

THE DEVELOPMENT OF THE CONSULSHIP
IN THE EARLY REPUBLIC:
EVIDENCE FOR AN ALTERNATIVE VERSION IN LIVY

by

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ABSTRACT: The traditional version of the establishment of the consulship in 509 BC and its restoration in 449 and 367 BC was a product of a long period of historiographical development. A great problem is inconsistencies in early republican chronology due to later annalistic historians combining earlier versions. In pre-Fabian oral tradition, it was the capture of Veii that inspired the creation of a new legion with its own praetor to protect new Roman tribes on the Etruscan bank of the Tiber. Early Roman historiography shaped two possible versions of the establishment of the (patrician) consulship after the Veientine war, dating it to 483–474 and 406–396 BC. According to one version, the original title of the early magistracy was changed from ‘praetor’ to ‘consul’ in 449 BC. The other version synchronised the restoration of the consulship with the admission of the plebeians to this magistracy in 367 BC. The Gallic Sack of 387 BC was followed with the creation of the garrison service in Rome, the *milites seniorum*, whose commander was the *praetor urbanus*. An analysis of Livy’s account in Books VI, VII, and VIII shows that the plebeians, who received one consular office in 367 BC and were admitted to the praetorship in 342 BC, were mostly members of those communities that were given Roman citizenship after the abolition of the Latin League.

Modern scholarly research into the republican consulship has heightened interest in the genesis of the chief magistracy in early Rome¹. Testimonies for the initial patrician consulship without *provocatio* motivated Th. MOMMSEN to suggest that the consular *imperium* and *potestas* had originated from the absolute authority of ancient kings². Most historians and specialists in Roman law in the twentieth century accepted MOMMSEN’s theses on the origins and nature of the consulship after the expulsion of the last king of Rome. However, the ancient tradition about the immediate shift from a monarchic to a consular system has often been judged unreliable³. Some scholars assume that the powers of *rex* were

¹ VALDITARA 1989; STEWART 1998; BUNSE 1998; BRENNAN 2000; URSO 2005; RICHARDSON 2008; PINA POLO 2011; BECK *et al.* 2011; VERVAET 2014; DROGULA 2015.

² MOMMSEN 1887–1888: I, 8–24; II, 74–140.

³ MAZZARINO 1945: 83–97; STAVELEY 1956: 90–101; DE MARTINO 1972: 233–239; RICHARD 1978: 555–572; VALDITARA 1989: 318–322.

limited to the religious sphere and a chief magistracy was given to the *praetor maximus*, assisted by one or several *praetores minores*⁴. Others believe that the place of *rex* was immediately taken by a dictator (*magister populi*, who is sometimes identified with the *praetor maximus*), with the *magister equitum* subordinated to him⁵. After the *par potestas* gradually established itself, the dictatorship became an extraordinary magistracy. The *magister populi* with the same powers of *rex* ruled in Rome until the decemvirate and was replaced by two praetors (*maximus* and *minor*), both subjected to *provocatio*⁶. Lack of information about the early dictatorship and praetorship forced modern scholarship to search for another explanation for the transitional period from the beginning of the Republic to the decemvirate⁷. The development of the early consulship has recently been discussed as the opposition between a centripetal force embodied by the republican state and the centrifugal forces represented by powerful clans (*gentes*). We have evidence that testifies to the existence of gentile armies in the sixth and fifth centuries, the period to which literary tradition attributes the development of the Servian centuriate system⁸. On this basis F. DROGULA has reconsidered the traditional concept of the origin of the consulship, separating military command and civilian authority, which the Romans believed had been linked since the foundation of the City⁹. Actually, he has revived the theory of A. HEUSS, according to which military authority only gradually came to be monopolised by the state and its holders were invested with civilian powers to convert their chieftainship into the magistracy of consulship not earlier than 367 (BC, as hereafter)¹⁰. This approach corresponds to the current scholarly trend which suggests that the consulship was not restored in 367, as stated in all our sources, but was in fact created then for the first time¹¹.

The intention of this article is not to describe the functioning of the private leadership of the clanish chieftains, but to examine how later Romans remembered the formation of the state magistracy and how their reconstruction changed with the development of Roman historiography. Livy, our main source, accumulated

⁴ HANELL 1946: 179–180; WERNER 1963: 219–239, 254; GJERSTAD 1967: 22–27; BLEICKEN 1975: 42, 77; BUNSE 1998: 48 and references in n. 18.

⁵ BELOCH 1926: 231–236; MAZZARINO 1945: 169–191; DE MARTINO 1972–1990: II, 191 f.; 1972: 234 and references in n. 60; VALDITARA 1989: 182–185, 307–365; BUNSE 1998: 47 and references in n. 17.

⁶ DE MARTINO 1972: 234 f.; MAGDELAIN 1969.

⁷ See CORNELL 1995: 228.

⁸ RICHARD 1988; WELWEI 1993; ARMSTRONG 2008; 2013.

⁹ DROGULA 2015: 13–45.

¹⁰ Cf. HEUSS 1944: 125–133; 1982: 434–454.

¹¹ BERNARDI 1952: 12; DE MARTINO 1972–1990: I, 191–193, 322–333; BLEICKEN 1975: 76–78; 1981: 24 f.; WISEMAN 1995: 106 f.; 2008: 298 and 304; BUNSE 1998: 46; WELWEI 2000: 49 f.; RICHARDSON 2008: 338; HUMM 2012; DROGULA 2015: 37 f.

readings by his numerous predecessors, and the discrepancy between his view and earlier concepts of the past, as preserved in his narrative, will be my guiding thread. Examining the Roman method of historical thinking, J.H. RICHARDSON has recently argued that their interpretations of the origins of the consulship are unreliable¹². His approach is founded on the assumption that the Roman perception of history was different from ours¹³. Furthermore, it is probable that the Romans thought of their past differently at the time of Fabius Pictor than they did two centuries later at the time of Livy. Oral tradition and Greek writings on early Rome laid the foundation for the story of the banishment of the kings and the establishment of the consulship. The original story (stories) was revised by the first Roman historians at the time when Rome was fighting wars against the autocratic regimes of Sicily, Carthage, Macedonia and Asia Minor. W. KUNKEL and P.-M. MARTIN emphasise the strong impact of the Hellenistic monarchical regimes on the early portrayal of Rome's archaic royalty¹⁴. The establishment of the elective consulship after the banishment of the tyrannical kings was envisaged by Roman historians on the model of the establishment of the democratic regime in Athens¹⁵.

By the mid-second century, an increase in the financial and military burden on individual citizens gave birth to a struggle between soldier-plebeians and the nobility who controlled governmental institutions. New generations of republican historians, after Gracchi and especially after Sulla, made the concept of the Struggle of the Orders a recurring theme in republican history¹⁶. The idea of ensuring the rights of the plebeians became even more significant in the public conscience when a number of Italic peoples were given Roman citizenship after the Social War of 91–88. Like other historians of the Augustan age, Livy was preoccupied with the Conflict of the Orders as a feature of the early Republic and this idea overshadowed the relationship between Rome and other communities of Latium. In his work Livy combined earlier testimonies of various authors, and I have endeavoured to find evidence for the development of the consulship going back to the earlier versions.

Although the origin of the consulship is rooted in archaic patrician Rome, the first known testimony of the consular powers belongs to Polybius (VI 12), who refers to the consulship as being similar to Spartan dual monarchy¹⁷. Cicero also argued that the consuls had inherited most of the authority of the ancient Roman

¹² RICHARDSON 2008.

¹³ RICHARDSON 2012: 17–55.

¹⁴ KUNKEL 1974: 464; MARTIN 1994: 71–78.

¹⁵ MASTROCINQUE 1983–1984; 1988; SCAPINI 2011.

¹⁶ For the political conflict of the orders as an extraneous idea for early Rome, see MITCHELL 2005; 1990: 1–30.

¹⁷ Polyb. VI 10, 1–4; 11, 11–12, 10. Cf. SANDBERG 2005: 155 f.; DROGULA 2015: 14.

kings¹⁸. For Livy, consular power did not differ from royal power in terms of degree, but became subject to annual renewal and was transferred to two people instead of one¹⁹. He assumes that it was essentially only the title that differentiated the power of consuls from that of kings, apart from the engagement in religious ceremonies inherited by the *rex sacrorum*²⁰. Livy refers to two attempts at the restriction of consular power by the patrician consul P. Valerius Poplicola in 509²¹ and the plebeian tribune C. Terentilius Harsa in 462 (Liv. III 9, 2; 15, 1–3). The Terentilian rogation shows that the Valerian laws of 509 were not known to an unknown early historian who invented the idea of the restriction of the consulship in 462. Terentilius' proposal was to appoint a commission of five to draw up in writing the laws that regulated the power of the consuls (*quinque viri legibus de imperio consulari scribendis*, cf. Liv. III 9, 5)²². In Livy (III 31, 7), the idea of Terentilius was changed in 454 and the reform of the consulship was replaced by the issue of the Twelve Tables²³. Dionysius of Halicarnassus simplifies the situation for his Greek readers, stating that the original aim of Terentilius Harsa was the issue of the civil laws (X 1, 2–5; 2, 1; 3, 4 f.). There are, however, some remnants of the earlier version in the traditional descriptions of the first decemvirate of 451 and the Valerian-Horatian laws of 449.

The *decemviri* resemble the board of ten *interreges* who possessed the regal insignia and absolute authority in case of the death or disability of both consuls²⁴. The interregnum was used to prepare the electoral assembly and the decemvirate had to be ended with the election of new consuls after creating restrictions on their *imperia*. The *interreges* were chosen only from among the patricians and the first decemvirate was a board of ten patricians²⁵. Each *decemvir* was equal in power to the others and was also an *interrex* to his colleagues²⁶. At the same time, the outstanding role of Ap. Claudius (ὁ τῆς δεκαδραρχίας ἡγεμῶν)²⁷ in

¹⁸ Cic. *Rep.* II 56; *Leg.* III 8; Liv. VIII 32, 3; Aug. *Civ. Dei* V 12; *Dig.* I 2, 16.

¹⁹ Liv. II 7, 8; cf. Cic. *Leg.* III 8; Cass. Dio III 12.

