

# CONSULS AND *RES PUBLICA*

*Holding High Office in the Roman Republic*

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CHAPTER 4

*Consular power and the Roman constitution:  
the case of imperium reconsidered*

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“Why was it,” Plutarch asks in *Roman Questions* no. 80, “that when [the Romans] gave a public banquet for men who had celebrated a triumph, they formally invited the consuls and then sent word to them requesting that they not come to the dinner?” It was “because it was imperative that the place of honor at the table and an escort home after dinner should be assigned to the man who had triumphed. But these honors can be given to no one else when the consuls are present, but only to them.”<sup>1</sup> Plutarch’s *Roman Questions* are a hotchpotch of distinct cultural practices and traditional codes of behavior. Throughout long sections of the work, it appears to be a random collection of curiosities rather than a treatise that is geared toward a stringent analysis of typically Roman customs and socio-political institutions. But this does not undermine the work’s value as a historical source.<sup>2</sup> Beyond the actual information related (sparse as it may be, at times), the *Roman Questions* shed light on the silent assumptions of Roman political life. In his attempt to familiarize his readership with select political or social practices, Plutarch alludes to the very basic implications of those practices.<sup>3</sup> Question no. 80 illustrates the case: the practice of inviting consuls to triumphal banquets and then telling them not to come appeared to be a peculiarity and hence was deemed worthy of relating. But it also discloses some of the most vital features of Roman political culture. It operates on the assumption that the consuls were the highest magistrates

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<sup>1</sup> Plut. *Quaest. Rom.* 80 = *Mor.* 283a.

<sup>2</sup> A systematic study would be worth the effort. For a first introduction, see Boulogne 1992.

<sup>3</sup> See, most eminently, *Quaest. Rom.* 27 (inviolability of the city wall); 43 (procedures regarding foreign ambassadors); 58 (addressing some senators as conscript fathers); 63 (restrictions for the *rex sacrorum*); 79 (bones of triumphators); 81 (tribunes’ dress); 82 (lictors’ rods); 91 (banishing patrician homes from the Capitoline); 98 (taking office of censor); 113 (*flamines*’ privileges as consolation for exclusion from public office-holding).

not only in the field (*militiae*) but also at home, within the sacred boundary of the city (*domi*). Whenever present, they were to be included in public events and preside over them. Moreover, while the consuls claimed the right of highest honor, the story makes it clear that there were other distinctions, such as a triumphator's rights and privileges, which under certain circumstances challenged the superior power of a consul, whether present or not.<sup>4</sup> And third, Plutarch reveals that if such a conflict between authorities arose, the Romans were not shy about practical solutions that enabled them to navigate around the provisions of their constitution without actually abandoning it. The messenger sent to the consuls was a go-between that kept everyone's honor intact – at least as long as everybody played along.

The main distinction of a consul who occupied the *maximus honos*, the highest honor and office, was his *imperium*. Not only did the consular *imperium*, or “command,” outrank that of other magistrates *cum imperio* (“with imperial command”), but its inherent capacities provided its holder with far-reaching, if not unlimited, competences that governed the exercise of communal power at home and abroad. It encompassed both civil magisterial capacities and the military command, although the latter was not transferred automatically; it required the ratification of a *lex curiata de imperio* to grant it solemnly to the consul when he entered office.<sup>5</sup> *Imperium*-holders were empowered “to investigate, to punish, to administer justice, and to make (legal) decisions.” This is only an abridged extract of their competences as attested in the famous pirate law from Cnidus that dates toward the end of the second century BC.<sup>6</sup> To be sure, in the civil sphere or *domi*, the functions of a consul were subject to public law and performed in conjunction with the senate as well as the people's assemblies.

<sup>4</sup> The various privileges of triumphators are assembled by Itgenshorst 2005; cf. also Beard 2007. Gaius Duilius (cos. triumph. 260) was granted the right to be guarded by a band of flute-players and torch-bearers every time he attended a banquet: *Inscr. Ital.* 13.3.13 = *CIL* 1<sup>2</sup> 193 no. 11 = VI.8.3 40952; cf. also Livy, *Per.* 17; Cic. *Sen.* 44; Flor. 1.18.10; Val. Max. 3.6.4; Sil. *Pun.* 6.667. This symbolic perpetuation of his famous naval triumph may well have been in contradiction of the consuls' exclusive right to an escort.

<sup>5</sup> Both the procedure of passing a curiate law and its precise provisions are notoriously debated. The practice was believed to constitute one of the oldest legally binding decisions by the nebulous curiate assembly, but the contents can hardly be deduced from later sources, e.g. Cic. *Leg. agr.* 2.30–1; *Rep.* 2.25; Livy 1.17.8–9. Kunkel & Wittmann 1995, 96–103 offers a good summary of the debate and highlights what Kunkel asserts as “das einigermaßen Sichere” (97); cf. also Mommsen 1887–8, 1, 609–15; Bleicken 1981, 15–21; Lintott 1999b, 28–9 and *passim*. The notion of imperial power at home, within the sacred boundary of the city (see below), has recently been challenged by Drogula 2007, who argues that *imperium*, under normal circumstances, did not exist within the *pomerium*, “but rather that it was a strictly extra-mural military power” (419). I find this general conclusion unconvincing, but it should be acknowledged that Drogula's argument is too refined to be dismissed with a single stroke of the pencil. The issue is open for future consideration.

<sup>6</sup> Crawford 1996b, 1, no. 12, Cn. IV, lines 31–9.

For instance, in the third and second centuries a set of *leges* was (re-)enacted that banned the capital punishment of a Roman citizen without prior reference to the people's assembly (*provocatio*).<sup>7</sup> These and other provisions were antithetic to a consul's *imperium* because they restricted his power to prosecute citizens.<sup>8</sup> As a consequence, the balance between *provocatio* and *imperium* became characteristic of Roman politics, with a certain privilege of the former over the latter, especially in the realm of *domi*. Yet this did not undermine the consul's authority as supreme magistrate, or prevent him from coercing citizens or conducting public inquiries (*quaestiones*) that might eventually lead to capital punishment in the civil sphere.<sup>9</sup> The consuls held the highest magistracy and honor. Attempts to curb their power by means of law and public resolutions may indicate a growing self-confidence on the part of the common people; however, at the same time these attempts attest to the extensive and pre-eminent power vested in the office with *summum imperium*.

