

**Foundations of History:
The Emergence of Archival Records at Rome in the
Fourth Century BCE**

by

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*To my parents
for their endless love and support*

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Abstract

This dissertation examines the historical narratives of Rome in the fourth century BCE, as well as the lists of consuls and triumphs, in order to demonstrate that they are based on contemporaneously recorded documents, in the form of eponymous magistrate lists, pontifical records, and proceedings of the Senate. The historical material from this century has largely been viewed as fictitious, the creation of later historians through a combination of self-aggrandizing family narratives, anachronistic retrojection, and didacticism. This project does not argue that these were not operative factors in the creation of the existing records, but rather that there is a foundation of reliable records around which these later accretions were constructed. Thus, this dissertation rehabilitates certain details of the fourth century that likely stem from these records, such as elections and actions taken by the Senate.

The pivotal moment in the advent of these records is the social and political turmoil of the early fourth century BCE, which leads to a series of power sharing compromises between the patricians and the plebeians. To demonstrate this connection between state record keeping and socio-political transformation, archival notices from Livy's second pentad are identified and accumulated; these show an increased presence after the first compromise in 367 BCE and as the fourth century progresses. Alterations to governmental structures, a changing relationship between the Senate and chief magistrates, and a wider pool of participants in political and religious positions all provide motivations for the publication of these records, including efforts at legitimization and providing access to religious knowledge. To accompany this quantitative analysis, a study of the

social, economic, and political environment of the early fourth century demonstrates that such radical change in the Roman state was a predictable result.

The second part of the dissertation is a qualitative analysis of the historical material in order to demonstrate internal consistency, plausibility, and coherence, and thus the likely product of contemporaneously recorded documents. Seeming inconsistencies in the records, such as conflicting magistrate names, *provinciae*, and triumphs are analyzed and explained as the product of a Roman state in the early to middle Republic that is not bound to the same degree of legal rigidity as in later periods. Additionally, potential Senate records are considered; a coherent and consistent sphere of foreign policy emerges from these notices and mirrors the growth of the Roman state throughout this period.

Ultimately, this dissertation takes a cautiously optimistic approach to the historical narrative of the fourth century BCE, while accounting for the presence of interpolated material, especially campaign and battle narratives. Nevertheless, it is argued that domestic notices of governmental and religious functions become increasingly anchored to archival material and therefore constitute a reliable backbone of historical information for a period that was once disregarded by scholars as largely pre-historic. This project, therefore, provides increased access to a formative period in Rome's republican development, long considered unrecoverable.

Introduction

When does the historical record of Rome transition from an unreliable narrative full of retrojection, interpolation, creative reconstruction, and etiology—as characterized by Livy’s first books—into one based on solid source material? In other words, at what point in the progression of the tradition can we begin reading with confidence in the historicity of the transmitted information? This question, much discussed by scholars of Roman history since the height of *Quellenkritik* in 19th century Germany, necessarily pivots on a very small selection of late republican and imperial notices concerning the records kept by early *pontifices*. Trusting Cicero when he says, “To preserve public affairs and memory, the *pontifex maximus* used to, from the beginning of the Republic until P. Mucius held the office, committed every event of each year to letters, recorded them on a white tablet, and deposited it in his home,”¹ should we have confidence in the historical tradition’s ability to convey accurate information from so early a date? Or should we heed Cato’s assessment of these records as containing little more than “how often grain was expensive or how often darkness or something obscured the light of the sun or the moon,”² and therefore conclude that they were ultimately useless for an historian’s reconstructive efforts? Of course, there were other sources of information that could be consulted, such as the first treaty

¹ Cic. *De Or.* 2.52: *cuius rei memoriaeque publicae retinendae causa ab initio rerum Romanarum usque ad P. Mucium pontificem maximum res omnis singulorum annorum mandabat litteris pontifex maximus referebatque in albo et proponebat tabulam domi.*

See also Serv. *Dan. ad Aen.* 1.373 for an even stronger restatement of Cicero’s sentiment. The fourth century CE grammarian, however, assuredly had less knowledge of the ancient document than Cicero, and much less than Cato, below, who was alive during its publication.

² Gell. 2.28.6 = *Annales Maximi* T1: *quotiens annona cara, quotiens lunae aut solis lumine caligo aut quid obstiterit.*

between Rome and Carthage in 509 BCE mentioned by Polybius,³ an early inscription concerning the *praetor maximus*,⁴ or the XII Tables. The documents, however, could not provide the sufficient narrative stream required to compose a fulsome historical account.

Reading the first decade of Livy's massive work with an historical eye, one finds a new perspective on the ancient *sôritê̄s* paradox. Argued by Eubulides of Miletus in the 4th century BCE, this puzzle asks when a mound of sand, with grains removed individually, ceases to still be a "mound."⁵ It is a paradox founded on the uncertainties of gradual transition, realized by ancient philosophers, and played out in the scrolls of Livy: when does an unhistorical text, growing increasingly better informed as it moves through the centuries, covering events closer to the time of its composition and drawing upon steadily increasing source material, become "historical." The tradition of regal Rome and the early Republic is quite clearly a "mound," while the third decade of Livy, confirmed by Polybius and within the lifetime of Rome's first historian, obviously is not. On this transition, therefore, hinges a great deal of importance for the study of these intervening centuries.

This paradox, of course, highlights the vagueness of language in the face of the exactitude of mathematics. For it to be fully solved, we would need to determine the exact number of grains of sand that composes a "mound" and, in our situation, the necessary threshold of accuracy before a status of "historical" is achieved. This is an impossible question to answer definitively (hence the "paradox"), and each scholar's standard of proof will vary, but we can certainly identify and agree on the criteria: the availability and accuracy of primary sources. This approach throws the question back at the feet of Cato and Cicero: what was the content, quality, and integrity of official

³ Polyb. 3.22

⁴ Livy VII.3.5-8

⁵ For the association of Eubulides with this paradox, see Diog. Laert. II.108. For a discussion of this paradox in modern philosophical thought, see Ludwig and Ray (2002), 419-61.

Roman records from the early to middle Republic, and how much do they inform the narratives of ancient scholars, in this case Q. Fabius Pictor and subsequent historians of the second century BCE? When do enough of these records, theoretically without the license of epic invention, aristocratic distortion, and etiological habit, signal a transition from a “mound” to a reliable “history”?

The Tradition of the Fourth Century BCE

At the heart of the constitutional reforms of the fourth century is a compromise between the patrician families at Rome and the *plebs*, a poorly understood social class at Rome, whose defining characteristic, as far as we can tell, was that they were not patrician.⁶ As the historical tradition relates, they were originally denied access to the highest political and religious offices in the city and, therefore, disenfranchised from full participation in the state. By the fourth century, economic conditions had devolved to the point of rampant landlessness and debt-bondage, and wealthy plebeians were becoming increasingly discontent at their exclusion from high honors. Political shrewdness created a powerful alliance: the top level of the plebeian order united with the poor and landless in order to advocate for redress. Thus, tradition holds that the *tribuni plebis*, G. Licinus and L. Sextius, achieved a landmark compromise in a suite of new legislation: it addressed the debt problem by deducting payments made from the principal, capped landholdings at 500

⁶ Although the nature and identity of the *plebs* falls outside the purview of the current study, significant scholarly attention has graced the topic. Momigliano (1989), 96-112 has claimed that the *plebs* were not simply “not patrician” but more specifically a movement within non-patrician groups which advocates against their dominance. This is followed by Cornell (1995), 242-71. Another opinion is held by Mitchell (1986), 173-4 who argues that a dichotomy between these two groups is a historical fiction exaggerated by the religious and legal nature of the surviving sources. Patricians were a priestly group, and not inherently political.

iugera, instituted the consular college,⁷ mandated that one consul be elected from the *plebs*, and (in a related bill) added plebeians to what would then be the *decemviri sacris faciundis* who were tasked with consulting the sacred Sibylline Books. For the benefit of patricians, these laws instituted the new positions of the *praetor* and curule *aediles*, which were intended to remain within their sole purview. In this way, the first compromise of the century, known as the *leges Liciniae Sextae* of 367 BCE, established a new dynamic in the city where restrictions on magisterial access were loosened and the pool of governmental participants widened.

This trend continues throughout the fourth century, with incremental reprieve granted to the poor and a gradual loosening of the remaining magistracies and priesthoods obtained by the wealthy. These achievements were not linear, however, and they required later reassertion: namely, the *Leges Genuciae* of 342, or the second compromise of this century. Following this event, the *fasti* of the Roman republic were forever changed: a plebeian sat on the consular college every year thereafter. By 300, every major political and religious post was opened to the *plebs* and debt-bondage was outlawed. This “slow moving revolution” was a seeming success, although this by no means ended the conflict between these two social classes which would flare up occasionally over the next 200 years and become a defining narrative thread of the later Republic.

Due to the perceived untrustworthiness of the historical sources for this period, the significance of these constitutional reforms at Rome has long been obscured and is, therefore,

⁷ This consular system, of course, was thought to have been seamlessly instituted immediately after the expulsion of the kings in 509 BCE. The consular lists from this early century of collegial power, however, instill little confidence that this is an accurate reconstruction. Plebeian names appear very early in the lists, which would be incongruous with the descriptions of the debate surrounding the first compromise and the attestation of the first plebeian consul in 366. Few scholars put much credence in this narrative and even less in the specific names of early plebeian consuls. The picture is complicated by a multitude of governmental types, all oligarchic in nature, that are also recorded in the period between 509 and 367 BCE, including boards of 10 officials in the mid-fifth century and military tribunes, usually six in number, in most years from 450-408, and every year of recorded magistrates after this until the laws of 367 BCE. It is a likely possibility, although beyond the scope and purview of this study, that 367 marks the birth of the consulship and earlier attestations were inserted to give authority and legitimacy to this new power-sharing system.

underappreciated. The text of Livy is highly romanticized in parts and overly schematic in others. Moreover, there is a strong indication that the social dynamics and institutions of second and first century Rome have been retrojected backwards and mapped onto their fourth century counterparts, thus further obfuscating our ability to extract reliable information. Due to these problems, the dominant scholarly approach to this period has been tinged with skepticism and dismissal. This is an understandable position: Livy often juxtaposes episodes such as calm consular elections with those of stones raining from the sky⁸ or of birds alighting on helmets and aiding the Romans in battle.⁹ It is often not easy to accept the stories related in this narrative as much more than family legends told to glorify the *maiores*.

As this tradition presents such fundamental difficulties for the reader, it would be a ridiculous contention to advocate for the acceptance of any specific episode of the fourth century *in toto*. Rather, I will examine the general social, economic, and political trends in this century, set in the context of a demonstrably changing Roman world, in order to assess the impact of city's widening sphere of governmental participation. My ultimate contention is that Rome, as a gradually more inclusive state, experienced increased pressures to keep reliable public records for in a wide variety of governmental and religious functions. In other words, this emerging archival habit to publicize and memorialize its public actions stems from this new environment of inclusiveness in the Roman state.

I will demonstrate, therefore, that a reliable substratum of information gradually appears with increasing frequency and reliability throughout the fourth century, once the excess superstructure of Roman historical writing has been shaved away. Tim Cornell described this as the “hard core of authentic data” on which every ancient history is written, although concealed

⁸ Livy VII.28.7.

⁹ Livy VII.26.3-5, hence the cognomen “Corvus” of a prominent branch of the *gens Valeria*.

behind a “great deal of misunderstanding and unconscious distortion.”¹⁰ Over the course of the latter half of the fourth century, however, an increased prevalence and coherence of primary source documentation constrained the abilities of later historians to misunderstand and distort. It is precisely during this complex period of social and political change that Rome developed the sort of self-reflective archiving habit that allows for a reliable historical reconstruction. This is not to say that all, or even most, of the material contained in Books VII-IX of Livy’s work is to be trusted; rather, the “hard core” of material grows increasingly larger, denser, and begins to exert its shape on the superstructure above.

Governmental Inclusion and the Archival Habit

The mechanism that transforms governmental inclusion into archival tendencies is not a simple process, however, and likely resulted from many different motivations operating simultaneously. In the modern world, the concept of a free and open democracy is generally associated with a corresponding transparency of governmental behavior. In contrast, autocratic systems often try to limit access to information for their citizens in order to maintain more effective control, as there are no penalties for their dishonesty in the form of free and open elections, which might otherwise strip autocrats of their power. This creates a commonly accepted dichotomy: democracies are transparent, while autocracies are filtered at best and deceptive at worst. On a very basic level, modern political theory supports this belief, maintaining that electoral competition demands trustworthiness in those wielding power. As James Hollyer et al. state, “The most transparent regimes are those in which the key offices of the executive and the legislature are

¹⁰ Cornell (1995), 18. Cornell tends to be overly sympathetic to the tradition, however, and his work has been attacked for accepting even the most implausible notices (see Chapter 1).

filled through contested elections.”¹¹ Agonistic competition for governmental power, therefore, necessitates policies of honesty, as political opponents are always eager to leverage any apparent misrepresentation of reality. In this way, democracies provide natural mechanisms through which popular leaders are held to account.¹²

One should hesitate to transfer these theories of modern behavior to an ancient setting, but the power of popular opinion can arguably be applied to any context. In fourth century Rome, this shift towards increased record keeping was likely intended to generate an air of authority for the issuing body. With the influx of plebeians into governing roles, concerns probably circulated regarding legitimacy and efficacy. Publication of your accomplishments, the decisions and decrees of the body of which you were a member, or the propitious functioning of your priestly college would have been an important way of assuring the Roman people, and political rivals, that the operation of the state was in good order.¹³ Patricians, the hereditary possessors of these offices and priesthoods according to the tradition and endowed with religious legitimacy *a priori*, would not have needed to claim such legitimacy and, therefore, likely did not need such self-advertisement. It should be noted moreover, that even if the specifics of the patrician/plebeian divide are not accurately related but are in fact misunderstood by later historians, it would not necessarily affect this dynamic: any new and unproven assumption of power necessarily seeks to establish the legitimacy of its position. Record keeping, then, could have been part of a campaign to reify the laws of compromise passed in the middle of the fourth century BCE.

¹¹ Hollyer, Rosendorff, Vreeland (2011), 1204.

¹² Shapiro (2003), 200-1. This has been problematized in recent studies, however. Mani and Mukand (2007), 507, 523-4 observe that democracies are likely to be transparent in those venues where public perception is high, but disregard honesty when it will have minimal public backlash. Hollyer et al. (2011), 1204 argues that democratic system’s willingness to divulge the truth is inversely proportional to the political damage that that truth will reap. Thus, democracies are the most averse to revealing the most damning facts.

¹³ For the plebeians, the necessity of this legitimization campaign likely seemed even more pressing according to the tradition: L. Genucius, the first plebeian consul leading an army under his own auspices, was ignominiously defeated and killed. Livy states that the patricians took some joy in this outcome (Livy VII.6.10-1).

It is no stretch to think that such an increase in production of state records was intended to provide legitimating cover for a newly enfranchised group, but public records could have operated to moderate public opinion in a different way. Simon Hornblower writes about the Athenian democracy, “the proliferation of inscriptions had to do with accountability: the Athenians made their magistrates strictly and publicly accountable for their actions, especially in the financial sphere, hence the practical need for inscribed permanent records.”¹⁴ This argument is at least partially true for Rome as well, but as there was no official review process upon leaving a magistracy, this accountability occurred the next time he submitted his name at an election. During the period when *tribuni militum* were elected before the power-sharing agreement of 367, the chief magistrates at Rome came from a very closed group of *gentes*, cycling power amongst a handful of individuals. With the fourth century reorganization of office holding practices, however, positions of power were no longer guaranteed to certain families, and performance and merit became of higher value.¹⁵ This transition would have exacerbated the climate of aristocratic competition for high honors already present at Rome;¹⁶ having a public, unalterable record of achievements would have constituted another venue for advertising one’s accomplishments. Thus, record keeping in this instance could have grown as a self-aggrandizing byproduct of this competitive atmosphere.

There are two further possible motivations for Rome’s emergent archival practice in the fourth century, both dealing with the importance of the dissemination of information. In the case of priesthoods achieved, the plebeians were not just reaching an office, but they were accessing a

¹⁴ Hornblower (2011), 7.

¹⁵ This is not universally accepted, however. Some have postulated a rigid “party” system that structurally guaranteed office holding positions to its members. See discussion below.

¹⁶ For general aristocratic competition, Harris (1979), 17-26. For the argument that specific conditions of the fourth century exacerbated this competition, see Harris (1990), 505.

previously occluded pool of religious knowledge. No longer was this information the sole purview of a closed group, who enjoyed the privileges of divine knowledge, but it could be communally understood and disseminated. Propitiation rituals, augural rites, and the taking of auspices all played a large part in the conduct of political and military activities. The primacy of religion in the public and political realm is revealed by Polybius, who compliments the Romans' obsession with infusing every act of their lives with the divine.¹⁷ Thus, the plebeian exclusion from the state priesthoods, which left them without power to influence religious interpretation or implementation, must have been a frustrating feature of public life before the first compromise in the fourth century. Previously, the priesthoods tasked with divining and interpreting signs from the gods had been exclusively patrician. With the opening of the *decemviri sacris faciundis* to the *plebs*, they gained access to a new and important source of religious information which permeated every state action.¹⁸ Political power and religion strongly intersect in the interpretation and expiation of portents and prodigies, as these can vitiate an assembly, passing of a law, or appointment of a magistrate.¹⁹ Participating in this college and sharing in this divine knowledge must have been a watershed moment for the *plebs*, who previously had been at the whim of the interpretations of patrician priests for matters of state religion.

In the same way, magisterial and senatorial action could be made more comprehensible and less arbitrary to the public at large. Indeed, this desire to formalize the actions of government had already forced an early codification of laws in the fifth century, one of the few events in Rome's very early Republic that can be pinpointed with confidence. The XII Tables articulated,

¹⁷ Polyb. 6.56.7: *καὶ μοι δοκεῖ τὸ παρὰ τοῖς ἄλλοις ἀνθρώποις ὄνειδιζόμενον, τοῦτο συνέχειν τὰ Ρωμαίων πράγματα, λέγω δὲ τὴν δεισιδαιμονίαν: [8] ἐπὶ τοσοῦτον γὰρ ἐκτετραγόδηται καὶ παρεισῆκται τοῦτο τὸ μέρος παρ’ αὐτοῖς εἰς τε τοὺς κατ’ ιδίαν βίους καὶ τὰ κοινὰ τῆς πόλεως ὥστε μὴ καταλιπεῖν ὑπερβολήν.*

¹⁸ Rüpke (2006), 229.

¹⁹ Warrior (2015), 49-50.

among other things, the rights of citizens in the face of legal action, established procedures for grievance redress, and likely spun out of popular pressure to concretize the relationship between other social and economic groups. If the compromise of 367 was really driven by strong support from the lower strata of the *plebs*, they could have also advocated to continue this process of codification and transparency.²⁰ Through an alliance of rich plebeians, in a position to advocate at the highest levels, and lower class *plebs*, who could provide popular support in political conflicts, the publication of state documents might constitute a simple means of promoting the perception of security and unity during Rome's dangerous military engagements throughout the fourth century. Thus, the diffusion of information, both for religious and social reasons, might have prompted a regularization in the publication of state documents at Rome.

It is likely that several of these reasons, as well as others, are responsible for the demonstrable improvement in the archival underpinning of Livy's second pentad. It is acknowledged, however, that these hypotheses on the causal links between the dual processes of governmental inclusion and emerging archival habit are not unassailable. If the social dynamics between these groups or the nature of the fourth century compromises are fundamentally misrepresented in the sources, some of these postulations would necessarily fall apart. It is my contention, though, that firm data points are visible in the development of the fourth century, including increased militarism, expanded tribal organization, and colonial foundations that support the premises of these hypotheses even without strong corroboration with the literary record. This discussion of the contextual features of these compromises is discussed in Chapter 4.

²⁰ Crawford, ed (1996), 578-82.

Methodology and Chapter Overview

Even though this argument that connects governmental inclusivity and record keeping is essentially historiographic in nature, it nevertheless relies upon a particular conception of the social dynamics of the fourth century in order to characterize and contextualize the emergent archival habit at Rome. It will be useful, therefore, to situate this work within contemporary theories of social development of the fourth century, in order to both draw clear lines of division and better clarify my position.

The prosopographical work of Münzer still looms large in any discussion of Roman politics and society in the middle Republic. Although he presents a coherent and plausible reconstruction of party affiliations and their effects on political trajectory, he nevertheless leans too heavily on the material, often impugning motivations or alliances from nothing more than coincidental appearances of names. Political parties operate, in his view, with amazing rigidity and efficacy throughout the Republic, such that the *fasti* contain “a record of the victors.”²¹ What is absent from Münzer’s argument is any sort of human agency, chaos, or interpersonal dynamics that every political body experiences. In this way, Münzer appears to be detailing the specifics of a basketball tournament by looking at the final scores alone. Further, it relies upon a highly fixed, deployable, and therefore highly predictable, client system that can be mobilized at the patron’s whim. Thus, elections are simply predetermined by those groups who can congregate the most clients.

Differing in methodology but similar in his elite-centric results, Karl-Joachim Hölkenskamp attempts to complicate the picture of factional dominance elaborated by Münzer.²² He rejects the

²¹ Münzer (1920), 5.

²² Hölkenskamp (2011), 13.

notion of competing aristocratic factions and instead focuses on the process by which a single patricio-plebeian elite was created through the social and political turmoil of the fourth and third centuries. Hölkeskamp sees the Senate as instrumental in this cohesive process, which he considers to be patrician dominated,²³ and describes the cooptation of the *tribuni plebis* into this system, who lose their incentive to perform their originally intended function. Like Münzer, he also seems to take for granted the approval and complicity of the electorate. Finally, he devotes his energies to the internal political development of the city, without taking into account the massive and systemic external changes that afflicted the Roman state at this time.

Tim Cornell follows closely in the scholarly footsteps of Arnoldo Momigliano in positing an incredibly diverse social climate in the early Republic, of which the *plebs* was the lowest group and the patricians were the most privileged. The rivalry originated in the stark contrast between the fortunes of these groups and only progressed with incremental changes until the fourth century. The power base of the patricians, however, began to erode due to economic woes and military setbacks, while the plebeian numbers swelled with the disenfranchised wealthy and the indebted poor.²⁴ This came to a head at the beginning of the fourth century as particularly potent advocates of the group sought to tear down social distinctions. Thus, the reforms of 367 BCE marked a cessation of the discrimination of the *plebs*, the enrollment of every non-patrician into their body, and access to the high magisterial positions for those of the small intermediate class.²⁵ In this sense, the original *plebs* achieved only minor economic relief, but lost control of their own movement. After this, the *plebs* was a forgotten group with no powerful advocates and it would take the military successes of the fourth century to finally bring them economic relief.²⁶

²³ Hölkeskamp (2011), 16.

²⁴ Cornell (1983), 109-10.

²⁵ Cornell (1983), 118-9.

²⁶ Cornell (1983), 120.

Kurt Raaflaub, however, creates a more schematic approach which breaks this conflict up into discreet phases. The first phase characterizes the *plebs* as interested in defensive goals, such as protection and security, against the abuses of the higher order. They demanded relief from debt and landlessness and a codification of law.²⁷ As the members of the *plebs* became wealthier, Roman society entered the second phase, which lasts until the conquest of Veii. In the difficult wars of this period, they finally prove their worth on the battlefield. The resultant increase in status and prestige, which shifted this conflict into the third stage, caused this middle group to openly agitate against the patricians and challenge them for their privileges. Like Cornell, Raaflaub sees full relief coming to the lower orders of state, the fourth phase, from the economic rewards won by Rome's external wars.

Like many of the studies cited here, I accept the general portrayal of the *plebs* as a disenfranchised group, which was able to achieve some measure of compromise in the fourth century BCE. Unlike these scholars, however, I maintain a highly skeptical approach to the specifics presented in the literary sources about this and many events from this century. Instead, I distill the literary sources of Livy (mainly) and Diodorus Siculus, down to their basic archival notices, in order to demonstrate a gradual increase in the reliability of the archival system commencing around the passage of the first compromise, traditionally dated to 367 BCE.²⁸ The first chapter of this study explores Livy's source material from the fourth century, mainly through

²⁷ Raaflaub (1986), 206-7.

²⁸ A note about absolute dates: It is commonly understood that the dating for the early Republican period was adjusted in the late first century BCE. Evidence for this is the addition of the so-called "Dictator years" which appear in the *Fasti Consulares* and the *Fasti Triumphales*, but not in the texts of Livy or Diodorus. This will be discussed in more detail in Chapter 1. The presence of a five-year anarchy from 375-371 further complicates the chronology. Although Beloch (1926), 31 credibly suggests that the anarchy could be a government deemed invalid by later Romans and then removed, these and the dictator-years are usually removed by modern scholars when calculating the chronology of this period. The determination, therefore, of absolute dates is difficult to establish, thus the "first compromise" and the "second comprise" refer to the *Leges Liciniae Sextiae* (367) and *Leges Genuciae* (342), respectively.

an in-depth mining of annalistic notices in Books VI-X. The results highlight a distinct improvement in these notices after the beginning of this compromise (Book VII) and again at the end of the century (Book X). The most important aspect of this close reading is, of course, distinguishing those elements of Livy's narrative that can be considered "archival" from those that are likely the result of later narrative additions to the text. Chapter 1 explains in greater detail the criteria of this selection and presents the version of Livy's text distilled down to its archival core. This chapter also includes an analysis of the potential source(s) of Diodorus Siculus, concluding that he has at best a very distant relation to the sources used in Livy, and therefore represents a suitably corroborative text.

Chapters 2 turns to an examination of the qualitative value of the archival notices isolated in Chapter 1, in order to test the hypothesis that they stem from contemporaneous, fourth century sources. Key features under consideration are internal consistency, cohesion, and correspondence to other notices, such as those of legal developments. Chapter 2 focuses on the *fasti*, paying special attention to the list of eponymous magistrates, the dictator list, the triumph list, and the pontifical tables, and addresses the concerns of potential inconsistencies in each.

Chapter 3 attempts to demonstrate the integrity of the narrative in a different direction. The annalistic tradition has often been assailed for its retrojections of later caricatures and biases. The potential danger of this intrusion for the second pentad, which details the relationships between strong tribunician and patrician personalities, could be crippling to an argument of historical reliability. This discussion, however, will demonstrate that no such intrusion has corrupted the tradition that culminates in Livy's second pentad, but rather Livy engages in a predictable process of characterization in order to construct didactic moments. Further, he seems fundamentally uninterested in politicizing key developments from this century of sociopolitical

compromise. Thus, potential archival material is not suppressed under a corrupting pro-plebeian or pro-patrician bias.

Another evidentiary base used to demonstrate the link between socio-political change and emergent archival practices is the larger societal developments that occur concurrently with the internal socio-political events. These include the massive investment in military activity at the beginning of the fourth century and the enlargement and dispersal of the Roman electorate through the organization of the four tribal additions of the *ager Veientinus*. The consequences of these events, as analyzed in Chapter 4, are argued to be contributing factors to both the compromise of 367 BCE and the subsequent development of archival sources at Rome.

Chapter 5 addresses the records presumably kept by the Senate. If the trend of increased archival habit is really operative in the fourth century, the real diagnostic will be in the reconstruction of the Senate records, the appearance of which most scholars delay until the late third century at the earliest. A reconstruction of these records, as they apply to the realm of foreign policy decisions at Rome, presents a consistent and cohesive picture of senatorial action, and therefore provides strong evidence for the fourth century as a watershed moment in archival sources at Rome.

Chapter 1

Buried in Text: Archival Material in the Second Pentad of Livy

Origins of Roman Record Keeping: A Review of Literature

Modern scholarship is often in fundamental disagreement with the ancient opinion that early Romans maintained accurate records of major civic and religious events. The ancients had, confidence - unfortunately misplaced - that their history had been successfully chronicled from the beginning of the Republic in 509 BCE, and Cicero's *ab initio rerum Romanorum* is particularly clear on this point.²⁹ In addition to the ancient testimony for early city records, Dionysius of Halicarnassus states that he did not consult "the proof of the single and solitary tablet, residing with the chief priest" for information about the founding of the city.³⁰ Quintilian mentions the "annals of the Pontiffs" as a foundatiuonal text of historical documentation of the city.³¹ Cicero uses the "annals of the Pontifex Maximus" as the ultimate expression of bland, unadorned prose³² and cites the "public annals" for their inability to confirm the tutelage of young King Numa.³³ These are hardly the only references to such a source (or sources) from the beginning of the Roman

²⁹ Cic. *De Or.* 2.52 (quoted in the Introduction).

³⁰ Dion. Hal. *Ant. Rom.* 1.74.3: οὐ γὰρ ἡξίουν ως Πολύβιος ὁ Μεγαλοπολίτης τοσοῦτο μόνον εἰπεῖν, ὅτι κατὰ τὸ δεύτερον ἔτος τῆς ἑβδόμης ὀλυμπιάδος τὴν Τρώμην ἐκτίσθαι πείθομαι, οὐδέ ἐπὶ τοῦ παρὰ τοῖς ἀρχιερεῦσι κειμένου πίνακος ἐνὸς καὶ μόνου τὴν πίστιν ἀβασάνιστον καταλιπεῖν.

³¹ Quint. *Inst.* 10.2.7: *nihil in historiis supra pontificum annales haberemus*.

³² Cic. *Leg.* 1.6: *nam post annales pontificum maximorum, quibus nihil potest esse ieunius*.

³³ Cic. *Rep.* 2.28: *neque vero satis id annalium publicorum auctoritate declaratum videmus*.

Republic.³⁴ These ancient testimonies are also, unfortunately, poor evidence for the reliability of very early Roman records: none of these writers claim to have seen the documents first hand. Cicero and Dionysius specifically invoke the *annales* for their inability to inform historical inquiry.

This uncertainty concerning the quality of such records is compounded by the testimony about their actual contents: both Livy and Cicero challenge the information conveyed in these annals on the grounds of later fabrication and insertion. At the end of Book VIII, Livy makes a particularly damning claim:

“It is not easy to prefer one account or authority over another. I think that memory is corrupted by blandishing funeral speeches and by the inaccurate titles of portrait masks, as each family draws to itself by mendacious falsehoods the fame of achievements and office; from this the achievements of individuals and public memory is certainly confused.”³⁵

Cicero echoes these sentiments thusly: “The history of our state, however, is made falser by these laudations. For much has been written in them which did not occur: fake triumphs, exaggerated consulships, false genealogy, and even conversions to the *plebs*.³⁶ It is quite clear, therefore, that ancient scholars had very little confidence in the specifics of such early records, were they still accessible at all by the Late Republic. As a seeming final condemnation of these archives and their impact on Roman historical writing, modern scholarship has sufficiently demonstrated that they were never directly consulted by any extant writers.³⁷

To compound the problem further, the ancients were also convinced that nearly all state records were destroyed during the Gallic occupation and sack of the city in 390 BCE. Claudio

³⁴ See Diom. 1.484, Macr. 3.2.17, *Origo Gentis Romanae praef.*, Livy 6.1.1-2 & 27.8.8-9.

³⁵ Livy VIII.40.3-5: *Nec facile est aut rem rei aut auctorem auctori praeferre. Vitiata memoriā funebribus laudibus reor falsisque imaginum titulis, dum familiae ad se quaeque famam rerum gestarum honorumque fallenti mendacio trahunt. inde certe et singulorum gesta et publica monumenta rerum confuse.* For the implications of the use of *memoria* as a general historical term, see Dieter Timpe, “*Memoria* and Historiography in Rome,” in *Greek and Roman Historiography*, ed. John Marincola (Oxford: Oxford University Press, 2011), 150-74.

³⁶ Cic. Brut. 62: *quamquam his laudationibus historia rerum nostrarum est facta mendorior. multa enim scripta sunt in eis quae facta non sunt: falsi triumphi, plures consulatus, genera etiam falsa et ad plebem transitions.*

³⁷ See Rawson (1971), 158-69; and for the thesis that the *annales* ceased to exist altogether after the second century BCE, see Drews (1988), 289-99.

Quadrigarius, a historian of the early first century BCE and one of Livy's main sources for his second pentad, was said to have begun his histories after the Gallic sack due to the poor quality and unreliability of earlier records. All fragments from Book I of his work cover the period from 390 until about 311.³⁸ Further, Plutarch's *Numa* mentions a certain Clodius and his assertion that the ancient records were lost during this Gallic catastrophe.³⁹ Whether this Clodius is the same as the aforementioned historian is an open question, but their stance regarding the early material is nevertheless consistent. Finally, Livy sets the basic structure of his work around this cataclysmic event, as the first pentad closes with the Gallic sack, and he reintroduces the second pentad with a new preface praising the improvement in sources.⁴⁰ Thus, whatever records did exist for the sixth and fifth centuries at Rome, ancient commentators were sure they were retroactively constructed, while the originals were presumed lost in the fires of 390 BCE.

The 1819 discovery of a new palimpsest containing much of Cicero's *De re publica* has provided ammunition for both those scholars who espoused reliability in early record keeping and those more skeptical. Contained therein, Cicero discusses an eclipse, mentioned in both the poetic *Annales* of Ennius and the *Annales maximi*, that occurred about 350 years after the founding of the city. Cicero continues to write that this eclipse has formed the mathematical basis by which all previous eclipses were calculated, back to the reign of Romulus.⁴¹ This event has been identified as a solar eclipse on 21 June, 400 BCE, which was visible at Rome, and thus evidencing the existence of a version of the pontifical tables at this date. Unfortunately, this accurate memory of

³⁸ Briscoe (2013), 289n.

³⁹ Plut. *Num.* 1.2: ἀλλὰ Κλωδίος τις ἐν ἐλέγχῳ χρόνων (οὗτο γάρ πως ἐπιγέγραπται τὸ βιβλίον) ισχυρίζεται τὰς μὲν ἀρχαίας ἐκείνας ἀναγραφὰς ἐν τοῖς Κελτικοῖς πάθεσι τῆς πόλεως ἡφανίσθαι.

⁴⁰ Livy VI.1.1-2.

⁴¹ Cic. *Rep.* 1.16.25: *id* (the eclipse) autem postea ne nostrum quidem Ennium fugit; qui ut scribit, anno trecentesimo quinquagesimo fere post Romanam conditam “Nonis Iunis soli luna obstetit et nox.” Atque hac in re tanta inest ratio atque sollertia, ut ex hoc die, quem apud Ennium et in maximis annalibus consignatum videmus, superiores solis defectionis reputatae sint usque ad illam, quae Nonis Quintilibus fuit regnante Romulo.

the eclipse demonstrates only that events perceived to be of religious significance were recorded; this does not necessarily prove that events of historical value, which would indicate political and social developments, were recorded from the fourth century or before. Further, scholars have taken the implication that records needed to be calculated backwards (*reputatae sint*) to mean that the Gallic sack was in fact responsible for destroying any previously kept version of the pontifical tables in 390 BCE.⁴²

The early scholarly focus on the Gallic sack and its implications for later Roman historical writing needs to be set against recent archaeological discoveries, which definitively demonstrate that the notion that records predating 390 BCE had been lost was greatly exaggerated in antiquity and therefore mistakenly followed by modern scholars. Archaeological explorations in Rome suggest that early fourth century destruction, although visible, was not nearly of the magnitude that would have precipitated a pervasive loss of archival material. Thus, it is necessary to challenge this pessimistic impression perpetuated by both ancient and modern writers and look elsewhere for the development of state records in the fourth century.

Given the strong doubt placed on the records in antiquity, it is no surprise, therefore, that scholarship analyzing Roman historiography has maintained an overly cynical view of any early annals allegedly maintained by the chief priests at Rome. Theodor Mommsen, in the first generation of scholars looking skeptically at Livy and his sources, trusted the notices that pontiffs began keeping a calendar and list of consuls since the beginning of the Republic. Once again, he comprehends the poor reliability of the historical record for the fifth century as a result of the Gallic sack of 390, while assuming that lost names were reconstructed from surviving inscriptions. The chronicle arose, likely a generation or so later, in order to achieve a favorable reconstruction

⁴² For this argument, see Becker (1846), 7-8.

of the early periods of the Republic and was eventually collected and published in a *liber annalis* around the end of the fourth century.⁴³ This is an important argument, as it restricts the freedom which Fabius Pictor had for his composition and thus explains the uniformity of tradition that confronts the reader for these earlier periods. Mommsen, however, recognizes that the mechanisms by which earlier information was collected and reintegrated are beyond our ability to ascertain, but he nevertheless concedes that accurate records do indeed form the base of Rome's early republican narratives.⁴⁴

Although Mommsen's optimism on this point is not shared by many later historians, the notion of an archival collection and subsequent redaction of this material does find adherents in the following century. Wilhelm Soltau, for instance, argues that oral announcements were annually recorded at Rome beginning around 300 with the Ogulnian rogation, which opened many pontifical offices to the *plebs*.⁴⁵ Soltau also sees Livy's statement from the end of Book VIII that "no *scriptor* [of history] existed contemporaneously" with the Second Samnite War (326-304) to imply that no *records at all* existed from this period, an argument that requires too much of the word *scriptor* and ignores ancient testimony of earlier annals.⁴⁶ Records stemming from the reorganization of the pontificate, however, were kept in two categories: a priestly chronicle that related events of religious and calendrical significance as well as state records with more extensive notices of Senate proceedings and other actions taken by state officials. Soltau identifies both layers of archival material within the text of Livy and argues that they are clearly visible by Livy's

⁴³ Mommsen (1859), 137, 209-11.

⁴⁴ Mommsen (1854), 211.

⁴⁵ Cn. Fulvius: Livy IX.46.4-5: *fastosque circa forum in albo proposuit*; Ogulnian Rogation: Livy X.6.6: *Rogationem ergo promulgarunt ut, cum quattuor augures,, quinque pontifices ea tempestate essent placeretque augeri sacerdotum numerum, quattuor pontifices, quinque augures, de plebe omnes, adlegerentur.*

⁴⁶ Livy XIII.40.5: *Nec quisquam aequalis temporibus illis scriptor exstat, quo satis certo auctore stetur.* For Soltau's argument see Soltau (1909), 14. Rawson (1971), 167 also seems to take this passage to indicate a lack of all sources for this period.

third decade.⁴⁷ Material for the fourth century, which according to Soltau was not originally contained in the chronicle, was gradually collected and added in the following centuries.⁴⁸ Thus Soltau believes that the beginning of the third century constitutes the beginning of the “historical period.”

Karl Julius Beloch similarly concludes that strong evidence for record keeping only exists from the beginning of the third century. Citing numerous problematic entries and discrepancies in the lists of dictators, censors, and triumphs for the fifth and fourth centuries, Beloch argues that there could not have been any such records before the third century.⁴⁹ His assertions in this area rest largely on probability: for example, he finds it excessively unlikely that a Papirius would serve on four of the first six censorial commissions and that fourth century dictators could be appointed for such mundane tasks holding the *ludi Romani*. Beloch’s rejection of much of this material rests on questionable grounds and will be addressed in greater detail below, as it specifically relates to Books VII-IX of Livy. Further, Beloch attempts to minimize the implications of Cicero’s eclipse citation, arguing that either his scribe misquoted Ennius or a later commentator mistakenly emended the manuscript.⁵⁰ Thus, Beloch is able to correct the date of the celestial event to the middle of the third century, supporting his view that state records did not exist during the fourth. Following Soltau, he too concludes that the archival tradition began with the Ogulnian rogation of 300 BCE.

Scholars of the late twentieth century have been less willing to assign a specific date or development to the initiation of state record keeping at Rome, instead allowing the silence on this matter in the ancient sources to stand. They are able, however, to maintain the intense skepticism

⁴⁷ Soltau (1896), 267-9.

⁴⁸ Soltau (1914/15), 321-3; in this opinion, Soltau is following Kornemann (1911), 245-57.

⁴⁹ Beloch (1926), 63-95. See also Fritz Bandel, *Die römischen Diktaturen* (Breslau: Korn, 1910).

⁵⁰ Beloch (1926), 92-3.

of early German studies. Jürgen von Ungern-Sternberg sees very little of historical value in the first books of Livy's work and in the traditions of the early republic, saying they "cannot retain much value for our attempts at reconstructing early Roman history."⁵¹ He finds only the most basic facts about early Rome to be reliable: the city came into being at some point, grew in size, was ruled and freed from Etruscan kings, fought wars with their immediate neighbors, and underwent social upheavals.⁵² Other information from this period does not stem from state records, but rather from some combination of oral history, hazy memory, and limited documentary evidence. It is clear that Von Ungern-Sternberg intends this veil of uncertainty to extend well into what other scholars would consider an "historical period," citing the faulty causes of the Second Macedonian War, corrected by Polybius, and the poor quality of notices between the Second Punic and Third Macedonian Wars.⁵³ Further, he notes that the process of historical writing, as it existed in the last two centuries of the Republic, did not concern itself with authenticity or source criticism, but instead focused on taking published accounts and surpassing their author in literary fluency and didactic message. The goal of these early writers, therefore, is pseudo-historical precision for maximum moralistic impact.⁵⁴ Further, any semblance of annalistic structure in these works—evident in the organization of events by eponymous consuls and beginning yearly notices with elections, prodigies, etc.—are a way of *affecting* a foundation in authoritative source material, namely the *annales*, rather than reflecting any source's actual structure.⁵⁵ While Von Ungern-Sternberg is likely correct that later historians did not directly consult the primary sources themselves (see above, p. 17), he does not acknowledge that the authority of such *annales* would

⁵¹ Von Ungern-Sternberg (1986), 81.

⁵² Von Ungern-Sternberg (1986), 81-2.

⁵³ Von Ungern-Sternberg (2015), 170.

⁵⁴ Von Ungern-Sternberg (2005), 80-81; In this view, he follows Gelzer (1962), 95.

⁵⁵ Von Ungern-Sternberg (2015), 170.

have to be communally established and thus familiar to readers of the Late Republic in order for such a strategy of affectation to be both warranted and effective.⁵⁶

T.P. Wiseman, always a skeptic of early historical traditions, shares the sentiments of his predecessors. His early scholarship is particularly pessimistic on the subject: there was no connection between the calendar and any magistrate lists, no public document until Augustus, and all *fasti* are cynically interpolated by later antiquarians and senators.⁵⁷ He maintains that any early pontifical records were meant to educate people in divine matters and, therefore, contained ahistorical accounts of miracles, prodigies, and other events that elucidated the status of the *pax deorum*. If historical material was collected, in his view, it was not done intentionally or with any regularity.⁵⁸ In this way, Cato's sentiments about the uselessness of the archives find explanation.⁵⁹ Wiseman maintains that this record was known by a variety of names, but was ultimately replete with historical material only by later antiquarians and compilers.⁶⁰ He follows Gregory Bucher, who argues that the chronicle, whenever it was in use, was likely a challenging and unwieldy document to read, written by a variety of hands, and subject to vast gaps and reconstructions.⁶¹ Later in his career, Wiseman acknowledges that 367 BCE may indeed have been a watershed moment for magistrate lists at Rome, necessitated by the power sharing compromise; this preliminary assertion is followed and more fully realized in this study. He separates, however, the *annales* of the *pontifices* from this magistrate list, and he pins their origins to the Ogulnian rogation

⁵⁶ The existence of any *annales* into the Late Republic is called into serious question by Rawson (n. 46 above) and James Richardson (discussed below, p. 29).

⁵⁷ Wiseman (1979), 13-6.

⁵⁸ Wiseman (2002), 354.

⁵⁹ F80=Gell. NA 2.28.4-7: *non lubet scribere quod in tabula apud pontificem maximum est, quotiens annona cara, quotiens lunae aut soli caligo aut quid obstiterit.*

⁶⁰ Wiseman (2002), 358-61.

⁶¹ Wiseman (1996), 314; follows Bucher (1987) 38-40. Bucher does not try to make an argument concerning the initial date of the chronicle or what its original contents were. He is mainly arguing for reading Cic. *De. Or.* 2.52 *in albo* and *tabulam* as referring to two different recording actions, one on a white board (*album*) and one on a bronze tablet (*tabula*).

of 300 BCE.⁶² Thus, although he significantly softens his position over the course of his career, Wiseman presents a generally distrustful picture of these records and their assistance in the creation of reliable history for the Middle Republic.

Jorg Rüpke, in his intense studies of the history of the priestly colleges, has also made significant contributions to the study of early record keeping at Rome. Rüpke has a high standard for historical accuracy in verifying the presence of archival sources and, therefore, down-dates the introduction of priestly records to the first plebeian *pontifex maximus*, Ti. Coruncanius, in 249 BCE.⁶³ The arguments that he uses to support this conclusion, however, are problematic. He quickly dismisses the majority of religious notices for the fourth century as spurious, citing uncertain attribution, coincidentally famous individuals, and a lack of any significant attempt at chronological association between names and events. These indicate, in his view, serious interpolation by later scholars. Because Livy did not treat the *devotio* of P. Decius Mus as the death of a pontiff but rather that of a consul, Rüpke maintains that such religious records were not in existence for 295 BCE and, therefore, not instituted as part of the Ogulnian rogation.⁶⁴ Although he does have greater confidence in the list of augurs, Rüpke nevertheless argues in the familiar vein that little in Rome was committed to writing before the third century BCE.⁶⁵

Gary Forsythe sees the origins of the pontifical chronicle in oral announcements to the *populus* concerning the days of the month, likely before any such calendrical publication by Cn. Fulvius in 304 BCE. The people would have to gather to hear such announcements—scheduled according to the phases of the moon which were observed by pontifical aides—in order to know what days were open (*dies fasti*) or closed (*dies nefasti*) for business and legal action. When these

⁶² Wiseman (2007), 70-1.

⁶³ Jorg Rüpke, *Fasti Sacerdotum* (Oxford: Oxford University Press, 2008), 31-3.

⁶⁴ Rüpke (2008), 26-9. Rüpke (1995), 196-202.

⁶⁵ Rüpke (2008), 30.

records were finally chronicled (Forsythe is averse to ascribing a fixed point for this), they were likely intended as a religious journal to track days of fortune (or its opposite), temple dedications, eclipses, strange occurrences, and expiatory procedures.⁶⁶ The religious material was eventually linked to civic developments and provided enough of a skeleton for later historians to compose their histories.⁶⁷ According to Forsythe, the dearth of references to these state records in later authors is likely the result of their quick and complete absorption into the historical tradition, making later consultation after the first generation of historians superfluous.⁶⁸

Bruce Frier has proposed some unique solutions to the problems of the pontifical records and the elusive meanings behind later citations. Working from a close reading of the sources, Frier concludes that the pontifical colleges were untouched by the civic reforms of the fifth century, the Twelve Tables, and the Valerio-Horatian Laws, which together served to weaken the powers of yearly magistrates and, therefore, emerged with augmented and variegated roles in Roman society. While the pontiffs were previously concerned only with temple dedication, their new position granted them authority over a range of activities, including orchestrating the plebeian elections in 449 BCE, vowing the *ludi magni* in 431, overseeing the trial of a Vestal Virgin in 420, resolving a dedicatory dispute in Veii in 395, and leading a senatorial *devotio* during the Gallic sack.⁶⁹ The same “principle of publicity” which produced the Twelve Tables and, indirectly, emboldened the pontiffs, also led to the publication of a pontifical chronicle of noteworthy state business. The priests, realizing the power that religious knowledge afforded them, began to jealously guard such material as early as 389,⁷⁰ a development which would explain the lack of sources observed by the

⁶⁶ Forsythe (1994), 61-6.

⁶⁷ Forsythe (2005), 71.

⁶⁸ Forsythe (1994), 55; while the Romans assuredly lacked the impulse of *quellenkritik*, this was compensated for by 19th century German scholars.

⁶⁹ Frier (1979), 132-5.

⁷⁰ Frier (1979), 135, citing Livy VI.1.11-12.

ancients after the “Gallic sack.” These records were maintained as a source of precedents, transferred to permanent record, titled the *Libri Annales Pontificum Maximorum*, and kept until the second century BCE. Frier is understandably unwilling to comment on the diligence with which the record was kept and protected during the intervening centuries. He fully admits, however, that this is a best-fit reconstruction of the scenario described by the ancient sources, which were assuming the direction of influence flowed from the *annales* into the annalistic tradition. This argument is vulnerable, as Frier admits, if the flow of influence was actually the opposite, and later historical narratives were used to reconstruct previously-non-existent annalistic notices.⁷¹ He vehemently rejects, however, any collection and republication of the material before the principate, such as the *liber annalis* proposed by Mommsen. Thus, Frier presents an optimistic view of this tradition, although with potentially severe caveats.

Continuing in the vein of cautious positivism, S. P. Oakley makes a case for accurate mid-republican records, couched in a tradition of literary embellishment that started long before Livy. He sees the names, dates, and events described in Livy’s second pentad as unlikely to be derived from oral history, but he remains unwilling to identify the period in which such a record was initiated.⁷² Responding to criticism that such information is likely later interpolation (see discussion of Wiseman, Von Ungern-Sternberg, and Beloch, above), Oakley acknowledges no consistent pattern of falsification and observes that the nature of aristocratic competition in Roman politics would have precluded such personal aggrandizement on a meaningful scale.⁷³ Further, he notes the remarkable unanimity of consular lists after 366 BCE (although admits less confidence with other lists) as well as the increase in archival material throughout the second pentad. Finally,

⁷¹ Frier (1979), 175-8.

⁷² Oakley, vol. 1. (1997-2005), 24-5.

⁷³ Oakley, vol. 1 (1997-2005), 26-32.

although Books VI-X likely rely on a good deal of archival material, such sources are by nature insufficient to supply the sort of detail contained in his political and military narratives. Thus, some invention must have been incorporated.⁷⁴ Oakley refines his views later in his career and sees a marked increase in the quality of annalistic notices beginning in Book X or around 300 BCE.⁷⁵ While this does not preclude the presence of legitimate sources in earlier periods, it nonetheless reaffirms the views held by Beloch, Soltau, and others.

The most outspoken proponent of the early Roman historical tradition, Tim Cornell, presents expectedly positive views of early state records. He says definitively, based on the accurate mention of the solar eclipse in 400 BCE, that pontifical records go back at least to the fifth century, but concedes that these records were likely very sparse. In Cornell's opinion, the archival material underpinning the historical tradition gradually improves throughout Livy's first decade, such that notices by 350 BCE could be considered complete and accurate. This does not relegate the prior period to the mists of the unknown; Cornell still maintains that an accurate skeletal framework, built on magistrate lists and important annual events, supports later literary and rhetorical accretions.⁷⁶ He also argues that other bodies, such as priestly colleges and other corporations, such as the *curiae*, might have kept their own records, which were used to fill out the narratives of later historians.⁷⁷ In a earlier publication, Cornell states his support of for the historical tradition at Rome, stating that much of the legend, although highly contrived and unrealistic, is nevertheless based on fact.⁷⁸ This position is difficult to accept *in toto*, as many stories of the first centuries of the city are obviously forced into Hellenic models of foundation

⁷⁴ Oakley, vol. 1 (1997-2005), 72.