²⁰ Liv. II 2, 1 f. For the similarity between the consular power and the *potestas regia*, see HENDERSON 1957; URSO 2005: 17, n. 4.

²¹ Liv. II 8, 1 f.; X 9, 3–6; Cic. *Rep.* I 62; II 53; *Harusp.* 16; *Mil.* 7; Dion. Hal. *Ant.* V 19, 4; 70, 2; Plut. *Poplic.* 11 f.

²² MOMMSEN (1887–1888: II, 702 f., n. 2) and OGLIVIE (1965: 412) suggest correcting Livy's text for "quinque viri consulari imperio de legibus scribendis".

²³ For the suggestion that the idea of the XII Tables as a turning point in Roman history was given rise to by S. Aelius Paetus' *Tripertita* in the early second century, see URSO 2005: 118; 2011: 59 f.

²⁴ Cic. *Leg.* III 9; Liv. IV 7, 7; Dion. Hal. *Ant.* XI 62.

²⁵ Cf. Cic. *Dom.* 38; *Ad Brut.* I 5, 4 and Liv. III 31, 8; 33, 6.

²⁶ For the decemvirs, see Liv. III 41, 10; cf. URSO 2005: 109 f.; 2011: 55 f.

²⁷ Dion. Hal. *Ant.* XI 28, 3; cf. X 57, 3; 58, 3; XI 4, 3; 9, 2; 22, 4. Liv. III 33, 7: "regimen totius magistratus penes Appium erat".

both decemvirates resembles the leader of the board of *interreges* in Livy: “ten men exercised authority, [but] only one had its insignia and lictors”²⁸. Like the *interreges* who managed the auspices *privatim*, the decemvirs obeyed laws as private individuals²⁹. While the *interreges* ruled for five days as part of the board, each *decemvir* succeeded to the leadership of the board for ten days, during which he possessed the twelve lictors³⁰. The decisions of the decemvirs and the *interreges* were not subject to appeal (*sine provocatione*)³¹. The first decemvirate ended with voting for the Ten Tables of laws in the centuriate assembly, although the latter was not responsible for private law³². It was the interregnum that enabled the voting for new consuls in the centuriate assembly. The first decemvirate strongly resembles the annual interregnum after the death of Romulus³³. All this allows us to suggest that there was an early version of the modification or establishment of the consulship according to the decision of the decemvirate, whose rule had the form of a special interregnum.

Because the issue of the Twelve (Ten) Tables was later attributed to the decemvirate, the authorship of the law on the consulship was relegated to L. Valerius Potitus and M. Horatius Barbatus (*coss.* 449). Two institutions of the *leges Valeriae Horatiae*, the *provocatio ad populum* and the tribunician *intercessio*, were established to restrict the absolute *imperium* of high magistrates. Their establishment went back to the original version of the Terentilian rogation, whose adherents most likely suggested that the reformed magistracy changed its name. Cicero and other ancient sources tell us that the title ‘praetor’ preceded ‘consul’³⁴. Zonaras (VII 19, 1) preserved the information from Cassius Dio (V 19) that the term ‘*consules*’ (ὑπάτοι) for highest officers replaced the former *praetores* (στρατηγοί) in the consulship of Valerius and Horatius (*coss.* 449). The testimony somehow relates to Livy, who mentions under the year 449 that the consuls were earlier called praetors³⁵. The evidence provides two different dates for the introduction of the praetorship: two early praetors in 509 and the city praetor in 367³⁶. If the former date is

²⁸ Liv. I 17, 5 f.: “decem imperitabant: unus cum insignibus imperii et lictoribus erat”.

²⁹ Cf. Liv. III 33, 8–10 and VI 41, 5 f.

³⁰ Cf. Liv. I 17, 5 f.; Dion. Hal. *Ant.* II 57, 1 f.; App. *BCiv* I 98 and Liv. III 33, 8.

³¹ Liv. III 32, 6; 33, 9; 34, 1; Cic. *Rep.* II 54; 61; Pompon. in *Dig.* I 2, 2, 4.

³² Liv. III 34, 6; cf. Dion. Hal. *Ant.* X 55, 5; 57, 6 f.

³³ Liv. I 17, 5 f.; Dion. Hal. *Ant.* I 57, 1 f.; Plut. *Numa* 2, 7; *HA Tac.* 1, 1–6.

³⁴ Cic. *Leg.* III 8; Ps.-Ascon. *Verr.* II 36 p. 234 STANGL; Liv. III 55, 11 f.; VII 3, 5; Plin. *NH* XVIII 12; Fest. p. 249 L s.v. *praetoria porta*; Gell. XI 18, 6–8.

³⁵ Liv. III 55, 12. See OAKLEY 1998: II, 78 f.; URSO 2005: 20–25; 2011: 50 f. and n. 55; DROGULA 2015: 35 f.

³⁶ For the controversy, see OAKLEY 1998: II, 77–80; HOLLOWAY 2009: 71–73; URSO 2011: 49–54; DROGULA 2015: 15–19, 35 f.

accepted, the title was changed to consulship in 449, and a new *praetor urbanus* was added to these consuls in 367.

The traditional identification of early republican officers as consuls from the beginning of the Republic is more than a mere problem of terminology. Varro's etymological derivation of *praetor* from *praeire*, 'to precede, to go ahead' in law and war, is the basis of the assumption that the term was applied to a leader, especially in a military capacity³⁷. Because the etymology shows the military origins of the earliest magistracy, the intention of the laws of Valerius Poplicola and Terentilius Harsa is likely to have been to adapt the military *imperium* of the consuls to use on Roman territory (*domi*), like their magisterial powers. The traditional view of the consulship identifies it as the elective office of the Roman people from the beginning and omits its period of development from purely military leadership to a magistracy with both military and civil authority. The providing of the tribunes with the *ius intercessionis* in the city of Rome and the citizens on the *ager Romanus* with the *ius provocationis* became significant steps in the formation of the magisterial powers. The measures restricted the absolute authority of the holders of *imperium* in the City and in the surrounding territory inhabited by Roman citizens, whose number increased together with the creation of new tribes.

According to the traditional version, however, the reformed consulship was abandoned by the Romans in favour of the so-called consular tribunate. Colleges of three or four military tribunes competed with the consular pairs from 444 to 409, and the board of six consular tribunes became the only high office from 408 to 367 (except in 393–392). Then, however, a plebiscite of C. Licinius Stolo and L. Sextius Lateranus restored the consulship in 367. The updated office was based on the equal representation of both orders, the patricians and the plebeians, who were admitted to the consulship from the beginning in 366. The idea that the collegiality of the consuls (*par potestas*) was endorsed by the maintenance of justice in the Roman community has recently become popular in scholarship³⁸. In this article I endeavour to examine the scholarly suggestion that the consulship was not restored, but was created in 367, in the context of Livy's portrayal of fourth-century history.

TWO CONSULS AND ONE PRAETOR SINCE 367

According to Livy (VI 42, 9–11), the Licinian-Sextian laws of 367 envisaged two consuls for annual election, one patrician and one plebeian, and to

³⁷ Varro *LL* V 80; 87; Non. p. 35 L. For the military etymology of the noun '*praetor*', see VAN LEIJENHORST 1986; VALDITARA 1989: 336–338, n. 149; OAKLEY 1998: II, 77–80; BRENNAN 2000: 58–78.

³⁸ GIOVANNINI 1984: 26–29; cf. GIOVANNINI 1993: 92; BUNSE 2002: 30.

compensate the patricians for the loss of one consular position, a new patrician office of praetor was established “to hold court in the city”³⁹. Recently, however, T.C. BRENNAN and A. BERGK have argued that the praetorship remained mainly a military office from the fourth to the third century⁴⁰. When the *praetor peregrinus* was established in 242, it also had a military purpose⁴¹. The further increase in the number of praetors from two to six was determined by the need to increase Rome’s military capacity between 227 and 197⁴². It is obvious that the first praetor had the same power as that invested in his colleagues, established later. Legal proceedings, which from the beginning were in the hands of the pontiffs, were hardly likely to have been removed from their control before the mid-third century⁴³. In other words, jurisdiction was not among the main tasks of the praetor in the fourth and early third centuries. Thus, from 366 onward, the Romans elected three magistrates with virtually equal military powers (*imperium*), and, scholars suggest, they held the common title of *praetores*⁴⁴.

At the same time the offices of two of them, as consuls, gradually became distinct from the third, because his responsibilities (the future *provincia*) were different. If the shared consulship was established in 367, before this date the title *praetor* was applied to the only patrician officer⁴⁵. The original holder of the title ‘praetor’ was a leader of the Roman army rather than an urban magistrate: the election of republican consuls and praetors in the centuriate (military) assembly outside the *pomerium* is proof of this. They possessed the military *imperium*, which was given to them in times of war and the authority of which ceased inside the *pomerium*. Authors who wrote under the later Republic and the Empire assumed that the consular *imperium* was a legacy of the ancient kingship. However, the reverse is the case: the supposed absolute authority of ancient kings is a projection of the consular military *imperium* into the archaic past. As A. HEUSS suggests, the military chieftains (praetors) became civil magistrates when they were allowed to use their powers (*imperium domi*), in the City and on the *ager Romanus*⁴⁶. The seasonal character of archaic military activity made the

³⁹ For modern criticism of Livy’s reference to the law of 367, see VON FRITZ 1950; DE MARTINO 1972–1990: I, 406–415; OAKLEY 1997: I, 645–652; BUNSE 1998: 182–201; SMITH 2011; DROGULA 2015: 37–44.

⁴⁰ BRENNAN 2000: 58–78; BERGK 2011.

⁴¹ GILBERT 1939; SERRATI 2000.

⁴² BUNSE 2002: 33.

⁴³ MITCHELL 1990: 170–179, 184–186; TELLEGEN-COUPERUS 2006; VALGAEREN 2012; DROGULA 2015: 60–68.

⁴⁴ See STEWART 1998: 95–126; BUNSE 2002; BECK 2005: 63–70.

⁴⁵ STAVELEY 1954: 210; STEWART 1998: 95–136.

