

## THE FIFTH CENTURY, THE DECENVIRATE, AND THE QUAESTORSHIP

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There has always been some question as to the beginnings of the regularized quaestorship. As long ago as 1936, Latte pointed out that there seems to be no Roman tradition as to the quaestors' origins.<sup>1</sup> As officials, they barely appear at all in the early Livian narrative. The other accounts which we possess, such as those of Tacitus and Ioannes Lydus, are unhelpful at best. While scholars such as Lintott and others have sought to weave together the disparate fragments of information that exist so as to construct a plausible timeline of events surrounding the first appearance of regular, elected quaestors in the middle of the fifth-century, it becomes apparent that there is a dimension that has been omitted. Magisterial offices, even ones without the power to command and to compel, *imperium*, do not appear fully-formed overnight. This paper seeks to uncover more of the process by which the regular quaestors emerged so as to determine how they *actually* came to be instituted and regularized rather than purely rely on that which we are told happened from the sources.<sup>2</sup>

Tacitus records that quaestors were instituted under the monarchs in a notoriously problematic passage:

*The quaestorship itself was instituted while the kings still reigned, as shown by the renewal of the curiate law by L. Brutus; and the power of selection remained with the consuls, until this office, with the rest, passed into the bestowal of the people. The first election, sixty-three years after the expulsion of the Tarquins, was that of Valerius Potitus and Aemilius Mamercus, as finance officials attached to the army in the field. Then, as their responsibilities grew, two were added to take duty at Rome...<sup>3</sup>*

Syme, of course, believed that Tacitus had exercised his due diligence with regard to researching the quaestorship, despite the fact that his account contradicts that of other ancient authorities.<sup>4</sup> It is clear from this passage, though, that Tacitus, who was possibly following an opinion of the emperor Claudius no less, viewed the later Republican quaestors as an outgrowth of those that had been established under the monarchs, the *quaestores parricidii*. This view, until the last century, was all too commonly held; Mommsen, basing his beliefs on the ancient etymology of the term quaestor, from *quaero, quaerere* 'to inquire', readily adopted it, for example.<sup>5</sup> For him, quaestors of any variety had inquiring and investigating as their function after some fashion or other and, thus, it made a sort of sense.

A difficulty arises, however. The *quaestores parricidii* were specially appointed officials who were in charge of trying capital crimes; they lacked the more familiar financial dimension known to us from the quaestors of subsequent eras. Despite the similarity of their nomenclature, the two offices ought not be conflated, as the former was always extraordinary and the latter, after a point either in 447 B.C. or later, became regularized.<sup>6</sup> The *quaestores parricidii* continued to exist into the mid-

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<sup>1</sup> Latte (1936) 24.

<sup>2</sup> In this way, this paper is inspired by the anecdote told of the late Geoffrey Rickman in Richardson (1998) 47.

<sup>3</sup> Tac., *Ann.*, 11.22. The translation is from the Loeb edition of J. Jackson, vol. IV, Cambridge, Mass., 1970, 283-85.

<sup>4</sup> Syme (1958) 397; 704-5; see also Harris (1976) 94 and Martin (1981) 146-47.

<sup>5</sup> *Staatsrecht* II.523 following Varro, *Ling.*, 5.81 and Fest., 247-19 M.

<sup>6</sup> Lintott (1999) 134 following Pomponius in *Dig.* 1.2.2.22-3 *contra* Zonar. 7.13.3.

Republic, after which they fade from the record.<sup>7</sup> Following the severing of the link between the *quaestores parricidii* and the regularized quaestors in the scholarship in the 1930s, very little work has been done on the origins of the office.<sup>8</sup> Harris in the 1970s touched on them only briefly as he treated the development of the quaestorship from 267-81 B.C. in his seminal article thereupon.<sup>9</sup> Lintott, obviously, covered them in his study of Rome's constitution in the 1990s, and within the last ten years Cloud analyzed the motivations behind ancient accounts of the early quaestorship; however, there is a perception amongst scholars that there is no need for further work on the office's origins.<sup>10</sup>

While two quaestors with treasury roles at Rome are mentioned as being present at the start of the Republic in 509 B.C. according to Plutarch and Zonaras, very little faith can be placed in their accounts.<sup>11</sup> Livy's account, barring two instances where *quaestores parricidii* appear, only starts to deal with regularized quaestors following 421 B.C. when their number was doubled, with two quaestors for the consuls being added to the two already existing.<sup>12</sup> Following the statement of Tacitus, difficult as it is, quaestors were apparently not regularly elected until 447 B.C., two years following the dissolution of the Decemvirate.<sup>13</sup> The very sudden creation and implementation of the office sticks out as being problematic, especially when considered in the light of other official positions.

