

*A cura di*

EDOARDO BIANCHI e CARLO PELLOSO

## Roma e l'Italia tirrenica

Magistrature e ordinamenti istituzionali  
nei secoli V e IV a.C.

Roma e l'Italia tirrenica



Edizioni dell'Orso



*In generale pare che in quei tempi solo la sapienza di Talete si sia spinta attraverso la speculazione al di là dell'utilità pratica: agli altri, invece, il titolo di sapienti spettò per la loro capacità politica.*

Plut., Sol., 3, 4.

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*In copertina:*

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## Tavola delle abbreviazioni

Per le abbreviazioni dei titoli delle riviste si rimanda all'elenco dei periodici dell'*Année Philologique*; i titoli non indicizzati nell'*Année Philologique* sono invece citati sempre per esteso.

*AE* = *L'Année épigraphique: revue des publications épigraphiques relatives à l'antiquité romaine*, Paris, 1888-.

*ANRW* = *Aufstieg und Niedergang der römischen Welt. Geschichte und Kultur Roms im Spiegel der neueren Forschung*, edd. H. Temporini - W. Haase, Berlin-New York, 1972-1996.

*BTCGI* = *Bibliografia topografica della colonizzazione greca in Italia e nelle isole tirreniche*, Pisa-Roma, 1977-2012.

*CIE* = *Corpus Inscriptionum Etruscarum*, Leipzig, 1893-.

*CIL* = *Corpus Inscriptionum Latinarum*, Berlin, 1863-.

*Diz. Epigr.* = E. De Ruggiero, *Dizionario epigrafico di antichità romane*, Roma, 1895-.

*EDR* = *Epigraphic Database Roma* (<http://www.edr-edr.it/>).

*EE* = *Ephemeris Epigraphica. Corporis Inscriptionum Latinarum Supplementum*, ed. iussu Instituti Archaeologici Romani, Berlin, 1903-1913.

*ET* = H. Rix, *Etruskische Texte. Herausgegeben in Zusammenarbeit mit G. Meiser*, Tübingen, 1991 (Hamburg 2014<sup>2</sup>).

*FGrHist* = F. Jacoby, *Die Fragmente der Griechischen Historiker*, Berlin-Leiden, 1923-1958.

*FHG* = K. Müller, *Fragmenta Historicorum Graecorum*, I-V, Paris, 1841-1870.

*GGM* = K. Müller, *Geographi Graeci Minores*, I-II, Paris, 1855-1861.

*HN* = B.V. Head, *Historia numorum: a manual of Greek numismatics*, Oxford, 1911.

*ID* = *Inscriptions de Délos*, Paris, 1926-1972.

*IG* = *Inscriptiones Graecae*, Berlin, 1860-.

*IGDGG* = L. Dubois, *Inscriptions grecques dialectales de grande Grèce*, Genève, 1995-2002.

- IGDS* = L. Dubois, *Inscriptions grecques dialectales de Sicile. Contribution à l'étude du vocabulaire grec colonial*, Rome, 1989-.
- IGI* = *Iscrizioni greche d'Italia*, Roma, 1984-.
- ILLRP* = A. Degrassi, *Inscriptiones Latinae liberae rei publicae*, Firenze, 1963-.
- ILS* = H. Dessau, *Inscriptiones Latinae Selectae*, Berlin, 1892-1916.
- ImIt* = *Imagines Italicae: a corpus of Italic inscriptions*, edited by M.H. Crawford *et al.*, London, 2011.
- Inscr. It.* = *Inscriptiones Italiae Academiae Italiae consociatae ediderunt*, Roma, 1931-.
- Meiggs - Lewis = R. Meiggs - D. Lewis, *A selection of Greek historical inscriptions to the end of the fifth century b.C.*, Oxford, 1969.
- PIR*<sup>2</sup> = *Prosopographia Imperii Romani Saec. I. II. III*, editio altera, consilio et auctoritate Academiae Litterarum Borussicae, edd. E. Groag - A. Stein - L. Petersen, Berlin-Leipzig, 1933-.
- P.Oxy* = *The Oxyrhynchus papyri*, edited with translations and notes by B.P. Grenfell *et al.*, London, 1898-.
- RE* = *Real-Encyclopädie der classischen Altertumswissenschaft*, Stuttgart, 1893-1980.
- SEG* = *Supplementum Epigraphicum Graecum*, Lugduni Batavorum, 1923-.
- ST* = H. Rix, *Sabellische Texte: die Texte des Oskischen, Umbrischen und Südpikenischen*, Heidelberg, 2002.
- Ve = E. Vetter, *Handbuch der italischen Dialekte. I. Texte mit Erklärung, Glossen, Wörterverzeichnis*, Heidelberg, 1953.

*Christopher Smith*

The past and future of kingship: recollections of the past  
in the development of constitutional thought in central Italy<sup>1</sup>

The argument I would like to explore in this paper is a relatively simple one. What did kingship offer those developing the idea of constitutional thought in the years from say 400 to 200 BC in central Italy, and how did that development affect the way kingship was thought about and written about?

This can only be a tentative and speculative account – too little of the relevant evidence has survived. Yet when one starts to look at the evolution of the historiography of kingship, we may just get a glimpse of wider movements in political thought. The overwhelming body of evidence, some of which is represented in this volume, would place a good deal of the invention precisely in the most obvious period, the late Republic and early empire. The obvious model is that late Republican sources, faced with an enticing rubble of fragments and undatable bits and pieces, and vast gaps in their knowledge, created systems where systems did not exist – and in all fields – including for instance ethnographic information, or legendary genealogies. If we are to get at any sort of older system, our progress is likely to be through rather high level hypothesis, and exercising as Momigliano urged in a kindly review of Santo Mazzarino, the *ars nesciendi*<sup>2</sup>.

A figure called a *rex* existed at Rome in the sixth century BC; there at least the evidence is strong<sup>3</sup>. But to get beyond that to a narrative of kingship which can be trusted to be historical seems to me to be extremely difficult,

<sup>1</sup> I am grateful to the organisers for the kind invitation to a hugely stimulating conference, and to the Leverhulme Trust who have generously funded this research.

<sup>2</sup> A. MOMIGLIANO, *Review, Santo Mazzarino, Dalla Monarchia allo Stato Repubblicano. Ricerche di Storia Romana Arcaica*. Catania: G. Agnini editore, 1945, in *JRS*, XXXVI, 1946, 197 f.

<sup>3</sup> For a comprehensive collection of evidence see A. CARANDINI (ed.), *La leggenda di Roma*, Milan, 2006-14, though interpretation can be unreliable; for overviews see for instance J. POU CET, *Les rois de Rome: tradition et histoire*, Brussels, 2000, and J. MARTÍNEZ-PINNA NIETO, *La monarquía romana arcaica*, Barcelona, 2009. What makes the case incontrovertible is the two sixth century BC inscriptions referring to a *rex* from the Lapis Niger and the Regia, *CIL* VI 36840 and 2830 respectively.

even if we leave aside the patently impossible chronology. There are a variety of problems.

No-one ever defined a *rex* in detail in antiquity<sup>4</sup>. There was no standard list of duties. The relationship between the kings of early Rome and the kings of the Hellenistic world or the client kings of the Roman empire is tenuous<sup>5</sup>. Clearly sole rule is an aspect (but Romulus shares his kingship with Titus Tatius); military prowess is important (but Numa is peaceable); religious knowledge might be thought valuable (but several kings are inept or impious); some kings set down laws (but not all).

Many monarchs are hereditary, but the Roman story is rather different. The more constitutional version (notably largely Ciceronian) emphasises election by the people through a *lex curiata*<sup>6</sup>. There lingers however the notion that kingship passed down the female line, or that families were involved. Numa's daughter was married to Ancus Marcius' father. Ancus Marcius killed Tullus Hostilius' children, and possibly the whole family. Tarquinius expels Ancus's sons; Ancus' sons kill Tarquinius but are thwarted by Tanaquil; but Servius is then killed by his daughter and son-in-law, Tarquinius Priscus' grandson. And Superbus is finally expelled by his brother in law Brutus<sup>7</sup>. I do not think this is any more original than the *lex curiata* story; one shows that kings did not know how to manage transition, and the other that the people do. Nor is it demonstrable that one is older than the other; both presumably develop as part of competing notions of what kingship was like at Rome. It remains intriguing that the hint of inheritance is clearly present, and this may reflect the idea and perhaps reality of a closely inter-related archaic aristocracy.

The Roman sources give the impression that all seven kings are effectively holding the same office, and they create a sort of normative appointment. Modern scholarship has sometimes tried to establish a difference between the first four 'Latino-Sabine' kings and the last three 'Etruscan' kings.

<sup>4</sup> Cic. *De Rep.* 1.26.42, *cum penes unum est omnium summa rerum, regem illum unum vocamus et regnum eius rei publicae statum*, is the obvious *locus*, but is from standard Greek political thought; see Pind. *Pyth.* 2.87-8; Herodot. 3.80-82; Plato *Polit.* 291c-d, 302d-e; Aristot. *Pol.* 1279a-b; Polyb. 6.3.5.

<sup>5</sup> A. ERSKINE, *Hellenistic Monarchy and Roman Political Invective*, in *CQ*, XLI, 1991, 106 ff.; O. HEKSTER, *Trophy kings and Roman power: a Roman perspective on client kingdoms*, in T. Kaizer - M. Facella (eds.), *Client kingdoms in the Roman Near East*, Stuttgart, 2010, 45-55; N. LURAGHI (ed.), *The splendors and miseries of ruling alone: Encounters with monarchy from archaic Greece to the Hellenistic Mediterranean*, Stuttgart, 2013.

<sup>6</sup> E.g. Cic. *De Rep.* 2.25; 2.31; Dion. Hal. *Ant. Rom.* 2.58.2-3, 2.60.3.

<sup>7</sup> Numa: Plut. *Numa* 21; Tullus Hostilius' family: Dion. Hal. *Ant. Rom.* 3.35.2-4; Tarquinius and Ancus Marcius's sons: Liv. 1.35.1-2; Ancus Marcius' sons and Tarquinius Cic. *De Rep.* 2.38; Liv. 1.40.4-7; Dion. Hal. *Ant. Rom.* 3.73.2-4, 4.4.1; Servius Tullius' death: Liv. 1.48.7; Dion. Hal. *Ant. Rom.* 4.39; Brutus: Liv. 1.56.7; Dion. Hal. *Ant. Rom.* 4.68.

However, there is a variant which makes Servius Tullius Latin, and another which emphasises Tarquinius Superbus' Greek ancestry. Furthermore, the extent of imagination which is applied to ethnographic differentiations makes this discourse open to later distortion<sup>8</sup>.

Arguments which extract the constitutional nature of the last kings from the narrative risk putting the cart before the horse. Was Tarquinius Superbus a tyrant? The fact that he is described as one could simply be a historiographical explanation. The question we can and should ask is when and to what end did Tarquinius Superbus become described in a way that is analogous to the description of a tyrant. Hadas-Lebel has recently argued that Thefarie Velianas was a tyrant, translating the Etruscan *mex θuta* as monarchy, and *zatlaθ* as a man with an axe – *i.e.* *lictor* or *satelles*. This is interesting because it starts from a non-historiographical text, the Pyrgi Tablets, but in a way the more fundamental problem remains that the equation of an Etruscan experience with a Greek model (and one which was in truth rather more diverse in Greece than is sometimes admitted) is rather forced<sup>9</sup>.

The other problem, which is not unique, is the extent to which magistrates with the same name have the same functions. Kings are mentioned in other Latin cities, but the evidence is poor. So there are kings at Alba Longa,

<sup>8</sup> For this division see for instance A. BERNARDI, *Periodo sabino e periodo etrusco nella monarchia romana*, in *Rivista storica italiana*, LXVI, 1954, 5 ff.; ID., *La Roma dei re fra storia e leggenda*, in A. Momigliano - A. Schiavone (eds.), *Storia di Roma*, I, Turin, 1988, 181 ff.; P. DE FRANCISCI, *Primordia Civitatis*, Rome, 1959; maintained in P. CARAFA, *La «grande Roma dei Tarquini» e la città romuleo-numana*, in *BCom.*, XCVII, 1996, 7 ff. Implicitly or explicitly this relates to the Etruscanness of Rome, rejected by T.J. CORNELL, *The Beginnings of Rome: Italy and Rome from the Bronze Age to the Punic Wars (c. 1000-264 BC)*, London, 1995, 151 ff. On the Latin Servius see Liv. 1.39, Dion. Hal. *Ant. Rom.* 4.1-2. On Tarquinius' Greek ancestry, see now C. AMPOLO, *Demarato di Corinto 'bacchiade' tra Grecia, Etruria e Roma: rappresentazione e realtà fonti, funzione dei racconti, integrazione di genti e culture, mobilità sociale arcaica*, in *Aristonothos*, XIII, 2017, 25 ff. On ethnography, see S. BOURDIN, *Les peuples de l'Italie préromaine: identités, territoires et relations inter-ethniques en Italie centrale et septentrionale (VIIIe-Ier s. av. J.-C.)*, Rome, 2012.

<sup>9</sup> J. HADAS-LEBEL, *Thefarie Velianas, la tyrannie étrusque et l'origine du licteur romain*, in *REL* XCV, 2017, 25 ff. See more generally, P. LULOF - C. SMITH (eds.), *The Age of Tarquinius Superbus: Central Italy in the late 6th century BC: Proceedings of the conference The Age of Tarquinius Superbus, A Paradigm Shift? (Rome, 7-9 November 2013)*, Leuven, 2017. On the Pyrgi tablets, see P. XELLA - V. BELLELLI (eds.), *Le lamine di Pyrgi: Nuovi studi sulle iscrizioni in etrusco e in fenicio nel cinquantenario della scoperta (Studi epigrafici e linguistici sul Vicino Oriente antico, 32-33)*, Verona, 2016; M.P. BAGLIONE - L. MICHETTI (eds.), *Le lamine d'oro a cinquant'anni dalla scoperta. Dati archeologici su Pyrgi nell'epoca di Thefarie Velianas e rapporti con altre realtà del Mediterraneo (Scienze dell'antichità, 21.2)*, Roma, 2015. It should be added that there is an entire field of research on the Latin origins of pre-Romulean central Italy, and kingly figures such as Latinus, Picus, Faunus and Evander, which cannot detain us here; an entertaining introduction can be found in T.P. WISEMAN, *The Myths of Rome*, Exeter, 2004, 13 ff.; for a more elaborate and hugely influential presentation see A. BRELICH, *Tre variazioni romane sul tema delle origini*, Rome, 1955.

but since it is demonstrable that the chronology was lengthened after the Romans started to use Eratosthenes to date the Trojan War, so they were clearly invented<sup>10</sup>.

Apart from legendary kings from the time of Aeneas, we hear of some kings at the time of Romulus. Acron of Caenina is killed by Romulus to give rise to the story of the *spolia opima* for instance<sup>11</sup>. Corniculum at least had an aristocracy because the Roman story of Servius Tullius' origins makes him the son of a *princeps*<sup>12</sup>. According to Dionysius of Halicarnassus, Spusius Vecilius of Lavinium became *strategos* of the Latins alongside Ancus Publicius of Cora during a war with Rome 'with absolute power in war and peace'<sup>13</sup>. Lucerus of Ardea appears in what we call the antiquarian tradition; according to Festus he was Romulus' ally against the Sabines, and founded the tribe of the Luceres<sup>14</sup>.