Again, *imperium* denotes a higher magistrate's power at home and in the field. Long ago Theodor Mommsen suggested that it also embodied a theological underpinning that placed it at the very center of Roman politics. Mommsen's views on *imperium* have been rebutted in more recent scholarship, but few can deny that his assessment continues to have a great influence upon modern conceptualizations. Therefore, despite the many objections, it is worthwhile to revisit what has famously been called his "theology of *imperium*."<sup>10</sup> Mommsen argued that *imperium* and public auspices (*auspicia publica*) expressed one and the same idea from different points of view, namely that the political power of the highest magistrates was complemented by their religious competence to request and observe the signs of the gods.<sup>11</sup> Both *imperium* and *auspicium* were thought to

<sup>7</sup> Livy relates a so-called *lex Valeria de provocatione* under the year 300 (10.9.3–6 = Elster 2003, no. 45; Bauman 1973a), whose contents are identical with a provocation law mentioned in Cic. *Rep.* 2.53 from 509. Cicero's evidence, in turn, resembles Livy's evidence for a *lex Porcia de provocatione* from c. 195 (Elster 2003, no. 142). The tradition is highly charged, since the very principle of provocation laws was considered to be the ideological flagship of Roman liberty (which partly explains why it is such a mess), e.g. Cic. *De or.* 2.199: *provocationem, patronam illam civitatis ac vindicem libertatis*. The impact on Roman political culture has now been demonstrated by Jehne 2002, but Bleicken 1959, Martin 1970 and Lintott 1972 remain fundamental.

<sup>8</sup> Most eminently, the so-called *lex Porciae*. Whereas the *leges Valeriae* applied to the realm *domi* up to the first mile around the *pomerium*, the Porcian laws extended the principle into the field (*militiae*), which implied a restriction on flogging or killing (*verberare aut necare*: Livy 10.9.4) a Roman soldier. See Elster 2003, no. 142 (comm.); Brennan 2004, 37–8; cf. Daubner (2007).

<sup>9</sup> Kunkel & Wittmann 1995, 143–5. <sup>10</sup> Brennan 2004, 36.

<sup>11</sup> Mommsen 1887–8, 1, 76; cf. 1, 90: "Daher sind Zeichenschau und Beamten-gewalt, *auspicium* und *imperium* nichts anderes als Bezeichnungen desselben Begriffs nach verschiedenen Seiten, jene des himmlischen, diese des irdischen Verkehrs."

have derived from the regal period, which, by implication, made the early republican exercise of *imperium* a quasi-regal power. Vested in a republican magistrate, it embodied the supreme authority of the new community.<sup>12</sup> *Imperium* and *auspicium* thus appeared as ideological presumptions that provided order and meaning to the Roman constitution.<sup>13</sup> More than that, they prefigured later constitutional changes and modifications. According to Mommsen, the increase in magistracies with distinct competences (for instance provincial praetorships, on which see below) was a redistribution into small parcels of an originally unique authority.<sup>14</sup> Although the multiplication of magistracies appears as a dilution of the quality of *imperium*, it is important to note that its universality was actually reinforced by such an increase, since *imperium* effectively evolved from a holistic regal power to a recognized point of reference that determined the hierarchy of the republic's political institutions.<sup>15</sup> Thus, in Mommsen's systematization, *imperium* interconnects and structures the various branches of the Roman constitution and society.

The most profound reassessment of this doctrine as laid out above came from Jochen Bleicken.<sup>16</sup> Interestingly enough, Bleicken's analysis culminated in conclusions that turned Mommsen's model upside down. For Bleicken conceived of early republican *imperium* as a purely military command. As the republic grew, so did its need to regulate the relations between its citizens and, more generally, to govern its affairs at home and abroad.<sup>17</sup> The vexed process of state formation and stratification of power further instigated institutional changes; they required the creation of new offices and domains – legal, judicial, administrative – some of which did and some of which did not necessarily embrace *imperium*. According to Bleicken, the various profiles of public offices with or without *imperium* thus did not derive from the regal period. Instead, they resulted from the diversification of state action. Only in the late republic did the *imperium* of a consul denote the unity of his military and civil power, the so-called

<sup>12</sup> Mommsen 1887–8, I, 10, 22–3; II.1, 14–17.

<sup>13</sup> It will become clear to the reader, I think, that I use the term more or less in a Polybian sense, emphasizing the processual development of the constitution and its potential to govern the conduct of politics between traditional norms and legal practices.

<sup>14</sup> Mommsen 1887–8, II.1, 93; cf. also Mommsen 1902, 310: "Der dem ursprünglichen römischen Staatsrecht mit dem Begriff des Oberamts unvereinbar erscheinende Begriff der begrenzten Beamtengehalt oder der Kompetenz brach allmählich sich Bahn und zerfetzte und zerstörte den älteren des einen und unteilbaren Imperium."

<sup>15</sup> Mommsen 1887–1888, I, 25; cf. I, 7 on the systematization of Mommsen's approach.

<sup>16</sup> Bleicken 1981; cf. also Bleicken 1967 and 1975, 115–21.

<sup>17</sup> Bleicken 1981, 33–40, which draws heavily on Heuss 1944.

total *imperium*.<sup>18</sup> However this too was a response to gradual development, since it was triggered by the persistent expansion of the republic and the growing power of its commanders in the field.

To structure the dependency of magistracies and determine their hierarchy, the senate drew on the principle of *potestas* ("power" or "faculty"), which defined the authority of a public office in relation to other offices: magistrates would take on a *maior potestas* (e.g. the aedileship being *maior* to the quaestorship), a *par potestas* (two consuls with the same power), or a *minor potestas* (the power distributed from the bottom to the top).<sup>19</sup> Accordingly, Bleicken noted that public offices were conceived of in relational rather than absolute terms, with *potestas* serving as a measuring stick that indicated the competences, and limitations, of each office's powers. While holding the highest office, the *imperium* of a consul was subject to the same principle of stratification as that of a praetor. In Bleicken's view, this process did not correspond to a gradual carving up of unique (regal) authority, but rather was related to Roman state formation and its dynamics of institutional diversification.<sup>20</sup>

Therefore despite its lasting conception as executive power, the capacity of a magistrate *cum imperio* (consul, praetor, dictator and *magister equitum*) underwent profound changes. These include the development of the magistracies themselves, in both numbers and competences; the growing implementation both of universal and of extraordinary commands, which in turn contributed to inherent tensions between the commands of *imperium*-holders; and, as the republic expanded from city-state to Mediterranean empire, the changing perceptions of the space in which *imperium* was exercised. As mentioned before, the impact of any of these on the nature of imperial power is explained differently: previous scholarship presents *imperium* either as a partially reallocated command that derived from an originally unique authority or, alternatively, as one that expanded over time. As the complexity of state action grew, so did *imperium*. These approaches are incompatible, but it is noteworthy that they share the same belief in *imperium* as a normative force that lies at the very heart of Roman republican institutions. Indeed, this is how the writers of the first century BC and the early imperial period describe it, when they praise the incontestability of *imperium* and its lasting nature from the era of the kings to their own time: *imperium*, "without which no military affair can be

<sup>18</sup> Cf. Heuss 1982, who forcefully rebutted Mommsen's concept of a total *imperium* under the kings.

