion of commanders into a second year proved positively necessary for distant provinces like the Spains. Even after 146—in which an increase in the number of provinces outstripped the number of available magistrates with imperium (see "The Theology of Imperium" above)—the senate apparently kept plum provinces like Sicily and later Asia "annual."

The pressure to maintain a strict policy of succession unquestionably came from within the ruling class itself. Properly elected magistrates no doubt resented the bottleneck that resulted when a previous commander in a coveted post was prolonged for one or more years. But annual succession made for a lot of to-ing and fro-ing by Rome's provincial governors. It guaranteed plenty of transitions too. In any given year in the mid second century, six provinces (permanent or provisional) were changing hands; in the late Republic, the number in rotation more than doubled.

It is remarkable that the system worked at all. For the governors, there were (notionally) short commands, sometimes long and dangerous journeys, and no permanent administrative support in the provinces for bureaucratic continuity. One thing that made a province particularly hazardous—leaving aside military threats—was a hostile laissez-faire governor. Cicero explains the psychology of one nasty (deviser of the technical Latin word for an out-going commander) leaving Sardinia in the mid 40s thus: "He wished all possible failure to [the new governor], in order that his own memory might be more conspicuous. This is a state of things which, so far from being foreign to our habits, is perfectly normal and exceedingly frequent." Several months before himself taking up a consular province in 51 B.C., Cicero found himself writing to this very man—Appius Claudius, now holding Cilicia—begging him to make the transition easy. This Appius did not do, instead trying in the province and holding a competing circuit court. It could (and did) get much worse.

So how to ease succession outside the city? One increasingly common answer in the later Republic was for a commander not to wait for supersession but to delegate his authority to a subordinate and start home early. The practice was too convenient to attract much critical notice, as far as we can tell. Indeed, in contrast to the delimitation of imperium seen in the preceding section, delegation is one area where over time we can detect a definite broadening of the magistrates' powers.

During most of the republican period, it seems certain that an individual could not delegate imperium at his own level. We have seen that principle from our case of 335 B.C. ("The Theology of Imperium"), where a departing consul made his subordinate (namely) pro praetore to lead his army. In fact there is no instance of a special consular command granted by a consul in Rome or in the field. A consul could give out only praetorius imperium. And despite what seems to be a universally held notion, there is no strong positive proof that the urban praetor—or any holder of praetorius power—had the ability to delegate his imperium at all. However, on instructions of the senate, he could choose a suitable individual and secure for him in a legislative assembly a special grant of imperium.
At some point, praetors (or even nonmagistrates) with enhanced (i.e., consular) imperium could start making men pro praetore. This was obviously a major development. Indeed, it may be that one of the major factors behind the decision to institutionalize grants of consular powers to praetorian commanders for distant provinces (see “The Theology of Imperium”) was precisely to empower them to delegate imperium. In the Spain, Macedonia, Africa, Asia, and Cilicia, the seamless succession of proper governors was not easy to achieve, and praetors or quaestors might find themselves in sole charge of a large province for lengthy stretches. Starting in the late second century BCE, this type of delegation by praetors is reasonably well attested. We can suppose that the practice grew only more common after Sulla took the step of generalizing consular imperium for magistrates in all the territorial provinces. But a startling thing happened after Pompey, in 52 BCE, modified Sulla’s system by completely divorcing the magistracy from the magistracy and then restoring praetorian imperium as the standard grade for praetorian governors. We now find for the first time men who were pro praetore delegating imperium at their own level. One wonders whether the college of augurs had occasion to comment on the practice. Though doubles-excessive—ever necessary, after Pompey’s overhaul of the administrative system—it is hard to see how it makes doctrinal sense.