The problem with this evidence is that it is at least as likely – I would say much more likely – that the sources deployed the structure that they found for Rome. It is not independent evidence.

The problem is not improved when one turns to Etruria. It is true that Servius says that each Etruscan city had a *lucumo*. But he also applies the same term to the heads of the *curiae* at Mantua<sup>15</sup>. And the Lucerus at Ardea which I mentioned is almost certainly the same person as the Lucumo mentioned by Livy and Dionysius of Halicarnassus, and turned by Propertius into a Greek (Lycmon or Lycomedius)<sup>16</sup>. We do not need to work our way through this; it is not self-evident that a *lucumo* is a *rex*, and arguing that one is the translation of the other leaves huge problems – what kind of translation is this and from what date?<sup>17</sup> And finally, the sources do tend to call Lars Porsenna a *rex* at Clusium but then what other word could they have had for him?<sup>18</sup> This is not to say that the Etruscans did not have similar kinds of hierarchical offices, but there is no independent evidence for an unbroken sequence of kings which can be used to support the traditional Roman narrative.

<sup>10</sup> D. FEENEY, *Caesar's Calendar: Ancient time and the beginnings of history*, Berkeley, 2007; A. GRANDAZZI, *Alba longa, histoire d'une légende : recherches sur l'archéologie, la religion, les traditions de l'ancien Latium*, Rome, 2008, 731 ff.; S. KYRIAKIDIS, *The Alban kings in the « Metamorphoses »: an Ovidian catalogue and its historiographical models*, in D. Levene - D. Nelis (eds.), *Clio and the poets: Augustan poetry and the traditions of ancient historiography*, Leiden, 2002, 211 ff.

<sup>11</sup> Liv. 1.10; Plut. *Rom.* 16.

<sup>12</sup> *Supra* nt. 5.

<sup>13</sup> Dion. Hal. *Ant. Rom.* 3.34.3.

<sup>14</sup> Fest. p. 106 Lindsay.

<sup>15</sup> Serv. *In Verg. Aen.* 2.278, 8.65, 8.475.

<sup>16</sup> Liv. 1.34; Dion. Hal. *Ant. Rom.* 3.46-9; Prop. 4.1.29; 4.2.51.

<sup>17</sup> M. CRISTOFANI, *«Lucumones, qui reges sunt lingua Tuscorum»*, in *Archeologia Classica*, XLIII, 1991, 553 ff.

<sup>18</sup> Liv. 2.9.1.

If we try to assess the nature of Roman kingship from internal Roman evidence, we have the inscriptions mentioned above, which encourages us to look at the Comitium and the Regia. The Lapis Niger inscription is famously incomplete and obscure. The apparent connection between the king and the assembly, visible in the location and the reference to a *calator*, one who summoned the *comitia calata*, the assembly of *curiae*, is suggestive. Is it specifically political? In the absence of the rest of the inscription, we cannot really say, but assemblies gathered for numerous reasons, and some of them were calendrical, which is within the remit of the *rex sacrorum*, to whom we shall return<sup>19</sup>.

The Regia too provides interesting evidence of course and has been well studied recently by Michel Humm, and we shall know more when Nicola Terrenato and Paolo Brocato have concluded their restudy of Brown's work<sup>20</sup>, but it does seem that we need to be very careful about extrapolating from the name *Regia*, necessarily attested only later, to institutional structures of the archaic period. The complex of sites between the Regia, *domus publica* and area of the Vestals is larger and of longer duration<sup>21</sup>. The specific function of the so-called Regia and indeed its architectural form, are now in need of rethinking, which will impact on that famous inscription. It remains the case that the *rex* for whom the *Regia* may have existed may have been a *rex sacrorum*<sup>22</sup>.

Put at its starkest, there is the possibility that first we do not know what a *rex* was originally, second we have no good evidence that there was an analogous office anywhere else in the seventh and sixth centuries BC, and until we can say what we think a *rex* was, we cannot say that it was or was not like a *lucumo* for instance, which we also cannot define. Our only method is to proceed through narrative sources which are profoundly untrustworthy. For the most part, we tend to believe in kings in early Rome, if we believe in them at all, because it would be odd not to have a phase of monarchy in a Mediterranean city-state.

The move we can then make is to say that a king was not a king. It is obviously the case that the modern connotations of the word are inappropriate<sup>23</sup>. But stripping this away does not get us very far. The question that lingers

<sup>19</sup> See R.E.A. PALMER, *The king and the comitium: a study of Rome's oldest public document*, Wiesbaden, 1969; E. TASSI SCANDONE, *Sulla natura della «lex» del «Niger Lapis»: alcune considerazioni preliminari*, in *Index*, XLIV, 2016, 73 ff.

<sup>20</sup> P. BROCATO - N. TERRENATO, *Nuovi studi sulla Regia di Roma*, Cosenza, 2016.

<sup>21</sup> A. CARANDINI - P. CARAFA - M.T. D'ALESSIO - D. FILIPPI, *Santuario di Vesta, pendice del Palatino e Via Sacra: Scavi 1985-2016*, Rome, 2017.

<sup>22</sup> M. HUMM, *La Regia, le rex sacrorum et la Res publica*, in *Archimède: archéologie et histoire ancienne*, IV, 2017, 129 ff.

<sup>23</sup> See on kings generally, F. OAKLEY, *Kingship*, Malden, 2006; D. GRAEBER - M. SAHLINS, *On Kings*, Chicago, 2017.

uncomfortably is whether ancient writers had the faintest idea what a *rex* was. And this is indeed the kind of point which Peter Wiseman makes when he says that Livy did not have a clue about early Rome, and the little evidence he had he ignored<sup>24</sup>.

Yet if we transposed ourselves into a different scholarly discourse, that of modern public lawyers, this would seem very strange. The textbook version offers us a picture of the king as a precursor to the consulship<sup>25</sup>. The unitary powers of the king are divided – in the most sophisticated version, the religious powers go to the *rex sacrorum* before the end of the regal period, and the military powers to the consuls, or whatever mix of magistrates around the figure of the *praetor maximus* one chooses to have<sup>26</sup>.

What might offer the most security as to the nature of ancient kingship would be a neat succession and distribution of powers, but this is itself the product of assumptions based on unreliable sources.

Just to focus on this for a moment, the number of incompatible stories that cluster around 509 BC both attest to the fact that there probably was a really significant change, but also that it was, as one might have expected, not smooth<sup>27</sup>. There is a specific and largely insoluble problem over the early magistracy. The developed Roman tradition sees two consuls replace the king, and this would seem to be backed up by the Fasti. The problems of the early Fasti are enormous however, and Livy also preserves reference to a *praetor maximus*. Some scholars have therefore abandoned the idea of the consulship as the immediate successor to the kings and argued for a variety of alternatives, including an annual chief magistrate, or a differently shaped college of magistrates<sup>28</sup>.

Another approach would be to argue that already in the sixth century, the Romans had moved away from a single dominant king, and already had a number of different roles, one of which was the *rex sacrorum*, whose

<sup>24</sup> T.P. WISEMAN, *Unwritten Rome*, Exeter, 2008, 18.

<sup>25</sup> On the legal position of the king, TH. MOMMSEN, *Römisches Staatsrecht*, third edition, Leipzig, 1887-8, II, 3 ff.; modern accounts, P. CERAMI - A. CORBINO - A. METRO - G. PURPURA, *Ordinamento costituzionale e produzione del diritto in Roma antica: I fondamenti dell'esperienza giuridica occidentale*, Naples, 2001, 16 ff.; G. MANCUSO, *Profilo pubblicistico del diritto romano*, Catania, 2002-3, I, 23 ff.