<sup>19</sup> Bleicken 1981, 24–33.    <sup>20</sup> Bleicken 1981, 41–2.

administered, no army held together, no war waged.”<sup>21</sup> Such notions notoriously raise suspicions, even more so when time-honored traditions are invoked. As far as I can see, the idea of an inherent normative force of *imperium* has never been questioned in modern scholarship. However, in light of more recent discoveries that highlight the great degree of fluidity and change in Roman politics, it may well be noteworthy to consider whether the starting assumption that *imperium* is the decisive normative force in Roman politics is indeed viable. Rather than subscribing to a normative perception, the following sections focus on the developments, changes and turning points in the history of imperial command. The various areas of change are closely intertwined, but it is best to examine them separately. The goal is, it is hoped, to disclose the impact of these changes on the republican concept of *imperium* and its very nature.

#### THE NUMBERS GAME

Little is known about the nature of the republic’s executive prior to the inauguration of the consular constitution, most likely in 367/6 BC. Now this does not mean that the picture is altogether clear once “one of the consuls was elected from the ordinary people,” as Fabius Pictor put it in a celebrated fragment of his work.<sup>22</sup> Fabius’ reference to the *leges Liciniae Sextiae* implies that, beginning in 367/6, plebeians were admitted to the consulate as of that year. But there is reason to believe that this measure was accompanied by a more profound reshaping of the higher stratum of offices. In the course of this, the higher magistracies seem to have been modeled along the lines of a triangular executive. From now on, *imperium* was assigned to the executive of two consuls and one praetor, whose powers were closely interconnected.<sup>23</sup> While the praetor was subordinate to the consuls in the sense that he was outranked by the consular *imperium*, his general claim to *imperium* made him *collega consulis*, imperfect as this collegiality may have been.<sup>24</sup> The collegiality between both magistracies was also reflected by

<sup>21</sup> Cic. *Phil.* 5.16: *sine quo res militaris administrari, teneri exercitus, bellum geri non potest*; cf. also references to the sovereignty (*maiestas*) of the Roman state, which phrase this in terms of the *imperium populi Romani*: e.g. Cic. *Font.* 1; or. 30.

<sup>22</sup> *FRH* 1 F 23: *Quapropter tum primum ex plebe alter consul factus est duo et vicesimo anno post Romam Galli ceperunt.*

<sup>23</sup> This is admittedly an orthodox view on what happened in or around 367, which was already established by Wilhelm Ihne in 1847. I find this the most plausible scenario. Cf. also the paper by Christopher Smith in this volume.

<sup>24</sup> Messalla in Gell. 13.15.4: *imperium minus*. Cf. Lintott 1999b, 107; Brennan 2000, 1, 58–69; Masi Doria 2000; Bunse 2002b.

their appointment *iisdem auspiciis*, under the same auspices, in the course of one and the same voting assembly.<sup>25</sup> This triangular arrangement remained in place for 120 years or so; at least, this is what the political arithmetic implies, since a new praetorship was only added *c.* 244 (see below). What the numbers do not reveal is that, despite the seemingly stable arrangement, the institutional hierarchy between these offices was by no means written in stone. The few cases that attest to the actions of praetors in the period prior to the First Punic War indicate that the praetorship was held either before or, more frequently, only after its incumbents had already served as consuls.<sup>26</sup> Hence, the office of praetor may best be described as *honor* that revolved around the consulate.<sup>27</sup> Equipped with full military command and the power to give specific orders, the praetor complemented the *imperium* of the consuls. Often highly decorated generals who had already held a successful consulship were elected to the post of praetor, which again points to a close collaboration, and in fact complementation, of the *imperia* of consuls and praetors.

This chapter in the history of offices with military command came to an abrupt end toward the conclusion of the First Punic War. Around 244, a second praetorship was established that profoundly altered the picture.<sup>28</sup> It has been noted that this first increase in the number of offices *cum imperio* came from the increasing need for commanders to fight independently at different military fronts in the war with Carthage.<sup>29</sup> This explanation deserves consideration since it accounts for the role of the new praetorship as an office with full military authority. But the extension also seems to have induced an institutional separation of two distinct types of praetorships, the *praetor urbanus* and a so-called *praetor peregrinus* (the designation for the latter stems from a later period), whose powers were characterized mostly by judicial rather than military competences. Such a separation was most likely motivated by the growing requirements of state action, but in this case it is difficult to see why a magistrate confined to the affairs between foreigners at Rome would be vested with military authority. Perhaps the

<sup>25</sup> Livy 8.32.3; Gell. 13.15.6; cf. Stewart 1998, 182–3.

<sup>26</sup> See the relevant section in the *Fasti Praetorii* compiled by Brennan 2000, 1, App. B, with the modifications by Beck 2005, 65. From the end of the Third Samnite War to the end of the First Punic War, only a handful of praetors are attested by name. With the exception of one (Q. Valerius Falto, pr. 242, cos. 239), the praetorship postdates the consulate in that era: L. Caecilius Metellus, cos. 284, pr. 283; M. Curius Dentatus, cos. 1 290, pr. 283; C. Genucius Clepsina, cos. 1 276, pr. 273; A. Atilius Caiatinus, cos. 1 258, pr. 257; L. Postumius Megellus, cos. 262, pr. 253.

<sup>27</sup> Cf. Beck 2005, 64.

<sup>28</sup> Livy, *Per.* 19; Lydus *Mag.* 1.38; Pompon. *Dig.* 1.2.2.28. Cf. Lintott 1999b, 107; Brennan 2000, 1, 85–9; Bunse 2002b, 30–1.