⁷⁵ Oakley, vol. 4 (1997-2005), 479-80.

⁷⁶ Cornell (1995), 13-15.

⁷⁷ Cornell (1995), 15.

⁷⁸ Cornell (1986b), 57, 75-6.

myth and tyrannical behavior. Nevertheless, Cornell points to the general uniformity of historical tradition for the early years and, therefore, believes that later historians were constrained in the types and amount of fabrication that was acceptable in their genre. Where Forsythe argues for very early incorporation of state records, thereby establishing singular later traditions, Cornell sees an authoritative archival record that constrained later exaggeration, invention, and interpolation.⁷⁹ While Cornell's approach is highly enticing for reconstructive efforts of Rome's early history, it places excessive faith in the literary sources in the face of their centuries-long removal from events they describe. He necessarily places the burden of proof on *discounting* the literary tradition, while others have placed the burden on *proving* it.⁸⁰

There are numerous other scholars who have contributed to this field, but whose arguments serve only to shade the meanings of those already presented. Otto Seeck envisioned events of historic importance attached directly to the published calendar.⁸¹ This would imply that Seeck also ascribes to 304 BCE as a likely beginning of serious annalistic endeavors. John Rich argues that yearly narratives in the first decade of Livy display a remarkable irregularity—citing this as evidence against state records for this period—but that this improves by Book X. He continues to suggest that no records of the Roman Senate exist before 300 BCE (and therefore sees this date also as a watershed moment).⁸² Dieter Timpe sees an intimate connection between magistrate lists and the calendar, linking the two through their common name, *fasti*. Events were recorded as they impacted sacred law, and thus events of historical significance were only kept incidentally.⁸³ Private information, outside of the religious sphere, had to be inserted later, and by the time these

⁷⁹ Cornell (2005), 48-50.

⁸⁰ See Wiseman (1996) for a scathing review of this methodology, which includes the phrase “*The Beginnings of Rome* is a great work of creative reconstruction.”

⁸¹ Seeck (1885), 61-4.

⁸² Rich (2009), 128-30.

⁸³ Timpe (2011), 158.

records were collected and published, personal insertions and legitimate historical events were indistinguishable.⁸⁴ James Richardson, arguing against accurate records based on narratives of Vestal Virgin trials, contends that inconsistent notices, especially during periods of political turmoil, are indications of fabrication. This is a bit perplexing, as it seems to indicate that unchaste behavior on the part of Vestal Virgins *should* occur on a regular basis.⁸⁵ His final conclusions, however, that later historians did not make direct use of archival material, has been thoroughly confirmed by many historiographical studies.

Not only is the inception date of this archival material in question, but the content of the early records is consistently under discussion in modern scholarship as well. Andrea Mehl proposes that early *annales* must have been focused, if not exclusively, on prodigies and successful methods of expiation,⁸⁶ echoing Wiseman above. Jyri Vaahtera argues for a more restricted purview of the *annales maximi*, arguing that the chief pontiffs would only have kept records about their own actions. Therefore, later historians must have used a variety of sources for their reconstructions.⁸⁷ Hans Beck also believes these records were limited in scope, stating that early records maintained by pontiffs would only contain state actions as it pertained to divine will and displeasure.⁸⁸ Following Von Ungern-Sternbeg, Beck also observes that annalistic structure in historical narratives does not necessarily equate to the authors' use of annalist sources.⁸⁹

To summarize: despite a few scholars who argue for archival substructures beneath the early republican narrative, most modern positions place the advent of state records at the end of the fourth century with the publication of the calendar (304 BCE), the Ogulnian rogation (300

⁸⁴ Timpe (2011), 164.

⁸⁵ Richardson (2011), 104. The argument concerning irregular notices is specifically used by Oakley, vol. 1 (1997-2005), 43 as evidence *against* later insertion.

⁸⁶ Mehl (2011), 38.

⁸⁷ Vaahtera (2002), 100-7.

⁸⁸ Beck (2007), 262.

⁸⁹ Beck (2007), 265.

BCE), or later in the pontificate of Ti. Coruncanius (249 BCE). Earlier information, and much from the Late Republic, is likely to have been inserted by ambitious family members or overeager historians. The content of any earlier records, if they even existed, was largely focused on priestly affairs, with some scholars even arguing that only signals of divine will and subsequent priestly action were preserved. Magistrate lists were either kept separately or affixed directly to the priestly records, either in *annales* format or onto the calendar itself. Secular events may or may not have been associated with the record from early periods, and records of other priestly colleges or corporate bodies might also have supplemented this material. Frier has sufficiently disproven any republican collection and publication of these early documents, leaving the first generation of historians, Q. Fabius Pictor and L. Cincius Alimentus, the task of accessing this material directly and integrating it into their narratives. Later historians are constantly shown to have neglected consulting such records directly, if they continued to exist at all, suggesting their early and complete absorption into the tradition.

Archival Material in the Second Pentad of Livy: The Data

Following the above review of scholarship surrounding early state records at Rome, it is therefore appropriate to ask if an excessive amount of pessimism has been attached to fourth century records. The appearance of Book VII does not differ dramatically from Book X; why must the year 300 BCE mark a watershed moment, when an arguably larger constitutional development occurs just over half a century earlier? The *Leges Liciniae Sextiae* of 367, by enlarging the pool of potential participants in the governmental system, must have influenced internal, bureaucratic structures and thus provided varied motivations for publication. Thus, by reclaiming the middle

decades of the fourth century under an assumption of historical reliability—one of the central aims of this study—Livy’s text permits an even earlier window onto the pivotal political and social events which occurred during this century.

If the compromise of 367 led to a diffusion of governmental participation and, in the process, to an increase in archival record keeping, we should be able to see this trend in the surviving data, even as exiguous as it stands. It is therefore necessary to gather these potential annalistic notices available in Livy in order to observe any changes in the practice of their creation or preservation. As Livy represents just one potential endpoint of the various annalistic traditions derived from these original state records, it would also be illustrative to check notices in works supplemental to Livy. Thus, the related, but not identical, texts of Diodorus Siculus, the *Fasti Consulares* (FC),⁹⁰ the *Fasti Triumphales* (FT)⁹¹ can be included in this calculation. Below is an extended table with a summary of the annalistic notices for the years contained in Books VI-X of Livy (Tab. 1), which shows a steady increase in frequency as the fourth century progresses (Tab. 2).

The focus of information outlined in Table 1 is on action or events that happened at Rome which would have resulted in the production of an official record, either because it necessitated state action or enforcement. The tabulation, therefore, includes the result of votes, passing of laws, treaties, building (religious and secular) projects, court trials, suspension of business (*iustitium*), and *senatus consulta* and other senatorial action or advisement. To avoid artificially inflating the numbers of such data, complex but connected action has been condensed to single notices. Thus, the arrival of Campanian envoys in 343 BCE and the Senate’s acceptance of their *deditio in fidem*

⁹⁰ Degrassi (1954), 42-51.

⁹¹ Degrassi (1954), 94-97.

have been telescoped into a single notice for the purposes of this table.⁹² Similarly, two successive elections (because the first was invalidated for religious reasons) or two triumphs over the same enemy in the same year (and therefore from the same campaign) are considered as a single event. Conversely, those events which occur in sequence but require distinct action that presumably left distinct records, such as the acceptance of the Campanian *deditio* and the immediate dispatch of Roman envoys and then fetial priests to Samnium,⁹³ have been separated into two events.

For the purposes of isolating potential changes in domestic record keeping, the assembled list has also omitted a great deal of Livy's narrative. For example, most information that was generated and conducted outside of Rome is excluded. The material excluded from Table 1 includes battle narratives, the conduct of magistrates abroad, the internal conduct of foreign states, and (perhaps controversially) the *provinciae* of military tribunes with consular power, consuls, dictators, and pro-magistrates. These types of information were most susceptible to later interpolation and ancestral aggrandizement; indeed, the majority of disagreement that Livy reports among his sources for these decades concerns the *provinciae* of dictators and consuls (see next chapter).⁹⁴ Actions that took place at Rome had a (presumably) much larger pool of witnesses and would (presumably) be more resistant to fabrication, at least in the immediate aftermath. Therefore, the elections of consuls and the appointments of dictators are noted as archival, but their actions when away from the city are not. Those activities, however, that are either directed from Rome, by senatorial decree or otherwise, or that require action taken at Rome, such as the death of a consul on campaign, are included.

⁹² Livy VII.30.1-31.2.

⁹³ Livy VII.30.1-32.1.

⁹⁴ Livy VII.42.3-7; VIII.40.1-5; IX.15.9-11.

The names of most magistrates are not included in this table, as they are generally uniform across Livy and the *Fasti*, especially after 367 BCE. The similarities between the content of these two sources, and the fact that they were composed nearly contemporaneously, suggests that they relate the same tradition. It will therefore only be noted in the table below when the *Fasti* provide information either missing or divergent from the account of Livy. Diodorus Siculus, on the other hand, seems to be working from a more remote tradition, and the irregularities that he introduces (marked with an asterisk in Table 1) are discussed below the table. Slight discrepancies in terms of magisterial names, such as a different *praenomen* (more common) or *cognomen* (less common but still regularly present), do not invalidate the notices of their election or actions. Events of a definitively etiological nature and those which occurred outside of Rome, such as the single combat which granted T. Manlius Torquatus⁹⁵ and M. Valerius Corvus⁹⁶ their *cognomina*, are easily omitted. Etiological events which occurred at Rome, however, are more difficult to assess. While it is easy to remove them from consideration as later literary insertions, an argument for increasing archival data in the period would suggest that they may in fact be based on historical events. However, in an effort to be conservative, unless clear state action is taken, these events have also been omitted. Thus, the unsuccessful trial of M. Manlius Imperiosus,⁹⁷ used to characterize the austere Manlii, and the opening and closing of the Lacus Curtius in the Forum⁹⁸ are not included. The execution of M. Manlius Capitolinus,⁹⁹ however, and the recall of Rome's flute players from Tibur,¹⁰⁰ are included as they allegedly involve positive governmental action.

⁹⁵ Livy VII.10.

⁹⁶ Livy VII. 26.1-9.

⁹⁷ Livy VII. 4.1-5.7.

⁹⁸ Livy VII. 6.1-6.

⁹⁹ Livy VI.20.

¹⁰⁰ Livy IX. 30.5-10.

Thankfully, scenes of this nature are not very common at Rome in this century and would not significantly affect the impression of the data with or without their inclusion.

Table 1: Annalistic Notices in Livy's Second Pentad

Year	Number of Annalistic Notices	Description
BOOK VI		
389	6	tribunician prosecution of Q. Fabius (1.6); <i>interregnum</i> (1.8); elections for military tribunes (1.8, Diod. Sic. 15.22.1); Dictator with <i>magister equitum</i> (2.6); triumph over Volscians, Aequi, and Etruscans (4.1); Veientes, Capenates, and Falisci given citizenship (4.4)
388	2	elections for military tribunes (4.7, Diod. Sic. 15.23.1); foundations of Capitol laid (4.12)
387*	4	<i>interregnum</i> (5.6); elections for military tribunes (5.7, Diod. Sic. 15.24.1); Temple of Mars dedicated (5.8); Stellatine, Tromentine, Sabatine, Arniensis tribes added (5.8)
386	2	elections for military tribunes (6.3, Diod. Sic. 15.25.1), <i>iustitium</i> (7.1)
385*	6	elections for military tribunes (11.1, Diod. Sic. 15.28.1); Dictator with <i>ME</i> (11.10); triumph over Volscians (16.5); colonists sent to Satricum (16.6, Diod. Sic. 15.27.4 calls it "Sardinia"); M. Manlius freed <i>ex senatus consulto</i> (17.6); Latin and Hernician envoys expelled by <i>denuntiatum senatus</i> (17.8)
384*	4	elections for military tribunes (18.1, Diod. Sic. 15.36.1); conviction of M. Manlius (20.11-12, Diod. Sic. 15.35.3), plague (20.15-16), grain shortage (21.1)
383	4	elections for military tribunes (21.1, Diod. Sic. 15.38.1); <i>patres... decreverunt</i> a vote on war with Volscians (21.3); commission to divide Pomptine land (21.4); colony at Nepete (21.4)
382	2	elections for military tribunes (22.1, Diod. Sic. 15.41.1); war with Praeneste <i>ex senatus consulto populique iussu</i> (22.4)
381	3	elections for military tribunes (22.5, Diod. Sic. 15.48.1); Tusculan prisoners sent to Senate (25.5); peace treaty with and citizenship to Tusculans (26.8)
380	4	elections for military tribunes (27.2, Diod. Sic. 15.50.1); censors elected, death of censor, religious flaw in second pair (27.4-6); Dictator with <i>ME</i> (28.3-4); statue of Jupiter Imperator dedicated on Capitol (29.8-9)
379	2	elections for military tribunes (30.2, Diod. Sic. 15.51.1); colonists sent to Setia (30.9)
378	4	elections for military tribunes (30.2, Diod. Sic. 15.57.1); censors elected (31.2); <i>condiciones impositae patribus</i> concerning debt (31.4); tax imposed to rebuild fortifications (32.1-2)

377*	2	elections for military tribunes (32.3, Diod. Sic. 15.61.1); tribunes of the <i>plebs</i> C. Licinius and L. Sextius elected (35.4)
376	2	elections for military tribunes (Diod. Sic. 15.71.1); tribunes C. Licinius and L. Sextius veto elections until 370 (35.10)
370	1	elections for military tribunes (36.3, Diod. Sic. 15.76.1)
369	1	elections for military tribunes (36.6, Diod. Sic. 15.77.1)
368	3	elections for military tribunes (38.2, Diod. Sic. 15.78.1); Dictator with <i>ME</i> resigns (38.4-9); Dictator with <i>ME</i> (39.3)
367	6	law to appoint board of 10 to enact sacred laws (42.2); elections for military tribunes (42.3); Dictator with <i>ME</i> (42.4); triumph over Gauls (42.8); Licinian-Sextian rogations (42.9); Senate allows special <i>ludi maximi</i> (42.12)

BOOK VII

366	4	election of consuls (1.2-3, Diod. Sic. 15.82.1); election of praetor (1.3); election of aediles (1.3); election of censors (<i>FC</i>)
365	2	election of consuls (1.7, Diod. Sic. 15.90.1); plague (1.7)
364	3	election of consuls (2.1, Diod. Sic. 15.95.1); plague (2.1); <i>lectisternium</i> (2.2)
363	3	election of consuls (3.3, Diod. Sic. 16.2.1); Dictator with <i>ME</i> for driving nail (3.4); election of censors (<i>FC</i>)
362	5	election of consuls (4.1, Diod. Sic. 16.4.1); law for election of tribunes of the soldiers (5.9); fetial priests sent to Hernici (6.1); Dictator (6.12); <i>iusitium indictum</i> (6.12)
361	5	election of consuls (9.1, Diod. Sic. 16.6.1); fetial priests sent to Tibur (9.2); Dictator with <i>ME</i> (9.3); triumph over Gauls (<i>FT</i>); triumph over Hernici (<i>FT</i>)
360*	4	election of consuls (11.2, Diod. Sic. 16.9.1); Dictator with <i>ME</i> (11.4); triumph over Gauls and Tiburtines (11.9); ovation over Hernici (11.9)
359	1	election of consuls (12.1, Diod. Sic. 16.15.1)
358	7	election of consuls (12.6, Diod. Sic. 16.23.1); Dictator with <i>ME</i> (12.9); triumph over Hernici (12.9); triumph over Gauls (<i>FT</i>); Pomptine and Publilian tribes added (15.11); votive games, vowed by dictator M. Furius, held (15.11); first law against bribery (15.12)
357	5	election of consuls (16.1, Diod. Sic. 16.28.1); law setting interest rates at 1/12 per month (16.1); triumph over Prvernates (16.6); law forbidding passing legislation away from Rome (16.7-8); prosecution of G. Licinius (16.9)
356	3	election of consuls (17.1, Diod. Sic. 16.32.1); first plebeian Dictator with <i>ME</i> (17.6); triumph over Tusculans without Senatorial approval (17.9)
355	2	<i>interregnum</i> (17.10-1); election of consuls (17.13, Diod. Sic. 16.37.1)
354	3	election of consuls (18.10, Diod. Sic. 16.40.1); triumph over Tiburtines (19.2); <i>ab senatu foedus in societatem</i> given to Samnites (19.4)

353	5	election of consuls (19.6, Diod. Sic. 16.46.1); Dictator with <i>ME</i> (19.9-10), <i>censuit senatus</i> to fight the Etruscans and Volscians simultaneously (19.7); envoys from Caere rejected by Senate (20.3) and peace granted to Caere in <i>senatus consultum</i> (20.8); Temple of Apollo dedicated (20.9)
352	4	<i>interregnum</i> (21.2); election of consuls (21.4, Diod. Sic. 16.52.1); board of 5 <i>mensarii</i> created to address debt (21.5); Dictator with <i>ME</i> appointed by <i>senatus consultum</i> (21.9)
351	5	<i>interregnum</i> (22.2); election of consuls (22.3, Diod. Sic. 16.53.1); peace given to Faliscans and Tarquinians <i>ab senato</i> (22.5); election of censors (22.10); Dictator with <i>ME</i> (22.10-1)
350	5	election of consuls (23.1, Diod. Sic. 16.56.1); <i>provincia</i> transferred to other consul <i>extra ordinem</i> (23.2); Senate enrolls army to guard Rome (23.4); triumph over Gauls (24.10); Dictator with <i>ME</i> for elections (24.11)
349*	4	elections of consuls (24.11, Diod. Sic. 16.59.1); <i>senatus iussit</i> a levy (25.10); consul <i>iussus ab senato</i> to conduct war on the Campanian coast (26.10-1); Dictator with <i>ME</i> for elections (26.11-21)
348	6	election of consuls (26.12-13, Diod. Sic. (from 347) 16.69.1); plague (27.1); board of 10 to consult Sibylline books by <i>senatus imperatum</i> (27.1); <i>lectisternium</i> (27.1); treaty renewed with Carthage (27.2); Dictator with <i>ME</i> for elections (<i>FC</i>)
347	2	election of consuls (27.3, Diod. Sic. (from 346) 16.70.1); interest lowered to 1/24 per month (27.3-4)
346	3	election of consuls (27.5, Diod. Sic. (from 345) 16.72.1); consul <i>iussus</i> to attack Volscians (27.5-6); triumph over Antiates, Volscians, and Satricians (27.8)
345	4	election of consuls (28.1, Diod. Sic. (from 348) 16.66.1); Dictator with <i>ME</i> (28.2); <i>iustitium</i> (28.3); <i>senatus iussit</i> creation of board of 2 for building temple of Juno Moneta (28.5)
344	3	election of consuls (28.6, Diod. Sic. 16.74.1); temple of Juno Moneta dedicated (28.6); <i>senatus placuit</i> the appointment of a Dictator with <i>ME</i> for religious expiation (28.7-8)
343	8	<i>interregnum</i> (28.9); election of consuls (28.10, Diod. Sic. 16.77.1); Campanian envoys received by Senate and consul accepts <i>deditio in fidem ex auctoritate senatus</i> (30.1-31.2); envoys sent to Samnites (31.8) and fetial priests sent to Samnites (32.1); Senate approves and people vote on war with Samnites (32.1); Faliscans obtain treaty from Senate (38.1); both consuls celebrate triumph over Samnites (38.3); Campanians and Suessulani given winter garrison (38.4)
342	5	election of consuls (38.8, Diod. Sic. 16.82.1, Dion. Hal. 15.3.1); Dictator with <i>ME</i> to deal with army mutiny (39.17); <i>lex sacratae</i> passed with military reforms (41.4); Genucian plebescites for interest and magisterial reform (42.1-2); Privernates destroy two Roman colonies (42.8)

BOOK VIII		
341	5	election of consuls (1.1, Diod. Sic. 16.84); envoys from destroyed colonies received in Senate (1.1); <i>patres censuissent</i> peace with Samnites (2.1); Senate rejects <i>deditio in fidem</i> from Sidicini (2.6); Samnite envoys return to Senate (2.9)
340	9	<i>interregnum</i> (3.4-5); election of consuls (3.5, Diod. Sic. 16.89.1); Latin envoys received in Senate (5.1); <i>Consensit senatus</i> war against Latins (6.8); death of consul (9.9-12); land taken in Latium granted to <i>plebs</i> (11.13-4); tax imposed on Campanians (11.16); Dictator with <i>ME</i> to fight Antiates (12.2-3); triumph over Latins, Campanians, and Sidicini (<i>FT</i>)
339	5	election of consuls (12.4, Diod. Sic. 16.91.1); triumph over Latins (12.9); triumph refused to delinquent consul <i>patribus negantibus</i> (12.10); <i>senatus cupiens</i> to terminate a consul's authority and commanded the naming of a Dictator with <i>ME</i> (12.13); Publilian laws on governmental reform passed (12.14-7)
338	5	election of consuls (13.11, Diod. Sic. 17.2.1); both consuls celebrate triumph over Latins (13.9); differentiated peace treaties given to Latins (14.2-12); colonists sent to Velitrae (14.7); colonists sent to Antium (14.8)
337*	5	election of consuls (15.1, Diod. Sic. (mistakenly placing a consul from 336) 17.17.1); <i>senatus iusserat</i> consuls to defend Aurunci (15.3); <i>infensus senatus iussit</i> appointment of Dictator with <i>ME</i> (15.5-6); trial of Vestal Virgin (15.7-8); election of first plebeian praetor (15.9)
336*	1	election of consuls (16.1, Diod. Sic. 17.29.1)
335	3	election of consuls (16.4-5, Diod. Sic. 17.40.1); triumph over Cales <i>ex senatus consulto</i> (16.11); Dictator with <i>ME</i> for elections <i>ex senatus consulto</i> (16.12);
334	4	election of consuls (16.12, Diod. Sic. 17.49.1); colonists sent to Cales (16.13); Dictator with <i>ME</i> created <i>ex auctoritate senatus</i> (17.3-4); plague (17.4)
333	1	<i>interregnum</i> (17.4); first "dictator" year
332	6	election of consuls (17.5, Diod. Sic. 17.62.1); Dictator with <i>ME</i> to fight Gauls (17.6); peace made with Alexander of Epirus (17.10); election of censors (17.11); Maecian and Scaptian tribes added (17.11); people of Acerrae given citizenship (17.12)
331	3	election of consuls (18.1, Diod. Sic. 17.74.1); plague or poisoning at Rome (18.1-11); Dictator with <i>ME</i> for driving nail (18.13)
330	5	election of consuls (19.1, Diod. Sic. 17.82.1); Volscian envoys received (19.1); envoys <i>ab senato missi</i> to Samnites (19.2-3); Samnite <i>deditionem ab senato non acceptam</i> (19.14); starting stalls installed at Circus Maximus (20.2)
329	6	election of consuls (20.3); consuls <i>iussi</i> to depart immediately (20.3); <i>senatus consultus</i> on treatment of defeated Prvernates (20.7-10); a triumph over Prvernates (20.10, both consuls in <i>FT</i>); citizenship given to Prvernum (21.10); colonists sent to Anxur (21.11)

328*	2	election of consuls (22.1, Diod. Sic. 17.87.1); colonists sent to Fregellae (22.1-2)
327	6	election of consuls (22.8, Diod. Sic. 17.110.1); fetial priests sent to Palaeopolis (22.8); war declared on Palaeopolis <i>ex auctoritate patrum</i> (22.8); envoys sent to Samnites (23.3); consular prorogation of Q. Publilius Philo (23.11-2); Dictator with <i>ME</i> for holding elections (23.14-6)
326	6	election of consuls (23.17, Diod. Sic. 17.113.1); <i>lectisternium</i> (25.1); envoys sent to Samnites (25.2); triumph over Palaeopolis (26.7); treaty of friendship with Apulians and Lucanians (25.3); law against <i>nexum</i> (28.7-9)
325	4	election of consuls (29.2, Diod. Sic. 18.2.1); war <i>ex auctoritate patrum</i> on Vestini and Samnites (29.2-6); sick consul <i>iussus</i> to appoint Dictator with <i>ME</i> (29.9); prosecution of <i>magister equitum</i> (33.3-35.9)
324	1	triumph over Samnites (37.1); second "dictator" year
323	3	election of consuls (37.1, Diod. Sic. 18.26.1); dictator held elections <i>iussu patrum</i> (37.1); trial of Tusculans (37.8)
322	4	election of consuls (38.1); Dictator with <i>ME</i> (38.1); Samnite envoys for peace refused (39.15); triumph over Samnites <i>ex senato consulto</i> (39.15, Livy claims a triumph for the dictator, but acknowledges an alternative tradition for two consular triumphs (40.1-5 and thusly in <i>FT</i>))

BOOK IX

321	3	election of consuls (1.1); urban response to Caudine Peace, including a <i>iustitium</i> (7.6-10); Two successive dictators with <i>ME</i> for elections (7.13-14)
320*	7	<i>interregnum</i> (7.15); election of consuls (7.15, Diod. Sic. 18.44.1); consuls immediately take up office <i>sic enim placuerat patribus</i> (8.1); Caudine Peace trial (8.1-12.4); Dictator with <i>ME</i> for trial (dated in Livy to 314, <i>FC</i>); Dictator with <i>ME</i> against the Samnites (reported as alternative tradition in Livy 15.9-11); Dictator with <i>ME</i> possibly for elections (absent in Livy, <i>FC</i>)
319	3	election of consuls (15.11, Diod. Sic. 18.58.1); triumph over Samnites (16.11); election of censors (<i>FC</i>)
318	4	election of consuls (20.1, Diod. Sic. 19.2.1); Samnite envoys given two-year truce (20.1); urban prefect sent to Capua (20.5); Ufentinian and Falernian tribes added (20.6)
317	3	election of consuls (20.7, Diod. Sic. 19.17.1); treaty with Apulia (20.8); <i>patroni</i> give laws to Antium, permitted <i>ab senatu</i> (20.10)
316	2	election of consuls (21.1, Diod. Sic. 19.55.1); Dictator with <i>ME</i> to fight Samnites (21.1-2)
315	3	election of consuls (Diod. Sic. 19.66.1); Dictator with <i>ME</i> to fight Samnites (22.1, Diod. Sic. 19.72.6); replaced deceased <i>magister equitum</i> (23.6)

314	5	election of consuls (24.1, Diod. Sic. 19.73.1); colonists sent to Luceria (26.5, Diod. Sic. 19.72.8); Dictator with <i>ME</i> for Campanian revolt (26.2, Diod. Sic. 19.76.1-5); trial of Dictator <i>ab senatu mandata</i> (26.20); triumph over Samnites (<i>FT</i>)
313	4	election of consuls (28.2, Diod. Sic. 19.77.1); Dictator with <i>ME</i> against Samnites (28.2, Diod. Sic. 19.101.37 (with wrong name) or to drive nail 28.6); colonists sent to Suessa and Pontiae (28.7); colonists sent to Interamna Sucasina by <i>senatus consultum</i> (28.8)
312	6	election of consuls (28.8, Diod. Sic. 19.105.1); Dictator with <i>ME</i> appointed <i>senatu auctore</i> (29.3); election of censors and <i>senatus lectio</i> (29.5); Appian way and Aqua Appia built (29.6); <i>gens Potitia</i> removed from <i>Ara Maxima</i> ceremonies (29.9); triumph over Samnites and Sorans (<i>FT</i>)
311	6	election of consuls (30.1, Diod. Sic. 20.3.1); consuls ignored censorial changes when enrolling Senate (30.2); law allowing tribunes of the soldiers to be elected (similar to law of 362) (30.3); appointment of two naval commanders (30.4); Senate requests return of flute players (30.5-10); both consuls celebrate triumphs over Samnites (<i>FT</i>)
310	7	election of consuls (33.1, Diod. Sic. 20.27.1); trial of Ap. Claudius (33.3-34.26); Senate appoints and directs naval commander (38.2); Dictator with <i>ME</i> (38.9, not in <i>FC</i>); triumph over Samnites (40.15, listed for the next year in <i>FT</i>), triumph over Etruscans (40.20); Etruscan envoys sue for peace (40.20)
309	0	third "dictator" year
308	4	election of consuls (41.1, Diod. Sic. 20.37.1); envoys sent to consul to change <i>provincia</i> (41.12-3); Oriculum given treaty of friendship (41.20); prorogation of consulship (42.1-2)
307	3	election of consuls (42.2, Diod. Sic. 20.45.1); Senate receives Hernician captives (42.9); election of censors (<i>FC</i>)
306	8	election of consuls (42.10, Diod. Sic. 20.73.1); two armies enrolled by Senate (42.9); Samnite envoys sent to Senate to request peace (43.21); triumph over Anagnini and Hernici (43.22); election of censors (<i>FC</i>); censors begin construction of Temple of Salus and build roads (43.25); treaty renewed with Carthage (43.26); Dictator with <i>ME</i> for elections (44.1)
305	4	election of consuls (44.2, Diod. Sic. 20.81); consul dies and is replaced (44.15); great statue of Hercules set up on Capitoline (44.16); triumph over Samnites (<i>FT</i>)
304	8	election of consuls (45.1, Diod. Sic. 20.91.1); Samnite envoys given peace treaty (45.1-4); fetials sent to Aequi (45.6); both consuls celebrate triumphs over Aequi and Samnites (45.18); peace treaty with Marrucini, Marsi, Paeligni, and Frentani (45.18); civil laws and calendar published (46.5); temple of Concord dedicated (46.6), four urban tribes established (46.15-16)

BOOK X		
303	4	election of consuls (1.1, Diod. Sic. 20.102.1); colonists sent to Sora and Alba (1.1); citizenship extended to Arpinum and Trebula (1.3); Frusino penalized <i>ex senatus consulto</i> (1.3)
302	9	election of consuls (1.7, Diod. Sic. 20.106.1); Dictator with <i>ME</i> to fight Aequi (1.8-9); triumph over Aequi (1.9); Temple of Salus dedicated (1.9); Dictator with <i>ME</i> to fight Etruscans (3.3-4, <i>FC</i> puts this in 301 with two <i>ME</i>); treaty with Vestini (3.1); <i>iustitium</i> (4.1); Dictator <i>missus</i> on campaign (4.3); Eruscan envoys arrive at Rome (5.12)
301	1	fourth "dictator" year, triumph of dictator over Etruscans and Marsi (<i>FT</i>)
300	4	election of consuls (5.13-4); renewal of treaty with Samnites (6.2); Ogulnian law allowing access to pontificate for plebeians (9.1-2); Valerian law of appeal (9.3)
299	8	election of consuls (9.9); election of censors (9.14, <i>FC</i> for 300); Aniensian and Terentinian tribes added (9.14); election of aediles (9.10-3); treaty given to Picenum (10.12); death of consul with replacement (11.1-6); high-cost of grain (11.9); triumph over Samnites and Nequinates (<i>FT</i>)
298	7	<i>interregnum</i> (11.10); election of consuls (11.10); Lucanian envoys receive alliance (11.11-12.1); fetials sent to Samnites (12.2); <i>patres consuerunt</i> war with Samnites (12.3); colonists sent to Carsoli (13.1); triumph over Samnites (13.1)
297	2	election of consuls (13.13); trials over land ownership and use (13.14)
296	6	election of consuls (15.12); both consulships from previous year extended (16.2); Senate initiated <i>iustitium</i> and conscription (21.3); command given to praetor (21.4); Senate begins day of thanksgiving and ends <i>iustitium</i> (21.6); colonists sent to Minturnae and Sinuessa (21.7-10)
295	9	elections of consuls and praetor (22.9); consulship from previous year extended (22.9); <i>senatus decretivit</i> two days of prayer (23.1); tribunes place moneylenders on trial (23.11-2); aediles fine grazers (23.13); praetorship from previous year extended (25.11); death of consul (28.13); triumph over Gauls, Samnites, and Etruscans (30.8); adultery trials and fines (31.9)
294	7	election of consuls (32.1); death of quaestor (32.9); Temple of Victory dedicated (33.9); Temple of Jupiter Stator vowed (36.11, 37.16); triumph over Etruscans and Samnites (<i>FT</i> , refused by Senate in Livy 36.19); Etruscans given 40-year peace treaty (37.4-5); triumph over Volsini and Samnites (<i>FT</i> , unauthorized by Senate in Livy 37.12)
293	10	election of consuls (38.1, 39.1); four-day thanksgiving (45.1); allied envoys to Senate (45.4); fetials sent to Etruscans and Falerii (45.7); triumph over Samnites (46.2); dedicated Temple of Quirinus (46.7); triumph over Samnites and Etruscans (46.13); Temple of Fors Fortuna vowed (46.14); legate indicted by a tribune (46.16); election of censors (47.2)
292	5	crowns for gallantry worn to games and palm branches given to winners (47.3); roads paved by aediles with fines (47.4); elections of consuls and praetor (47.5); plague (47.6); day of supplication held (47.7)

The five years of anarchy (375-371 BCE), where Livy does not attempt to retrieve or relate any information, should be removed from consideration.¹⁰¹ Further, evidence suggests that the so-called “dictator years” of 333, 324, 309, and 301 should be removed from calculation, considering neither Livy nor Diodorus ever mention their existence, and they are included only from evidence in the *FC*.¹⁰² These mentions of anarchy and dictatorship are likely a very late addition to the annalistic tradition.¹⁰³ If these years are omitted, the following table contains the notices *per annum* for Books VI through X:

Table 2: Summary of Annalistic Notices in Livy’s Second Pentad

Book	Number of Years	Number of Annalistic Notices	Average per year
VI	18	58	3.22
VII	25	101	4.04
VIII	18	84	4.67
IX	17	80	4.70
X	11	72	6.55

Preliminary Observations

The tables above show a slight increase in archival notices as the fourth century progresses. While the sparsity of data cannot amount to a level of statistical significance, nevertheless there are some visible developments. Book VII-IX experiences a nearly 30% increase in such notices over Book VI, or about one to one and a half per year. Even more significant, and following the

¹⁰¹ Livy VI.35.10.

¹⁰² Drummond (1978), 551-2. Both these and the anarchy are removed from every scholarly reconstruction of the period since Beloch. See Chapter 2 for further discussion.

¹⁰³ Drummond (1978), 570-2.

consensus of the scholars listed above, Book X indicates an even greater jump in archival underpinning, almost doubling the notices for Book VI and increasing them by almost 50% for Books VII-IX. This suggests a trajectory of increasing state records as the fourth century progresses, with visible jumps beginning in Book VII and Book X. This data supports the suggestion that archival habits are changing at Rome in this time, and the governmental reforms of 367 are a strong candidate to spur this development: Rome is becoming more inclusive and this fact would have created a greater diversity of desire for the publication of state records, which I argue is reflected in the uptick of state records throughout the century. When set against the scholarly debate outlined above, this data appears to support those arguing a cautiously optimistic stance regarding fourth century material, such as Frier and Oakley. There does appear to be some documentation in the period prior to 367—although nothing on the scale that Cornell would like to see—and this trend increases as the century progresses. The overly conservative reconstructions, which place the advent of state records at the end of the century, or even into the next, should therefore be reevaluated.

From a preliminary survey of Table 1, there are several aspects that recommend the utility of this process in the study of long-term, archival in at Rome. First, it allows for the variability of historical significance from year to year. Some years are rife with action that would be recorded in archives, such as the first year after the Licinian-Sextian reorganization of the government in 367 or the year following the Caudine Peace in 320. By looking for change over the course of an entire Book, and then from Book to Book, no specific years are given undue weight and the general trend of the availability of Livy's sources can be observed. Additionally, this arrangement also provides flexibility for the way yearly events are recorded in Livy. Often events are presented in continuous account over a span of multiple years, suggesting that Livy sometimes prioritized the

narrative over strict annalistic divisions. Whether or not Livy felt beholden to record events within their proper year (or if he even found them thusly in his sources), will not affect the results of this study and all notices will be accurately accumulated within their Book. Thus, for example, it does not matter when Livy has anticipated the election of the censors of 301 by one year (which the *FC* record in 300).

Second, this methodology accounts for the possibility that Livy and his sources have intentionally withheld information, either because it conflicted with other sources or the flow of the narrative that they wished to relate. Therefore, the data is not discouraged by any single missing piece of evidence, such as not treating the death of P. Decius Mus as a pontiff, which would reject the presence of pontifical records before 295 BCE (see discussion of Rüpke above, p. 24). Additionally, the fact that Livy does not relate the names of the consuls for 315 BCE can be read as a stylistic decision at the expense of (perceived) superfluous information. By not relying on the existence of specific information to confirm or deny our assumptions, but rather accumulating the general archival underpinning of the narrative, it becomes possible to recognize changing habits and practices after the mid-fourth century compromise.

Third, the general trend of political and social development that is present here, when stripped of those areas most susceptible to later interpolation, is remarkably coherent. With regards to their access to government positions, after achieving the consulship in 366, plebeians attain the *curule* aedilship in 365, the dictatorship in 356, the censorship in 351, the praetorship in 337, and finally the pontificate in 300. Debt legislation gradually becomes more forgiving as well: the problem of debt is first addressed in 378, interest is lowered to 1/12 per month in 357, to 1/24 in 347, lending at interest is forbidden in 342, and *nexum* is outlawed in 326. The coherence of this narrative is also reflected by the increasing authority of the Senate, the increasing ambit of their

control, and the ever-expanding alliances and colonial endeavors in which the city engages (see discussion in Chapter 5). When ignoring foreign affairs, and looking only at domestic reports, the plagues of 384, 365, 348, 331, and 292 are all met with significantly decreased activity. The plagues of 365 and 348, in particular, are followed by multiple years of relatively few archival notices, which may reflect a city grappling with a health crisis. Therefore, when all literary “superstructure” is peeled away, the coherence of the development of the city, gradually expanding and incorporating diverse interests into its highest offices, instills increased confidence that reliable records of state business actually do provide the foundation for these narratives. This evaluation of the nature of the remaining evidence will be expanded in the following chapters.

The Tradition Culminating in Diodorus Siculus

To decide whether the annalistic notices recorded by Diodorus Siculus are worthwhile to consider in this discussion, we must identify the route by which this information arrived in his text. If he was relying the same chronological source or sources as Livy, which would make their accounts closely based on the same magistrate list, then it is a futile endeavor to set his text as a foil. Thus, the very close similarities between the Livy’s account and the *Fasti Capitolini* render any independent discussion of these texts a redundant exercise. For this reason, Table 1 only records the contents of the *FC* when Livy has made an omission which has survived epigraphically.¹⁰⁴ The study of source texts for Diodorus Siculus have been extensively conducted for almost 200 years, and, unfortunately, no firm consensus has yet been reached.

¹⁰⁴ There are some significant changes, however, such as the delineation of “dictator years,” which will be discussed at greater length in the following chapter.

While the direct sources of Livy are often referenced and easily traced,¹⁰⁵ Diodorus' Roman content is very dubiously sourced. Mommsen set a very early and enduring thesis concerning this issue: Diodorus would have relied upon sources in Greek for his composition, as the Roman material was only incidental to his larger Greek narrative, and therefore would have utilized the first Roman historians, Fabius Pictor or Cincius Alimentus, both of whom wrote in his native tongue.¹⁰⁶ This hypothesis gives great authority to the tradition of Diodorus, as he putatively based his material on the oldest possible sources (accepting that historians of the first century felt no impulse or necessity to consult actual primary sources¹⁰⁷), and thus his tradition was elevated above Livy's. While E. Meyer similarly identified a very early source, he could not provide any specific candidate.¹⁰⁸

This contention is thoroughly rebuffed by Beloch, who mobilizes the few remaining fragments of Fabius Pictor to demonstrate that Diodorus' chronology is not related. Fabius counts 22 years from the Roman defeat at Allia,¹⁰⁹ and Diodorus lists only 20 colleges; furthermore, he doubts that Fabius Pictor contained a complete list of magistrates, as this was not a feature of early historical writing.¹¹⁰ Beloch sets Diodorus' source very late, arguing that names of Samnite commanders and battle descriptions are retrojections from the Social War, ultimately settling on the Sullan era historian, Claudius Quadrigarius.¹¹¹ These are compellingly argued points, but there

¹⁰⁵ Ogilvie (1965), 5-17.

¹⁰⁶ Mommsen (1878), 305-30, esp. 315-9.

¹⁰⁷ Richardson (2011), 104.

¹⁰⁸ Meyer (1882), 610-7.

¹⁰⁹ Gell. V.4.1-3=F31 in Cornell, ed. (2013), 102-3. It could also be added that Pictor's date for the foundation of the city is ol. 8, 1 (748/7 BCE) (Dion Hal. I.74.1=F5), while Diodorus places it in ol. 7, 2 (751/0 BCE) (Diod. Sic. VII.5.1).

¹¹⁰ Beloch (1926), 125.

¹¹¹ Beloch (1926), 127-32.

still remains no definitive evidence even for the language, let alone the era, of Diodorus' sources,¹¹² and recent scholarship has not advanced this front.¹¹³

Although this dimension of the scholarship has encountered a seeming dead-end, significant progress has been made concerning the nature of the sources consulted. It has long been understood that Diodorus utilized two separate sources for his Roman material, one for his annalistic notices of eponymous magistrates and another for the sporadic, extended historical narratives. There are several points that advocate for this argument: *cognomina* are regularly used in the annalistic passages, but never in the historical narratives and the compression of many multi-year events, such as the Gallic catastrophe and the siege of Veii, into a single year.¹¹⁴ Most strongly indicative is the occasional presence in Diodorus' text of the dictator years. He never mentions years without chief magistrates in his list of consuls, much like Livy, but in his calculations of the passage of time, they *are* included. In 318 BCE, Diodorus claims that Rome was in its ninth year of the war with the Samnites, which began in 326. He thus must include the dictator year of 324 in his calculation.¹¹⁵ Similarly, he notes the signing of the peace treaty after 22 years of fighting in 304, counting also the dictator year of 309.¹¹⁶ Drummond argues that the dictator years were not inserted into the tradition until Atticus' *liber annalis* of 47 BCE, thus serving as another data point for a later source.¹¹⁷ Diodorus' chronological listing of the consuls, however, like Livy's, skips these years without mention of this constitutional abnormality. This

¹¹² Klotz (1937), 222-4 similarly attacks the thesis of an early sourcing and settles on a later chronographer.

¹¹³ Ridley (1980), 297.

¹¹⁴ Perl (1957), 13-8. The issue of *cognomina* is important to our understanding of early archival records and will be discussed in further detail in Chapter 2.

¹¹⁵ Diod. Sic. XIX.10.1.

¹¹⁶ Diod. Sic. XX.101.5.

¹¹⁷ Drummond (1978). 562-3, who ultimately concludes that these changes to the tradition were motivated by Caesar's attempts to provide justification for his unconstitutional use of the dictatorship (569-572). Taylor (1951), 77, however, sees the advent of this chronological change back even further at the time of Augustus.

dissidence between these two aspects of Diodorus' work strongly suggests that there were two separate accounts from which he was working; this is currently the consensus scholarly opinion.¹¹⁸

The important question still remains, however, as to how close Diodorus' source was to Livy's and how independently we can view the authority of their respective magistrate lists. Unfortunately, Livy provides no calculations from which we could glean whether he, like Diodorus, included dictator years. It is highly doubtful, however, that Livy would pass by such a moment of constitutional extreme without mention. In fact, it is hard to believe that Piso, a potential source for his list of magistrates and an author who was very attentive to the *fasti*, would have also ignored these events.¹¹⁹ Thus, Drummond's later dating of the advent of the dictator years, after Livy's but before Diodorus' sources, provides some grounds for daylight, however narrow, between the two accounts.

Despite these obvious differences, some scholars have observed that certain episodes do share very similar qualities, such that they must share a source. Georg Sigwart has drawn attention to the similarities in the depiction of Cn. Flavius and Ap. Claudius Caecus,¹²⁰ claiming that they must have stemmed from the same account,¹²¹ and Alfred Klotz points out a similar occurrence concerning an episode in 315 BCE during the Samnite wars.¹²² While these arguments do contain merit, it is not at all clear that Diodorus used only one source for his historic narrative, or that the source of his magistrates names ever provided other information. Indeed, at various points, Diodorus specifically relates that he is consulting more than one source: ὅν φασί τινες τῶν συγγραφέων (XI.53.6), ως δέ τινες (XIV.112.4), λέγοντι δέ τινες (XIV.116.9), and ἔνιοι δέ φασιν

¹¹⁸ Oakley, vol. 1 (1997-2005), 106.

¹¹⁹ Livy IX.44.3-4 for Livy's surprise that Piso had omitted magistrates, even *aediles*, for the years 307 and 306.

¹²⁰ Livy IX.46.10-15; Diod. Sic. XX.36.1-6.

¹²¹ Sigwart (1906), 373-5.

¹²² Klotz (1938), 83-102 compares Livy IX.23.5 with Diod. Sic. XIX.72.6-9.

(XIV. 117.6).¹²³ Furthermore, there are moments of departure or omission when compared to the text of Livy. He omits Canusium from the peace treaty in 318, neglects the victory at Luceria in 314, but notes the subsequent colony foundation, and omits Atina from the conquests of 313.¹²⁴ While these might be simple abbreviations to narratives that are tangential to his main focus of Greek events, it is far from clear that Livy and Diodorus relied upon the same material.

This is especially true when it comes to the source for the chronological list of magistrates. For the earlier period, half of the *cognomina* provided by Diodorus conflict with those in Livy, and although it is highly unlikely that such information was kept in the earliest records, this nevertheless points to different traditions of reconstruction.¹²⁵ For period immediately preceding the compromise of 367 BCE, more relevant to the present discussion, Livy and Diodorus offer wildly differing numbers and names of the military tribunes with consular power, with the former providing standard colleges of six, and the latter often much fewer. The following table explains the relative sizes of the colleges in the period from 390 BCE – 367 BCE:

Table 3: Conflicting Magistrates in Livy, Diodorus Siculus, and the *Fasti Consulares*¹²⁶

Year	Livy	Diod. Sic.	FC
389	6	8	-
388	6	6	-
387	5	6	-
386	6	4	-
385	5	4	-
384	6	4	-
383	6	4	-
382	6	4	-
381	6	6	-

¹²³ Oakley, vol. 1 (1997-2005), 107.

¹²⁴ 318: Livy IX.20.4, Diod. Sic. XIX.10.1; 314: Livy IX.26.2, Diod. Sic. XIX.72.8; 313: Livy IX.28.3-6, Diod. Sic. XIX.101.3; These are discussed in Klotz (1937), 211-2.

¹²⁵ Cichorius (1887), 187-9.

¹²⁶ This list follows Beloch (1926), 254-5; Oakley, vol. 1 (1997-2005), 368.

380	6	8	9
379	6	8	-
378	6	4	-
377	6	6	-
376	-	4	-
anarchy	-	-	-
370	6	4	6
369	6	5	6
368	6	3	6
367	6	-	6

Mommsen, who saw the chronology of Diodorus to be of superior merit to that of Livy, attempted to rationalize this occurrence by arguing that the lists from which Livy was drawing were rife with standardizing interpolations and additions; Diodorus' lower count was in fact correct.¹²⁷ This position is hard to support when comparing the standardization of Livy's text, except for the names that drop out in 387 and 385, and the irregularity of Diodorus' list: one would expect such rampant interpolation to leave more confusion, unless done at an incredibly early date.¹²⁸ Considering Livy is not averse to reporting inconsistencies as he finds them in his sources, this seems an unlikely solution. After this period, Livy and Diodorus both consistently switch to naming two consuls per year.

When coupled with the issue of divergences in the magistrate names, this trend becomes much more apparent. The following list summarizes all inconsistencies between Livy's second pentad and Diodorus' account for the corresponding years. These conflicting records, shown in bold below, have been marked with an asterisk (*) in Table 1 above.

¹²⁷ Mommsen, vol. 2 (1864), 224-36.

¹²⁸ Oakley, vol. 1 (1997-2005), 369.

387: Livy (VI. 5.7)	L. Lucius Papirius Cn. Sergius L. Aemilius Licinius Menenius Lucius Valerius	Diod. Sic. (15.24.1)	Λεύκιος Παπίριος Γάιος Σερουΐλιος Λεύκιος Κοϊνκτιος Λεύκιος Κορνήλιος Λεύκιος Ούαλέριος Αῦλος Μάλλιος
385: Livy (VI.11.1):	A. Manlius P. Cornelius T. Quinctius L. Quinctius L. Papirius	Diod. Sic. (15.28.1)	Λεύκιος Παπίριος Μάρκος Πόπλιος Τίτος Κορνήλιος Κόιντος Λεύκιος
384: Livy (VI. 18.1)	S. Cornelius P. Valerius M. Furius S. Sulpicius G. Papirius T. Quinctius	Diod. Sic. (15.36.1)	Σερούιος Σουλπίκιος Λεύκιος Παπίριος Τίτος Κοϊνκτιος (Fourth not given)
377: Livy (VI.23.3)	L. Aemilius P. Valerius C. Veturius S. Sulpicius L. Quinctius G. Quinctius	Diod. Sic. (15.61.1)	Λεύκιος Αίμιλιος Γάιος Ούεργίνιος Σερούιος Σουλπίκιος Λεύκιος Κοϊντιος Γάιος Κορνήλιο Γάιος Ούαλέριος
349: Livy (VII.24.11)	L. Furius Camillus Ap. Claudius Crassus	Diod. Sic. (16.59.1)	Μάρκος Αίμιλιος Τίτος Κοϊνκτιος
337: Livy (VII.24.11)	C. Sulpicius Longus P. Aelius Paetus	Diod. Sic. (17.17.1)	Γάιος Σουλπίκιος Λεύκιος Παπίριος
336: Livy (VIII.16.1)	L. Papirius Crassus K. Duillius	Diod. Sic. (17.29.1)	Λεύκιος Παπίριος Καίσων Ούαλλέριος
328: Livy (VIII.22.1)	P. Cornelius Scapula P. Plautius Proculus	Diod. Sic. (17.87.1)	Πόπλιος Κορνήλιος Αῦλος Ποστούμιος
320: Livy (VII.11.2)	L. Papirius Cursor Q. Publilius Philo	Diod. Sic. (18.44.1)	Κόιντος Πόπλιος Κόιντος Ποπίλλιος

Significant divergences occur in the period before the inclusion of the *plebs* into the highest magisterial office in 367 BCE. While other inconsistencies occur in the later list, these may be

understood as the result of carelessness on the part of Diodorus or his source and will be discussed in further detail in Chapter 2. Other issues also arise, such as a particular aversion to naming the Poetelii, which is universally changed to the (unhelpful) *praenomen* Πόπλιος (in 360, 346, 326, and 314). Nevertheless, the magnitude of inconsistencies appears to be a significantly reduced after the system of two consuls is (re)established.