**Behind the Institutions: Further Dynamics of Getting and Wielding Power at Rome**

To have held imperium, received the choicest-enhancing acclamation of imperium, and celebrated a triumph conferred almost incalculable prestige on a Roman. But for an ambitious politician under the Republic, a little omenus (“affability”) at times also might go a long way. Take Lucius Hostilius Mancinus, who as a legate in the Third Punic War held the technical distinction of being the first Roman officer to breach the walls of Carthage, though almost destroying himself and his force in the process. Once extricated (and dismissed from the theater), Mancinus managed quickly to win a consulship for the year 145 BCE against formidable competition. How? On his return he had set up in the Forum a detailed painted representation of the siege of Carthage; standing at hand, we are told, he charmed onlookers by personally explaining the painting’s (presumably self-aggrandizing) particulars. This bold exercise in self-rehabilitation infuriated the great Scipio Aemilianus, who had saved Mancinus’ skin in 147, sent the legate packing, and then actually captured Carthage in the year that followed. Mancinus’ presentation undoubtedly made no more favorable an impression on an electoral assembly, Q. Cæcilius Metellus, who in a praetorian command had just conquered and organized Macedonia for the Romans, earning a triumph and (uniquely for a subconsular magistrate in the Republic) a triumphal obsequy from the senate for his achievements. But Metellus “Macedonius” had a nasty reputation for harshness of personality (punitiveness). This evidently counted for something even in the eyes of the wealthy citizens who dominated the voting units in the relevant electoral body for higher magistrates, the centurionate assembly. For Metellus came up empty-handed at these elections and for the year that followed, winning the consulship with difficulty only for the year 143.

This lesson in the value of public relations was not lost on L. Mancinus’ cousin Gaius, who experienced a positively disastrous consulship in 137 BCE. His story is an intricate one but seems worth telling in detail, for it illustrates unusually well some of the intangibles at work behind Rome’s political institutions. Fighting an unpopular war in the province of Neatere Spain, C. Mancinus and his army found themselves defeated and trapped before the small but powerful city of Numantia. The consul felt that his only recourse was to have his quaestor, T. Sertorius Gracchus (the future reforming plebeian tribune of 133 BCE, who had his own inherited Spanish connections), ransom out a surrender treaty with the Numantines. The junior staff officer’s truce was safe conduct for the army. But those back in Rome wanted no part of it, especially since just two years previously the consul Q. Pompeius had triumphed and then resigned on an unconditional surrender to this same Spanish people. Mancinus was recalled (most unusually) during his year of office, and a serious investigation and public debate ensued.

An embassy from Numantia arrived to urge ratification of the treaty; Numantines had been in Rome as recently as 135 BCE, to complain against Pompeius, but we are told that that man’s vigorous self-defense and personal influence (punitiveness) allowed him to escape punishment. Mancinus had to walk a rockier road. In his case, some hardliners in Rome drew parallels with a notorious episode from a fourth-century war against the Samnites and demanded that all the officers who had sworn to the unauthorized agreement, as after the Casdine Forks affair of 341 BCE, be handed over to the enemy. In the end, the senate advised and the people approved a compromise solution on the motion of both consuls of the year 136 BCE, almost certainly in
the consolate assembly. The treaty was to be rejected. And to expiate the state for its action, the new commander for Spain (a consul of 139) and one of the specialcized Roman priests of military ritual known as the fides, were to be made or only the disgraced former general, stripped and bound, to the Numantines. Significantly, as the commander at the Caesarea, that once to have done, Mancinus himself had argued before the Roman people in favor of his own surrender.

But in a dramatic and consequential turn of events, the Numantines refused to accept Mancinus. The Roman force in Celtiberia then brought back the ex-consul with due ritual into its camp, and he returned from there to Rome (it was probably now 135 B.C.), thinking that that was that. He even unhesitatingly tried to take up again his proper place in the senate. It seems that the current pair of consuls — whose first task of their eighteen-month term would have been to draw up the album of senators — had upon entering office in 136 included the ex-consul in the list despite his disgrace. These individuals, Ap. Claudius Pulcher and Q. Fulvius Nobilior, may have been especially sympathetic to Mancinus. Pulcher (consul in 143) was father-in-law to the quaestor Ti. Sempronius Gracchus, and Nobilior, as consul in 133, had suffered a serious reverse at the hands of the Numantines, after which he was trapped in the same spot as Mancinus.

Much less generous in spirit toward Mancinus was a certain P. Rutilius, one of the ten tribunes of the plebs in the year of Mancinus’ return. Appealing to established precedent (generally or specifically, we do not know), he ordered that the ex-consul be led out of the senate on the grounds that, after his ritual surrender, he was no longer a citizen. Apparently, this took Mancinus by surprise; if the tribune held public meetings (comitia) on this matter, as was customary to build support for actions on contentious issues, he did so only after standing in the way of the ex-consul. In fact, the legal question whether the tribune was justified in ejecting Mancinus from the senate as if a foreigner, and no doubt the manner in which he did it, sparked massive dissension in the city. Eventually (so it seems) the issue came to a trial, and the opinion prevailed that Mancinus had indeed lost his citizenship — and with it his freedom and legal personality, not to mention his place in the senatorial album.

Mancinus may have started a press for rehabilitation immediately, perhaps even before Scipio Aemilianus, elected to a second consulship for 134, went on to level Numantia. We are told by a late source that Mancinus managed to have his citizenship restored by popular law. He also must have reentered the senate, for two late sources state that he was raised to high office again, namely, a (second) praetorship. This marks a volte-face on the part of the people, who in 135 B.C. had been willing to surrender Mancinus as a scapegoat. One other detail of Mancinus’ later career has come down to us: he dedicated a statue of himself in the same gesture in which he had been hooded over at Numantia, stripped and bound.40 It is a shame that we cannot date that last item with precision. Presumably he set up the statue after the law (passed by the people or conceivably the plebs) that reinstated him as citizen. It is a reasonable guess that the statue was an emotionally manipulative artistic creation that showed his physical person in maximum effect and that he aided for it to help him in an electoral bid, whether for a junior office that might qualify him for the senate, for his second praetorship, or even for another consulship (One remembers the acumen of his cousin L. Mancinus, who used his visual presentation skills to gain a consulship for 143.) Although Mancinus never did return to his former full consular status, he did win something that arguably counts for even more, namely, favorable assessments from later writers (including Cicero and Plutarch).

That in its basics is the story of the consul C. Hosilius Mancinus. Probe a bit deeper and glimpses of the extra-institutional political processes of Rome’s Republic present themselves at practically every juncture. The first is the first concerns an ostensibly sacred ritual, the sortition of provinces. Plutarch comments how the quaestor Ti. Gracchus had drawn as his lot to campaign with C. Mancinus, “not a bad man, but the unluckiest Roman commander.”41 Leaving aside the issue of Mancinus’ luck, it certainly was an amazing coincidence that Gracchus, the eldest son and namesake of a man who as a praetor for Nearer Spain in the early 130s had forged a peace with the Numantines, was allotted that very theater as his quaestorship sphere of responsibility (provincia). Too amazing a coincidence, we surely must surmise. As it turns out, the Romans had a quasi-technical term for the patently manipulated assignments that might fall to the well-connected: the sors opportuni, or lucky draw of the lot.42

Personal considerations surely also influenced the relationship of the enemy Numantines to Rome. As we have seen, they inflicted a great deal of damage and shame on a series of Roman forces in the field, in the end capturing Mancinus’ camp and its contents. Yet Plutarch tells the story that they graciously acceded to Ti. Gracchus’ request that they restore to him his quaestorship account books — based on the trust and friendship that arose from his inherited personal connections (amicitia) — and that they would have given him anything else he wanted. Matters
soon grew fuzzy for the modern observer. When the Numantine ambassadors followed Mancinus back to his city, Dio (63.23.1) tells us that they were met (as was customary for enemies) outside Rome’s walls; the Romans wanted to show that they denied a truce to be in effect. But the Romans—that is, the senate, the competent body for dealing with foreign embassies—must have misunderstood, "since they did not want to deprive themselves of the opportunity to come to terms." So even at this stage senatorial opinion was not hardened regarding the conduct of the war in Spain. And the Numantines, for their part, seem to have spoken in the public debate against the notion of sacrificing Mancinus and the members of his staff who had formally sworn to the treaty. Thus it is reasonable to think that by the time Mancinus argued in favor of his own ritual surrender, he had grown confident of his own personal safety vis-à-vis the Numantines and perhaps even envisioned a soft landing in Rome to follow.

The quaestor Ti. Gracchus had developed his own set of elite presumptions by the time of his return to the city. Dio says he had come back to Rome expecting to be positively rewarded for his conduct of the negotiations. Instead, he ran the risk of being delivered up with Mancinus in his own foreign creditors. Gracchus, of course, escaped that fate, but he still had to endure the rejection of the Numantine treaty and the blow to his reputation for good faith (fides) that it entailed. Ancient writers, most notably Cicero and Plutarch, are adamant that it was this that alienated Gracchus from Rome’s senatorial establishment and impelled him to take up the reformist cause as plebeian tribune in 133 B.C. Indeed, Plutarch details Gracchus’ frustration with Scipio Aemilianus, who despite his prestige (and, we may add, relationship as cousin and brother-in-law) did not press for the ratification of the controversial truce. Nor, continues Plutarch, did Scipio Aemilianus try to save C. Hostilius Mancinus. But it really is too much to expect that Aemilianus would do much for the cousin of the man who tried to steal his thunder in the consul elections for 145 B.C. Indeed, it seems that in the investigation at Rome it was Gracchus who played a dubious part. Quaestors were magistrates of the Roman people and as such, strictly speaking, responsible for their own actions. (Legates and holders of purely delegated powers were different.) Our sources say nothing to indicate that Gracchus made an eloquent or forceful speech to advocate his treaty. Rather, they hint that he quickly distanced himself from his commanding officer when he found that he enjoyed greater support in Rome than Mancinus—and saw the Caudine-style penalty proposed. In all probability, Gracchus had been co-opted into the college of augurs by this time. One wonders, therefore, whether he was the ultimate source for the reports that Mancinus persisted in sailing to Spain despite a series of three adverse omens—reports so prevalent in tradition and obviously recent to supply a theological explanation for the disaster at Numantia.

The tribune P. Rutilius, of course, provided yet another nasty twist to these turns. His motivation? On the face of things, he was acting in a traditional tribunician role, as guardian of constitutional propriety, applying precedent as he found it. Furthermore, it seems that tribunes had only recently gained ex officio membership in the senate;14 it would be natural for them to police perceived usurpers of this prerogative. But in Rutilius’ blocking of Mancinus, personal factors may again have been paramount—factors not all that directly connected with the ex-consul. It so happened that in 139 B.C. a relative (also named P. Rutilius, probably an uncle) as plebeian tribune had come into serious conflict with the censors of the year. Those censors, as chance would have it, were the fathers of the censor of 136, Ap. Claudius Pulcher, and our quaestor Ti. Sempronius Gracchus; they retaliated with their formal powers just days after the tribune left his office and the immunity it offered. So for the younger P. Rutilius, the citizenship issue was an elegant way to settle a score now a generation old.15 In blocking Mancinus, he simultaneously unpiggled the censors of 136 and the compilation of their senatorial album as well as (indirectly) the quaestor who had started the whole chain of affairs by negotiating the Numantine truce. There may be even more to Rutilius’ action, but as so often for almost all periods of the Republic, our sources allow us to go only so far.

CONCLUSION

The question of how much power should reside in the hands of individual magistrates in relation to central governing bodies is obviously central to any constitution, written or not. How well did the Romans of the Republic grapple with this conceptual challenge? One test is to ask how far their system succeeded in curbing its authorities when they went astray. Now, the res publica granted its magistrates (especially the senior ones) formidable powers. It allowed individuals the possibility of manipulating certain important posts. It tolerated to a remarkable degree the open exercise of personal influence in the political and even religious and military spheres. The Senate put up with noisy and sometimes protracted conflict among its members (within limits). Failed magistrates,
even those who had suffered serious military defeats, had surprisingly (at least to us) ample scope for rehabilitation and reintegration into the ruling establishment.

Yet there was a rough system of informal and formal checks and balances in place that worked well enough over a period of some centuries to make figures such as Sulla and Caesar outliers. The simple principle that the empowered should observe a measure of self-restraint in the interest of political harmony (ancorae) operated as a surprisingly efficacious force down to the end of the Republic. If magistrates ignored this tacit understanding or broke with what was accepted as precedent, the negative power wielded by tribunes—even the threat of its implementation—was often enough to make even senior magistrates back down. That was especially the case if an individual perceived that he did not have the necessary backing in the Senate for what he was doing. Indeed, the Senate itself was a most authoritative arbiter of what was or should be legal under the republican “constitution.” Its recommendations (state auctoritas) might give rise to a consular investigation, such as we see in 136 B.C. in the Mancinus affair. Or they might prompt specific controlling legislation, passed by the people or (more quickly and conveniently) the plebs. It was in the latter event, it seems, that a magistrate of the Roman people might be fit to block directly another—usually lower—magistrate. As we have seen, members of the same magisterial college were loath to veto each other. To use one’s full magisterial power against a colleague was, at the least, construed as a serious affront to his personal dignity. In an extreme situation, it could seriously breach the ancorae that bound together Rome’s governing class.

It was precisely to avoid such potentially destructive conflict that so much of Roman political power, in all periods, tended to direct itself through noninstitutional channels. Indeed, especially in the late Republic, the reformer who wanted to define or otherwise delimit those channels might get quite a tangle if he placed illept prerequisites at risk. For example, Cicero reported a heated public debate in the mid 180s between the senior consul M. Servilius Geminus (consul 182) and a M. Pinarius (Rusc, surely an aristocrat) over a law that attempted to regulate the career path (caras honorum) by stipulating minimum ages for candidacy for various magistracies. The senatorial establishment, here as on previous occasions, was on the side of the unregulated cursus: the fewer electoral restrictions, the more scope for the free use of patronage and private influence. (In 180 B.C., however, another tribune finally pushed through a lex annalis that held force in its essentials until c. 46 B.C.) The ballot law of the latter part of the second century B.C. also regularly saw sufficient opposition, including the lex Cornelia of 137 C. Mancinus’ consular year, which introduced secret voting to most popular trials. Yet with the accumulation of regulations like these, illept resistance apparently softened over time. In 67 B.C. the tribune C. Cornelius passed a law compelling praetors to follow their own edicts. The tribune’s aim probably was to prevent praetors’ all too frequent deviations in the administration of civil (perhaps also provincial) law prompted by favoritism or spite. We are told that many (i.e., many in the senatorial establishment) opposed the Cornelian law, but (significantly) they did not dare to speak openly against it.

Let us turn to the institutional history of legitimate power. Here our investigation shows two parallel processes. The first had a “liberalizing” effect. To make their republic work, the Romans had to invent and exploit legal fictions such as pretorius, grants of imperium to nonmagistrates, and “enhanced” imperium for praetors. These particular innovations mostly had their origin in acute military crises, particularly those of the period down to c. 200 B.C. But they eventually found their way into the mainstream of administrative practice. Sulla’s and then Pompey’s constitutional reforms in the late Republic also brought qualitative changes to imperium. Pompey’s measures may even have attracted the attention of the augurs and required their approval. For once a praetor had the capability of delegating his official power to a subordinates of his choice in one of fourteen regular territorial provinces—and this is the situation we find after 52 B.C. —we are really quite far away from the notion of imperium as the united civil and military power held by the old kings as heads of state.

Yet the Romans of the middle and late Republic also sought to bring their commanders under closer control, curbing the originally absolute prerogatives of military imperium by incrementally transmitting what was accepted custom into positive law. In a way, this can be viewed as an attempt to project the situation of the city— with the rough-and-ready checks and balances afforded by collegiality, class comitatus, and tribunician intervention (even powerfully at work against C. Mancinus in 135 B.C.)—onto the military field, where there was at stake not just the orderly succession of commanders per se but also Roman lives, reputation, security, and wealth. The process culminated in Sulla’s treason law and the extortion law of Caesar, but it demonstrably had started some years before.

It would seem that the Second Punic War facilitated the development of explicit formal restraints on commanders. The Senate’s leadership was never questioned in the seventeen years of this war, which was virtually one continuous state of emergency. There is good
reason to think that after Rome's victory the senate started to cap-
talize on the immense prestige it had accrued. As early as the 170s,
the Senate may have acquired the sole right to "proscribe" - to
determine how long commanders could hold territorial provinces -
taking away that important prerogative from the people and plebs.
By the time of the Third Macedonian War (171-168 B.C.), the Senate clearly was dictating to
commanders what they could do inside their military theaters, igen-
by-passing the people in the process. What governors did outside their province also became at this time an easy loss for anxiety for the
ruling establishment. We can speculate that it is this very period (or
one soon afterwards) that generated the first attempts at comprehens-
ive rules circumscribing magistrates' activity - rules that seem to have had
unseen practical results, despite much subsequent elaboration.

Notes
1 For a brief sketch of what is known of early Roman specialized legal literature, see
Honorius 1936, 386.
2 For three later inferences, see Cic. Leg. 7.6-11; Polvy. 5.11-12.
3 For the variety of popular involvement in the magistrates, see Millik (1983), which
suggests for the centrality of the city populace in the political system, especially in
the years c. 70-33 B.C.
4 For an example from Cicero's day (predominantly of praetorian elections), see Bremens
2000, 157-159, and cf. 5:15-17 on the censorship, on which see also the section "The
Theology of Aspetum" in this chapter.
5 Rel. 1.14-15.
6 Lepidus used the outstanding talents of his great-grandfather's career to advance
his own; see the coin issues collected in Crawford 1984, 434-435, no. 419 (61 B.C.).
7 For this and what follows on the elder M. Lepidus, see Ebel (1913), coll. 65-66
(basic source), and especially Miethner (1921) 199-200 (cf. Ryan 1998, 130-140.
8 Miethner (1921), 199.
9 Dep. Papus 60.
10 For the general discussion of this passage by Lintott 1999, 4-5.
11 Cic. De or. 3.375 (cf. 1.425): on this incident, see also Habelt 1971, 594.
12 For nonrepresentative provincial communities, it is hard to top Cicero's
colorful description of the young C. Verres in transit as a commander's legate to the
Roman province of Cilicia; see especially Hs. 2.1, 44-50, 49-54, 50-51, 86, 100.
Other examples (from a large selection): Polvy. 24.12-14; 296 (B.C.); and cf. Cic.
Dio Cass. 53 and Sest. 748 (54-57 B.C.).
13 See in general, Jacoby 1971, 40-41; Liddeloski 1995, 269-274, 408. There is good
reason to believe that the plebeian assembly and the tribunes eventually developed
some complementary fiscal process; see Iulius 1956, 197-202.
15 Mommsen 1859, 90.
APPENDIX: SELECT REPUBLICAN POLITICAL INSTITUTIONS

The Senate. The Senate was the principal deliberative body of magistrates and consisted mainly of equestrians (200 to 250) elected for 30 years. However, a Senate of 300 was elected in 360 B.C. The Senate was divided into constitutional and judicial functions. The constitutional functions were carried out by the Senate itself, while the judicial functions were handled by the courts of law. The Senate was also responsible for the election of magistrates and for the appointment of their assistants.

The Assembly. The Assembly was composed of both equestrians and plebeians (commoners). The Assembly had the power to declare war, make peace, and ratify treaties. Historically, it was a consultative body, and its decisions were subject to the agreement of the Senate. The Assembly was typically convened by the President of the Senate, who was usually a consular or a consular representative, apparently a praetor in the Senate Chamber. The Assembly was located on the Capitoline Hill, which was the site of the Temple of Jupiter Optimus Maximus, also known as the Temple of the Vultures, and was considered the center of government in ancient Rome.

The Tribune. The Tribune was a member of the Senate who had the power to veto the decisions of the Assembly. The Tribune was elected for one year and had the power to propose bills, which could be debated and voted on by the Assembly. The Tribune was also responsible for the protection of the rights of the plebeians and for the enforcement of laws. Historically, the Tribune was often used as a check against the power of the Senate and the Assembly.
Centuriate Assembly

Original text:

“Equisites” (“cavalry”) and "pedites" (“infantry”), the latter divided into five classes ranked by census wealth, totaled 188 centuries; added to those were five unarmed centuries. A majority of these 193 voting units, not a majority of individual votes, determined decisions. Under a consul or, theoretically, a praetor, the assembly passed important legislative bills (leges) into law (lex, plural legis) and voted on war and peace. Under a censor (or, in some cases, the curule aediles or consul tribune), it elected consuls, praetors, and censors. Censors under an assembly was convened, “leading” auspices to the tribune of the plebs; it conducted popular trials if the penalty was death.

Tribal Assembly

Original text:

After 241 B.C., there were four tribes in Rome itself and thirty-one around the city. New territory is added, was incorporated administratively into existing tribal units; freedmen, however, were restricted to the four urban tribes. Consuls and praetors presided in this assembly, where individuals had equal voices within their tribes and a majority of tribes determined decisions. The assembly voted on legislation, elected minor magistrates, and conducted some popular trials if the penalty was a fine. Under the lex Domitia of 104 B.C. (suspended 81–69 B.C.), seventeen tribes chosen by lot elected members of the principal colleges of priests.

Assemblies: The Plebs (comitia plebis). Tribunes of the plebs presided over this assembly, which elected tribunes and plebeian senators and passed the bulk of extractive legislation, usually following the senate’s initiatives. Bills passed were termed “plebiscites” (or, more technically, lega or “laws”). The lex Hortensia of 287 B.C. definitively gave plebiscites the same binding force as the people’s laws, even without patria potestas (“authority of the senate”).

Magistrates: In the Cursus Honorum (Career Path)

Consul

There were two consules, each a patrician down to 366, when the office was opened to plebeians. The praetorship was a prerequisite for the consulship from c. 506; the qualifying age for the office was set at 43 in 380 B.C. Consuls were elected in the centurionate assembly and possessed imperium (military against that of praetors) and maxima auctoritas. Heads of state, consuls gave their names to the year. A suffect might be elected to replace a dead consul. They had precedence over all magistrates except (by custom) the dictator. Either consul could veto the other (but rarely did so in actual practice). A consul presided over assemblies of the people and, when available, served as senate president; he also could let out contracts in default of censors. Consuls fought Rome’s major wars and (by the first century B.C.) held command in the more important regular territorial provinces.

Praetor

There was one praetor (urbanus) from 366 to 247 B.C. With the addition of a praetor inter pugnae, there were two praetors from c. 247 to 239, four for the period 228–198, six for 197–91, eight for 89–47, ten for 46; fourteen for 42, and sixteen for 44 B.C. The praetorship was originally a patrician office, and the first plebeian praetor was elected for 368 B.C. A law of 360 B.C. set the qualifying age at 42; the quaestorship as a prerequisite was confirmed in 81 B.C. Praetors were elected in the centurionate assembly, following the election of consuls and originally on the same day (and thus under the same auspices). A dead urban or peregrine praetor might be replaced by a suffect. Holding imperium (military against that of consuls) and maxima auctoritas, a praetor could do all that a consul could do except (most importantly) name a dictator, hold elections of magistrates with imperium, and conduct the Latin Festival. Any praetor could perform a colleague’s tasks, though by custom the urban praetor had precedence in the city. Praetors had significant responsibilities in the Roman legal system (including supervising civil law and, after 149 B.C., presiding over standing criminal courts) as well as in the military/provincial sphere.
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<th>Magistracies: Some Offices Outside the Cursus</th>
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| Dictator | The office of dictator disappeared after c. 202 B.C., only to be revived by Sulla (81) and Caesar (49), then multiple times through 44. Traditionally, a dictator was given a six-month term though Sulla in late 81 B.C. was named dictator for an indeterminate time (he occupied the office down through at least 81 B.C.) and Caesar, in 48 B.C., held the office for one year. Properly a consul named the dictator under (apparently) civil auspices; the dictator then named an assistant, the Master of the Horse (magister equitum). Dictators had imperium and by custom had the right of initiative over all other magistrates; surely they also held manus aequitum. But by the late third century dictators were subject to citizens' appeal and tribunical veto. |

| Interrex | This magistrate had to be a patrician senator. Given a five-day term, an interrex was designated when the administrative year started without elected consuls. The interrex had imperium, but the first interrex of a series did not have full (civil) auspices to convene the centuriate assembly; those that followed did. There was no curiate law. |

| Censor | The office was instated in 443 B.C. There were two censors, and they held office (notionally) for five years (a lotum). Originally a patrician office, after 339 one censor had to be a plebeian. By custom, censors were ex-consuls. They were elected in the centuriate assembly. They held manus aequitum confirmed – and delimited – by a centuriate law. The office, which had an eighteen-month term, could not be held by just one member of a college. Censors conducted the census of citizens, made up the roll of the senate (lex senatus) and the list of "knights with a public horse" (equites eque publico), and let out contracts for a broad range of activities. |

| Aediles | Two plebeian aediles were elected by the plebs under the presidency of a tribune. Election of two curule aediles (originally alternating between patricians and plebeians each year, until perhaps c. 59 B.C.) took place in the tribal assembly under the presidency of a consul. In the late Republic, 36 was the customary minimum age of candidates for this office. Aediles supervised certain public buildings and places (e.g., markets at Rome, roads, and brothels) and had some powers of jurisdiction. They also put on (increasingly expensive) games. |

| Tribunes of the Plebs | Traditionally, the office seems to have been held after the quaestorship. There were ten tribunes, the candidates were all plebeians, and they were elected by the plebs under the presidency of a tribune. Physically scutum, they had a personal right to give sentence (stare empti) to citizens against magistrates but only within one mile of the city. By extension, they had the right of veto (intervenire) with regard to any official act, including all legislative bills, even (unless a lex barred it) decrees of the senate, and elections (except for elections of tribunes). Tribunes proposed bills to and conducted noncapital trials before the plebs, on petition to a senior magistrate they conducted capital trials in the centuriate assembly; and occasionally they acted as default president of the senate, even before they became ex officio members of that body through a lex Aesiv (perhaps c. 160). |