<sup>29</sup> Cf. Brennan 2000, 1, 85–9; Serrati 2000.



motives of responding to military demands and of state action at home were not mutually exclusive.<sup>30</sup> The most prominent implication of the addition of a new *imperium*-holder was, however, the change it fostered in the traditional three-tier structure of the republic's executive. For the measure almost certainly disconnected the praetorship from the consulate, since it effectively bolstered a new office, the competences and duties of which were separated from those of the consuls. Confining praetors to areas of authority that were explicitly urban, peregrine, judicial or the like, the measure formulated implicit limitations that governed the exercise of their command.<sup>31</sup>

It is not surprising that the motion to add a second praetorship had an immediate impact on the patterns of office-holding. The prosopographical information available is scarce, but from the little that has survived it is possible to extrapolate a new *cursus* pattern after *c.* 244. For once the new position was added and none of the known praetors had served as consuls before entering office. No consul seems to have run for the office of praetor after the introduction of the second post.<sup>32</sup> It has been suggested that this may have been due to a provision that the praetorship henceforth should become a step on the career path to the consulate.<sup>33</sup> But it is worth remembering that such a regulation would actually not have prevented consulars from (re-)running for the praetorship. The reason why they did not must have had something to do with the outlined downgrading of a praetor's *imperium*. The measure clearly made the authority of praetors inferior to that of the consuls, which, in turn, made the office less attractive for candidates who had already held the consulate. Under such circumstances, the *honor* of a consular may well have been reduced, if not harmed, by a praetorship that followed after his consulship. As a consequence, the gap between consuls and praetors widened significantly; the link between their *imperia* vanished. The measure of *c.* 244 can thus be understood as the moment of birth, as it were, of the *cursus honorum*, with its well-defined sequence of offices *cum imperio*, clear provisions for career advancement, and the hierarchization of the social prestige that was associated with these

<sup>30</sup> Brennan 2004, 39–40; Beck 2005, 35–6.

<sup>31</sup> On this, cf. the more detailed discussion in Beck 2005, 63–7.

<sup>32</sup> With the exception of the Hannibalic War, this holds true for the history of the praetorship from *c.* 244 through to the fall of the republic. Cf. Brennan 2000, 1, 94; Beck 2005, 67.

<sup>33</sup> The career pattern may have become compulsory only in 196. For the aftermath of the Hannibalic War, several consuls with no previous praetorship are attested: L. Cornelius Lentulus, aed. cur. 205, procos. 205–200, cos. 199; Sex. Aelius Paetus, aed. cur. 200, cos. 198; T. Quinctius Flamininus, propr. 205–202 (?), cos. 198; C. Cornelius Cethegus, procos. 201–200, aed. cur. 199, cos. 197.

magistracies. It was induced when a new post with *imperium* was added that altered the traditional triangular executive.

Less than two decades later, most likely in 227, the number of praetors was once again increased. After the recovery of Sicily and Sardinia in the aftermath of the First Punic War, two positions were added, which made for a total of four.<sup>34</sup> Only one generation later, the year 197 witnessed yet another increase, when the praetorship grew from four to six posts.<sup>35</sup> Now this increase in the number of offices with *imperium* no doubt corresponded to the foreign expansion of the republic and its need to assign generals with military command to conquered territories. It is easy to calculate the numbers: note that the praetorship increased sixfold in only two generations. But it is not quite so easy to grasp how this accelerated change affected the exercise of *imperium*. For one thing, the development of conquered territories that evolved from vague areas where a magistrate exercised military command to domains with fixed borders subject to the authority of an annual praetor significantly altered the Roman perception of space and power. The concept of *imperium*, too, was affected by this development (see below). Second, the growing number of new, geographically restricted offices *cum imperio* helped to structure the relation between the higher magistracies and their inherent *potestates*. For the increase of praetorships clearly widened the gap between the authority of consuls and that of praetors. Of the four annual praetors after 227 (six after 197) only two were able to rise to the consulate. In light of the new arithmetic, their office had become more remote from the *maximus honos* than in the earlier decades of the third century.<sup>36</sup>

At the same time, the relations between praetors grew increasingly complex. When Macedonia and Africa were organized as provinces in 146, the senate refrained from creating additional praetorships. This decision served not to aggravate the already fierce competition among praetors for the consulate,<sup>37</sup> but it also made it impossible for all provinces to be governed by annual magistrates. Consequently, the patchwork of praetorian *imperia* grew to an even greater extent: some praetors held an *imperium* that was confined to a certain province (but not all provinces were covered by this procedure). Others functioned, in the absence of the consul, as chief

<sup>34</sup> Solin. 5.1; cf. Livy, *Per.* 20. Cf. Brennan 2000, 1, 91–9 and n. 97 on the date; Kunkel & Wittmann 1995, 297–8; Lintott 1999b, 107; Bunsen 2002b, 33; Beck 2005, 35.

<sup>35</sup> Cf. n. 34.

<sup>36</sup> The number long remained at six, but when Sulla increased it to eight in 81 (*Vell. Pat.* 2.89.3; cf. Cic. *Mil.* 39 with *Att.* 4.1.6; *Pis.* 35; Brennan 2000, 1, 391), the gap widened again. The ultimate disconnect came with sixteen praetors under Caesar.

<sup>37</sup> Cf. Beck 2005, 36 and 55–7.

magistrates at Rome and were, as such, in charge of the legal administration. Yet if necessary both the urban and peregrine praetors were dispatched at the head of an army and, hence, could make free use of their power during military campaigns, a privilege that could easily lead them to provinces that were left unassigned. This variety of assignments makes it evident that the *imperium* of praetors lacked a clear frame of reference. The one shared quality was that they were elected in the same centuriate assembly as the consuls. As magistrates with *imperium* they were entitled to certain *potestates* – anything from military to civil and judicial commands, be they at home or abroad – as well as to corresponding symbols of power.<sup>38</sup> Furthermore, from the early second century, their office provided them with the legal prerequisite to run for the consulship.<sup>39</sup> Beyond this distinction, it is hardly justified to speak of a uniform exercise of praetorian *imperium*.

Before returning to the *imperium* of the consuls, it should be noted that this fragmentation of praetorian assignments also had an impact on the cohesion of their *collegium* in general. In the later republic, praetors never used their *imperium* to veto the action of their colleagues, not even in the domain of civil law. If a praetor's decision was met with resistance, litigants appealed to a tribune of the plebs or sometimes a consul, and not to another praetor. This, too, indicates that praetors hardly ever developed an *esprit de corps* among their college, nor was there a monolithic praetorian *imperium* that governed their command.<sup>40</sup>

#### MORE DISTORTIONS

The consular *imperium* underwent a different development. It is a truism to note that the political arithmetic never changed, even after the office itself had lost its most profound defining qualities. But this does not mean that relations between holders of the *maximum imperium* were static, nor were they easy. In fact, Roman tradition is loaded with stories that relate conflicts and at times clashes between consuls over strategies, the use of spoils or the claim to victory. The use of collegial intercessions here, too,

<sup>38</sup> E.g. the *toga praetexta* as well as the *sella curulis* as official insignia, and six lictors (two for civil jurisdiction): Kunkel & Wittmann 1995, 120–1.

<sup>39</sup> As of 196: Astin 1958, 27; Brennan 2000, 1, 168–9.

<sup>40</sup> Note, however, the notorious case of 67, when the college of praetors caused a work slowdown for almost their entire term of office after one of the consuls had smashed a praetor's ceremonial chair for not rising in his presence: Cass. Dio 6.41.1–2. This indicates some group solidarity, but the incident is too short-lived to alter the general picture. See also Brennan 2004, 42–4, who discusses the lack of evidence for intra-collegial obstruction.

was rare,<sup>41</sup> but there were many ways, to be sure, to bother a colleague. Since consuls exercised a *par potestas* and since a strict collegiality was applied, the use of consular *imperium* was vulnerable to distinctly uncollegial behavior.<sup>42</sup> So whereas the *maximus honos* clearly implied a *maximum imperium*, the actual power grid was more complex. This, too, fascinated Roman writers, who eagerly embarked on long-winded discourses on the powers vested in a consul and the areas where these might be contested. A well-known incident was reported by Claudius Quadrigarius and several authorities after him. When the consul of 213, Quintus Fabius Maximus, arrived at the Roman camp in Apulia, there he unexpectedly met his father, the renowned Fabius Maximus “Cunctator,” cos. iv in 214 and now proconsul. Since neither made a move to dismount from his horse, the consul asked the proconsul: *quid postea*, “what thereafter?” (“so what now?” or maybe in a more pressing sense of “what arrogation comes next?”). The latter dismounted immediately and praised his son for maintaining the “*imperium*, which belonged to the people (*quod populi esset*).”<sup>43</sup>

The episode is widely cited to illustrate the inherent contradiction between *imperium* and *patria potestas*.<sup>44</sup> While, from the perspective of private law, Fabius son was under the jurisdiction of Fabius father (and, hence, obliged to pay him respect and dismount from his horse), the son held the *maximum imperium*, which embodied the *maiestas populi Romani*, the sovereignty of the Roman people. Praising his son and his defense of time-honored hierarchies, Fabius the elder acknowledged the superiority of *imperium* over his own *potestas* as father. The episode served to celebrate the incontestability of consular *imperium*. As such, it was a powerful reminder that the consular power symbolized the ultimate *maiestas* at Rome.

Roman exemplary accounts are often dubious, and this story is no exception. For under certain circumstances even a consul’s *imperium* was subject to subordination. For instance, when a dictator was appointed during a state of emergency, the supreme power of his office placed him above the consuls – if their powers were not annulled altogether. This is also true for the *magister equitum*, who outranked the consuls. Since the dictator was

<sup>41</sup> See Kunkel & Wittmann 1995, 209 with n. 381. Roman tradition stresses the principle of collegial intercession between consuls, especially with regard to the early republic (Livy 2.18.8; 2.27.2; 3.36.6), but authentic examples are virtually non-existent. Cf. also de Libero 1992, 29–48.

<sup>42</sup> Mommsen 1887–8, 1, 27–36, who sees an inherent contradiction between collegiality and *imperium*.

<sup>43</sup> Claudius Quadrigarius *FRH* 14 F 56, from Gell. 2.2.13; cf. Val. Max. 2.2.4a–b; Livy 24.44.9–10; Plut. *Fab.* 24. For an exhaustive discussion and much bibliography, see Masi Doria 2000, 240–1 and *passim*.

<sup>44</sup> Kunkel & Wittmann 1995, 571; Masi Doria 2000; cf. Lacey 1986, 130–2.

usually nominated by an *imperium*-holder following the senate's authorization, it was understood that consuls restrained themselves and limited their power by giving way to an extraordinary commander-in-chief.<sup>45</sup> But the episode of the Fabii invites more, and more profound, criticism. By the time of Claudius Quadrigarius' writing, in the late republic, the concept of *imperium* had significantly changed. This was mostly due to the creation of proconsular and propraetorian commands respectively, which soon added their own facet to an increasingly colorful mosaic of *imperium*. A brief sketch of the history of those powers is in order.

As early as the Samnite Wars, the senate began prolonging the military power of commanders so that they would not be removed from the battlefield toward the end of their term. The impulse was a practical one – that is, the removal of experienced generals in the midst of an ongoing campaign posed a significant disadvantage to the Roman forces – and so was the senate's response to it.<sup>46</sup> But the repeated prolonging of *imperium* also implied a separation between the higher magistracies and their inherent powers. Although the former maintained their character as annual offices with distinct duties and competences, these powers could also be exercised by individuals who had held public office in the preceding year and acted as if, or on behalf of, a genuine magistrate (*pro consule*). After a somewhat slow beginning in the late fourth century, the growing need for magistrates with *imperium* produced more and more prorogations. The Hannibalic War alone witnessed 139 prorogations, *c.* eight prorogations of *imperium* per year. The principle became a routine measure that soon required merely the decree of the senate.<sup>47</sup> Tellingly, the relation between consuls and proconsuls was one of equals: both were assigned twelve *fasces* that symbolized the equal weight of their *potestas*.<sup>48</sup> In terms of *auctoritas*, the consul prevailed over the promagistrate, who, by definition, held no regular office.

Their relation was remodeled only in the age of Sulla, when an ambitious legislative program to reform Roman administrative practice was stipulated. In their course, the Cornelian laws of 81 and 80 BC also targeted the exercise of *imperium*. Among the most eminent changes, Sulla

<sup>45</sup> Cf. Kunkel & Wittmann 1995, 665–74; Lintott 1999b, 109–13.

<sup>46</sup> The first attested case is Q. Publilius Philo in 326 (cos. II 327), on which see Hölkeskamp 1987, 137. The unorthodox view that prorogations prior to the Hannibalic War were designed as triumphal prorogations exclusively (Develin 1975a) has become obsolete.

<sup>47</sup> Cf. Kloft 1977; Kunkel & Wittmann 1995, 305–6. Figures for the Hannibalic War: Beck 2005, 109–10.

<sup>48</sup> Cic. *Verr.* 5.142; Plut. *Aem.* 4.2; cf. Staveley 1963, 472; Kunkel & Wittmann 1995, 121.

increased the numbers of praetors from six to eight, regulated the *cur-sus honorum*, streamlined the system of *quaestiones*, and reorganized the relations between *imperium*-holders in the field. It is likely that this reorganization was conceived of by its author as a uniform and integrated whole. But the surviving sources present much piecemeal that makes it difficult to determine the precise spirit of the *leges Corneliae*.<sup>49</sup>

This is also true for what seems to have been another innovation: it was henceforth understood that the curule magistrates stayed in Rome during most of the actual term of their office. While the consuls had no special *provinciae* in the city, the praetors were to staff the urban and peregrine jurisdictions as well as the various criminal courts. Only in the following year, after their term had come to a close, were these magistrates to govern provincial commands at the rank *pro consule*. Sulla thus generalized grants of consular *imperium* to all provincial commanders.<sup>50</sup> According to the traditional interpretation, which was promoted so forcefully by Mommsen,<sup>51</sup> the measure was intended to separate the civil magistracy from military *imperium*, so that the higher offices lost most of their competences in the field to the promagistracies. In other words, the *summum imperium* of consuls at home and in the field (*domi militiaeque*) was disrupted. In its place, a more complex governance of *imperium* came into being, which included a more institutionalized and also a symmetrical use of *imperia pro consule*. Yet this *lex Cornelia de provinciis ordinandis* continues to raise suspicions, and its historicity has been rejected on good grounds, especially with regard to a formal deprivation of an *imperium militiae* from the consuls. For it has not gone unnoticed that consuls were, at times, allotted *provinciae* early in their consulship and led military campaigns. On other occasions they left for their assigned territories before their term expired.<sup>52</sup>

Such observations are to the point. But they should not obfuscate the more general notion that Sulla's legislation hit the powers of provincial commanders, which consequently added to a reinterpretation of the relation between consular power and proconsular *imperium*. With this reinterpretation came a continuous emancipation of proconsular commands, which

<sup>49</sup> The best discussion now is Brennan 2000, I, 388–402.

<sup>50</sup> Cf. Brennan 2000, I, 394–8, who highlights the aspect of the uniform commands of provincial commanders.

<sup>51</sup> Mommsen 1887–8, II.1, 94–5.

<sup>52</sup> Cic. *Att.* 1.16.8; 1.19.2; 4.13.2; *Sest.* 71–2; *Prov. cons.* 36–7; cf. *MRR* II on years 78 and 74; Balsdon 1939 and, most eminently, Giovannini 1983, 97–101, and Girardet 2001, esp. 155–8, who argued successfully for the non-existence of this assumed *lex Cornelia*. Lintott 1999b, 212, too, declares that Sulla's intention of defusing the danger of long-term military commands by legislation is “a chimera.”

henceforth took the form of a generalized consular *imperium* for all promagistrates. This development clearly came at the expense of *imperium*-holders in regular offices, which, among other things, seems to have triggered future attempts to aggrandize the *imperium* of consuls during their term of office.

The volatile nature of politics that became so characteristic of the following decades witnessed a series of motions that further targeted the relation of consular and proconsular commands. Sulla's legislation was revised after 79 and again modified by Caesar's *lex Iulia repetundarum* (59).<sup>53</sup> In 52, Pompey fixed a compulsory five-year interval between magistracy and provincial government.<sup>54</sup> These measures were instigated by the current political constellation, and they were clearly designed to harm the opponents of their rogators rather than embody the result of visionary approaches toward a reorganization of *imperium*. But the general trend is clear. While the regular offices of the higher magistracies were increasingly concerned with legal affairs and political administration, appointments at the proconsular or (after Pompey's legislation of 52) propraetorian rank gradually developed into separate spheres of institutionalized power, each of which was empowered with a particular form of *imperium*.

Let us revisit the encounter of Fabius father and Fabius son in Apulia for a moment. Claudius Quadrigarius' episode is engaging, and it may even be authentic. But it teaches little about the lasting nature of *imperium*. Quadrigarius suggests a holistic quality of consular power, in the sense that it prevails everywhere and over everyone, even the *potestas* of a father. Yet, since Fabius the elder was not only a father but also proconsul, it might be worth considering that, in the late republic, he most likely would not have met with the consul in the first place. With proconsuls stationed in the field and consuls mostly confined to the domestic sphere of the city, Fabius son would not have traveled to Apulia. And if he did, the relation between his consular *imperium* and the *imperium pro consule* of his father was unclear. It is difficult to decide which of the two would have been required to dismount from his horse and acknowledge the superiority of the other. Both men carried the same number of *fasces* in front of them, and both had a consular command power under their belt. By the time of the Second Punic War, the consular *imperium* of the son probably surpassed his father's *imperium pro consule*. A century and a half later, the tide had turned somewhat. In areas outside the city, the proconsuls exercised the command power, while the consuls dominated the political arena at Rome. If anything, Claudius Quadrigarius' incident illustrates that the exercise of

<sup>53</sup> Kunkel & Wittmann 1995, 107–8; Lintott 1999b, 160.    <sup>54</sup> Brennan 2000, 1, 402–3.

*imperium* was determined by nuances of time and space that make a holistic approach difficult.

#### *Imperium* in space

The term *imperium* had a geographical connotation when it referred to the territory in which it was exercised. As mentioned above, a magistrate's command power was sanctioned by the passage of a curiate law. After taking special auspices, he then crossed the sacred boundary of the city (*pomerium*) and changed into military garb. The formula *domi militiaeque*, "at home and in the field," highlights this juxtaposition of the civic and the military realm. It is also the most fundamental spatial dichotomy that governed the exercise of *imperium* in distinct geographical spheres. The connection between military command and its spatial anchoring became characteristic of the exercise of *imperium* and, more generally, the Roman ordering of the world.

If a magistrate with *imperium* crossed back over the boundary of the city, his military command lapsed and had to be renewed once he re-entered the sphere of *militiae*. Additionally the *imperium* of a promagistrate expired for good upon crossing the *pomerium*.<sup>55</sup> It is worth remembering that this spatial differentiation between "at home" and "in the field" remained intact throughout the republic, despite the many changes to the constitution of both realms over time. The main evidence for this comes from the one notorious exception to the rule, that is, the *imperator's* right to retain his military command in the augural realm of the city for a single day so as to celebrate a triumph.<sup>56</sup> In the late republic, some commanders waited outside the *pomerium* for periods of almost five years hoping the senate would grant them the triumph they had requested. If they did not want to bury their hopes forever, the spatial regulation regarding their *imperium* demanded that they wait outside the city until the senate had come to a decision.<sup>57</sup>

But the distinction between *domi* and *militiae* became formative for the exercise of *imperium* in other respects as well. In the civic sphere,

<sup>55</sup> E.g. Cic. *Verr.* 2.5.34. The classic treatise is Mommsen 1876. Drogula 2007, 435–51 offers a critical examination, but a full-fledged re-evaluation continues to be highly desirable.

<sup>56</sup> See e.g. Livy 45.35.4; Beard 2007, 202; Drogula 2007, 442–51.

<sup>57</sup> Note the case of C. Pomptinus, who returned to Rome in 59 after a successful campaign in Gaul as promagistrate in 62 and 61. He did not triumph until 54. Cf. *MRR* II under years 62, 61 and 54, and see Itgenshorst 2005, no. 259. Other examples include Licinius Lucullus and Caecilius Metellus Creticus (Itgenshorst 2005, nos. 256 and 257), who triumphed only three years after their campaigns in 66 and 65.



the exercise of magisterial power was curbed by the *lex provocationis* that saved Roman citizens from capital punishment without prior reference to the assembly of the people.<sup>58</sup> At some point in the second century, this privilege was extended to the realm of *militiae* and applied to the growing number of provinces. The so-called *leges Porciae*, a series of laws that seem to have been rogated and renewed by various Porcii, stipulated that Roman citizens abroad were granted the right of appeal in capital cases, and thus were safeguarded from the coercing powers of a consul or promagistrate.<sup>59</sup> Part of this legislation was the *lex Porcia de provinciis*, which limited the movements of promagistrates and their staff. Without previous authorization, commanders were barred from leading military expeditions outside their *provincia*. In addition, they were expected to prevent their tribunes and other officers from doing so as well.<sup>60</sup> A few decades later, Sulla's *lex Cornelia de maiestate* went so far as to make it a state offense to leave a province with an army or wage war without previous approval.<sup>61</sup>

Such limitations added to geographical notions of *imperium*, since they tied the exercise of imperial power to certain territories and confined magisterial action to these territories alone. The growing number of provincial commanders added then, it would seem, to a further fragmentation of *imperium*. As the republic expanded from city-state to Mediterranean empire and new provinces were inaugurated, the inherent qualities of *imperium* were reinterpreted. Consider the word *provincia*. The term traditionally referred to the sphere where a magistrate was to exercise his *imperium*. Only toward the second half of the third century did such spheres evolve from vague areas assigned to the command of a consul to spatial domains of civil administration with, more or less, fixed borders – hence *provinciae*.<sup>62</sup> From there, the history of *imperium* developed along two distinct lines. The first trajectory points toward fragmentation and limitation. The increase in new provincial commands added to the number of *imperium*-holders whose authority was limited to a certain region. Those regions were often accessible only by crossing through areas that were assigned to another commander with *imperium*. For instance, the land route to Bithynia and Cilicia did not necessarily require one to cut across the province of Asia, but such a march was certainly the most convenient one. As far as the Spanish provinces were concerned, the

<sup>58</sup> See above.    <sup>59</sup> See above.    <sup>60</sup> Crawford 1996b, I, no. 12, Cn. III, lines 1–15.

<sup>61</sup> Cic. *Ps.* 50; Kunkel & Wittmann 1995, 310; Lintott 1999b, 212.

<sup>62</sup> Cf. Kunkel & Wittmann 1995, 337–8; Girardet 2001, 161 with n. 25.

trip demanded crossing two Gallic provinces, at best.<sup>63</sup> In such instances, conflicts between the regionally encoded commands of praetors or promagistrates were endemic, with, at times, dreadful consequences. Since commanders all aimed for military glory and personal distinction (the fierce competition between praetors for the consulship has already been mentioned, and both praetorian and consular promagistrate would strive for distinction to obtain a triumph), non-co-operation between *imperium*-holders and reluctance to fight joint campaigns were not unusual. The geographical embedding of *imperium* thus not only limited the exercise of imperial power, but also fueled potential conflicts between commanders.

In a sense, this almost invited attempts to override a colleague's powers. This is the second trajectory in the spatial development of *imperium*. As early as the Second Punic War, the senate decreed that an *imperium*-holder might operate beyond the limitations of his assigned *provincia* "if he thought this was in the interest of the republic."<sup>64</sup> Moreover, the time restrictions governing office appointments were sometimes suspended. When P. Cornelius Scipio's African command was prorogated for 203 BC, it was stipulated that his *imperium* lasted for the entire duration of the war and "until he was recalled by the senate."<sup>65</sup> While Scipio's promagistrature of that year originated in his consulate of 205 (prorogated in 204), his earlier career was notorious for its exceptional character and special arrangements, most notably the exercise of a private *imperium pro consule* in the years from 210 to 206. The details have been treated at length elsewhere and need not be discussed here.<sup>66</sup> It should be noted, however, that *imperium* was governed with a maximum degree of flexibility and adaptability. Throughout the Second Punic War, the exercise of *imperium* indicates that its defining characteristics – its geographical and temporal restrictions as well as its anchorage in public office-holding – became increasingly blurred, if not altogether unrecognizable.

The aftermath of the Hannibalic War witnessed various attempts to reinforce those characteristics and once again subordinate military commanders to the control of the senate.<sup>67</sup> But the clock was not to be put back. The common features that determined the communication between *imperium*-holders were acts of non-co-operation, the seeking of distinction vis-à-vis one's colleagues or successors, or the blunt quest for an enhanced command that overrode that of other magistrates. The late republic provides the best

<sup>63</sup> Cf., on these examples, Brennan 2004, 43.      <sup>64</sup> Livy 28.45.8.

<sup>65</sup> Livy 30.1.10, with Beck 2005, 349.      <sup>66</sup> Beck 2005, 328–67.