For Diodorus to be considered a valid point of comparison, these differences would have to be the result of threads of tradition, one culminating in Livy's text and another in the text of Diodorus, that share a common source, at the latest, before the period of greatest annalistic embellishment in the first century BCE. Livy obviously utilized sources from a later period than this. It cannot be stated with certainty, however, that Diodorus did the same with his annalistic notices. Although there are scholars that would like to disregard any difference between these authors,¹²⁹ there are nevertheless many indications that different sources were used, which allows us to tentatively place the magistrate records of Diodorus as a foil for those of Livy.

The sudden increase in the consistency between these two sources of eponymous officials is therefore significant. What was a diffuse listing becomes closely harmonized, and while the fact that Diodorus only had to deal with two magistrates a year might have reduced the margin of error significantly, he still records the proper names in their proper order. Other inconsistencies or ambiguities, in both Livy's and Dionysius' lists, are minor and do not seriously threaten their reliability; these will be discussed in greater detail in Chapter 2. For now, it is sufficient to observe that Diodorus likely culminates a divergent tradition for this information that is not closely related

¹²⁹ Drummond (1978c), 87-94 argues that the order of presentation of consuls' names in both texts is identical, and they are therefore products of a single source. This had been preemptively disproven by Giovanni Costa in 1910, who observed different listing orders of names in numerous years. Costa attributes this to differences in the way individuals would be inclined to read the inscription, with Romans opting for a boustrophedon reading, Costa, (1910), 33-9.

to Livy and therefore provides further reinforcement for the notion of a marked increase in the quality of archival sources for the second half of the fourth century BCE.

The Form of History: Roman Encounters with Chronological Models

If the interpolation and reconstitution of archival records from fourth century Rome is to have any heuristic value, then it must be argued that chronological records of this sort were a likely medium of commemoration. If the notion of events, organized in chronological fashion and maintained for future reference, was not a common occurrence at this time, then this would be, *ab initio*, a fruitless endeavor. However, the XII Tables demonstrates a city legally advanced to the point of requiring a communal standard for the passage of time, and chronological lists, such as of yearly magistrates, would have served this purpose. Such calculation would have been necessary to determine, for instance, interest rates, rent dues, years of military service, or to measure the fulfillment of legal statutes or votes.¹³⁰ Thus, a system to provide this function must have been present early in the Republic, and a list of eponymous magistrates, either recorded on tablets by the pontiffs or published for common use, is the most likely candidate.

Romans looking to organize their legal and political life around a common chronological framework had ample example from the Greeks, who had been recording events in this style at least since the fifth century, and possibly much earlier. As Rome comes into increasing contact with the Greek world throughout the fifth and fourth centuries, they would have encountered record keeping styles of this type, and plausibly adapted them to the needs of their own state. Hippias of Elis, active at the end of the fifth century, tried to create a universal chronology using

¹³⁰ De Sanctis (1907), 2.

the common cultural phenomenon of the Olympics and the list of victors in his historical works. The earliest extant inscription of the Athenian list of archons survives from the same period as Hippias, and Simon Hornblower sees a plausible connection between Hippias' chronological work and the impulse to document the city's own past.¹³¹ Although in the fifth century it was not used by Herodotus or Thucydides (Herodotus gives only one archon date, for the battle Salamis,¹³² and Thucydides states clearly his aversion to such dating systems¹³³), it was fully compiled in the works of Demetrius of Phalerum at the beginning of the third century¹³⁴ and utilized in historical works by the middle of the fourth century, as attested by its presence in the *Athenaiôn Politeia*.¹³⁵

Numerous other local dating systems based on lists of names have been attested throughout the Greek world. Thucydides dates the outbreak of the Peloponnesian War by using the name of the Ephor at Sparta (presumably because a list of kings would have lacked any regularity and precision) and the priestess of Hera at Argos,¹³⁶ although the list of Ephors is notoriously fraught even in antiquity.¹³⁷ Fragmentary lists of archons are known from Delos, of *stephanophoroi* from Miletus, Priene and Heraclea, and of other eponyms from Boeotia, Achaea, Delphi, Aetolia, and Thessaly.¹³⁸ Greek historians, often confronting the daunting task of synchronizing the various dating systems across the Greek world, followed Hippias' example and compiled lists of victors. Aristotle and Kallisthenes gave chronological lists from the Pythian games, and, closer to Rome, Timaeus of Tauromenion is thought to have gone through great pains to synchronize various chronologies together, to the ridicule of Polybius.¹³⁹

¹³¹ Hornblower (1994), 23-4. Samuel (1972), 195.

¹³² Herod. VIII.51.1

¹³³ Thuc. V.20.2

¹³⁴ Plut. *Diog. Laert.* 1.22

¹³⁵ Samuel (1972), 195.

¹³⁶ Thuc. II.2.

¹³⁷ See discussion in Plut. *Lyc.* 7 and Samuel (1972), 238.

¹³⁸ Clarke (2008), 20.

¹³⁹ Huxley (2008), 6. Polyb. 12.11.1.

It is clear that when the Romans needed a model for marking the passage of time in their city, they could observe numerous examples throughout the Greek world. Krister Hanell has argued that the magistrate list at Rome resembles the lists of the Spartan ephors, Athenian archons, Delphic archons, and the Milesian *stephanophoroi* in functioning as a means of keeping time in their respective polities.¹⁴⁰ While this might explain the appearance of consuls and dictators in the above lists, Roman archives of the fourth century contained much more information, and this too is not without *comparanda* in the Greek world. Dating from the middle of the third century, the *Marmor Parium*, a stele found on Paros, contains an extensive list of historical events from the wider Greek world and synced by the Athenian archon list.¹⁴¹ Although this document is later than the period under current study, it does give some insight into the potential applications that such magistrate lists provide, namely that they can anchor disparate events together and facilitate the construction of historical documents. The *Fasti Consulares*, in a similar fashion, could have provided the basis by which all other historical information at Rome found a common chronology.

This line of argumentation is open to criticism on the common and erroneous assumption that the Roman state *needed* Greek models in order to achieve political or cultural advancement. This is a legitimate *a priori* assumption to resist. However, the close ties between the early Roman historical works, written in Greek and in an annalistic style hewing closely to the chronographic style of the Greeks - even including the historic poetry of Ennius and Naevius¹⁴² - speaks to a close thematic and structural connection. At the very least, it is reassuring to note that societies in a

¹⁴⁰ Hanell (1946), 71-8. Although in 89-94, he takes it a questionable step further and asserts that the Roman lists can also be tied to dating systems in the Mesopotamian world, such as the Sumerian King List, and the Lemmu List from Assyria. Hanell's main thesis is that the system of eponymous dating began in 509 with the single *praetor maximus*, who served under the king, thus decoupling this date from the fate of the monarchy, which he argues ended in 451. There followed a transitional period with varying number of magistrates (*consules* or *tribuni militum*), which ended in 367 with the election of two consuls, who became the final eponymous magistrates. In other words, each period is characterized by the number of eponymous magistrates in office.

¹⁴¹ Rotstein (2014), 5-6.

¹⁴² Oakley, vol. 1 (1997-2005), 22.

similar stage of their political maturation process have constructed very similar methods of determining the passage of time and marking important events.

Now that the quantitative data supporting archival change has been demonstrated, we now must assess the qualitative merit of the collected notices. The next chapter confronts the content of these potential archives and addresses problems of internal consistency and implausibility of the *fasti* in the political and legal context of fourth century Rome.

Chapter 2

The *Fasti* of the Fourth Century: Increasing Frequency but Minimal Content

The case for increased archival underpinning beginning in the middle of the fourth century must now turn to the content of the notices collected in the previous chapter. There is a demonstrable increase in the quantity of annalistic notices over Livy's second pentad, but this would mean little if they also displayed slight internal consistency or correspondence with other fourth century records or developments. It is the goal of the present chapter to demonstrate that sources for the latter half of the fourth century BCE indeed present a credible and coherent picture of a polity undergoing intense socio-political upheaval and that resultant and emergent archival practices form the basis of later annalistic histories.

While the narrative of socio-economic tension as elaborated in Livy's Books VII-X (see discussion in Chapter 4), might seem tempting in its broad strokes, it nevertheless presents significant problems in its details. There is a confused jumble of extra magistrates, both dictators and *interreges*, appointed in the latter half of the fourth century without a clear tradition of their mandates. Many of these dictators (and all *interreges*) seem to be intended to stabilize elections for the following year or even to guarantee favorable outcomes. In many cases, Livy unfortunately seems aware of multiple, conflicting accounts for the assignment of consular *provincia* and dictatorial appointment, and the *Fasti Capitolini* (FC) and the *Fasti Triumphales* (FT) provide yet another, sometimes contradictory, testament to their duties. There are a series of seeming legal

improbabilities: the election of all-patrician colleges of consuls even after such practice was forbidden in the compromise of 367, the passing of repeat laws, and so-called “dictator years” without any eponymous magistrate. Looming over all is the constant suspicion that social or economic turbulence, such as tribunician agitation and patrician ruthlessness, are in fact later occurrences, bleeding backwards into the narratives of earlier periods.

It is no surprise, then, that numerous scholars have expressed serious concerns with the progression of material from the period covered in Books VII-X, such that skepticism is the dominant scholarly view today. The problem with this position, however, is that it expects too much from the archival sources of the fourth century, either in the material that it originally recorded or in its ability to survive intact for over a hundred years until Roman annalists of the second century copied it into new media. I argue that these records likely comprised nothing more than bare lists of magistrates, laws, religious observances, and (increasingly during this period) actions of the Senate, without the sorts of explanation or supplementary information that is needed to complete a full historical account.

What probably remained for later consultation was a sequence of data points that left much to individual historians to connect and build into a seamless narrative; family records, didacticisms, and rhetorical flourish undoubtedly played a role in this process. The constitutional and social changes of the fourth century energized the impetus for the creation of these data points, such that later authors were increasingly constrained in their ability to extrapolate creatively. Despite this increase in frequency, survival was not perfect, and some archival records were lost, either due to physical corruption, copyist error, or purposeful omission.¹⁴³ Simply because the lists do not record as comprehensively as we would expect, or some of the data points might not have survived,

¹⁴³ De Sanctis (1907), 10.

however important to our reckoning they would be, does not mean that such archives did not exist or were later inventions.

In order to demonstrate this growth of archival habit in the fourth century, we must now distill the record down to the putative content of the ancient *fasti*, pontifical tables, and (in Chapter 5) Senate records. In the following discussion, I will show that this archival material presents a coherent and plausible accounting of this period, and that apparent inconsistencies or improbabilities must be reevaluated in the context of the early-mid Republic, which was less rigidly formalized and effected than its better documented, later version. This discussion will also seek to lower modern expectations for the contents of these archival records, demonstrating that they likely were little more than unembellished lists, and that apparent incongruities resulted from later attempts to integrate this framework into an historical narrative.

List of Eponymous Magistrates

Stephen Oakley states unequivocally that, “Nothing induces more optimism in the study of Roman History from 366 to 293 BC than inspection of our sources for the names of the consuls.”¹⁴⁴ Only the harshest critics of the tradition of the fourth century contest that the list of eponymous magistrates in this period, reconstituted from the text of Livy and Diodorus Siculus, as well as the *Fasti Capitolini*, is not grounded largely in accurate and contemporary sources. Although some scholars contend that the entire tradition is the product of fanciful, theatrical, and/or intentional falsification,¹⁴⁵ the widespread agreement between these sources should instill confidence in any historical reconstruction of the period. This list is not perfect, however, and legitimate questions

¹⁴⁴ Oakley, vol. 1 (1997-2005), 39.

¹⁴⁵ Such as Wiseman (1979), 13-6.

can be raised concerning the specifics of the names, gaps or “dictator years,” and consonance with the reported legislative action that was taken in the fourth century. This following discussion will propose reasons to maintain confidence in the eponymous list, areas that still induce skepticism, and potential solutions to the inconsistencies between the list and other archival material recorded in the historical tradition.

Even Beloch, who is so skeptical about all other features of the historical record for this period, admits to the reliability of this list. This is a significant admission, as Beloch spearheaded the heavily conservative approach to the *fasti* which survives in large part today. Although he admits to significant interpolations and corruption in the list for the earliest periods of the Republic, stemming from his firm belief that the presence of all plebeian names indicates material weaknesses in the record,¹⁴⁶ Beloch nevertheless concedes the general reliability of the list after the compromise of 367 BCE. He finds only two colleges of magistrates to be suspicious: those that Livy acknowledges had been omitted by Piso in the years 307 and 306 BCE.¹⁴⁷ Beloch believes that Piso was fastidious when recording the yearly magistrates and finds it suspicious that the same pairs of officials hold office again in 296 (for Ap. Claudius and L. Volumnius, cos. 307) and 288 (Q. Marcius and P. Cornelius, cos. 306). He would like to omit these years altogether but cannot find good evidence to also discredit the censorship recorded for 307, and ultimately accepts these years intact. He states, “Otherwise, there is no objection to any consulships from the period 363-302, and the same goes for the first two decades of the third century.”¹⁴⁸ This is a major concession from Beloch, who finds almost nothing else about this century to be reliable.

¹⁴⁶ Beloch (1926), 9-32.

¹⁴⁷ Livy IX.44.3-4.

¹⁴⁸ Beloch (1926), 34: “Sonst ist gegen kein Consulat aus der Zeit von 391-452 etwas einzuwenden, und dasselbe gilt für die beiden ersten Jahrzehnte des III. Jahrhunderts.”

In fact, there appears to be very little controversy over these names as recorded by Livy and as they appear in the *FC* and related *fasti*. The most significant occurs in 354 BCE, when Livy records the consuls M. Fabius Ambustus and T. Quinctius but notes that certain annalists include M. Popilius in place of the latter.¹⁴⁹ In 323, he also notes a variant tradition that substitutes Q. Aemilius with an Aulius,¹⁵⁰ and in 319 a tradition which replaces Q. Aulius with L. Papirius Mugillanus.¹⁵¹ The rest of the inconsistencies concern only *cognomina*, which were unlikely to be recorded in the original list (see below, p. 75), and *praenomina*. Neither of these problems are very concerning, as they are easily explained as simple copyist errors and, therefore, should not compromise our confidence in the list presented in Livy.¹⁵² On the contrary, the fact that Livy feels the need to mention such instances, and that they are so few, should speak to the general unanimity of the remaining list.

The “dictator years” provide another source of consternation concerning the putative magistrate list from this period. Livy simply elides over the years of 333, 324, 309, and 301 as if he was not aware of their existence. Instead, he describes the events of each year as if it were in the previous and moves to the election of the consuls in the next. Further, Diodorus does not include magistrates for these years either, and it is likely that Piso omitted them as well, since Livy closely follows his reckoning. The dictator years are included, however, in the *FC* for 309 and 301 with the statement [*hoc an]no dictat(or) mag(ister) eq(uitum) sine co(n)s(ulibus) fuerunt*, but the list does not survive for 333 and 324. The *Fasti Triumphales*, additionally, includes notices of triumphs in 324 and 309. Because Livy otherwise closely adheres to the *FC* and is generally not

¹⁴⁹ Livy VII.28.10. Broughton (1951), 124. Oakley, vol. 2 (1995-2007), 195.

¹⁵⁰ Livy VIII.37.3. Broughton (1951), 149.

¹⁵¹ Livy IX.15.11. Broughton (1951), 155.

¹⁵² These instances include 351: Livy VII.22.3 (which Livy acknowledges variations in the *praenomen* if Quinctius) and 331: Livy VIII.18.2 (where he notes variant tradition for the *cognomen* and proves a different *praenomen* for Valerius).

averse to listing inconsistencies in his sources, it is assumed that the interpolation of these years becomes part of the tradition between his writing and the installation of these *Fasti*.¹⁵³ Beloch suspected that these years were inserted to provide enough time to backdate the Capitoline temple to 509 BCE, and he therefore omits them in his calculations.¹⁵⁴ His suggestion could be used to support De Sanctis' view above (p. 57) that there would have been names dropped out of the list for various reasons. In any case, either these years were very late extensions of the chronology or there was not a strong tendency to invent magistracies, as these would have been quickly filled. While one should hesitate to call any potential governmental occurrence, ancient or modern, a "constitutional absurdity" or "impossibility" (which is how these years are often characterized in modern scholarship),¹⁵⁵ Livy's and Diodorus' combined ignorance suggest that these are late, synchronizing interpolations. Most importantly, the integrity of the fourth century narrative is not harmed by their deletion.

There are two further reasons for such assurance in the notices of eponymous magistrates after the compromise of 367 BCE: the correspondence between the Livian list (and the *fasti*) and Diodorus' list, and between the changing legal limitations on holding the highest office and subsequent pattern of names recorded. We must now turn to analyze the merits of each of these points and their detractors.

¹⁵³ Drummond (1978), 551-2, who ultimately concludes that these changes to the tradition were motivated by Julius Caesar's attempts to provide justification for his unconstitutional use of the dictatorship (569-572). Taylor (1951), 77, however, pushes the advent of this chronological change forward even further to the time of Augustus.

¹⁵⁴ Beloch (1926), 35-7.

¹⁵⁵ Beloch (1926), 44. Oakley, vol. 1 (1997-2005), 43. Pinsent (1975), 5.

The magistrate list of Diodorus Siculus

We have already analyzed the potential annalistic and historical sources of Diodorus' Roman material (see Chapter 1), concluding that, although no specific authors can be named, there are sufficient structural differences from Livy's account for the early Republic to postulate a different tradition. In particular, Livy seems to be following the chronological listing of magistrates contained in Piso, as he seems surprised that Piso has omitted the years 307 and 306 BCE from his account.¹⁵⁶ Diodorus, however, continues to name the consuls of these years without interruption, removing Piso as a potential point of overlap.¹⁵⁷ Furthermore, the incongruities between the numbers and names in the final 18 colleges of the consular tribunes (see Table 3), speak to divergent threads of the *fasti*. From 389 to 367, Diodorus and Livy agree on the number of magistrates only three times and significantly disagree on the names of office holders for four colleges. This divergence ends abruptly, however, in 366 with the (re)introduction of the dual consulship. From this point to the end of Diodorus' continuous narrative in 302 BCE, they agree on all but three (or four) colleges.

While Diodorus sometimes fails to mention consuls in certain years (345, 329, 322, and 321), nevertheless a strong synchronicity can be drawn for this period between these two lists. There are a number of significant discrepancies, though, that are worth addressing. That which appears first is also the most significant: in the year 349, Diodorus records a completely different and otherwise unattested college: M. Aemilius and T. Quinctius. While T. Quinctius is consul in 354 and 351, M. Aemilius does not appear in the *fasti* (although considering the propensity of Diodorus or his source to commit careless errors, these *praenomina* are far from certain (cf. the

¹⁵⁶ Livy IX.44.3-4.

¹⁵⁷ Beloch (1926), 125. Livy still ultimately provides the same names as Diodorus for the consuls of these years, and thus the possibility that Livy's primary source is related to Diodorus is not completely discredited. See Chapter 1 for a fuller discussion of the potential relationship between these two accounts.

following paragraph).¹⁵⁸ Other unknown consuls are also included, such as K. Valerius in 336 for K. Duillius, and A. Postumius for P. Plautius in 328.¹⁵⁹ The fact that Livy does not flag any of these variations, even though he does in other instances, might indicate that he was unaware of these variant traditions (or that he was aware of them, but felt they were without credibility).

There are also a number of minor inconsistencies in the list of fourth century consuls that speak less to divergent traditions, but rather to carelessness or negligence on the part of Diodorus or his source.¹⁶⁰ He changes the *praenomen* of certain magistrates: in 358, C. Fabius becomes M. Fabius and in 350, L. Cornelius becomes C. Cornelius.¹⁶¹ The consuls of 345, M. Fabius and Ser. Sulpicius, are brought forward to 348, leaving none in their place.¹⁶² He pulls L. Papirius from 336 and places him in 337, leaving out P. Aulius.¹⁶³ A spelling error seems to lie behind the replacement in 318 of M. Folius with M. Fulvius.¹⁶⁴ Finally, Diodorus or his source seems unaware of how to render the Roman *nomen* “Poetelius” in Greek; he universally replaces this with the *praenomen* Πόπλιος. This observation leads further to the conclusion that Diodorus’ source contained “Q. Poetelius” (Κόιντος Πόπλιος) in place of Livy’s “L. Papirius” for 320, perhaps representing the fourth significant divergence from Livy/FC.¹⁶⁵

Thus, the tradition which culminates in the text of Diodorus displays a few key features with respect to that of Livy/FC. Wide divergence, both in quantity and identifications, characterizes this comparison for the period before the reduction of eponymous magistrates to two in 367. A dramatic shift occurs in the remainder of Diodorus’ text, as he aligns very closely with

¹⁵⁸ Diod. Sic. XVI.59.1 (cf. Livy VII.24.11, Cic. *Sen.* 41). Broughton (1951), 128.

¹⁵⁹ 336: Diod. Sic. XVII.29.1 (cf. Livy VIII.16.1); 328: Diod. Sic. XVII.87.1 (cf. Livy VIII.22.1).

¹⁶⁰ Oakley, vol. 1 (1997-2005), 40 n.94.

¹⁶¹ 358: Diod. Sic. XVI.23.1 (cf. Livy VII.12.6); 350: Diod. Sic. XVI.56.1 (cf. Livy VII.23.1).

¹⁶² Diod. Sic. XVI.72.1.

¹⁶³ Diod. Sic. 17.17.1 (cf. Livy VII.24.11 and VIII.16.1)

¹⁶⁴ Diod. Sic. 19.2.1 (cf. Livy IX.20.1).

¹⁶⁵ Diod. Sic. XIX.2.1 (cf. Livy IX.7.15). Despite Diodorus’ refusal to use the proper *nomen*, Dion. Hal. X.58.5 records a Ποιτέλλιος as decemvir in 450. Diod. Sic. Uses Πόπλιος in this early instance as well: XII.24.1.

the main tradition in all but five years. These years, which cannot be explained by negligence or imprecision, can be viewed as strong corroborating evidence that Diodorus' source is *in fact distant* from those of Livy. A close relationship of such lists would result in the sort of correspondence as between Livy and the *FC*, which agree on every name (for which the *FC* is extant). Punctuated moments of disagreement, such as those found between Livy and Diodorus, and especially those of such a fundamental nature that divergence likely occurred at a very early point, might demonstrate a distinction of source material and therefore induce confidence in those areas of widespread agreement.

Such inconsistency (including Livy's notices in 354, 328, and 319) might be disconcerting for the thesis that these lists ultimately stem from official archives from the fourth century. We should never imagine, however, that later editors or compilers of annalistic histories viewed such archives as underserving of any alteration. The argument still stands that increased archival material constricted the ability of later writers to manipulate, such that various traditions might contain limited points of distortion (two in the Livy's and five in Diodorus'). Ultimately, Diodorus' close, but not exact, correspondence with Livy/*FC* offers compelling evidence that there was a contemporary publication of eponymous magistrates that suffered only minor corruption in two divergent traditions, whenever their separation occurred.

A few scholars would take issue with this conclusion, including A. Drummond, who believes that Livy and Diodorus were using the very same source, based on the consistency of the order in which the consul names are reported.¹⁶⁶ This had been preemptively disproven by Giovanni Costa in 1910, who observed different orders of name presentations in numerous years. Costa attributes this difference to the way individuals would be inclined to read the inscription,

¹⁶⁶ Drummond (1978c), 87-94.

with Romans opting for a boustrophedon reading, and Greeks defaulting to a reading in columns.¹⁶⁷ Also, Ronald T. Ridley, echoing the pessimism of such scholars as T. P. Wiseman, believes there is no reason to look for correspondence between Diodorus and Livy, as there were no contemporaneous sources recorded in the early Republic; all accounts were fabricated by boastful *gentes*.¹⁶⁸ He musters statements by Livy to support this conclusion, including that there were many confused matters in the early Republic (Livy II.21.4), and his lamentation that there were no contemporaneous authors from this period (Livy VIII.40.5). Ridley, however, extrapolates too much from these quotes; the first is from the fifth century, extremely early in the Republic when certainty is not argued by any scholar, while the latter passage only laments the absence of a “writer” (*scriptor*). This does not imply, as Ridley seems to read, that there were no sources at all, just a lack of any *annalistic historian*. In any case, we know that Livy was averse to using primary sources directly, so this complaint is very inappropriately applied to archival records, which he felt no compulsion to consult anyways. Neither of these contentions can muster enough evidence to dislodge Diodorus as comparative source for Livy, who collects and relates a different, although a potentially distantly related, tradition. The strong correspondence of this account since the power sharing agreement provides a strong indication that early authors had reliable, but not perfect, primary sources from the middle of the fourth century BCE.

Laws, inconsistencies, legal flexibility

The second source of confidence in both Livy’s and Diodorus’ lists of eponymous magistrates concerns their apparent correlation to the legal developments of the fourth century. As

¹⁶⁷ Costa (1910), 33-9. Although this is highly doubtful, as no boustrophedon inscriptions in Latin have been found after the sixth century.

¹⁶⁸ Ridley (1980), 297-8.

will be discussed in Chapter 4, the historical context for the compromise recorded in 367 BCE is fraught with difficulty: the elongated period of anarchy, the doubled consulship of Camillus, and the repeated elections of tribunician colleagues with diametrically opposing agendas all speak to the confusion surrounding this event. What is not confused, however, is that the nature of the eponymous magistracy in Rome is permanently altered, and that new *gentes* achieved the highest office with regularity in the aftermath. On its face, this is strong evidence that legal statutes were implemented to guarantee redress of plebeian concerns and restrictions on the consulship were loosened. Nevertheless, there are seeming internal inconsistencies between the purported wording of these laws and the names on the eponymous *fasti*, such that scholars have seriously doubted either the validity of the legal notices, or the integrity of the magistrate lists. Again, this pessimism is based on an expectation of legal rigidity at Rome that is anachronistic for the early Republic. Considering the strength of the social and political unrest in the city (see Chapter 4), it would be very foolish to expect that the Roman state was a smoothly operating entity in this period. The inconsistencies that we encounter, therefore, are the predictable results of the socio-political struggles as they manifested in a system lacking any strict legal rigidity.

The source of modern scholarly pessimism concerning the eponymous magistrate list in the latter half of the fourth century stems from the discrepancies between the wording of the statutes of 367 and 342 BCE and the seemingly contradictory presence (or absence) of plebeian *gentes* in the *fasti*. To briefly outline the problem, Livy relates the wording of the compromise of 367 (*Leges Liciniae-Sextiae*) thusly: “that one of the two consuls be elected from the *plebs*.¹⁶⁹ The magistrate lists, however, contain all-patrician colleges in the years 355-3, 351, 349, 345, and

¹⁶⁹ Livy VI.35.5: *consulumque utique alter ex plebe crearetur*. This legal stipulation is echoed in Val. Max. VIII.6.3: *C. uero Licinius Stolo, cuius beneficio plebi petendi consulatus potestas facta est*, Plut. *Cam.* 39.1: ὁ δῆμος ἐστασίαζε πρὸς τὴν σύγκλητον βιαζόμενος διεῖν ὑπάτων καθισταμένων τὸν ἔτερον πάντως ἐκ δημοτῶν εἶναι καὶ μὴ συναμφοτέρους πατρικίους, and Flor. 17: *ut plebei quoque magistratus crearentur*.

343. Only after 343 does a plebeian occupy half of every consular college. The second compromise of 342 (*Leges Genuciae*) stipulates that “no one hold the same office within ten years, no one hold two offices simultaneously, and that it is lawful to elect both consulships from the *plebs*.¹⁷⁰ Yet we find such iteration as soon as 330 (L. Publilius, cos. 337 and 330) and frequently in the 320s. Further, no dual plebeian consulship occurs until 173. All of these difficulties have caused much consternation in modern scholarship on the historiography of this century, usually involving a rejection of one of the two traditions: either the legal statutes are not accurately recorded, or the *fasti* contain fictitious notices.¹⁷¹

Beloch employs a healthy skepticism of both traditions. While he does not take issue with the ascension of the first plebeian to the office in the 360s, he simply does not accept that a law was passed concerning the composition of consular colleges until the end of the fourth century. In fact, he identifies patrician-only colleges all the way until 321, despite the seeming certainty of Livy and the *FC* to the contrary. In order to accomplish this, he accepts the alternative consul provided by Diodorus for 328 (A. Postumius, instead of Livy's P. Plautius) and assumes, unlike Mommsen before¹⁷² and most scholarship since, that the *Veturia Calvina* (cos. 334 and 321) was a patrician *gens*. For Beloch, this new law would correlate with the military disaster at the Caudine Forks (321 BCE) and thus provides context for a serious overhaul in the face of military

¹⁷⁰ Livy VII.42.2: *ne quis eundem magistratum intra decem annos caperet neu duos magistratus uno anno gereret utique liceret consules ambos plebeios creari.*

¹⁷¹ An argument of this sort has raged over the presence of plebeian names in the early Republic before the compromise of 367 BCE. Scholars such as Beloch (1926), 9-32 reject most notices of plebeian consuls or consular tribunes before the 360s. Enmann (1900), 89-101 has ingeniously postulated that they are the product of insertions by leading plebeian *gentes* at the end of the fourth century, as these families began to exert their control over the publication of official documents. Momigliano (1986), 182-8 suggests that there was an intermediary social class, set in between the patricians and the *plebs* that populates the list of non-patrician curule magistrates before 366. This argument is followed by Cornell (1995), 338-9 and (1983), 112-4. See Chapter 4 for more details.

¹⁷² Mommsen, vol. (1864-1879), 120.

deficiencies. Thus, the Licinian-Sextian law mandating the election of a plebeian consul is a retrojected law from the 310s.¹⁷³

Positions of extreme hostility towards this tradition are best represented by John PinSENT, who seeks to eliminate any plebeian from the consulship before the *Leges Genuciae* of 342 BCE. He sees a strong connection between the Temple of Juno Moneta, dedicated in 344, as a repository for the *libri lintei* (which were plebeian documents) and the plebeian advocate T. Manlius (cos. 344). He also accepts the alternate version of the military sedition from 342, in which C. Manlius was declared advocate for the soldiers' efforts at economic redress. This confluence of events leads PinSENT to conclude that 342 was the landmark year in which the plebeians achieved the consulship.¹⁷⁴ All of the previous notices of plebeians and their Manlian allies in the consulship prior to this date were interpolations by those seeking to give legitimacy to the lower order. Further, it is possible to reconstruct the original *fasti* by supplying the names of numerous patrician dictators and *interreges* which populate the tradition between 366 and 342.¹⁷⁵ He also rejects the purported wording of the law of 342, which stipulated that both consuls *could* be elected from the *plebs*, arguing that because this does not actually occur until 173 BCE, this law is "hopelessly anachronistic."¹⁷⁶ Unfortunately, PinSENT makes the mistake of rejecting certain parts of the magisterial lists that do not conform to his theory, but readily accepting others that do. In a review of this work, Drummond sums up his critique by saying, "the fragility of ancient accounts is not demonstrated by the fertility of academic imagination."¹⁷⁷

¹⁷³ Beloch (1926), 344-5.

¹⁷⁴ PinSENT (1975), 62.

¹⁷⁵ PinSENT (1975), 67-9.

¹⁷⁶ PinSENT (1975), 64.

¹⁷⁷ Drummond (1978b), 188. For another thorough rebuttal, see Develin (1979), 9-12.

A monumental contribution to this discussion was offered by Jean-Claude Richard, who postulated a reconfiguration of the laws of 366 and 342 to better align with the information in the *fasti*, which he was loath to discard. Richard suggested that the wording of the first law, “*consulumque utique alter ex plebe crearetur*,” much better applied to the eponymous lists after the second, and he therefore assigned this provision to the *Leges Genuciae* of 342. Instead, the law of 366 just made this a possibility or a suggestion.¹⁷⁸ Further, the stipulation that both consuls could be plebeian would have “remained a dead letter for more than a century and a half” and therefore must have been retrojected from a later point.¹⁷⁹ This position is bolstered by the *Lex Plubilia* of 339, which stipulates that one censor must be chosen from the *plebs*, which was possibly a direct consequence of a similar law concerning the consulship just three years prior.¹⁸⁰ This solution has become the standard interpretation of these inconsistencies and occupies prime placement in most modern discussions of this legal question.¹⁸¹ Richard Billows attempts to fine-tune this argument by pinpointing the early second century as the likely point of generation for this *Lex Genucia*. He observes that it was only then that the *fasti* reflect a ban on iteration and a general atmosphere of political and legislative limitation. Thus, according to Billows, the provisions of this *Lex Genucia* are likely legitimizing retrojections from this period.¹⁸²

There is a vein of scholarship that does not attempt to demolish and reconstruct aspects of the tradition but instead sees external variables forcing non-adherence to Rome’s legal statutes. The most important external variable is the military requirements of the state at the end of the fourth century. Robert Develin argues that the Senate took a leading role in assuring that suitable

¹⁷⁸ Richard (1979), 72-5.

¹⁷⁹ Richard (1979), 73: “qui devait rester lettre morte ... plus d’un siècle et demi.”

¹⁸⁰ Livy VIII.12.14-6.

¹⁸¹ Scullard (1980), 479 n.6. Cornell (1995), 337-8. Oakley, vol. 1 (1997-2005), 654. Brennan, vol. 1 (2000), 66.

¹⁸² Billows (1989), 120-5. He is followed in this placement by Rosenstein (1993), 316-7 and n.7.

candidates with records of experience and success were put forward during moments of crisis.¹⁸³ Thus, P. Decius Mus, successful consul in 312, was chosen to meet the threats in 308, 297, and 295. Develin states, “it was in times of crisis that access to the consulship became restrictive and the governing order took a hand.”¹⁸⁴ While this does envision the Senate as a permanent, deliberative body capable of directing important issues of the state (see Chapter 5), there is almost annual warfare and threats in the fourth century and this argument could therefore be made for nearly every year in this period. If there really was such a “governing order” driving the election of experienced generals, it strains reason to think the period from 340-331, and the threats from revolting Latin cities among others, could have seen only three iterating consuls. In fact, there does not appear to be any correlation between periods of intense warfare and an increased frequency of iteration. Particularly effective generals might have received preference in the face of a particularly grave threat, but the Roman electorate, which was also its soldiery, would have recognized this; there would have been no need for a “governing order.” Military success was a candidate’s most impressive credential. In any case, the appointment of a dictator could have ensured that the appropriate leadership was always deployable, regardless of magisterial status.

This line of study is not restricted to Develin. F. E. Adcock tries to explain the presence of all-patrician consular colleges in the 350s and 340s as resultant from the lack of experienced plebeians.¹⁸⁵ This too is hard to accept, as it assumes that leadership experience could only be gained from serving as consul and disregards the possibility the wealthy plebeians were just as present on the battlefield and in a general’s retinue. Hölkenskamp argues that both the (re)introduction of the consulship and the reduction of the highest offices from six to only two

¹⁸³ Develin (1979), 13-5. Develin (1985), 105-9.

¹⁸⁴ Develin (1985), 107.

¹⁸⁵ Adcock (1957), 13.

induced heavy patrician-plebeian conflict that came to a head in the 350s. The patricians succeeded at this point in wresting the second office from the *plebs* as their constant aristocratic rivalry intensified.¹⁸⁶ Further, the *Leges Genuciae* were a turning point for the plebeian cause, as iteration now became the exception and dispensation had to be sought in order to bypass this new limitation.¹⁸⁷ The most effective explanation for the problems of iteration after 342 has been presented by Corey Brennan, who sees a much more limited statute than normally recognized. He argues that this law only applied to plebeians and was only operative *for the following* ten years, meaning 341-32.¹⁸⁸ C. Plautius' iterative consulship in 341 would not have counted, as he held the office previously in 347, before this law was enacted. Otherwise, no plebeian breaks this ten-year rule before its putative expiry and not until 327 (or 328, for this problematic year, see above, p. 63). Iteration was common among the *plebs* after this.

This final group of theories, although having their own flaws, have the merit of not selectively discarding pieces of the literary tradition in order to justify their own reconstructions. At the heart of this scholarly consternation concerning the discrepancies in the legal notices and consular *fasti* is the assumption that laws in early Rome were as binding on the state and its constituent members as in the later period. Indeed, Billows states this explicitly: “The only way in which one can in strict logic and sound method accept both the literary tradition and the evidence of the *fasti* is by arguing that the Romans really passed the laws reported by Livy, but then simply ignored them in practice.” Yet this is not such an implausible circumstance as Billows makes it sound. While some laws recorded in the XII Tables accompany set punishments, in general there are no definitive consequences for transgressions against most laws.¹⁸⁹ The ability of the lower

¹⁸⁶ Hölkeskamp (1993), 22-3.

¹⁸⁷ Hölkeskamp (2011), 126-40.

¹⁸⁸ Brennan, vol. 1 (2000), 67.

¹⁸⁹ Develin (1978), 51-2.

classes to protect their interests through legal statute is very questionable in the early period. There are records of *leges* being passed multiple times, suggesting that enforcement is far from guaranteed. These defunct laws persist even into the better evidenced periods of the second century: Ti. Gracchus complains that the land limitation law has been constantly ignored and thus finds legal basis for his agitation.¹⁹⁰ Moreover, the extent to which patricians felt beholden to a law of which they did not approve is an open question; at least in terms of plebiscites, the *plebs* had to repeatedly pass legislation to make it binding on the whole state.¹⁹¹ Livy himself says in relation to the most recent *lex de provocatione*¹⁹² passed in 300, “The reason for renewing it so often, I think, was none other than because the wealth of the few was more powerful than the liberty of the *plebs*.¹⁹³ Repassing these laws, therefore, is not a trope of the patrician-plebeian historical tradition, but a memory of imperfect enactment and enforcement that survived in the legal records of the state.

The absence of an absolute standard of legal applicability in the early history of Rome has been explored by Develin and, more recently, by Hölkeskamp. They both echo the argument that statutes, rights, mandates, and magisterial restrictions are not simply observed *a priori*. Rather, these take time to sink into the consciousness of society and, in time, become *mos*. It is not the *leges* that are binding to the Roman people at this time, but the legitimization provided by precedent and prolonged observance.¹⁹⁴ If this view of the early Roman constitution is adopted, then the “inconsistencies” between legal notices and the pattern of names in the *fasti* are fully

¹⁹⁰ Plut. *Ti. Gracch.* 8.3-4.

¹⁹¹ The law binding plebiscites on the whole citizenry is passed in 449, 339, and finally in 287, with differences. Scholars often view the implications of this law as formally ending the “Struggle of the Orders.”

¹⁹² The *lex de provocatione* appears to be passed in 509, 449, and again in 300. The historicity of the early laws is justifiably questioned, however. See Develin (1978): 45-9.

¹⁹³ Livy X.9.4: *causam renouandae saepius haud aliam fuisse reor quam quod plus paucorum opes quam libertas plebis poterat.*

¹⁹⁴ Develin (1986), 336-8. Hölkeskamp (2010), 25-6.

explained: this period of high political and social tension is also accompanied by brazen disregard of a previously passed statute which mandated one plebeian college per year. Like the other laws fundamental to plebeian rights that patricians found inconvenient, this took repeated reassertion in order to surpass the threshold from *lex* to *mos*, and the further compromise of 342 BCE can be seen as just such a reassertion. The wording of these specific laws, therefore, is not as crucial as societal pressure to conform, and this can explain the seeming incongruity between the letter of the law and the conduct of the Roman state in the 350s and 300s. This alternate approach does not require that the tradition of the *Leges Liciniae-Sextiae* and *Leges Genuciae* be accurate; the reconstructions by Richard and Brennan are highly plausible and convincing. But we should nevertheless be open to the possibility that the Roman state operated in the early Republic at a much lower level of legal rigidity than the highly legalized late Republic and Imperial periods would suggest.

The content of the eponymous magistrate list

While certain irregularities of the archival lists stem from an over-expectation of legal observance and enforcement in the early Roman period, so too should we lower our expectation of the contents of such early records. The vast majority of the inconsistencies that Livy reports among his sources concern consular province and, when compared with the *fasti*, the *cognomina* of magistrates. The evidence suggests that early eponymous lists contained no such information and was therefore a venue for elaboration by later Roman annalists.

Mommsen first suggested that *cognomina* were not a feature of early state documents until, he argues, the Sullan period. He notes that early state proclamations, such as the *senatus consultum*

de Bacchanalibus and a contract from Puteoli of 105 BCE,¹⁹⁵ did not contain any *cognomina*.¹⁹⁶ A survey of early monuments and documents which may have survived into the historical period and are marked by the lack of *cognomina* produces the following results: Captioline Temple by M. Horatius (Dion. Hal. V.35.5), the temple of Saturn (Dion. Hal. VI.1.4), the Latin Treaty with Sp. Cassius and Post. Cominius (Cic. *Balb.* 53), the temple of Fortuna by Verginius (Dion. Hal. VIII.55.5), the statue of Ceres by the Cassii (Livy II.41.11), the law of Pinarius and Furius (Macrobius. *Sat.* I.13.21), the temple of Fides by Postumius (Dion. Hal. IX.60.8), and the statue of Minucius (Pliny. *NH.* 34.21).¹⁹⁷ Further, the fragments of early historians similarly omit such names: no *cognomina* appear in Fabius Pictor (although only one fragment carries a Roman name),¹⁹⁸ and Piso, with a bigger base of evidence, does not relate one until the year 299.¹⁹⁹ They are similarly lacking from Claudius Quadrigarius (in notices of consuls in 385 and 367) and Valerias Antias (in notices of consuls in 464 and 434 but begin to be incorporated in 249). They are present, however, in early notices in Licinius Macer.²⁰⁰

In fact, *cognomina* represent a large portion of the discrepancies between the *fasti* as reconstructed from the text of Livy, the *FC*, and Diodorus. As was stated in Chapter 1, in notices from the fifth century, Livy and Diodorus disagree on half of these names.²⁰¹ Fundamental discrepancies between historical accounts as to *cognomina* occur in 364, 361, 360, 347, 341, 334, 328, 326, and 319. Moreover, after 427, Diodorus only relates seven *cognomina* until his text

¹⁹⁵ *SC de Bacchanalibus:* CIL i² 581 = ILLRP 511; Puteoli: CIL X 1781.

¹⁹⁶ Mommsen, vol. 1 (1864-1879), 46.

¹⁹⁷ Cichorius (1887), 178-80. This official documentation is to be distinguished from private or personally aggrandizing inscriptions, such as the epitaph in the tomb of the Scipiones (CIL VI 1285) from the early third century and coinage from the Punic Wars. Mommsen, vol. 1 (1864-79), 45-7.

¹⁹⁸ F15=Dion. Hal. 7.71.1-73.5.

¹⁹⁹ No *cognomina* appear in F23=Plin. *NH* 33.38 (499 BCE), F25=Livy II.58.1-2 (471), F26=Dion. Hal. 12.4.2-5 (439), F28=Livy IX.44.2-4 (308). Ridley (1980), 269.

²⁰⁰ F21=Livy IV.20.5-11 (428 BCE) and F22=Livy 7.9.3-6 (361).

²⁰¹ Cichorius (1887), 187-9.

breaks off in 302. Beloch, ever a critical reader of the text, argues that the full *tria nomina* was not a part of official records until the end of the fourth century,²⁰² which would account for its emergence in Piso's text after 299 and the cessation of inconsistencies in the surviving sources in 319 BCE. The earlier section of the magistrate list, as it was recorded at least from the middle of the fourth century, likely did not contain any accompanying *cognomina*; therefore, such disagreement in our sources was the result of different reconstructive efforts conducted (possibly, considering their absence in the works of early first century annalists) in the middle of the first century. Most of the names would have been easily recoverable (or obvious possibilities logically postulated and therefore independently reconstructed), and this would explain the general agreement in the sources, albeit with punctuated moments of divergence. Thus, inconsistently appearing *cognomina* cannot be used to discredit contemporaneously recorded archives in the fourth century.²⁰³

The second area for potential concern are the statements concerning consular province. There are a number of highly contradictory episodes and conflicting accounts throughout Books VII-X, which could call into question the accuracy of source material. This issue is often compounded by the highly problematic list of dictators and the *Fasti Triumphales* (FT), which will be discussed in the next two sections. In short, there is fundamental confusion for the years 355,

²⁰² Beloch (1926), 49-52.

²⁰³ The issue of recorded filiation is also open to question concerning the contents of early texts. This feature does not appear often in the annalistic notices of Livy, Diodorus, or Dionysius, so it is difficult to grasp the breadth of any irregularities in our sources, and therefore adds little value to the current study. Beloch (1926), 52-60 argues that such notation would have been necessary, especially in the early period when there were frequent appearances by the same *gens*. Further, utilizing detailed family trees, Beloch says that this level of precision could not have been achieved by a simple interpolator. He calculates that the mean age between the appearance of generations in the *fasti* to be 30-31.5 years, well within the range of plausibility. He doubts that anything beyond paternal filiation was recorded in the early period. Cichorius (1887), 241 postulates the opposite position, that they were the result of much later reconstruction.

335, 329, 322, 320, 316, 315, 313, 312, 305, 304, 302, 298, 295, and 294.²⁰⁴ A couple of examples will suffice to demonstrate the problem.

In 305 Livy records that two consular armies were dispatched to confront two Samnite threats, led respectively by L. Postumius and Ti. Minucius. Although initially separate, they eventually come together for two great victories and took Bovianum in a siege. Both consuls return in triumph.²⁰⁵ This narrative is largely echoed by Diodorus who records two battles over the Samnites by a combined force and the surrender of the town of Bōλα, which could be a misspelling of Bovianum.²⁰⁶ Dionysius, however, states that the Romans *also* fought the Paelignians (Παλιγνοὺς) in this year, something which is not attested elsewhere. Furthermore, Livy records another tradition entirely: Ti. Minucius died in battle and the suffect consul M. Fulvius achieved the victory and was awarded the sole triumph,²⁰⁷ which is supported by the *FT*. On the strength of the inscriptional evidence, Beloch sides strongly with Livy's alternate version.²⁰⁸

In 304 Livy assigns the continuation of the war in Samnium to P. Sempronius, who found no hostility in the region and facilitated the signing of a peace treaty. The other consul, P. Sulpicius, conducted a successful campaign and celebrated a triumph over the Aequi.²⁰⁹ The notices for the *FT*, however, reverse the provinces of the consuls and record a triumph over the Samnites, whom Livy claims were treated peaceably. Diodorus suggests that there was no fighting in Samnium and that Sempronius conducted a successful a campaign over the Aequi.²¹⁰ Thus, the three different versions present three mutually exclusive accounts of the activities of the consuls in this year.

²⁰⁴ This list and explanations are conveniently collated by Oakley, vol. 1 (1997-2005), 69-70.

²⁰⁵ Livy IX.44.5-14.

²⁰⁶ Diod. Sic. XX.90.3-4. Salmon (1967), 250 n.2.

²⁰⁷ Livy IX.44.15.

²⁰⁸ Beloch (1926), 419.

²⁰⁹ Livy IX.45.

²¹⁰ Diod. Sic. XX.101.5.

Oakley states that, based on the list of conflicting accounts of consular activities, “for some years during the period of the Samnite Wars no clear record survived as to which magistrate fought where.”²¹¹ I would suggest a step further: for *very few years* during this period does there survive an accurate record of provincial assignments, which were not a part of the early eponymous magistrate list. Besides the issues described above, numerous indications speak to the veracity of this narrower claim. First, as duties performed while in office did not impact the eponymous value of the magistracy itself, there would have been no need to record such activities in the actual magistrate list itself. If not here, there would have been no other appropriate venue for documentation of this sort. Unless something went catastrophically wrong or triumphantly well, provincial assignments would not have been a matter for religious records aimed at documenting expiatory procedures.²¹² Senate records, in whatever nascent form they existed in the fourth century (see Chapter 5), were not likely occupied with the conduct of elected magistrates except only as needed, should they have provided advisement for military activity or the appointment of a dictator. Further, as has been stated before, the activity of consuls away from Rome was incredibly susceptible to later manipulation by family records, as military exploits were the currency of aristocratic pride. Therefore, the overwhelming tendency to transfer glory and co-opt successes would have overridden any potential memory of such provinces recorded in religious or Senatorial accounts.

It could also be the case that modern scholarship has an overly rigid notion of what consisted of consular *provinciae* during Rome’s initial wave of expansion within Italy. Klotz argues that battle narratives describing consuls as combining their forces are too long for a single summer campaign, therefore concluding that generals must have had separately operating

²¹¹ Oakley, vol. 1 (1997-2005), 71.

²¹² Forsythe (1994), 61-6. Mehl (2011), 38.

commands; indeed, the consular tribunate had been originally imposed to field multiple armies at different locations.²¹³ Harris, too, sees a rigidity to the distribution of consular provinces.²¹⁴ Both of these contentions put too much stock in the narratives of military campaigns, which have already been argued as prone to familial and annalistic fabrication. Such accounts, I believe, are also conditioned by observation of later periods, when Rome's enemies are remote and well-delineated. It also envisions a world where the Romans are operating with perfect information and can foresee the theaters of war at the beginning of the campaign season. The immediate, threat-rich, and unpredictable environment of the fourth century requires a reevaluation of this thesis.

During this period, Latium was surrounded by belligerents, hostile to the region's emerging power and seeming expansionist tendencies: the Etruscans to the north, Samnites to the west and south-west, and Campanians immediately to the south. Gallic invasions were an ever-present fear, not to mention potential rebellion among the tenuous alliances created with those polities in the immediate vicinity. The sources show Rome preparing to fight on multiple fronts in many years, and the decade from 361-351 alone is illustrative: 361, 360, and 358 (campaigns against the Gauls and Hernici), 357 (Falerii and Prevernum), 356 (Falerii and Tibur), 355 (Tarquinii and Tibur), 353 (Tarquinii, Volsci, and Caere), 351 (Tarquinii and Falerii).²¹⁵ While these campaign narratives should not be accepted *in toto*, if even a fraction of this breadth of military activity is reflective of a preserved memory, then the Romans could not afford to limit the operational abilities of their commanders in the field. Further, Rome is not shown to be operating with the best intelligence about the movement of its enemies, and as a result, often overreacted to reports of danger. Thus in 352 and 332, a Gallic coalition never materialized to threaten the city, despite the appointment of

²¹³ Klotz (1937), 215. Drogula (2015), 230-1 argues that provincial assignment was an evolving institution, and that it only took its final form in the middle of the third century.

²¹⁴ Harris (1971), 53.

²¹⁵ Livy VII.9-22, FC.

a dictator.²¹⁶ It is highly unlikely that such a dynamic and unpredictable environment would have prompted the same sort of provincial rigidity that the Roman state enjoyed in the Middle-Late Republic, despite this being the lens through which our sources inevitably processed these reports.²¹⁷ It is even more unlikely, therefore, that such fixed *provinciae* would have existed, much less been recorded, on the eponymous magistrate lists.