<sup>26</sup> *Praetor maximus*: Liv. 7.3, and see *infra*.

<sup>27</sup> T.P. WISEMAN, *Roman Republic: year one*, in *G&R*, XLV, 1998, 19 ff. Also demonstrated, in a completely different way, by D. BRIQUEL, *Mythe et révolution: la fabrication d'un récit: la naissance de la république à Rome*, Brussels, 2007.

<sup>28</sup> See various solutions and references to the immense literature in H. BECK - A. DUPLÁ - M. JEHNÉ - F. PINA POLO (eds.), *Consuls and res publica: holding high office in the Roman Republic*, Cambridge, 2011.

priestly functions depoliticised the office. So there was no unitary office of king from which to derive the Republican magistracies<sup>29</sup>.

Nor are these positions mutually exclusive. It is entirely possible that the Romans had a much more complex political system in the sixth century than we can easily derive from the sources, and that the beginning of the Republic saw far more innovation and trial and error than is preserved in the smoothed out versions which have survived.

What then of the idea that Romans hated the very name of a king from the moment that Tarquinius Superbus was expelled?<sup>30</sup> This too is an idea which has come under sustained pressure. The clearest exposition of this viewpoint is in Cicero, but Federico Russo in a super article on kings in drama has shown that we can see some sense of this in dramatic performances in the late 3<sup>rd</sup> and early 2<sup>nd</sup> centuries BC<sup>31</sup>. For the most part the presentation of the kings is positive, but tragedy in particular has to reckon with the damage potentially done by a tyrant to community. That however comes through strongly from the Greek, and so we still need to differentiate between character and institution. In other words, it is not clear how far *regnum* is bad and how far individual exemplars are bad. The tension between the wise king in Naevius' *Romulus* and Pacuvius' lines *omnes, qui tamquam nos serviunt / sub regno, callent domiti imperium metuere* ('All who, like us, are slaves under dominion, are tamed and hardened to respect commands')<sup>32</sup> cannot be reduced to a chronological development of a hatred for kingship. The fact that the phrases are all out of context, the necessity to translate the original Greek emotions, and the consequence of choosing to bring Greek models into the Roman world are just some of the factors that complicate our interpretations.

Russo's sustained argument over some years now that late third and early second century BC discussions about magistrates such as Flaminius, Fabius Maximus and Scipio Africanus influenced a complex and nuanced view of kingship is to my mind convincing<sup>33</sup>. The dynamic by which this happened is informed by two critical intellectual matrices. The first is exemplarity, which Matthew Roller has recently brilliantly discussed and which I suspect is very deep in central Italic culture<sup>34</sup>, and the second is the theory of the

<sup>29</sup> See recently T.J. CORNELL, *Crisis and deformation in the Roman republic: the example of the dictatorship*, in V. GOUSCHIN - P.J. RHODES (eds.), *Deformations and Crises of Ancient Civil Communities*, Stuttgart, 2015, 101 ff.

<sup>30</sup> Cic. *De Rep.* 2.52.

<sup>31</sup> F. RUSSO, *Tyrants and Kings in the Latin Theatre (from Naevius to Accius)*, in *Erga-Logoi*, V, 2017, 87 ff.

<sup>32</sup> Pacuv. fr. 57 Schierl = 90-91 D'Anna (= Non. p. 257.53 Lindsay).

<sup>33</sup> F. RUSSO, *L'odium regni a Roma tra realtà politica e finzione storiografica*, Pisa, 2015.

<sup>34</sup> M. ROLLER, *Models from the Past in Roman Culture: A World of Exempla*, Cambridge, 2017. Roller's work develops a substantial theme of previous scholarship, especially in German scholarship; see for example K.-J. HÖLKESKAMP, *Exempla und mos maiorum: Über-*

mixed constitution, which we see directly applied to Rome by Polybius, but was of course already prefigured by the idea of the cycle of constitutions which goes back much further<sup>35</sup>. To this I want to add a third, which is Roman observation of and reflection on contemporary magistracies.

On exemplarity, Ayelet Haimson Lushkov argued very interestingly for the sequence of magistrates and the problems of competition being in and of itself a sort of exemplum<sup>36</sup>. That argument is very dependent on the evolved notion of annalistic history, but it attractively takes us beyond the individual story, which has tended to be the focus of study of exemplarity. Roller's work develops the story into a paradigm, a cycle of action, followed by evaluation, commemoration, and imitation or norm setting. We can see this at three levels – in the Roman respect for their elders in real-time, in their interest in the past and the reiteration of models of exemplary virtue, and in the way historians represent actors in the past observing and learning in their own real-time from exemplary action and evaluation. The notion of managing competition within this paradigm is also addressed by Neel in her book on dyadic rivalry, or ways in which co-operation becomes competition, and one competitor has to be eliminated. This pattern is one, but not the only, mechanism of conflict mechanism, and Neel may be right that it becomes more popular in the Augustan period, whereas the Republican period may have prized competition in crisis rather more, a point argued by Amy Russell in her account of the tribunes of the *plebs*<sup>37</sup>.

My argument here is that if we accept that Roller's paradigm has a deep relevance, and if we can extend it beyond individual stories to institutional structures, we may arrive at a more dynamic background to the reception of

*legungen zum kollektiven Gedächtnis der Nobilität*, in H.-J. Gehrke - A. Möller (eds.), *Vergangenheit und Lebenswelt*, Tübingen, 1996, 301 ff. and U. WALTER, *Memoria und Res Publica. Zur Geschichtskultur im republikanischen Rom*, Frankfurt, 2004. For a radical argument on the role of song, see T. HABINEK, *The World of Song: From Ritualized Speech to Social Order*, Johns Hopkins, 2005; for exemplarity and rhetoric, H. VAN DER BLOM, *Historical exempla as tools of praise and blame in Ciceronian oratory*, in C. Smith - R. Covino, (eds.), *Praise and Blame in Roman Republican Rhetoric*, Swansea, 2011, 49 ff. The Italic context is hard to identify from the fragmentary evidence, but ways in include M. MENICETTI, *Quoius forma virtutei parisuma fuit ... : ciste prenestine e cultura di Roma medio-repubblicana*, Rome, 1995 and M. DI FAZIO, *Figures of Memory. Aulus Vibenna, Valerius Publicola and Mezentius between History and Legend*, in K. Sandberg - C. Smith (eds.), *Omnium Annalium Monumenta: Historical Writing and Historical Evidence in Republican Rome*, Leiden, 2018, 322 ff.

<sup>35</sup> K. VON FRITZ, *The Theory of the Mixed Constitution in Antiquity: A Critical Analysis of Polybius' Political Ideas*, New York, 1954; A.W. LINTOTT, *The theory of the mixed constitution at Rome*, in J. Barnes - M. Griffin (eds.), *Philosophia togata, 2, Plato and Aristotle at Rome*, Oxford, 1997, 70 ff.

<sup>36</sup> A. HAIMSON LUSHKOV, *Magistracy and the Historiography of the Roman Republic: Politics in Prose*, Cambridge, 2015.

<sup>37</sup> A. RUSSELL, *The Tribunate of the Plebs as a Magistracy of Crisis*, in V. Gouschin, P.J. Rhodes (eds.), *Deformations and Crises of Ancient Civil Communities*, Stuttgart, 2015, 127 ff.

the idea of a mixed constitution. The Polybian model is a snapshot of a moment when the machinery of the Roman system was, he claimed, in perfect tension. This cannot however have been the immediate product of the expulsion of Tarquinius Superbus, since the sources are unanimous in describing the problems of the struggle of the orders. It emerged over time. What sorts of thinking may have prompted this development? At least some of it may have been reflection on the broader notion of kingship and law.