For some time, there have been questions raised as to the origins of other magistracies. Two examples are sufficient to illustrate the point. There has always been some considerable doubt that the dual consulship sprang forth fully-formed directly in 509 B.C.; the existence of a *praetor maximus* within the early matrix of government at Rome around this time rather precludes them. There was almost undoubtedly a process by which, following the expulsion of the monarchs, whenever that may have happened, they were replaced by an *imperium*-wielding magistrate or magistrates.<sup>14</sup> Regularized consuls may not have appeared at Rome until the turn of the 4<sup>th</sup> century – or later, depending on one's level of source-skepticism.<sup>15</sup> There is similarly the noted case of the origins of the plebeians and their tribunate. In the 490s the plebeians appear and are organized as a politicized group intent on a general strike rather from nowhere, as Raaflaub noted.<sup>16</sup> There is justifiable doubt that the tribunate was created from nothing in the same way that the instant appearance of the dual consulship is doubted – they cannot have just appeared.

The quaestors admittedly occupied quite a junior position within the state and their impact on the wider game of policy and decision-making was negligible compared to either the consuls or the tribunes. Despite the level of skepticism leveled at other offices of state, though, it is anomalous that the quaestors have not been similarly subjected to scholarly scrutiny. The Tacitean account is almost inevitably taken as being definitive, even despite its known issues and problems.<sup>17</sup> One year,

<sup>7</sup> Again, see Pomponius in *Dig.*, 1.2.2.22-3; also Varro, *Ling.*, 5.81.

<sup>8</sup> Latte (1936).

<sup>9</sup> Harris (1976).

<sup>10</sup> See Lintott (1999) and Cloud (2003); the suggestion that no further work needs doing is that of Cloud.

<sup>11</sup> Plut., *Public.*, 12.3; Zonar., 7.13.3.

<sup>12</sup> Livy, 4.43.12.

<sup>13</sup> Tac., *Ann.*, 11.22.4.

<sup>14</sup> For a discussion of this, see Cornell (1995) 226-9, Stewart (1998), and Lintott (1999) 104-5.

<sup>15</sup> The title is only firmly attested c. 300 B.C. by *ILLRP* 309.

<sup>16</sup> Raaflaub (2005b) 11.

<sup>17</sup> See the treatment of the quaestorship in Cornell (1995) Stewart (1998), and Forsythe (2005).

consuls are appointing quaestors, and irregularly at that given that hardly any are known and identifiable, and the next, 447 B.C., there are elections, with Valerius Potitus and Aemilius Mamercus winning – followed, naturally, by a fairly long period where again the identities of individual quaestors are unknown.<sup>18</sup>

Owing to the sources, there perhaps exists something about the quaestorship which causes scholars not to question when and why the Romans began to think about instituting elected magistrates with specifically financial duties. This is especially vexing given the amount of effort that has been expended examining the best way in which to study the 5<sup>th</sup> century, the trustworthiness of the sources for the period, and the other magistracies.<sup>19</sup> The question, then, remains: when did the Romans first start to think about the need for such a thing as annually elected, lower-level administrative functionaries with financial oversight roles?

The Republic's foundation year, 509 B.C., is entirely too early. A designated treasury official, even despite the testimony of Plutarch and Zonaras, is difficult to credit prior to the erection of the Temple of Saturn in the very early 5<sup>th</sup> century. The two quaestors whom they mention as being present on the governmental landscape at Rome at that time would have been appointees of the consul in any case, if one were to follow Tacitus. But just as 509 B.C. is too early, so too must 447 B.C. be too late for a number of reasons which will be explained.

The years preceding the Decemvirate and the codification of the Twelve Tables were, according to Livy, awash with discussions about the nature of politics and the number of and, indeed, the powers of Rome's magistrates, both patrician and plebeian. There is not a pressing need to doubt Livy on this general point, even though one might quibble over the details. In 462 B.C., for example, we are told that the tribune G. Terentilius Harsa proposed the creation of a commission so as to draft laws concerning consular *imperium*:

*[H]e inveighed especially against the authority of the consuls, as a thing excessive and intolerable in a free state. For it was only in name, he said, that it was less hateful than that of a king... he was about to propose a law providing for the appointment of five men to write out the statutes pertaining to the consular power; such authority over them as the people had granted the consuls they should enjoy, but they should not make a law of their own whims and caprices.<sup>20</sup>*

This particular measure did not advance very far; however, it is still important to note, particularly given the events of five years later, in 457 B.C., during which the number of tribunes of the plebs was increased from five to ten. This measure, Livy states, came about owing specifically to a failure to get Terentilius' proposal regarding the consuls made law.<sup>21</sup>

Through his narrative of these two events, Livy displays an awareness of movements afoot during the late 460s and early 450s, with people, particularly plebeians, who were unhappy with the present system and discussing the nature of magistracies, their number, and the enumeration of their powers. While the discussions may not have been as hyperbolic and grandiose as those of Terentilius

<sup>18</sup> Following Valerius and Aemilius, the next identifiable quaestor is seen in 414 B.C. (Livy, 4.50.2); P. Sextius' identity is only provided because he is involved in a notable incident, *i.e.* he was killed by soldiers.

<sup>19</sup> See Raaflaub (2005a) for but one example with ample bibliography of the surrounding debates.

<sup>20</sup> Livy, 3.9.2-5. The translation is from the Loeb edition of B.O. Foster, vol. II, Cambridge, Mass., 1939, 31.

<sup>21</sup> Livy, 3.30.5-6.

seem to have been, there is likely to be some manner of fact buried within the account; the sentiment is probably correct, even if the details are exaggerated.<sup>22</sup>

It will be recalled that a scant few years later, those same magistracies which were formerly being discussed and debated were suspended in order that the Decemvirs might accomplish their task – a task which may or may not have had its origins with the rogation of Terentilius Harsa. It is unlikely, then, given the pre-existing debates, that on a whim over a decade later the Roman body politic suddenly decided to start electing regularized quaestors with financial duties. Set in the context of the preceding, it is far more likely that discussions concerning the institution of a regularized quaestorship were on-going well before 447 B.C.; they most likely occurred alongside discussions of the limitations of consular power instigated by Terentilius Harsa and those who supported him. This idea may be borne out by the available evidence from the Livian tradition.

There is a reference in a subsequent speech within Livy's fourth book which may shed some additional light on the subject of the elected quaestorship's origins and development, the speech of the tribune Canuleius. Nestled within his speech from 445 B.C. (Liv., 4.4.3), there is the following:

*'But, ' you will say, 'from the time the kings were expelled no plebeian has ever been consul.' Well, what then? Must no new institution be adopted? Ought that which has not yet been done – and in a new nation many things have not yet been done – never to be put in practice, even if it be expedient? There were neither pontiffs nor augurs in the reign of Romulus; Numa Pompilius created them. There was no census in the state, no registration of centuries and classes; Servius Tullius made one. There had never been any consuls; when the kings had been banished, consuls were elected. Neither the power nor the name of dictator had ever been known; in the time of our fathers they began. Plebeian tribunes, aediles, and quaestors, there were none; men decided to have them. Within the past years we have elected decemvirs for drawing up the laws, and removed them from the commonwealth. Who can question that in a city founded for eternity and of incalculable growth, new powers, priesthoods, and rights of families and individuals, must be established?*

If Cornell and von Ungern-Sternberg are correct in their shared belief that the basic outline of events such as the development of the constitution is reliable in the ancient accounts, this presents an interesting option owing to the placement of the quaestorship within the sequence of events.<sup>23</sup>

Firstly, it confirms the independently arrived at conclusions of Latte concerning the distinction between *quaestores parricidii* and regularized quaestors. If they were a corporate entity with an origin at the time of the monarchs, then their placement in the sequence would, necessarily, be different. It is quite apparent from the list that something new with respect to the quaestors appeared following 494 B.C. and the creation of the tribunate, at least in Livy's mind and certainly in his writing. If a regularized quaestorship came into being after the creation of the tribunes and the aediles, this moves the *terminus post quem* a few years from the foundation of Saturn's temple down to the later 490s B.C. but it still places their origins before the relatively securely-dated first Decemvirate, whose product, the Twelve Tables, cite the Tiber as a border and all that entails.<sup>24</sup>

<sup>22</sup> Following Cornell (2005) 48.

<sup>23</sup> See Cornell (2005) esp. 49 and von Ungern-Sternberg (2005) 81-2. Cloud (2003) 98 notes the sequence and the quaestors' place within it as coming prior to the Decemvirate but does not comment further.