⁴⁶ For the idea that early military commanders were not chief civilian magistrates, see HEUSS 1944: 125–133; 1982: 434–454; MITCHELL 1990: 135 f., 150; SANDBERG 2000: 121–140; 2001: 97–113; FORSYTHE 2005: 176; DROGULA 2015: 13–37.

office annual (newly begun each year for one year), although in a very ancient epoch the praetorship was possibly limited to the time of a military campaign and therefore he could be elected not every year. We do not exactly know when annual magistracies became standard. In contrast to the title ‘*dictator*’, the holder of which was originally appointed by the king (later, a consul) for a certain task, the title ‘*praetor*’ (as well as *magister populi*) stresses the connection of the chieftain with his warriors.

There are several indications that the consulship and praetorship were originally closely linked⁴⁷. The holders of both were elected under the same auspices and the praetor was considered a *collega consulis*, even at the end of the Republic⁴⁸. Both consuls and praetors were the only regular magistrates who had the right to celebrate a triumph (*ius triumphandi*)⁴⁹. Their military *imperia* were of the same quality as absolute power, but the hierarchy between them allowed M. Valerius Messala Rufus (*cos.* 53) to state that the praetor had a limited *imperium*, while the consular *imperium* was full (Gell. XIII 15, 4: “*imperium minus praetor, maius habet consul*”). Unlike the consuls, whose *imperium* was unlimited, the praetors were invested with their *imperia* to manage a certain province. The city praetor was responsible for the garrison unit guarding the city of Rome, although the Senate could also invest him with an additional task. In other words, the original discrepancy between the consular and praetorian *imperia* was quantitative rather than qualitative. The Roman *cursus honorum* had been formed by the year 180, when the *lex Villia annalis* reiterated and fixed the qualitative superiority of the consulship over the praetorship⁵⁰.

In 367, however, it seems that three high offices possessed equal military powers, although two of them were separated from the third one in being consuls. Scholars suggest that all of them held the same title of praetor. R. STEWART emphasises that Livy (VII 1, 6) described the three officials as colleagues based on an election *iisdem auspiciis*⁵¹. Ancient sources testify that two of these magistrates were patricians and one was elected from the plebeians. Two were those who later held the title of consuls, while the third preserved the title of praetor in the future. The patrician *praetor urbanus* was certainly the officer who supervised the defence of the City rather than the urban court. His colleagues who received the new title of consul, a patrician and a plebeian, obviously commanded the campaigning (field) army. The literary tradition, which saw early history in the light of the concept of the Struggle of the Orders, emphasises the admission

⁴⁷ See RICHARD 1982; 1983: 651–664.

⁴⁸ Liv. III 55, 11; VII 1, 6; VIII 32, 3; Cic. *Ad Att.* IX 9, 3; Gell. XIII 15, 4 and 6.

⁴⁹ BUNSE 2002: 33, n. 23.

⁵⁰ See BILLOWS 1989.

⁵¹ STEWART 1998: 95.

of the plebeians to the consulship and the patrician character of the praetorship. However, if the plebeians were admitted to the consulship in 367, the office already existed before that. This discrepancy is invisible in the traditional version of the restoration of the consulship in 367. Otherwise the plebeian consul would have been created alongside a patrician colleague who alone headed the field army before that (with the help of military tribunes). An additional commander of the mobile forces was most likely required because of a significant increase in the Roman citizenship, the new members being plebeians who formed their own legion.

The Roman community began to grow significantly after the victory over the Etruscan city of Veii in 396. This success opened the way for Roman colonisation of the conquered territory. According to Livy (VI 4, 4), those of the Veientes, the Capenans, and the Faliscans who had supported the Romans during the war were given Roman citizenship, and these new citizens received land from the government in 388. In 387, the newly acquired territory of Veii was organised into four new Roman tribes: the Sabatina, Stellatina, Tromentina, and Arnensis, composed of the new citizens (Liv. VI 5, 8). The social status of these citizens over the Tiber is uncertain. The local people who received Roman citizenship belonged neither to the Latin nation nor to the Roman clannish organisation of the patricians and their clients. They were combined with a great number of Roman colonists, the majority of whom were plebeians receiving land in the conquered territory. As a result, some later Roman historians would qualify all of them as plebeians, although it seems possible that the local nobility was included in the patriciate (perhaps as the *gentes minores*), which would explain the enormous Etruscan influence on Roman mythology, potestary culture and symbols of sovereignty.

The Gallic invasion of 390 (387) aggravated the problem of solidarity within the Roman community and the defence of the four 'Veientine' tribes, which was likely organised on the model of the Latin tribes on the left bank of the Tiber. The office of the third praetor was probably established as military rather than political, so that he should be elected by the local citizens of the four tribes. He headed a new, second legion of the field army, which was recruited from right-bank citizens to protect the *ager Romanus* from the north. Because the Romans were concerned with defending the new tribes after the Gallic Sack, they hardly would have waited twenty years to create a new legion. Livy mentions three parts (legions) of the Roman army under the years 388, 386, and 377⁵². Does this mean that the second praetor of mobile forces was established earlier than 367 and that the (patrician) double consulate already existed by this date?

The traditional version of the establishment of the consulship has its background in the *Fasti Consulares*, according to which two consuls were annually

⁵² Liv. VI 2, 7 f.; 6, 12–14; 32, 4 f.

elected from 509 to 451 and in 449–439, 437–434, 431–427, 423, 421, 413–409, and 393–392. If the double consulship was created in 367, why are names of consuls known from the beginning of the Republic until the decemvirate of 451 and why do they alternate with names of consular tribunes from 449 to 409? Why do Livy and Zonaras (Cassius Dio) state that the title ‘consul’ appeared in 449, if the consulship was established only in 367?

Livy (VI 1, 1–3) refers to Rome’s early history as being divided into two periods, before and after the Gallic invasion of 390. M. Furius Camillus, who defeated the Gauls, was the new (second after Romulus) founder of Rome⁵³. C. KRAUS points out that Livy, in the opening of his sixth book, stresses that only after the Gallic Sack does Rome’s real history begin⁵⁴. Q. Claudius Quadrigarius, whom Livy used as a major source from Book VI onwards, is known to have started his history after the Gallic invasion (Plut. *Numa* 1). The idea that the Gallic Fire was the great turning-point in Roman history was most likely devised by Fabius Pictor. Early Roman historiography bestowed the role of a so-called ‘eschatological battle’ upon the Gallic Sack because the event seemed especially significant during the Roman conquest of Cisalpine Gaul in the third century⁵⁵. At the same time, the Greek world was struggling against the Gallic invasion, and the Battle of Thermopylae and the Gallic attack on Delphi in 279 inspired Roman historians to portray the Battle of Allia and the Gallic Sack of Rome a century earlier on the basis of Greek literature rather than native tradition⁵⁶.

In the oral (priestly) tradition before Fabius Pictor, the role of the historical watershed belonged to the Veientine War. Livy’s narrative retained evidence for the replacement of the Veientine War by the Gallic Sack. First, being defeated by the Gauls in the battle of Allia, the Romans fled to Veii, not to Rome (V 38, 5; 9). Diodorus (XIV 114) places the battle on the right bank of the Tiber. Second, Camillus was the hero of the Veientine War, and to explain his absence in the battle on the Allia River Roman historians had to invent the story of his exile to Ardea (V 49). As a result, Livy combines two different victories: Camillus with the Ardeate warriors attacked the departed Gauls and at the same time the Roman refugees defeated the Etruscans in Veii (V 45, 1–3 and 4–8). Third, although Camillus arrived from Ardea, his attack against the Gauls began from Veii (V 46, 11; 48, 7). Fourth, the Roman plebs twice discussed the idea of resettlement from Rome to Veii, after the Veientine War in 395 and 393 (V 24, 5–8; 30, 1–6) and after the Gallic Sack in 389 (V 51–55). Fifth, the distribution of the Veientine land was discussed in 393 (V 30, 8), but the four tribes over the Tiber were established in 388–387 (VI 4, 4; 5, 8). In other words, the events originally

⁵³ MILES 1995: 75–109; MINEO 2006: 210–241.

⁵⁴ See KRAUS 1994: 269, 283 f.

⁵⁵ See BRIQUEL 2008: 110–112 and *passim*.

⁵⁶ See WILLIAMS 2001: 100–184.

related to the Veientine War were reassigned to the Gallic Sack in post-Fabian historiography.

In oral tradition, the Veientine War had no exact date and marked the turning point between mythological times and a new historical period. The annalistic writers attempted to specify a date for it as a Roman counterpart of the ten-year Trojan War. The traditional date of the Veientine War is based on the chronological calculation which synchronised it with Syracuse's war against Carthage in 406–396 (Diod. XIV 53–76). Livy (II 42, 9–54, 1) refers to another ten-year Veientine War in 483–474, the description of which somehow related to Fabius Pictor, as his Fabian clan was honoured in the battle of Cremera on the model of the 300 Spartans who perished at Thermopylae⁵⁷. The war ended with a forty-year peace treaty, to harmonise the Roman victory in 474 with the traditional date of the capture of Veii in 396, and the defeated Veientes were ordered to furnish corn and pay for the troops⁵⁸. If both wars were versions of the same (mythological) Veientine War, the four tribes *trans Tiberim* could be attributed to 457 in the same way as to 387. According to Livy (III 30, 5–7), ten plebeian tribunes were established in 457. Although Livy states that they were elected from five classes of the centuriate system, their title shows that they represented tribes (Varro *LL* V 81; 88). In the same way, six consular tribunes represented (six tribes of) the Roman community until 367. The establishment of four new tribes of 387 (Liv. VI 5, 8) suggest an addition of the number of tribunes until ten. The early version, according to which the Roman community was a union of ten tribes from 457 to 381, seems more logical than the traditional one, in which this period is shortened to 387–381. In this case, Rome had two legions headed by two (patrician) praetors from the middle of the fifth century. Their title of praetors was replaced by consuls after the Terentilian rogation of 462 was realised as the law of consulship in 449.

THE EARLY CITY PRAETORSHIP

The patrician office of the *praetor urbanus* was established to manage the defence of the city of Rome. It seems obvious that this praetor was needed as the commander of a new garrison unit in the Roman army. The early armed forces are traditionally said to have been organised by king Servius Tullius and included people of two ages, senior men (*seniores*) and younger men (*iuniores*)⁵⁹.

⁵⁷ The Romans memorised *dies Alliensis* in the same day as *dies Cremerensis*, on July 18. See Liv. VI 1, 11; cf. II 50, 5–11 (battle of Cremera); V 37 f. (battle of Allia).