The notion that the Romans were pragmatic rather than philosophical is deeply rooted in modern scholarship, but it has come under challenge. The Romans had a sufficiently developed notion of law to codify their practice in the mid-fifth century. By the fourth century at the latest they were making complex decisions about sharing office. They had imported Greek gods, and traded with the Greeks of Magna Graecia, and archaeology is revealing more and more of the influence of Greek art on Rome in the fourth century, which would accelerate in the third century BC. Is it possible that a more philosophical approach to the problem of kingship may have existed in Rome's cultural ambit as Rome developed notions of its own evolving constitutional settlement?

I want to introduce here the fascinating topic of the philosophy of Archytas of Tarentum, 428-347 BC traditionally, whose works have caused huge controversy because many are later than his own time. Recently Philip Horky and Monte Ransome Johnson have reconsidered the fragments on law and justice which are preserved in Stobaeus, arguing that they may come from an early biography (probably not Aristoxenus' but not much later) and that they reflect Archytas' thought in perhaps the same way as Plato's dialogue on Protagoras presents the thought of the great man<sup>38</sup>. In other words, it may be a distortion, but it may not be a massive distortion and it may be early. We cannot prove that this was circulating in Italy, of course, but the closer it is to Archytas' views, the more likely that the general ideas were in motion across at least southern Italy, and the connection between Rome and Tarentum needs no further illustration.

Here are some of the fragments, in Horky and Ransome's translations

#### Fragment 1

From *On Law and Justice* of Archytas, a Pythagorean. The law's relation to the soul and life of a human being is the same as attunement's relation to hearing and vocal expression. For, whereas the law educates his soul, it also organizes his life; likewise, whereas attunement makes his hearing comprehensible, it also makes his vocal expression agreeable. I, for my part, declare

<sup>38</sup> P.S. HORKY - M. RANSOME JOHNSON, *On Law and Justice attributed to Archytas of Tarentum*, in D. Wolfsdorf (ed.), *Early Greek ethics*, Oxford (forthcoming).

that every community is constituted of ruler, ruled, and thirdly, laws. Of laws, one, the animate, is a king, but the other, the inanimate, is written. Thus law is primary; for by means of it, the king is lawful, the ruler is compliant, the man who is ruled is free, and the whole community is happy. And in contravention of this <sc. law> the king is tyrannical, and the ruler noncompliant; and the man who is ruled slavish, and the whole community unhappy. For the affairs of state are strung together out of ruling, being ruled, and, thirdly, mastering. For ruling is suitable to the better, and being ruled to the worse, and being master to both. For the part of the soul that has reason rules, and the irrational part of the soul is ruled, and both are master of the emotions. For virtue is produced out of the mutual adjustment of each, and it leads the soul away from pleasure and pain to peace and absence of emotional suffering.

### Fragment 3

In the same work. The law is beneficial to the political community, if it is neither rule by an individual, nor in the service of private interest, but rather in the public interest, and extended to all. And the law should have regard for both place and location; for neither is a ground able to receive the same fruit, nor the soul of a human being the same virtue. That is why some people adopt aristocratic justice, others democratic justice, and others oligarchic justice. Aristocratic justice is established according to the subcontrary mean. For this proportion distributes a greater part of the ratio to the greater, and a lesser part of the ratio to the lesser. Democratic justice is established according to the geometric mean. For in the geometric mean the ratios of the magnitudes are equal for the greater and the lesser. And oligarchic and tyrannical justices are established according to the arithmetic mean, for it stands opposed to the subcontrary, in that a greater part of the ratio is distributed to the lesser, and a lesser part of the ratio to the greater. These, then, are how many of forms of distribution there are, and their manifestations are observed in political constitutions and households. For honors, punishments, and rule are distributed either equally to the greater and the lesser, or unequally, by virtue of superiority with respect to virtue, wealth, or even power. Thus, democratic justice distributes equally, whereas aristocratic or oligarchic justice distributes unequally.

### Fragment 4a

In the same work. The better law and state should be a synthesis of all the other political constitutions, and have something of democracy, something of oligarchy, something of kingship, and of aristocracy, just as it is in Sparta as well. For their kings <are the portion> of the monarchy, the elders of the aristocracy, the ephors of the oligarchy, and the cavalry officers and the boys of the democracy. Accordingly, the law should not only be good and noble, but also reciprocated in its portions, for this <sc. law> is strong and durable. And by “reciprocated” here I mean that the rule itself both rules and is ruled by it

<sc. law>, just as Sparta, which has the best laws, as well. For the ephors counterbalance the kings, and the elders counterbalance them <sc. the ephors>, and the cavalry officers and boys are in the middle. For, in the case that some of the rulers who get more than their fair share preponderate, they are enjoined by the others.

#### Fragment 5

The true ruler should not only be knowledgeable and effective with respect to ruling well, but also humane. For it would be absurd if a herdsman were to hate cattle and be the sort to be ill-disposed towards his own livestock. And he should, too, be lawful, for by having the superintendence of the ruler he will be this way. For through his knowledge he will be able to judge <them> correctly; and through his power he will be able to punish <them> correctly; and through his being extremely useful he will be able to benefit them; and through the laws he will be able to do all these things to them relative to reason. And the one nearest to the law would be the best ruler. And he would be the one who acts not for the sake of himself but for the sake of those under him, since, in truth, the law does not even exist for his sake, but rather for the sake of those under him.

These texts have been deployed usefully by Michel Humm in his account of the political world of Appius Claudius Caecus, and the forthcoming edition which reaffirms an early date is supportive of his general point that the concept of balancing the community through application of *logismos* or calculation was available in the middle Republic<sup>39</sup>. At present, we have no way of knowing how, when or even if Archytas was read or discussed at Rome, but it would be sufficient for my argument if we could imagine that these sorts of conceptions of the relationships between rulership, law, reason and community were informing Roman ideas.

At least by 300 BC there can be no dispute that the Romans had developed an annual sharing of imperium and a hierarchy of office, and there is also the evidence for the *lex Ovinia* which sought to manage in a more equitable way the construction of the senate<sup>40</sup>. How they got to that is a difficult story, but at least the story which we see them telling themselves is that the debates were about division and multiplication. Apart from the dictatorship (and that is a more complex issue as we shall see), and some very specific lifelong religious offices, the principle is to divide power and privilege and to preclude the simultaneous aggregation of offices by individuals or single

<sup>39</sup> M. HUMM, *Appius Claudius Caecus: la République accomplie*, Rome, 2005, esp. 529 ff.

<sup>40</sup> T.J. CORNELL, *The Lex Ovinia and the emancipation of the senate*, in C. Bruun (ed.), *The Roman middle Republic: Politics, Religion, and Historiography, c.400-133 B.C.: Papers from a Conference at the Institutum Romanum Finlandiae, September 11-12, 1998*, Rome, 2000, 68 ff.

families. This holds regardless of whether one believes that the consulship was early or not.

Amongst the religious offices the *rex sacrorum* has attracted much recent attention, including a book by Edoardo Bianchi. I am nervous about the attestations of the office in Latium especially in the early imperial period, and wonder if they are perhaps inventions, but there seems little doubt that the office at Rome was old, and quite prominent. As Fay Glinister writes, the *rex sacrorum* was ‘a key religious official who would have been operating both in private and before the eyes of Rome’s inhabitants on a regular basis’<sup>41</sup>.

However as an official who held highly significant religious authority, he was also heavily bound by restrictions: he could not hold political or military office, could not address the people, may have had restrictions on his movement, diet and clothing, and had to be a patrician. There is no good reason to argue against the usual interpretation that these restrictions reflect the nervousness over kingship, but it would not be wholly surprising were we ever to discover that they grew by aggregation over time. What remains key is that, especially if our previous suggestions that the *rex sacrorum* was already in existence in the 6<sup>th</sup> century BC are correct, the office is a visible tool with which the Romans are able to think through what a king might or might not be, long before the creation of the historiographical record. Together with the Regia, the obscure festival of the *Regifugium*, and the two days a year when the *rex* sacrificed in the *comitium* (QRCF), there was a bundle of permissive, official and admonitory lessons to be drawn from seeing a kind of king in action.

The other magistracy which was repeatedly said to come close to regal powers is the dictatorship. This office has always been a real problem. In a recent article, which is itself quite ground-breaking, Tim Cornell noted that research on the dictatorship had somewhat stalled; in his last note he refers to Fred Drogula’s important discussion which was produced independently, and since then we have two large volumes of essays edited by Luigi Garofolo, in which Cornell’s article is not referenced. What I want to ask at this point is where have these significant interventions taken us, and what might we learn about Roman thought on the office of kingship?<sup>42</sup>

<sup>41</sup> E. BIANCHI, *Il rex sacrorum a Roma e nell’Italia antica*, Milan, 2010, rev. 2017; F. GLINISTER, *Politics, power, and the divine: the « rex sacrorum » and the transition from monarchy to republic at Rome*, in *Antichthon* LI, 2017, 59 ff.

<sup>42</sup> T.J. CORNELL, *Crisis and Deformation in the Roman Republic: the Example of the Dictatorship*, in V. Gouschin, P.J. Rhodes (eds.), *Deformations and Crises of Ancient Civil Communities*, Stuttgart, 2015, 101 ff.; F. DROGULA, *Commanders and Command in the Roman Republic and Early Empire*, Chapel Hill, 2015; L. GAROFALO (ed.), *La dittatura romana*, Naples, 2017.

It seems to me that there are three key sets of facts:

1. The dictatorship was at one stage called the *magister populi* according to Cicero and others, and this office was quite possibly in existence in the regal period. It would explain the office which Servius Tullius held under the king. It appeared again early in the Republic, although the early instances are disputed. It was not collegial and seemed to be strongly military. It permitted the use of *imperium* inside the city, but however great the dictator's authority, there were some restraints on his power outside the army, notably through the tribunes<sup>43</sup>.
2. Different kinds of dictatorships started to appear more frequently in the middle Republic. These include *rei gerundae causa*, *seditionis sedandae causa*, *clavi figendi causa*, *comitiorum habendorum causa*, *Latinarum feriarum causa*. From c. 300 BC on, the dictatorship is almost always for the purposes of elections or political action, not military activity<sup>44</sup>.
3. There were dictators also in the Latin cities and the relationship between the Roman and the Latin dictatorship is extremely unclear though endlessly debated. Later Latin dictators have a solely religious function<sup>45</sup>.

The identification of the *magister populi* with the dictatorship is largely accepted, but why did the name change? The influence of the Latin office has often been cited, and Ridley argues I think for the dictatorship as a new office to face directly the Latin dictator, but this is not clear cut; most Latin military leaders are called *praetor*, and in a key passage of Cato relating to the organization of the Latin league, the better manuscript tradition refers to a *dicator* not a *dictator*<sup>46</sup>.

<sup>43</sup> Cic. *De Rep.* 1.63, *De Legib.* 3.9; Fest. p. 216 Lindsay. See G. VALDITARA, *Studi sul magister populi: dagli ausiliari militari del rex ai primi magistrati repubblicani*, Milan, 1989. On *imperium*, see J. RÜPKE, *Domi militiae: Die religiöse Konstruktion des Krieges in Rom*, Stuttgart, 1990; F. DROGULA, *Commanders*, cit., 118 ff. The *lex Valeria* of 300 BC makes the dictator's power subject to *provocation* within the city; see esp. F. PROCCHI, *Dittatura e 'provocatio ad populum'*, in L. Garofalo (ed.), *Dittatura*, cit., 183 ff. T.J. CORNELL, *Crisis*, cit. p. 121 makes the crucial point that the dictators were largely military officers, therefore exempt from provocation anyway until the second century BC, and none is ever said to have executed a citizen. There is one exception, Servilius Ahala executing Sp. Maelius through his *imperium* as *magister equitum*, Liv. 4.13.12.-16.1, cf. Dion. Hal. *Ant. Rom.* 12.4.2-5, dismissed as later justification at p. 112, and see L. Cincius Alimentus (fr. 4 Cornell), with commentary at T.J. Cornell (ed.), *The Fragments of the Roman Historians*, III, Oxford, 2013, 51-3 (Cornell and Bispham).

<sup>44</sup> On the evolution of the office, see T.J. CORNELL, *Crisis*, cit.; A.W. LINTOTT, *The Constitution of the Roman Republic*, Oxford, 1999, 109 ff.; M.E. HARTFIELD, *The Roman Dictatorship: Its Character and its Evolution*, PhD thesis, Berkeley, 1982.

<sup>45</sup> See now C. PELLOSO, *Il 'dictator negli assetti magistratuali italici'*, in L. Garofalo (ed.), *Dittatura*, cit., 427 ff., for an exhaustive account and extensive bibliography.

<sup>46</sup> Cato fr. 36a Cornell; T.J. Cornell (ed.), *Fragments*, cit., 83 (Cornell).

Modern scholars sometimes believe the Latin dictator to be an annual office on the sole evidence of Licinius Macer as cited by Dionysius of Halicarnassus, describing the constitution of Alba Longa<sup>47</sup>. The reference is to Cluilius and Mettius Fufetius, and Livy at any rate thought that Cluilius was a king<sup>48</sup>. My guess is that the situation was rather more fluid. It would be natural that in smaller communities, powersharing across elites would have still led to even more repetition of office than at Rome.

What all three independent sets of research have underlined is the importance of seeing the office of dictator within its own mid-Republican terms, divorced from the huge impact of the late Republican dictatorship. Sulla and his successors utilise an old title for something really quite different, and this clearly impacted on the historiographical presentation. So Livy and Dionysius of Halicarnassus present the office as likely to oppress the *plebs*, but in fact the office is largely consensual when it operates politically. Although sometimes represented as a crisis magistracy, actually many dictators are either supplemental to other military commanders, or perform rather routine tasks. And, rather extraordinarily for an office which theoretically had huge power, it was not said to have been used in this way in the archaic or middle Republic. Dictators are reluctant, they abdicate and stand down<sup>49</sup>, they abide by the time limit of the office.

Insofar as the dictatorship imitated kingship, it did so in a limited and rather constitutionally respectful way. The dictatorship is very much under the law, in Archytas' terms. The highly constitutional nature of the dictatorship is what comes across from the sources, despite their evident influence from later dictatorships – in other words, the gloss is of a terrifying office, the reality is, in Cornell's words, 'relatively benign and unusually effective'<sup>50</sup>. Moreover, the dictatorship shares with kingship a parallel development, partly military and political, partly religious, and that is especially visible in the Latin case<sup>51</sup>. This suggests potentially therefore a rather interesting trope, and perhaps a structural aspect of ancient power. The use of religious restrictions to delimit the range of authority of a powerful office may have been a communal decision, or a remedy imposed by an external power. Whether or not Roman historians were conscious of this is unclear, but they

<sup>47</sup> Licinius Macer fr. 15 Cornell (=Dion. Hal. *Ant. Rom.* 5.74.4).

<sup>48</sup> Liv. 1.22.7, 23.4, 23.7; see T.J. Cornell (ed.), *Fragments*, cit., 430 (Oakley).

<sup>49</sup> A. TRIGGIANO, *L'abdicatio' del 'dictator'*, in L. Garofalo (ed.), *Dittatura*, cit., 381 ff.

<sup>50</sup> Liv. 2.18.8-9; 29.11; 30.5; 3.29.6; 6.28.4; 38.9; 9.26.7; cf. T.J. CORNELL, *Crisis*, cit. 101.

<sup>51</sup> C. PELLOSO, *Dictator*, cit.; the key example is the *dictator ad sacra* at Alba Longa, *CIL* VI 2161, and the complex development of the role at Tusculum and Lanuvium. See for Lanuvium, P. GAROFALO, *Lanuvio: Storia e istituzioni in età romana*, Tivoli, 2014. On Latin religion more generally, see C. DI FAZIO, *Latinorum Sacra: Il sistema religioso delle città latine: luoghi, culti, pratiche*, Rome, 2019.

did not express it explicitly and it has taken modern scholarship some time to discover these patterns. I therefore wonder whether we may glimpse here a very old way of thinking, which informed the Roman understanding without ever being formulated. At any rate, the rather clearer sense that the dictatorship is an office whose limitations were highly respected is clear. The dictatorship thus offers remarkable evidence for mid-Republican Romans, and possibly Latins more generally, thinking about power and office in ways which prefigure the constitutional arrangements described by Polybius.

Now we have a set of hypotheses or questions.

1. We are not really sure what a *rex* was in the 7<sup>th</sup> or 6<sup>th</sup> century BC nor that the later sources had a clear idea of it.
2. We have found traces of the capacity to be critical of kingship, but in a nuanced fashion, as far back as the last quarter of the 3<sup>rd</sup> century BC
3. We have suggested that it is not inconceivable that sophisticated discussion of the necessary balance between elements of the constitution, and the constraining power of law, was taking place as early as the fourth century BC in Italy; and we have invoked Humm's speculation that this may have reached Rome.
4. One office which has a potential for unrestricted and unbalanced power is the dictatorship. This too, at least in the Roman context, is represented as having been distinctly circumscribed, regularised and subject to the law.
5. Another office which looks like it might genuinely date back to the regal period is the *rex sacrorum*. This was not a religious fossil, but a very visible office to the Romans.

Can we link this together?

Whatever happened around 500 BC in Rome, it seems to have left a contradictory legacy. There are hints that institutionally the Romans rather preferred division and multiplication of power to concentration in the hands of a single individual, but at the same time the principles of exemplarity and emulation will have encouraged a degree of individual prowess<sup>52</sup>.

What was the process by which this tension became embedded in processes of regulation? One part of the answer might be the provocation which came from the military clash with the Latins and the increasing need to think hard about magistracies. For Rome, managing magistracies acquired new challenges in the fourth century. Paradoxically the defeat of the Latins was accompanied by Latins acquiring office – the Plautii are an early example,

<sup>52</sup> M.B. ROLLER, *Models from the Past in Roman Culture: A World of Exempla*, Cambridge, 2018; and Cato the Elder's reference to *carmina convivalia*, Cic. *Tusc.* 4.2.3; Varro *apud* Non. p. 77.2 Lindsay.

but by no means the only one<sup>53</sup>. Plebeian demands for office were growing, and we can see this both as a lateral opening to non-Romans and a social shift to Romans without a patrician background. The number of magistracies at the lower end was increasing. The willingness to hand power over to a dictator was diminishing. The desire to have a strong senate was challenging the power of the annual magistracy.

Placed in the context of the more philosophical ideas we have cited from Archytas, it is striking that the Romans stick increasingly firmly to the idea of annual magistrates, and avoid accumulation in any given year of consulships by a single family, as well as managing distribution of priestly office. My suspicion is that the rules for the *dictator* and for the *rex sacrorum* perhaps became ever more stringent, and it is possible that this also reflects a difference from or a simultaneous evolution of the circumstances in Latium. We have floated the idea that the redefinition of a strong office as a religious one, operating under constraint, may have been an ancient way of managing power.

The obverse of deciding how to manage magistracies may have been the increasing recognition of what was potentially wrong with kingship, a process which was then made more complex by the encounter with Pyrrhus<sup>54</sup>. It is clear that Pyrrhus presented an experience of aggressive expansion which was potentially damaging to how the Romans came to see their interests. This experience would be repeated and reinforced by the apparent Roman personalization of Carthaginian activity as an extension of Barcid family views<sup>55</sup>.

This works both ways, which is the critical contribution of Russo's balanced arguments. The early regal conquests we located in Latium and the Sabina, which are also areas of expansion and conquest in the later 4<sup>th</sup> century BC. Roman kings begin a process which Roman magistrates conclude. There was no doubt some bleeding later from one narrative into the other. One piece of evidence has been adduced for an argument which relates to the

<sup>53</sup> N. TERRENATO, *Private Vis, Public Virtus. Family agendas during the early Roman expansion*, in T.D. Stek - J. Pelgrom (eds.) *Roman Republican colonization: new perspectives from archaeology and ancient history*, Rome, 2014, 45 ff.; more generally, N. TERRENATO, *The Early Roman Expansion into Italy: Elite Negotiation and Family Agendas*, Cambridge, 2019.

<sup>54</sup> R. ROTH, *Pyrrhic Paradigms: Ennius, Livy, and Ammianus Marcellinus*, in *Hermes*, CXXXVIII, 2010, 171 ff.; A. KUBLER, *Pyrrhus et Hannibal: deux figures de la peur de l'ennemi à Rome?*, in S. Coin-Longeray - D. Vallat (eds.), *Peurs Antiques*, Saint Etienne, 2015, 301 ff.; S. PITTIA, *L'identità italiana au temps des guerres romano-pyrrhiques*, in A. Colombo - S. Pittia - M.T. Schettino (eds.), *Mémoires d'Italie: identités, représentations, enjeux (Antiquité et Classicisme): à l'occasion du 150e anniversaire de l'Unité italienne (1861-2001)*, Como, 2010, 67 ff. On Pyrrhus generally, see T. HACKENS (ed.), *The age of Pyrrhus: Papers delivered at the international conference (Brown University, 8-10 April, 1988)*, Providence, 1992; S. PÉRÉ-NOGUÈS (ed.), *Sicile antique - Pyrrhus en Occident (Pallas, 79)*, Toulouse, 2009; *La magna Grecia da Pirro ad Annibale: Atti del cinquantaduesimo Convegno di Studi sulla Magna Grecia, Taranto 27-30 settembre 2012*, Taranto, 2015.

<sup>55</sup> Fab. Pict. fr. 22 Peter (= Polyb. 3.8.1-8).

derivation of authority, and that is the revisiting at Lavinium of an archaic tomb, which has been identified as what was later regarded as the heroon of Aeneas. The monumental intervention in the fourth century may have been a Latin claim, or a Roman one, but in either case, it indicates that in the fourth century BCE, the Aeneas story could operate towards the legitimation of claims of a deep history. Unfortunately, this complex argument now looks much weakened; the evidence for an inscription to Lare Aineia has fallen; and the tomb may be in the wrong place<sup>56</sup>. What may remain is some sort of familial or individual argument made in the language and in the context of historical descent as a legitimation of power. Such arguments may be dimly visible in mythological arguments elsewhere<sup>57</sup>.

The development of the pontificate, the publication of the calendar, and of law, belong to the same period. Specifically, we may think of this as the beginning of the process that would lead to the identification of these fields as distinct areas of intellectual activity, a subject much studied by Rüpke; but at this stage, in the fourth century, the key issues are around openness and accountability, albeit within the limitations of the time<sup>58</sup>. And this is also the moment at which the concept of the magistracy becomes most in need of definition and regulation, when we begin to see the dangerous potential of powerful individuals amongst the *nobilitas*, but also the strong emphasis on senatorial consensus, however imperfectly achieved<sup>59</sup>.

<sup>56</sup> See P. SOMELLA, *Das Heroon des Aeneas und die Topographie des antiken Lavinium*, in *Gymnasium*, LXXXI, 1974, 283 ff.; M. TORELLI, *Lavinio e Roma: Riti iniziatici e matrimonio tra archeologia e storia*, Rome, 1984, 5 ff. Scepticism: A. RODRIGUEZ MAYORGAS, *Romulus, Aeneas and the cultural memory of the Roman Republic*, in *Athenaeum*, XCVIII, 2010, 89 ff., with references. Development of the Aeneas story in the landscape of Lavinium: N. PURCELL, *Alla scoperta di una costa residenziale romana: il litus Laurentinum e l'archeologia dell'otium*, in A. Claridge - G. Lauro (eds.), *Castelporziano III*, Rome, 1998, 11 ff. On the inscription, see recently, H. FLOWER, *The Dancing Lares and the Serpent in the Garden: Religion at the Roman Street Corner*, Princeton, 2017, 14 ff.

<sup>57</sup> D. PALOMBI, *Alla frontiera meridionale del Latium vetus. Insediamento e identità*, in J. Crouwel - D. Palombi (eds.), *Il Tempio arcaico di Caprifico di Torrecchia (Cisterna di Latina): i materiali e il contesto*, Rome, 2010, 173 ff.

<sup>58</sup> J. RÜPKE, *Religion in Republican Rome: Rationalization and Ritual Change*, Philadelphia, 2012, 94 ff.; M. HUMM, *Appius Claudius Caecus*, cit.; J.H. VALGAEREN, *The jurisdiction of the pontiffs at the end of the fourth century BC*, in O. Tellegen-Couperus (ed.), *Law and religion in the Roman republic*, Leiden - Boston, 2011, 107 ff.; T. LANFRANCHI, *A propos de la carrière de Cn. Flavius*, in *MEFRA*, CXXV, 2013, 175 ff. On the importance of writing, see P. FIORETTI, « *Scribae* »: *riflessioni sulla cultura scritta nella Roma antica*, in D. Bianconi (ed.), *Storia della scrittura e altre storie*, Rome, 2014, 337 ff.

<sup>59</sup> Classic account in K.-J. HÖLKESKAMP, *Die Entstehung der Nobilität. Studien zur sozialen und politischen Geschichte der Römischen Republik im 4. Jh. v. Chr.*, Stuttgart, 1987; L. LORETO, *Un'epoca di buon senso: decisione, consenso e stato a Roma tra il 326 e il 264 a.C.*, Amsterdam, 1993.

It is of course possible that even if we accept the evidence of the sources that Rome came close to but ultimately avoided kingship in the fifth and fourth centuries, that others did not – and Daniele Maras has rightly pointed to another really important element which is that some Etruscan cities may have returned, albeit briefly, to a form of monarchy. One of the most significant figures in this respect is Camillus, whose complex story with its many vicissitudes is almost a metaphor for the convergence of the sorts of heroic virtues and potential dangers of kings, though it is almost certainly further elaborated in later historiography<sup>60</sup>.

However, instead of placing the kingship as an entirely negative experience, it seems clear that it was integrated into the wider narrative of Roman constitutionalism. Kings were good when kings supported the city. This made their position as proto-magistrates important. When we see families associating themselves with kingship, we should not see them as recklessly self-identifying with a terrible part of Roman history but rather naturalizing the kings within the normative behaviour of the *nobilitas*. It is important to recognise that the claim to be descended from a king is an extraordinary one to make if it is a claim to power above and beyond one's peers, but a much less extraordinary one if it is a claim to be a part of a consistent history of Roman virtue.

The kings then become structurally useful to think with. For instance, Frederik Vervaeet has written a very good book on the *summum imperium auspiciumque*, and the problems that arose when one has several magistrates<sup>61</sup>. The solutions (the *turnus* of the *fascēs* for instance and the role of the *comitia curiata*) seem to me to work well in tandem with the solidification of an idea, in antiquity, of a unitary king whose power was fractioned. In other words, I would like to float the idea that whilst it may be historically inaccurate to assume that the king's power was neatly divided into the power of the early Republican magistrates, it may be actually true that the Romans themselves developed a narrative of continuity at a time when kings were not regarded as consistently problematic. However, it was because kings could be problematic that this thinking included a degree of checks and balances.

The notion of a good or bad king has an evident exemplary quality, and it is precisely because the universal classical view was that the benchmark was, as Archytas may indeed have said, the benefit for the community, that it follows that the king can stand metonymically for the magistrate – and perhaps for the notion of magistracy itself. As we saw, Lushkov argued very interestingly for the sequence of magistrates being in and of itself a sort of

<sup>60</sup> C. BRUUN, "What every man in the street used to know": *M. Furius Camillus, Italic legends and Roman historiography*, in C. Bruun (ed.), *The Roman Middle Republic: Politics, Religion, and Historiography, ca. 400-133 B.C.*, Rome, 2000, 41 ff.

<sup>61</sup> F. VERVAET, *The High Command in the Roman Republic: The Principle of the summum imperium auspiciumque from 509 to 19 BCE*, Stuttgart, 2014.

exemplum. That argument however is very dependent on the evolved notion of annalistic history. Focusing through the much more graspable figure of a king was much easier. Moreover, the problems which were being addressed and solved in the fourth century and on could partly be explained through conceptualizing the move from one officeholder to many officeholders. This is where I would nuance Vervae't's approach by suggesting that the evolution of the magistracy and its *imperium* created its own history of what had gone before. This is part of the reason why it made sense for Polybius to place the magistrates in the role of the monarchy; they were in the sense the reason why the monarchy looked the way it did.

In short the discursive context in which magistracy, law, and the constitution were discussed and reformulated was also the context in which the notion of kingship was continually adjusted. This makes the recovery of anything like a narrative history of archaic kingship practically impossible. The way in which the presentation of kingship changed over time is obscured by the loss of evidence. But the deep story is about sustaining the *res publica*, and kingship and the dictatorship become metaphors for how to do this well or badly. The symbolism of kingship as an extreme version of the relationship between power and the community far outlasted its institutional life.



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Grazie ai lavori di grandi studiosi come Arthur Rosenberg e Santo Mazzarino, il tema dell'evoluzione magistratuale nelle comunità dell'Italia centrale tirrenica di V e IV secolo a.C. ha suscitato in passato un acceso dibattito, che tuttavia sembra avere perso vigore negli ultimi decenni. L'obiettivo del volume è quello di riaccendere l'interesse per l'argomento, attraverso un'analisi ad ampio raggio che consideri, nel loro *processus* storico, non solo i profili istituzionali della città di Roma – per la quale si possiede una documentazione relativamente ricca –, ma anche quelli delle maggiori comunità gravitanti sul Mar Tirreno, in un momento segnato, secondo la tradizione, dalle conseguenze del passaggio dalla 'monarchia' alla 'repubblica'. La prima parte della miscellanea, dunque, raccoglie contributi che, pur senza pretesa di completezza, indagano gli aspetti più significativi della situazione magistratuale romana, mentre la seconda si concentra sui più noti istituti di area etrusca, latina, osca e magnogreca: il tentativo è quello di far emergere specificità e analogie tra gli ordinamenti delle comunità tirreniche, con un approccio storico-politico oltre che storico-giuridico di volta in volta adeguato alla tipologia delle fonti a disposizione.

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