We therefore need to lower our expectations for the contents of these magisterial lists, keeping ever in mind the potential reasons for documentation and the logical limitations this would have had on its content. Provincial assignment was not critical to the function of an eponymous list, and we should not hope for the presence of superfluous information, especially when the state of the historical tradition militates against its primacy. This feature of archival minimalism, coupled with the legal fluidity described above, does not resemble Rome of the late Republic. This observation might be another indicator of the validity of this approach: we should not expect three hundred years of political and legal development to result in a city identical to its fourth century iteration. Despite this minimalist view of the contents of this record, however, the fact that it appears with improved reliability in the middle of the fourth century should now be considered beyond doubt. Correspondence with the legal tradition, itself a likely product of the social and economic issues of the first half of this century, and with the alternatively sourced text of Diodorus Siculus, all recommend the existence and increased authority of an eponymous list. Although not without later intrusion and corruption, it nevertheless constitutes a firm foundation to our historical understanding of this otherwise opaque century.

²¹⁶ 352: Livy VII.21.9-22.1, 332: VIII:17.6-7. In the case of 352, at least, Livy reports suspicion that the threat was engineered to frighten the people into electing patrician consuls.

²¹⁷ Provincial assignment by sortition is described in this period in 362: Livy VII.6.7, 360: 11.2, 336: VIII.16.6, and 325: 29.6. Most of these are part of a larger thematic narrative, such as Genucius' failure in 362, or the command of an unexpected general, such as the grant of command to M. Fabius over C. Poetelius, who would triumph, in 360.

It would be helpful here to consider the recent work of Uwe Walter, who postulates a remarkable flexibility in the functioning of the Roman state, despite the seemingly firm structure of its statutes. Walter posits that the long-term efficacy of the Rome was its ability to balance the priorities of centralized power with the autonomy of its individual agents. While the *mos maiorum* was central principle in the operation of the state, a high degree of flexibility was built-in to allow for generals and politicians to excel and confront a changing range of challenges.²¹⁸ This was especially the case for the Middle Republic, where the challenges were more immediately pressing and state structures still evolving into more stable forms. Thus, the flexibility that Walter describes in the political and legal norms would explain resultant inconsistencies in the recording of events. Adherence to laws, at least in their early years, and the assignment of provinces might have been prone to just this type of structural flexibility and therefore leave a legacy that was inconsistent and misunderstood by later annalists who encountered it.

Dictatores and Interreges

The same hesitancy with which one approaches the consular list must also apply to the putative list of dictators, with the additional acknowledgment that dictators did not serve the eponymous function as consuls did. Therefore, the names that appear on this list are not rigidly tied to a strict chronology and are then more prone to variation within the tradition. Because the dictatorship was just as prestigious as the consulship and unanchored to a strict chronology, the danger of later interpolation is more severe than with the consular list. There are good reasons, however, to view many of these notices as accurate, despite the contention of certain scholars.

²¹⁸ Walter (2017), 85-6.

Beloch finds very little to be redeemed in the surviving list of dictators. Of the 38 recorded dictatorships between Livy, the *FC*, and Diodorus, Beloch would like to reject 23.²¹⁹ He maintains a very pessimistic approach to the historical tradition surrounding this office, often using any available excuse to dismiss notices. For example, T. Manlius, appointed dictator in 353 to fight Caere, succeeded only in scaring them into signing a peace treaty, and Beloch wonders why this feat could not have been accomplished by one of the presiding consuls.²²⁰ L. Papirius Cursor, dictator in 310 and *triumphans* over the Samnites, is also excluded because his son of the same name celebrated the same honor while occupying the same magistracy in 293.²²¹ Further, he finds *a priori* fictitious any appointment of a non-consular dictator, citing strict adherence to this rule in the third century, or any appointment not strictly *rei gerundae causa*.

Here, Beloch is overestimating our certainty of the state of Roman society and politics in the fourth century. As will be discussed in Chapter 4, there are only two processes that occur with absolute certainty: increased military exertion and sociopolitical change. Both factors can be mobilized to explain these notices in the historical tradition.

Due to the scope of Rome's military endeavors, it is logical to expect consuls to be absent from Rome on an increasing basis. The electoral and religious duties of the consul, or whatever the chief magistrate(s) were called in the very early Republic, did not evolve to be performed remotely. Another individual who could wield the same *imperium* and enjoy the same *auspicia* would have been needed on an *ad hoc* basis to perform certain rites, such as the annual hammering of the nail into the side of Capitoline Temple; thus the notice that dictators were appointed *clavi figendae causa* in 363, 331, and 313.²²² This action is usually necessitated by a plague, and Livy

²¹⁹ Beloch (1926), 65-77.

²²⁰ Livy VII. 20.8. Beloch (1926), 65.

²²¹ Livy IV 40.15, X.46.2. Beloch (1926), 66.

²²² 363: Livy VII.3.4; 331: VIII.18.13; 313: IX:28.6.

cites an old law that was resurrected and executed.²²³ Fritz Bandel, although usually skeptical about early dictatorships, sees a reliable historical basis to this story.²²⁴ Even Beloch thinks that the nail-driving ceremony continued until 300 BCE; indeed, this is how Cn. Flavius constructed his calendar and calculated the age of the Republic.²²⁵ Beloch contends, nevertheless, that this duty was reserved for consuls and therefore does not think a dictatorial appointment appropriate.²²⁶ Whether or not this was conducted annually or only in the face of expiatory need,²²⁷ it is likely that the consul would have found himself away from the city and therefore unable to perform this rite.

Simple consular absence could explain the appearance of numerous officials specifically for the holding of elections, another ritual which required the presence of the polity's highest magistrate. The Roman tradition allowed for more flexibility in this instance, as both dictators (appointed *comitiorum habendorum causa*) and *interreges* could be appointed to fulfill this role.²²⁸ Upon the of the death of both consuls or the expiration of their tenure without holding elections, the state usually reverted to an *interrex*, who is commonly thought to have had extraordinary powers to push through an election,²²⁹ although this has been debunked in more recent scholarship.²³⁰ Instead, the *interrex* served for only five days at a time and acted as a transferring vessel for the *auspicia publica* until the next consular election.²³¹ This position is always held by

²²³ Livy VII.3.5-7.

²²⁴ Bandel (1910), 51-3, 85-7.

²²⁵ Beloch (1926), 36-41.

²²⁶ Beloch (1926), 70.

²²⁷ Mommsen, vol. 2 (1887-1888), 156-7 considers this special case of the nail striking to be interpolated, believing only in the annual, “secular” nail (Säkularnagel); Bandel (1910), 85.

²²⁸ Forsythe (2005), 271 claims that these notices appear fake. He could be underestimating the potential political uncertainty and factionalism at Rome in the fourth century.

²²⁹ Staveley (1954), 196-8.

²³⁰ Jahn (1970), 50-55 and Rilinger (1976), 28-34.

²³¹ Koptev (2016), 206-8.

a patrician, however, and could be seen as an acceptable vehicle to actualize patrician goals during elections.

Aside from the appearance of many *interreges*, there are several such dictators appointed in 350s, which, Livy tells us, were intended to steer the election in a favorable direction, namely towards the election of patricians.²³² Thus, these magistracies are rejected by Beloch, who does not see valid motivation in this explanation.²³³ This dismissal does not, however, take into consideration the political and social strains in which the city found itself at this time. Elections, and closely associated levies, had been both the venue where the *plebs* had exerted their power most effectively and the means by which they achieved the compromise of the 367 BCE (see Chapter 4). It is no surprise that elections were still a tense events on the Roman religious calendar nor that patricians would attempt to stymie such further efforts by the lower class to assert their power. Further, Livy records efforts by dictators attempting to hold elections outside of their appointed mandate, such as C. Marcius in 356, the first plebeian dictator, who was stopped in fear that he would manipulate the elections, and T. Manlius in 353, who threatened to abolish the consulship entirely rather than allow a plebeian to be elected.²³⁴ There is an open question, however, about the extent to which a presiding magistrate could affect the electoral process, and it is true that this period precisely aligns with fluctuations in the enforcement of the *Leges Liciniae-Sextiae*, which was discussed in the previous section. Rolf Rilinger, in weighing the options for both sides, ultimately concludes that such ability was limited, such that it could not have been a

²³² 351: Livy VII.22.1: *temptatum domi per dictatorem ut ambo patricii consules crearentur*; 350: 22.10: *dictatorem quoque hic annus habuit M. Fabium nullo terrore belli, sed ne Licinia lex comititis consularibus observaretur*.

²³³ Beloch (1926): 66.

²³⁴ 356: Livy VII.17.10: *quia nec per dictatorem plebeium nec per consulem comitia consularia haberi uolebant*;

353: 21.1-2: *dictatore obstinato tollere potius totum e re publica consulatum quam promiscuum patribus ac plebi facere*.

consistent or reliable strategy to override the popular vote. The majority of Rilinger's evidence, however, comes from the late Republic, and its applicability to the early period can be doubted.²³⁵

The question therefore arises as to whether the mandate of a dictator, like that of a consul, was established and published along with the magistrate's name. While there is assuredly a fixed structure to the notices of dictatorial appointment in the *FC*, this is not necessarily reflected in the text of Livy, who does not relate such formulaic language. Perhaps here too, expectations on the rigidity of the system, conditioned by the fixity as they appear in the *FC*, should be interrogated. Many dictators in the fourth century appear to be performing a variety of tasks: L. Manlius (363) is supposed to be appointed to drive the nail, but ends up conducting a levy to meet an external threat; C. Marcius (356), T. Manlius (353), C. Iulius (352), and L. Papirius (325) are appointed to meet external threats but attempt to hold elections; and Q. Publilius (339) is appointed to deal with rebelling allies and ends up passing populist legislation. Like the consuls in this period, they may have been required to fill multiple roles on multiple fronts, and it inhibits our understanding of the dictator's fourth century functions to pigeon-hole them in the way that the later *fasti* do.

De Sanctis has noted that our sources often underreport the frequency with which consuls were forced from office, through death or the loss of their soldiers' confidence.²³⁶ The dictatorship could have been a suitable stop gap in such situations for which an *interrex* was lacking constitutional authority. The consistency of Rome's external wars in this period (multiple dangers faced on many fronts) and potential social unrest at home could explain the uptick in dictatorial appointment in the mid-to-late fourth century, even if we cannot be certain about the mandate or action of each individual magistrate. Many dictatorships, however, are initiated by requests of the Senate and/or carry a religious component to their duties, such as hammering the nail, not to

²³⁵ Rilinger (1976), 144-151.

²³⁶ De Sanctis (1907), 10.

mention the maintenance of the *auspicia*. It is possible therefore that documentation relating more than just a name, year, and *magister equitum* was contained in the pontifical tables or Senate records.

What cannot stand is Beloch's rejection of most dictatorships based on a presumed weakness or interpolated aspect of the notice. If such was the case, then we would expect an even distribution of such additions throughout the text and far more conflicting reports. While Livy does report some disagreement about the presence or absence of a dictator in a given narrative (which is included above with the conflicts in consular provinces), these are relatively rare considering the plethora of officeholders in the fourth century. Further Oakley demonstrates that there are concentrated clusters of dictatorial appointments: 15 dictators between 366 and 341, while there were four from 420-390, and six from 389-367.²³⁷ This trend seems to correspond closely with the shrunken body of *imperium*-wielding magistrates and the expanding threats facing the city, both from external foes and internal dissension, therefore providing a strong indication of need-based decision making, rather than self-aggrandizing forgers.

Here, like the eponymous lists, we are envisioning a stable, reliable document from the middle of the fourth century, which reflects the realities of the changing Roman world and the trends witnessed in other putatively contemporaneous archival sources. The dictator list, as we have it, is not a pristine document safe from later corruption, but it can be understood as being rooted in early versions of records housed among Senate or pontifical archives, as it derives authority from both of these spheres. This observation is not necessarily all positive news, however, as this entails a level of rejection of other features of the list, most notably the animating mandate of each holder. An *interrex* list is harder to imagine in a fourth century context, unless

²³⁷ Oakley, vol. 1 (1997-2005), 44.

one subscribes to Beloch's notion that, because *interreges* represented consuls, they too would have been included in the eponymous lists.²³⁸ While this is possible, it seems to undermine the calendrical purpose of such a document, as one could hardly track the passage of time through five-day intervals. It seems much more likely that these names were also housed, if they were at all, within the pontifical records, because this office represented a safe, but very temporary, repository of the *auspicia*. These names of *interreges*, however, can be easily reconstructed from the consul list in surrounding years by interpolators,²³⁹ so there is little concrete evidence to recommend their fourth century authority.

Pontifical Tables and the *Fasti Triumphales*

The purported contents of any early list of triumphs and the pontifical tables are some of the most fraught topics in the *quellenkritik* of the fourth century. The main difficulty stems from the *testimonia* of later Romans, who considered with great skepticism the contents of these documents. Concerning the pontifical tables Cato states, "It is not fitting to write what is in the tablets of the pontifex maximus, how often there was a grain shortage, or how often darkness or something else covered the light of the moon or the sun."²⁴⁰ This is not a strong endorsement of the historical value of this text, regardless of its legibility when it finally came into the hands of later annalists.

²³⁸ Beloch (1926), 29.

²³⁹ Fruin (1894), 113-7. Oakley, vol. 1 (1997-2005), 47.

²⁴⁰ F80=Gell. NA 2.28.4-7: *non lubet scribere quod in tabula apud pontificem maximum est, quotiens annona cara, quotiens lunae aut soli caligo aut quid obstiterit.*

Yet the pontifical tables are often considered the oldest kept at Rome and, according to many scholars, the *only* document kept there until the third century.²⁴¹ Livy records a great deal of the sorts of information that would have been contained in this record, if it is as Cato describes, and therefore it is likely that it existed in the fourth century, if not earlier. Ogilvie and Oakley compile a thorough list of such plagues and food shortages in the early Republic that all have probable origins in a pontifical archive,²⁴² and Wissowa provides notices of all vows or dedications of temples.²⁴³ The purpose of this list was to create a reliable repertoire of religious knowledge, from which understanding of and expiation procedures for future divine discontent could be obtained.²⁴⁴ Therefore, the maintenance and consultation of such archival material would have been a crucial feature of proper religious worship in Rome, as the documents themselves could have been considered sacred.

The origins of these documents in the period prior to the fourth century is not universally accepted, however, although the reasons for this position are tenuous. Beloch argues that the pontifical lists could not predate the early third century, using Cicero's mention of the eclipse dated to 288 BCE,²⁴⁵ and claiming that earlier records were calculated backwards.²⁴⁶ This position only works if the original pontifical record survived intact for Ennius to consult, and that he recorded every eclipse he found. While the latter is unknowable, the former has been strongly doubted by modern scholarship.²⁴⁷ In any case, arguments based on missing information, from a document and period where the vast majority of our information is already lost, rest on shaky ground. Similarly, Jörg Rüpke argues that the presence of priest names, which were also likely contents of

²⁴¹ Wiseman (1996), 314. Forsythe (1994), 61-6. Soltau (1914/15), 321-23, following Kornemann (1911), 245-57.

²⁴² Ogilvie (1965), 256. Oakley, vol. 1 (1997-2005), 58-9.

²⁴³ Wissowa (1902), 594-5.

²⁴⁴ Mehl (2011), 38.

²⁴⁵ Cic. *Rep.* 1.25.

²⁴⁶ Beloch (1926), 92-3.

²⁴⁷ Drews (1988), 297-9.

this list, is entirely inconsistent with a structured document of the sort postulated for the early Republic.²⁴⁸ The death of P. Decius Mus has not been treated by Livy as the death of a pontiff, and thus Livy was not consulting documents that treated him as such.²⁴⁹ Again, this argument relies on an absence of information that Rüpke would otherwise expect to exist; we should, however, have no doubt that many pieces of information from the fifth and fourth centuries have not survived to the present, and no significant theory can be based on the omission of any one.

Despite Cato's skepticism, this sort of information can nevertheless provide a firm structure or framework around which a credible historical reconstruction can be built. The final notice of food shortage, once a very common occurrence in the fifth century, is 383 BCE in Livy's text,²⁵⁰ four years after the large settlement of citizens on the *ager Veientinus*. While pestilence continues to be noted, it seems that food shortages are no longer a pressing concern for the city, which is a logical and beneficial result of the addition of farmland brought under Roman control. If this information was simply interpolated, we would expect to see continued use of food shortages to explain societal pressures and plebeian motivation in the literary record. Thus, much like the correspondence of the eponymous magistrate list to the larger societal pressures of the early to mid-fourth century, the putative pontifical records also reflect the logical realities of the Roman state in this period.

Furthermore, the admission of the *plebs* to the pontifical college of the *duumviri sacris faciundis* (afterwards the *decemviri*) in 368, who were tasked with consulting the sacred Sibylline Books, forms an important watershed in access to religious knowledge. Mommsen, however, thought that this was the first priesthood to pass to the plebeians because it was inferior to the

²⁴⁸ Rüpke (2008), 28.

²⁴⁹ Rüpke (1995), 196-202.

²⁵⁰ Livy VI.21.1-6.

pontiffs and the augurs, based on its connection to foreign practices.²⁵¹ In reality, the *duumviri*, not foreign priests, were the major sources of expiatory procedures (along with the *haruspices* in later times), despite the fact that the Sibylline Books were written in Greek. It is more likely that this priesthood was first opened to the *plebs* because it did not interact with the *auspicia*, an important defining characteristic of both the higher priestly colleges and the consulship, all perceived to be the sole purview of the patricians. Susan Satterfield has argued that this college was the primary means for religious obstruction in the state, as the actions of the higher magistrates could be blocked by perceived interference from observed prodigies.²⁵² Expanding the number of members and admitted plebeians, therefore, was a way to diffuse the authority of the body and make obstruction much less feasible.²⁵³

The expiatory procedures, however, were precisely the contents of the pontifical tables, and plebeians now had access to and aided in the creation of this material. In this way, an important body of information concerning divine will and how to steer it was now opened to a wider group of consumers. Religious knowledge of this sort was incredibly powerful, and it should be no surprise that aristocratic plebeians, who were not privy to it previously and therefore at a severe informational disadvantage with their patrician peers who did, would seek access to the pontifical tables first and ensure that such knowledge was not tightly constricted to a small group of consumers. These records contained information on sources of gods approval and disapproval, what led to Roman successes in the past and what led to failure; they were powerful tools for the decision-making process at the highest levels of the state, and plebeians would likely have viewed

²⁵¹ Mommsen, vol. 1 (1854), 92.

²⁵² Satterfield (2014), 224-9.

²⁵³ North (1990b), 60.

their newfound access as essential progress in their long-term pursuit of political and military legitimization.

Whatever the state of the pontifical tables prior to this point—and it is likely that they were maintained and stored at an earlier period—in the mid-fourth century they became the purview of a wider group of people and their publishing became a matter of security and leverage for the newly enfranchised members of the *plebs*. When combined with the eponymous magistrate list, which we have already seen to have been highly credible for the latter half of the fourth century, this source of documentation can form the strong foundation of reliable information on which later annalistic history was plausibly based.

While the presence of these pontifical tables is reassuring, the current state of the *Fasti Triumphales* are not. In a famous passage, Cicero states,

The history of our state, however, is made falser by these laudations. For much has been written in them which did not occur: fake triumphs, exaggerated consulships, false genealogy, and even conversions to the *plebs*, as men of lower rank are confused with another of the same name.²⁵⁴

This pessimism is compounded by a statement of Livy from the second pentad:

I believe that our memory has been corrupted by these funeral eulogies and busts with false honors, as each family collects for themselves the glory of accomplishments and offices by deceitful lies. From this, both the feats of great men and the public memory of events is certainly confused.²⁵⁵

On their face, these appear to be damning statements about the condition of the historical record as it existed in the late Republic, especially considering the fact that Livy's quote comes from the period under present study. While the eponymous magistrate list is more (but by no means fully)

²⁵⁴ Cic. Brut. 62: *quamquam his laudationibus historia rerum nostrarum est facta mendosior. multa enim scripta sunt in eis quae facta non sunt: falsi triumphi, plures consulatus, genera etiam falsa et ad plebem transitiones, cum homines humiliores in alienum eiusdem nominis infunderentur genus.*

²⁵⁵ Livy VIII.40.4: *Vitiatam memoriam funebris laudibus reor falsisque imaginum titulis, dum familiae ad se quaeque famam rerum gestarum honorumque fallente mendacio trahunt; inde certe et singulorum gesta et publica monumenta rerum confusa.*

secure, based on the calendrical function it would have provided to fourth century Rome and the large concordance between it and concurrent legal developments, nevertheless the list of triumphs was most prone to corruption of the sort in the passages quoted above.

There can be little doubt, when observing the religious implications of the triumph, that it would have been appropriate for memorial among the pontifical tables. There is a strong connection between the *triumphator* and the personification of Jupiter: numerous ancient sources refer to the garb of the god as part of the triumphal procession.²⁵⁶ Moreover, the triumphal route itself concluded at the Capitoline Temple, at which point an offering was made to Jupiter Optimus Maximus. Although there has been some scholarly debate as to whether the imagery of the *triumphator* was intended to make him a god for a day, or just stems from old imagery of Etruscan kingship,²⁵⁷ current scholarly consensus was set by H. S. Versnel, who argued that these two sets of insignia were largely coterminous and mutually developed.²⁵⁸

Even if there was not such a ritual connection to the Capitoline Temple, a triumph still represents a significant Roman victory, itself a sign of divine approval. The date, context, and relevant religious observances associated with this event, therefore, would have formed a point of further scrutinization with the intent to replicate. Triumphs, then, likely formed an important part of the pontifical tables. In addition, before the destruction of the Capitoline temple in 83 BCE, dedications and offerings might have provided testimony to triumphant generals of the past, much like dedicatory offerings at Delphi were used as demonstration of historical events.²⁵⁹ Contemporaneous documentation, therefore, was likely high for these momentous events.

²⁵⁶ Livy X.7.10: *Iovis optimi maximi ornatu decoratus*. Juv. X.38: *in tunica Iovis*; Suet. Aug. 94.3: *cum fulmine et sceptro exuuisque Iouis Optimi Maximi ac radiata corona, super laureatum currum*.

²⁵⁷ Beard (2007), 226-7.

²⁵⁸ Versnal (1970), 66-94. This conclusion is followed by Beard (2007), 227-8.

²⁵⁹ Flower (2008), 74-92.

Beloch considered most triumph notices interpolated before 300 BCE because they would have been recorded in the pontifical tables, which he argues were not regularly composed until after 300.²⁶⁰ It has been argued here, however, that this position is flawed, and that records do exist from earlier, both based on putative content found in Livy and contextual elements of the mid-fourth century. It stands to reason, then, that Beloch is wrong about the triumphal lists as well. The concerning features about the state of the *Fasti Triumphales*, however, stem from the observations by ancient sources, quoted above, and the demonstrably late date of composition.

There is undoubtedly a great deal of accurate information listed in the triumph lists as they are preserved in Livy and, in large part, the *Fasti* as well. We should not, as Ridley does, take the statements by Cicero and Livy as condemnation of the entire notion of early records.²⁶¹ The keeping of contemporaneous records by religious officials and the later exaggeration of families in their pursuit of glory are not mutually exclusive occurrences, they just necessitate a hesitation to accept the tradition where such fictions are likely to intrude. The lists of triumphs, much like a potential list of dictators, is one such venue where interpolation could not be checked by eponymous function. Further, the *Fasti Triumphales* show deviation from Livy in significant instances, such as those described above, both in the identity of the *triumphator* and in the enemy over which he had triumphed. While the latter should not *a priori* exclude the notice, as Beloch often argues, because the province of any general was unlikely to be recorded, the former is more troubling and could indicate later corruption. Most indicative of the delayed date of the *FT* is the presence of the “dictator years,” which have been shown to be a very late insertion into the chronology of the fourth century and do not appear in the texts of Livy or the magistrate lists of Diodorus. Thus, the triumphs listed in 324, 309 (twice), and 301 have definitely been, at the very

²⁶⁰ Beloch (1926), 91-5.

²⁶¹ Ridley (1983), 382 and especially Ridley (1980), 297-8.

least, rearranged at the end of the first century BCE.²⁶² Further, the consular years omitted by Piso, who was generally considered very assiduous in his attention paid to the magistrate list, also contain a triumph in 306, which is confirmed by Livy and was apparently commemorated by the erection of a statue and inscription.²⁶³

Thus, the information on the *Fasti Triumphales* pushes conclusions in two opposite directions. In the first, the strongly propitious nature of the triumph made it a likely candidate to be included in the religious recordings of the early Republic, and therefore made available for consultation in the middle of the fourth century. Physical monuments, too, were likely left to evidence the event, such as dedications on the Capitoline itself and statues, inscriptions, or other permanent commemorative markers.²⁶⁴ Such secure triumphs, however, must accompany those that have been inserted at a later date, following the accusations of Cicero and Livy. There was assuredly some manipulation of the dates assigned to the triumphs as they appeared in the *FT*, since there is no clear correspondence to the names or locations between the *FT* and the lists generated from Livy. These indications, as well as the political capital that can be gained from *falsi triumphi*, point to a highly confused tradition about these events and advocate for cautious acceptance. In general, however, the lists produced by Livy show, at least, one fewer layer of manipulation than that of the Augustan *Fasti Triumphales*.

Conclusions: Better archives, sparser records

²⁶² Drummond (1978), 562-3. Taylor (1951), 77.

²⁶³ Livy IX.43.22.

²⁶⁴ Flower (2008), 74-92.

While we may have modern expectations about the types and comprehensiveness of the records a state “should” keep in order to be fully self-archiving, this standard cannot possibly be maintained for a polity engaging in the nascent steps of this process. In accounting for this variety of potential state documentation, we must always keep two groups in mind: those who are actively publishing and those who are consuming the published material. As Rome loosens the limitations on participants in the highest political and religious offices, those publishing began operating on a correspondingly wider set of motivations: with a history of disenfranchisement and lack of access to the divine understandings of the successes and failures of the state, concretizing plebeian progress and building a common depository of historical knowledge would have seemed crucial to establishing themselves as power-sharing members of the ruling class. Access to public records would have offset the disadvantage that plebeians faced in their competition with the high patrician houses, who maintained their own private sources of information. If “information is power,” the fourth century begins to equalize the playing field.

What should not be overemphasized, however, are the needs of the common consumers, which would have necessarily dictated the nature of early source materials. They likely had humbler goals: a common reckoning of the passage of time with which they could calculate their obligations to others and the state as well as a religious chronicle that allowed them to strategize for immediate and long-term goals in accordance with divine will. These requirements, for example, did not dictate that magisterial provinces be recorded. The citizens of the day were also soldiers and likely lived, bled, and wore the scars of their campaigns; they would have remembered who gave the order to march and who signed their checks. There likely was no need to keep such contemporaneous records. The moment that those campaigns and enemies were forgotten is the same moment they were susceptible to reconstruction by ambitious *gentes*. And thus, our record

presents a largely consistent picture of military affairs from this period, however punctuated by moments of extreme confusion. Such is the state of narratives based on highly schematic and compressed points of fact. If events were extremely notable to the point of requiring pontifical attention, then these too would be recorded and integrated into a more complete understanding of the workings of the world.

Although still leaving ample room for later historians to extrapolate creatively, there is a demonstrable increase in the cohesion of historical narratives and *fasti* evidence for the latter half of the fourth century. The growth of record keeping was likely driven by a loosening of the restrictive qualities of governmental and religious access and the impact this political transformation had on the production and maintenance of official documents, which were no longer the strict purview of a small class of people. This archival effort is likely incited by the social and political changes occurring at the end of the fifth century and proceeding into the beginning of the next. This trend of archival improvement, however, does not completely illuminate the period in question and likely involved a number of frustrating gaps right from their outset. The conclusions to this survey, therefore, are both encouraging and disheartening: although these archives are increasing in scope, availability, and reliability, they by no means represented a comprehensive picture of the fourth century. There was substantial distance to be connected between the unconnected dots visible in these records.

Discrepancies in the tradition: a compilation problem?

The increased presence of archival notices in the fourth century present another potential complication to the formation of a cohesive narrative: the troubles associated with the compilation of disparate archives from different sources. So far in this chapter, we have identified two (potentially three) distinct archives where information was likely stored, and, in Chapter 5, Senate records will be considered. This means that there were multiple repositories of state information covering hundreds of years; the potential difficulties of aligning such archives could explain the confused nature of many years' reports. This is compounded by the problem that these records were likely composed by dozens of different individuals, from the Pontifex Maximus and other priestly scribes, to the Senate note-taker. Without any rigid regulations on the form, coverage, or depth of their work, it is likely that a vast array of archives was created over the years, even if by a single institution or for the same purpose. We are again reminded of the flexibility of the Roman political and legal spheres that is described by Uwe Walter and the impact this could have had on the operation of the state, the variation with which it was therefore recorded, and how this would have appeared to later annalists expecting consistency.

Thus, a severe compilation dilemma likely confronted the first Roman annalists seeking to integrate this information into their historical narratives. Not even considering the issues of legibility of 200-year-old documents, those that made a first attempt to smooth the inconsistencies, likely Greek historians, Fabius Pictor, Cincius Alimentus, and even Calpurnius Piso, assuredly had to make many decisions on the priority given to any conflicting notices found. Their conclusions in this task could result in the sometimes confused and contradictory narrative that Livy reports. In this way various threads of narrative, differing in certain specifics, could have been created by different solutions to these archival discrepancies: the traditions culminating in Diodorus, and Livy's various sources could have all originated in this fashion.

The most consistently controversial matters—triumph assignation, *provinciae*, dictatorial duty, and *interreges*—are all episodes that 1) could have been recorded in multiple archives for different reasons and 2) did not form the basic chronological marker for the state, the eponymous magistrate (some of this information might not have been recorded at all, such as *cognomina*). Therefore, the convention in the recording of this information is likely *ad hoc* and varied not just with the type of information, but what each recorder thought worthy of commemoration.

This again leads to a slightly depressing conclusion: the presence of more records does not necessarily equate to better documented events. With the infusion of more people to positions of power, and thus a diffusion of the responsibility in the keeping of archives, the potential for incompatibilities and inconsistencies might have been increased. That the record is at all cohesive speaks to the efforts at coherence of early historians.

Chapter 3

The Partiality and Integrity of Livy's Second Pentad

We have already seen how an early focus on chronology without any centralized authority could explain the errors and discrepancies apparent in the historical tradition of the fourth century. The presence of such problems, therefore, cannot force a rejection of the narrative by itself. Its acceptance by historians and scholars, however, has been impeded by another perceived feature of the tradition: distortions arising from any biases or programmatic approaches on the part of Livy or his immediate sources. As the Struggle of the Orders presents a record of intense political and social upheaval, conflicts that were indeed still pertinent in one way or another during the time of Livy and especially in the time his sources, such partiality is capable of seriously compromising any portrayal of this period. It is true that characterization and moralizing were an important part of any ancient historical endeavor: the fruit of such inquiry was intended to edify its listeners in moral and intellectual matters as much as inform of past events. Indeed, history without moralization would have been far less useful to historians, whose main objectives were often the contemporary application of historical example.

Livy himself states explicitly that his history is a means to an end, to remind the Roman people of the degradation of their culture and morality.²⁶⁵ Herodotus conveyed to his Greek audience the value of their institutions, and he conveyed to all the mutability of fortune and the

²⁶⁵ Livy pr. 9.

danger of hubristic overreach. Thucydides transmits timeless messages concerning the interaction of fear, greed, and the pursuit of international politics. The concept of historical objectivity, as encapsulated by Leopold von Ranke's 19th century pursuit of *wie es eigentlich gewesen*, played no role in these endeavors. Thus, didacticism and its attendant features of characterization and moralization are an integral part of Rome's historical tradition.

This chapter will show that such aspects, inescapable in any ancient historical text, also play a strong role in Livy's construction of Rome's past as well. This does not mean, however, that Livy suborned historical evidence in service of these didactic goals. In what follows, Livy's key portrayals of both patrician and plebeian actors from the first decade will be analyzed to illustrate the breadth and diversity of his characterization. This will be followed by Livy's treatment of the systemic development of the Roman state during the second pentad, with particular focus on the lack of interest the historian shows in key developmental moments during the Struggle of the Orders. It will emerge from this discussion that Livy was intensely interested in the personalities of these episodes but showed little interest in moralizing or politicizing the historical events behind them. Thus, like so much else of the narrative of the second pentad, certain key features, which in this case comprise individual motivation, personality, and political rivalry, seem to have been grafted onto an increasingly definite historical structure.

A Compromised Narrative?

Post-modernism has long shed the notion, popular in nineteenth-century Romantic German theory founded by von Ranke named above, that bias can be an irrelevant factor in an historian's recounting of the past. While one can strive to produce a dispassionate approximation of the truth,

based on a best-fit reconstruction of the evidence, the landscape of historical cause, connection, and significance will never be devoid of the historian's own experiences in his or her own context. This is especially true of Roman historians of their early history, who not only brought these subconscious biases to their reproductions, but often actively strove to drive their retellings towards one or more meta-historical themes, such as overwhelming patriotism and the moral superiority of ancestors. Early Roman history was a perfect venue for such practice, as the archival and family records left much space to creatively hash out discrepancies and insert thematic agendas.

Livy and his Roman forbearers have been thought to be particularly guilty of this practice, and a long tradition of scholarship has highlighted many of the ways they shaped content and filled gaps with their particular methodological and thematic goals. Very thorough and compelling studies have been completed on the programmatic tendencies of Livy over the last 60 years, including the seminal works of P. G. Walsh in 1961 and T. J. Luce in 1977. Walsh highlights the moral aspects of Livy's presentation of Roman history, stating that it was driven to present the superiority of earlier generations in devoutness, valor, good faith, moderation, and chastity.²⁶⁶ Luce, on the other hand, argues that Livy dictated the very organization of his work based on the two main thematic threads of his composition: Rome grew steadily in its early years and suffered a steep moral decline beginning in the second century BCE.²⁶⁷ In Luce's reading, the very selection and organization of Livy's material was in service of these two goals.²⁶⁸ Numerous works have since followed which further nuanced these arguments since their original publication.²⁶⁹

²⁶⁶ Walsh (1961), 80. For a more extended discussion of Walsh's arguments on this topic see Walsh (1974).

²⁶⁷ Luce (1977), 232-251.

²⁶⁸ Luce (1977), xix.

²⁶⁹ Important studies on this topic include Ogilvie (1965) and more recently Feldherr (1997), 136-157 highlight how Livy establishes an image of the Roman state during the first pentad. Feldherr (1998) describes how Livy is driven to create civic identity in his own day through the literary presentation of historical spectacle. Jaegar (1997) describes how *monumenta* in Livy's narrative both inform and transport his audience through their recognition of

It is not the contention of the present study that these analyses of Livy's methodological or thematic goals are incorrect for the second pentad; indeed, even as the archival record during the fourth century gradually grew more robust, there was still much room to compose original speeches, justify and rationalize external conflicts, and tease out didactic elements of the narrative. While these by no means preclude the emerging archival habit, they nevertheless cannot aid our endeavor to understand it. They are the "flesh" on the "bones" of the historical material of the fourth century, and it is the bones that are of concern here.

This authorial imposition, however, must be considered if and when it causes alterations to the baseline material beneath it.²⁷⁰ This could be a particularly pernicious possibility for the second pentad, as it deals with social issues of class that still roiled hotly in the time of Livy's main sources in the second and first centuries BCE. Did the literary license of Rome's historians subvert any historical information that might have been transmitted through archival sources? Could the economic and social issues that surrounded the period of the Gracchi in the latter half of the second century have weighed so heavily on the narrative for previous periods that a specific lens was created, through which historical information was hopelessly distorted? This has certainly been contended in the past and currently remains the preferred position of many scholars of Livy's text. He was so affected by the populist activities of Tiberius Gracchus and Julius Caesar, argues Wilhelm Hoffman, which he would have perceived as moving far from the ideal of the *res publica*, that Livy throws all his sympathies towards the Senate and aristocratic classes, levying heavy condemnation on tribunes throughout his text. Although Livy is muted in overt criticism, Hoffman

their own civic space. Chaplin (2000) highlights the construction of didactic scenes within Livy's narrative which instructed on matters both patriotic and moral. Lushkov (2015) looks for the values and tensions of later republican Italy within the actions and words of historical presentations of magistrates.

²⁷⁰ As occurred frequently and intentionally according (cynically) to such scholars as Wiseman (see Chapter 1).

nevertheless sees a strong patrician bias permeating his work.²⁷¹ Most recently, Hans Beck has highlighted an impartiality towards senatorial elite in Fabius Pictor's attempt at creating coherence from the scattered fragments of the city's early history. This was a formative moment in Roman historical narrative and slanted the works of all subsequent authors, including Livy.²⁷² It is the goal of the remaining chapter to demonstrate how such skepticism disregards basic operating parameters of ancient historical writing, which included a level of moralizing as a basic genre feature, and the specific lack of bias in the presentation of political, legal, or social development.

Debilitating Bias or Predictable Characterization?

The events comprising Livy's second pentad are particularly vulnerable to the intrusion of class and political bias. Continuous social tensions, recalcitrant political postures, and hard-fought compromises are fertile ground for sewing the biases of historians. Many scholars, such as Hoffman mentioned above, certainly saw Livy's characterizations of historical figures and events as strongly pro-patrician. While Livy certainly presents historical actors or groups of actors in predictable stereotypes, the diversity of his presentation militates against such strong skepticism in the underlying source material; the historian is simply fulfilling the main purpose of the genre with didactic *exempla*.

²⁷¹ Hoffman (1967), 85: *Das Schicksal, das Tiberius Gracchus traf, der mit seinem Anträgen an die Volksversammlung die große revolutionäre Bewegung einleitete, erscheint ihm ebenso gerechtfertigt wie Caesars Ende, der sich in seinem Tun am weitesten von der alten res publica entfernen sollte. Diese hier angedeutete Linie lässt sich noch weiter führen. So sehr nämlich Livius jede ausgesprochene Tendenze vermeidet: dem Senat und den alten regierenden Schichten gehören bereits in den frühen Perioden der römischen Geschichte seine eigentlichen Sympathien, die Tribunen aber trifft nicht selten bittere Kritik.*

²⁷² Beck (2003), 73-92.

Characterizations of patricians

In order to assess the impact any potential class bias might have had on Livy's historical narrative, it is important to establish the characterizations which are attached to various groups of actors. At many points during the first decade, Livy certainly presents patricians in a favorable manner. In the second year of the Republic, as he introduces the conflicts between the lower and upper orders of Roman society, he reveals his approach to the debate: "and no one afterwards was so popular through evil means than the entire Senate was at that time through good governance."²⁷³ The use of *popularis* here, characterized by their *mala ars*, indicates what Livy thought of demagogic, popular leaders in the coming centuries. In the succeeding books, Livy continually constructs noble portrayals of patricians and their actions, even when they domineer through fear and intimidation. Bands of aristocratic youths proved terrifying for plebeians at many times, but nevertheless Livy chooses to describe the situation thusly:

The youths, mostly those who were of Caeso's band, grew in their anger against the *plebs*, and did not shrink in their courage: but they then conducted themselves mostly in such a way that they greatly moderated their attacks...In the intervening days when the tribunes did not agitate on behalf of the law (to codify the laws), nothing was more gentle or quiet than these very youths. They kindly saluted and addressed plebeian men, they invited them to their home, assisted them in the forum, and allowed the tribunes themselves to hold other meetings without interruption, there was never any violence either in public or private, except when debate about the law ensued; at other times the youths were for the people. With not even an unkind word, much less any force, they mollified the *plebs* little by little through kindness and blandishment.²⁷⁴

This passage typifies Livy's tendency to characterize the aristocracy, even the passionate and sometimes violent youth among them, as governed by a sense of moderation and camaraderie.

²⁷³ Livy II.9.8: *nec quisquam unus malis artibus postea tam popularis esset quam tum bene imperando universus senatus fuit.*

²⁷⁴ Livy II.14.3-5: *iuniores, id maxime quod Caesonis sodalium fuit, auxere iras in plebem, non minuerunt animos; sed ibi plurimum profectum est quod modo quodam temperavere impetus suos...Mediis diebus quibus tribuni de lege non agerent, nihil eisdem illis placidius aut quietius erat. Benigne salutare, adloqui plebis homines, domum invitare, adesse in foro, tribunos ipsos cetera pati sine interpellatione concilia habere, nunquam ulli neque publice neque privatim truces esse, nisi cum de lege agi coeptum esset; alibi popularis iuventus erat. Ne voce quidem incommoda, nedum ut ulla vis fieret, paulatim permulcendo tractandoque mansuefecerant plebem.*

Patricians are also shown to be a cohesive force in the state, often in the face of plebeian agitators bent on discord and obstruction. In Book III, the tribune C. Terentius Harsa agitated for codification of the law and gives a very short speech on the tyranny of the consuls, whom he asserts are like two kings instead of the one they drove out, who wielded unimpeachable power to terrorize the plebeians.²⁷⁵ In opposition, Q. Fabius, a prefect of the city, upbraided Harsa for raising this issue with the consuls absent and reminds him that he is to serve the public good, not communal destruction.²⁷⁶

A lengthier debate occurred on the eve of the reforms of 367 BCE, as the tribunes Licinius and Sextius served their ninth consecutive term in office. They deliver a feeble appeal to the patricians, imploring them to maintain the progress made by the plebeians, instead of hindering it. Appearing more as a statement of defeat, they threaten to quit their post should their demands continue to be ignored.²⁷⁷ Against this, Appius Claudius Crassus, in the tradition of his family, delivers a very lengthy and passionate rebuttal, condemning the tribunes for their nine-year chokehold on the office. The main thrust of his counter argument is religious in nature: only patricians can hold the auspices, under which the Roman state grew prosperous and remains secure. By depriving the patricians of offices holding the auspices, they threaten to deprive the city of them entirely, driving it into danger and uncertainty.²⁷⁸

Despite these positive portrayals, the patricians are nevertheless sometimes characterized with violent arrogance towards the will of the people and the tribunes, to the extent that their behavior flouts and undermines the law. As L. Furius and C. Manlius are brought to trial by an unnamed tribune for their obstinance in the face of a land-redistribution bill, the Senate began to

²⁷⁵ Livy III.9.2-5. Bleicken (1955), 15-6.

²⁷⁶ Livy III.9.6-12.

²⁷⁷ Livy IV. 39.5-12.

²⁷⁸ Livy VI. 41.4-12.

meet in secret, determined to effect an acquittal by any means necessary.²⁷⁹ On the day of the trial, the prosecuting tribune was found dead in his house, and the senators, not at all fearing justice, began to brag of the deed: “and no one repented of the guilt to such a degree that even the innocent wished to be seen to have committed it, and it was openly held that tribunician power needed to be tamed by misdeed.”²⁸⁰ Livy concludes that this proved how ineffectual the laws were that granted sacrosanctity to the tribunes in the face of the arrogance of the patricians and the *plebs* were justly roused to anger.²⁸¹

Mention has already been made of the bands of aristocratic youths who terrorized the lower class with unpredictable violence in public. Although, as discussed above, Livy has characterized this phenomenon on one occasion as inducing goodwill between the orders, they are much more often seen as a disruptive and extra-legal civil force. During the tyrannical extension of the second decemvirate, such a band of youths was used to terrify Appius Claudius’ opponents, even helping him maintain control during the intense turmoil following the death of Virginia (for which the crowd blamed him entirely).²⁸² They reappear with Appius Claudius after he was ousted from his unlawful office and as he is formally charged with enslaving the free-born Virginia, again inspiring terror in the plebeians.²⁸³ Violent patrician youths cause further trouble in 447 BCE: during a period of relative peace at home and abroad, the youths began to insult the *plebs*, assault the tribunes, and thoroughly depress the lower order.²⁸⁴ In a disheartening admission, the elder patricians, “although they believed their youths to be too fierce, thus preferred, if moderation must

²⁷⁹ Livy II.54.7.

²⁸⁰ Livy II.54.10: *adeoque neminem noxiae paenitebat, ut etiam insontes fecisse videri vellent, palamque ferretur malo domandam tribuniciam potestatem.*

²⁸¹ Livy II.54.9; 55.2.

²⁸² Livy III. 49.1-4.

²⁸³ Livy III.56.2.

²⁸⁴ Livy III.65.7-9.

be forgotten, that overweening courage be on their side, rather than with their enemies.”²⁸⁵ Livy concludes this scene with the fatalistic observation that civil security appears to be zero-sum: as one looks to rid himself of fear he becomes fearful to others, and as one looks to avoid injury, he becomes injurious to his countrymen.²⁸⁶

Livy also describes patrician joy at Roman setbacks on the battlefield. As the tribune Canuleius advocated for his reforms, the Senate rejoiced to hear of the revolt in Ardea, that the Veientes were ravaging the Roman countryside, and that the Volsci and the Aequi were threatening Verrugo.²⁸⁷ The patricians cynically saw these threats as opportunities to quash the ambitions of the tribunes by fierce imposition of the levy. Similarly, on the failure of the first campaign conducted by a plebeian consul, L. Genucius, Livy describes the taunts of the patricians, as if they enjoyed the misfortune of the Roman army, in order to validate their claims of superiority.²⁸⁸ It is hard to imagine Livy, in his patriotism and knowing that plebeians would soon demonstrate great capacity in warfare, approving of such treasonous displays.

At other times, Livy highlights the dishonesty of the patrician order. In 457 BCE, as the tribunes secure the increase of their number to ten in the face of an imminent Sabine threat, they demand that elections be held immediately, “lest this promise too be empty after the war, as at other times.”²⁸⁹ The consuls are elsewhere accused of trumping up foreign threats in order to suppress domestic upheaval, even going so far as inventing enemy armies and declaring war on innocent peoples.²⁹⁰ At the end of the fifth century, the patricians were desperate to monopolize the consular tribunate. They set up a trick (*artem*), by putting up lowly candidates to confound the

²⁸⁵ Livy III.65.10: *Seniores contra patrum ut nimis feroce suos credere iuvenes, ita malle, si modus excedendus esset, suis quam adversariis superesse animos.*

²⁸⁶ Livy II.56.11.

²⁸⁷ Livy IV.1.4.

²⁸⁸ Livy VII.6.10-1.

²⁸⁹ Livy III.30.6: *Tribunicia comitia, ne id quoque post bellum ut cetera vanum esset, extemplo habita.*

²⁹⁰ Livy III.10.10-14.

electorate and drive voters to the patricians.²⁹¹ At the beginning of the fourth century, they not only nominated their most august members, but also contrived a plan based on phony religious scruple, and thus terrified the populace into voting for those who held the ancient auspices. By these scurrilous means, they secured the entirety of the college.²⁹²

Characterization of the plebs

It is clear that there is no systematic program to elevate the patrician cause to a position of moral superiority. He appears to treat each situation individually, casting characters to support the overriding lesson he is trying to construct. What then can be said about Livy's characterization of the plebeian causes and those that champion them? True to his patriotic interests, he finds strong condemnation in anything which jeopardizes Rome's ability to muster its troops and effectively wage war. He conveys harsh criticism of both soldiers who prove themselves to be lacking military discipline and tribunes who obstruct the levy. This is especially true in times of imminent danger. He often characterizes the masses as lazy, licentious, and sometimes violent, and their leaders as self-serving rabble-rousers.

Concerning an early instance of the conflict over debt, debtors are painted as "an inflamed, lawless mob standing around every day" and participating in an insurrection.²⁹³ Worse than this open *seditio*, they engaged in secret and secluded meetings, which Livy calls "more pernicious by far."²⁹⁴ These nightly meetings seem to have bothered Livy's sensibilities about the proper conduct of government debate, as he states that the consuls were indeed correct to assume the lower classes

²⁹¹ Livy IV.56.3.

²⁹² Livy V.14.1-5.

²⁹³ Livy II.27.12: *Cum circumstaret cotidiana multitudo licentia accensa, [consul] arripi unum insignem ducem seditionum iussit.*

²⁹⁴ Livy II.27.13: *Crescere inde malum in dies, non clamoribus modo apertis sed, quod multo perniciiosius erat, secessione occultisque conloquiis.*

were destructive to society.²⁹⁵ More than once, Livy characterizes the *plebs* as indolent,²⁹⁶ violent,²⁹⁷ and favoring emotion and sentiment rather than law, a quality which he describes as setting the worst example in Book V.²⁹⁸

Perhaps the harshest condemnation of the *plebs* and their tactics is leveled against their conduct when external threats loomed over the city. Enemies, usually the Volscians, Aequians, and Etruscans in the fifth century, were often sensitive to the internal schisms of the Roman state and timed their attacks accordingly. Livy says that plebeians, through their agitation for debt relief, land reform, and codification of the laws, often incited foreign attacks.²⁹⁹ On campaign, insurrection was even more dangerous, and Livy expresses strong disdain for the practice. In 480 BCE, the pitch of rhetoric had reached such an elevation that, despite the usual practice of leaving civil discord at home, “now the custom of disobeying the magistrates followed the Roman soldiery also into camp...by consensus, the army handed victory over to the defeated Aequians, deserted their standards, left the commander on the lines, and returned against orders to the camp.”³⁰⁰ Livy shares the horror of the consuls, who began to fear both armies in the field. Nine years later, under the particularly cruel command of Appius Claudius, the army again conducted itself “sluggishly, lazily, neglectfully, and stubbornly.” Claudius accused the centurions of contaminating the minds

²⁹⁵ Livy II.28.2: *Eam rem consules rati, ut erat, perniciosa.*

²⁹⁶ Livy II.28.5: *otio lascivire plebem;* II.52.2: *Ex copia deinde otioque lascivire rursus animi et pristina mala.*

²⁹⁷ Livy II.63.2: *Non ultra videbatur latura plebes dilationem agrariae legis, ultimaque vis parabatur.*

²⁹⁸ Livy II.7.5: *Consuli deinde qui superfuerat, ut sunt mutabiles volgi animi, ex favore non invidia modo sed suspicio etiam cum atroci crimine orta.;* II. 42.6: *Sollicitati et eo anno sunt dulcedine agrariae legis animi plebis.;* V.29.7-8: *Vicit tamen gratiam senatus plebis ira et pessimo exemplo innoxii denis milibus gravis aeris condemnati sunt.*

²⁹⁹ Livy II. 42.3: *Eo infestior facta plebes seditione domestica bellum externum excivit.* The inciting factor in this case was agrarian legislation.

³⁰⁰ Livy II.44.10-11: *iam non parendi magistratibus morem in castra quoque Romanum militem sequi...consensu exercitus traditam ultro victoriam victis Aequis, signa deserta, imperatorem in acie relictum, iniussu in castra redditum.*

of the soldiers, who cursed him as he passed.³⁰¹ Claudius might have deserved this treatment, and Livy is certainly not sympathetic to him in this scene, but this behavior roused the spirits of the opposing Volscians, resulting in increased loss of Roman life and territory. To cap Livy's disgust at this episode, he accuses the soldiery of "rejoicing at their own slaughter and ignominy."³⁰² Whatever his sympathies with respect to class, this treasonous act seemingly offended his patriotic sensibilities.

In later books, Livy shifts most of his criticism towards the architects of plebeian discontent: the tribunes of the *plebs*. Both in his own words and through the speech of his characters, the historian often constructs disdainful occupants of this office, the tactics of its holders, and the effect it has on the Roman lower classes. The harshest criticism of the tribunes usually emerges from the mouths of Livy's main characters, who are often at loggerheads with the plebeian magistrates, and one such powerful speech from Book III is put into the mouth of the hero Cincinnatus, a figure who evokes strong associations of moderation and patriotism. His words should carry weight, despite his personal animosity against the tribunes for driving his son from Rome and reducing his estate to poverty.³⁰³ In fact, Livy seems sympathetic to Cincinnatus' anger at the *plebs*, characterizing his exiled son as "great in spirit" (*magnitudine animi*). Thus, his condemnation of the tribunes is harsh: "the tribunes of the *plebs*, now a permanent body, ruled like a king by crimes and demagoguery, not as in the Roman Republic, but as in a ruined household...talkative, seditious, seeds of discord, tribunes twice and thrice elected by the basest

³⁰¹ Livy II.58.7-9: *Segniter, otiose, neglegerter, contumaciter omnia agere; nec pudor nec metus coercedat...Omni neququam acerbitate prompta, nihil iam cum militibus agere; a centurionibus corruptum exercitum dicere; tribunos plebei cavillans interdum et Volerones vocare.*

³⁰² Livy II.59.3: *alioqui gaudere sua clade atque ignominia.*

³⁰³ Livy III.13.8-91.

practices live with regal abandon.”³⁰⁴ The image of tribunes acting without appeal or oversight, like the ancient kings, is often repeated throughout Livy’s work. The author’s own sympathies are made clear as even the *plebs* are moved by Cincinnatus’ words, and the tribunes mockingly (*cavillarorum*) resist the consul’s levy with religious technicality (*exsolvere religione velle*).³⁰⁵ Finally, Livy claims that Cincinnatus was victorious because “there had not yet come about this disrespect of the gods which now holds this generation.”³⁰⁶ Thus, Livy reinforces the approbation of the *mores* of earlier Romans, while simultaneously denigrating both the morals of his own day and the office of the tribunate in one succinct statement.

Another such speech of condemnation is found at the beginning of Book V and issued from Appius Claudius in response to tribunician complaints about the length of military service during the war with Veii. Again, Livy couches this episode in terms exceedingly favorable to the patricians, saying “He not only was ready in his intellect, but also trained in its use,”³⁰⁷ and characterizing the other side as merely tribunician seditions (*tribunicias seditiones*).³⁰⁸ The massive length of the speech, one of the longest of the first decade, is surely also a sign of its prominence in expressing Livy’s desired morality and themes. Appius Claudius claims that the tribunes are “really like some shameless doctors seeking a job, since they always wish there to be some sickness in the Republic, so that there could be something to which they could administer a cure.”³⁰⁹ They fail not just in patriotism, but in basic humanity, by encouraging discord between

³⁰⁴ Livy III.19.4-5: *perpetui iam tribuni plebis, non ut in re publica populi Romani sed ut in perdita domo lingua criminibusque regnarent...loquaces, seditiosos, semina discordiarum, iterum ac tertium tribunos, pessimis artibus, regia licentia vivere.*

³⁰⁵ Livy III.20.1; 20.4.

³⁰⁶ Livy III.20.5: *Sed nondum haec quae nunc tenet saeculum neglegentia deum venerat.*

³⁰⁷ Livy V.3.1.

³⁰⁸ Livy V.2.13.

³⁰⁹ Livy V.3.6: *Sic hercule, tamquam artifices improbi, opus quaerunt quippe semper aegri aliquid esse in re publica volunt, ut sit ad cuius curationem a vobis adhibeantur.* Livy revisits this metaphor of tribunes profiting from “sickness” in society again at V.5.12.

the patricians and the plebeians.³¹⁰ While the force of these accusations may be tempered by the fiery characterizations of the Appii Claudii throughout the work, they nevertheless reflect the general sense Livy provides of the disadvantages of tribunician authority.

A very common complaint about the behavior of tribunes is their propensity to rabble-rouse and inject madness into the political discourse. Although not as fiery as the language of Appius Claudius and their intentional perpetuation of a disease, nevertheless senseless incitation to violence occurs frequently. In 460 BCE, “the tribunes strove to make the *plebs* suspicious of [the consuls] through incrimination: a conspiracy was formed, Caeso was at Rome, a plan was hatched to kill the tribunes and massacre the *plebs*.³¹¹ They goaded (*instigabant*) the *plebs*³¹² and incited riots (*auctores turbarum*).³¹³ He characterized their usual method for agitation (land-distribution legislation) as a poison (*venenum*)³¹⁴ which caused them to enter a frenzy (*furebat*).³¹⁵

The great tribunes of the middle of the fourth century, C. Licinius and L. Sextius, who came to an initial power-sharing compromise in 367 BCE, are also accused of being manipulators of public sentiment: “contrivers through so many years of managing the minds of the *plebs*.³¹⁶ Livy here uses the same word, *artifices*, with which he reproaches the tribunes in the speech of Appius Claudius in Book V. These are not the only great plebeian champions who receive pejorative descriptions in the text, as the Ogulnii brothers, Quintus and Gnaeus, whose advocacy on behalf of the *plebs* opened the pontifical college to them in 300 BCE, are also painted with this same brush. Despite the peace brought about by recent colonization, the Ogulnii injected

³¹⁰ Livy V.3.9.

³¹¹ Livy III.15.2-33: *tribuni tendebant ut plebi suspectos eos criminando facerent: coniurationem factam; Caesonem Romae esse; interficiendorum tribunorum, trucidandae plebis consilia inita*

³¹² Livy III.22.2.

³¹³ Livy V.18.8.

³¹⁴ Livy II.52.3: *Tribuni plebem agitare suo veneno, agraria lege.*

³¹⁵ Livy II.54.2: *Agrariae legis tribunicii stimulis plebs furebat.*

³¹⁶ Livy. VI.36.10: *artifices iam tot annorum usu tractandi animos plebis.* Mommsen, vol. 2 (1887-1888), 312-3.

disagreement into the top men of the state, both patrician and plebeian, after failing to incriminate the patricians and otherwise incite unrest.³¹⁷ The trope of tribunes looking for any means necessary to create a wedge within society, and therefore justify their office or seek glory, is persistent, appearing throughout Books II-X and obviously forming a key pillar of Livy's portrayal men occupying the tribunate.

The agency of this manipulation can be diffuse, and Livy sees the plebeian-tribune relationship as a bilateral avenue of dissention and agitation. "The tribunes, as they nearly always are ruled by the masses more than they rule them, conceded to the greedy *plebs* as they listened, so that Scaptius might say what he wished."³¹⁸ The image of either the people or the tribunes ruling (*regere*) does not evoke a healthy system of dialogue or compromise and forms for Livy a severe weakness in the functioning of the Roman state.

Tribunes and other activists on behalf of the *plebs* are also shown to act incredibly selfishly, even to the point of risking the security of the Republic in the face of external threats, not to mention subverting the laws. In 339 BCE, the Senate was disgusted with the greed (*cupiditate*) of Ti. Aemilius Mamercinus, who left his campaign before its conclusion, to celebrate a triumph. He thereafter conducted his consulship like a seditious tribune (*seditiosis tribunatibus similem*) and attacked the patricians at every opportunity while meeting no resistance from his colleague, who was of the plebeian order.³¹⁹ The patricians believed that great damage was done to the state during this year.³²⁰ Equating the personal grudges of Aemilius in this scene to the normal conduct of tribunes certainly reveals Livy's attitudes towards the latter.

³¹⁷ Livy X.6.3-4: *Tamen ne undique tranquillae res essent, certamen iniectum inter primores civitatis, patricios plebeiosque, ab tribunis plebis Q. et Cn. Ogulniis, qui undique criminandorum patrum apud plebem occasionibus quæsitis, postquam alia frustra temptata erant.* Hölkeskamp (1988), 65.

³¹⁸ Livy III.71.5: *Tribuni, ut fere semper reguntur a multitudine magis quam regunt, dedere cupidae audiendi plebi ut quæ vellet Scaptius diceret.*

³¹⁹ Livy VIII.12.9-12. Mommsen, vol. 1 (1887-1888), 152.

³²⁰ Livy VIII.12.17.

In much the same way that Livy views disobedience among the soldiers as a pernicious threat to Rome's safety, the tribunes' antagonistic use of the levy meets with the same condemnation. In 481 BCE, the tribune Spurius Licinius prevented the levy in the face of a double invasion of Latium from the Aequi and Veientines, in order to take the opportunity to press for land redistribution. However, he garnered all the hatred which was attached to plebeian power and was opposed as much by the other tribunes as the consuls.³²¹ The tribunes again were turned against each other in the next year, concerning the levy in the face of a unified Etruscan threat. Three tribunes were convinced of the public necessity and therefore used their powers for the well-being of the state.³²² When a group of Sabines, exiles, and slaves, under the leadership of Appius Hardonius, took possession of the Capitoline in 460 BCE, Livy implies that the tribunes took advantage of the upheaval to engender further infighting. They forbade the people from aiding the consuls' attack on the hill, prompting P. Valerius to issue a forceful accusation that they were treasonous and aiding the enemy.³²³ Clearly, Livy conceived of the great dangers which could arise from the interruption of standard military practice, whether stemming from insubordination of the soldiers or subversion of the process at the outset by the tribunes.

While the evidence above might seem abundant, these observations are not enough to confirm Hoffman's argument of a pervasive pro-patrician bias: Livy creates just as many praiseworthy characters from the lower order and positive characterizations of the plebeian pursuit of land, debt relief, and access to public office that typify their efforts during the first decade of his history. Through an analysis of these contrasting episodes, I will demonstrate that Livy was

³²¹ Livy II.43.2-4.

³²² Livy II.44.5-6.

³²³ Livy III.16.5-17.7.

not beholden to any patrician partiality in the composition of his history and therefore not prone to emphasize the class struggles in a way that compromised the surviving narrative.

Livy heaps the most praise on plebeians when they evince moderation and peaceful behavior. He approves of the temperate behavior during the first secession of the *plebs* as “not causing or receiving any harm.”³²⁴ The second secession is also characterized by this moderate behavior, both in their march out of town and in its merciful resolution.³²⁵ Leniency in legal matters is often highlighted, including the trial of Sempronius, which was dropped voluntarily by the tribune Hortensius, and the trial of Ti. Menenius.³²⁶ The tribunes of 384 BCE intercede in cooperation with the Senate in the indictment of M. Manlius, thus winning approbation for ending this treasonous push towards *regnum*.³²⁷ Livy deems praiseworthy many plebeians from the fourth century, including P. Sempronius, tribune in 310, who won general approval for attempting to enforce the *lex Aemilia* and force Appius Claudius from his elongated censorship, and C. Maenius, who as dictator eloquently defended himself against unfair charges and was wonderfully acquitted (*egregie absolvuntur*).³²⁸ The tribune M. Duillius, who is singled out on multiple occasions for his moderation, succeeds in unifying the patricians and the *plebs* in praise as he eloquently checks the power of his colleagues, elects new tribunes, and relinquishes his seat.³²⁹

The controversy over admitting plebeians to the pontificate in 300 BCE occasioned Livy’s last surviving debate on the topic of the Struggle of the Orders. Again, the patrician speaker is an Appius Claudius, but simply regurgitates the sentiments of his ancestor in 367 BCE. Focus is given to P. Decius Mus, who begins by invoking his father, the famous consul who saved the Roman

³²⁴ Livy II.32.5: *neque lacesisti neque lacesentes sese tenuere*.

³²⁵ Livy III.52.3; 54.10-5.

³²⁶ Livy IV.42.1-9; II.52.3-5.

³²⁷ Livy VI.19.4-7.

³²⁸ Livy IX.33.4-34.26; IX.26.13-20.

³²⁹ Livy III.64.11.

army by dedicating himself to the gods. Does this not grant him the ability to consult the gods and conduct the rites as well as a patrician? Have plebeians proven themselves to any lesser degree in leadership, custody of the auspices, and in triumphs?³³⁰ Plebeians have access to every other honor and now seek the priesthood as well, “not to strike you, Appius, from your place, but so that plebeian men can help you also in the administration of divine matters just as they help in other human affairs as far as their strength allows.”³³¹ In the following year, Decius’ sentiments carried the discussion and he was elected to the first board of plebeian pontiffs. Livy did recognize and convey the justice of plebeian causes as well as the ability of plebeian leaders to effectively advocate for them.

Perhaps the subject about which Livy shows the greatest sympathy for the plebeians is the issue of debt. To frame this for his audience, Livy composes three highly emotional scenes depicting the injustice of debt bondage and torture. The emphasis in these extended passages is on the patriotism of the defaulting citizens, their youth or sacrifices in war, and the pitiable state in which their indebtedness has rendered them.³³² Fearing legislation to curb their profit, money lenders are described as frustrating both orders through great artfulness and influence.³³³ Livy admits that there was a great accumulation of debt owing to rebuilding efforts after the Gallic sack, which affected even the rich.³³⁴ Tribunes accused the Senate of refusing to elect censors in 380 BCE to avoid the calculation of the extent to which the *plebs* were oppressed by their debt,³³⁵ and even the leaders of the plebeians were crippled by interest and effectively ceded all political gains

³³⁰ Livy X.7.3-8.

³³¹ Livy X.8.4.

³³² Livy II.23.3-7; VI.14.3-5; VIII.28.

³³³ Livy II.31.7: *tanta cum gratia tum arte praeparaverant faeneratores quae non modo plebem, sed ipsum etiam dictatorem frustrarentur.*

³³⁴ Livy VI.11.9.

³³⁵ Livy VI.27.6.

back to the patricians.³³⁶ Even though interest had been capped at one percent in 353 BCE, the poorest still found it insurmountable.³³⁷ Nevertheless, the debt commission appointed the next year and consisting of three plebeians receives incredibly high praise for their efficacy and fairness, resolving a great deal of the crisis without complaint from either side.³³⁸ Thus, it appears that Livy commiserates with this aspect of the plebeian struggle throughout the first decade of his history.

The same is not true of the issue of land distribution. As mentioned above, Livy attributes much sedition to passions inflamed by tribunes promising equitable distribution of public land. It should be expected that land would prove a particularly salient issue to Livy's main body of sources, as these historians were writing under the influence of Gracchan and post-Gracchan land reform programs in the second and first centuries. Livy makes some powerful statements about the abuses of the patricians in this respect: he claims that patricians held public land unlawfully (*per iniuriam*) and by force, and would not allocate even the unused sections.³³⁹ Agrarian legislation proposed in the next year, however, is characterized by Livy as stirring up sedition, undercutting his previous condemnation. Tribunes accuse patricians of forcibly seizing public land but cannot generate enough incentive to mobilize the masses.³⁴⁰ Thus, in both cases, Livy qualifies the threat that land shortages posed to the livelihood of the *plebs*.

It is clear from this survey that Livy considered plebeians to be just as capable of accomplishment as the patricians, and the upper order just as prone to condemnation as the lower. Praiseworthy speeches are generated by members of both groups in nearly equal numbers; both form the protagonists and antagonists of Livy's many moral lessons. The patricians evince

³³⁶ Livy VI.34.2-4.

³³⁷ Livy VII.19.5.

³³⁸ Livy VII.21.5-8. Loreto (1992), 53-58.

³³⁹ Livy VI.51.5-6.

³⁴⁰ Livy VI.5.4-5.

negative traits of greed and dishonesty, the plebeians of sloth and lawlessness, and both of violence and feeling treasonous joy at the defeat of their political rivals at the hands of enemies. Livy has serious moral problems with the obstruction of the levy in times of threat, as well as the subjugation of the lower classes to debt bondage. In short, Livy displays no pervasive tendency to prioritize a narrative favorable to either group. He is much more likely to approach each individual, episode, and topic on its own merits (or simply convey the approach that he found pre-existing in his sources who did moderate). What can be said with confidence, however, is that Livy constructed moral and ethical lessons from each individual episode that he treated. In some, the patricians represented the *exemplum sequendum*, in others, this role was filled by plebeians. There was no need to distort the historical facts as Livy found them; his interest was in creating didactic moments through the characteristics of the protagonists, not in the progression of historical events.

A similar conclusion is reached by Walsh in his overview of the historian: “Livy steers a reasonably impartial course. Politically speaking, he clearly favoured an aristocratic government, with statesmen motivated by Roman *virtus* rather than Platonic philosophy, and he is fully aware of mob rule,” concluding that the only explicit anti-plebeian characterization deals with the agitation for land distribution, which this survey of the first decade has demonstrated.³⁴¹ T. J. Cornell also notes that both pro-patrician and pro-plebeian sections are present within the narrative, making the case that Livy was perfectly capable of mediating a middle ground even through biased source material.³⁴² Thus when evaluating the narrative of early Rome’s history for accuracy, we can rule out any Livian distortion of potential archival material by class bias.

³⁴¹ Walsh (1961), 37.

³⁴² Cornell (1986), 19-36.

Livy's true bias: Concordia Ordinum

In what direction then, can we expect Livy to shade his narrative, what themes was he eager to highlight, and what messages about the past can we expect him to impart to his audience? The answer lies throughout the preceding survey of his discussions of the Struggle of Orders: he condemns the early Romans' tendencies towards civil strife, in whatever form they took (resisting the levy, oppressive debt, etc.), and he praises their moderation. R. M. Ogilvie states that "Livy's concern for peace and concord, however naïve and unrealistic, permeates his writing."³⁴³ In particular, Ogilvie highlights the speech of Ti. Quinctius in Book III, who claimed that success depends on *concordia*, and that *concordia* is only achievable if everyone subverts their ambitions to the needs of the city.³⁴⁴ Ogilvie also points to Livy's own life as a potentially motivating factor, highlighting the civil conflict that would have surrounded his hometown of Patavia in his youth.³⁴⁵ Walsh shares this vision of Livy's thematic goals: "Livy's emphasis on the civic virtue of *concordia* can be seen especially in his portrayal of the Struggle of the Orders in the early books. Every possible opportunity is seized of praising the measures which advanced such concord, and of condemning the selfishness of sectional interests."³⁴⁶

The advantages of *concordia* are made abundantly clear throughout the text. In the year preceding the first secession of the *plebs*, when class tensions were reaching a boiling point and a combined army of Volsci, Sabines, and Aequi threatened the city, the Senate and consuls made the moderate decision to appoint M. Valerius as dictator. Since Valerius' father had granted the *plebs* the right of appeal, they trusted him immediately and did not refuse to attend the levy. "Never

³⁴³ Ogilvie (1965), 2.

³⁴⁴ Ogilvie (1965), 517.

³⁴⁵ Ogilvie (1965), 2.

³⁴⁶ Walsh (1961), 69; this argument is followed in Ridley (1990), 103-138.

before was the army so large; ten legions were created.”³⁴⁷ Rome won this war on all fronts. The implication is clear: when moderation is employed, and antagonism avoided, Rome’s military ability is limitless. This is, in fact, stated explicitly later in Book II, during another period of civil concord: “against this great harmony of general and army, the Aequi did not dare to offer themselves; they suffered their enemy to roam and devastate their fields.” This war yielded the largest prize to date.³⁴⁸ In the fourth century, patrician youths, once such a terror to the lower class, voluntarily agreed to celebrate the power sharing compromise of 367 BCE by funding the *ludi maximi*; the entire state paid them thanks.³⁴⁹

Social *disunity* created vulnerabilities on the battlefield. The perils of disobedient soldiers and overbearing generals has already been discussed above, but Livy articulates his point of view more directly:

For a long time, this evil had been endured, partly by the good advice of the Senate, partly by the patience of the *plebs*, but now it had come to a head. Two states had been created from one; each side had its own magistrates, each its own laws. First, they were accustomed to raging against the levies, but nevertheless in war, these same men obeyed the generals. In whatever state the city found itself, it had been possible to hold out with military discipline intact: now, the custom of disobeying the magistrates follows the Roman soldiery even to camp.³⁵⁰

Thus, the benefits of the presence of concord, and the potential dangers of its absence, are clearly articulated throughout Livy’s narrative.

While specific characteristics of the social orders seem to exacerbate the social discord of the state (discussed above), Livy also repeatedly and explicitly elucidates the endemic problems

³⁴⁷ Livy II.30.7: *Quantus nunquam ante exercitus, legiones decem effectae.*

³⁴⁸ Livy II.60.2: *Huic tantae concordiae ducis exercitusque non ausi offerre se Aequi, vagari populabundum hostem per agros passi.*

³⁴⁹ Livy VI.42.12.

³⁵⁰ Livy II.44.9-10: *Diu sustentatum id malum, partim patrum consiliis, partim patientia plebis, iam ad extrema venisse. Duas civitates ex una factas; suos cuique parti magistratus, suas leges esse. Primum in dilectibus saevire solitos, eosdem in bello tamen paruisse ducibus. Qualicumque urbis statu, manente disciplina militari sisti potuisse; iam non parendi magistratibus morem in castra quoque Romanum militem sequi.*

of human nature that diminish *concordia*. The most pernicious seems to be self-interest: as Appius Claudius demands to be made dictator, an act threatening to social harmony, Livy states that “but because of factionalism and a regard for private affairs, which always thwarts and will always thwart public considerations, Appius won the debate and he himself was very nearly appointed dictator.”³⁵¹ Livy articulates the incompatibility of self-interest and public harmony to great and tragic effect throughout the first decade, and this is taken by Ridley as programmatic for Livy’s entire approach to the topic of civil strife.³⁵² Usury is explicitly stated in Book VII to be a threat to *concordia*, as are the selfishness of the tribunes, and secret meetings, both by the lower classes and the upper.³⁵³ The moments when early Romans resist such tendencies are singled out for praise by the historian, such as when the tribune Publilius Volero set aside personal enmities, treated the consuls fairly, and nearly won important legislation concerning the election of tribunes in the *comitia tributa*.³⁵⁴ On this same issue, two years later, the Senate argued “that they wished the majesty of the consulship to be as great as was possible for social harmony.”³⁵⁵ They then allowed the tribunes to be elected at the *comitia tributa*, demonstrating the capacity to avert disaster should moderation and harmony be prioritized.³⁵⁶

Livy perhaps expresses his ideal state most coherently during the period when social harmony seemed most distant: during the first secession of the *plebs*, a time when there was “no hope left except in the concord of the citizens,”³⁵⁷ Menenius Agrippa delivers a speech to the *plebs* on the Sacred Mount that conjures the image of a healthy body, relying on the unequal, but equally

³⁵¹ Livy II.30.2: *sed factione respectuque rerum privatuarum, quae semper offecere officientque publicis consiliis, Appius vicit, ac prope fuit ut dictator ille idem crearetur.*

³⁵² Livy III.55.11; Ridley (1990), 137. Ogilvie (1965), 516 considers this Livy’s most articulate judgment and sees its precedent in Thuc. II.65.10.

³⁵³ Debt: Livy VII.21.5; tribunes: V.22-4; secret meetings of the *plebs*: II.27.13; and by patricians: II.54.7.

³⁵⁴ Livy II.56.1-4.

³⁵⁵ Livy II. 57.3.

³⁵⁶ Livy II.58.1.

³⁵⁷ Livy II.32.7: *Nullam profecto nisi in concordia civium spem reliquam ducere.*

important, services rendered by its belly, hands, mouth, and teeth. His speech won over the anger of the *plebs*, and immediately there was movement towards harmony.³⁵⁸ Livy's obituary for Menenius calls him a mediator (*interpres*) and arbiter of civil concord (*arbitor concordia civium*), further highlighting the regard with which he held this man and his service to the state.³⁵⁹ In this way, we can see in Menenius, and in the words given to him by Livy, a programmatic statement of the way the historian conceived of the ideal harmony in a state.

Thus, the arguments maintained by Walsh and Ogilvie are borne out by a close reading of the first decade. Livy often focuses on providing positive examples of maintaining social harmony and harsh condemnation of the opposite. This, more than any other consideration of class bias or partiality, is the thematic centerpiece of his narrative. Livy would therefore not need to tamper with the bones of the narrative, the underlying archival notices, in order to conform to his programmatic or thematic goals.

*The Struggle of the Orders as an organizing *topos**

Thus far, I have shown that Livy did not apply any wholesale bias to his presentation of the class conflicts prominent in the second pentad of his work. The characterization which he regularly employed was individualized to the scene and to the particular lesson he was trying to convey, often towards a theme of patriotism and cohesion. The threat still remains, however, that such a goal prompted the historian to manipulate the structure of his narrative in order to skew focus towards developments which he thought important, relevant, and/or interconnected. If he saw the social developments of the second pentad to be a particularly important set-piece of Roman history, he might have been at pains to bring this narrative to the fore, overemphasize its impact,

³⁵⁸ Livy II.32.9-33.1.

³⁵⁹ Livy II. 33.10-1.

and deemphasize events that did not, to his mind, specifically stem from it. This potential structural bias is another potential hindrance to accepting the basic narrative of the fourth century and is particularly hard to detect without another outside source with which a comparison can be made.

A compelling thesis against this possibility was argued by Ronald Ridley in 1990. Opposed to the notion that he was obsessed with the Struggle of the Orders and spent great care crafting highly illustrative scenes, Ridley argues that Livy was manifestly uninterested in many of the most important developments. The proximate causes for the election and vehemence of Licinius and Sextius, the tribunes who brought about the first compromise in 367 BCE, were trivialized in the form of insecurities of Licinius's wife. A member of the *gens Fabia*, she began to resent her husband's plebeian status, was mocked by her sister, and thereby spurred him into seeking the highest offices.³⁶⁰ If Livy was interested in focusing great attention on socio-political change, this forms a certainly anecdotal beginning to such a putatively watershed moment.

When the consulship was eventually opened to the plebeians in 366, Ridley sees significance in the fact that he does not name which consul was plebeian and which patrician until 352 BCE, and thus Livy seems uninterested in the achievement of the power accord or was unsure which hailed from which order.³⁶¹ The latter seems highly unlikely, as the names are quite recognizably plebeian (Genucius in 365, 363, 362; Licinius in 364, 361; Poetelius in 360; Popilius in 359, 356; Plautius in 358; Marcius in 357). It is far more probable that Livy expected his audience to recognize such prominent plebeian names from the city's history, or, at worst, the archival material and/or Livy's source did not make a notation to this effect, and he did not add one. Ridley overreaches with this claim again with respect to consuls after the year 342 BCE.³⁶²

³⁶⁰ Ridley (1990), 116; Livy VI.34.5-11.

³⁶¹ Ridley (1990), 117.

³⁶² Ridley (1990), 117-8.

What is most likely is that the status of the consuls simply did not have the organizational importance for the history that Livy was writing.

Much more telling, however, is the appointment of the first plebeian dictator in 356 BCE, and Ridley is right to point out that absolutely no discussion is held concerning this monumental appointment: no record of any debate held in the Senate, no controversy at the naming, and no mention of who appointed him³⁶³ (although the plebeian consul of that year, M. Popilius Laenas is the likely candidate). Again, such an important development in this tradition is glossed over without much concern or treatment.

The admission to the consulship then became a hotly contested issue every year, with the patricians emerging victorious more times than not (two patricians held the seat in 355, 354, 353—although Livy's sources disagree here—and 349). Ridley observes that the following consulships, from 348-343 BCE, alternate between the groups without any mention from Livy. This crucial time, before the 343 BCE legislation mandating permanent power sharing, passes without comment or explanation, further undermining the claim that the Struggle of the Orders was Livy's main concern in his domestic coverage.³⁶⁴

Ridley also notes that Livy's interest in debt, a very serious issue for the early Republic, is oftentimes seriously lacking. He does not introduce any developments with regard to usury between Books II and VI, even though debt is described as incredibly serious and threatening in both. The laws of 357 and 342 BCE, which first set interest rates at one percent and subsequently abolished them entirely, are mentioned only in passing by Livy and not given the proper focus one would expect for such important legislation.³⁶⁵ Ridley then makes the baffling argument that the

³⁶³ Ridley (1990), 117.

³⁶⁴ Ridley (1990), 117.

³⁶⁵ Ridley (1990), 118; 357 BCE: Livy VII.16.1; 342 BCE: Livy VII.42.1.

law for 326 BCE, which forbade *nexum* also passed by unadorned. But Livy devotes a whole chapter to its passage, including a heart-wrenching scene of debt-induced torture, and a declaration that “In that year another beginning of freedom was created for the Roman *plebs*.³⁶⁶ Although Ridley acknowledges this chapter, he still calls the law “without elaboration.”

One area of omission from Livy’s presentation of the political and social development of the fourth century is any sort of cohesive treatment of the *auspicia publica*, the auspices which consular magistrates held and passed onto their successors. They were conceived to be under sole control of the patricians and formed the backbone of patrician resistance to allowing plebeians into the highest offices.³⁶⁷ This concept clearly formed a strong narrative of patrician privilege, evoked whenever the plebeians aspired to equality and were seen to threaten the very safety of the city.³⁶⁸ The reforms of 367 BCE, although framed by Appius Claudius to throw the auspices into turmoil, nevertheless must have entailed a compromise which Livy omits entirely. There is absolutely no mention of how the auspices were to be henceforth shared and, what was unimaginable earlier, to be in the possession of a plebeian.³⁶⁹ Other compromises, such as the introduction of the praetor, are discussed and justified. Jerzy Linderski admirably attempts to solve this problem for Livy in his extensive work on Roman religion.³⁷⁰ He argues that the plebeian occupied the lesser partnership to his patrician colleague, who officially held the auspices, and was just in temporary possession of them.³⁷¹ This is an admirable solution, until 356 BCE, when the first plebeian dictator had no senior colleague. Again, Livy is silent about this appointment and does not attempt

³⁶⁶ Livy VIII.28: *Eo anno plebi Romanae velut aliud initium libertatis factum est.*

³⁶⁷ See forceful speeches given against Canuleius’ proposal for intermarriage (Livy IV.2.4-6) and against plebeian consuls (Livy VI. 41.4-12).

³⁶⁸ Livy IV.2.4-6; VI. 41.4-12.

³⁶⁹ Livy. VI.11-14.

³⁷⁰ Lindurski (1990), 34-48. For additional discussion of the auspices in this context see Brennan, vol. 1, (2000), 15-18 and Stewart (1998), 91-111.

³⁷¹ Lindurski (1990), 41-2.

to relate how the auspices could have remained under the sole purview of the patricians, yet been bestowed in their entirety on a plebeian dictator. Indeed, until very late in the Republic, only patricians were appointed to the interrex, a position considered the repository for the auspices until proper elections could be held.

Perhaps the solution to this dilemma lies in the praetorship, the holder of which was, Livy says, elected under the same auspices (*iisdem auspiciis*) as the consuls.³⁷² As the patricians initially had sole access to this office, perhaps they viewed it as a safe and reliable repository for the auspices, even in the event of a plebeian dictator or the death of the senior, patrician consul. This might explain why the first plebeian praetor, Publilius Philo in 336 BCE, met such stiff resistance from the patrician consul, who would not even accept his name as a candidate, while the first plebeian dictator slipped through without issue. The senate however, which must have had several plebeian members by this point, advocated for his candidacy.³⁷³

Thus it is shown that Livy displays a marked apathy towards pivotal moments in the Struggle of the Orders, from anecdotal incitation to conflicts, unacknowledged moments of significance, or a complete failure to relate the details of compromise. It could be that Livy expected the reader to follow the major plebeian successes in this century,³⁷⁴ but not to pause and reflect on momentous “firsts” is not in keeping with the theme of the work, which was to trace the characterizing developments of the Roman people. Were Livy to be structuring his narrative around these crucial developments in the fourth century, we would expect much more elaboration, emphasis, and focus. Instead, Livy seems at times to betray the unadorned notices of his archival sources, relaying flatly such things as consul names and laws passed, and glossing over with

³⁷² Livy VII.1.6.

³⁷³ Livy VIII.15.9.

³⁷⁴ Bayet (1944), 131.

brevity those things which would not have found extended exposition in the yearly notices. Thus, Livy's treatment of the Struggle of the Orders recommends more the notion of an increased archival habit throughout the fourth century than a distortion of the narrative based on any structural or thematic bias.

Potential Bias in Livy's Sources

The previous section has argued against Livy's alteration of historical material through any sort of partialities, either for the causes of any social class or in service to any didactic or thematic agenda. While he was certainly capable of such manipulation, he nevertheless presents a balanced picture of political upheaval, condemning both patricians and plebeians as he sees fit and not shackling his narrative to any structural program. What if, however, such biases and distortions were already endemic to the text before Livy receives it? What if, despite his overall equanimity of treatment, the narrative was already tainted?

Such questions can only be answered by diving into the *fragmenta* and *testimonia* of Livy's direct sources, exiguous as they are. Huge volumes of scholarship have been devoted to the relatively few surviving lines and entire family histories constructed, complete with the logically accompanying biases. Walsh states unequivocally that Livy must navigate "such biased source material."³⁷⁵ Is this reflective of the state of the evidence? This study will stay conservative with its approach, grounded in the surviving words and the potential conclusions that can be drawn therefrom. It is also assumed that Livy did not have access to better sources than his predecessors, or, more probably, that he did not consider it worthwhile to even seek them out.³⁷⁶

³⁷⁵ Walsh (1961), 37.

³⁷⁶ Ogilvie (1965), 6.

Valerius Antias

None of Livy's sources has garnered such a negative reputation as Valerius Antias. Constantly criticized by Livy for numerous deviations from other sources, Antias has been recognized as a principal fabricator of Rome's early history. Livy certainly finds fault with his account quite frequently, especially with respect to his reports of casualty figures and spoils.³⁷⁷ Based on this characterization, scholars have attempted to assume the most flagrant kinds of inventions in his work. T. P. Wiseman has gone to great lengths to illuminate twelve episodes in which a Valerius has a prominent role, describing all as wanton invention, despite not a single fragment interacting with these stories. Further, Wiseman claims that these were assuredly composed by a single person, who had a distinct rhetorical flair, despite the *testimonium* of Fronto, who says Antias wrote "without charm" (*invenuste*).³⁷⁸ Wiseman continues his accusations by attributing the negative stories concerning the *gens Claudia*, traditional rivals of the Valerii, to Antias as well,³⁷⁹ another claim that finds no support in the extant fragments.

With such a reputation, it is no surprise that scholars view with extreme skepticism any sections of Livy's text that are thought to stem from Antias. Working on the principle that sources are only mentioned by name when they deviate from the standard or prevalent version, Antias certainly does seem to present conflicting narratives, especially concerning the traditions of regal Rome and concerning the Scipiones in the first three decades of the second century BCE. While regal Rome was a relative blank slate, open for authorial creativity, the changes Antias records concerning the Scipiones, however, seem to be both positive (F27a, F34) and negative (F29, F46, F49, F51, F52, F53). The balance falls towards more negative portrayals, including a long-term

³⁷⁷ F28, F36, F45, F51, F54, F62. *Fragmenta, testimonia*, and numbering taken from Cornell (2013).

³⁷⁸ Wiseman (1998), 75-89. T9=Fronto 134.

³⁷⁹ Wiseman (1979), 57-139.

scheme of embezzlement, conviction, fines, and exile. This issue comprises three of the six negative deviations in the extant fragments. There are no other explicitly pro-patrician passages and only one which makes special mention of a member of his own gens, describing the unusual honor of having a front door swing outward (F21).

There can be no doubt that Antias instilled no confidence in Livy when he conveyed casualty figures, but we should be skeptical when we find such information in ancient sources regardless. Beyond transmitting a long story about the crimes of a Scipio, he is otherwise even-handed in his treatment of that *gens*. There does not appear to be any directed agenda of self-aggrandizement through ancestor glorification (despite Wiseman's claims) or any particular class bias to his surviving fragments. Furthermore, Livy does not cite him once during the second pentad; although this does not mean that he did not use Antias as a source, it implies that if he did, the narrative did not derive enough from others to warrant specific mention. While it is certainly possible to see his text in the manner of Oakley, who suggests that Antias fabricated events and inserted them into his narrative,³⁸⁰ there is also no good evidence that he did so consistently or with any agenda. It is also impossible to know whether he had his own sources or not.³⁸¹

C. Licinius Macer

In much the same way as it is tempting to see a member of the *gens Valeria* as being sympathetic to the patricians, it is just as tempting to see Licinius Macer as partial to the plebeian cause. In fact, Livy himself advocates this notion: “the praise sought for his own family makes Licinius an authority of less weight.”³⁸² This seems to be damning testimony, especially in the

³⁸⁰ For Oakley's scathing reading of Antias see Oakley, vol. 1 (1997-2005), 89-92.

³⁸¹ This conclusion is also reached by Cornell (1986b), 56.

³⁸² Livy VII.9.5: *quaesita ea propriae familiae laus leviorum auctorem Licinium facit.* =T2.

center of the second pentad, when the *gens Licinia* is at the heart of the social and political compromises. This assertion is convincing for Mommsen and, more recently, Wiseman.³⁸³ Macer is also known for his use of the *libri lintei*, a collection of mysterious, old (and fictitious?) documents, which were consulted by very few other authors, an exclusivity that purportedly lent increased authority to his accounts. These linen books, however, cease to provide information after 428 BCE, and therefore do not impact his or Livy's narrative during the second pentad. The quotation from Livy which attaches to the skepticism of Macer indeed relates a version which glorifies his ancestor (F22): as consul, Macer claims that Licinius appointed a dictator to hold elections and thwart the ambitions of his patrician colleague. Livy dismisses this account, as no other historian transmits it.³⁸⁴ Concerning the aedile Cn. Flavius, Livy claims that Macer, unlike other authorities, augments his credentials and qualifications for the post, transforming the plebeian from a lowly scribe to a tribune and twice triumvir.³⁸⁵

There are not many fragments surviving from Licinius Macer and even fewer if the questionable authority of the *libri lintei* are removed. Nevertheless, two fragments concern augmentation of a plebeian, one of which is explicitly jettisoned by Livy due to familial bias. Even though we are not considering the contextual features of his life, such as his service as a tribune, naming his son *Calvus* after leading plebeian agitators, and even his speech in Sallust,³⁸⁶ it is probable that Macer demonstrated a pro-plebeian predilection.

There is no evidence, however, that Macer's bias led to a distortion of the archival sources. His potential inventions all involve material that would not have been transmitted through any fourth century archives: the identity of the consul who appoints a dictator and that dictator's

³⁸³ Mommsen (1859); Wiseman (2009), 18-23.

³⁸⁴ Livy VII.9.5-6.

³⁸⁵ Livy IX.46.3-4=F24.

³⁸⁶ All described by Oakley (2013), 327-8.

provincia (F22), and the yearly names of tribunes and each group of triumvirs (F24) (see Chapter 2 for a proposed hypothesis on the contents of fourth century archives). The single fragment which might misrepresent such archives is the name of the curule aedile in 299 BCE; however, Macer relates this scene to compliment a patrician's, Q. Fabius', moderation and foresight (F25) as well as his diligence in dealing with a grain shortage (F26). The discrepancy is also excused by Livy as a potential confusion between the similarities of *cognomina* in the presiding consuls.³⁸⁷ Nevertheless, Macer proves himself to be an unreliable source with respect to issues of plebeian agitation, forcing caution, not just in Livy's use of his narrative, but in our acceptance of Livy's text where Macer might a dominant source.

Aelius Tubero

Even less survives of the history of Tubero than of Macer, and it is accordingly very difficult to determine political bias or thematic agenda. It is even uncertain which Aelius brother, Lucius or Quintus, is really the historian.³⁸⁸ He refers to the *libri linteoi* on one occasion, but it is unclear whether he consulted them independently or pulled the information from Licinius Macer himself. Tubero is characterized by Livy as not overly eager to take an authoritative stance in the face of conflicting information, even though Macer's beliefs are made clear.³⁸⁹ Such practice, allowing the reader to see the sources and make up their own mind, is characteristic of a cautious historian and signals that Livy might have had access to many sources, without prejudicial censorship, through Tubero.

³⁸⁷ Livy X.9.12-13.

³⁸⁸ For this discussion see Oakley (2013), 363-4.

³⁸⁹ Livy IV.23.2-3=F8: *Tubero et Macer libros linteos auctores profitentur; neuter tribunos militum eo anno fuisse traditum a scriptoribus antiquis dissimulat. Licinio libros haud dubie sequi linteos placet: Tubero incertus veri est.*

Despite this, he seems to have been prone to relating fantastical events, such as the consul Atilius Regulus' epic duel with a 120-foot snake during the First Punic War,³⁹⁰ and the particulars of Regulus' unusual torture at the hands of the Carthaginians.³⁹¹ These are peculiar stories, making it difficult to formulate a potential source or purpose to them. In perhaps a philosophical or didactic moment, Tubero states that “one should not get angry in a hostile fashion”; whether this could signal the precursor to Livy’s focus on *concordia ordinum*, however, is impossible to know at this point.³⁹² Needless to say, there is simply not enough surviving of Tubero’s account to make even preliminary decisions concerning potential compromises.

Claudius Quadrigarius

Quadrigarius is unique in among Livy’s sources in that he did not extend his history back to the foundations of Rome, but rather to the Gallic sack. If Livy’s statement about the quality of sources for before 390 BCE is to be believed, perhaps Quadrigarius, like Thucydides, decided to leave the myths and legends to the poets.³⁹³ Because Claudius was recognized for his style and language (T6, T7), he is very often quoted by later antiquarians and grammarians, often leading to fragments of useless historical value but of surprising philosophical insight. His histories can be read as patriotic, anti-Marian, and pro-Fabian, thus hinting at a slight pro-patrician bias. They are also not without historical errors.

Various sections of Quadrigarius’ fragments, preserved by chance for their literary value or intrigue, capture some of his philosophical statements. Like Livy, he seemed to perceive the

³⁹⁰ F11=Gell.7.3.

³⁹¹ F12=Gell 7.4 *cap.*, 2-3; In its transparency with, but non-commitment to, its sources, and the inclusion of these fantastical stories, it is interesting to consider how similar Tubero’s work was to Herodotus’.

³⁹² F6=Charis. 262: *inimiciter irascendum non est.*

³⁹³ Livy VI.1.1-3.

dangers of excessive leisure (F30), the mutability of fortune (F51), and the vices of excessive luxury (F10). In a fragment from a speech or particularly fatalistic interjection, he exclaims, “For this unfairness of the gods often comes about that the worse are safe and they do not allow any of the best among us to last long,” revealing a somber tone to this section of his work (F26). In a passage of didactic patriotism, Quadrigarius provides the text of letter sent from the Roman consuls to King Pyrrhus. Having received and turned down an offer by a close friend of King Pyrrhus to assassinate him, the consuls reveal all to the King, demonstrating both Roman determination to act in an upright manner and not use deception, even against an enemy (F41). This scene evokes the image of Camillus sending the seditious schoolmaster back into Falerii, who had failed to betray his city and transfer his students into the possession of the besieging Roman general.³⁹⁴

The political leanings which are revealed by the fragments are few and tenuous. Quadrigarius presents a negative view of Marius, although this could have been a speech delivered by an anti-Marian (F86). Likewise, harsh criticism is leveled at an unnamed person, whom John Briscoe (through some logic he does not reveal) suggests is Sulla. But this too can be just a speech given by an anti-Sullan.³⁹⁵ Praise is unequivocally given to the Fabii, who are shown to place patriotism over even filial piety³⁹⁶ These examples of political bias are incredibly tenuous and do not allow any conclusions to be drawn as to Quadrigarius’ sympathies.

Briscoe, however, notes a few errors in his fragments, suggesting that he did not prove to be a very reliable source for Livy. For example, the Fabius in question from the above example is identified as proconsul, but Livy describes him as a mere *legatus*.³⁹⁷ He gives significantly higher casualty figures than Antias (F67), a definite sign of exaggeration. These and other errors (F64,

³⁹⁴ Livy V.27.1-9.

³⁹⁵ F90; Briscoe (2013, vol. 1), 291.

³⁹⁶ F57=Gell.2.2.13.

³⁹⁷ Livy XXIV.44.9-10.

F69) should induce serious hesitation in any consideration of Quadrigarius as a desirable source for Livy's second pentad.

As most of Quadrigarius' fragments are transmitted for linguistic quirks rather than their content, it is very difficult to pinpoint any partiality in his narrative. Statements of a political nature are completely devoid of context, rendering their attribution impossible. His thematic elements, seemingly captured at random, nevertheless display some similarities to Livy.

L. Calpurnius Piso

A historian who was writing somewhat earlier than the other four, but only sparingly cited by Livy, Piso represents a critical component for Livy's inclusion of archival material in his work. As an author earlier than the above named sources, and characterized in the *testimonia* as relating an unadorned list of dates, persons, places, and events,³⁹⁸ Piso might have formed an integral bridge between the archives themselves and first century historians. Livy seems to have relied on him for some basic annalistic notices, remarking in Book IX, when Piso omits a college of consuls.³⁹⁹ In Book X, Livy attempts to correct even more minute detail contained in Piso's text: the names of the curule aediles.⁴⁰⁰ The fact that Livy feels the need to rationalize a discrepancy in Piso's list, not in a list of consuls, but in lower magistrates, signals that he might depend on the structure provided by this "unadorned" presentation. Unfortunately, however, there is not enough surviving material from Piso's *annales* to make a firm decision on the structure and content of his work.

³⁹⁸ T1=Cic. *De orat.* 2.51-3.

³⁹⁹ F28=Livy IX.44.2-4.

⁴⁰⁰ F30=Livy X.9.12-3.

It is a standard expectation that authors had increased latitude in their compositions of regal and archaic Rome, as the archives provided no guardrails and the urge to create etiology so strong. Accordingly, one would also expect a streamlining of such exposition in subsequent centuries. Indeed, Piso's identifiable quotes from this later period do become sparser and more straightforward: seven of the 14 fragments after 308 BCE are simple statements of magistrates or other basic archival material. Prodigies, which would also have been conveyed in the archives, are also described in later fragments: General Marcius is blessed with a combusting head⁴⁰¹ and a palm tree, then a fig-tree spring up, unplanted, on the altar of Jupiter at Rome.⁴⁰² Thus, nine of the 14 fragments can be thought to derive directly from archival notices. This is not universal, of course, and certain episodes of moral significance are still elaborated at length, such as the bravery of Cn. Flavius in the face of strong class prejudice,⁴⁰³ C. Furius Cresimus and his highly successful farm,⁴⁰⁴ and the introduction of foreign luxuries after the conquest of Asia.⁴⁰⁵ Nevertheless, the trend is clear: Piso's content mirrors the developments of the expected data set of the fourth century.

Besides the mention of the courageous conduct of Cn. Flavius, there is no discernible political bend in Piso's writing, which would be in keeping with his "unadorned" style. Piso can be shown, however, to fulfill a classic tapering pattern, with large embellishments at the beginning of his work, as the lack of archival material provides no strict guidance, and a streamlined narrative closer to his own day, as he needed to conform to the archival sources that gradually must be incorporated. Piso is an early compiler of this material and thus might not have the accumulation

⁴⁰¹ F34=Livy XXV.39.11-7.

⁴⁰² F40=Pliny *nat.* 17.244.

⁴⁰³ F29=Gell. 7.9.

⁴⁰⁴ F35=Pliny *nat.* 18.41-3.

⁴⁰⁵ F36=Pliny *nat.* 34.14.

of subsequent treatments of events, such as Valerius Antias or Licinius Macer, to overburden and skew his narrative. Thus, the fact that Livy not only used, but relied upon, the consistent and cohesive presentation of annalistic treatment found in Piso's work, recommends the notion that the archives really do sit at the core of the *Ab Urbe Condita*.

Conclusions

This chapter has endeavored to demonstrate that Livy is not subject to programmatic agendas in manipulating the material that could have been transmitted from fourth century archival sources. Isolating moments where Livy relates demonstrably pro-patrician sentiments does not prove significantly more fruitful than isolating similar moments of plebeian partiality. While Livy can characterize individual scenes with partiality towards one of the orders, he cannot be shown to maintain this prejudice consistently, much less warp his larger narrative to its service. Instead, Livy seems concerned to emphasize the *concordia ordinum*, often transforming scenes into didactic examples of the benefits of civil harmony and the dangers of discord. This interest does not represent a particular partisanship, and therefore does not threaten the structure of a tradition already rife with lessons from social and political upheaval. Further, Livy is uninterested with regard to seemingly pivotal moments in this period of emerging power-sharing compromises. Issues such as the appointment of the first plebeian dictator and the distribution of *auspicia publica* do not warrant specific treatment, undermining the notion that Livy was allowed the focus and emphasis of his narrative to be dominated by such considerations.

What is consistently visible throughout the first decade of Livy's work is a repeated effort to characterize individuals and events in a didactic manner. This follows well the genre

expectations for an ancient historical work, which finds meaning only in the lessons it bears to the present day. In this way, many characters or groups of characters fall into predictable categories: many tribunes are seen as obstructionist and agitators, the *plebs* is often indolent and prone to emotion, and the Appii Claudi are arrogant, overly ambitious, and fiery rhetoricians. In much the same way that Thucydides' Athenians were rash and intemperate and his Spartans circumspect and sluggish, Livy constructs complex characterizations as examples to follow or avoid. This in no way requires a distortion of the historical material as he found it. There was sufficient opportunity among the many political disagreements, court cases, and wars of the fourth century to situate the moral and ethical lessons which the historian wanted to convey. In the space of the speeches alone, which are likely complete creations of the author, Livy had the freedom to cover any issue and espouse any message. To expect that he needed to invent or suppress historical events to accomplish his didactic goals is to severely underestimate Livy's capacity to moralize within the material already available.

Finally, a study of Livy's primary sources (plus Piso) proves too tenuous to make reliable conclusions as to their potential compromises with respect to agenda or bias. What can be easily demonstrated, however, is that modern scholarship has severely overestimated the information that can be extracted from the scanty *fragmenta*. Any claim to strong bias, in either direction, is simply not firmly grounded in source evidence. While Valerius Antias and Claudius Quadrigarius might have skewed towards patrician sympathies, Licinius Macer likely swung in the other direction. And Piso, with his unadorned account, likely provided a valuable resource from which the evidence of fourth century archives might have been successfully transmitted to later historians.

Chapter 4

Rome Ripe for ‘Revolution’

In order to demonstrate that archival records accompanied a movement of political inclusivity at Rome in the fourth century, it is necessary to understand the environment that would have produced such a development. What were the conditions at Rome that necessitated the inclusion of previously excluded families and the easing of economic burdens for poor citizens? Why did it happen at this moment and concurrently with the vast project of military expansion which begins at the end of the fifth century (although not with any real success until the middle of the fourth)? The first expressions of this transformational climate, as related by the literary tradition, are in the power sharing and economic concessions made to two *tribuni plebis*, C. Licinius and L. Sextius, in 367 BCE, in what was later known as the *leges Liciniae* or the *leges Liciniae Sextiae*. The specifics of this compromise are not entirely secure, and the tradition that culminates in Livy’s narrative presents a number of historiographic difficulties over the ten-year period that this compromise was negotiated.⁴⁰⁶ Nevertheless this, and especially a second concession of 342, coincide with a fundamental change in the names recorded in the *fasti* and represent a major shift in the inclusivity of the Roman government. Participation was still restricted

⁴⁰⁶ Such as the constant reelection in the same assembly of tribunes who propose the same bill AND tribunes who will veto it, as well as the five-year period of anarchy, in which the tribunes continually veto any higher magistrates: Fritz (1950), 9-10.

to the wealthiest of citizens who could afford the costs of campaigning and public service, but birth and status were no longer operative prerequisites.