<sup>24</sup> Concerning the Tiber, see Table three, law 7, Crawford (1996) 580-1 with commentary at 627 and 629.

There is no objective reason to think that Livy was deliberately manipulating the evidence so as to create an alternate timeline for the origins of the quaestorship; one can hardly fathom why he might have done so or what end such might achieve. With a list such as that in the speech of Canuleius, with such big and, with this one exception, universally known events, it would have been rather difficult for Livy to obfuscate and not be called out for it. Given this, the ordering may be considered to be as trustworthy as we are likely to get.

In his commentary on Livy 3.69.8, Ogilvie posited that ‘the functions of quaestors as financial officers is also a likely consequence of the Decemvirate.’<sup>25</sup> Yet, within the Canuleian sequence, the discussion of the quaestorship clearly precedes mention of the Decemvirs. Nevertheless, Ogilvie was probably correct to highlight the link between the two given that both the development of the quaestorship of this form and the outcomes of the Decemvirate had certain similarities.

At Rome, the quaestors traditionally served as the custodians of the public purse, keepers of records, and had responsibility for the letting of certain contracts. If the Twelve Tables do nothing else, it is to codify and standardize existing practice; though unnamed in our records, it may be the case that consularly-appointed quaestors were much more the norm by this period than our knowledge of them would suggest. Further, in the first ten of the Twelve Tables, indeed, the overwhelming concern is with property – with Table three having rules for creditors, Table eight theft, and such.<sup>26</sup> These were the things which the Decemvirs put at the top of their priority list rather than firmly defining what one could or could not do with *imperium*. It is highly likely that these rules and regulations emerged from the pre-existing preoccupation with holding patrician magistrates accountable. In short, quaestors being regularized so as to provide scrutiny of the treasury around this point fits in with the available other evidence from the period.

By Livy’s own account, the plebeians at the head of the 450s had been thwarted in their attempt to empanel a commission to circumscribe the consuls. Perhaps as a stop-gap, then, discussions emerged for a compromise – the creation of magistrates with financial responsibility who would act as a lower-level check on the power of the consul. Such was obviously not sufficient – or perhaps the office was created at just that period prior to when the magistracies were put on hold.<sup>27</sup> All of the normal offices of government were abolished for the first year of the Decemvirate after all – this could plausibly have included a newly proposed or created regularized quaestorship. If this were the case, it would help to bridge the known later appearance of the quaestors with the Canuleian sequence which implies a prior creation. The tribunate of the plebs and the consulship were put on hold following the decision to appoint Decemvirs – so why not put off electing quaestors as well?

A question remains: why 447 B.C. for the first election, then, and not immediately after the dissolution of the Decemviral power? This is difficult to answer. With the impending attacks, the record of how badly the Decemvirate turned out, and such it was probably just not the right time for innovation – even one that had been previously agreed upon. Beset with a noted lack of harmony on the home-front and war with Sabines, Aequi and Volsci, it is entirely likely that the practicality of the *status quo* reigned. By the time of the first election for quaestors in 447 B.C., according to Livy, things had calmed slightly on the war-front; in 446 B.C., we are told that the Aequi and Volsci had to re-prepare for war with the Romans, as they had

<sup>25</sup> Ogilvie (1978) 521.

<sup>26</sup> For these Tables, see Crawford (1996) 578-83.

<sup>27</sup> 454/2 B.C. as per Livy, 3.31.7.

not raised troops at all in the previous year or, for that matter, mounted an attack on them.<sup>28</sup> If there were a window for the introduction of a reform, that does rather fit.

In sum, it is probably best that we accept that the quaestorship resembles the other magistracies in terms of a choppy and haphazard origin and development rather than simply accepting Tacitus' account at face value. Discussions which led to its development most likely occurred throughout the decade prior to the first regular election and, indeed, perhaps even further back than that. Canuleius' speech seems to be very good evidence of this. The heightened interest in holding the patricians to task in some way regarding property and financial matters – even via patrician oversight – belongs within the context of the 450s rather than the 440s in any case.<sup>29</sup> Implementation failure of the immediate variety is more likely to be a fluke of the times than anything else.

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<sup>28</sup> Livy, 3.66.

<sup>29</sup> Plebeians only gained access to the quaestorship in 409 B.C. per Livy, 4.54.2-3; however, they had agitated for access as early as 422/1 per Livy, 4.43.3-4.