<sup>67</sup> This is treated excellently in Eckstein 1987; cf. Beck 2005, 51–61, 106–14, 354–93.

examples of this, but the picture appears to be exceptional only in quantity. In 67 BC, the *lex Gabinia* granted Pompey an *imperium proconsulare* over any province within fifty miles of the sea, which, effectively, gave him power over almost every province for the next three years.<sup>68</sup> In the following year, Pompey received the command of the war against Mithridates and Tigranes, and the provinces of Bithynia and Pontus and Cilicia, which implied an unprecedented accumulation of imperial power.<sup>69</sup> The creation of such a super-*imperium* through a plebiscite was in sharp contrast to the ubiquitous fragmentation and regional limitation of proconsular and propraetorian commands. In its desire to promote popular candidates, the people's assembly notoriously assigned *imperia* to individuals that countermanded the executive powers of others. Hence, the uniformity that defined the exercise of *imperium* disintegrated, and the unifying character of magisterial power evaporated. As the Roman republic came to a close, the command chain of its Mediterranean empire was shaped more than ever by exceptions and extensions.

#### *Imperium as elite ideology and social capital*

It is time to sum up. Throughout the history of the Roman republic, the notion of magisterial *imperium* was exposed to profound changes. The number of *imperium*-holders was steadily increased and their competences redefined; relations between magistrates *cum imperio* were constantly renegotiated, a process that was also shaped by the rise of new imperial commands that could not be easily streamlined into the hierarchy of public office-holding (promagistracies, extraordinary commands); and finally, the geography of *imperium* was altered both conceptually and in its application to specific regions. In the last generation of the republic, the major protagonists deliberately tampered with this spatial component of *imperium* so that it suited their goal of self-aggrandizement and autocracy. Thus, on the previous pages, it was argued that *imperium* underwent a dramatic and, at times, a dramatically accelerated dynamic that constantly altered its guiding principles. In light of this diversity, it should not be forgotten that *imperium* continued to possess a persistent state quality as an overall structuring force on the republican constitution. How do we bridge this

<sup>68</sup> *Lex Gabinia*: references in *MRR* II 144–6, and see the recent discussion by Girardet 2001, 171–6 (with much more bibliography), who dismisses the orthodox view of an “*imperium maius*”; the *triennium*: App. *Mithr.* 94; Cass. Dio 36.23.4; 36.34.3.

<sup>69</sup> *Lex Manilia*: *MRR* II 153–5; Kallet-Marx 1995, 320–9; Girardet 2001, 176–87; Brennan 2000, I, 404–6.

hiatus between continuity and dynamic change? What was the core of imperial command?

The quest for uniformity is a red herring. To reiterate, this is not to deny that *imperium* had in fact a binding quality, one that distinguished itself by a validity over time and through space. In all periods of republican history, the *imperium* of a magistrate denoted his authority to exercise military power. The religious connotation of declaring war and leading campaigns asked for ritualized practices, all of which clustered around the use of supreme military power: the obtaining of auspices, the passing of a *lex de imperio* and the recognition of the sacred division between the realms of *domi* and *militiae*. These practices never changed, and it is their rigid observation that surrounded *imperium* with the aura of a religiously sanctioned force.<sup>70</sup> But the capacity to lead an army and fight sanctioned campaigns hardly suffices to circumscribe the nature of *imperium*. At times, military contingents were detached to confront the enemy in the absence of an *imperium*-holder under the command of military tribunes or other senior officers. Such operations were carried out under the auspices and *imperium* of a commander who, despite his absence, was fully responsible for, and credited with, the outcome of the event.<sup>71</sup> The latter well hints at another key aspect of *imperium*, one that is best described as a consequence of it, rather than an inherent quality. For *imperium* allowed magistrates to fully capitalize on their military success and turn it into social prestige. The right of celebrating a triumph was only one, yet the most outstanding, honor that enabled commanders to perpetuate their *fama* beyond the terms of office. More permanent visual signs of honor were practices such as the dedication of temples, erection of statues or victory monuments that served as powerful reminders of a commander's *dignitas*, *honos* and *gloria*. But the prerequisite for all of these and other strategies of capitalizing on victory was that it was won under one's own *imperium*. In other words, the gain of prestige was inextricably linked to *imperium*, which opened the gates to social distinction. Without *imperium*, those gates remained closed. Thus, the granting of *imperium* was at the very core of the senate's strategies for superimposing a collective control mechanism that governed the rank, status and prestige of its members. While the traditional offices of the *cursus honorum* were increasingly jeopardized by new forms of institutionalized power such as promagistracies and extraordinary commands (and also by

<sup>70</sup> On this, see the magisterial work of Rüpke 1990.

<sup>71</sup> Thus, Cicero's famous characterization of *imperium* from *Phil.* 5.16 (see above) is based on a holistic approach to military campaigns, in the sense that it subsumes all actual fighting under the auspices of the commander with *imperium*.

the sheer increase of offices themselves), elite competition almost naturally shifted toward *imperium* as the most profound mode of distinction. It is in this particular environment of the last generation of the Roman republic that *imperium* developed into an elite ideology that dominated, almost exclusively, the ambitions and aims of that elite's main protagonists.

The institutional framework of command power changed significantly over time. But whereas offices grew in number and magisterial duties and hierarchies were redefined, the principal link between *imperium* and social hierarchy was never questioned. The power to command was closely related to the constitutive norms, conventions and traditions that governed the public conduct of Rome's ruling elite. In fact, it became the driving force behind those conventions in the sense that it provided order and meaning to the defining principles of the elite. And like these conventions, it was a lively principle that depended on reassurance, consensus and adaptability. If anything, this is what Plutarch's episode teaches. Why was it again "that when they gave a public banquet for men who had celebrated a triumph, they formally invited the consuls and then sent word to them requesting them not to come to the dinner?"<sup>72</sup> The consuls were invited because they were the highest magistrates who *ex officio* presided over state banquets. But to avoid a clash between their *imperium* and that of a triumphator at proconsular rank, they were best kept apart by a go-between who told the consuls not to attend. This solution operated on the unspoken agreement that it allowed for each of the involved parties to have their *imperium* unchallenged, while the constitution remained overall intact. When this silent consensus among the Roman elite failed, the "dreadful and mighty power"<sup>73</sup> of magisterial command turned *imperium* into a dangerous and indeed destructive force.

<sup>72</sup> Plut. *Quaest. Rom.* 80 = *Mor.* 283a.

<sup>73</sup> Cic. *Leg. agr.* 2.45: *grave est enim nomen imperii, atque id etiam in levi persona pertimescitur, propterea quod vestro, non suo nomine, cum hinc egressi sunt, abutuntur.*