Aside from addressing this magisterial exclusivity by replacing the election of military tribunes with consular power (consular tribunes) with two consuls⁴⁰⁷ and stipulating that one of these be elected from among the *plebs*, it also confronted serious plebeian concerns of land use and debt.⁴⁰⁸ In return for this, Livy explains, the patricians added three urban offices to be filled from their ranks exclusively: a praetor and two curule aediles (the latter of which lasted a single year before alternating between the two orders). While the power sharing agreement was initially observed until 355, the following 13 colleges of consuls contained six pairs of patricians, seemingly in direct contravention of the previous law. In 342, however, this compromise was purportedly reimplemented and the consulship thereafter permanently shared. Over this period, the plebeians gradually extended their rights to hold office, achieving the dictatorship in 356, censorship in 351, the praetorship in 332, and finally the highest priesthoods in 300.

While this narrative might seem straightforward in its broad strokes, it nevertheless presents significant problems in its details, as was discussed in Chapter 2. The purpose of the present discussion will be to isolate those factors characterizing the beginning of the fourth century that prompted substantial changes in the conception of governmental participation and eligibility. The literary tradition is woefully uncritical concerning the mechanisms that led to these developments, and it is clear that the Romans themselves likely had little idea about the conditions

⁴⁰⁷ According to Livy's sources, there was an increasing number of consular tribunes elected since their inception in 444 BCE, beginning with three but regularizing with six by the fourth century. Twenty colleges of consuls were elected intermittently before 367, but none after 392. At times, Livy and Diodorus present as many as eight names for consular tribunes, but Beloch (1926), 78-80 ingeniously interprets this as the presence of censorial names recorded together with the tribunes. The stated reason for the institution of the consular tribunate was to allow plebeian access to the highest office (Livy IV.6-7) but only two are elected before 400 BCE; this and other potential geneses of this institution are explained in Adcock (1957), 9-11 and Staveley (1953), 30-6.

⁴⁰⁸ Livy VI.35.5: *consulumque utique alter ex plebe crearetur.*

that occasioned the power negotiations of this century. By understanding the deep and systemic issues that beset the Roman state and undermined the traditional oligarchy and their claim to near exclusivity the highest magisterial positions, we might accept that these democratizing changes seeped down even to the archival habit itself.

In other words, if we are to accept the documentary developments of the second half of the fourth century, then we need to accept that the polity of Rome was poised to undergo the process of political, social, and economic conditions that triggered them. It would be a circular and hollow argument indeed to use archival sources alone to demonstrate the increased presence of archival sources. If, however, the socio-political climate at Rome can be shown, independently of magisterial lists and embellished narratives of historians, to be positioned for such structural developments and, further, that these changes were *likely* to occur, then this would be strong corroboration for the claim that a period of significant political concessions took place which also increased the archival habit at Rome.

The notion that a political landscape could be primed for such a fundamental transformation is articulated well by Hölkeskamp. Polities will entertain and discuss only those topics which are currently palatable to the constituent party groupings. What is palatable—that is, “the concrete issues that could be put on the political agenda”—are constantly shifting, however; the movements or desires of individuals within these groupings, the relative abilities of these groups to exert their will within the community, and external circumstances all force political debates to evolve continuously. If sufficient dynamics are achieved, the political system itself can be brought under systematic review and subjected to fundamental changes.⁴⁰⁹ The political climate at Rome was such that governmental change at this time was a likely outcome, and that the

⁴⁰⁹ Hölkeskamp (2010), 39-41.

resulting breadth of magisterial inclusion realigned the interests of those in power toward producing and publishing archival information. To put it another way, Rome may have arrived at “something like a revolutionary moment.”⁴¹⁰

The Tradition of the Licinian-Sextian Laws

According to Livy, the political and social upheaval that initiated 70 years of reform started because of a dispute between sisters. One, married to the plebeian C. Licinius, became jealous at the honors of her sister’s husband, a patrician and consular tribune, Ser. Sulpicius. Her agitation and father’s assistance eventually propelled the plebeians into the office of consul in 367 and Licinius himself in 364.⁴¹¹ This story is ridiculous: not only are plebeians, according to Livy’s own tradition, able to be consular tribunes, thus allowing Licinius to reach the same position as his brother-in-law,⁴¹² it assigns completely anecdotal causation to a dense and long-lasting cluster of societal problems that eventually take decades to resolve.⁴¹³ Again, later Roman ignorance about the causes of this slow-moving revolution is palpable.

Despite this lack of critical theorization, the magistrate lists after the passage of the Licinian-Sextian laws were nevertheless fundamentally changed in character: military tribunes with consular powers were never again elected, and a steady stream of plebeian *gentes* were admitted to the consulship, with one elected every year after 342. Scholars are in great

⁴¹⁰ Adcock (1957), 11. He follows Jones and Last (1928), 524-8 who use much milder language.

⁴¹¹ Livy VI.34.5-11.

⁴¹² von Fritz (1950), 7.

⁴¹³ Although Pellam (2014), 280-92 sees internal consistency in the narration of Livy, and therefore increased historical validity. I find this connection difficult to justify, as narrative coherence can be, and often is, easily formed from complete fiction.

disagreement, however, over the causes and scope of these changes to the Roman political system, and therefore over the validity of the underlying archival material itself.

The most hostile position with regards to this tradition is represented by John Pinsent (discussed above, p. 68), who seeks to eliminate any plebeian from the consulship until the Genucian laws of 342 BCE, and rejects all colleges which contain a member of the *plebs* until this date. He also rejects the purported wording of the law of 342, which stipulated that both consuls *could* be elected from the *plebs*, arguing that because this does not actually occur until 172 BCE, this law is “hopelessly anachronistic.”⁴¹⁴ Pinsent’s argument is undermined by his handling of magisterial lists, rejecting or accepting entries without consistent criteria.

Most scholarly arguments about this event have been more sympathetic and can be separated into three distinct thrusts: those who follow the tradition and view it as a sweeping victory for a disenfranchised lower class, those who see only technical, administrative changes, and those who focus on its military implications.

Karl Julius Beloch falls into the first group. He is very quick to reject all potential archival notices from this period except the list of eponymous magistrates (discussed in Chapter 2), which he sees as largely reliable.⁴¹⁵ Although not believing in any formalized laws at this time, he nevertheless sees 367 BCE as a compromise where power was wrested from patricians by wealthy and ambitious plebeians, who would not long be denied proper honors.⁴¹⁶ This victory is even more significant when one considers that Beloch does not accept any non-patrician names among the *fasti* for previous consular tribunes, thus making 367 the first access to *imperium* enjoyed by non-patricians.⁴¹⁷ Beloch simply does not accept that a law was passed concerning the composition

⁴¹⁴ Pinsent (1975), 64-9. For a thorough rebuttal, see Develin (1979), 9-12.

⁴¹⁵ Beloch (1926) 34-5, 61-2.

⁴¹⁶ Beloch (1926) 340-1.

⁴¹⁷ Beloch (1926) 250-3.

of consular colleges until the end of the fourth century, relying on the presence of patrician-only colleges after this date. In fact, he identifies patrician colleges all the way until 321(see above, p. 67).

Mommsen did not reject the plebeian names among the consular tribunes but saw an increasing divide between the patrician and plebeian nobility over limited access to magistracies and unaddressed economic hardships. The plebeian nobles eventually coupled themselves to the lower classes by advocating for land and debt relief and thereby achieving significant solutions to both groups' issues.⁴¹⁸ Tim Cornell attempts to make sense of the tradition by complicating the issue. He argues that the non-patrician names among the consular tribunes were *also* non-plebeian, and thus the Licinian-Sextian laws abolished discrimination at Rome towards the lowest social order.⁴¹⁹ While the concept of a middle group of citizens has been long debated, no adequate argument or evidence has arisen to sufficiently demonstrate its presence in the social landscape of the early Republic. While quite good at explaining the nature of the debate and the significant changes in the *gentes* recorded in the *fasti*, this approach falls into the same trap as the literary tradition on which it is based: it is not able to sufficiently answer *why* there was a need to change the format of the magisterial offices at all.⁴²⁰

The second approach to this question emphasizes the administrative reform of 367 BCE and the specialization that occurred in transitioning from six consular tribunes to diversified magistrates with more defined jurisdiction. Kurt von Fritz argues that Rome would have been recovering from the Gallic catastrophe at this period, the landscape and city itself in ruins; extra

⁴¹⁸ Mommsen, vol. 1 (1864-1879), 298-300.

⁴¹⁹ Cornell (1995), 338-9.

⁴²⁰ Other adherents of this approach are Jones and Last (1928), 524-531; Münzer (1920) 8-11; Oakley, vol. 1 (1997-2005), 649-54; and (surprisingly) Wiseman (1995), 106-7. Adcock (1957), 13 claims that this compromise was the result of the “statesmanlike desire” of the patricians to solve social problems and reunify the citizenry. This perhaps underestimates the extent to which those with power will cynically seek to maintain it.

attention would have been needed for reconstruction and lawsuits arising from disputed property rights, and multiple military commanders would have been counterproductive in these domestic roles. Therefore, officials with a specific urban specialization were required, and the newly instituted praetor and curule officials fulfilled these needs.⁴²¹ The fact that the *plebs* maintained access to the highest office, despite the restriction in the number of officials per year, is seen by von Fritz as a testament to their growing clout at this time. In a dense discussion of the theories of political office holding, Roberta Stewart highlights the position of the new praetorship with *imperium*, guaranteed judicial oversight, and no colleague. For Stewart, this represents an administrative shift towards unilateral officials exercising civic control, and in this particular case, addressing the pressing issues of debt.⁴²² Finally, Corey Brennan sees the primary function of the new praetor to be in civil defense, although he acknowledges that it likely held judicial functions as well.⁴²³

The final group of theories about this period highlights the implications that the Licinian-Sextian laws had for the military aspects of the city. De Sanctis held that this change was spurred by the need to concentrate military power into fewer hands per year and to reimplement a collegial check on *imperium*; plebeians had to be included because of they had already held the consular tribunate.⁴²⁴ Develin points out that these alterations to the Roman constitution must have been enacted by the *comitia centuriata* and thus represent a desire to reform the military hierarchy by the soldiers themselves, although to the benefit of wealthier plebeians alone by the fourth century.⁴²⁵ Emphasis has also been placed on military achievement as an expression of aristocratic

⁴²¹ Von Fritz (1950), 41-2.

⁴²² Stewart (1998), 135-6.

⁴²³ Brennan, vol. 1 (2000), 61-73.

⁴²⁴ De Sanctis (1907), 212-4.

⁴²⁵ Develin (1986), 334-5.

competition and therefore a major motivating factor for plebeians to achieve magistracies with *imperium*.⁴²⁶ Raaflaub takes this a step further by claiming that plebeian military successes of the previous half-century had raised the wealth and status of certain plebeian *gentes* to the point where they could legitimately challenge hereditary patricians for political equality.⁴²⁷

Perhaps the most radical position in this vein is taken by Jeremy Armstrong, who argues for a totally decentralized state at Rome during the sixth and fifth centuries. Instead of unified armies levied through centuriate organization, Armstrong sees consular tribunes as quasi-warlords at the head of *gens*-based armies and allied urban plebeians, or the unaffiliated *populus*. The institution of the consulship represents a dramatic step toward state exertion of control over the army, as it created a new magistracy shared by these two groups and at the head of a unified force. The urban *plebs* accepted patrician control of the office, which included *imperium* and the right to triumph, because it enticed them to remain at Rome and in competition, while also providing defence.⁴²⁸ The implications of this theory are wide and deep, requiring rejection of large swaths of the historical narrative and selectively accepting points, but it provides an enticing counter-model for many difficulties in the record.

Thus far, these potential explanations have not sufficiently addressed the conditions of the early fourth century and why they might have initiated constitutional and economic reform. While scholars may have identified real motivating factors for administrative or social change, they nevertheless imagine rather rigid political groupings with consistent and predictable goals and fail to account for the deep impact that Rome's increased militarism would have had on the dynamics

⁴²⁶ Hölkeskamp (1993), 21-3, likely following the famous arguments about Roman aristocratic values in Harris (1979), 17-27 and Harris (1990), 504-5.

⁴²⁷ Raaflaub (1986), 206-7.

⁴²⁸ Armstrong (2016), 272-5. This theory also interestingly explains the absence of Camillus from the city during the Gallic sack: he was an itinerant warlord on a raid (276).

of political debate. In short, they have not fulfilled the sort of conditions that Hölkeskamp identifies as required to initiate a fundamental review of the system itself. What is needed now is a reevaluation of the climate of the early fourth century with more appropriate topics taking center stage, namely the increased political leverage wielded by *tribuni plebis*, the decentralization of established political relationships, and the hardships of land and debt, all of which were resultant from Rome's increased military orientation and belligerence during this period.

The narrative of the fourth century BCE highlights two developments very clearly: an explosion in military activity and efficacy, and the gradual loosening of magisterial qualifications for the highest offices in the polity. The military aspects of this narrative, at least in their broad strokes, cannot be denied: the Roman state emerges in the better documented mid-third century BCE as wielding the most expansive and comprehensive power in the southern half of the peninsula. Therefore, its expansion both in territory and influence is evident even though the details of this progression are likely heavily interpolated by later historians. The second event, a slow-moving revolution of the Roman political system, is subtler, and therefore requires a closer scrutiny of the sources to determine its nature and scope. The two processes, however, cannot be viewed in isolation; it would be extremely myopic to think that such consequential developments occurred simultaneously but independently from one other. Unfortunately, this is the way the fourth century is often described in textbooks on early Rome, with a section concerning the social and political upheavals of the city either preceding or following a separate section on Roman expansion within Italy, often with little communication between the two.⁴²⁹

⁴²⁹ Cornell (1995) separates this into two different chapters: "The Emancipation of the Plebs" (327-44) and "The Roman Conquest of Italy" (345-68). As does Crawford (1992) in "X: Reform and Revolution" (107-112) and "XI: Rome and Italy" (113-122). Forsythe (2005) has multiple sections, but with very little cross-sectional communication (262-323).

To experience such a dramatic overhaul in the manner of conducting war, especially in a polity so geared to its pursuit, and not feel reverberations throughout society runs counter to the expectations of established military theory. It is helpful here to reference the groundbreaking work of Michael Roberts, who described the sweeping economic and social consequences that can accompany significant changes in the way a state wages war. Roberts was focused on 17th century Sweden and its king, Gustavus Adolphus, who utilized the improving technology of firearms and artillery and dramatically altered the size and professionalism of his new standing army. Soon, the state was the only entity capable of supporting, administratively, technically, and financially, the huge standing armies that were required to compete in the changing landscape of warfare.⁴³⁰ Political offices sprouted to deal with logistics and masses of bureaucrats were mobilized to fund an ever-widening scope of conflict.⁴³¹ No longer were birth and wealth required for serving in the upper ranks of the military: a new and lucrative path of social advancement was opened to the lower class, as demand for officers guaranteed promotion to those demonstrating skill and survivability. Thus, Roberts identifies a “Military Revolution:” changes in technology, tactics, and the conduct of war that precipitate substantial changes throughout society at large. Roberts originally presented this thesis in 1955, and it has been discussed and challenged since; however, the basic principles of this reciprocal relationship between the military and society have never been discredited.⁴³²

⁴³⁰ Roberts (1995), 14-8.

⁴³¹ Roberts (1995), 20-2.

⁴³² Most criticism of this model addresses the starting triggers or scope of the “revolution,” not the basic theory itself. Thus, Parker (1976), 204, attempts to push the revolution back into the 16th century with the advent of Italian-style fortifications, or the *trace italienne*. Deshpande (1992), 901, argues that it was spurred by heavily armed galleons. Black (1991) sees no revolution before 1700. Perhaps the strongest attack on this model is presented in Jacob and Visoni-Alonzo (2016), who begin with the provocative phrase: “There never was a Military Revolution.” Despite the bluster, this work takes issue only with the Eurocentricity and exceptionality of this model, arguing that such changes occurred with great frequency around the world. Again, the basic tenants of the model remain.

The evidence of the fourth century does indicate a substantive technical and tactical changes in the nature of warfare: the shift from hoplite to manipular styles of conflict. This is accompanied (either as a cause or effect) by an increase in the scope and intensity of the campaigns, and we must therefore expect a corresponding reflection in society as well. When viewed through a lens of reciprocal development, this military shift of the fourth century BCE can frame our understanding of the politico-social climate, providing context, motivation, and opportunity for the radical governmental changes that the city also experienced.

The Increasing Leverage of the *Tribuni Plebis*

A survey of the history of militarism repeatedly demonstrates: “during wartime, when governments are desperate for manpower to help fight more effectively, they may be forced to pay more attention to the common man.”⁴³³ Rome indeed found itself in growing need of manpower at the beginning of the fourth century. From 415 to 265 BCE, the period of expansion in central and southern Italy, Oakley counts only 13 years of peace.⁴³⁴ Not only was it increasing the frequency of campaigns (which is hard to measure precisely because of the uncertainty in earlier periods), it was also increasing the burden that these campaigns placed onto its soldiery. The war with Veii, Livy tells us, required the wintering of the legions under arms for the first time in Roman history.⁴³⁵ Roman armies were increasingly required to travel further from Rome, invading Tarquinian and Aequian territory in 388 and Volscian in 386.⁴³⁶ This heavy, annual style of campaigning continues throughout the 380s and the beginning of the 370s, when Livy becomes

⁴³³ Ferejohn and Rosenbluth (2017), 1.

⁴³⁴ Oakley (1993), 15-6.

⁴³⁵ Livy V.2.1.

⁴³⁶ Livy VI.4.7-9; 8.10.

distracted with the domestic upheavals at Rome that will culminate in the Licinian-Sextian laws. Despite reports of successes in these campaigns, this period also witnessed many setbacks for the fledgling empire, such as the defeat to the Gauls and the betrayal of previous allies, including other Latin cities and the Hernici.⁴³⁷ While the reliability of this narrative is not above suspicion—for example, it is unclear how the city could have recovered so effectively after the Gallic sack, and the semi-mythic figure of L. Furius Camillus plays a large role⁴³⁸—nevertheless the trend is highly credible: Rome is broadening her ambit and demanding more time and service from her citizen army. The city controls a limited area within Latium at the beginning of the century and possessed significant portions of land in Etruria and Campania by the end.

This effort must have been acutely felt by the soldiery, and there are some notices that concessions were made to lighten their burden. Livy and Diodorus both claim that payment was instituted for the army during the siege of Veii in 406,⁴³⁹ although coinage was not present at Rome until the beginning of the third century. Some have speculated that this compensation could have been through the *aes rude*,⁴⁴⁰ but Harris suspects that payment was irregular, distributed depending on the particular campaign, and non-monetary in nature.⁴⁴¹ The primary form of compensation for soldiers in this period was likely plunder. In protracted sieges or campaigns further from Rome, where there were fewer opportunities for plunder, this would have seemed an increasingly inadequate system. Furthermore, descriptions of debt and debt bondage are common in the fourth

⁴³⁷ Livy VI.7.1.

⁴³⁸ There is ample corroborating evidence, however, for increased militarism: the construction of a fortification wall at Grotta Oscura at Rome in the fourth century (Holloway (1996), 91-7 and Coarelli (2007), 11-2); the fortified settlement at Ostia (Cornell (1989) 315 (although Coarelli (2007), 451 dates this to soon after 427 BCE); the inscription mentioned in Livy (VI.29.9) and corroborated in Festus (p. 386 M) on the Capitoline concerning the conquest of Praeneste and nine towns by T. Quinctius in 380 (De Sanctis (1907) 249 n.6); aggressive colonization at Satricum in 385 (VI.16.6), Nepete in 383 (VI.21.4), and Setia in 379 (VI. 30.9).

⁴³⁹ Livy IV.59.11-60.2; Diod. Sic. 14.16.5.

⁴⁴⁰ Gatti (1971). 131-5.

⁴⁴¹ Harris (1990): 507.

century,⁴⁴² and their connection to a heightened demand on the Roman soldiery, who find themselves increasingly unable to work towards their own subsistence, seems credible and logical⁴⁴³ (see extended discussion below concerning debt, *nexum*, and public land, p. 165).

There is robust scholarship on the willingness of citizens to enroll for military service in the third and second centuries BCE, which is the ultimate conclusion through Harris and Rosenstein, that there was no significant resistance to the levy until the middle of the second century: patriotic zeal and the promise of plunder motivated large numbers of Roman citizens to sacrifice their civilian life.⁴⁴⁴ Romans of the fourth century, however, were not sacking and looting the opulent cities of the eastern Mediterranean, but much humbler polities in central Italy. There was wealth in the region, especially in Etruria, but the level to which thousands of Roman soldiers could hope to sufficiently profit from this plunder must be seriously questioned. There is no guarantee at all that warfare in this period provided the same level of incentivization that would have mobilized the citizenry in later periods, despite Harris' statement to the contrary concerning warfare within Italy.⁴⁴⁵ This dynamic, therefore, seems a likely venue for a confrontation between patrician desire to win glory and prestige on the battlefield and the plebian control of their means to do so.

The argument that disenfranchised members of a society can leverage their wartime contribution to achieve political concession is well-founded in other historical contexts. There can be many reasons why citizens feel compelled to participate: wars can seem, and often are, an existential threat to one's own life, motivations of national pride, compulsion by fear, or the

⁴⁴² Livy VI.11.8-9; 14.1-10; 20.15-21; 27.3-9; 31.2-5; 32.1-2; 34.1-4; VII.16.1; 21.5-8; 27.3-4; 28.9.

⁴⁴³ Ridley (1997-2005), 657-9.

⁴⁴⁴ Harris (1979), 46-8. Rosenstein (2004), 58-60. This is in direct opposition to earlier arguments that Romans were incredibly reluctant to fight and needed strong coercion: Toynbee (1965), 76 and Brunt (1971), 391-415.

⁴⁴⁵ Harris (1979), 47.

promise of economic gains. Some or all of these might be operable simultaneously as one decides whether to engage in military efforts. Studies of modern conscription, however, have shown that there are instances where these motivations are not sufficiently operable to entice participation by enough soldiers and a bargaining process begins between the government and the citizenry to bolster participation.⁴⁴⁶ In this way, measures of democratization can be introduced as a means towards mobilization efforts and to generate unity during wartime.⁴⁴⁷

Conscription events from the 19th and 20th centuries bear strong witness to this potential development. Napoleon III tried to multiply the numbers of Frenchmen serving from 1866-1870, preparing for coming wars with Prussia, but met strong resistance from a populace who could not see the immediate rewards of their service. The original proposed system of universal military service of 1866, which was to replace a preexisting lottery system, was met with fierce opposition and even violence, even as war with Prussia seemed increasingly likely. By the time the bill was finally passed in 1868, public outcry had diluted it down to 15 days of service in the reserve each year during peacetime, innovations that ultimately failed to prepare France for war just a couple of years later.⁴⁴⁸ Even though the reservists were never mustered for fear of political reprisal, nevertheless the elections of 1869 saw huge gains for the opposition party, who railed against the law and its impact on agriculture and finances.⁴⁴⁹ In 1875, as the French Third Republic attempted to stitch society back together after the disaster of the Franco-Prussian War, universal male suffrage was granted in an effort to boost national cohesion. Chancellor Bismarck, who had even

⁴⁴⁶ Levi (1996), 134-6.

⁴⁴⁷ Therborn (1997), 21-2.

⁴⁴⁸ Wright (1942), 26-45.

⁴⁴⁹ Wright (1942), 44-5.

wider military ambitions in the region, followed suit in Prussia⁴⁵⁰ as both countries heavily conscripted their citizenry by the end of the century.

Mobilization efforts in England during the First World War, although initially successful on the reports of German barbarism in Belgium, eventually slowed by 1916 as casualty reports returned over the channel. In the wake of conscription bills over the next three years, debate began concerning the enfranchisement of all men over 21 and all women over 30, rights which were granted in 1918 once again for the purpose of instilling national cohesion in the post-war setting.⁴⁵¹ The demands of war had indeed “strengthened the political hand of those supplying the resources with which to fight.”⁴⁵² Although France did not have difficulty in mobilizing its own citizens to fight a war within its borders, as needs became more dire it turned to conscript soldiers from its African possessions, it too had to promise political concessions. Recruiters in Algeria guaranteed exemption from *indigénat* (summary native jurisdiction) to those who served for a year, and grants of citizenship were proposed to Algerians, Senegalese, and other West Africans. In all, Africa sent 450,000 soldiers to fight for France and 135,000 to work in its factories during the war; while the *indigénat* system was eventually reformed, only 256 (of 50,000) Algerians gained French citizenship.⁴⁵³

The connection between wartime manpower needs and concessions (even if only promised) to the politically disenfranchised is a demonstrable feature of certain contexts of heavy military conscription. It is by no means the only way in which such concessions are won, however, and it can only operate to provide ammunition to movements already underway.⁴⁵⁴ For example, England

⁴⁵⁰ Ferejohn and Rosenbluth (2017), 221, 311.

⁴⁵¹ Blackburn (2011), 33-4, 38-40.

⁴⁵² Ferejohn and Rosenbluth (2017), 244.

⁴⁵³ Andrew and Kanya-Forstner (1978), 15-7.

⁴⁵⁴ Levi (1996): 22-3. Ferejohn and Rosenbluth (2017): 235-6.

was already in the process of extending suffrage through acts of parliament in 1867 and 1884, and the grant of women's suffrage in the United States in 1919 can be viewed as an inevitable step, expedited by increased female contribution to the economy during wartime.⁴⁵⁵ Wars by no means guarantee such compromises will take effect but nonetheless force a dialogue between those in power, who desire war or see its benefits, and those who control the resources for waging it.

There is no reason to doubt that this dynamic was not, in some way, operable in the ancient world as well. The authority of Athenian radical democracy is often characterized as legitimated through the contribution of the poorest citizens as rowers in the navy. Aristotle calls the lowest class of citizens at Athens trireme rowers (*τριηρικὸν*) and credits Salamis with making the democracy stronger.⁴⁵⁶ The *Athenaiôn Politeia* says that the poor, in their capacity to man the fleet, impart more strength to the city than the hoplites;⁴⁵⁷ it is not likely a coincidence that Athens achieves the final phase of its radical democracy in the reforms of Ephialtes in 461 BCE just as the city was amassing a huge, imperial navy. Like modern *comparanda*, wartime necessities might have jumpstarted a process already underway.⁴⁵⁸

At Rome, too, we might expect a similar process as military demands of the aristocracy begin to take a heavier toll on plebeian manpower. It is possible, therefore, that Roman campaigns

⁴⁵⁵ To these examples could also be added the Canadian Wartimes Elections Act and Military Voters Act, both of 1917; however, these were tactical enlargements of the franchise in order to target those men and women who would likely support conscription. Thus, all soldiers and their female relatives were given the right to vote, and it disenfranchised recent immigrants from “enemy” countries.

⁴⁵⁶ Arist. *Pol.* 1291b; 1304a: καὶ πάλιν ὁ ναυτικὸς ὄχλος γενόμενος αἴτιος τῆς περὶ Σαλαμῖνα νίκης καὶ διὰ ταύτης τῆς ἡγεμονίας διὰ τὴν κατὰ θάλατταν δύναμιν τὴν δημοκρατίαν ισχυροτέραν ἐποίησεν

⁴⁵⁷ See *Ath. pol.* 1.2: οἱ πέντες καὶ ὁ δῆμος πλέον ἔχειν τῶν γενναίων καὶ τῶν πλουσίων διὰ τόδε, ὅτι ὁ δῆμος ἔστιν ὁ ἔλαύνων τὰς ναῦς καὶ ὁ τὴν δύναμιν περιτιθεὶς τῇ πόλει, καὶ οἱ κυβερνήται καὶ οἱ κελευσταὶ καὶ οἱ πεντηκόνταρχοι καὶ οἱ πρωφράται καὶ οἱ ναυπηγοί, —οὗτοί εἰσιν οἱ τὴν δύναμιν περιτιθέντες τῇ πόλει πολὺ μᾶλλον ἢ οἱ ὄπλῖται καὶ οἱ γενναῖοι καὶ οἱ χρηστοί.

⁴⁵⁸ The notion that the common Athenian was in favor of the democratic system is not without its detractors: Taylor, (2002), 95 states that Thucydides describes the lowest classes at Athens eagerly giving up their political power in return for pay from the oligarch. The idea that poor rowers were increasingly important is also contested: Balot, (2006), 83 notices on inscriptions from the fifth century that hoplites and cavalry are still disproportionately represented, leaving the rowers without memorialization to the same degree.

in the beginning of the fourth century, due to their protracted nature and increasingly distant destinations, ceased to be rewarding enough on their own, and a process of bargaining commenced to secure the people's willing participation.⁴⁵⁹

Those in the best position to negotiate this dialogue and enforce plebeian demands would have been the *tribuni plebis*. Although this office is of uncertain origin,⁴⁶⁰ it nevertheless emerges in the fourth century with a suite of powers that counter the authority of higher magistrates and advocate on behalf of the lower classes. Hölkeskamp suggested that the tribunes acted as "negative" magistrates in the early period, checking the absolute power of *imperium* within the city, but still powerless elsewhere.⁴⁶¹ Their abilities certainly developed over time, but stemmed from the basic notion of sacrosanctity bestowed upon them by oath sworn at the assembly in which they were elected and over which they presided. They exercised this authority on behalf of the *plebs* through *intercessio*, the physical intercession of the tribune between the abusive magistrate and his victim.⁴⁶² This principle gives the tribune extended authority to veto actions of other curule magistrates, enact legislation through the plebeian assembly, prosecute individuals for abuses and, most importantly for our purposes, disrupt the levying of troops by senior magistrates.⁴⁶³

Livy, in fact, does record episodes of strong resistance to the levy going back nearly to the beginning of the Republic.⁴⁶⁴ While most of these notices inspire little confidence, they do

⁴⁵⁹ This hypothesis was first introduced by De Sanctis (1907), 31, but without focus or elaboration.

⁴⁶⁰ De Sanctis (1907), 30-31 claims that the tribunate must have emerged by the middle of the fifth century because it could not have developed during the consular tribunate, which was patrician *and* plebeian. Badian (1996), 187 dismisses early evidence for this office as "unreliable, while the later evidence is patchy and haphazard." He therefore begins his discussion in the second century.

⁴⁶¹ Hölkeskamp (1993): 20-1.

⁴⁶² Smith (2012), 103.

⁴⁶³ The ability to pass legislation likely develops, according to tradition in 287 BCE, after another disruption of the levy.

⁴⁶⁴ In 495 (Livy II.24), in 494 (II.28-30), in 481 (II.43.3-4), in 480 (II.44.1-6), in 461 III.10.8-11.2), in 460 III.2.1-5), in 458 (III.3.26.1), in 457, III.30.3-5), in 445 (IV.1-6), in 441 (IV.12.5), in 410 IV.53.2-7), and in 409 (IV.55.1-7). See Ridley (1990) 121-2 for a discussion of this tradition.

continue down into the fourth century, just before the Licinian-Sextian Laws. In 397, Livy describes the obstruction by the tribunes in reaction to the prolonged siege at Veii, and in 380 the tribunes preemptively prevented a levy despite the approach of an enemy army, which was allowed to continue when the threat became too dire to ignore.⁴⁶⁵ In 378, the tribunes of the *plebs* are described as citing economic grievances in order to block the levy of troops, and they successfully achieved a hold on the collection of the war-tax (*tributum*) and any prosecution for debt default until the war with the Volscians was concluded.⁴⁶⁶

These sorts of disruptions are not restricted to the early period but punctuate social discourse into the better documented later centuries, such as the military sedition of 342 BCE. Although Livy provides multiple versions of the event, Gabba argues that this is proof of the socio-economic strain placed on the Roman soldiery during this period of intensive campaigning.⁴⁶⁷ Perhaps highlighting the potential political ramifications of such unrest, this year also witnesses the second great compromise of the century: the Genucian laws which (according to the tradition) allowed both consuls to be plebeian, forbade iteration within ten years, disallowed the holding of multiple, simultaneous offices, and made lending at interest illegal.⁴⁶⁸ The final secession of the *plebs* in 287 motivated similar concessions to the plebeians. The *Lex Hortensia* represented a significant landmark, as measures carried by the *concilium plebis* were now binding to the Roman state as a whole.⁴⁶⁹ The exercise of control over the flow of manpower throughout the fourth

⁴⁶⁵ 397: Livy V.16.5; 380: VI.27.8-28.3.

⁴⁶⁶ Livy VI.31.4. Ridley (1990), 122.

⁴⁶⁷ Livy VII.38-42. Gabba (1975), 148-9.

⁴⁶⁸ Livy VII.42.1-2.

⁴⁶⁹ Livy Per. 11; August. *De civ D.* 3.17; Maddox (1983), 277-286.

century must be considered a legitimate force that could be mobilized to advocate for plebeian goals.⁴⁷⁰

It is precisely this atmosphere of need and tension that could have spurred the aristocracy at Rome to cede to the sorts of demands that we find in the laws of 367 BCE and, further, could provide context for the progression of successes that the *plebs* achieved throughout this period. The ability to control the human resources of war could have provided the tribunes with significant leverage to disrupt the functioning of the state and military operations, helping to explain the chaotic nature of the historical narrative in the years before the passage of the Licinian-Sextian Laws. Patrician reaction to this development might be glimpsed in a fleeting episode of Livy. The consul of 357, Cn. Manlius Capitolinus, convened his army to vote in tribes while away from Rome, and in this unconventional fashion he manages to pass a law imposing taxes on manumission.⁴⁷¹ Lushkov views this episode as further enmeshing of city and army functions, resulting in less freedom for Roman voters,⁴⁷² and Hodgson sees an attempt at creating legitimacy for generals' actions based on the consent of their armies, even when away from Rome.⁴⁷³ Both of these views are geared towards observing nascent developments in the relationships between generals, their soldiers, and the city which radically change by the late Republic; they are therefore overly complicated explanations for what likely was cynical pragmatism: avoiding the authority of the tribune in the city, swollen with extra leverage through the demands on the Roman army.⁴⁷⁴ Although events which happen away from the city, because they are so easily interpolated and not likely to be grounded in the records at Rome, should be viewed with caution (see Chapter 1), the

⁴⁷⁰ Raaflaub (2006), 141 says that this form of protest would have been very impractical at Rome in this period, because this perceived lack of military strength would have made Rome easy prey to its numerous, proximate enemies.

⁴⁷¹ Livy VII.16.7-8.

⁴⁷² Lushkov (2015), 118-9.

⁴⁷³ Hodgson (2017), 86-7.

⁴⁷⁴ Oakley, vol. 2 (1997-2005), 182-3.

subsequent action taken by the tribunes to forbid such a process of legislation could provide the archival foundation for this episode, not to mention the law itself, which seems to have stood.

Increased demands on Roman manpower and the growing dissatisfaction with military service in the beginning of the fourth century likely translated into increased leverage in the ongoing plebeian negotiation with the patricians for full enfranchisement. Like the above modern examples, this process did not initiate the discussion or constitute the necessary means for its conclusion, but it likely created the conditions to accelerate a process punctuated by the compromises of 367, 342, and 300.

Changes to the Electorate and “Political Groupings”

If political leverage gained as a result of increased military demand formed the first piece of this constellation of causative factors, the second concerns an erosion of traditional political groupings. A rapid enlargement of the Roman voting base at the beginning of the century, and steady growth throughout, fundamentally disrupted those traditional blocs that had previously maintained an aristocratic *status quo*; a newfound fluidity of votership may have combined with this increased leverage precisely at the beginning of the fourth century and precipitated the sort of socio-political change that is recorded in 367 BCE.

After the annexation of Veian territory, four new tribes, the Stellatina, the Tromentina, the Sabatina, and the Arnensis, are added to the original 21 in 387 BCE, thus imparting full Roman citizenship to their constituents.⁴⁷⁵ Livy claims that grants of land and status were assigned to defectors from Veii, Capena, and Falerii, and represented additional new citizens (*novis*

⁴⁷⁵ Livy VI.5.8: *tribus quattuor ex novis civibus additae, Stellatina Tromentina Sabatina Arniensis; eaeque viginti quinque tribuum numerum explevere.* Taylor (2013), 47-9.

*civibus).*⁴⁷⁶ Lily Ross Taylor calculates that these new areas added as much as fifty per cent to the Roman *ager* and therefore likely contained a larger number of citizens than the existing tribes.⁴⁷⁷ Livy records the organization of eight more tribes during the second pentad: the Pomptina and the Poblilia in 358, the Maecia and Scaptia in 332, the Oefentina and Falerna in 318, and the Aniensis and Terentina in 299.⁴⁷⁸

Like the military exploits, even if the extension of land and the enrollment of new citizens cannot be precisely described in its details (although these are some of the best candidates to populate early archival records), it is a process that assuredly occurred: the end-results are obvious as Rome emerges in better-documented periods with a wealth of land and a profusion of citizenry throughout central Italy. As Fergus Millar states, such citizenship extensions down to 241 BCE and the foundation of colonies in Italy “represent *the* major known element in the social and constitutional history in the fourth and earlier third centuries.”⁴⁷⁹ It remains now to understand how this expansion of the voter base might have precipitated social and political change in the capital itself.

The notion that rigid groupings of dependent clients in service of patrician goals dominated domestic politics is very old in the study of early Rome. Matthias Gelzer, in an oft quoted passage, states that personal relationships based on *fides*, mutual commitment, and financial obligation dictated the distribution of political power; the most powerful men at Rome could mobilize, by virtue of their friends and clients, the greatest number of voters.⁴⁸⁰ H. H. Scullard follows this line of thinking, claiming that Republican politics was guided, albeit with intermittent

⁴⁷⁶ Livy VI.4.4: *eo anno (389) in civitatem accepti qui Veientium Capenatiumque ac Faliscorum per ea bella transfugerant ad Romanos, agerque his novis civibus adsignatus.*

⁴⁷⁷ Taylor (2013), 47-9.

⁴⁷⁸ 358: Livy VII.15.2; 332: VIII.17.11; 318: IX.20.6 and Diod. Sic. 19.10.2; 299: X.9.14.

⁴⁷⁹ Millar (1989), 142.

⁴⁸⁰ Gelzer (1969), 139.

and brief impositions of popular will, by nobles and their extensive client networks.⁴⁸¹ Münzer's hypothesis of sweeping use of political parties at Rome, based on his prosopographical analysis of the *fasti*, can only work if one adopts this schema of rigid power structures and therefore the possibility of predictable deployment of clients towards certain goals.⁴⁸² This approach is likely the result of an exaggerated notion of the importance of the patron-client relationship in the later Republic,⁴⁸³ based on its descriptions in Cicero and Aulus Gellius, among others.⁴⁸⁴ John North, in his strong rebuke of this model, refers to it as the “frozen waste theory”; it completely divorces the Roman voter from any agency in political decisions and subordinates the city to an all-powerful oligarchic elite.⁴⁸⁵

There is evidence, however, that this institution of patronage does have a place in the political and social environment of the early Republic. For what they are worth, notices of large-scale clientage play a heavy role in the narratives of the sixth and fifth centuries, especially in Dionysius. Clients are depicted accompanying their patrons to battle, advocating for and disrupting actions of the state, mobilizing toward common goals, and as a source of pride and power for the aristocrats.⁴⁸⁶ Ogilvie, however, states flatly that Livy knows nothing of value about early clientage and only projects backwards the nature of this institution in the first century.⁴⁸⁷ Brunt argues for a different interpretation, following his beliefs that patron-client relationships of the later period have exaggerated importance in modern scholarship. He sees later annalists amplifying the

⁴⁸¹ Scullard (1951), 12-30. Scullard himself quotes Fustel de Coulanges, who generated the first seeds of this thesis in the 19th century: De Coulanges (1922), 224-5.

⁴⁸² Münzer (1920)

⁴⁸³ Brunt (1988), 413.

⁴⁸⁴ Cic. Att. 1.20.7; Sen. 32; 2 Verr. 1.28; Fam. 7.17.2; Rosc. Am. 106; Gell. NA 5.13.4: (quoting Cato the Elder)

“*Quod maiores sanctius habuere defendi pupilos quam clientem non fallere. Adversus cognatos pro cliente testatur, testimonium adversus clientem nemo dicit. Patrem primum, postea patronum proximum nomen habuere.*”

⁴⁸⁵ North (1990), 278.

⁴⁸⁶ Dion. Hal. *Ant Rom.* V.7.5, VI.51.1, 59.3, 63.3, XI.22.5, 33.1. Livy II.35.4, 56.3, 64.2, III.14.4, 16.5, 58.1, V.32.8.

⁴⁸⁷ Ogilvie (1965), 480.

primacy of the clientage system, understanding that conditions must have been different in the remote past, and therefore archaizing the institution in their narratives.⁴⁸⁸

While little stock can be put in these stories, there are more concrete indications of early clients and their relationships with patrons. Taking prime position in this discussion must be the Twelve Tables from the middle of the fifth century, which records a law stating, “if a patron commits a crime against [his] client, may he be condemned to death.”⁴⁸⁹ Mommsen believed this to be a real attestation of fifth century law, possibly even older, but Brunt finds it hard to believe that patrons would leave themselves open to such a strict penalty for such an ill-defined and potentially ambiguous crime.⁴⁹⁰ Ambiguity, however, can work in both directions and an aristocratically dominated court could impose a high bar to meet this standard, functionally reducing patrician liability to zero. In any case, the presence of *patroni* (obviously based on *pater*) and *clientes* in the earliest legal document from Rome nevertheless speaks to the antiquity of this hierarchical, paternalistic relationship.

Additionally, the late sixth century inscription found at the temple of Mater Matuta in Satricum, the so-called *Lapis Satricanus*, can be marshalled in support of this early institution. Although most of the stone is missing, it nevertheless references a dedication to Mars (*mamartei*) by the *suodales* of *Poplios Valesios*.⁴⁹¹ This name has been credibly attached to P. Valerius Poplicola whom tradition identifies as playing a crucial role in the foundation of the Republic,⁴⁹² and the *suodales* identified as a permanent retinue or warband bound to its patron by Versnel.⁴⁹³

⁴⁸⁸ Brunt (1988), 413.

⁴⁸⁹ Serv. Aen. 6.609: *ex lege XII tabularum venit, in quibus scriptum est “patronus si clienti fraudem fecerit, sacer esto”*

⁴⁹⁰ Mommsen, vol. 1 (1864-1879), 384, n 52.; Brunt (1988), 409-10.

⁴⁹¹ CIL I² 2832a. Prosdicimi (1994), 365-377 suggests that *Mamartei* might refer to Mater Matuta, due to the proximity of the shrine.

⁴⁹² Livy II.16.7.

⁴⁹³ Cornell (1995), 144.

Although Bremmer's interpretation softens the nature of the *suodales* to an *ad hoc* type of retinue for raiding purposes,⁴⁹⁴ it nevertheless represents this type of vertical relationship headed by a patron. The fact that the dedication is to Mars further highlights the potential military nature that constituted early clientage.⁴⁹⁵ The evidence, therefore, that some form of dependent relationship existed in the early period of the Republic is strong, but little else can be said about its nature and scope.

Among these uncertainties, unfortunately, is the patricians' ability to use this institution to impose their will in the steering of the Roman state. If the general trend of fifth century narrative has any merit, however, we are led to believe that an aristocratic oligarchy of about 50 families was able to maintain its exclusive hold on power for nearly a century and half, despite the presence of popular elections for magistrates and legislation. This trend, if accepted, could be explained by the mobilization of extended client networks within the political system at Rome, guaranteeing patrician success.⁴⁹⁶

While this might have been the case in the early period, there is a growing body of scholarship that doubts this sort of aristocratic stranglehold in the middle and later Republic. Central to this argument is the implausibility that a single patrician *gens*, or even a coalition of *gentes*, could ever muster enough support to dominate a popular vote as the population grew.⁴⁹⁷ This is especially true in the election of lower magistrates and the passing of legislation. These votes would have taken place in the *comitia tributa*, instituted by 447 BCE at the latest, which was organized according to tribal membership and therefore not structurally designed to preference the

⁴⁹⁴ Bremmer (1982), 147.

⁴⁹⁵ Armstrong (2016) 141-5 uses this inscription as further evidence that roaming warbands were a part of the central Italian landscape until the fourth century.

⁴⁹⁶ Oakley, vol. 1 (1997-2005), 547. Brunt (1988), 413, although with reservations.

⁴⁹⁷ Develin (1985), 127-130.

wealthiest voters.⁴⁹⁸ Lily Ross Taylor has demonstrated, however, that patrician *gentes* often enrolled members in multiple tribes, in order to spread their influence to as many voters as possible, and would focus on tribes more distant from Rome, whose actual voting members would be low in the capital and therefore easier to dominate.⁴⁹⁹ The plausibility of this strategy would seem to meet diminishing returns as the circle of citizenry expands.

The trend has been to ascribe much more subtlety and nuance to the practice of politics in the mid-Republican period. Jochen Bleicken sees a gradual loosening of the ability of aristocrats to muster sufficient support and argues for a much more fluid system of alliances forming and dispersing, based on specific goals or policies, but never again so rigid and determinative.⁵⁰⁰ Brunt, in a landmark discussion of this institution, finds that certain plebeian families, through their rising economic or political fortunes, gradually broke free of patron control. They found a large group of the lower classes who were ready to separate from their own patrons or had none (for the *nexi* had either been failed by their patron or had no protection at all), and gradually began to fill that role for them and, in this way, achieved successes for the popular agenda.⁵⁰¹

Millar finds no evidence that clientage ever played a pivotal role in politics.⁵⁰² Instead, he argues that Rome was replete with lower magistrates, such as the tribunes, who, unlike the consuls, were permanently stationed in the city and ready to offer *auxilium* to the lower classes. To claim that even the tribunes were universally complicit in this oligarchic domination is to seriously overrepresent our knowledge of the men who held these offices and their politics.⁵⁰³ Christopher Smith also advocates for a more diversified political landscape, arguing that the *plebs* was likely

⁴⁹⁸ Taylor (1966), 59-60.

⁴⁹⁹ Taylor (2013), 282-4, 299-300.

⁵⁰⁰ Bleicken (1981), 245-9. This position is also followed by Hölkenskamp (2010), 36-41.

⁵⁰¹ Brunt (1988), 413-4.

⁵⁰² Millar (2002), 7-9.

⁵⁰³ Millar (1989), 143-4.

a massive group, some with interests aligned with patricians and others divergent. As long as the condition of clientage did not mean a semi-servitude, it was possible even for clients to advocate for anti-patrician measures.⁵⁰⁴

None of these conceptions are mutually exclusive and, indeed, a combination of their points likely gets us closer to historical reality. These scholars, however, are never specific about any causal events or provide any relative timeline for these developments, reflecting the speculative nature of their arguments and lack of definition provided by the sources.⁵⁰⁵ A new perspective might give more definitive context to this problem.

Considering the extensive settlement which occurs at the beginning of the fourth century on the *ager Veientinus*, therefore, it is logical to situate the beginning of this transformative process precisely in our period, as Rome is expanding the size, not only of its land possessions, but also the range of its citizenry. As Taylor's research shows, this would have been a huge addition to the voting population, even if some of the occupants of the new landholdings were resettled, former citizens.⁵⁰⁶ Even if this was so, these were likely citizens displaced, both physically and economically, from whatever patron they might have had in their old tribe. Coupled with the increased military successes at the end of the fifth century and the beginning of the fourth, wealth probably accrued in a few plebeian households, enough to satisfy the conditions which Brunt sees as necessary to breaking oligarchic domination of the political system. Furthermore, the new tribes were not far enough away so as to be politically remote; it was within a day's journey to travel to Rome and participate in whatever political action one desired. This would not have guaranteed

⁵⁰⁴ Smith (2006), 172-3. North (1990), 285-7, had argued something very similar but specified that competing aristocratic interests propelled political debate at Rome. Plebeians were often co-opted and occasionally arbitrated this competition through their vote, but the agenda was always set by the magistrates.

⁵⁰⁵ Brunt (1988), 214 says only that 287 BCE, the last secession of the plebs, is historical and evidences a strong societal cleavage. Bleicken (1981), 245 simply gives the unspecific: "nachdem Rom größer geworden war."

⁵⁰⁶ Taylor (2013), 47-9.

universal participation, but they were much more accessible even than the tribes added in 318 and 299. This diffusion of the electorate, and whatever political groupings they might have previously constituted, could have contributed to the erosion of oligarchic control that is hypothesized by these scholars and therefore facilitated the onset of significant political reform, such as that which occurs in 367 BCE.

A periodization of this sort, based on Rome's increasing ambit, has been attempted before, but with far different results. Christian Meier is not often cited in English scholarship, but he nevertheless contributes greatly to our understanding of the development of *clientela* in the early and middle Republic. He does see a very rigid system in the earliest phase of the city, when clients were personally bound to a patron, even at the expense of their own political participation.⁵⁰⁷ This system begins to loosen in the fifth century, however, as the tribunate appears and offers an alternative form of advocacy, citizenship is granted universally, and participation in the *comitia centuriata* defined one's participation in the state. Rich plebeians also began to emerge and accumulate their own clients, but rather than advocating for plebeian causes, they simply hardened the existing oligarchy. This second phase of Meier's schema lasts until late in the fourth century.⁵⁰⁸

His third phase is well aligned with my own, even though I would like to place its occurrence a half-century earlier. Meier characterizes this phase by a separation of client and patron, both in the strength of dependence and in political ambition. This is all compounded by the enlargement of the Roman state; what had previously been a small community became expansive and strained the personal relationships that had underwritten the previous clientage system. At this

⁵⁰⁷ Meier (1966), 23-6.

⁵⁰⁸ Meier (1966), 26-9.

point, it is no longer appropriate to speak of “clientage,” but more vaguely of a “binding status” (*Bindungswesen*).⁵⁰⁹

Thus, the breakdown of this patron-client relationship as caused by literal and figurative distance between its members, coupled with the rise of wealthy plebeians/tribunes that offer alternatives to patrician protection, coincides very strongly with the social and political upheaval that I would place at the beginning of the fourth century and that culminates in the compromise of 367 BCE. Meier never details why he sees this as such a late occurrence, but he must view with skepticism the plebeian success of the mid-fourth century. All of the conditions that he requires, however, are present much earlier and would help explicate the social turmoil of the earlier period.

While the disruption of old voting blocs was likely sufficient to allow daylight for reform, the new voters in these tribes represented tremendous potential for individuals who could sway them. This threat is recognized and addressed in 358 in the form of the *lex Poetelia*, concerning bribery. Livy claims this law was introduced by the tribune, C. Poetelius, with the support of the Senate, and it aimed to stifle the canvassing attempts of “new men” in country places (*conciliabula*).⁵¹⁰ Even if Livy’s additional information about the impetus for the law is incorrect (which is entirely possible), it is passed in the same year as the organization of two tribes, the Pomptina and Publilia, and thus heavily suggests a connection between the two and an acknowledgment of the electoral upheaval that such enfranchisement can cause. Looking into this matter further, C. Poetelius seems to be taking a very restrictive measure against his own order, as “new men” are most likely attempting to take advantage of recent plebeian access to the

⁵⁰⁹ Meier (1966), 30-31. At this point Meier conceptualizes a multifocal political discourse, based on these looser bonds of both vertical and horizontal relationship but never completely free of them. Political actors weigh their obligations and the relative strength of these bonds in their decision making, up until the end of the republic. (31-3, 174)

⁵¹⁰ Livy VII.15.12-3. Cornell (1995), 469, n.33.

consulship; Senate support in this way makes sense. Poetelius is, however, listed as consul for 360, and the *gens Poetelia* are one of just seven plebeian *gentes* to reach the consulship before 340, suggesting that they were, perhaps with patrician support, one of a limited number of palatable families in the highest offices.⁵¹¹ Poetelius' proposal of this law, therefore, can be seen as an attempt to keep the consulship as restricted as possible, and his advocacy carried it through the tribal assembly despite what should have been plebeian opposition.

This reconstruction is admittedly speculative and based on just the sorts of methodological pitfalls that result from an overemphasis on rigid factional politics and prosopographical study, but nevertheless the basic connection between the opening of new tribes and potential electoral benefits still stands: the inclusion of new voters into the Roman system represented a threat to established political groupings. Either by diffusing the earlier composition of reliable voting blocs or providing avenues for the creation of new ones, extensions of Roman citizenry in the beginning of the fourth century, like the increased burdens of military service, created the conditions under which dramatic sociopolitical change was a likely outcome.

Access to Public Land and the Problems of Debt and *Nexum*

The last circumstance that can be mustered in support of a general revolutionary atmosphere at Rome is an economic one. In some ways, this is the easiest case to make: restricted access to land and the connected notices of increasing debt permeate the narratives of the late fifth and fourth centuries. Debt bondage, or *nexum*, too, is a logical consequence of a strong and politically dominant aristocracy which depended on large amounts of agricultural labor before the

⁵¹¹ Münzer (1920), 25-30.

implementation of mass-chattel slavery. There are strong hints, however, that these issues, as described in the historical narrative, are not operative in the fourth century but rather retrojections of the second century BCE, when many similar issues were raised and debated at Rome.⁵¹²

Despite these concerns, there is significant treatment of these economic issues in the narrative, suggesting that such issues were operative as early as the fifth century. *Nexum* is addressed in the XII Tables;⁵¹³ although it does not provide a definition or describe the status of its participants, it nevertheless attests to the antiquity of the institution.⁵¹⁴ Possible archival notices which could demonstrate these issues are problematic as well. Livy records that the Licinian-Sextian laws included provisions which capped the possession of public land to 500 *iugera*,⁵¹⁵ stipulated that interest paid would be deducted from the principal, and debt could be repaid over three years.⁵¹⁶ The largest criticism that has attached itself to this agrarian law has been the size of the restriction, as some scholars see 500 *iugera* as being excessively large for the small size of the Roman *ager* in the mid-fourth century.⁵¹⁷ Livy is not alone in his attestation of this law and its regulation, however, as a number of ancient authors also refer to this limitation. Varro, among others, refers to a “law of Stolo” (the cognomen of Licinius) which set a limit at 500 *iugera*.⁵¹⁸ Licinius himself is said to have been prosecuted for breaking this very law,⁵¹⁹ which Oakley takes

⁵¹² Tibiletti (1948), 229-36. Forsén (1991), 1-88.

⁵¹³ Festus 160L; Varro *Ling.* VII.170.

⁵¹⁴ Cornell (1995) 280-3. Smith (2006), 171 n 12.

⁵¹⁵ Niebuhr, vol. 2, (1844), 279-82.

⁵¹⁶ Livy VI.35.4-5. Appian *B Civ.* I.33 adds that pasturage of public animals should not exceed 100 head of cattle or 500 smaller animals. Cornell (1995), 329 sees this as an addendum to the Licinian-Sextian laws, while Oakley, vol. 1 (1997-2005), 655 sees this as a regulation passed closer to the time of the Gracchi.

⁵¹⁷ Niese1888), 410-1. Also De Sanctis (1907), 217-8.

⁵¹⁸ Varr. *Rust.* I.2.9: “nam Stolonis illa lex, quae vetat plus *D iugera habere civem Romanum.*” Also, Vell. Pat. II.6.3: “vetabat quemquam civem plus quingentis iugeribus habere, quod aliquando lege Licinia cautum erat” and Gell. *NA* 6.3.40: “Dissimulari autem non posse ait, quin paria et consimilia non sint plus quingenta iugera habere velle, quod plebiscito Stolonis prohibitum fuit”

⁵¹⁹ Dion. Hal. XIV.12, Livy VII.16.9, Val. Max. VIII.6.3, Plin. *HN.* XVIII.17.

as “powerful testimony to its existence.”⁵²⁰ Even the narrative of the Gracchan reforms refers to this 500 *iugera* limitation, which was unenforced by the late second century, although it does not provide any indication of the restriction’s origin.⁵²¹

It is entirely possible that Niese and De Sanctis are correct to assume that this is an excessive amount of land to restrict, but this nevertheless does not mean that legislation *de modo agrorum* did not occur as early as the fourth century. Beloch sees the organization of the newly added public sections of the *ager Veientinus* as susceptible to exploitation by the rich, and therefore creating a legitimate basis for regulation at this time.⁵²² We are also terribly uninformed concerning the specifics of the sizes of Roman land and additions that were made at the beginning of the fourth century; it is therefore not valid to dismiss any notice based on assumptions of land sizes.⁵²³

Whether or not the specific provisions of these laws can be confidently known, it is clear that they reflect a real and pressing social dilemma of the early to mid-Republic. Interest rates on debt were established in the XII Tables,⁵²⁴ and legislation on debt and *nexum* continue with regularity throughout the fourth century: in 357 interest was set at 100% per annum, in 352 a commission of five was set up to alleviate debts, a 50% cap on interest was set in 347, and in 344 lenders were prosecuted by the *aediles*.⁵²⁵ This must evidence a severe hardship with reference to land and indebtedness; it is hardly sufficient to categorize all of these notices as retrojections of later economic hardships. However, the extent to which any of these laws, including the limit on public land, were ever enforced must always remain in question. Lending at interest is finally outlawed in 342, coinciding with the occurrence of the Genucian plebiscite and the second

⁵²⁰ Oakley, vol. 1 (1997-2005), 656, although this episode could be seen as a later insertion demonstrating extreme irony and the arrogance of upstart plebeians.

⁵²¹ Plut. *Ti. Gracch.* 8.3-4

⁵²² Beloch (1926), 344.

⁵²³ Cornell (1995), 329.

⁵²⁴ Tac. *Ann.* 6.16.

⁵²⁵ 357: Livy VII.16.1; 352: VII.21.5-8; 347: VII.27.3-4; and 344: VII.28.9.

compromise.⁵²⁶ Although De Sanctis claims that the debt legislation of 367 is too revolutionary for such an early period and must be a fiction created from later events,⁵²⁷ he nevertheless accepts this later notice.⁵²⁸ This law still presents some problems, however, as it seems to be a drastic step in service of no one's best interest: the rich would not benefit at all from making loans, and the poor could therefore not secure them. It is clear that this law, if it was ever accepted as binding to all Roman people, was nevertheless not strictly enforced. Finally, *nexum* itself was abolished in 327.⁵²⁹ The notices of debt and its redress are abundant in this period and must be read as strong indication of the seriousness of the issue in this context of Roman politics.⁵³⁰

Other circumstantial evidence also points to hardships of the *plebs*. There are indications of plagues, which would have found firm attestation in the list of religious prodigies for expiation. The years of 384, 365, and 348 all record heavy disruption due to illness and a corresponding lack of archival activity at Rome.⁵³¹ Livy notes that the construction of a fortification wall in the fourth century,⁵³² a logical investment considering the military strain the city undergoes after the Gallic episode, plunges the *plebs* into debt.⁵³³ Wars in general, increasing in duration and scope since the late fifth century, would have demanded that more and more time be spent away from farms, disrupting the economy further.

Roman colonization in this period is also very uneven, with a heavy efforts at resettlement only at the end of the fourth century. After Nepet is established in 373 BCE, there are no notices for new colonies until 338, from which time until 268 a total of 25 citizen and Latin colonies are

⁵²⁶ Livy VII.41.1.

⁵²⁷ De Sanctis (1907), 217.

⁵²⁸ De Sanctis (1907), 225.

⁵²⁹ Livy VIII.28.1-9.

⁵³⁰ Maloney (1971), 88-91.

⁵³¹ 384: Livy VI.20.15-6; 365: VII.1.7, 2.1; 348: VII.27.1.

⁵³² Some sections of the wall circuit survive (see discussion above n. 162).

⁵³³ Livy VI.32.1-2.

founded.⁵³⁴ Even though two tribes are organized in 358, it is unclear how available these would have been to poor landless farmers. Thus, economic pressures would understandably be operative in the middle of the century, precisely when laws and notices concerning debt occur. The increasing scope and success of Rome's wars as the fourth century progressed also would have provided another source of agricultural labor, chattel slavery, potentially loosening patrician desires to maintain the institutions that bound the *plebs* to them.

The conditions at Rome in this period are not unlike other Mediterranean cities for which early social and economic development is attested. The tradition is sound also for issues of debt and land distribution at Athens as well, although addressed two centuries prior. Solon is said to have found all of Attica either in debt to the rich—and therefore tied to the land and forced to pay 1/6 of their produce (and thus ἐκτημόριοι)—or already possessed and sold into slavery.⁵³⁵ Solon instituted his famous “unburdening” (*σεισάχθεια*) of the poor, which was either a complete cancelling of debts or a reduction of the interest rates.⁵³⁶ The historical narratives for this event, much like the Roman case, were not composed for over two hundred years, in the fourth century by the Attidographers, and there is likely some intrusion of fourth century economic conditions into this picture, especially the institution of the ἐκτημόριοι, but the general picture of the debt is nevertheless largely credible.⁵³⁷

The specifics of this story are very different from Rome—in the Greek case, there is no gradual progression of redress but there is a strong reformer at the center—suggesting that this is not simply a borrowed historical account: if there was really no tradition at Rome and the annalists

⁵³⁴ Harris (1990), 502-3.

⁵³⁵ Plut. *Sol.* 13.3-5. *Ath. Pol.* 2.

⁵³⁶ Plut. *Sol.* 15.3-4, who says that these versions are found in many historical accounts.

⁵³⁷ Hammond (1961), 91-5, who argues that there would not have been individuals rich enough to purchase so much land in the sixth century, unlike the fourth, and therefore this condition of temporary indebtedness is likely a retrojection. Hammond places his strong trust in this nature in the poetry of Solon as a legitimate, primary source.

were using Athenian history as a model for their recreation, they horribly over-complicated the story. It is far more likely that both accounts were independently evidenced, and we can witness parallel tensions that befell many Mediterranean polities with limited arable land, a growing population, and increasing wealth inequality. Because land is the foundation of wealth in these early periods, it is only logical that unequal land distribution sits at the heart of these conflicts.

It is clear from this accumulation of evidence that the sources are correct for focusing so heavily on debt and distribution of land in their descriptions of the economic tensions in the late fifth and fourth centuries. The motivations which animated the lower classes, those who could never hope to access political office but who could benefit from elevating their advocates to influential positions, were therefore present and pressing.

Conclusions

Rome is thus imbued with motive, means, and opportunity to reform on the eve of its social, political, and economic compromises of the mid-fourth century. Heavy burdens of debt and land deprivation would have motivated sufficient voter/soldier support to back the ambitions of wealthy plebeians in their pursuit of high aristocratic honors. The diffusion of the electorate into newly acquired territory and the inclusion of brand-new citizens would have provided the means to disrupt the old political groupings and voting blocs that had perpetuated a closed oligarchic regime. Finally, the *tribuni plebis* found an opportunity to leverage the increased demands on the common soldier to achieve greater concessions. In this way, the groups advocating for change, both wealthier and poorer plebeians, could marshal all of these advantages during their negotiation with the traditional possessors of money and power.

Any one of these conditions alone might not have been sufficient to trigger such reforms or might have forced a more gradual progression of change. With these conditions operating simultaneously, however, Rome was pushed towards a rapid integration of previously excluded *gentes* into the upper circle of powerful magistrates and priesthoods: within 70 years, plebeians gained access to every office in the city, regardless of former exclusivity. These victories were not linear, however, as the patricians likely resisted at key moments, and social and economic grievances continued to beset the Roman Republic. The weight of the bargaining power accumulated through these developments, nevertheless, propelled the plebeian case towards demonstrable and permanent redress. There was significant impetus behind these democratizing developments, from every quarter of the plebeian movement (though not necessarily from every member), and significant political force brought to bear against a weakened oligarchic opposition. It is thus possible to see these reforms, not simply as enlarging the pool of potential participants, but as overhauling the obligations of the government to be more responsive and transparent in its operation.

These developments are not wholly based in the later archival narratives but stem from evident realities about the changes to the Roman state in the fourth century, both in its geographic stretch and political composition. These circumstances combine to create the conditions at Rome where, as Hölkeskamp stated, the system itself was put up for discussion.

Chapter 5

Documenting the Roman Senate

While the types of documentation described in previous chapters might have predated the fourth century in one form or another, potential publication or preservation of Senate records marks a watershed moment in archival practice at Rome. The composition, function, and authority of the Senate in this early period, unfortunately, have never been well understood, let alone any publication of their proceedings or decisions. Many modern scholars therefore point to the primacy of the curule magistrates in important decision making at this period, while others look to the authority of the *comitia*; the role and significance of the Senate, however, needs to be reevaluated in light of the expanding ambit of the Roman state and the increased turnover of its chief magistrates.

Emerging Role of the Senate in State Decision Making

As discussed in Chapter 4, the fourth century witnessed the cessation of the old model of Roman warfare. No longer would (a) magistrate(s) gather troops at the beginning of their tenure and engage in annual raiding against Rome's immediate neighbors. Campaigns like the siege at Veii in 396 BCE, if indeed an historical event, signal a shift towards multi-year entanglements requiring continuing commitment and strategizing. Wars of these types would become increasingly frequent, against enemies such as the Samnites, Campanians, and Vestini across the

Apennines, all requiring significant investments in manpower and, most important to the development of the Senate, time as well as a cohesive long-term strategy. The second-power sharing agreement of 342 had seemingly made these commodities scarcer: by severely limiting the iteration of consuls, a practice which was largely followed (although not absolutely) through the rest of the century, an individual could hope to see the office only once in his career.⁵³⁸ Despite a lack of experience in high command, these men were not necessarily ignorant or uninformed; they likely had been a part of the decision making process before, as a member of the Senate earlier in their career. This aspect of office holding in Rome is often overlooked: a politician would spend, at most, a handful of years serving as a magistrate, while the clear majority of his life was spent as a member of the Senate. This circumstance does not necessitate that he agreed or allied himself with all other members, but it does imply that he was likely not antagonistic to the body itself, as is sometimes suggested.⁵³⁹ Rather, he might have felt, in relation to the Senate, like something of a representative when in magisterial office and closely consulted with it. Of course, individual personalities being what they are, there was likely a wide range of potential dynamics that occurred.

There is an intrinsic hostility to this relationship, however. While an individual general might reach the summit of the mountain only once in his life, it was especially incumbent upon him to make the most of his time while he was there. W. V. Harris' argument that the importance of *laus* and *gloria* to the competition between aristocratic careers would not have been diminished by the new laws of iteration but rather exacerbated by it.⁵⁴⁰ Every year and every campaign would

⁵³⁸ Cornell (1995), 372.

⁵³⁹ Carney (1958), 19-26. Such is the thesis also of Schlag (1968), although she is writing about a much later time period. Against this, Eckstein (1987), xiii, argues that there was "mutual trust and mutual confidence" between Senate and consul.

⁵⁴⁰ Harris (1979), 17-26.

have assumed the utmost importance, as individuals were unlikely to see another opportunity to serve as consul. Often, the interests of Roman generals and the welfare of the state were coterminous, but tension could arise when they became unaligned, such as overeager pursuit of *gloria* at the expense of state interests. The Senate was positioned to play a large mediating role in the combination of dangerous factors that intersected the Roman military in the latter half of the fourth century: increasing scope and intensity of warfare, decreased experience among those wielding *imperium*, and moderating the worst manifestations of intensifying personal ambition.

While this all makes logical sense when considering the concrete data points as provided by demonstrable Roman expansion and the *fasti*, it does not necessarily explain the historical realities of the fourth century. The direct evidence that remains for the status and functions of the Senate does not allow for a clear picture of its development, and scholarly opinion has not approached a consensus. Arthur Eckstein sees a largely advisory body that defers in most instances to the presiding consul. In his conception, the magistrate in the field has ultimate control over foreign policy, while the Senate would have been relegated to a secondary role, often after the fact. While Eckstein acknowledges that the Senate might have had a greater hand in those military operations that took place closer to Rome, and thereby reducing the delay of communication, nevertheless he envisions foreign policy waged in yearly intervals and at the behest of rotating generals.⁵⁴¹ Although writing about the events of a slightly later time, Eckstein would have even less to say about the authoritative value of the Senate in the fourth century.

On the other end of the spectrum, Fergus Millar argues that the power ultimately rested with the people to pass legislation and determine the conduct of elected officials. While acknowledging that the *comitia centuriata* was biased in favor of the wealthy, the *comitia tributa*

⁵⁴¹ Eckstein (1987), 319-24.

was not; the latter body passed legislation and elected the lower magistrates, who were based permanently at Rome and operated at the whim of the people.⁵⁴² Further, Millar points to archaeological material from the forum to demonstrate that it was the *Comitium*, not the *Curia*, that was monumentalized in the fourth century, signifying the true weight of authority in the state. In particular, he finds it indicative of this dynamic that the ship prows retrieved from Antium in 338 were mounted to the *rostra* rather than the Senate house.⁵⁴³ While Millar is correct to point out that the consuls formed only one magistracy and actually had little authority to act unilaterally while at Rome, investment in public space, where it could reap the most political capital for the investor, would have taken precedent over the personal aggrandizement of the wealthy. Further, it is difficult to imagine foreign policy decisions emanating from the *comitia*, which could not convene without magisterial presidency and could only vote to approve the proposals put before it.⁵⁴⁴

A pivotal question for our understanding of the Senate in any period is the method of its enrollment. Legends of the first Senate suggest that Romulus composed it from the leading citizens at Rome, thus marking the establishment of a patrician class.⁵⁴⁵ This has led later scholars to see the early Senate as having occupied a purely advisory role, serving at the pleasure of the king and later the consuls. Mommsen says this resulted in an informal arrangement, with no set meetings or authority; they met on a case-by-case basis and could recess for extended periods of time.⁵⁴⁶ A.

⁵⁴² Millar (1989), 142-4. The main thrust of Millar's review of Hölkenskamp (2011) is that too weight has been given to the primacy of a patricio-plebeian elite, without considering the authority that the voting people are able to exercise. Millar believes that Hölkenskamp is creating a unified bloc out of what was likely a very mixed group of goals and ambitions.

⁵⁴³ Millar (1989), 141.

⁵⁴⁴ Taylor (1966), 74-8.

⁵⁴⁵ Livy I.8.7: *centum creant senatores, sive quia is numerus satis erat, sive quia soli centum erant qui creari patres possent. patres certe ab honore, patriciique progenies eorum appellati.* Dion. Hal. 2.12.1; Ovid *Fast.* 3.127; Prop. 4.1.14; Vell Pat. 1.8.6; Plu. *Rom.* 13.1.

⁵⁴⁶ Mommsen, vol. 3.2 (1887-1888), 856.

Drummond, however, sees the special abilities of the Senate as indicative of more than simply an *ad hoc* body of irregular advisers. He argues that the powers the Senate held during an *interregnum* and its ability to consent or deny the votes of the *comitia* through its *patrum auctoritas* both signify that the body had far more power, even into the fifth century.⁵⁴⁷ This argument has merit, at least before the fourth century, as the bestowal of *patrum auctoritas* became a point of strong contention, and Livy implies that it was utilized to stymie the efforts of reforming plebeians, such as in the narrative of the *Leges Liciniae Sextiae*.⁵⁴⁸ Furthermore, the Publilian Law of 339 mandated that the Senate provide their *auctoritas* before legislation was voted on in the *comitia centuriata*,⁵⁴⁹ suggesting that this might have been an actual feature of senatorial purview by the middle of the fourth century.⁵⁵⁰ *Auctoritas* was seen in later times by Cicero and Sallust as a means to veto undesired measures,⁵⁵¹ and therefore this law could be understood as another way to mitigate the power of the old oligarchy.⁵⁵²

Uwe Walter sees a watershed moment in the functions of the Senate when its enrollment was placed into the hands of the censors,⁵⁵³ a development associated in the ancient world with the *Lex Ovinia*. However, this law, if genuine, is incredibly poorly attested, appearing only in Festus and no other ancient author, including Livy:

Previously, senators who were passed over (excluded from the Senate) were not held in disgrace, because, as kings enrolled them by themselves, or enrolled replacements, whom they maintained in public council, thus later the consuls and military tribunes with consular powers enrolled for themselves their closest associates from the patricians, then from the plebeians, until the Ovinian tribunate occurred by which this was outlawed. This resulted in the censors enrolling each of the best men by Curia into the Senate from every order. By

⁵⁴⁷ Drummond (1989), 185.

⁵⁴⁸ Livy VI.42.10: *quia patricii se auctores futuros negabant*.

⁵⁴⁹ Livy VIII.12.15: *ut legum, quae comitiis centuriatis ferrentur, ante initum suffragium patres auctores fierent*.

⁵⁵⁰ Drummond (1989), 185.

⁵⁵¹ Cic. *Planc.* 8: *tum enim magistratum non gerebat is qui ceperat, si patres auctores non erant facti*; Sall. *Hist.* 3.48.15: *libera ab auctoribus patriciis suffragia maiores vostri paravere*.

⁵⁵² Thus, Ferenczy (1976), 57-9. Oakley, vol. 2. (1997-2005), 526-7 is skeptical that anything historical can be said about this law.

⁵⁵³ Walter (2017), 49-50.

this act, those senators who had been excluded and removed from their position were held in dishonor.”⁵⁵⁴

If this notice is a genuine historical memory, it is a remarkable statement concerning the formulation of the Senate in the early Republic and its advisory *ad hoc* nature. It would imply that the early Senate served at the pleasure of the chief magistrate and, therefore, may have had no more authority over decision making than that magistrate allowed. It is troubling that this measure receives no coverage in Livy or any other ancient commentator, and there is some puzzling ambiguity about the meaning of some words and phrases. For example, *ex omni ordine*, if it does refer to the two social orders of the patricians and *plebs*, is a strange rephrasing of *ex utro ordine*. E. Ferenczy suggests that this refers to each military century; however, Ryan points out the absurdity that, while men over sixty were excluded from military service, they were assuredly never barred from the Senate.⁵⁵⁵ Instead, he proposes that *omni ordine* actually refers to the divisions of property qualifications within the army, such as the *pedarii* and *equites*.⁵⁵⁶ In any case, this text presents problems too numerous to allow its use without strong reservation. Nevertheless, Mommsen views the *Lex Ovinia* as crucial to removing the Senate from under the power of the consuls and exerting the sort of independence that characterizes this body in later centuries.⁵⁵⁷

Because the *Lex Ovinia* has the potential for transformational change in the nature and authority of the Senate, it is unfortunate that it does not have a firm (or even rough) date. It is often associated with the problematic censorship of 312 and its troublemaking censor, Ap. Claudius.⁵⁵⁸

⁵⁵⁴ Festus p. 290 L: *Praeteriti senators quondam in opprobrio non erant, quod, ut reges sibi legebant, sublegebantque, quos in consilio publico haberent, ita post exactos eos consules quoque et tribuni militum consulari potestate coniunctissimos sibi quosque patriciorum, et deinde plebeiorum legebant; donec Ovinia tribunicia intervenit, qua sanctum est, ut censores ex omni ordine optimum quemque curiatim in senatum legerent. Quo factum est, ut qui praeteriti essent et loco moti, haberentur ignominiosi.* Cornell (1995), 468 n.3 emends the text to read “censors sworn by oath” instead of “by Curia.”

⁵⁵⁵ Ferenczy (1976), 159. Ryan (1998), 146.

⁵⁵⁶ Ryan (1998), 147-50.

⁵⁵⁷ Mommsen, vol. 3.2 (1887-1888), 880.

⁵⁵⁸ Mommsen, vol. 2 (1887-1888), 418; Rotondi (1976), 161. Raaflaub (1992), 39.

Here is the first such notice in Livy of the conduct of a *lectio* during a census, and thus suggesting that this event is, in fact, a result of this new organizational principle.⁵⁵⁹ Cornell would like to place this law earlier, at least to the census of 318, based on a remark by Diodorus for 312 that this *lectio* was conducted “according to previous assessments.”⁵⁶⁰ Cornell would therefore see the advent of this procedure between 338 and 332, when Q. Publius, the author of the law concerning *patrum auctoritas*, was censor.⁵⁶¹ Regardless of whether we adopt the earlier or the later date for this law, it fits well with the “revolutionary” tenor of the fourth century, and is appropriately placed in the middle of the fourth century. What is unclear, however, is whether the so-called *Lex Ovinia* was breaking ground in terms of articulating a new power dynamic between the chief magistrates and the Senate, or if it was concretizing or reaffirming an existing dynamic already in place. In much the same way as the second compromise in 342 permanently reassured the plebeian goals achieved in 367, it is possible that the *Lex Ovinia* concerning the duty of the censors performed the same function. If this were the case, then we could logically see such a law coinciding with the reorganization of the chief magistracy and the implementation of the consulship in 367, which also likely entailed a corresponding need to articulate the consul’s relationship to its advising body.

Whether we accept this or not (and it is far from certain, as it would require believing that Livy omitted discussion of two pivotal laws), it is nonetheless clear that the Senate was forced to adapt to three operative dynamics in the middle of the fourth century: an increasingly hostile and demanding foreign policy, an increased turnover in the magistrates of the state, and an apparent desire by certain interests to define and/or liberate the Senate’s authority. It is within this confluence of factors that the Senate likely asserted itself as a permanent and revered deliberative

⁵⁵⁹ Livy IX.29.7.

⁵⁶⁰ Diod. Sic. 20.19.5: ἀλλὰ τὴν [σύγκλητον τὴν] ὑπὸ τῶν προγεγενημένων τιμητῶν καταγραφεῖσαν. Cornell (1989b), 393 and n.54. Oakley, vol 3 (1997-2005), 387 finds it easy to dismiss this statement by Diodorus.

⁵⁶¹ Cornell (1995), 370.

body in the middle of the fourth century BCE. This is the position favored by Hölkeskamp, who states that the Senate was “able to view the military, strategic and political situation as a whole as well as the specific needs of a concrete emergency...[it was] competent to deal with these matters, for it was in this charmed circle that all military, political and legal expertise and experience were concentrated.”⁵⁶²

However, it is another matter entirely to demonstrate securely this emergence of senatorial authority in the surviving sources. This effort is made especially difficult since Livy seems to believe, as with so many other institutions, that the Senate operated in the same way in the early Republic as it did in later periods.⁵⁶³ He elides or implies crucial details that would allow for an assessment of senatorial power, likely assuming his audience’s familiarity with the topic obviates elaboration.⁵⁶⁴ Thus, his descriptions of the formal processes for declaring war, establishing a colony, or appointing a dictator is largely unhelpful for precise reconstructive efforts of the Senate’s fourth century iteration. Such a reconstruction has been attempted, however, by L. Loreto, who compiled a comprehensive list of references to senatorial action in this period, suggesting that the role of this body intensified during the conquest of Italy. Unfortunately, many of his data points are very tenuous and cannot be tied to any conceivable primary document, including reports from allies in the field, descriptions of debates, and details of communications between the Senate and magistrates.⁵⁶⁵ Although Loreto is tasking the text beyond its limits in these instances,⁵⁶⁶ his methodology is not inherently flawed. It is much more useful to take a narrower, but just as diagnostic, survey of the data. By doing so, it becomes evident that there were two areas in which

⁵⁶² Hölkeskamp (1993), 34. Although I accept his point, I do not accept his larger thesis, which elucidates a rigidifying group of patrician-plebeian elite, with the Senate acting as a figurehead for this group. This is overly reductive and schematizing (see Introduction).

⁵⁶³ Oakley, vol. 4 (1997-2005), 15-6.

⁵⁶⁴ Schwarte (1971), 370.

⁵⁶⁵ Loreto (1991-2), 268-84.

⁵⁶⁶ Oakley, vol. 4 (1997-2005), 468-70.

the Senate took a direct and active hand, both of which are able to be corroborated outside of Livy's narrative of the second pentad: the emergent practice of prorogation and the direction of colonial foundations.

Conspicuous in the patterns of office-holding throughout the fourth century is the gradual waning of the dictatorship and, in its place, the advent of a new type of power distribution: the proconsulship. The tradition for the prorogation of Q. Publius in 326, if the narrative is to be believed, seems to be set in the extraordinary circumstances of an extended siege lasting late into the magisterial year. In the face of the impracticality of recalling Publius for elections and replacement, the Senate decided to extend his *imperium* until the conclusion of the war. This context, as it is confirmed in the *Fasti Triumphales*, has been viewed as largely credible,⁵⁶⁷ although Beloch calls into question the early date of the prorogation, rejects most of these notices, and therefore does not see any credible such extension of power until the third century.⁵⁶⁸ This position is hypercritical, however, and does not take into account the contextual evidence for the necessity of such constitutional flexibility in Rome's expanding military operations.

As the proconsul rose in importance, so waned the dictatorship. For the latter half of the fourth century there was a dictator appointed every 1.5 years, but after 302, none appear until the First Punic War.⁵⁶⁹ In order to compensate for this loss of strategic insertion of *imperium*, consuls received an elongation of their command into the following year 12 times from 326 to 291, although there is some doubt as to the prorogation of Q. Fabius in 309, which is set into a "dictator year" and only attested in the *Fasti Triumphales*. This transition might mirror the relative power dynamics of the Senate versus the consuls, as the former had purview over magisterial prorogation

⁵⁶⁷ Oakley, vol. 2 (1997-2005), 659.

⁵⁶⁸ Beloch (1926), 416.

⁵⁶⁹ Hölkeskamp (1990), 442-3.

and the latter over the appointment of a dictator.⁵⁷⁰ Although Livy includes a popular vote to confirm the prorogation,⁵⁷¹ Polybius makes it clear that the Senate oversaw this extension of *imperium*.⁵⁷² Polybius is likely eliding over the role of the people in this process, more concerned with establishing the checks to magisterial power possessed by the Senate; it would be out of line with other constitutional developments to exclude a popular vote in a measure of this sort.⁵⁷³ What is significant, however, is that the consuls played no part: the Senate recommended, the tribunes convened the meeting, and the people ratified. In this way, as more individuals were admitted to the consulship but fewer dictators were appointed during the late fourth century and early third, the Senate took a prime position in evaluating the strength of generals in the field and making informed decisions about where to allocate resources and manpower.

The second aspect of the late fourth century that evidences the Senate's emerging role is the distribution of colonies throughout newly acquired lands; like the institution of prorogation, later evidence for this practice is good, and can therefore act as a firm data point against which we can witness the emerging power of the Senate. As was discussed in Chapter 4, the establishment of colonies and the extension of citizenship forges the most reliable aspects of the historical narrative of the fourth century.⁵⁷⁴ For a long time, E. T. Salmon generated the dominant scholarly opinion that military considerations were paramount in the timing and placement of colonial foundations.⁵⁷⁵ While this assuredly played a significant role, especially during the wars of the

⁵⁷⁰ See the description of the appointment of a dictator in 326 to hold elections. Livy VIII.23.15 says that the consul made the appointment in silence, in the middle of the night, without alerting anyone. Thus, at least as the tradition holds, this could be an entirely unilateral procedure (although he had been previously advised by the Senate). (*cum consul oriens de nocte silentio diceret dictatorem, neque ab consule cuiquam publice priuatimue de ea re scriptum esse nec quemquam mortalium exstare qui se uidisse aut audisse quid dicat*).

⁵⁷¹ Livy VIII.23.11-12: *actum cum tribunis est ad populum ferrent ut, cum Q. Publilius Philo consulatu abisset, pro consule rem gereret quoad debellatum cum Graecis esset*.

⁵⁷² Polyb. 6.15.6: τὸν ὑπάρχοντα ποιεῖν ἐπίμονον.

⁵⁷³ Oakley, vol. 2 (1997-2005), 660.

⁵⁷⁴ Millar (1989), 142.

⁵⁷⁵ Salmon (1969).

fourth century and Rome's tenuous position of power, this has nevertheless been justifiably challenged in recent scholarship.⁵⁷⁶ The scope of the current study, however, is not for the motivation of colonization, but for the Senate's participation in this process and therefore its ability to accurately record the project.

Livy sometimes gives narrative priority to the consuls in the establishment of colonial foundation⁵⁷⁷ and he may be referencing a period before the passage of the *Lex Ovinia* which rigidified the authority of the Senate. It is far more likely that Livy is not concerned to share the details of state workings, assuming that they are similar to his own day. Mommsen concluded that the Senate must have played the leading role in selecting a location and offering the resolution to the people,⁵⁷⁸ and this seems to be supported by a statement by Velleius Paterculus who implies that, at least before the time of the Gracchi, all colonies were founded on the order of the Senate.⁵⁷⁹ Similar to the assignment of a proconsulship, the Senate likely needed a magistrate to propose the measure to the people for a vote in order for the decision to take effect. Individual colonies and potential motivations for their establishment will be discussed in the following section.

Notices of Fourth Century Senate Records: An Argument for Plausible Coherence

In much the same way that we should expect the *fasti*, if really based on contemporaneously produced and maintained sources, to present a largely credible and coherent picture of the fourth

⁵⁷⁶ For an insightful collection of essays that succeed in problematizing the issue of Roman republican colonization, see Stek and Pelgrom, eds (2014). The theses included detail potential alternative motivating factors including personal and familial agendas (N. Terrenato, 45-59), efforts at the construction of Italian infrastructure (G. Bradley, 60-72), social factor of colonial composition (J. Pelgrom, 73-86), and the importance of local cult to settlement nucleation (T. Stek, 87-105).

⁵⁷⁷ Livy VIII. 16.13-4, IX.28.8.

⁵⁷⁸ Mommsen, vol. 2.1 (1886-1887), 625-6. This is acknowledged by Bradley (2014), 65-6, although he acknowledges that the *Lex Ovinia* likely played a large part in endowing the Senate with this capability.

⁵⁷⁹ Vell. Pat. 1.14.1: *quae quoque tempore post Romam a Gallis captam deducta sit colonia iussu senatus.*

century, so too should the potential Senate records be held to the same standard. This process, however, is not so simple as compiling a list of names or triumphs and assessing it for correspondence with concurrent legal and social developments. There is often not such *comparanda* against which to test the potential proceedings of the Senate, except for battle and other such narratives, which are hopelessly compromised by biased family history and oral legend. The single exception to this might be the list of triumphs, but the credibility of each individual notice in this document has also been questioned (see Chapter 2).

The most effective way to make this assessment, therefore, is to map the notices that potentially spring from these Senate records and concern its interactions with foreign peoples. In this way, we might better understand the thrusts of Rome's foreign policy as it was articulated through the Senate and determine whether such data points could represent a consistent and comprehensible set of actions in fourth century BCE. Rome was facing belligerent enemies on all sides from the middle of this century to its end; without the anchor of reliable documentation, historical reconstructions of the sorts suggested by Wiseman and Beloch would likely reveal a scattershot picture of Rome's activity abroad, assuming foreign activity was interpolated from various non-authoritative sources, such as family histories. In contrast to this overly pessimistic view of the sources, I argue that the notices mined from potential Senate records displays a very coherent agenda, with specific theaters of focus, logical progression of escalation and de-escalation, and is free from radically abnormal information.

The data points that populate the following series of maps are taken directly from the list of archival notices from Books VII to IX (including the first few years of Book X) found in Table 1 and is therefore collected on the same principles. It isolates those notices which specify or strongly suggest senatorial action with respect to Rome's relations with external friends or foes.

Therefore, the dispatching of fetial priests, the declaration of war, the reception of foreign envoys, colonial foundations, grants of citizenship, treaties/truces signed, and triumphs celebrated are all displayed in Figures 1-12. Specific military actions or decrees, when emanating from a mandate of the Senate, also appear. The temporal ranges of each map are set at five years (except for the first which is eight years) and is intentionally arbitrary: while specific wars or campaigns can be isolated to force a more cohesive picture of the data, a random range will preclude this type of manipulation. This survey starts in 362 BCE, which is the first year that Rome began to engage substantially in foreign affairs, having suffered a plague during the previous three years; as a result, there are no Senate notes of external actions, and this year thus represents our first indication of internal coherence. Triumphs against the Gauls are also not included in this reckoning, because placement on the map would be arbitrary and it would not represent Roman foreign policy directives, although they are a threat in the 360s-50s, and Rome marches out to meet them in 361, 360, 358, and 350. Lastly, because Livy and the *FT* are not always specific about the polities with which Rome was contending, but instead often refer to broad groupings or tribes, certain events are shown within a general region and are differentiated by color from events attributed to explicitly named towns.

Similar to the compilation of Table 1, I expect that there will arise some disagreement about the content of or omissions from these maps. Again, the goal is not to achieve perfect accuracy, which is impossible for any reconstruction of the fourth century, but to present a picture of general trends and tendencies, which will facilitate broader conclusions about internal consistency and plausibility of the Senate's foreign policy actions.

When the narrative of the fourth century is distilled down to just putative Senatorial actions in the foreign sphere, Rome's foreign policy appears cohesive and focused, plausibly turning its

attention to specific theaters of conflict. The first demonstrable trend is the gradual geographic expansion of Rome's interactions. Figure 1 shows a relatively small cluster of interests, dealing with the Latins, and specifically the city of Tibur, and the nearby Hernici. Subsequent years see expansion of activity into Etruria and Volscian territory (fig. 2), into Campania (fig. 3), involvement with Samnium (fig. 4), and finally across the Apennines in a war with the Vestini, (fig. 7). There are also apparent logical constrictions of military focus in the later years of the 340s and beginning of the 330s (figg. 4 & 5), as Rome was forced to deal with rebelling Latin allies. This period shows a corresponding lack of activity elsewhere, as the Senate was apparently consumed with nearby threats. Consolidation of the coasts of Latium and Campania accompanies increased hostilities with the Samnites, who appropriately appear to dominate Senatorial focus in Figg. 8 and 9. The disaster at the Caudine Forks in 321 during the Second Samnite War is also well represented here, as Rome seems to recover from this event sluggishly in its regional activity. The years of 319 to 315 show a marked reduction in activity (fig. 9), aside from one triumph and a truce (the actions in Antium and Capua during this time deal with codification of laws in those cities). By the end of the century, Rome had established alliances, dependencies, or continuing conflict with all of central Italy south of Etruria and Umbria, having reached agreements with those groups along the Adriatic coast (fig. 12).

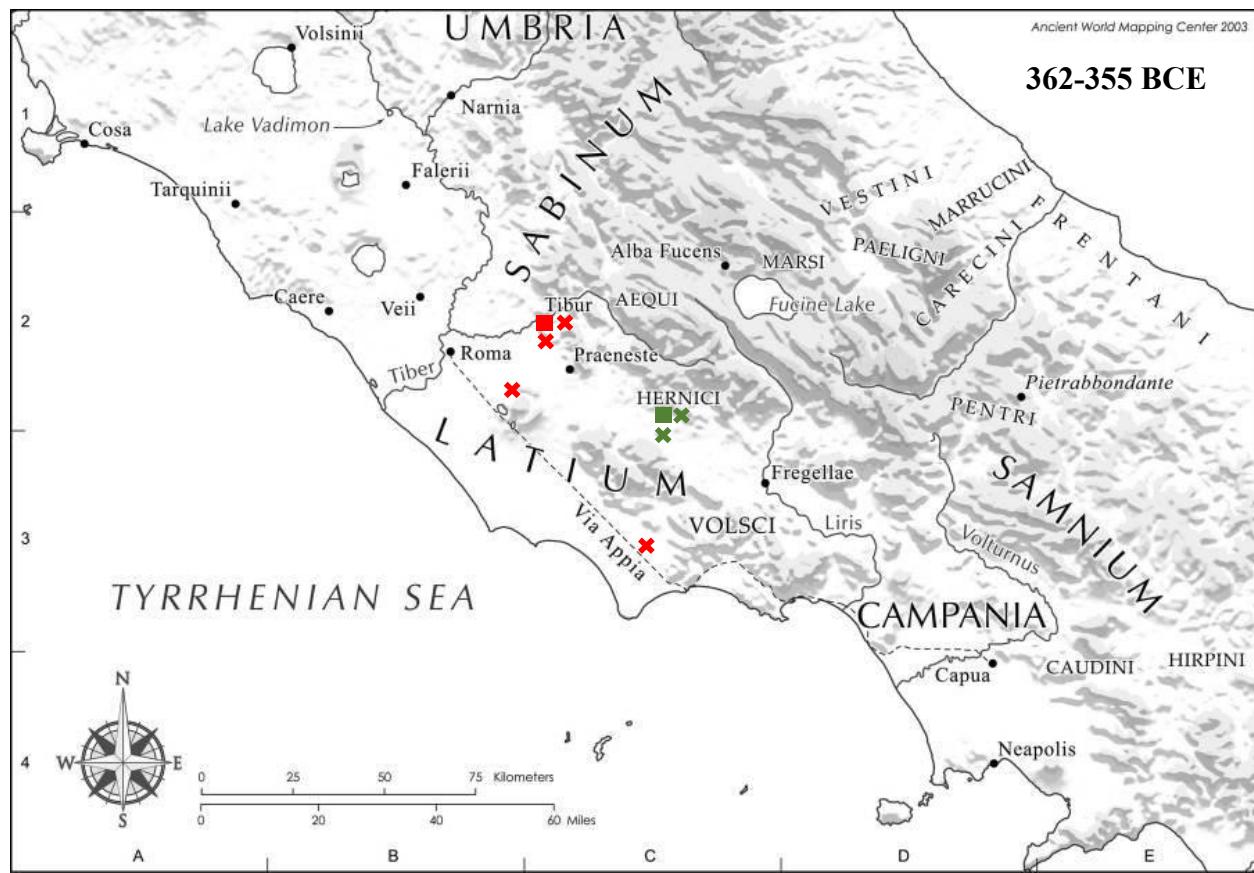


Fig. 1: Senatorial foreign policy actions in central Italy in 362-355 BCE

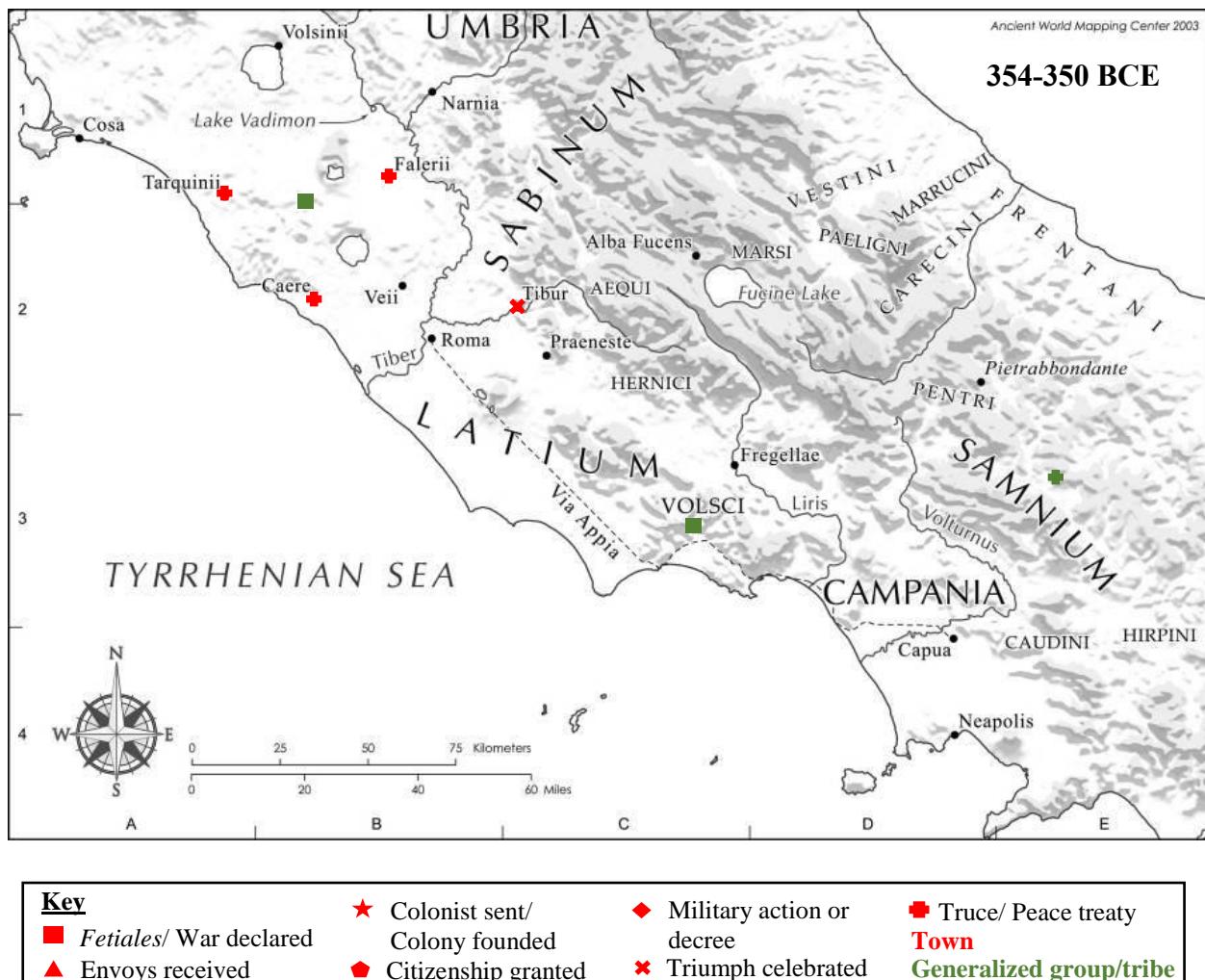
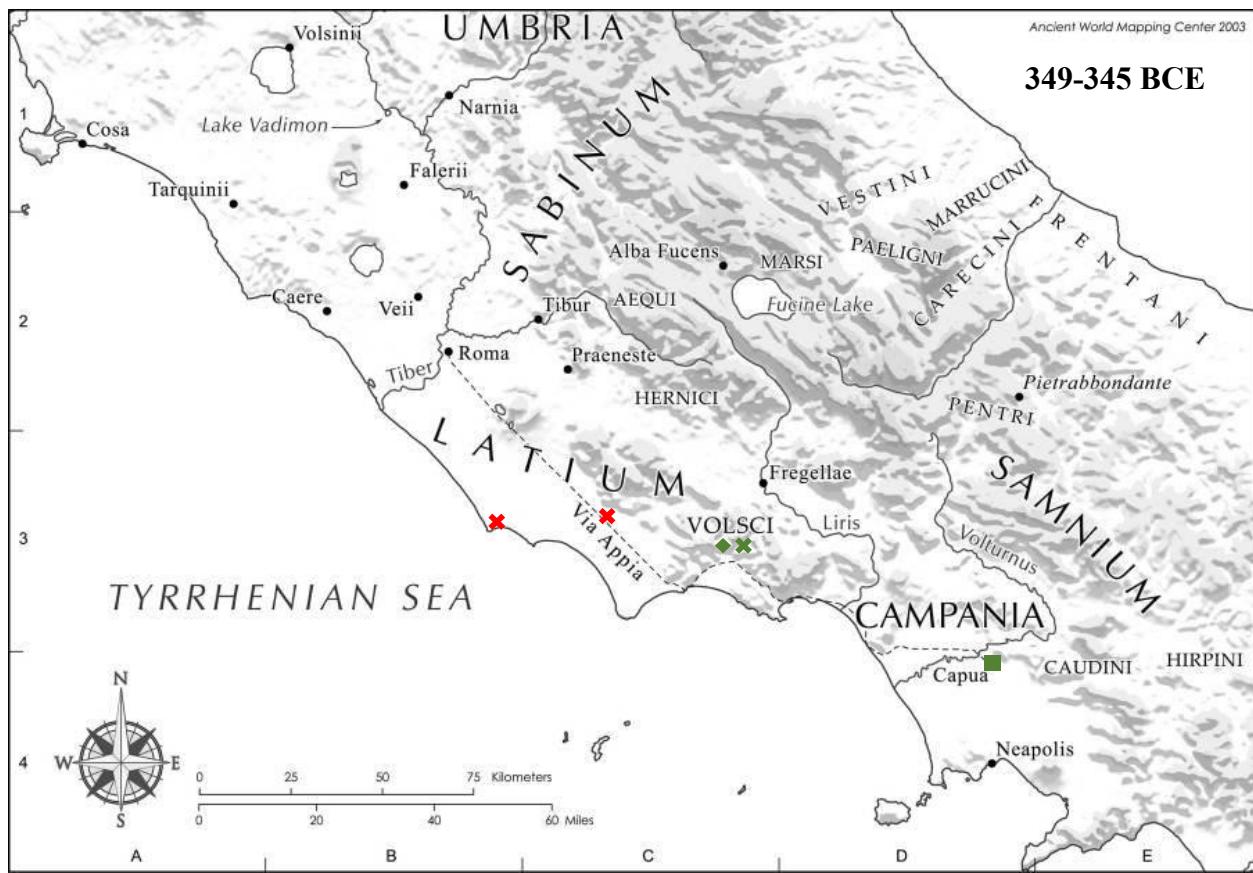


Fig. 2: Senatorial foreign policy actions in central Italy in 354-350 BCE



Key		★ Colonist sent/ Colony founded		◆ Military action or decree		◆ Truce/ Peace treaty	
■ Fetiales/ War declared		◆ Colony founded		◆ Military action or decree		◆ Truce/ Peace treaty	
▲ Envoys received		◆ Citizenship granted		◆ Triumph celebrated		Town	
						Generalized group/tribe	

Fig. 3: Senatorial foreign policy actions in central Italy in 349-345 BCE

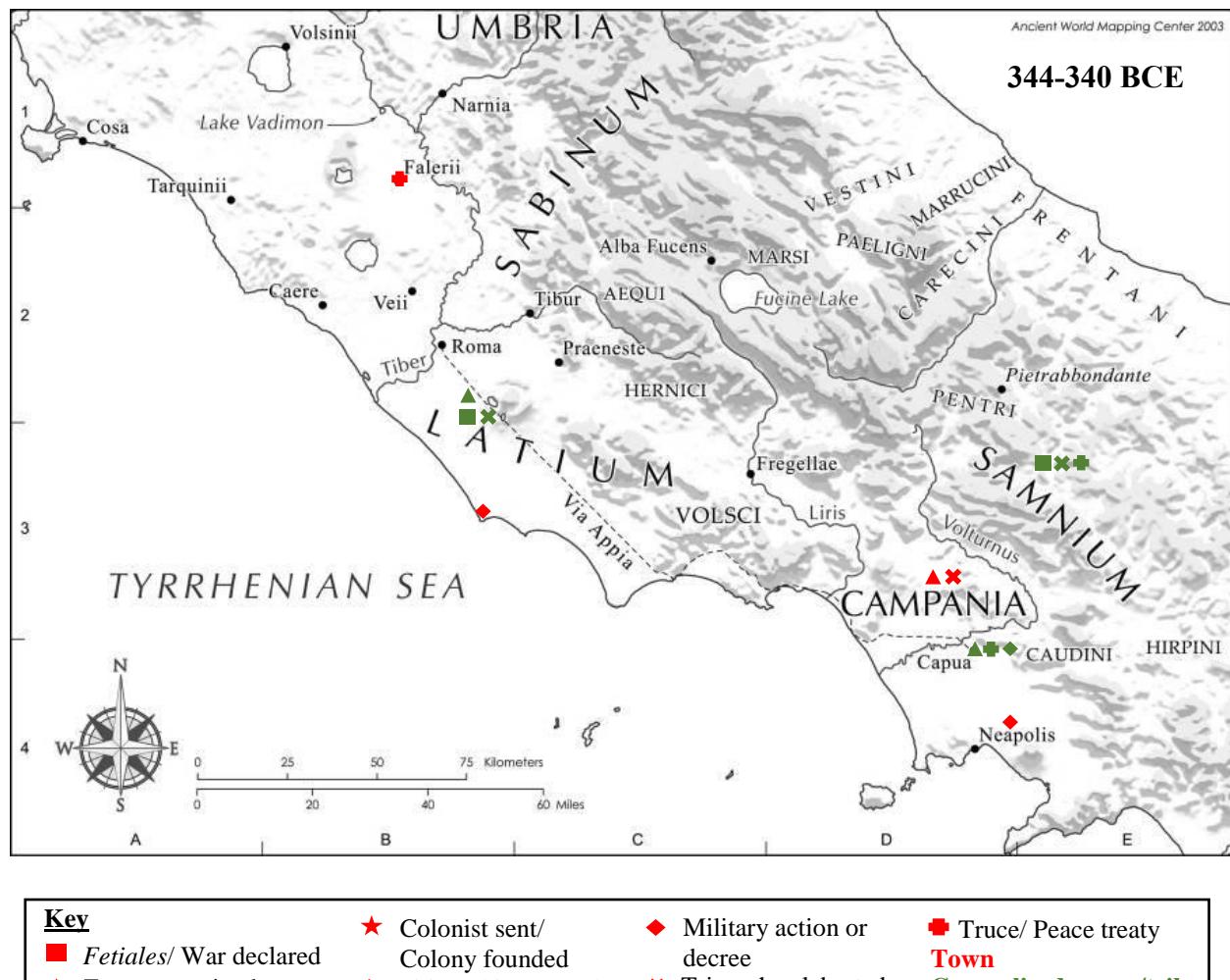


Fig. 4: Senatorial foreign policy actions in central Italy in 344-340 BCE

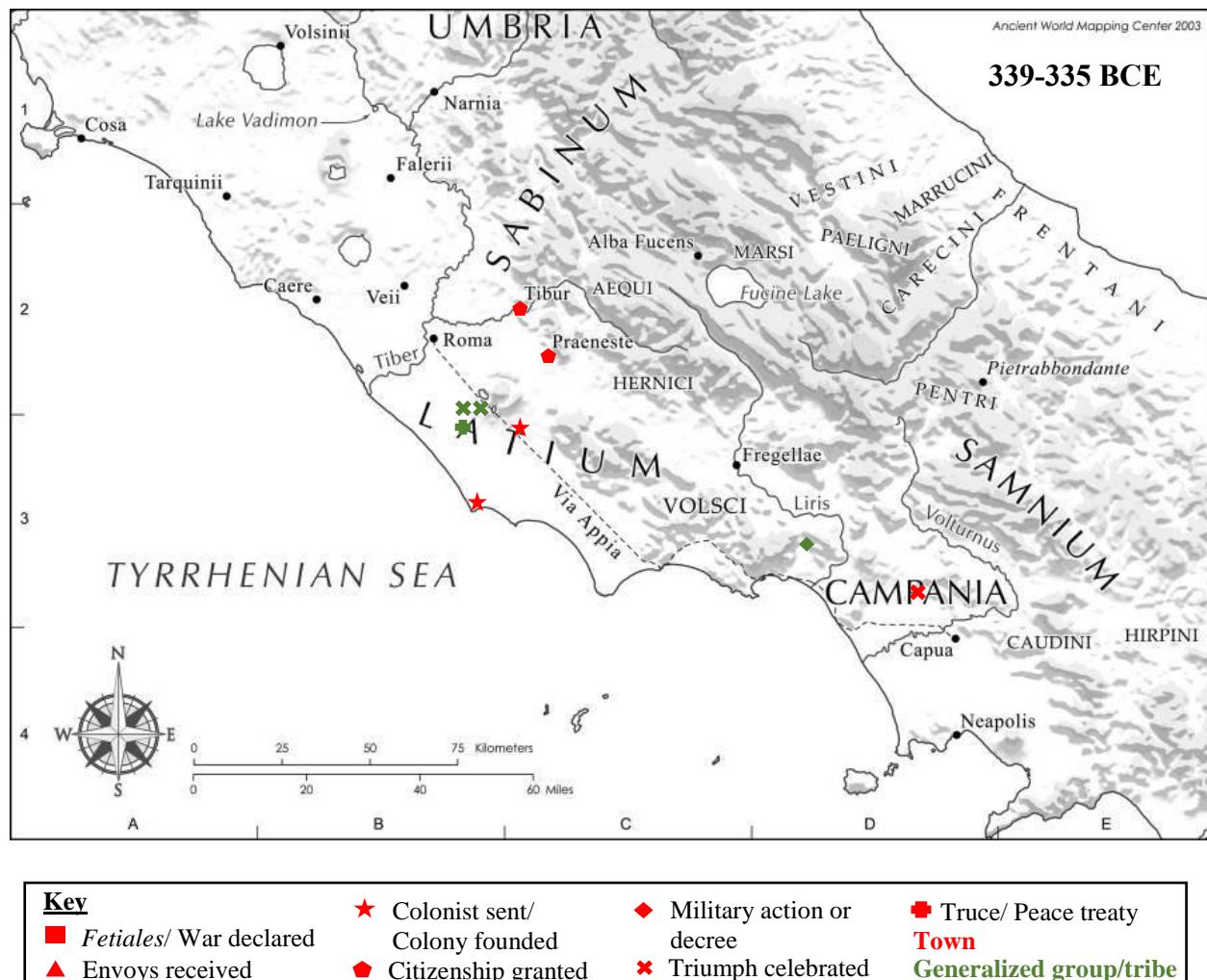


Fig. 5: Senatorial foreign policy actions in central Italy in 339-335 BCE

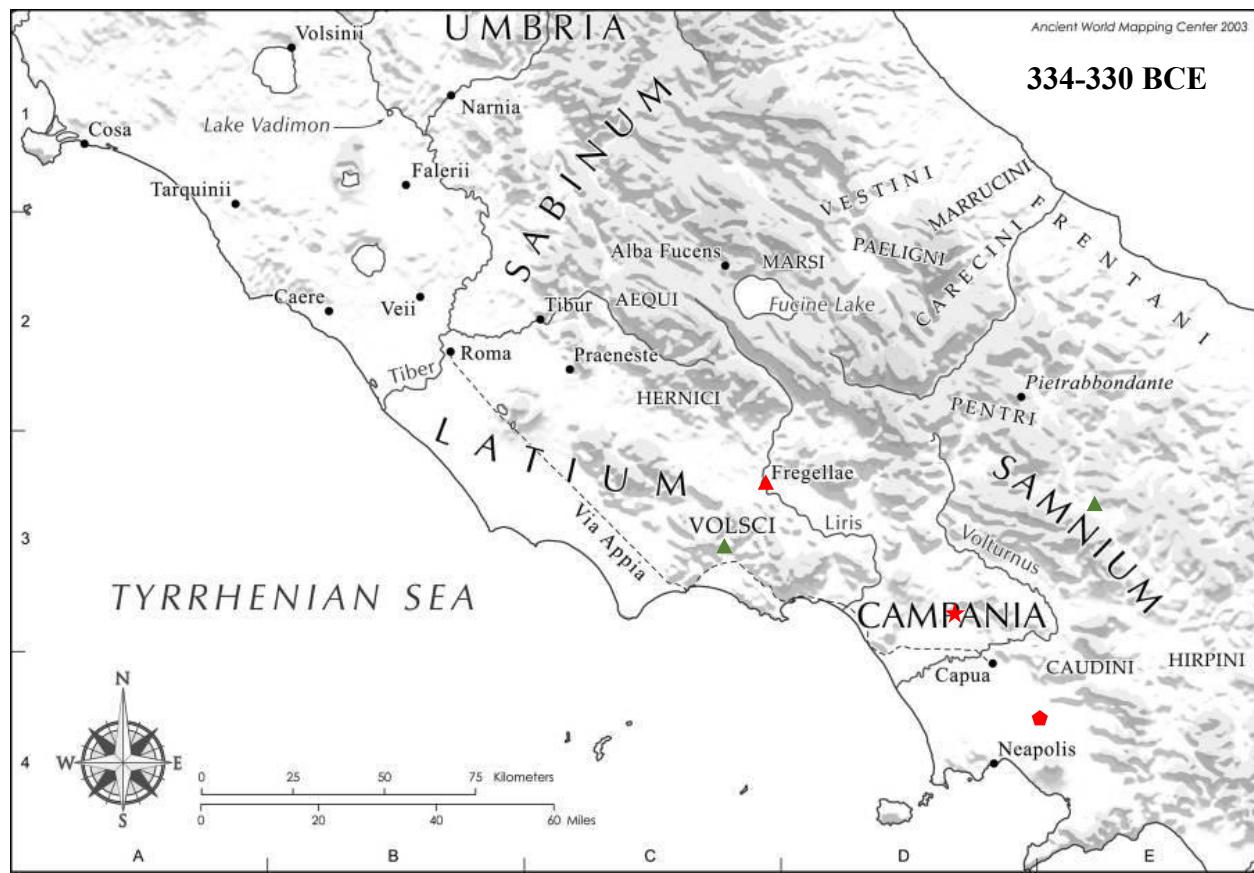


Fig. 6: Senatorial foreign policy actions in central Italy in 334-330 BCE

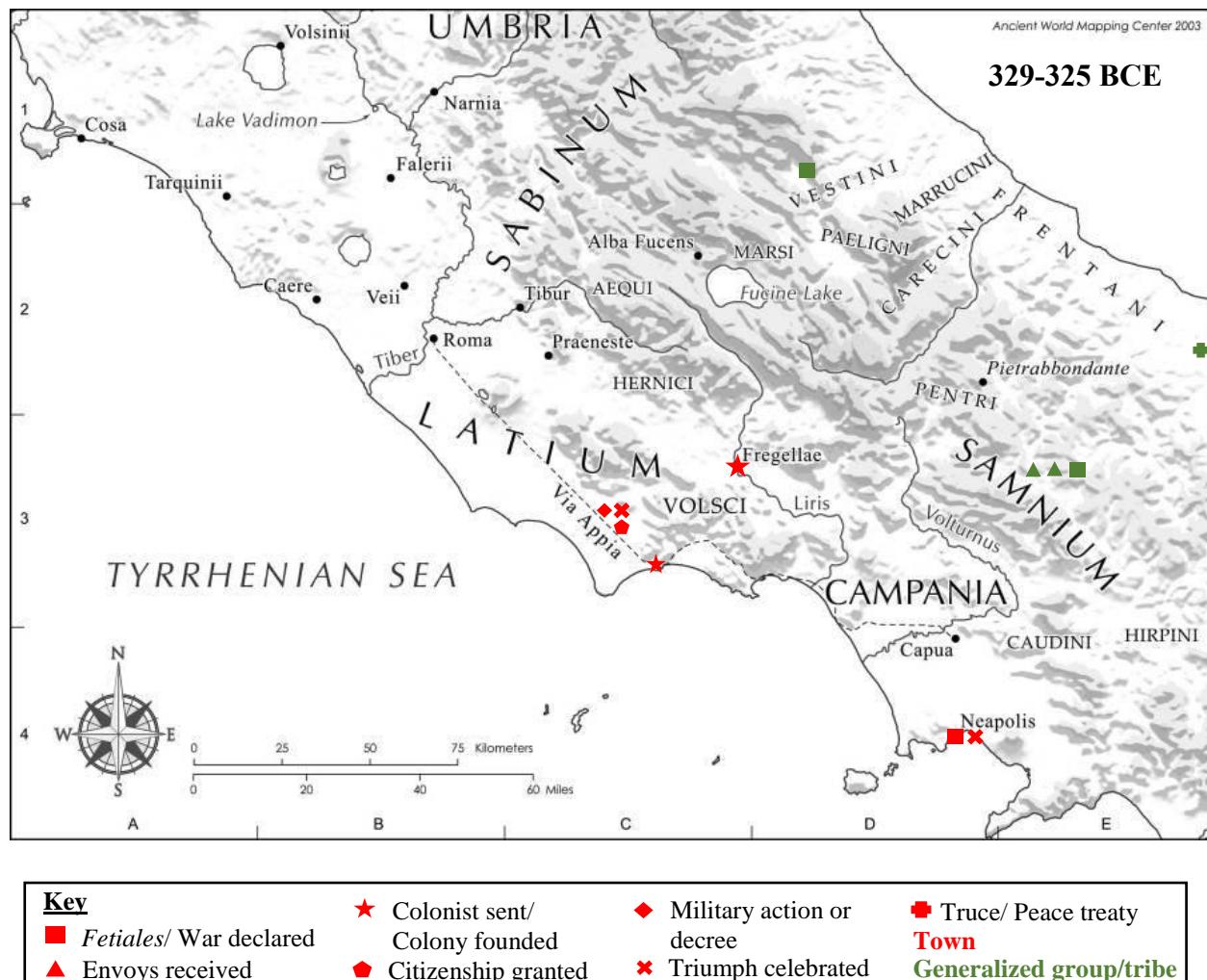


Fig. 7: Senatorial foreign policy actions in central Italy in 329-325 BCE

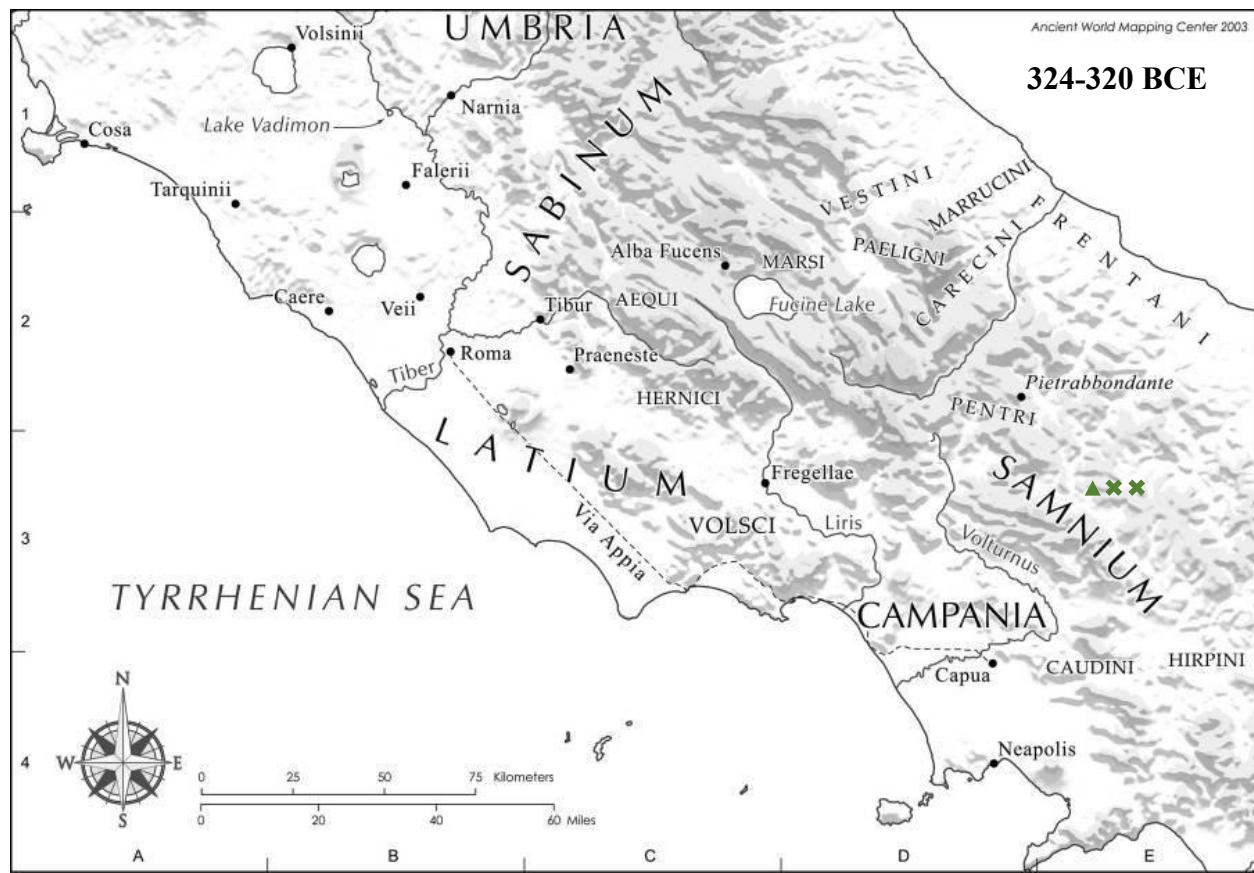


Fig. 8: Senatorial foreign policy actions in central Italy in 324-320 BCE

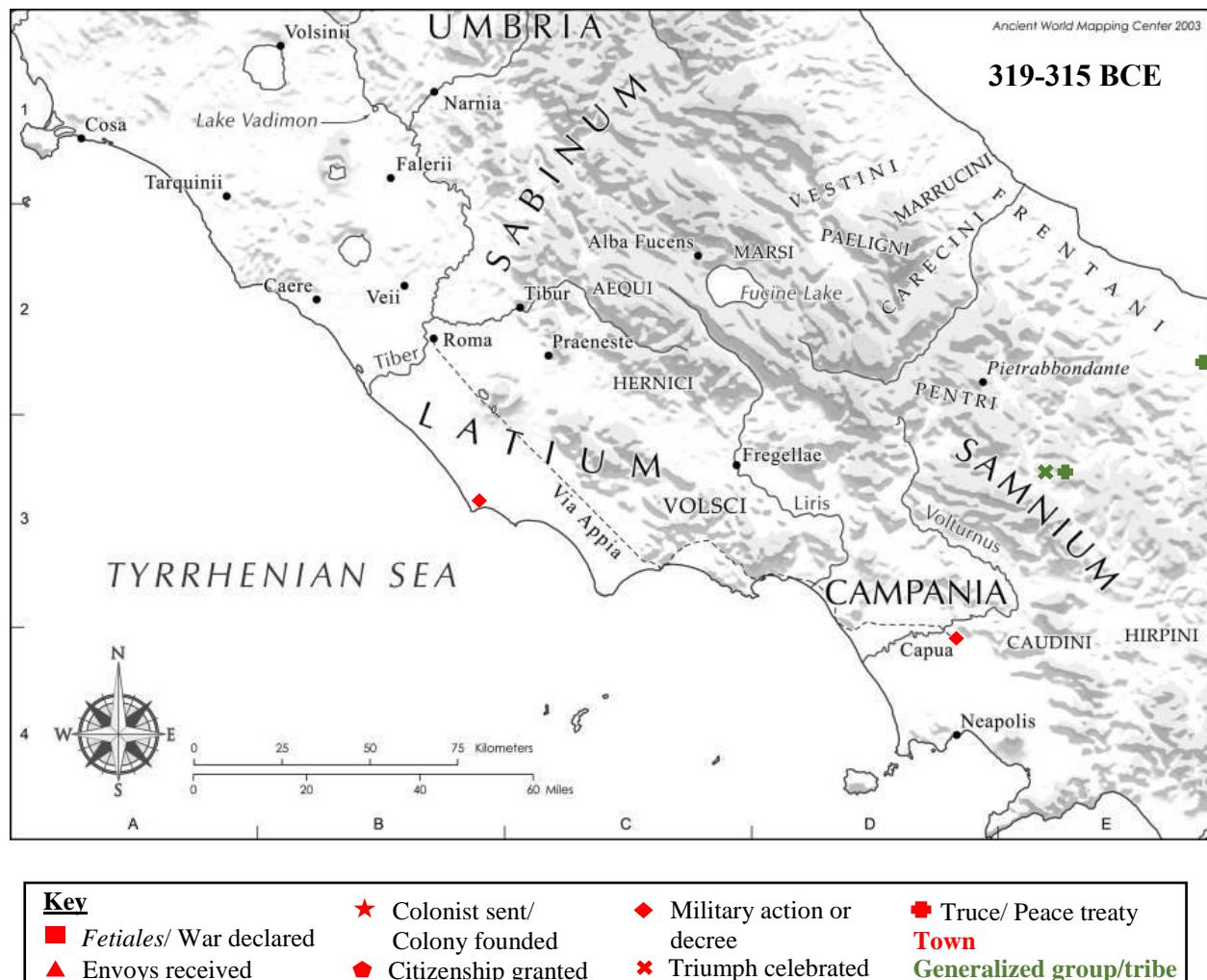


Fig. 9: Senatorial foreign policy actions in central Italy in 319-315 BCE

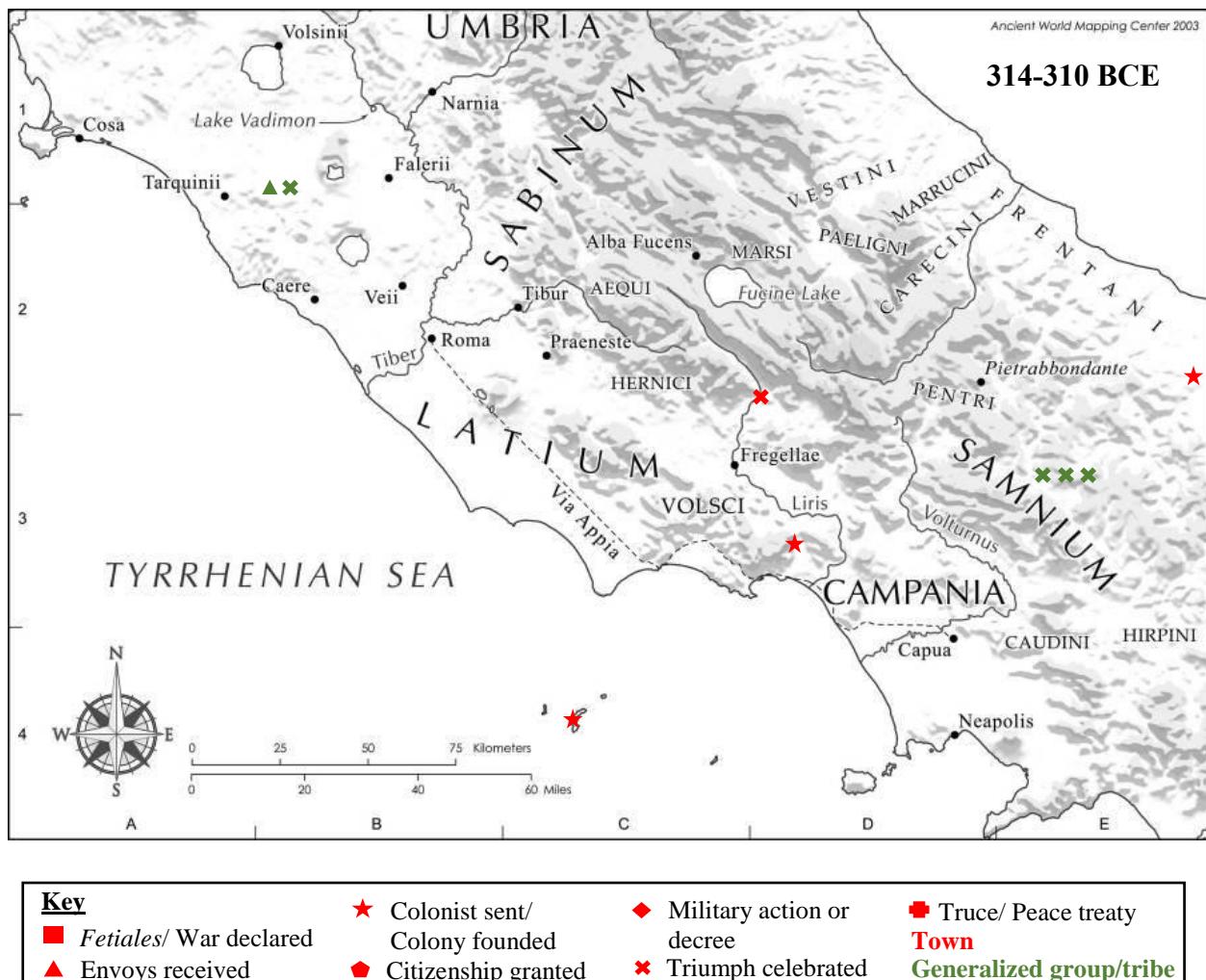
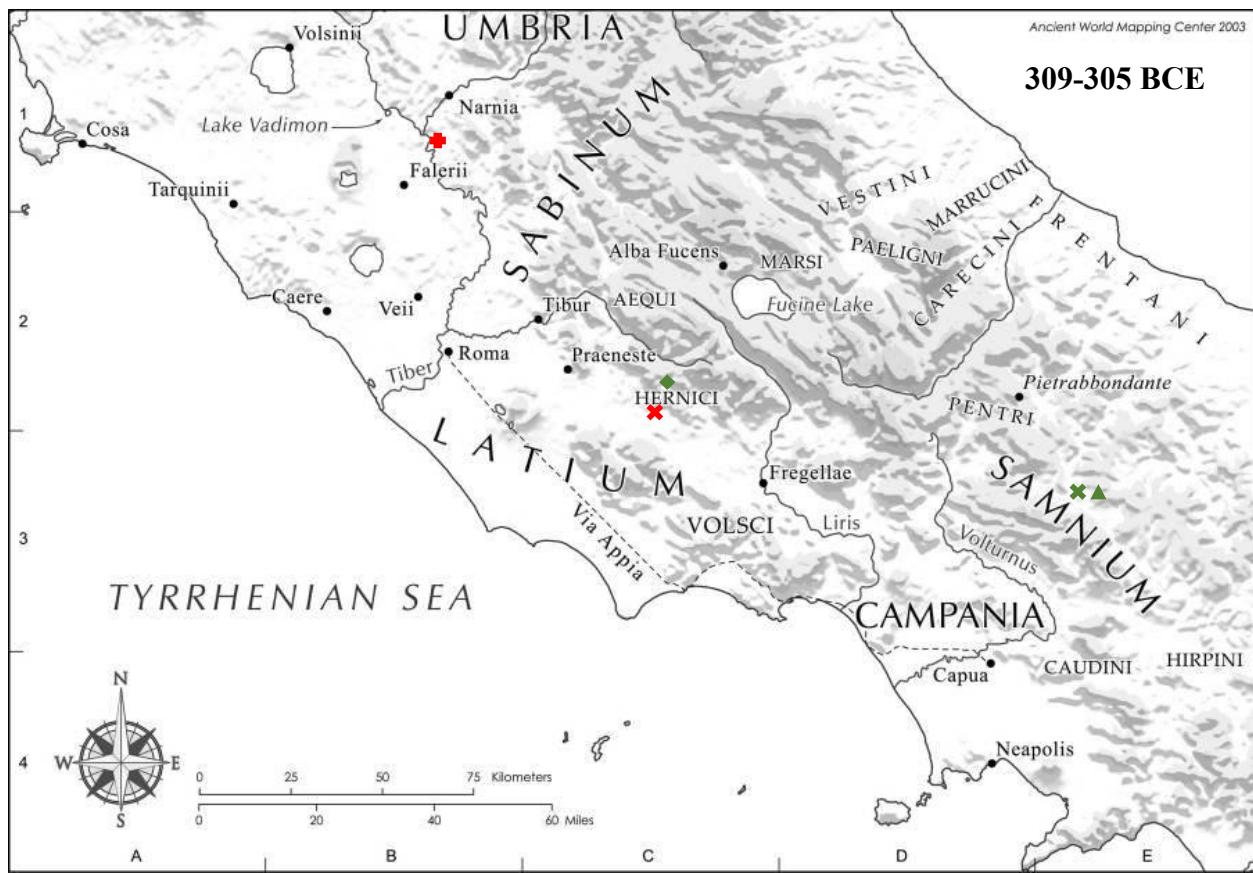


Fig. 10: Senatorial foreign policy actions in central Italy in 314-310 BCE



Key		★ Colonist sent/ Colony founded		◆ Military action or decree		◆ Truce/ Peace treaty	
■ Fetiales/ War declared		◆ Colony founded		◆ Triumph celebrated		Town	
▲ Envoys received		◆ Citizenship granted		Generalized group/tribe			

Fig. 11: Senatorial foreign policy actions in central Italy in 309-305 BCE

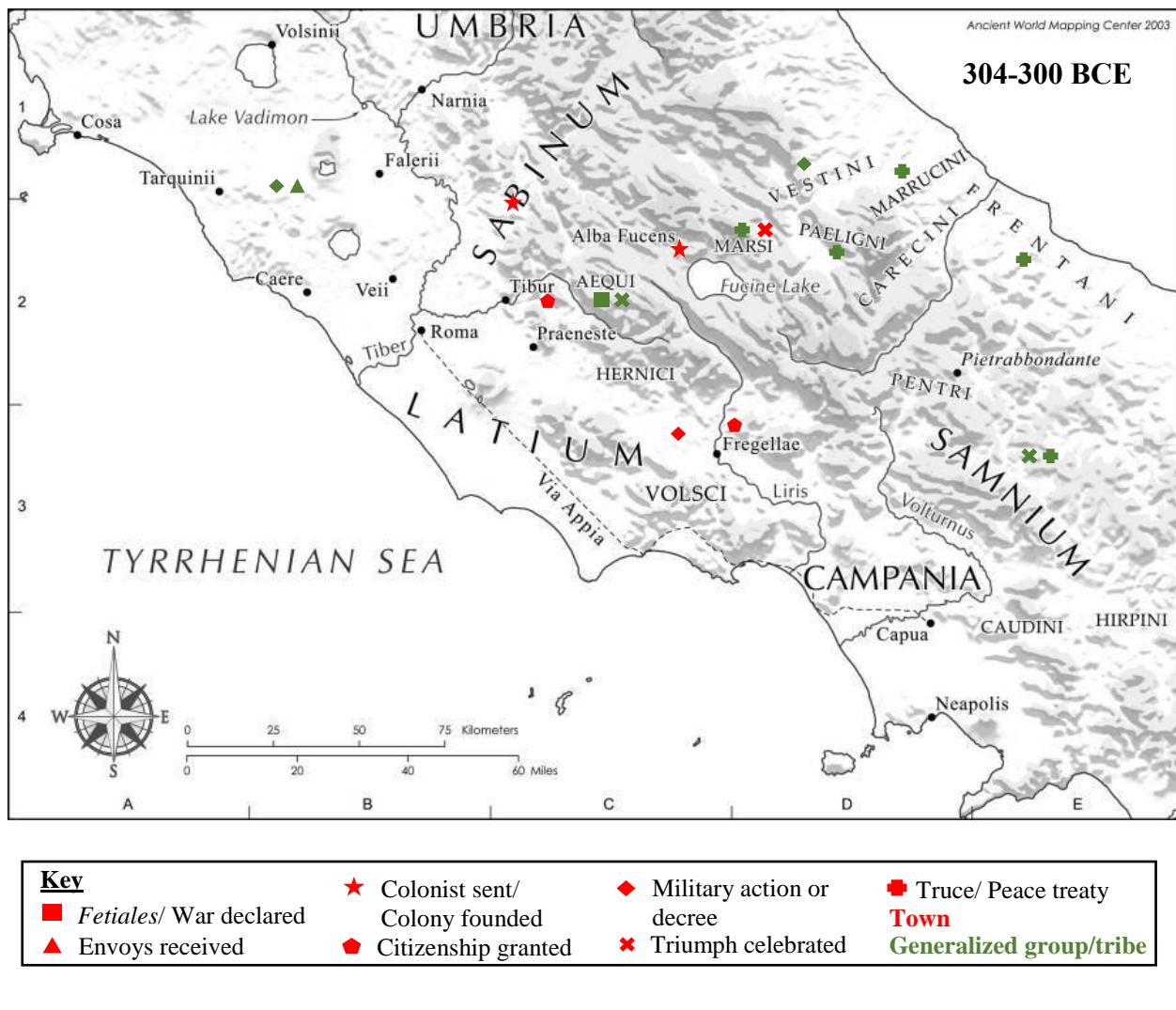


Fig. 12: Senatorial foreign policy actions in central Italy in 304-300 BCE

The second phenomenon that stands out is the strategic value of colonies and the types of land incorporated by the organization of new tribes. Livy often separates notices of the foundation of colonies, usually set in the annalistic sections at the beginnings or endings of the year, from the military narratives, and thus the two types of events should not necessarily be seen as causally linked. Therefore, seeing a strategic correlation between colonial placement and larger foreign interests of the Senate could be seen as mutually confirming authenticity. We have already discussed the military value of Rome's colonies above, but these maps illustrate this point well. The colonies founded in 338 are described within the context of the settlement of the Latin revolt,

and, therefore, Livy's notices of the displacement of the local population and the establishment of colonies at Antium and Velitrae convey clear strategic value.⁵⁸⁰ A colony at Cales in 334, however, is mentioned among other annalistic notices of consular elections and a dictatorial appointment,⁵⁸¹ but it has clear strategic value: this city of the Aurunci was a strong staging point in Rome's ongoing struggles with the Campanians and the Samnites, which it had fought in the late 340s. Cales sat at a crucial point between the two groups and the Senate likely hoped to keep these entities separate. For the same purpose, Acerrae, which is also a pivotal point between the coastal Greeks and the Samnites, was given citizenship in 332. The colony in Anxur (329) should be seen as taking further control over the area of the Volscians, just as the foundation of Antium in 338 served to monitor troublesome Privernum.⁵⁸²

The strategic value of Fregellae (established 328) and Luceria (314) was well known to Livy, but the trio of colonies set up in 313 are again quickly mentioned amid the annalistic notices of consular elections. These three colonies, Suessa, Pontiae, and Interamna Sucasina, were pivotal locations as a buffer to the belligerent Samnites, with whom Rome was still engaged in a long war. The two mainland colonies, in particular, were located at key points of entry into Latium along the Liris river,⁵⁸³ and Pontiae, situated across from the colonies of Antium and Acerrae, would dominate all traffic up the west coast. Finally, the colonies established in 303, Sora and Alba Fucens, clearly serve this goal of dividing enemies.⁵⁸⁴ Although the Marsi signed a peace treaty in 304, the *FT* nevertheless records a triumph by M. Valerius in 301 over the Etruscans and the Marsi. While it is troubling that Livy omits this campaign altogether, it nevertheless explains the

⁵⁸⁰ Livy VIII.14.2-12.

⁵⁸¹ Livy VIII.16.12-4. Hopkins (1978), 21 n.27 suggests that Livy's number of 2,000 settlers seems impossibly high given Rome's population, but Badian (1982), 165 argues that high numbers of colonists were likely sent to dangerous colonies.

⁵⁸² Anxur: VIII.21.11; Antium: VIII.14.8. Oakley, vol. 2 (1997-2005), 620-1 for strategy.

⁵⁸³ Oakley, vol. 3 (1997-2005), 341.

⁵⁸⁴ Coarelli and La Regina (1986), 62-63.

placement of these two colonies, which would have served to isolate the Marsi both from the Aequi, with whom the Romans had recently renewed hostilities, and the Etruscans. These notices are also recorded without elaboration, only that they once belonged to other peoples, among the archival notices at the very beginning of Book X. In fact, Livy omits entirely the war with the Marsi, and so the strategy of martial narrative could not have led to the notice of the colony foundation in his account. This series of maps, then, makes it apparent that a clear strategy of these colonial foundations existed despite their separation from military narratives in Livy's text. The fact that the data points supplied by potential Senate records, namely the theaters of war and colony placement, are mutually supportive, should strongly suggest that these maps depict a realistic picture of Rome's discrete and sensible foreign policy thrusts in the latter half of the fourth century.

Moreover, the extension of tribes is also well reflected by this data. The first tribes added after the four from the territory of Veii, the Publilian and Pomptine in 358,⁵⁸⁵ are likely situated in the region that was just taken during the war with the Hernici from 362-358.⁵⁸⁶ Taylor locates the Scaptian and Maecian tribes (332) on land confiscated from the Latins after their revolt, thus making the *ager Romanus* continuous.⁵⁸⁷ The Oefentina and Falerna (318) continue this trend towards southward expansion, with the land recently acquired from the Volscians and following the capitulation of Neapolis in the previous decade.⁵⁸⁸ Finally after successful campaigns to the west, Rome integrates territory outside of Latium in the territory of Aequi, which had been subdued in the war of the late 300s.⁵⁸⁹ Thus Taylor locates the Aniensis in this area around the river Anio. She places the other tribe established in 299, against the argument of Beloch who located it in the

⁵⁸⁵ Livy VII.15.11.

⁵⁸⁶ Taylor (2013), 50-3.

⁵⁸⁷ Livy VIII.17.11, Taylor (2013), 53-55.

⁵⁸⁸ Livy IX.20.6, Taylor (2013), 55-6.

⁵⁸⁹ Livy X.1.9; *FT*.

land taken from Privernum,⁵⁹⁰ on the coast of the old Auruncian territory, therefore linking it with the Falerna.⁵⁹¹

In sum, this collection of evidence, when stripped of the longer campaign narratives of dubious origin, presents a highly plausible picture of the Senate's foreign policy decisions in this century. The fact that this picture is so coherent and evinces strong strategic decisions of which Livy himself could not have been fully aware, is strong evidence that notices likely go back to legitimate records of the Senate. Although Livy, or Livy's sources, did not feel the necessity to relate the details of every senatorial meeting or decision, it is clear that this emergent body and its solidifying powers, form the core of the narrative of Books VII-X, likely due to the conspicuousness of the Senate through their surviving records.

Conclusions

The putative Senate records outlined in this chapter represent a major departure from previous conceptions of state records from the fourth century BCE. What is paramount to this reconstruction, however, is the time and nature of its transition from an *ad hoc*, advisory role to a permanent, independent deliberative body; it is hard to imagine that its meetings would have had much binding force on the state, let alone be recorded among the city's archives before this development. As is visible from the sequence of maps above and explained within the larger narrative of Roman expansion within central Italy, the information potentially stemming from these Senate records does not demonstrably change in character or quantity from Books VII-IX, possibly suggesting either an early or a late date for the *Lex Ovinia*.

⁵⁹⁰ Beloch (1926), 417.

⁵⁹¹ Livy X.9.14; Taylor (2013), 56-8.

The two roles of the Senate mentioned above, that of granting prorogation and the founding of a colony, might offer hints to the date of the Senate's emancipation. Although the first attested proconsul was in 324, the circumstances of this appointment, if genuine, are extraordinary and might explain this outlying event. The majority of proconsular activity occurred in the 290s during the Third Samnite War and after the dictatorship had become completely defunct. This is well within the content of Book X, when it is generally agreed (and confirmed by Table 1) that our information becomes demonstrably better. A causal connection could be made here between the Mommsen's "liberation" of the Senate and the improved nature and reliability of the historical narrative of Book X. On the other hand, colonial foundation began in earnest only in 338, which correlates to Cornell's placement of this law during the censorship of Q. Publilius, a powerful, agitating figure in the period, both of which would indicate an earlier date for the Senate's assumption of its primary role. This is an intractable problem in the current state of our evidence. A later date for the *Lex Ovinia* is not necessarily mutually exclusive with the implementation of record keeping, however. As I suggested above, this law could have reinforced a previous law or custom that Ap. Claudius was attempting to obstruct in his unorthodox *lustrum* of 312. This does not further our understanding of the time frame for the law, but it might allow us to decouple it from the formality of a *lex*, and thus help to explain its complete omission from the text of Livy.

Whenever this occurred, the individual Senators likely had various motivations for the publication of this material: creating a permanent record of their accomplishments for their younger peers to study, memorializing their achievements, or adding legitimacy and permanence to their decrees through the act of recording them. Another possibility presents itself in this survey, however, and that is Rome's increasing interaction with Etruscan and with Greek city-states in southern Italy. Mainland Greece had a plentiful history of political epigraphic writing, beginning

public display of this material as early as the seventh century,⁵⁹² and their colonies in Magna Graecia display similar affinities for inscribing official material.⁵⁹³ Furthermore, the corpus of Etruscan inscriptions from the archaic period is more than 13,000 strong.⁵⁹⁴ It is possible that Roman envoys, and potentially even the Senate itself, as it began to interact with these polities on increasingly important matters, might have found themselves at an archival or informational disadvantage. Such self-documenting polities would have a much better command of historical precedent, specifics of old decrees or agreements, and, in general, be able to maintain a more consistent approach to their foreign policy. It could be that Rome's lack of such documentation represented a liability in their negotiations with such cities and therefore necessitated a change in documentary policy.

In any case, when stripped of the extraneous battle narratives, the notices of Senatorial activity, especially in the realm of foreign policy, present a highly credible and coherent picture of an expanding state. If Cicero and Livy were correct, and later families were filling in “false triumphs and multiple consulships,” then they did a remarkable job of maintaining a tight foreign policy focus throughout the latter half of the fourth century. One would expect, if the narrative of this time was unanchored and later authors and family biographers had free rein to create a narrative of their choice, that the foreign policy map would not look so consistent and deliberate. This speaks highly for the integrity of this potential archive and the improbability that this material was significantly altered.

⁵⁹² Rowe (2009), 25. Hornblower (2011), 7.

⁵⁹³ Such as the “Decree of Nakone” (IGDS 206, ASNP 6,1 (2001)) set up in Sicily, a formal declaration of friendship between the Nakonians and the Segestans. It has been variously dated between the fourth and mid-third centuries.

⁵⁹⁴ Rowe (2009), 30.

General Conclusions

The fourth century and the “conflict of the orders” belong in the realm of myth...But it is a paradoxical and insoluble problem only if we insist, like the Roman annalists, on knowing too much. It is all the more unfortunate that those who deal with it, in spite of ritual expressions of caution, do insist on knowing too much.⁵⁹⁵

It has been the goal of this project to resurrect something of the fourth century from the “realm of myth.” The guiding principle throughout, however, was “not to try to know too much.” I hope, in any case, that we know a little more now than before. When it comes to the fourth century, historians have either been exceptionally harsh, like Fergus Millar above, or exceptionally lenient like, Tim Cornell or Friedrich Münzer. Neither of these approaches has the sufficient precision to pry away the fictitious and leave the hard core of historical truth intact.

The novel contribution of this work is a reevaluation of the methodology with which scholars approach the remote areas of Roman history. The standard approach—assessing the surviving sources, compare it with any known archaeological or epigraphic evidence, and judge what is accurate or fabricated—creates the image that information was stored and transmitted on an *ad hoc* basis. By confronting the historical tradition with the assumption of a systematic and predictable (if inconsistent) compilation of historical data, which is how Mediterranean societies of Rome’s size and complexity in the fourth century operated, then the narrative can be assessed

⁵⁹⁵ Millar (1989), 138, 140.

with similar systemization. The factors that motivated the Romans to self-document are highly predictable: religious security, practical utility, and personal aggrandizement. By factoring in such contextual information as Rome's increasing belligerence and socio-economic crises, even more specific motivations can be postulated. Armed with knowledge of this sort and attendant expectations of content, we do not have to rely on the text to reveal its own accuracy but can critically assess its foundation in contemporaneously recorded archives. This method by no means eliminates unknown variables in this equation, but it employs those variables that can be known in the assessment of the surviving accounts.

This still leaves some variables that cannot be known, unfortunately. In order to have a more perfect understanding of the context of these records, it would be immensely helpful to have better knowledge of the institutions that produced them. This is only partially possible in the case of the fourth century. While the consistency and motivations behind the *Fasti Consulares* leave relatively little mystery, the nature and authority of the Senate in this period is still too nebulous to offer firm conclusions as to the intent and content of records that it might have produced. The pontifical tables too, could have covered a range of topics, including triumphs, laws, *provinciae*, and *interreges*; without a clear picture of the scope of religious interest in these matters, it is difficult to assess with certainty their content.

By understanding that a changing state also changes its record-keeping habits, this methodology could also be applied to periods both earlier and later than the fourth century. The expected content of archives from the fifth or sixth centuries would be much more exiguous, presuming that the role of the Senate was greatly reduced, and that political and religious knowledge was in the hands of a narrow band of citizens. Conversely, as the Senate gains in

authority throughout the third century, and more citizens and foreign peoples become involved in the Rome's imperial project, the archives would be augmented correspondingly.

Finally, this methodology also allows greater insight in the historiographic process conducted by compilers of these documents and their successors. By isolating instances of plausible archival underpinning, the construction of the “superstructure” becomes much more obvious. Whether this is the result of literary flourish on the part of historians, or competing narratives introduced through family archives, by distinguishing information which may spring from contemporaneous records, and that which was added later, is vital information for reconstructing the historiographic process.

In terms of this context, this methodology has produced valuable insights on the larger society and development of the Roman state in the fourth century. I have shown that these archives were generated by the same social and political upheaval that forced a “revolutionary” compromise on the city twice in the middle of the fourth century. The outcome of these power-sharing agreements was that new participants in the government felt it incumbent upon themselves to publish and advertise the conduct of the state. There was likely a range of motivations—religious, social, and legitimization—that drove these decisions. The result is that the historical tradition of Rome, while still obscured by a thick layer of literary fiction, nevertheless retains an increasingly reliable set of hard data points that give shape to and animate the narrative. Thus, the historical context and the appearance of this improved documentation are mutually supportive developments in this century.

Nevertheless, there still appear to be fundamental inadequacies with these sources, such as seeming legal impossibilities, confusion, or even outright contradiction. There are many potential explanations for these phenomena which do not cripple the assumption of increased record keeping

throughout the fourth century. First, many of these problems are very likely the result of our own flawed expectations for the content of these original notices. They were probably very sparse and contained little more than was necessary to fulfil the original motivation of the record, which, in the case of the eponymous list, was the names of the magistrates and their relative order of service. This list of consuls, as opposed to the extensive Augustan *Fasti Capitolini*, contained likely little more than *praenomen*, *nomen*, and paternal filiation. Considering that provincial assignment is one of the leading areas of contention as reported by Livy and the *Fasti Triumphales*, this aspect was unlikely to be included here or in the senate records. It is also unlikely that dictatorial assignment, there mandate, and *interreges* were also recorded in this list, as confusion on this account too seems to evidence a lack of authoritative sources. We should also expect that *cognomina* were not a part of the original notation until the Middle-Late Republic.

A second factor that has motivated widespread pessimism with regard to these documents is a false notion of legal rigidity in the world from which these sources originate. We expect that laws will operate as passed and adhered to when applicable. Thus, the presence of all-patrician colleges after 367, and other legal impossibilities, signals irreparable harm inflicted at some point to the tradition. We must realize that laws are only as binding as the desire to enforce them among those with the capacity to do so. In the context of the Early-Middle Republic, this might have been relatively few individuals in any given context.

Uncertainties apply especially to the list of dictators and *interreges*. A likely candidate for the repository of these lists are the religious tablets, as these magistrates acted as temporary safeguards for the *auspicia publica*. This applies also to the list of triumphs, the celebration of which consisted of a ritual procession to the Capitoline temple, with the *triumphator* robed in the accoutrement of Jupiter Optimus Maximus. The triumph list, however, shows the highest level of

inconsistencies, but this is hardly surprising, considering its susceptibility to distortion and interpolation. Cicero's statement of *falsi triumphi* does not seem to be entirely misplaced. These three groups of texts provide a problematic accompaniment to the relatively reliable eponymous magistrate list, as found in Livy and Diodorus, and strong preference should be given to the list as it appears in these two authors.

Finally, seeming irregularities in the archival record could stem from difficulties in the compilation of a variety of different record deposits. To expect that the various archiving authorities would have coordinated the form, style, and content of their records is unreasonable, and we should recognize that early compilers of this information likely approached serious discrepancies in the material that, ironically, only became more pronounced as more record sources were added throughout the fourth and third centuries. Much like the realization that records were more abundant but less informative, so too is it clear that more sources might have resulted in less certainty.

The safest assumption of record keeping in early Republican Rome is the pontifical tables. Essential for compiling a working knowledge of the world and how man might improve his condition within it, the pontifical tables are likely the oldest records kept at Rome. They noted such events as natural disasters, celestial occurrences, plagues, droughts, famines, and other such indications of divine favor or disfavor. Most intriguing for this period, however, are indications that actual Senate records were kept and maintained. The precise reasons for this shift in archival habit are difficult to discern, but they are likely tied to the significant sociopolitical and military upheavals through which Rome trudged during the fourth century. In particular, the *Lex Ovinia*, if in fact successful in casting off the burden of magisterial oversight, might have provided the

impetus to start publishing Senate records: this would have been a strong statement of the legitimacy of the body and the authority of its decisions.

Thus, the increasing cohesion and discipline that Livy's text displays over Books VII-X is the result of the diversifying, but nevertheless imperfect, group of primary sources on which it is based. Like a skeleton growing from the inside, it increasingly dictates the shape and direction of the overall narrative. Although these conclusions allow for a more confident reading of Rome's history in the fourth century, this methodology of record reconstruction has illuminated much about the processes and motivations of becoming a self-archiving state. Thus, the history of the fourth century is not at all a lost subject, only to be glimpsed through the distorted mirror of late republican historiography.

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