⁵⁸ Liv. II 53, 2: “tamquam Veii captis, ita pavidi Veientes ad arma currunt”; 54, 1: “indutiae in annos quadraginta petentibus datae frumento stipendioque imperato”.

⁵⁹ For the age criterion for the discrepancy between the *hastati* and the *principes*, see MITCHELL 1990: 236–242.

According to Polybius and Q. Aelius Tubero, the *iuniores* were soldiers from 17 to 46 years old, while those who were older belonged to the *seniores*⁶⁰. The age at which social activity ended in Republican Rome (*legitima aetas*) was 60 years, when citizens were exempted from public duties and military service⁶¹. Cicero (*Sen.* 60) cites Cato the Elder, who said that in ancient times old age began after the age of 46. He presumably meant that soldiers stopped campaigning after this age, that is, only *iuniores* made up the field forces. Thus, the centuriate army consisted of two types of soldiers with different tasks. The *iuniores*, aged from 17 to 46, being more numerous and physically stronger, formed the field army, while the elders from 46 to 60 were employed to guard Rome, free from military campaigns further afield. Under the year 387, Livy writes of “a third army [...] enrolled from among the seniors and those who were excused from service on grounds of health, to garrison the defences of the City”⁶². From a military point of view, the involvement of the *seniores* in the army may have been related to a new design of the city of Rome, incorporating a defensive wall enclosing the urban space, which needed to be patrolled and defended.

Being responsible for the protection of the City, the *praetor urbanus* controlled the construction and maintenance of the city fortifications. Livy’s reference under the year 378 to the building of the city wall shows that some fortifications were newly built or restored after the Gallic invasion (VI 32, 1). The Romans ascribed the building of the wall of Rome to king Servius Tullius⁶³. However, the preserved remains of the city wall are of volcanic *tufo giallo* from the Grotta Oscura near the Etruscan city of Veii, conquered by Rome in 396. This discrepancy generated a long discussion in scholarship⁶⁴. Many historians were favourably disposed toward a fourth-century date for the Servian wall⁶⁵, but the traditional date of the sixth century retains its popularity among archaeologists⁶⁶. In these circumstances the establishment of the office of the city praetor, which was certainly somehow connected with a significant step in the construction of Rome’s fortifications, cannot be determined more accurately than between the

⁶⁰ Polyb. VI 19, 2; Gell. X 28, 1 f.

⁶¹ Varro apud Non. XII 523 M; Aug. *Quaest. Evan. Matth.* 19 = PL XXXV 1326; *Div. quaest.* 58, 2 = PL XL 43: “nam cum a sexagesimo anno senectus dicatur incipere”. For more details, see NÉRAUDAU 1979: 114–121.

⁶² Liv. VI 6, 14: “tertius exercitus ex causariis senioribusque [...] scribatur, qui urbi moenibusque praesidio sit”.

⁶³ The city wall of the regal period is mentioned in Cic. *Rep.* II 11; Liv. I 36, 1; 44, 3; Flor. I 4; Dion. Hal. *Ant.* III 67, 4; IV 14, 1; 54, 2; IX 68, 3; Strabo V 3, 7; Plin. *NH* III 67. POxy 2088, line 15; [Aur. Vict.] *Vir. ill.* 5, 2.

⁶⁴ Cf. COARELLI 1995; FABBRI 2008; FULMINANTE 2014: 100–102; ZIÓLKOWSKI 2016.

⁶⁵ HOLLOWAY 1994: 91–102; CORNELL 1995: 198–202; 2000: 217 f.; SMITH 1996: 151–154; GABBA 1998; FORSYTHE 2005: 107 f.; BERNARD 2012: 9–38.

⁶⁶ CARAFA 1996: 14 f.; CIFANI 2008: 255–264; 2012; 2013: 204 f.; ZIÓLKOWSKI 2016: 164–170.

mid-sixth and early-fourth centuries. Nevertheless, the Gallic invasion in 390 (387) would have been a likely motivation for the Romans both to establish a new office of consul (field praetor) and to employ the city praetor for new duties. The latter change was enough (perhaps for Q. Claudius Quadrigarius) to state that the office of the city praetor was established in 367.

The literary tradition attributes the establishment of the two types of troops, the mobile forces and the garrison unit, to the Servian reform of the mid-sixth century, while the praetors for them were only created in 367. The discrepancy could go back to the fact that military institutions developed only gradually during the early Republic. The centuries for protecting Rome were at first needed only when enemies approached the city, and they were converted into the regular garrison service with the city praetor at the head at the time of the significant reform of republican governance. The garrison guard of Rome was institutionalised as such and received its own praetor when the older men between 46 and 60 were obliged to do military service. Before the *seniores* were included in the *classis*, there had only been praetors (later consuls), who led the *iuniores* in external wars. These praetors (consuls) differed in age from the city praetor, who was invariably older than his colleagues. As a leader of men older than 46, he was the *praetor seniorum* and himself belonged to the *patres*. For that reason, holders of this office were probably chosen from among the senators, which gave the senior praetor more authority than his colleague. The title of *praetor urbanus* perhaps shows that, in addition to his military power, the city praetor also possessed the *auspicia urbana*. It is possible that originally every age group had elected its own praetor from among their peers and that only later was the electoral assembly of all centuries customised to vote for the consuls and the praetor.

Although the early *praetor iuniorum* was elected from the patricians, the military power he received from the soldiers outside the *pomerium* did not provide him with any authority in the *urbs*⁶⁷. The original *urbs* was a sacred space encircled by the *pomerium*, rather than an inhabited space surrounded by the defensive wall⁶⁸. A vestige of this ancient situation was the custom according to which the consul and praetor abdicated their military *imperia* upon entering the City, and their absolute power was removed until the next campaign. Because the military *imperium* had no force within the sacred boundary of the *pomerium*, the praetors, elected as military leaders outside the *urbs*, were not true magistrates until they received the *auspicia urbana*. The military powers of a warlord over his soldiers could be used against alien hostile people, but not in relation to one's

⁶⁷ For the *pomerium* in general, see LIOU-GILLE 1993; ANDREUSSI 1999; SIMONELLI 2001; DE SANCTIS 2007.

⁶⁸ On the sacred nature of the *pomerium*, see Cic. *Leg.* II 58; Varro *LL* V 143; Liv. I 44, 3 f.; Gell. X 15, 4; XIII 14, 1–15, 4; Plut. *Rom.* 11, 4; *Quest. Rom.* 27; Paul. Fest. p. 295 L. Cf. DROGULA 2015: 50; DE SANCTIS 2015: 153–164.

own citizens. We cannot be sure that the office of the early praetor was annual from the beginning: plausibly the military commander was invested with an *imperium* for a certain campaign and deprived of the office after returning to Rome. He relinquished his military *imperium* when entering the *urbs*, but preserved those powers until he crossed the *pomerium*. When a holder of the *imperium* was on Roman territory (*domi*), his power was restricted by the *ius provocationis* given to the citizens. The idea of a magisterial *potestas* seems to have developed gradually in the City, following the analogy of the *potestas* of the *patres*. The board of ten tribunes watched over the magistrates in the City in order that they did not identify their civil *potestas* with the absolute military *imperium*.

After the ‘Servian system’ was completed with the addition of the senior combatants, the citizenry became identical with the army, and the electoral act (*designatio*) made the praetors/consuls representatives of the entire civil community (magistrates). To have a valid *imperium* and a magisterial *potestas*, the *consul* (*praetor*) *designatus* had to perform the rites of the investiture (*lex curiata*, auspices, and the approval of Jupiter Optimus Maximus and Jupiter Latiaris). The augur M. Valerius Messala Rufus (*cos.* 53) testified that the investiture legitimised the consular power as *imperium iustum*⁶⁹. The two-step adoption of the office shows that the consulship (and praetorship) developed from a military leadership to a civil magistracy rather than inheriting the powers of archaic kingship.

The two *praetores iuniorum* who led the Roman field army from 386/366 (or 457/444), were equal in function and had every reason to be called consuls, unlike the urban praetor. For a time, their military leadership outside the *pomerium* gave them only a subordinate authority to the Senate, which alone managed Roman politics during the early Republic. The *praetor urbanus*, who was elected from the aged patricians until 337 and probably had senatorial status, perhaps held the title of *praetor maximus*.

The title *praetor maximus* is known from Livy’s account of Roman attempts to avert a persistent plague by driving a nail into the wall of the Capitoline temple during the years 364–363. According to the recollection of the elders, a plague had once been alleviated by this means. On this occasion, Livy (VII 3, 5–7) refers to a variant of this custom of driving in the nail, which related to the counting of years:

There was an ancient law, inscribed in antique letters and words, that whoever was the *praetor maximus* on September 13 should drive the nail. The chamber of Jupiter Optimus Maximus was nailed on the right side next to the shrine of Minerva. They say that this nail was a marker for the number of years because writing was scarce in those times, and that the law was devoted to the shrine of Minerva because counting was Minerva’s invention.

(transl. after FORSYTHE 2005: 151)

⁶⁹ According to Livy (XXII 1, 6), when C. Flaminius, a *consul designatus* for 217, departed from Rome without performing the rites of the investiture, the senators stated that his *imperium* was illegitimate.

Livy quotes a certain Cincius, who asserted that nails were fastened in the temple of the goddess Nortia at Volsinii, which indicates that the custom might have been borrowed from Etruria⁷⁰. These nails were indicators of the number of years. A similar driving of a nail-like object into the side of a sacred building to mark the passage of a year is depicted on an Etruscan mirror dating to c. 320⁷¹. According to Livy, the consul Horatius dedicated the temple of Jupiter Optimus Maximus in accordance with this ancient law, but later the consuls transferred the rite of driving in a nail to count years to the dictator. However, there is no evidence that such a custom was retained in the later Republic, and we can only agree with those scholars who conclude that Livy's mention of the *praetor maximus* in this passage refers to the chief magistrate amongst several⁷².

By the time of the Punic Wars, when Roman historiography began as far as we know, the office of dictator became obsolete and the consulship was the highest magistracy. Roman historians believed that the early consuls had the same role in governing Rome as their late republican colleagues. The development of the consulship from military leadership to civil magistracy was beyond their perception. To them, the *praetor maximus* was one of the three magistrates who held the common title of praetor, being a consul, because two of the three praetors became consuls. From Festus' explanation, one can conclude that initially the praetor had been called *maximus* because of his senior age, and only later did the augurs issue a decree that distinguished him by "the power of his *imperium*"⁷³. At the same time, Festus' concept of the early praetorship was undoubtedly influenced by the prominent position of the *praetor urbanus* in comparison with the provincial praetors, who had no powers in the city of Rome⁷⁴.

The custom of counting years by driving nails into the wall of the Capitoline temple had disappeared by the time of the Second Punic War. It is perhaps no accident that Livy refers to it in relation to the 360s. G. FORSYTHE suggests that the source of this information must have been someone who himself read the document that contained a consular date in the Capitoline temple⁷⁵. If so, the term *praetor maximus* should be related to the historical context of the reform in 367 (Varro = 363 Fabius) and may not have any relevance to the initial period

⁷⁰ Perhaps, L. Cincius, an Augustan antiquarian and the author of the book *De fastis*, cited by Festus (p. 276 L s.v. *praetor*). See WISEMAN 1979: 45 f.; RAWSON 1985: 247 f. DROGULA 2015: 29–31, sees in this author an early historian L. Cincius Alimentus (*pr.* 209). Also see URSO 2005: 21, n. 14.

⁷¹ See THOMSON 2006: 96–100.

⁷² BRENNAN 2000: 22 f.; SMITH 2011: 32–34.

⁷³ Fest. p. 152, 28 L: "Maximum praetorem dici putant ali eum, qui maximi imperii sit, ali, quia aetatis maximae. Pro collegio quidem augurum decretum est, quod in salutis augurio praetors maiores et minores appellantur, non ad aetatem, sed ad vim imperii pertinere".

⁷⁴ Fest. p. 154 L: "praetorem autem maiorem, urbanum: minores ceteros".

⁷⁵ FORSYTHE 2005: 152 f.

before this major reorganisation of the Roman government⁷⁶. FORSYTHE accepts MOMMSEN's idea that the superlative *maximus* was used to distinguish the consul who held the fasces from his consular colleague and the praetor. A significant argument in favour of this interpretation is considered the Greek translation of the Latin *praetor* as στρατηγός and *consul* as στρατηγός ὑπάτος (highest praetor), which appears to be an exact equivalent of the Roman *praetor maximus*⁷⁷. However, this title στρατηγός ὑπάτος was applied to both consuls, not only one of them. The title *praetor maximus* belonged to a transitional period from the (380s) 360s to the 330s, when the city praetor was the holder of supreme power (*imperium auspiciumque*), whereas the powers of the field praetors (consuls) in the City were still in the process of formation.

The temple of Jupiter Optimus Maximus, into the wall of which the *praetor maximus* drove a nail, was regarded as dedicated by M. Horatius Pulvillus (*cos.* 509). Every year the Romans celebrated the anniversary of the dedication as the Roman Games (*ludi Romani*) on September 13. Cicero and Dionysius of Halicarnassus connect the establishment of the games to the significant victory over the Latins at Lake Regillus⁷⁸. Roman writers portray the Capitoline cult as unchanged from the beginning to the late Republic, but the divine triad of Jupiter Optimus Maximus, Juno Regina and Minerva, imitating the Greek triad of Zeus, Hera and Athena, replaced the earlier triad of Jupiter, Mars and Quirinus⁷⁹. There is no evidence for when the new Capitoline triad was established, but one can suggest that it was related to a momentous change in the divine power in Latium. Such a moment is associated with the dissolution of the Latin League in 340, which probably accompanied the transition of the highest sovereignty from Jupiter Latiaris to Jupiter Capitolinus. The Capitoline cult of Jupiter received a powerful boost after the sacred Alban Mount was (possibly together with Tusculum) added to the territory of the Roman *tribus Papiria* in 381 and the *feriae Latinae* in honour of Jupiter Latiaris occurred under Roman control. Thus, the second Capitoline triad was probably legitimated in the period from 381 to 367, when the city of Rome was reestablished after the Gallic Sack⁸⁰. According to Livy (VI 42, 14), the office of the curule aediles was established in 367. Because the origin of the term *aedilis* relates to the temple (*aedes*), the establishment of the aedileship was certainly connected with the dedication of the temple

⁷⁶ For the *praetor maximus* as the chief magistrate after the fall of the kings, see BUNSE 1998: 44–61.

⁷⁷ HUMM 2015: 349. Cf. MAGDELAIN 1969; RICHARD 1978: 455–472; BUNSE 1998: 48–57.

⁷⁸ Dion. Hal. *Ant.* VII 71; Cic. *Div.* I 55. Livy (I 35, 9) ascribes the establishment of the festival to Tarquinius Priscus on the occasion of his conquest of the Latin Apiolae.

⁷⁹ See WOODARD 2006: 6–26.

⁸⁰ ALFÖLDI 1965: 323–329. Cf. PENA 1981; ARATA 2010: 609.

of the main Roman divinity. This allows A. ALFÖLDI to identify M. Horatius, who dedicated the Capitoline temple, with a consular tribune of 378⁸¹.

THE ADMISSION OF THE PLEBEIANS TO THE CONSULSHIP

Fabius Pictor stated that one of the consuls was first elected from the plebeians in the twenty-second year (*duovicesimo anno*) after the Gauls had captured Rome (Gell. V 4, 3). Since the first Roman historian wrote in Greek (Dion. Hal. *Ant.* I 6, 1 f.), either the statement belonged to a translation of his history into Latin, or the Latin-writing author was one of his second-century descendants⁸². Although the law of 367 decreed that one of the consuls be elected from the plebeians, the patricians filled both positions in 355, 354, 353, 351, 349, 345 and 343⁸³. K. VON FRITZ therefore suggests that the law of 367 did not actually contain a provision that one consul each year must be plebeian⁸⁴. J. PINSENT assumes that the evidence in Livy went back to two different chronological versions of familiarising the plebeians with the consulship⁸⁵. According to him, Fabius Pictor dated this event to 366, while Cincius Alimentus followed an earlier consular list, in which the first plebeian consul was dated to 342⁸⁶.

Confusions in the Roman chronology of the fourth century have already been discussed in scholarship⁸⁷. Livy combines several historical versions based on various chronological schemes, and traces of this are visible in the multiplicity of Gallic raids on Latium, which Livy refers to under the years 390, 367–366, 361, 360, 358, 350–348, and 329. Polybius (II 18 f.) reports only two Gallic incursions in addition to the first one of 387. He does not propose an absolute chronology of them, but only mentions an interval of 30 years between the first Gallic Sack and the second incursion in 358 and 12 years between the second and the third incursion of 346. M. SORDI argues that Livy did provide a more penetrating narrative, alluding to alliances between Latins and Gauls coming from southern regions against the Romans⁸⁸. This suggests an intervention by the

⁸¹ ALFÖLDI 1965: 327–328. Following J. RICHARDSON's idea that ancient heroes were depicted by the Romans on the model of their later tribesmen, one can suggest that the figure of the dedicator of 509 inherited the features of his later prototype.

⁸² See VERBRUGGHE 2008: 444, n. 23. PINSENT (1975: 17) suggests Licinius Macer as a possible translator. Cf. CORNELL 2013: III, 47 f.

⁸³ Liv. VII 17, 12–18, 1; 18, 10; 19, 6; 22, 1–3; 24, 11–25, 2; 28, 10. Cf. HÖLKEKAMP 1987: 64–74; STEWART 1998: 151–155.

⁸⁴ RICHARD 1979; BILLOWS 1989; CORNELL 1995: 334–340; OAKLEY 1997: I, 652–654.

⁸⁵ PINSENT 1975: 13–14, 16, 62–69.

⁸⁶ PINSENT 1975: 12, 67.

⁸⁷ See SORDI 1965; PINSENT 1975: 10–19, 62–69; OAKLEY 1997: I, 104–106.

⁸⁸ SORDI 1960: 62–72, 154–165.

tyrants of Sicily, who wanted to halt the Roman advance down the Tyrrhenian coast and used Gauls as mercenaries. Polybius (or rather Fabius Pictor, his possible source) was influenced by the Gallic wars of the third century, when the threat came from the north and related to Roman interventions in Etruria. If the evidence in Polybius were reliable, some of the Gallic incursions in Livy could be duplications, which confused the chronology.

According to Livy, when a Gallic army invaded Latium and an enormous Greek fleet appeared off the coast in 348, the Romans appealed for help to the Latins but were refused (VII 25, 5 f.). Their refusal could only have happened if the threat was to Rome alone and not to the whole of Latium. Livy refers to the situation when the Gauls invaded Latium having been invited by the people of Tibur and Praeneste to attack Rome in 361 and 358⁸⁹. For 348, Livy refers to an unprecedented army of ten legions recruited by the Romans⁹⁰. However, they had only four legions at that period⁹¹. The army of ten legions could apparently combine the troops of the Latin League with the four Roman legions, but Livy stresses that Rome had to fight alone against the enemies that flooded Latium and the seashore, that is, the army consisted only of Romans. Therefore, it seems possible that Livy's source mistakenly understood the military forces of the ten tribes that formed the Roman community at that time as ten legions. The Roman army's appearance on the coast forced the Greek fleet to leave Latium. Livy suggests that the ships belonged to the Sicilian tyrants (VII 26, 15). No Greek source mentions sending an unusually large fleet to the shores of Latium in 348⁹². Instead, there is evidence of the naval expedition of the Syracusan tyrant Dionysius the Elder that resulted in the plundering of the Etruscan port of Pyrgi in 384⁹³. The huge haul of booty taken by the Greeks made a great impression in the western Mediterranean. The Roman army (unprecedentedly combining the forces of all ten tribes) may have been assembled to resist any possible attack by the same fleet on Latium, and Livy is probably incorrect in his chronology of the event, which related to the year 384 rather than 348.

In the same year, the assembly of the Latin communities in the grove of Ferentina (*lucus Ferentinae*) refused Rome's request to help in the war against the Gauls and the Volsci, expressing dissatisfaction with previous unreasonable demands made by the Romans (VII 25, 5 f.). Nevertheless, the Romans entered Volscan territory and captured Satricum in 346. This victory gave them access

⁸⁹ Liv. VII 9, 2–6; 11, 1–6; 12, 8–15, 8.

