1927

The plebeian tribunate: a history of political development

Austin, Helen Agnes

Boston University

http://hdl.handle.net/2144/5669

Boston University
The Plebeian Tribune: a History of Political Development

Submitted by

Helen Agnes Austin

(A.B., Mount Holyoke, 1920)

In partial fulfilment of requirements for

the degree of Master of Arts
Outline of Thesis

Title - The Plebeian Tribunate: A History of Political Development

I. Introduction
   A. A detailed account of Rome in the first years of the Republic - considered primarily from the economic and financial standpoint
      pp. 1-4 incl.
      1. The question of debt
      2. Its effect on plebeian people
   B. The first secession (494 B.C.)
      pp. 5-7
      1. Immediate results - New debt regulations
      2. Great result - establishment of plebeian tribunes

II. Body
   A. Description of the new officials (plebeian tribunes)
      pp. 9-11
      1. Original number of tribunes and origin of name
      2. Sacrosanctity of tribunes to patricians and plebeians
      3. Method of appointment
      4. Nature of the tribunate
         a. not originally political
         b. not a farsighted effort after democracy
         c. outcome of pressing necessity
      5. Powers of the new officials
         a. 'Jus auxili' i.e. 'auxilia latro contra consules'
         b. Original power restricted to assisting few
         c. Power of tribune limited to city boundaries
   B. Extension of Powers of Tribunate
      pp. 10-13
      1. Acquisition of definite powers
         a. 'Jus coercitionis' vs. Magistrates resisting tribunes
         b. 'Jus Praetorii' vs. persons resisting tribunes
         c. 'Intercessio' - unlimited obstruction to block all machinery of government
         d. Judicial powers
            (1) 'Intercessio developed into right to prosecute
            (2) 'Productio in forum' or power to summon anyone
            (3) Institution of (a) two aediles as assistants
                (b) 'deemvir de stillitus indicandis'
      2. Origin of comitia tributa as judicial body
         p. 10
         a. Aim to meet needs of tribunes who could not summon comitia centuriata
         b. Composition of comitia tributa (XXI tribes)
   C. Functioning of the tribunate
      p. 11
      1. Original absolute negative power
         a. as opposed to consul's positive power
         b. expansion possible thru concilium plebis
      2. Early movements toward access of power
         p. 11, 12, 13
         a. 'Lex Icilia' (492 B.C.) vs. interruption of a tribune
         b. 'Lex Publilia' of Publius Volero
      3. Three states necessary for passage of laws by plebes
         p. 13
         a. Resolution voted by plebes in concilium
         b. Proposal of resolution by consul to senate
         c. Approval of senate
      4. Recognition of tribunes growing power by patricians
   D. Growth of the tribunate
      p. 14
      1. First great stage in development of its power
Outline of Thesis cont.

a. Significant action by individual tribunes
cf. Thesis
p. 14
pp. 14, 15
(a) completion of X tables
(b) Patricians' aim to substitute them for tribune
(3) History and significance of second decemvirate
(4) Right of 'provocatio' - on capital punishment
p. 16
(5) Valerian-Horatian Laws (449 B.C.)
(a) Provisions of bill
(b) Recognition of tribunate by law
(c) Improved condition of tribunate

2. Second stage in development whereby interclass barriers are broken down (449 B.C.)

p. 16
a. 'Lex Canuleia' of tribune, Canuleius (445 B.C.)
(1) Significance of sanctioning interclass marriage
(2) Social barriers shaken
p. 17
b. Adoption of military tribunes with consular power (439 - 264 B.C.)
pp. 19-20
c. Licinian Rogations (367 B.C.)
(1) Stipulations of these laws
(2) Significance
(a) One plebeian consul obligatory
(b) Religious privileges won by plebeians
(c) Similar important plebiscita
p. 19
d. Ovinian Law and its significance regarding senate
p. 19
e. F. Ogulianus' Law and its significance regarding religious privileges.

3. Third stage in development of tribuniciam power

a. Changed nature of tribunate

pp. 18-19
(1) No longer weapon of offense and opposition
(2) Passes into aristocracy's hands in senate
b. Account and significance of G. Gracchus (123 B.C.)
(1) