

## COMPETITION AND CRISIS IN MID-REPUBLICAN ROME

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ARISTOCRATIC COMPETITION lay at the heart of the Roman Republic. No professional bureaucracy directed public affairs; no salary accompanied political office. Instead, the city harnessed individual ambition to meet its essential needs. Contention among the ruling elite for glory and renown, for public offices, and for the honor, rank, and authority that attended them regulated Rome's markets and built its roads, saw to the worship of the gods, crafted laws, led the city's armies and conducted its foreign affairs. These struggles were vital to the success of the *res publica*. Yet what aristocratic competition could serve it could also subvert. The pursuit of success at any cost or in any manner or even at the wrong moment could bring aristocratic ambition into conflict with the vital interests of the Republic. Limits were essential—but what were they and how did they work? In the ceaseless rivalry of a small group of highly contentious men within an increasingly wealthy and potent imperial city, how could the Republic's vital interests be defined and means be found to curb ambition when the two clashed? No authority existed outside the senatorial class to make such determinations and exert the necessary compulsion; the impetus would have to come from within. Yet the aristocracy's own closely-knit and semi-exclusive character ensured that many if not most of its members would be highly partisan observers of any political contest the outcome of which would in some way affect their aspirations and interests or those of relatives and friends. How then were they able to impose limits on themselves?

War perhaps afforded an easy and obvious means of doing so. Military crises impinge abruptly and urgently upon the political life of any community, and it might seem self-evident that the exigencies of war would compel a quarrelsome and self-seeking elite to put aside petty rivalries and look to

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The following works will be cited by author's name or by author's name and abbreviated title: T. R. S. Broughton, *Magistrates of the Roman Republic* 3 vols (Chico, Calif. 1951–84) = *MRR*; R. Develin, *The Practice of Politics at Rome 366–167 B.C.* (Brussels 1985) = *Practice*; *idem*, *Patterns in Office-Holding 366–49 B.C.* (Brussels 1979) = *Patterns*; E. S. Gruen, "The Consular Elections for 216 B.C. and the Veracity of Livy," *CSCA* 11 (1978) 61–74; U. Hackl, *Senat und Magistratur in Rom* (Kallmünz 1982).

the larger interests of the city it ruled. At such moments, one might suppose, the senate would have sought to ensure that competition for office did not exacerbate the danger. Over the course of the middle and late Republic, repetition of the consulate grew increasingly less frequent in order to allow as many men as possible to win what for most of them would be the supreme honor of their lives.<sup>1</sup> The practice contributed much to aristocratic cohesion and stability, but entailed significant military risks as well. For most of the men elevated to consulships had never before exercised independent command of an army. They possessed no track-record to warrant that in an emergency they would prove equal to the challenge facing Rome. Of the minority who had led legions into battle under their own auspices, most had not met with any signal success; a few had actually come home in defeat. Therefore, one might expect a military crisis to have impelled the *patres* to block the election of younger, inexperienced senators to the consulship and instead see to it that a seasoned commander of demonstrated competence secured that office to meet the danger.

Thus, at any rate, has the impact of war on politics at Rome during the fourth and third centuries B.C. recently been understood. In reaction to earlier studies based on the theories of Münzer and Scullard wherein military needs often play only a marginal role in politics, R. Develin has argued that the imperatives of war regularly fostered a consensus within the senate to suspend normal rivalry for office in an effort to ensure that highly qualified generals reached the consulate.<sup>2</sup> The implication of such an analysis is that political competition, at least in these cases, was largely self-regulating: the participants recognized that ordinary contention for office might from time to time hamper the pursuit of the Republic's vital interests and could agree on steps to bring it to a halt. While forging such a consensus may not have been easy or uncontroversial, the senators appear ultimately to have been able to put aside their own aspirations and jealousies and look beyond the ambitions of kinsmen and friends. The *patres* emerge looking rather less like a collection of self-interested politicians and rather more like an assembly of statesmen than one might have imagined, and military crisis stands revealed as an important brake on aristocratic competition.

<sup>1</sup> On this see point see N. Rosenstein, *Imperatores Victi* (Berkeley 1990) 167–170.

<sup>2</sup> Develin, *Practice* 105–118, 153–164, 309; *idem.*, *Patterns* 18, cf. 13–21. Cf. also R. Rilinger, "Die Ausbildung von Amtswechsel und Amtsfristen als Problem zwischen Machtbesitz und Machtgebrauch in der Mittleren Republik (342 bis 217 v. Chr.)," *Chiron* 8 (1978) 247–312, esp. 265–310, for a similar understanding of the effect of war on politics. Earlier studies such as M. L. Patterson, "Rome's Choice of Magistrates during the Hannibalic War," *TAPA* 73 (1942) 319–340, and J. E. A. Crake, "Roman Politics from 215 to 209 B.C.," *Phoenix* 17 (1963) 123–130, stress that military competence was the principal determinant of political success during the Hannibalic war but do not argue that the *curia* arranged elections.

These cases of aristocratic consensus in turn exemplify for Develin the general character of electoral competition throughout the middle Republic, particularly at the consular level.<sup>3</sup> In his view, the heated struggles typical of the late Republic rarely if ever troubled the calmer, more controlled political milieu of the earlier age.<sup>4</sup> On the contrary, Develin holds that the regular patterns he detects in the consular *fasti* over the two hundred years from the mid-fourth through the mid-second centuries demonstrate that the results of consular elections were largely predictable and that serious rivalry at the *comitia* was minimal. In any year, all aristocrats understood which *gens*' turn it was to supply a consul, and so the other *gentes* stood aside—or put up only token opposition—in the expectation that the favor would be returned the next time their turn came round.<sup>5</sup> Hence these contests were essentially uncompetitive, as he sees it. If this picture is accurate, then it has important implications for any understanding of the nature of limits and the problem of their enforcement. Where competition is seldom intense, the need for limits will rarely be pressing, and the limits themselves do not have to be very strong. Little more than an agreement among the players to abide by the “rules of the game” will suffice. Moreover, if the selection of consuls usually came about through the members of the leading *gentes* agreeing in effect to pass the office around among themselves, then enforcing limits ought likewise to have been simply a matter of negotiation, mutual accommodation, and self-restraint, with a common deference to the larger interests of the *res publica* furnishing a basis from which discussion would proceed. If so, then by examining principally the patterns, practices, and legislation of politics we will understand the limits governing aristocratic competition.

This paper will argue, however, that Develin's view of how Rome selected its leaders in a crisis is wrong. Little in the sources suggests that military

<sup>3</sup>Develin, *Practice* 309: “For if one thing is clear, it is that the ruling order was able to control electoral results in times of need, to interfere with the process of free elections. This it must have done by consensus among its members and that in itself is a clue to the atmosphere of politics . . . . At least at the highest level, even in normal times, results could be predicted throughout our period and their regular profile moderates suggestions of serious political fights at consular elections.” Cf. 55, 105 and *Patterns* 18.

<sup>4</sup>Cf. his brief remark (*Practice* 431) on Hopkins's and Burton's analysis in K. Hopkins, *Death and Renewal* (Cambridge 1983) 31–119 of political succession and competitiveness among the senatorial aristocracy in the period 250–50 B.C.

<sup>5</sup>Develin, *Practice* 54: “And, as I have suggested, the time for winning the office [i.e., the consulate] might well be predictable and allowed even by other *gentes*,” and *Patterns* 36: “I would suggest that there was a good deal of understanding among the patricians as to how the consulships would go. Certain families could expect a certain share, the *maiores gentes* a certain number.” Cf. *Practice* 55, 97, 101–102, 165–174, 308 *et passim*; at most, competition among these men involved not whether but merely when they would hold their inevitable consulates: *Practice* 169.

emergencies normally induced the Republic's ruling class to suppress political competition and arrange elections to ensure the victory of specific candidates. Although on rare occasions elections were "fixed," such cases arose more out of domestic political tensions and from the need of the *patres* to safeguard their corporate interests than owing to any sense that political rivalry was inimical to Roman military effectiveness. Otherwise emergencies, far from acting to check competition, tended instead to facilitate the violation of its limits. Although a variety of restrictions usually kept any single figure from enjoying too much political success, the exigencies of war could induce the voters in the *comitia* to ignore these and elevate someone with impressive military credentials to heights well beyond those to which many of his peers might be prepared to see him rise. Despite the challenge to collective authority that one man's extraordinary success might imply, however, his senatorial colleagues had little choice but to accept it. This finding, in turn, has important implications for the larger question of the degree of competitiveness that characterized political life during the middle Republic and for any understanding of how limits could be imposed upon it.

Evidence to support the thesis that the senate regularly reacted to a military emergency by arranging for the re-election of a particularly competent general to the consulate is not easy to find. In the second century, for example, crises abroad seem to have enabled a few ambitious individuals to break down existing barriers to their own aggrandizement against the wishes of their senatorial peers rather than impelling the latter to suspend normal rivalry for office in favor of a consensus candidate. In 134, after more than a decade of frustration and failure in Spain, the Roman assembly elevated Scipio Aemilianus to a second, and illegal, consulate to conclude the war against Numantia. Yet this hardly resulted from a meeting of senatorial minds to forego politics as usual that year and send Rome's top commander to clean up the mess in Iberia. Scipio kept his candidacy under wraps until the very last minute, and after the election, when he sought additional money and men to bolster the army in Spain, he found the senate in no mood to cooperate. The displeasure of the *patres* at Scipio's violation of the current prohibition against repeating the consulate led them to refuse to provide extra funds or to authorize a new levy.<sup>6</sup> Eighteen years earlier, in 152, M. Claudius Marcellus had won a surprising third consulate, unprece-

<sup>6</sup>Sources on Scipio's election for 134 and the senate's refusal to furnish additional troops in Broughton, *MRR* 1.490 and 491, n. 1. For the interpretation advanced here, see A. E. Astin, *Scipio Aemilianus* (Oxford 1967) 135-136, 182-184, cf. Hackl 102-105. Similarly, no compact within the *curia* secured Scipio his equally illicit first consulship in 147, after Rome's drive against Carthage in the Third Punic war had bogged down under the ineffective leadership of previous commanders: Astin, *ibid.* 61-69. R. Develin, "Scipio Aemilianus and the Consular Elections of 148 B.C.," *Latomus* 37 (1978) 484-488; Hackl 20-28.

dented in over half a century and, coming only three years after his second, also illegal.<sup>7</sup> We know little of the circumstances surrounding his election save that serious defeats had occurred in Spain in the preceding year. But it is highly unlikely that the senate engineered his elevation to this consulship to meet the emergency there. The *patres* acted soon thereafter to out-law iteration of the consulate altogether, an about-face difficult to explain if a consensus among them had been the driving force behind Marcellus' re-election for 152.<sup>8</sup> Nor can much be built on Aemilius Paullus' election to a second consulate in 168 during the crisis in Rome's final war against Macedon. Not only does no trace of an effort by the fathers to secure his re-election appear in the sources, but the senate, according to Livy, ordered Paullus and his colleague to cast lots for their provinces, something difficult to harmonize with the notion of a consensus within the *curia* to put a seasoned ex-consul and *triumphator* in charge of the war against Perseus.<sup>9</sup> His colleague for that year had exercised no independent military command prior to his consulate; four years earlier, in 171, he had commanded the forces on the Roman army's right wing at the battle of Callinicus, where he had seen his forces thoroughly routed by the enemy.<sup>10</sup>

<sup>7</sup>The date of the prohibition against seeking another consulate within ten years of an earlier one is controversial; see R. Billows, "Legal Fiction and Political Reform at Rome in the Early Second Century B.C.," *Phoenix* 43 (1989) 112–133, for a survey of earlier opinion and a good case for dating the measure early in the second century. See also Rillinger (above, n. 2) 249–251, and K.-J. Hölkeskamp, *Die Entstehung der Nobilität* (Stuttgart 1987) 86, 94–95, for the traditional date of 342.

<sup>8</sup>Sources for Marcellus' election in Broughton, *MRR* 1.453; on the law prohibiting iteration of the consulate: Livy *Per.* 56, cf. Cato in *ORF*<sup>4</sup> 75–6; Plut. *Cat. Mai.* 8.5–6 with A. E. Astin, *Cato the Censor* (Oxford 1978) 120. Further discussion in Astin (above, n. 6) 37–40, Hackl 53–54.

<sup>9</sup>Livy 44.17.1–10; Plut. *Aem.* 10.1–3. On the allotment of Macedon: Cic. *Div.* 1.103; Livy 44.17.7, 10, cf. 44.22.2–3, 45.39.9; Val. Max. 1.5.3. *Contra*, however, Plut. *Aem.* 10.3, where the *populus* bestows the Macedonian war on Paullus by special vote; cf. A. Degraffi (ed.), *Inscriptiones Italicae* 13.3 (Rome 1947) no. 81; Justin 33.1.6. The problem of whether Paullus was allotted Macedon or assigned the province by special legislation is discussed at length by W. Bingham, "The Assignment of the Consular *Provinciae* in 168 B.C.," in C. Deroux (ed.), *Studies in Latin Literature and Roman History* 4 (Brussels 1986) 184–209, who concludes that Cicero, Livy, and Valerius are correct; cf. W. Reiter, *Aemilius Paullus, Conqueror of Greece* (London 1988) 136, n. 185. Develin (*Practice* 107 and n. 53) doubts that a lucky accident of the lot gave Paullus his province, although he claims, somewhat mysteriously, that he is not suggesting that the lot was faked! For a sensible appraisal of the prevalence of lot-fixing in this period, however, see A. M. Eckstein, "T. Quinctius Flamininus and the Campaign against Philip in 198 B.C.," *Phoenix* 30 (1976) 119–142, at 124–125 on the allotment of provinces for 198.

<sup>10</sup>Livy 42.58.12, 59.2. Bingham ([above, n. 9] 207–208) argues that the Romans would have viewed Licinius as particularly well-qualified to conduct the war against Perseus both because of his experience supervising the shipment of supplies to the consular army in Macedon while praetor in 172 and because of the knowledge of the enemy's terrain and forces that he had gained while serving as legate to his brother in 171. Bingham's

The five consulates of C. Marius between 104 and 100 might appear to lend more support to Develin's theory. Cicero notes that Marius' enemies in the senate refused to mount an attempt to recall him from Gaul and joined in approving the decree assigning him that province *extra ordinem* in view of the crisis there.<sup>11</sup> The same restraint is also evident in his opponents' failure to capitalize on Marius' embarrassment at having to preside over his own re-election for 102.<sup>12</sup> Yet the impetus to entrust the crisis in Gaul to Marius hardly originated in the *curia*. Massive popular enthusiasm placed this war in his hands just as it had the Numidian conflict three years before.<sup>13</sup> Certainly, many among the *patres* may have concurred with the demand for extraordinary measures in view of the imminent danger the invasion of the Cimbri and Teutones posed to the Republic, but circumstances left the senate very little choice in any case.<sup>14</sup> Widespread public support for Marius and a pervasive disenchantment with traditional leadership rendered any opposition futile, perhaps even fatal. None can have doubted that Marius would receive charge of the war whether the senate cooperated or not, and, with the memory of the Mamilian *quaestio*'s witch-hunt still fresh in the senators' minds, not even Marius' bitterest enemy will have been eager to risk charges of putting partisan self-interest above the Republic's welfare in an atmosphere of public outrage and crisis. The evidence in this case, as in those of 134, 152, and 168, is more indicative of senatorial acquiescence than initiative. Little indicates that pressing military needs at any time during the second century caused the senate to bring normal political rivalry to a halt in order to secure a particular individual for the consulate.<sup>15</sup>

For the third and fourth centuries, at least prior to the Hannibalic War, a fundamental difficulty besets any effort to assess the impact of military crisis on political competition. Although in a number of cases the re-election

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analysis is not fully persuasive; yet even if it is correct, it would only make the re-election of Paullus for 168 even less likely to have been the result of a move among the *patres* to put a proven commander in charge of the war this year.

<sup>11</sup>On the attitude of Marius' enemies: Cic. *Prov. Cons.* 19; Dio fr. 94.1. This is not to say that the aristocracy was solidly against Marius. A number of senators, among them several *mobiles*, sought to avail themselves of his popularity to advance their own careers: see E. Badian, *Foreign Clientelae* (Oxford 1958) 200–201.

<sup>12</sup>Even though many candidates presented themselves at this *comitia*, and Saturninus' efforts were necessary to return Marius to office: Plut. *Mar.* 14.6–8.

<sup>13</sup>Cic. *Leg. Man.* 60; Plut. *Mar.* 12.1. Dio fr. 94.1 suggests that the nobility were only gradually won over to Marius' support in the course of his successive consulates and were not behind him initially.

<sup>14</sup>Cf. Hackl 169–177, although she is wrong to interpret Plut. *Mar.* 11.1 at p. 171 as meaning that Marius' re-election as consul in 105 came about "da nun niemand aus den vornehmen und reichen Häusern sich dazu verstehen wollte."

<sup>15</sup>On the re-election of P. Sulpicius Galba to the consulate for 200 B.C., see E. S. Gruen, *The Hellenistic World and the Coming of Rome* (Berkeley and Los Angeles 1984) 1.204–207.

of previously victorious ex-consuls coincided with emergencies abroad, evidence for political affairs within the period is scanty at best and often tenuous, making it impossible to be certain that the senate instigated any of these iterations. Only in a single instance between 367 and 218 does evidence exist of a senatorial effort to influence the voters' choice of consuls. In the elections for 335, Livy reports that the *patres* moved heaven and earth to ensure that the city's top general, M. Valerius Corvus, held the consulate for the fourth time to lead a war against the Sidicini.<sup>16</sup> Few, however, would be willing to take Livy's testimony for events at such an early date at face value without strong corroborating evidence, of which none is forthcoming here.<sup>17</sup> Certainly, nothing in the evidence suggests a clear pattern of such arrangements. Rather, in the remaining handful of instances before 218 where any indication survives of how iterators obtained their consulships, the sources point to genuine contests in the *comitia* rather than prearrangement in the *curia*. In 299, after the death of one of the ordinary consuls, Livy reports that the senate was about to order the nomination of a dictator when the man whom the senators intended should fill that office, the same M. Valerius Corvus already mentioned, won election as suffect consul, thus obviating the need for a dictatorship. The *patres* are not likely to have felt the need to resort to a dictatorship to place Corvus in charge of Rome's military affairs if they had had any confidence in their ability to manipulate the vote in the *comitia centuriata* to achieve the same result.<sup>18</sup> A similar absence of senatorial manipulation is also evident in elections for 297, 296, and 295. Q. Fabius Maximus Rullianus on each occasion protested vigorously against the centuries' choice of him as consul, a stance difficult to explain if a consensus among the *patres* had already made the outcome of the voting a foregone conclusion.<sup>19</sup> Finally, the election of P. Cornelius Rufinus

<sup>16</sup>Livy 8.16.3–4: *nec tamen omissa eius belli cura patribus . . . itaque omni ope adnisi sunt ut maximum ea tempestate imperatorem M. Valerium Corvum consulem quartum facerent . . . et ne forte casu erraretur petatum ab consulibus ut extra sortem Corvi ea provincia esset*, assuming that *patres* here means the senators rather than the patricians. Note also that despite Livy's mention of the senate's particular concern over this war, it seems to have been a comparatively minor affair.

<sup>17</sup>Rilinger ([above, n. 2] 274) takes the senate's plea to the consuls to arrange between them for Corvus to have the war as his province as evidence of a senatorial decree in the matter. But if so, such a decree may simply reflect senatorial acquiescence with the popular will, as in the cases of Scipio Aemilianus and Marius subsequently. Develin (*Practice* 107–108) does not attempt to defend Livy's account as accurate.

<sup>18</sup>Livy 10.11.3. Develin (*Practice* 149), curiously, concludes that the senators' desire to appoint Corvus dictator indicates that they managed his election to the consulate.

<sup>19</sup>Livy 10.13.5–13, 15.7–12, 22.1–9. Note also the confusion in 295 over who Fabius' colleague would be: Livy 10.22.1–9. Moreover, the quarrel of Fabius and the man ultimately elected to serve with him in that year, P. Decius Mus, over which of them would command in Etruria similarly testifies against the existence of any consensus in the senate on who would lead the Roman war effort in this year: Livy 10.24.1–18.

as consul for 277 clearly involved a struggle against other candidates in the *comitia*, and scarcely illustrates how "in times of particular military necessity . . . access to the consulship became restrictive and the governing order took a hand."<sup>20</sup> While C. Fabricius Luscinus' support may have been crucial in Rufinus' elevation, Fabricius clearly offered it as an individual, not a spokesman for the senate. Many expressed surprise at his stance, something not easy to comprehend if a consensus existed within the senate on the need to place Rufinus in command in this year. Equally surprising is the presence of other contenders whom such a consensus ought to have deterred.<sup>21</sup> While these episodes do not inspire great confidence in their veracity, they do represent our only evidence for the process by which iterators reached the consulate prior to the Hannibalic War. Overall, they offer little reason to believe that the senate as an institution played any role in determining who was chosen. Public outcry and concern in these and other cases may simply have given certain candidates an edge and even carried some to office in defiance of legal restrictions, as subsequently happened in the second century.<sup>22</sup> Only with the opening of the Hannibalic war do our sources, as problematic as they are, become full enough on political events to permit an attempt to gauge the senate's readiness to restrict aristocratic rivalry in the interest of state.

Of such a readiness, however, there is surprisingly little evidence, given the magnitude of the crisis that Hannibal's invasion of Italy represented. No one, I think, would claim C. Flaminius as the consensus choice of the senate in 217 to deal with the emergency. His career from start to finish was one long story of conflict with the *patres*. They revealed the extent of their support for his military leadership during his first consulate in 223 when they attempted to use a religious technicality to recall him from the field on the eve of battle and, after he gained a victory notwithstanding, endeavored to block his celebration of a triumph. Flaminius himself was so certain of senatorial obstruction when he won his second consulate five years later that he allegedly chose to enter office outside Rome, much to the displeasure of the fathers.<sup>23</sup>

<sup>20</sup>Develin, *Practice* 107.

<sup>21</sup>On the circumstances of Rufinus' election, see Gellius NA 4.8.4, cf. Dio fr. 36.33; 40.1-2.

<sup>22</sup>Note also the elections for 320 and 308, in which the principal impetus to place iterators in the consulates for these years appears to have come from the *populus*: Livy 9.7.15, 40.21.

<sup>23</sup>Sources on Flaminius' first and second consulates in Broughton, *MRR* 1.232, 242. The tradition that he entered his consulate outside Rome is usually rejected, as, e.g., by H. H. Scullard, *Roman Politics 220-150 B.C.*<sup>2</sup> (Oxford 1973) 44 and n. 3; F. W. Walbank, *A Historical Commentary on Polybius* (Oxford 1957-79) 1.410-411, in view of Polybius' testimony and Livy's confusion: Polyb. 3.77.1-2; Livy 21.63.1-2, 13-15. The story is unlikely to have arisen, however, if Flaminius enjoyed a good working relationship with the senate at this time. General discussion of Flaminius' relations with the senate has



Neither does any evidence suggest senatorial intervention to secure the elevation of L. Postumius Albinus to the consulate for 215 in the immediate aftermath of the disaster at Cannae. To judge by his military record, Albinus seems a curious choice at this juncture. Although twice consul, he had achieved little distinction in command compared with other patrician ex-consuls alive and available at that date.<sup>24</sup> Still more perplexing is the selection of Ti. Sempronius Gracchus as Albinus' plebeian colleague, although Gracchus had not yet even held the praetorship. As *magister equitum* under the dictator M. Iunius Pera, he had performed competently enough the year before, but how could that compare with the luster of M. Claudius Marcellus? As consul in 222, Marcellus had not only led his army to victory and a triumph over the Gauls, but won the coveted *spolia opima* for defeating the enemy's general in single combat. In 216, his minor success against Hannibal had been the only bright spot amid the otherwise unmitigated gloom following Cannae. Marcellus was in Rome at the time of the elections for 215 and enjoyed considerable support both within the *curia* and among the populace.<sup>25</sup> If the *patres* were controlling these elections in order to ensure that Rome's top generals got the consulate, then it is hard to explain why they allowed the centuries to pass over him. The voters' subsequent choice of Marcellus to be suffect consul upon the death of Albinus only makes the election of Gracchus as plebeian *consul ordinarius* all the more puzzling. Furthermore, Marcellus' suffect consulship itself hardly seems to have been the result of any senatorial consensus on whom to entrust with supreme command at that point. Rumblings in the *curia* when it appeared that Marcellus was being sent away to prevent him from seeking the office clearly indicate that the fathers had forged no agreement to back his candidacy at that point, and although he won the election *ingenti consensu*, someone heard thunder, the augurs deemed Marcellus *vitiō creatus*, and the *patres* put it about that the gods did not approve of the unprecedented tenure of two plebeians in the consulship.<sup>26</sup> Notwithstanding the extreme

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been provided most recently by R. Develin, "The Political Position of C. Flaminius," *RhM* 122 (1979) 268–277, who, while rightly stressing the sources' bias against Flaminius and the undoubted existence of supporters within the aristocracy, perhaps downplays too much the opposition to him among other, powerful members of the senate.

<sup>24</sup>Especially Q. Fabius Maximus, *cos.* 233, 228, whose strategy of *cunctatio*, developed two years before and rejected by the senate in 216, had just been so tragically vindicated. Others include: P. Furius Philus, *cos.* 223, L. Aemilius Papus, *cos.* 225, C. Papirius Maso, *cos.* 231, T. Manlius Torquatus, *cos.* 235 and 224.

<sup>25</sup>Livy 23.24.1–3, 31.7, 31.12. On his victory: Livy 23.16.2–16; Plut. *Marc.* 11.1–4; Zon. 9.2; *De vir. ill.* 45.4; for its effect on spirits at Rome: Cic. *Brut.* 12; Livy 23.30.19, cf. 16.16; Val. Max. 1.6.9; Plut. *Marc.* 11.4; cf. Oros. 4.16.12. Note that Marcellus' success in 216 had already led to a special proconsular command by order of the *populus*; whether the senate had sanctioned this command is unclear: Livy 23.30.19.

<sup>26</sup>On senatorial discontent: Livy 23.31.7: *fremitus in curia ortus*; on Marcellus' election: Livy 23.31.12–13; Plut. *Marc.* 12.1; on the augural invalidation of the election, see

urgency of the situation ushered in by the catastrophe at Cannae, therefore, the senators appear to have been unable to agree on much in its wake other than that religious scruple and the preservation of patrician privilege were more important than elevating a general of Marcellus' caliber to the consulate.

As for any senatorial agreement to "fix" the election results for the following year in order to place supreme command in the hands of Q. Fabius Maximus and M. Claudius Marcellus, it was certainly news to T. Otacilius Crassus and M. Aemilius Regulus, two unsuccessful candidates for the consulates of 214. Their determination to run is difficult to explain if the *patres* had all agreed ahead of time that the military situation in that year required putting two better qualified men into office. So is the decision of the *centuria praerogativa* to cast its vote for Crassus and Regulus. One would think that someone might have let the two of them and the voters know ahead of time that the "fix" was in. As it was, Q. Fabius Maximus, who was presiding over the elections, had to browbeat the *centuria praerogativa* to reconsider its vote and threaten Crassus with violence to silence his protests at being robbed of his consulate before the electors returned Fabius and Marcellus as consuls for 214.<sup>27</sup> All this hardly suggests that competition was growing less acute in response to the Hannibalic crisis.<sup>28</sup>

Other evidence points in a similar direction. Although no testimony informs us whether Q. Fulvius Flaccus won his third consulate in 212 as the senate's candidate, Livy notes (24.39.12) that Marcellus relieved Ap. Claudius Pulcher of his duties as legate in Sicily and sent him to Rome

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the incisive analysis of J. Linderski, "Augural Law," *ANRW* II.16.3 (Berlin and New York 1986) 2168–72; *idem*, "The Auspices and the Struggle of the Orders," in W. Eder (ed.), *Staat und Staatlichkeit in der frühen römischen Republik* (Wiesbaden 1990) 42–43. Other analyses of this election: Patterson (above, n. 2) 326–327; I. Müller-Seidel, "Q. Fabius Maximus Cunctator und die Konsulwahlen der Jahre 215 und 214 v. Chr.," *RhM* 96 (1953) 241–281; R. Develin, "Religion and Politics at Rome during the Third Century B.C.," *JReligHist* 10 (1978–79) 3–19.

<sup>27</sup>Livy 24.7.10–9.3. It is likewise striking that Fabius, in the speech Livy gives him, never once mentions the senate or deploys the *auctoritas* of the *patres* regarding who should be consuls in that year in order to persuade the voters in the *centuria praerogativa* to change their minds: 24.8.1–20.

<sup>28</sup>Although the senate's attitude toward these events is not known, Livy's statement at 24.9.10–11, *tempus ac necessitas belli ac discrimen summae rerum faciebant ne quis . . . suspectum cupiditatis imperii consulem [i.e., Fabium] haberet; quin laudabant potius magnitudinem animi quod cum summo imperatore esse opus rei publicae sciret seque eum haud dubie esse, minoris invidiam suam si qua ex ea re oriretur, quam utilitatem rei publicae fecisset*, smacks of *apologia* and could be taken to indicate precisely the reverse. On this election see Müller-Seidel (above, n. 26) and P. Pinna Parpaglia, "Le elezioni consolari del 214 A.C.," *Sodalitas: Stritti in onore di Antonio Guarino* (Napoli 1985) 325–338.

to run for the other consulate of that same year. In view of the fact that in previous years several consuls had won election *in absentia*, the desirability of having Appius in Rome before and during the vote suggests the need to mount a serious campaign to gain the office, something difficult to square with the notion that the senate was simply designating who would hold the consulate in these years or that competition was waning.<sup>29</sup> Two years later M. Claudius Marcellus won his fourth consulship. Yet the controversy surrounding his claim in the preceding year to a triumph for his capture of Syracuse, the refusal of the senate to accord him that honor, his enemies' success in persuading the fathers to embarrass him further by hearing the Syracusans' complaints about his treatment of their city, and the spirited debate in the *curia* over the propriety of his actions all make it difficult to believe that Marcellus was the consensus choice of the senate in 210.<sup>30</sup> Lack of prearrangement is also notable in Livy's account of the *comitia* for 210 and 209. In the former year, the man for whom the *centuria praerogativa* cast its vote considered himself physically unfit for the job and refused to allow the voters to elect him consul. Significantly, when the members of the *centuria praerogativa*, the *iuniores* of the tribe *Voturia*, met to reconsider their choice, they took counsel not with emissaries from the *patres* but with the *seniores* of the same tribe.<sup>31</sup> In 209, the *centuria praerogativa* returned the name of the presiding consul, Q. Fulvius Flaccus, prompting a vigorous protest from two tribunes of the plebs decrying the proceedings (Livy 27.6.1-11). Although iterations held both consulates in each year, neither case comports well with the view that senatorial consensus during the crisis rendered election results a foregone conclusion. Rather, the political game was still being played with gusto during the war, and while Hannibal's invasion may have changed the subtle calculus that determined who would win, creating opportunities for some while dimming the chances of others, it hardly swept aside all these equations in favor of the simple arithmetic of "the needs of state" plus "Rome's best generals."

Yet in at least two elections, senatorial intervention cannot be denied. In 216, Livy reports, the *nobiles* persuaded a reluctant L. Aemilius Paullus

<sup>29</sup> Consuls elected in *absentia* prior to 212: apparently Paullus in 216, Albinus in 215, Marcellus in 214, Fabius Maximus the Younger and Gracchus both for 213. Note also that the dictator conducting the elections for 212, C. Claudius Centho, was probably Appius' uncle. The importance of having Appius in Rome despite the presidency of Centho may be a further indication of his need to fight to win his consulship.

<sup>30</sup> Livy 26.21.1-4, 29.1-32.8; Plut. *Marc.* 21.1-23.7.

<sup>31</sup> Livy 26.22.3-13, cf. Zon. 9.5. Few senators are likely to have been among the *seniores* of the *tribus* *Voturia*. At this date, most senators, and particularly high-ranking ones, still kept their public horse and so will have been members of one of the eighteen equestrian centuries: C. Nicolet, *L'Ordre équestre* (Paris 1966) 1.69-83.

to stand for the consulate of that year while the other patricians who had previously entered the race withdrew in his favor.<sup>32</sup> Paullus was the city's most recent patrician *triumphator*, and hence this case apparently supports very nicely the view that the senate limited aristocratic competition to meet the city's vital military needs. Who better than Paullus to lead the great, decisive push against Hannibal in prospect for the coming year? But the events leading up to his election were complex and render such an interpretation doubtful. Paullus was not initially a candidate for the consulship of 216. Rather, three ex-praetors, none known to have possessed a particularly distinguished military record, constituted the field of patrician contenders. One of these men, C. Atilius Serranus, had rescued a colleague ambushed and trapped by the Boii in Gaul two years before, a feat that might have added luster to his candidacy. Yet that very colleague, L. Manlius Vulso, was also among those running, and his presence hardly suggests widespread agreement among the senators that only men of outstanding military talent should hold office in this year. Nothing in fact indicates any concern among the *patres* to place a first-rate commander in charge of the coming campaign right up to the *comitia* itself. Rivalry appears to have been proceeding in more or less normal fashion. Only the outcome of the voting induced the *nobiles* to rally around a compromise candidate: none of the patricians received a majority, and so the plebeian *novus homo* M. Terentius Varro alone won election and took office immediately.<sup>33</sup>

Possibly, the resulting consensus to put forward Paullus came about because the nobility viewed Varro as militarily inept and sought to ensure sound leadership for the impending campaign.<sup>34</sup> Yet that view fails to explain why the *nobiles* delayed so long before acting. It means we must believe that on the eve of the greatest military gamble Rome was ever to undertake, the nobles were so little concerned at the prospect of Varro (not to mention the defeated praetor Manlius Vulso) winning the consulate that they allowed matters to deteriorate to the point where damage control

<sup>32</sup>Livy 22.35.1-4. Develin (*Practice* 156-157) questions most of the details Livy supplies without offering any good reason why we should do so. Yet if we reject Livy's account altogether, there is no evidence here at all for senatorial intervention. For a sound rejection of earlier attempts at surgery on Livy's account, see Gruen (62-63), whose own efforts to make sense out of the Livian narrative as it stands are a salutary corrective.

<sup>33</sup>Livy 22.35.1-2. Sources on Atilius and Manlius as praetors in Broughton, *MRR* 1.238.

<sup>34</sup>However, Varro's reputation for military prowess may in fact have been quite high: Serv. *ad Aen.* 11.743, recounts that the first bearer of the *cognomen* Varro took the nickname from a spectacular feat of arms against an Illyrian opponent of the same name; C. Cichorius, *Römische Studien* (Leipzig 1922) 189-190, identifies this first Roman Varro with the consul of 216.

became their only option.<sup>35</sup> Things become more comprehensible, however, if what impelled the nobility to act was not Varro's election *per se* but his election without a colleague. The prospect of Varro leading the legions into battle did not frighten the *nobiles* half as much as the thought of him conducting and influencing the run-off election among the various patrician contenders.<sup>36</sup>

As a consensus candidate, Paullus would not be in any way beholden to Varro for his election, while his rank and achievements would enable him to exercise command on a fully equal footing with his colleague, if not on terms of superiority.<sup>37</sup> This was essential not because there was any doubt about Varro's ability to do the job, but because the nobles feared the political consequences of Varro coming away with the lion's share of the *gloria* from the victory that nearly everyone anticipated was about to be won. Prior to the elections Varro and others had been highly critical of the nobility's conduct of the war, and if Varro defeated Hannibal, that would only demonstrate the validity of those criticisms.<sup>38</sup> The leaders of the senate had just rid themselves of C. Flaminius, another *novus homo* and political maverick who had made a career out of challenging the nobility and whose triumph as consul in 223 had undoubtedly helped propel him to the censorship three years later. They were surely not eager to allow the coming showdown with Hannibal to create another of his ilk. A common

<sup>35</sup>Possibly some in the senate may have opposed going on the offensive against Hannibal in this year, favoring prolonging the strategy of delay inaugurated the year before: so Gruen 61–74, but cf. the criticisms of B. L. Twyman "The Consular Elections for 216 B.C. and the *Lex Maenia de Patrum Auctoritate*," *CP* 79 (1984) 285–294, at 290–294. However, the public's support for Varro was widespread, as was hostility to any continuation of *cunctatio*, and the senate's readiness to fall in with plans to seek a decisive battle to end the crisis in this year indicates that a majority there shared the sentiments of the populace.

<sup>36</sup>Livy 22.35.2–3: *C. Terentius consul unus creatur, ut in manu eius essent comitia rogando collegae. tum experta nobilitas parum fuisse virium in competitoribus eius, L. Aemilium Paulum ... ad petitionem compellit.* On the political machinations behind the events surrounding the elections for 216, see most recently Gruen 61–74 and Twyman (above, n. 35) 285–294. On the ways in which a presiding consul could influence the outcome of elections see, in general, L. R. Taylor, *Roman Voting Assemblies* (Ann Arbor 1966) 104–105; R. Rilinger, *Der Einfluss des Wahlleiters bei den römischen Konsulwahlen von 366 bis 50 v. Chr.* (Munich 1976) 146–147. Develin (*Practice* 132–133) correctly points out that most of the evidence for such practices comes from the late Republic and rightly cautions against retrojecting them wholesale into an era two or three centuries earlier. In this case, however, note especially the analogous situation in 189 when only one consul won election and used his presidency over the ensuing run-off to prevent an enemy from winning election as his colleague: Livy 37.47.7 with 38.5.1 and 40.46.14.

<sup>37</sup>Note Livy 22.25.4: [*Paullus*] *par magis in adversandum quam collega datur consuli*; and cf. Polyb. 3.107.8, on Paullus overshadowing his colleague.

<sup>38</sup>Livy 22.25.18–26.4, 34.2–11, cf. 25.1–11, 38.6–7; Plut. *Fab.* 14.2.

political danger, in other words, rather than pressing military needs forged the nobility's consensus to override political competition in this year and elevate Paullus to the consulship.

The identities of the four praetors elected subsequently for 216 confirm the primacy of political concerns among the *nobiles* at this point. Three, if not all four, were ex-consuls, an unprecedented occurrence.<sup>39</sup> Livy explains that this came about "because in such circumstances it seemed best that no one ought to be entrusted with a new magistracy."<sup>40</sup> Yet it is difficult to believe that any consensus among the *patres* to this effect had come into being prior to Varro's election in view of the fact that each of the six initial candidates for the two consulships of 216 was seeking that office for the very first time. The "circumstances" impelling the decision to put these ex-consuls into the praetorships were therefore probably not the military crisis but the political situation that Varro's election as sole consul had created. A consensus slate of four distinguished candidates robbed Varro of any chance of influencing the voters' choice in praetorian elections as Paullus' sole candidacy did in the consular *comitia*. And the plea that it was essential to entrust this year's patrician consulship to an experienced man rather than one of the original contenders will have been easier to sustain to the voters if his backers could claim that similarly qualified men were needed in all the highest magistracies.

Furthermore, the evidence surveyed so far indicates that suppressing rivalry for the consulship in favor of any consensus candidate was highly unusual, while the difficulty of persuading young representatives of three of the leading patrician *gentes* to step aside in Paullus' favor must have been enormous. Rallying the support of Paullus' consular peers behind his elevation to a second consulate only three years after his first cannot have been any easier. He had already enjoyed signal honors and a triumph, while this second consulate would bring with it an opportunity to reap even greater glory by defeating Hannibal. The distinction of the praetorian college of 216 may therefore be taken to reflect the "deal" that lay behind Paullus' election. The men elevated were powerful figures, eminent through achievement or age or both, whose concurrence was essential in order to bring the senate solidly into line behind Paullus' candidacy. Their support and the cooperation of others had its price, however, and the praetorships may well represent its payment.

<sup>39</sup>Broughton (*MRR* 1.246, n. 4) argues from Livy's failure to remark upon the unprecedented tenure of all four praetorships by ex-consuls in 216 that the M. Pomponius Matho who was praetor in that year was not the consul of 231. Yet for even three of the four praetors to be ex-consuls was nearly as striking, and Livy fails to mention that. W. Drumann and P. Groeb (*Geschichte Roms* 5<sup>2</sup> [Berlin 1919] 4, n. 7) and Develin (*Practice* 154, n. 36) identify the praetor of 216 with the consul of 231.

<sup>40</sup>Livy 22.35.7: *quia in tali tempore nulli novus magistratus videbatur mandandus*.

In view of all this, then, we may justifiably wonder if the military challenge facing Rome in 207 was the paramount concern when the *patres* selected C. Claudius Nero and M. Livius Salinator as consuls for 207 (Livy 27.34.1, cf. 27.34.14). To be sure, a crisis loomed: as is well known, Hasdrubal Barca was marching to Italy with an army from Spain, and the prospect of having to do battle with this new enemy prompted considerable alarm at Rome.<sup>41</sup> Yet the *patres'* choices to meet this challenge were decidedly curious. Nero certainly had extensive experience in command as a praetor and promagistrate, but not all of it redounded to his credit. In 211, while commanding in Spain, he had managed to manoeuvre Hasdrubal into a disadvantageous position only to be gulled by him into opening negotiations on a complete Carthaginian withdrawal from the peninsula. Hasdrubal spun out the discussion over several days and thereby obtained time to slip away with his army undetected.<sup>42</sup> The preference for Nero in 207 seems surprising, then, and especially in light of concerns being voiced in Rome at the time to choose consuls who could avoid falling victim to Punic deceit, something perfectly credible in view of the deaths of the consuls Marcellus and Quinctius in a Carthaginian ambush in the preceding year.<sup>43</sup> Yet here was just such a dupe being made consul to face either the very same opponent who had made a fool out of him once before or his even more treacherous elder brother.<sup>44</sup>

The selection of Livius as his colleague is if anything even more unexpected. Of all the consulars alive at that date, he was perhaps the most *inexperienced* in fighting the Carthaginians. Shortly after the outbreak of hostilities in 218, he had gone into a self-imposed exile following his condemnation for peculation or misappropriation of booty in connection with his campaign in Illyria in the preceding year. He remained on the sidelines as far as we know until 210, when, according to Livy, he only returned to the city and re-entered the senate under compulsion. He had taken no part at all in the conflict up to that point, nor did he offer much more than minimal participation between 210 and 208.<sup>45</sup> We are invited to believe, in other words, that the best qualified plebeian the fathers could find to take

<sup>41</sup> Livy 27.36.1–4, cf. 27.7.1–3, 35.5; Zon. 9.8.

<sup>42</sup> Livy 26.17.1–16, cf. 27.44.9; App. *Iber.* 17.

<sup>43</sup> Livy 27.33.9–11; note too the concern over the *damnosa praepropera ac fervida ingenia imperatorum*; yet Nero was considered *promptiorem acrioremque quam tempora belli postulerent* and his *acre ingenium* needed controlling: Livy 27.33.10, 34.2.

<sup>44</sup> Other patrician ex-consuls available included: M. Valerius Laevinus, Q. Fabius Maximus Cunctator, and his son Q. Fabius Maximus, *cos.* 213.

<sup>45</sup> On his conviction, exile, and return to Rome: Livy 27.34.3–8, cf. 29.37.9–14; Frontinus *Str.* 4.1.45; *De vir. ill.* 50.1., cf. Suet. *Tib.* 3.2. That he took no part in military operations is likely not only from the lack of reference to him in Livy's narrative but from the statement at 27.34.8: *tam gravi bello nec opera nec consilio talis viri usa res publica esset.*

the helm in this crisis was someone whose most recent combat experience had been a dozen years back and in Illyria, where he had encountered an entirely different sort of enemy. Even more surprising, he and Nero were bitter personal enemies who had to be publicly reconciled before the fathers could have any confidence in their readiness to cooperate.<sup>46</sup> Militarily, Livius' elevation makes little sense, and one of the other potential plebeian consuls who had taken an active role in the conflict might have seemed a more prudent choice if the *patres* really had wanted to place the Republic's best general in charge in this crisis.<sup>47</sup>

For experience and a proven record of success, the obvious choices ought to have been Q. Fabius Maximus and Q. Fulvius Flaccus. They were old men by this time, it is true, but both had successfully administered the *res publica* as consuls two years before and both remained vigorous enough to take an active role in the public debate over Scipio's province in 205. Age *per se* is unlikely to have disqualified them.<sup>48</sup> However, if concern over who would reap the glory of the victory anticipated in 216 moved the *nobiles* to halt competition for the consulate after Varro's election, perhaps the consensus to put Nero and Livius in office in 207 arose out of similar motives. Fabius and Fulvius, along with Marcellus, had together monopolized eight out of the sixteen consulates since 215.<sup>49</sup> They had shown a remarkable ability to convince the voters to return them time and again to office, thereby denying the dignity of the consulate and an opportunity for glory to others who might have considered themselves entitled to them.<sup>50</sup> Fulvius' ruthlessness in advancing his ambition in 209 and the antagonism he evoked

<sup>46</sup>Livy 27.35.6–9; Val. Max. 4.2.2, 7.2.6; *De vir. ill.* 50.2. This ought to have been particularly troubling in view of the role senatorial tradition assigned to the tensions between Paullus and Varro in bringing about the disaster at Cannae: Polyb. 3.110.1–113.1; Livy 22.38.6–45.5.

<sup>47</sup>Notably Q. Fulvius Flaccus, *cos.* in 212 and 209 during the war, who had just completed the pacification of Campania after his successful siege of Capua. Other plebeian consulars still alive in 208 were M. and perhaps M'. Pomponius Matho, and possibly M. Atilius Regulus and Q. Mucius Scaevola. Possible plebeian praetorians include C. Calpurnius Piso, L. Veturius Philo; possibly M. Iunius Silanus could have been recalled from Spain if elected consul.

<sup>48</sup>Patterson ([above, n. 2] 333) and Develin (*Practice* 106) assume that age would have rendered both men incapable of sustaining the burdens of command but note that Cicero (*Sen.* 10–12) represents Fabius, at least, as physically and mentally vigorous in his old age; note esp. 10: *hic et bella gerebat ut adulescens cum plane grandis esset.*

<sup>49</sup>Nine out of seventeen, if one counts the suffect consulship of 215 to which Marcellus and Fabius were elected in turn.

<sup>50</sup>Note the effect of Marcellus' appearance before the *populus* in the year before to defend himself against charges of mismanaging military operations. His defence of his conduct and celebration of his achievements so won over the crowd that he secured a unanimous election to the consulate for the following year: Livy 27.20.9–21.4; Plut. *Marc.* 27.1–3.



were undoubtedly still fresh in the minds of the *patres*.<sup>51</sup> The widespread fear that Hasdrubal's approach aroused will only have enhanced Fabius' and Flaccus' appeal in the eyes of the voters. For these two men were proven winners. Their achievements were already considerable; should they have led the Romans into the fight against Hasdrubal and emerged victorious, their resulting glory and *auctoritas* would have elevated them far above their peers. Jealousy and a fear of domination therefore motivated the latter to search for alternatives. As in 216, the concern of the *patres* was not simply to meet military crisis but to maintain political equilibrium within the senate while doing so, and that in turn necessitated short-circuiting the normal course of political rivalry in this year.<sup>52</sup>

A survey of the evidence, therefore, shows Develin's claim that military emergencies regularly induced the senate to apply the brakes to aristocratic competition to be without foundation. Nothing indicates senatorial initiative behind the re-election of most ex-consuls in the third and second centuries, while on several occasions the sources reveal the kinds of confusion and misunderstandings about whom the centuries would return that a consensus among the *patres* to "fix" the election results ought to have precluded. Only twice does good evidence suggest that the senate made any attempt to eliminate competition in a crisis to ensure that the consulate went to a particular ex-consul. Yet even in these cases the *patres* appear to have acted far more out of concern for the political dangers the crisis posed to senatorial authority or to the balance of power within their own ranks rather than simply to ensure that the best possible general met the

<sup>51</sup> On Flaccus' appointment as dictator to hold elections for 209, see Livy 27.5.1-19; on his use of that position to secure his own and Fabius' election as consuls, see Livy 27.6.1-10.

<sup>52</sup> It is worth pointing out, in this connection, that Livius was in political terms among the least threatening men who could have been put into office at this point. He was neither the son nor (probably) the grandson of a consul; he was perhaps the great-grandson of M. Livius Denter, consul in 302 and the first of his *gens* in that office: F. Münzer, "Livius," *RE* 13.1 (1926) 892, cf. the stemma at 811-812. Moreover, his *dignitas* had been so damaged by his all but unanimous conviction before the assembly more than a decade earlier that he felt compelled to leave Rome; even on his return, he persisted in an attitude of self-degradation until the censors of 210 demanded he put a stop to it: Livy 27.34.5-6. And, as if he had not been humiliated enough, upon his elevation to the consulate the senate refused to accept his assurances that his quarrel with his colleague would not prevent him from faithfully discharging the duties of his office. They had to be convinced by a mortifying public reconciliation that Livius would put the *res publica* before his *inimicitia*. Here was a man who could safely be allowed a second consulate and the glory of defeating Hasdrubal without fear that this would disrupt too drastically the balance of power within the aristocracy. Note too that although Nero's *gens*, the Claudia, is very distinguished, his own immediate ascendants, his father and grandfather, do not appear to have held the consulate: F. Münzer, "Claudius," *RE* 3 (1899) 2776, cf. the stemma at 2665-66.

threat facing Rome. If this was the state of affairs in those instances where we have any credible evidence, then there is little reason to believe that the situation was any different on other occasions for which little or no evidence survives. Of course this is not to deny that individual senators were active in canvassing and at the *comitia*. In any particular year some of them may have come to believe that, given the military situation facing Rome, the re-election of a successful ex-consul would best serve the city's interests, and so supported his candidacy. But such a scenario differs little if at all from politics as usual. In every election various members of the ruling elite backed one candidate or another in accordance with their perception of the public interest, personal obligation, or partisan advantage. Crises did not end aristocratic competition; they only changed the political equation as military factors took on greater importance in the minds of the voters and of those whose advice and commendations swayed them.

Far from galvanizing the *patres* to set firm limits on individual ambition in the interests of state, exigencies of war on the contrary created extraordinary opportunities for some aristocrats to break free of the constraints that normally restricted the degree of political success they could attain. The pattern is particularly clear in the latter part of the second century. Marius' re-election to the consulate from 104 through 101, Scipio Aemilianus' second consulship in 134, and M. Claudius Marcellus' third in 152 were all quite illegal, but the military situation enabled these men to persuade the voters that placing the city's military affairs in their hands once again was essential notwithstanding the laws that forbade it. That public support, in turn, allowed these already prominent figures to reach even greater heights of prestige despite the reluctance of many within the senate to see them do so. The same pattern obtained in the late third century as well. No consensus among their peers but rather the enthusiasm they could generate within the *comitia* allowed C. Flaminius, Ti. Sempronius Gracchus, M. Claudius Marcellus, Q. Fabius Maximus, and Q. Fulvius Flaccus to repeat the consulate, in the case of the last three to an extent unprecedented in nearly a century and much to the consternation of many of their colleagues in the senate. In view of the continuity of this pattern from the Hannibalic War through the German crisis at the end of the second century, nothing compels us to assume that earlier iterations at times of military emergency during the third and fourth centuries arose any differently.

This finding, in turn, has important implications for Develin's larger assessment of the nature of aristocratic rivalry. As noted above, he views the iteration of ex-consuls at times of military crisis as an important clue for understanding the ordinary practice of politics in mid-Republican Rome. The senate's agreements to suppress competition and secure the re-election of capable generals in these cases exemplify the kind of broad understanding the leading aristocratic *gentes* maintained among themselves about which

of their scions or protégés would take their turns as consuls in any particular year that made consular elections predictable, uncompetitive affairs.<sup>53</sup> Yet the fact that the *patres* never responded to military emergencies as Develin supposes casts serious doubt upon this picture of consensus at the *comitia*. Their failure to limit competition at times of crisis makes it *a fortiori* quite unlikely that any agreement ever made elections predictable at other times, when military exigencies exerted no compulsion upon members of the elite to limit their ambitions and refuse to contest seriously the winning candidate's election. The senate's responses to military crises, therefore, offer little reason to doubt the traditional characterization of competition for consulates as vigorous during the middle Republic.<sup>54</sup>

On the contrary, the senate's apparently paradoxical unwillingness to suppress electoral rivalry at times of peril reveals just how essential they believed that contention to be to the city's ultimate victory. Success in battle, as the Romans saw it, came first and foremost from the correct relationship between the city and its gods—the *pax deorum*. Self-evidently in a crisis the vital need was to reinforce or if necessary restore the *pax deorum*, and that was preeminently the institutional responsibility of the senate.<sup>55</sup> The evidence of the senate's efforts on this score is abundant not only throughout the Hannibalic War, but during most other military emergencies as well. Securing the cooperation of the gods, in other words, was not predicated on this or that person winning the consulship. The *pax deorum* depended solely on the correct performance of religious ritual and on the proper observance and interpretation of signs. Consuls simply had to do what was required in this regard and could avail themselves of a variety of assistants and procedural safeguards to make certain that they did so.<sup>56</sup> The gods really did not much care who was in office. As long as they received their due, they would reciprocate by lending their aid to the Romans on the battlefield. Hence from a religious perspective the senate was not going to enhance the prospects of victory one whit by involving itself in the process of selecting a consul.

The political implications of such a theology were profound. It made sense of the practice of offering supreme military command to a wide variety of men in turn, and in so doing underwrote the stability and cohesion of the ruling elite.<sup>57</sup> Conversely, it tended to downplay the contribution of any

<sup>53</sup>See above, 314–315.

<sup>54</sup>On the competitiveness of consular elections in the mid-Republic see further the appendix to this paper.

<sup>55</sup>On the senate's supervision of Roman public cult see M. Beard, "Priesthood in the Roman Republic," in M. Beard and J. North (eds.), *Pagan Priests, Religion and Power in the Ancient World*, (London 1990) 19–48.

<sup>56</sup>Rosenstein (above, n. 1) 54–67.

<sup>57</sup>Rosenstein (above, n. 1) 166–168.

specific general to his victory, since the primary cause had been the favor that the gods had shown the Roman people in return for their cult. It is not, perhaps, pure coincidence that at about the same time that this system of belief took a major step forward with the introduction of a "theology of victory," during the first decade of the third century, iteration of the consulate fell off dramatically and the appointment of dictators to deal with military crises grew increasingly rare.<sup>58</sup> Not until very late in the Republic, and then only tentatively and with the precedent of Sulla clearly in mind, could Cicero, in arguing on behalf of the bill to award Pompey command of the war against Mithridates, portray him as someone specially favored by the gods, possessed of a *felicitas* that set him apart from other men and brought him military success (*Leg. Man.* 47–48). Yet the Republican senate never officially embraced this alternate conception of the religious foundations of victory. Its real efflorescence would come only later, in the far different and much more congenial atmosphere of the Principate.<sup>59</sup>

Of course, few at Rome imagined that winning battles was merely a matter of offering sacrifice, observing the auspices, and then sitting back and letting the gods do all the heavy lifting. Human action was instrumental in determining the outcome of wars, and there is no denying that some of the Republic's generals were more skilled than others, while a very few of them were genuinely inspired. Yet most of Rome's battles, as best they can be reconstructed, tended to be unimaginative affairs: large-scale, set-piece engagements in which two masses of heavily armed men fought toe to toe until one of them broke and ran.<sup>60</sup> Polybius could call the Romans' style of fighting archaic in comparison to the military sophistication of the Hellenistic world, but it was one singularly well-suited to the Republic's practice of selecting its generals from within a fairly narrow aristocracy of birth and then only rarely allowing them to hold the office more than once.<sup>61</sup> Someone did not really need to be a military genius to understand how to line up his forces properly and set them in motion. *Mos maiorum* largely dictated the Roman order of battle down to the end of the second century. The system failed only when it confronted opponents who were not prepared to fight on its terms, as in the guerrilla wars in Spain and Africa during the second half of the second century, a period that, perhaps

<sup>58</sup>On the appearance of a "theology of victory" at Rome, see J. R. Fears, "The Theology of Victory at Rome," *ANRW* II.17.2 (Berlin and New York 1981): 773–775; on the decrease in the frequency of iteration ca 290, see Rosenstein (above, n. 1) 169–170.

<sup>59</sup>Fears (above, n. 58) 773–804.

<sup>60</sup>Polyb. 13.3.7, and see, generally, P. Culham, "Chance, Command, and Chaos in Ancient Military Engagements," *World Futures* 27 (1989) 191–205.

<sup>61</sup>Polyb. 13.3.2–7. On the *nobilitas* dominance of the consulate, see E. Badian, "The Consuls, 179–49 B.C.," *Chiron* 20 (1990) 371–413; cf. Hopkins and Burton in Hopkins (above, n. 4) 31–119.

not coincidentally, also saw the public lose confidence in the leadership of the traditional ruling elite.

Be that as it may, however, the Romans were also well aware that in the sorts of mass engagements through which they won most of their empire the courage, discipline, and stubborn resolve of their legionaries in battle made an enormous contribution to procuring the city's victories. Caesar and Livy time and again ascribe military success to the *virtus militum*, a phrase that concisely sums up the mental and physical qualities involved.<sup>62</sup> The perception that the braver, better-trained, and more determined men usually won these sorts of battles was certainly as old as hoplite warfare itself and had undoubtedly long been a commonplace at Rome by the time Caesar and Livy wrote. It was a convention of public discourse, one of the concepts that informed the ways Romans talked to each other about success or failure in war.<sup>63</sup> Significantly, one often finds it in such settings coupled with references to the kindness of the gods or the fortune of the Roman people, suggesting that together the two sentiments formed what may be termed a public ideology of victory.<sup>64</sup>

Thus if for the Romans failure or success in war resulted not so much from the strategic and tactical abilities of a commander but to a much greater extent from the bravery, discipline, and determination of the rank and file in combat, then a general's most important contribution was often simply to bolster their spirits and enhance their resolve to stand firm and prevail or die. And his most effective means of doing so lay in offering himself as a model of the behavior he expected of his men. His own visibility and deportment had a direct, material bearing on his legionaries' performance. Roman commanders frequently appear in combat just behind the front lines, encouraging their men, allowing themselves to be seen sharing their dangers, and in this way spurring them on to greater efforts.<sup>65</sup> That was where Scipio Africanus was during the assault on New Carthage in 209.<sup>66</sup> Even as late as the second battle of Philippi in 42, both Octavian

<sup>62</sup> Caesar, e.g.: *BGal.* 2.8; 5.43; 5.52; *BCiv.* 2.33; 2.41; 3.73. Livy, e.g., 3.62.2; 7.13.5, 34.6; 8.4.6, 13.11; 24.38.1-2; 26.41.5; 28.25.6; 38.12.3; 40.27.11, cf. 5.20.2-3. Note also emphasis on the *virtus militum* in Livy's battle narratives, e.g.: 6.30.6; 8.38.4; 29.30.9; 37.30.6. Cf. also Sall. *Jug.* 52.1; 62.1; *Cat.* 58.19.

<sup>63</sup> Note, e.g., the setting of Caesar's remarks in *BGal.* 5.52: a public address to his soldiers; or of Livy 35.6.9: a dispatch from a the legate M. Claudius Marcellus to the senate in 193, probably genuine.

<sup>64</sup> *BGal.* 5.52; Livy 35.6.9; the prefect L. Pinarius' address to his soldiers: Livy 23.38.1-2; Africanus' speech to his troops in Spain: Livy 26.41.5.

<sup>65</sup> On the crucial role in all armies of leadership by example and the need for generals to be perceived as sharing risks, see J. Keegan, *The Mask of Command* (London 1988) 329-338. On the personal valor of Greek generals, see V. Hanson, *The Western Way of War* (Oxford 1989) 107-116.

<sup>66</sup> Polyb. 10.13.1, cf. esp. Walbank (above, n. 23) *ad loc.*; Livy 26.44.7-8.

and Brutus were racing up and down along the battleline, "exciting the men by their ardor, exhorting the toilers to toil on, and relieving those who were exhausted . . ." as Appian puts it.<sup>67</sup> At other times, however, generals actually entered the fray at the head of their troops to incite the soldiers to even greater efforts.<sup>68</sup> Even as unlikely a hero as that future paradigm of luxury and indolence, L. Licinius Lucullus, more than once personally led the charge against the forces of Mithridates (Plut. *Luc.* 28.1-4, 31.7). A close, clear link in other words existed between the *virtus militum* and the *virtus* of their leader.<sup>69</sup> On the eve of Cannae, Polybius reports that everyone at Rome placed the greatest hope in Paullus on account of the general moral excellence of his life as well as because of the courage and success with which he had conducted the Illyrian campaign.<sup>70</sup> A general's personal character thus served to inspire in his soldiers the very qualities perceived to be essential to victory. He acted as the embodiment of the *virtus militum*.

Thus in a crisis the senators had every reason to want a man of outstanding *virtus* in the consulate. But once the matter is put in this light, the failure of the *patres* to act collectively to override the normal workings of aristocratic competition and themselves place the consulate in the hands of the city's "best" general becomes entirely understandable. For to do so would have required them to reach an agreement on which of them possessed the greatest *virtus* and the most outstanding character. Given their intense contentiousness on precisely these points, it is difficult to imagine how they could have forged any consensus at all on such a divisive question.<sup>71</sup> All aristocrats could claim to possess great *virtus* and high moral character; indeed, their possession of these qualities was in large part what entitled them to aristocratic status. Rather, pride, jealousy, and ambition among the *principes* would have combined to fracture aristocratic solidarity, not

<sup>67</sup> App. *BCiv.* 4.128 (Loeb trans.): οἱ στρατηγοὶ δὲ σφᾶς, περιθέοντες καὶ δρώμενοι πανταχοῦ, ταῖς τε ὁρμαῖς ἀνέφερον καὶ παρεκάλουν πονοῦντας ἔτι προσπονήσαι καὶ τοὺς κεκμηκότας ἐνήλλασσον. Cf. Caesar's approval of Cotta's performance while his men were under attack during their retreat: in *appellandis cohortandisque militibus imperatoris . . . officia praestabat*: *BGall.* 5.33.

<sup>68</sup> See Rosenstein (above, n. 1) 119 for examples and discussion. Many, if not most, senators in the middle Republic will have had the training and experience of combat necessary to undertake such heroics: see the fundamental study of W. V. Harris, *War and Imperialism in Republican Rome* (Oxford 1979) 38-40.

<sup>69</sup> On courage as the fundamental meaning of *virtus* and the later elaboration of the term to stand for a general moral excellence, see now the important study of M. McDonnell, *Virtus as a Social, Religious, and Political Concept in Republican Rome* (diss., Columbia University, 1990).

<sup>70</sup> Polyb. 3.107.8.

<sup>71</sup> On the competitiveness of mid- and late Republican aristocrats, see T. P. Wiseman, "Competition and Cooperation," in *idem* (ed.), *Roman Political Life 90 B.C.-A.D.* 69 (Exeter 1985) 4-10.

foster it. But the *comitia* decided this type of question all the time without fatal affront to anyone's *dignitas*. Precisely by letting the normal political mechanism operate as usual—the voters making their choices and individual senators extending their advice or compulsion—the *patres* could agree, or at least accept, that the result had placed the “best” man in command. The *comitia*'s selection of a victorious ex-consul to resolve a particular crisis on the basis of his outstanding *virtus* did nothing to deny the inherent *virtus* of other candidates for military leadership at other times.

The Romans after all had been selecting their military leaders in this way for generations, and one success after another had mostly been the result, fostering the city's ever-expanding hegemony. It is hard to imagine that the senators ever conceived of the normal workings of political life as somehow antithetical to military success. Aristocratic competition did not impede effective military leadership, but formed a necessary prerequisite, even in a crisis. By allowing rivalry for the consulate to run its course, the senators could believe that the city's armies would acquire commanders with the necessary *virtus* without arousing divisive strife among the *patres* themselves. Political struggles in a military emergency became a danger only at the point where they threatened to damage the senate's corporate interests, and precisely at these moments the senators were prepared to act collectively to suppress them. This insight, in turn, opens a much more promising approach for any effort to discover and understand the limits on aristocratic competition.

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#### APPENDIX

Develin attempts to buttress his case for minimal or no competition at the consular *comitia* by arguing that “there was some sort of selection or self-selection process which secured that only men who were likely to win the consulship in time became candidates . . . the data prove the point: among candidates mentioned by Livy in the 180s, whatever other factors may have intervened, only two . . . were never consul.”<sup>72</sup> Thus “taken as a whole, the lists of candidates we have demonstrate that only men who were almost certain to win eventually stood for the consulate and from this can be reconstructed a process whereby men actually stood in advance of their expected date of success in order to have their names before the public.”<sup>73</sup>

<sup>72</sup>Practice 95.

<sup>73</sup>Practice 165.

On the basis of these conclusions, Develin then proceeds to reject Livy's accounts of intense competition for the consular elections for 192, 189, etc.<sup>74</sup>

Yet Develin's argument here hinges on the very questionable assumption that the lists of consular candidates Livy provides are typical of all candidates who ever competed for consulships in this period. We know of the names of (presumably) all contenders at only two elections during the 180s and for only three during the entire 35 years between 200 and 166: 192, 189, 184. In addition, the patrician candidates only are listed for 191.<sup>75</sup> Develin is correct that of the 21 candidates listed, 19 eventually became consuls, and if we could be relatively certain that these three complete and one partial lists of candidates represent a random sample of all the men who ever ran for the consulate in the period, that might tell us something very important about the nature of aristocratic competition for that office. Critics might counter that three or four lists out of a total of 35 comprise a sample of only a little better than 10% and so represent a very shaky basis upon which to erect as sweeping a hypothesis as that which Develin advances, particularly in view of the circularity (which even Develin himself admits) of the claim that only praetors known to have been candidates were ever candidates.<sup>76</sup> Still, the weight of the evidence would be in Develin's favour.

However, before we can take it for granted that these lists are typical and amount in effect to a random sample of all fields of contenders over the entire 35-year period, we ought to ask why the authors on whom Livy drew preserved these lists and no others. Once the question is raised, it seems quite plausible to answer that preservation in these cases was due precisely to the fact that the fields of contenders competing in these years were highly untypical: most of the candidates were members of one or another of the city's most eminent families; each was a prominent figure in his own right; and almost all would go on to a consulate and eventually rank among the foremost figures of his age. The very stellar quality of these lists of candidates in these particular years, so unlike those ordinarily presented to the voters, therefore, may well have been responsible for their preservation in contemporary *annales* and their ultimate transmission to Livy.

The question is not easy to answer absolutely one way or the other, but that is not the point. What matters is that we cannot be at all certain that the lists Livy preserves were typical of the men who sought consulates in the early second century. And if certainty is impossible on this point, then it would be rash to follow Develin in concluding on the basis of the men Livy

<sup>74</sup> *Patterns* 164–171.

<sup>75</sup> Livy 35.10.1–10 (192); Livy 37.47.5–6 (189); Livy 39.32.5–15 (184); Livy 35.24.4–5 (191).

<sup>76</sup> *Practice* 95.



lists in these three (or four) instances that only those who would eventually win consulates ever competed for them. The insecurity of this conclusion in turn seriously undermines Develin's contentions that competition for consulates was minimal because future consuls all knew that they would eventually win their offices because of an agreement among the powerful *gentes* apportioning a certain number of these to each clan; that the timing of the victory of a particular *gens'* candidate at the polls was often conceded by the others; and that when more than one candidate entered the race all except the eventual winner were just engaging in a little self-advertisement before their turn came around or, at best, seeking to get a jump on their age-peers by sneaking into office a little earlier than anticipated. Least of all is Develin justified in rejecting on the basis of this putatively minimal level of contention for the consulate Livy's explicit characterizations of rivalry in these elections as highly competitive.

A far sounder approach to the data would be to admit that we do not know to what extent Livy's lists are typical but to accept, along with their accuracy, his statements that the struggle for the consulate in these and other years was intense.<sup>77</sup> On that basis, we would be justified in concluding that there was no "understanding" among the leading families as to who would have his turn in office and when, and that the candidates were not simply going through the motions at *comitia* prior to their expected date for the sake of self-advertisement. The future consul Q. Metellus Macedonicus belies that picture: *Metellum pauci et maesti amici consulatus repulsa afflictum tristitia ac rubore plenum domum reduxerunt*.<sup>78</sup> His reaction and that of his friends hardly substantiates the notion that members of Rome's noble *gentes* took defeats in consular contests in their stride, secure in the knowledge that their time would come.<sup>79</sup> Failure entailed humiliation and loss of self-esteem, and few aristocrats will have been prepared to endure public shame by a hopeless canvass for votes ahead of their time if their eventual triumph at the polls had already been "fixed." Quarta Hostilia reproached her son Q. Fulvius Flaccus after his third defeat for the consulship in 180 and allegedly even murdered her husband, Flaccus' step-father, to win her son a suffect consulate (Livy 40.37.6). It is hard to imagine a tale like this arising if gaining a consulate was merely a matter of waiting one's turn according to an agreed upon schedule, if even the most extreme measures were not believed sometimes necessary to secure the prize. Certainly, Develin is correct that *repulsae* among contenders for that office were common but wrong in refusing to see them as the result of the intensity

<sup>77</sup> See, e.g., Livy 35.10.1, 5; 35.24.4; 37.47.6; 39.32.8, 10–12; cf. 41.28.4.

<sup>78</sup> Val. Max. 7.5.4; cf. *De vir. ill.* 61.3; *Oxy. Per.* 52.

<sup>79</sup> Note Valerius Maximus' characterization of L. Aemilius Paullus' defeats in his attempt to win election to the consulate: *cuius virtutem iniuriae non fregerunt*: 7.5.3, cf. Plut. *Aem.* 6.4. Other, non-consular *repulsae*: Val. Max. 7.5.1–2, 5–6.

of the struggle required to win, even for men with outstanding credentials whose eventual success might appear, with the benefit of hindsight, to have been predictable.<sup>80</sup>

<sup>80</sup>*Practice* 94; *Patterns* 25–28. On the high frequency of *repulsae*, see now R. Evans, “Consuls with a Delay Between the Praetorship and the Consulship,” *AHB* 4 (1990) 65–71, who sees the prevalence of *repulsae* as an indication of the intensity of political competition, and T. R. S. Broughton, *Candidates Defeated in Roman Elections: Some Ancient Roman “Also-Rans”* (Philadelphia 1991, Transactions of the American Philological Society 81.4).