⁹⁰ Liv. VII 26, 15, cf. II 30, 7 about ten legions in 494.

⁹¹ Liv. VII 23, 3; VIII 8, 14; IX 30, 3. Two consuls led four legions in X 26, 14 f.

⁹² HOWARTH (2006: 154) connects the appearance of the Greek fleet off the coast of Latium with Syracuse's expansion. According to Diodorus (XVI 45, 9), Syracuse captured Rhegium from Carthage just before 348.

⁹³ Diod. XV 14, 3 f.; Strabo V 2, 8.

to the country of the Aurunci and Campania beyond. By claiming the fertile Campanian land, Rome embarked on the struggle against the Samnites. Both consuls of 343, M. Valerius Corvus and A. Cornelius Cossus celebrated triumphs due of their successes in Samnium, and the Romans began to discuss how to colonise Campania. The discussion resulted in a disaster, which Livy describes as a mutiny of the Roman army followed by a secession to the Alban Mount and the issuing of a series of laws in 342. In this situation, the Volsci attempted to recover the land lost to Rome, including Satricum, but were defeated. The Campanians, who were discontented with Roman claims to their land, entered into a treaty with the Latins, the Sidicines and some other nations against the Samnites and the Romans. Roman forces were insufficient to confront this coalition, and to avoid the collapse of their policy in Campania the Romans had to make concessions to the Latins. In 340, the Senate invited ten Latin elders (*decem principes Latinorum*) and two praetors to Rome for negotiations (VIII 3, 8 f.).

At a general meeting before these ambassadors were sent, one of the Latin leaders, Annius of Setia, had formulated the requirements of the Latins to Rome. He suggested that the Latins and the Romans should become a single nation and a single state; the power should reside in Rome, and all the Latin peoples should be called ‘Romans’, and one of the consuls with a part of the Senate should be elected from the Latins (VIII 4, 1–5, 6). In his speech, Annius mentions the refusal of the Latins to help the Romans in their war (VIII 4, 7). This means that the Roman invitation in 340 directly followed the Latin refusal of 348. The Roman Senate had rejected the claims of the Latins, but after a two-year war the victorious Romans had to satisfy their requirements and many communities were given Roman citizenship⁹⁴. The Latin claim for Roman consulship resembles the demand of the plebeians to admit them to the same magistracy in 376–367.

If Livy incorrectly attributed some events to the year 348 instead of 384, when the Greek fleet visited Latium, he could also have wrongly dated the war against the Gauls and the Volsci which forced Rome to seek help from the Latins (VII 25, 5 f.). Livy refers to the fact that the Romans demanded satisfaction from the Latins and Hernici after the Gallic Sack in 387 (VI 10, 6). They were asked why they had not for the previous few years furnished a contingent in accordance with the treaty. According to the chronology of Fabius Pictor, the Gallic Sack occurred in 384⁹⁵. Why would Livy or his annalistic source change the date of Rome’s conflict with the Latins? Keeping in mind the parallelism between Roman and Athenian early histories, one can suggest that in their dating of the Latin War, Roman annalists followed the analogy of the war of Philip II of Macedonia against the Greek alliance in 340–338. Both wars ended with the establishment of a new political reality, in Greece and in Latium, with the

⁹⁴ Liv. VIII 14; cf. OAKLEY 1998: II, 538–571.

⁹⁵ See SORDI 1960: 173–176; CORNELL 2013: III, 47 f.

hegemony of Macedonia and Rome respectively. At the same time, Livy's portrayal of the Latin War was influenced in many details by his knowledge of the Social War of 91–88. The real conflict of Rome with the Latin League may have taken place over a more extended period between 384 and 367. Thus, two chronological versions competed in Roman historiography: some events after 384 were moved to the period after 348 in order to separate the conflict with the Latins and the Struggle of the Orders. Livy's combination of these two versions gave birth to a number of duplications⁹⁶.

(1) The struggle for the admission of the plebeians to the consulship took place in 376–367 and 342/340–338, and the sharing of the consulship was allowed from 366, but became regular after 342.

(2) The plebeians were admitted to the censorship by the law of Publilius Philo in 339, while the first plebeian who achieved the censorship was C. Marcius Rutilus in 350⁹⁷.

(3) L. Furius Camillus (*cos.* 349) led the war against the Gauls who invaded the Alban area and the legendary M. Furius Camillus defeated the Gauls in the same region in 367⁹⁸. Both held the office of dictator, although the victory over the Gauls in 350 was ascribed to M. Popillius Laenas. Aristotle referred to the saviour of Rome at the time of the Gallic Sack as Lucius (Plut. *Cam.* 22), while Diodorus knew of M. Aemilius instead of L. Furius as a consul in 349.

(4) The victory of T. Manlius Torquatus in a duel with a Gaul in 367 (or 361) was duplicated in the similar combat of M. Valerius Corvus in 348⁹⁹. Livy borrowed Manlius' story from the account of Claudius Quadrigarius, while the heroic exploit of Valerius Corvus was obviously a product of Valerius Antias. According to Livy (VII 26, 11 f.), it was T. Manlius Torquatus who, as a dictator, proclaimed M. Valerius Corvus as a consul in 348. In both cases, the defeated Gauls departed to the south (VII 11, 1; 26, 9).

(5) Livy similarly describes the destruction and burning of Satricum by the Latins in 379 and the Romans in 346¹⁰⁰.

(6) T. Quinctius Cincinnatus was dictator in 380 and a certain T. Quinctius headed the rebellious soldiers as their *imperator* in 342. To explain these duplications, J. PINSENT suggests that the first historians, Fabius Pictor and Cincius Alimentus, followed two different chronological schemes. However, the combination of the dates could be a product of the post-Sullan annalistic writers¹⁰¹.

⁹⁶ PINSENT 1975: 10–12, 30 f., 66 f.

⁹⁷ Cf. Liv. VIII 12, 16 and VII 22, 7; 10.

⁹⁸ Cf. Liv. VII 24, 10 f. and VI 42, 5–8.

⁹⁹ Liv. VI 42, 5; VII 9, 8–11, 1 and 26, 1–10; Gell. IX 11, 5.

¹⁰⁰ Liv. VI 33, 4 f.; VII 27, 6–9.

¹⁰¹ PINSENT 1975: 10–12, 30 f., 66 f.

The growth of the Roman community after the addition of four new tribes beyond the Tiber strengthened the position of Rome in Latium. Livy (VI 5, 2) writes that Rome acquired the Pomptine region with its fertile land as its own possession after Camillus' victory over the Volsci in 388. The capture of this land became the reason for the conflict with the Latins and the Hernici, who had been faithful allies of Rome for a long time (Livy VI 2, 4). Their relationships were established by the *foedus Cassianum*, which unified the three nations after 493 and 486¹⁰². Livy writes that Sp. Cassius concluded a treaty with the Hernici in which two thirds of their territory had been taken from them, half being given to the Latins and half to the Roman plebs. In these circumstances the Hernici who inhabited the valley behind the Mons Algidus were hardly likely to have been faithful to Rome for a hundred years. It is much more likely that they had equal rights with the Latins in the League around the Mons Albanus. The treaty with the Latins was necessary to the Hernici because they were oppressed by the Aequi and the Volsci who inhabited the mountains around their part of the Sacco valley. According to the antiquarian L. Cincius, Rome acknowledged the primacy of the Latin League up to the consulship of P. Decius Mus (*cos.* 340)¹⁰³. The Latin people had a custom of gathering at the fountain of Ferentina (*caput Ferentinae*) at the foot of the Alban Mount to determine the command of the allied troops, and the Romans had their turn on an equal footing with the other communities. Rome, which consisted of a few tribes, was hardly an ordinary community among the members of the Latin League. The Latins, the Romans and the Hernici acted as equal subjects of the Cassian treaty.

In the second half of the fifth century, when Rome waged wars against Fidenae, the Aequi and the Volsci intensified their onslaught on the lands of the Latins and the Hernici around Algidus. The Roman advance to the Pomptine region had further upset the balance of power in Latium, and at the beginning of 386 a body of fugitives arrived in Rome from the Pomptine territory because the Volsci of Antium were in arms and the Latin communities had also sent their fighting men to assist them (Liv. VI 6, 4). Livy refers to Camillus' successful campaign against the Volsci, during which the Roman army did not destroy Antium only because Camillus was sent to the war against the Etruscans. The next year the joint army of the Volsci, the Latins, and the Hernici, also supported by the colonists of Circei and Velitrae, set off to attack Rome, so the Romans had to appoint A. Cornelius Cossus as a dictator, who managed to defeat the enemy (VI 13). From then on, Livy refers to permanent conflicts between Rome and the Latins, which perhaps were the background to the mass movement headed by M. Manlius Capitolinus in 385–384. M. Manlius was traditionally regarded as

¹⁰² Liv. II 33, 4; 41, 1; Dion. Hal. *Ant.* VIII 69, 2.

¹⁰³ Fest. p. 276 L s.v. *praetor*. For a discussion on Festus' text, see SÁNCHEZ 2014; DROGULA 2015: 29–31.

the defender of the plebeian debtors, although the original reason for his opposition to Camillus and the Senate may have been their politics, which upset traditional relations of Rome and the Latins. The Roman actions, intended to break up the Latin League, resulted in the falling away of Lavinium and Praeneste from the union with Rome in 383. A new war for the Pomptine field was waged by Rome against Praeneste, Velitrae, and Tusculum in alliance with the Volsci in 382. After the victory of Camillus in 381, the Romans granted citizenship to the population of Tusculum, which was situated near the sanctuary of Jupiter Latiaris on the Alban Mount (Monte Cavo)¹⁰⁴. Having been included in the *tribus Papiria*, Tusculum became part of the *ager Romanus*¹⁰⁵. The annexation of Tusculum gave the Romans control over the Latin shrines around the Alban Lake¹⁰⁶. This was where the *feriae Latinae* were celebrated as the obligatory rituals for consular investiture, which cannot, therefore, have been designed in the later standard way earlier than 381¹⁰⁷.

Thus, in the period from 386 to 367, the Roman community occupied a sizeable portion of Latium. In Livy, after a Praenestine army had appeared before the Colline Gate in 380, T. Quinctius Cincinnatus, having been nominated as dictator, forced Praeneste and eight allied towns to surrender. He carried the image of Jupiter Imperator from Praeneste in his triumphal procession up to the Capitol, setting it up in a recess between the shrines of Jupiter and Minerva (VI 28 f.). Tusculum, Praeneste and the eight towns can be identified with the ten Latin communities whose *principes*, according to Livy, were invited to Rome in 340, and which finally received Roman citizenship. The Temple of Concordia, traditionally associated with the agreement between the patricians and the plebeians in 367, may have originally symbolised an arrangement of the relationship with the new citizens, who supplemented the plebeian order¹⁰⁸. The investment of the Latins with Roman citizenship doubled the size of the Roman army, for which four legions were recruited in 350, 340 and 311¹⁰⁹. In other words, in 367 the Romans added two new legions to the two existing from 387 (or 457); however, there is no evidence for an addition of two new consuls. The Latin claim for the Roman consulship did not result in the establishment of one or more praetorian offices, as had happened in 387. After five years (in Livy) or one year (in Diodorus) of anarchy, the Latins who obtained Roman citizenship

¹⁰⁴ Liv. VII 26, 8; Dion. Hal. *Ant.* XIV 6, 3. For Tusculum as the first *municipium optimo iure*, see MARTÍNEZ-PINNA 2004: 95–200.

¹⁰⁵ Cf. Liv. VIII 37, 12; XXVI 9, 12; Cic. *Agr.* II 96; Fest. p. 262–264 L.

¹⁰⁶ For the incorporation of Tusculum into Roman society, see MARTÍNEZ-PINNA 2004: 147–170.

¹⁰⁷ For the *feriae Latinae*, see STEWART 1998: 35 f.; SIMÓN 2011; SMITH 2012.

¹⁰⁸ Plut. *Cam.* 42; Ov. *Fasti* I 641–644; cf. Liv. VI 42, 9–14. See HOWARTH 2006: 148–150; HUMM 2015: 356 f.

¹⁰⁹ Liv. VII 23, 3; VIII 8, 14; IX 30, 3; cf. HOWARTH 2006: 210.

as plebeians received the right to elect one of the two field praetors (consuls), a dual office which most likely existed from 387 (or 457). Possibly this was why the former praetors received the new title of consuls after 367. In other words, within the traditional chronology only from 366 did the plebeian consul become a magistrate of the entire estate of the plebeians regardless of origin, while from 387 (457) to 367 the holder of the office was a representative of the tribes from over the Tiber.

Diodorus Siculus preserved a fragment of the version according to which the decemviral board of 443 promised the people the election of two consuls equally from the patricians and plebeians (XII 25, 2). Plebeian consuls were indeed elected in 441 (T. Stertinius), 439 and 438 (M. Geganius). In 437, for the first time, the consuls were replaced by three military tribunes, after which the idea of the plebeian consulship was forgotten. According to Livy (IV 1, 1 f.), the tribune C. Canuleius made two proposals in 445 – to allow marriages between patricians and plebeians and to admit plebeians to the consulship. Although the two proposals were associated, the Romans accepted only one of them, and the consulship was replaced by the consular tribunate from 444. Following Licinius Macer (*pr.* 68), who used the *libri lintei*, Livy lists A. Sempronius Atratinus among the consular tribunes and his brother L. Sempronius Atratinus among the consuls of 444¹¹⁰. Although scholars see the Sempronii Atratinii as patricians, the *gens Sempronia* is known as plebeian. Dionysius of Halicarnassus refers to a speech by C. Claudius, an uncle of the decemvir, who argued against Canuleius' proposal in 445 that a consul should be elected from the plebeians (IX 56, 1–5; 60, 1 f.). Livy attributes a similar speech to Ap. Claudius Crassus, a grandson of the decemvir, under 367 (VI 40, 1–41, 7). Livy's main argument against the plebeian consulship is the hereditary tie between the patricians and the auspices; that is, the auspices would be at risk in the case of marriages between patricians and plebeians, which were allowed by the Canuleian law in 445. Livy explains both the establishment of the consular tribunate in 444 and the reappearance of the consulship from 366 as showing a concern for equality between the patricians and the plebeians (IV 6, 1–8 and VI 42, 9–12). The evidence allows us to suggest that the so-called 'consular tribunate' was inserted in the list of consuls for a chronological reason (see Conclusion) and this insertion separated the events under 445 from their former place in 367.

The version, according to which the early title 'praetor' was replaced by 'consul' in 449 (445) was probably upheld by the historians of plebeian origin

¹¹⁰ According to Livy (IV 7, 1–12), three tribunes were elected instead of consuls for 444, but because of improperly performed auspices they were replaced by a pair of consuls, L. Papirius Mugillanus and L. Sempronius Atratinus. He adds that the consuls' names for this year were found neither in the ancient annals nor in the official list of magistrates and only Licinius Macer disclosed them in the *libri lintei*. Cf. FRIER 1975: 79–97.

L. Cincius Alimentus (*pr.* 209) and Licinius Macer (*pr.* 68). The custom to elect consuls from both orders gave rise to the idea that the early praetors were only patricians and the title was changed after the higher magistracy was shared between the patricians and the plebeians. Therefore, the admission of the plebeians to the consulship was associated with the change of the title. G. URSO argues that this idea goes back to a book *de magistratibus*, written by an *interpres iuris* in the 50s or the 40s, perhaps Q. Aelius Tubero¹¹¹. The author of this association could also be Valerius Antias¹¹². Antias was engaged in the theme and probably responsible for the invention of the laws of P. Valerius Poplicola of 509 and the figure of L. Valerius Potitus as a consul in 449¹¹³.

THE ADMISSION OF THE PLEBEIANS TO THE CITY PRAETORSHIP

Patrician-plebeian pairs became regular in the *Fasti Consulares* after 342, when a Genucian law permitted the plebeians to hold the second consular office (Liv. VII 42, 2). J.-Cl. RICHARD emphasises that the law of 342 marked a significant date in the development of the consulship¹¹⁴. J. PINSENT interprets the Genucian law as a duplication of the Licinian law of 367 for the plebeian consulship¹¹⁵. E. FERENCZY sees in it a measure comparable to the Licinian-Sextian law that allowed the plebeians to restore the position forfeited by them in 355 to 343¹¹⁶. FERENCZY identifies the tribune L. Genucius, the author of the law of 342, with the consul of the same name who held the office in 365 and 362. PINSENT assumes that the consul L. Genucius was the first plebeian who held this office in an early version of the consular list, but that he was replaced with L. Sextius in Gracchan historiography.

Livy's reference to the Genucian law is preceded by an account of a rebellion in the Roman army¹¹⁷. Discontented with the strategy of the Roman Senate a part of the Campanian army moved "into the Alban lands and encamped at the foot of Alba Longa"¹¹⁸. Here the soldiers called T. Quinctius back from retirement at

¹¹¹ URSO 2005: 175, 188–193.

¹¹² For Valerius Antias, see RICH 2005.

¹¹³ Livy (III 55, 11) defines the Valerian-Horatian law as *lex Horatia*, which could be a remnant of the former version without the name of Valerius among the reformers.

¹¹⁴ RICHARD 1979: 70–75.

¹¹⁵ PINSENT 1975: 13–14, 16, 65, 69.

¹¹⁶ FERENCZY 1976: 50–53. Cf. FORSYTHE 2005: 273 f.

¹¹⁷ Liv. VII 38, 5–41, 8; Dion. Hal. *Ant.* XV 3, 1–15; App. *Samn.* I 1 f. For discussions of the mutiny of 342, see HÖLKEKAMP 1987: 102–109; POMA 1990: 139–157; OAKLEY 1998: II, 361–365, 383–388; FORSYTHE 2005: 272–275.

¹¹⁸ Liv. VII 39, 8. Livy defines the leaving of the position by the soldiers as *secessio* (VII 40, 2; 41, 2 f.).

his Tusculan farm to be the leader (*imperator*) of their revolt. The negotiations of Quinctius with the Roman government resulted in a set of provisions in favour of the soldiers (VII 41, 2–8). Livy's narrative of the mutiny is certainly inspired by Sulla's march from Nola to Rome in 88 and an event in 83 involving the armies of Sulla and the consul L. Cornelius Scipio¹¹⁹. The revolt was pacified by the dictator M. Valerius Corvus, a tribesman of Valerius Antias who was most likely responsible for the arrangement of the event¹²⁰. According to an alternative annalistic version in Livy, C. Marcus Rutilus and Q. Servilius Ahala (*cos.* 342) acted instead of the dictator Valerius (VII 42, 3–7). All the action took place in Rome and seems to have involved the civilian population. It was C. Manlius rather than T. Quinctius who was forced by the rebellious multitude to leave his house in the city and lead the secession. His name recalls M. Manlius Capitolinus (*cos.* 392), and the people's assembly to vote for the proposed laws was gathered in the Peteline Grove, the same place where M. Manlius was condemned by a vote of the people in 384 (Liv. VI 20, 11).

The secession resulted in the set of Genucian laws: (1) that it be illegal to charge interest on a loan; (2) that no one should hold the same office again within ten years; (3) that no one should hold two offices in the same year; (4) that it be permitted for both consuls to be plebeian (VII 42, 1–2). This curious combination of debt and electoral reforms has encouraged scholars to argue that politically ambitious plebeians from among the upper class used debt reform to attract the support of other plebeians, and their combined political strength was further employed to pass other measures important for the public careers of politically aspiring plebeians¹²¹. But a more cautious suggestion would be that it was Roman historians who, influenced by the debt problems of their own time, stereotypically used indebtedness to embellish every period of social crisis that was described. Three other provisions of L. Genucius closely resemble the rules that were introduced by the *lex Villia annalis* of 180 and legalised by the election of a plebeian pair of consuls in 172¹²². Livy's account conveys a common message of the rules for the magistrates that were associated with this year; the rules were known to him from later regulations¹²³. An anonymous author from whom Livy borrowed the statement “*utique liceret consules ambos plebeios creari*”, probably attempted to create a historical precedent for the second-century election of two plebeians as consular colleagues.

¹¹⁹ App. *BCiv.* I 85; Plut. *Sulla* 28, 2 f.

¹²⁰ FORSYTHE 2005: 273.

¹²¹ See HÖLKESKAMP 1987: 107; FORSYTHE 2005: 273.

¹²² Liv. VII 42, 1 f. and XLII 10, 7–9. Cf. PINSENT 1975: 64 f.

¹²³ Cf. DE MARTINO 1972: I, 328; for an opposing view, see FERENCZY 1976: 50 f.

The tale of T. Quinctius being forced to lead the rebellious army from his Tusculan farm is likely to have derived from (or perhaps was a source for) the narrative of L. Quinctius Cincinnatus being summoned from the plow to rescue a Roman army besieged by the Aequi near Tusculum in 458. The *gens Quinctia* was considered to be of Alban origin and this explains their link with Tusculum¹²⁴. The investment of Quinctius with an *imperium* recalls the legendary Latin dictators of Tusculum, whom Livy mentions under the year 499 and 460¹²⁵. Traditional tales of patriotic heroism were possibly fashioned from a historical war after Tusculum received Roman citizenship, in which the dictator T. Quinctius Cincinnatus defeated Praeneste and a coalition of nine towns opposed to Rome in 380 (Liv. VI 28, 3–29, 10). The situation in 342 appears to have involved the Tusculan dictator conducting negotiations with the Roman consuls, after which the claims of the Latins were satisfied by a military *lex sacrata* on the Alban Mount (VII 41, 4) to which was added a tribunician *lex Genucia* in Rome (VII 42, 2).

S. STAVELEY, and more recently R. STEWART, interpret the Genucian law, which Livy refers to as the admission of the plebeians to both consular positions, in the sense that the plebeians were admitted to two high offices from the three existing praetorships¹²⁶. Between 366 and 342, the shared consulship was not yet fully established, and all three high magistrates were titled praetors. All of them were elected at the same meeting of the centuriate assembly and the way in which they differed from one another was not the same as in the late Republic. One of the three praetorian offices had been available to the plebeians since 367, and, according to the Genucian law of 342, they were admitted to the second of the three. This was the office of consul in 367 and the city praetor in 342. Livy (VIII 15, 9) informs us that Q. Publilius Philo (*cos.* 339) became the first plebeian praetor (*urbanus*) in 337. The holding of the consular office before the praetorian one reveals the prestige of the early urban praetorship. The later historical tradition, written at a time when the consular and praetorian elections were two separate proceedings, apparently misconstrued the Genucian law as meaning that both consuls could be plebeian, something that was not realised until 170 years later. Since the Romans henceforth consistently elected one patrician and one plebeian to the consulship down to 172, the Genucian law must have specified unequivocally that one consular position had to be filled by a plebeian, and by allowing a second plebeian to be chosen at the consular-praetorian elections, the law permitted the praetorship to be filled by either a patrician or a plebeian.

If there were annual records between 366 and 342, it is possible that in them the Roman pontiffs did not always list the plebeian consul with his patrician

¹²⁴ For a hypothesis of the Tusculan origin of T. Quinctius, see PIGANIOL 1920.

¹²⁵ Liv. I 49, 9; II 15, 7; 18, 3; 19, 7; III 18, 1 f.; 19, 8; 29, 6.

¹²⁶ See STAVELEY 1954: 208–211; STEWART 1998: 95–136.

colleague, but instead indicated the names of both patrician officers (consul and praetor). After 342, when the plebeians were admitted to the office of the city praetor, the pontiffs had to show the equality of the eponyms, one patrician and one plebeian, in their records. If the elections in the centuriate assembly between 367 and 337 gave high magistracy to two patricians and one plebeian, after 337 they could be two plebeians and one patrician or two patricians and one plebeian.

The dissolution of the Latin League entirely changed the situation in public law in Latium. The sovereignty was moved from the Alban Mount to the Capitoline Hill, and the authority of Jupiter Latiaris was superseded by Jupiter Optimus Maximus. Most of the Latin communities were incorporated into the Roman tribes and the legislative role of the Ferentine Grove was replaced by the assemblies of Roman citizens. Nevertheless, the Roman consuls continued to celebrate their unity with Latin communities on the Alban Mount as a part of their annual ceremony of investiture. During the *feriae Latinae* the Roman citizens of all tribes swore to Jupiter to give their fidelity to new consuls, so that the festival on the Alban Mount legitimised the authority of the Roman consulship. This means that, unlike the city praetor, the consuls were closely tied to the population of all Latium and the significant increase in Roman citizenship on account of the incorporation of the Latin communities gave priority to the consulship rather than the praetorship. The admission of the plebeians to the office of urban praetor can be understood in the sense that they had been permitted to take part in governing the city of Rome. The unification of the consulship and praetorship in the *lex Genucia* seems to mean that it gave the consuls some power inside the City in addition to their former military leadership.

CONCLUSION

The above analysis of Livy's historical tradition shows that the early Roman army consisted of men not older than 45 years, whose military leader was elected (*praetor*) or appointed (*dictator*) for campaigning. After the last Veientine War, the Romans established a new legion to protect new tribes on the right side of the Tiber and, thus, the second office of elective praetor was added. The enlarged Roman army of two legions demonstrated its superiority in Latium by conquering the Pomptine valley and defeating the Latins and the Volsci. Ten Latin communities were attached to Rome (Roman historiography portrayed this fact as their voluntary claim for Roman citizenship on the model of the Italians' demand in the Social War of 91–88) and new Roman tribes were established on their territory. The doubling in size of the Roman community provoked the reform of 367, which shared two praetorian offices (consulship) between the former citizens and the newly received Roman citizenship, most of whom (if not all) were of plebeian status.

After a new ('Servian') city wall was built, the Roman army was added to with men between 45 and 60 years old, who were exempted from military campaigns

but could defend the city of Rome. In 367, these older men received their own praetor, whose office was called *praetor urbanus* and perhaps *praetor maximus*. At first, the city praetor was chosen from the patricians, but a new reform in 342 to 339 also admitted plebeians to the office. The reform was provoked by the dissolution of the Latin League and the transition of political and religious sovereignty in Latium to Rome. The former age discrepancy between the city praetor (*praetor seniorum*) and the consuls (*praetores iuniorum*) was abolished and the consulship became the supreme magistracy with powers (*potestas*) in the city of Rome in addition to the former military *imperium*. The majority of the population in Latium became Roman citizens of plebeian origin and the new plebeian nobility was admitted to the city praetorship. In exchange for that, they had to agree that one of two consuls would be elected from the patricians from now onward. Otherwise, if consuls were to be elected regardless of the patrician or plebeian origin of candidates, the patricians would inevitably lose the elections because of the plebeian multiplicity.

Roman historiography was born at the time when two consuls, from the patricians and the plebeians respectively, were annually elected. The Romans believed that consular pairs had been elected from the beginning of the Republic. We usually assume that it was Fabius Pictor who first dated the establishment of the Republic simultaneously with the democracy in Athens in 507 (503) and that it was he who stated that the plebeians were admitted to the consulship from 366/362 (the twenty-second year after the Gallic Sack of 387/384). In pre-Fabian oral tradition, however, the annual consulship was rather dated to the middle of the fifth century. The first plebeian *pontifex maximus* Ti. Coruncanus organised the Saecular Games in 249 (246) to celebrate an anniversary (*saeculum*) from a certain date, perhaps the dissolution of the Latin League and the beginning of the patrician-plebeian consular eponymies from 348 (344 or 342). Following the calculation by *saecula*, one can suggest that for the hundred years before this date, Rome only had patrician eponymies, that is, the consular list began from 448/447 or 444/443. A remnant of this version is the ‘first decemvirate’, which originally was the annual interregnum invested with extraordinary authority to elaborate a new law of consulship. Diodorus Siculus preserved a version according to which the first decemvirate was appointed in 444 (XII 23, 1). This version associated the establishment of the Republic with Pericles’ leadership in Athens and the foundation of Thurii in 444.

I suggest that the early (Coruncanian) list of consuls (two patricians from 444 and a patrician with a plebeian from 344) was preceded with colleges of three, four and six military tribunes, who led soldiers of separate tribes, while their joint army was headed by a praetor, an office which was neither annual nor collegial until 449 (444). According to this version, Junius Brutus and Tarquinius Collatinus were *tribunus celerum* and *rex sacrorum* rather than consuls of the first year of the Republic. The Veientine War of 483–474 increased the number

of Roman tribes and military tribunes to ten in 457 and created conditions for establishing the second legion and its praetor. In 449 (444), the second praetor was established, and the military leaders received the title of consuls.

Brutus became the first consul after the second-century historians equalled the beginning of the Republic with the establishment the consulship in 508/7. To represent the early consulship as annual, the annalistic writers moved a part of the consular list from its former place between 449 (444) and 367 to a new place between 509 and 450. The gap which appeared in the list of consuls between 444 and 367 was filled by the list of military tribunes, moved from their former place between 509 and 450. The former analogy between the Veientine War and the victorious battles of the Syracusan tyrants, Gelo at Himera in 480 and Hiero I at Cumae in 474, was replaced by the war of Dionysius the Elder against the Carthaginians in 406–396. Livy (II 34, 1–7) and Dionysius (VII 1 f.) narrate that, in searching for cereal crops used as food at the time of the first *secessio plebis*, the senate sent an embassy to Sicily. Their annalistic sources – Licinius Macer, Cn. Gellius and others – surprisingly referred to the ambassadors as having been sent to Dionysius, who was the tyrant of Syracuse in 396–367. Livy passed over the chronological problem, but Dionysius assumed that, in the original story, only an anonymous ‘tyrant’ was mentioned, and Roman historians mistakenly identified him as Dionysius instead of Gelo (491–478). In the light of the suggestions above, however, it seems possible to see the ‘mistake’ as a remnant of the earlier version, which mentioned the embassy to Dionysius, whose name was preserved, when the whole block of information was moved to the beginning of the fifth century. The rearrangement of the list of consuls was explained by Roman annalistic writers as the replacement of consuls by ‘consular tribunes’ from 444 as a result of the Struggle of the Orders. The list of consuls, with the temporary invention of the consular tribunes, was fastened in the *Annales Maximi*, published by P. Mucius Scaevola (*cos.* 133), the *pontifex maximus* from 130 to 115, and became the basis for subsequent chronological calculations.

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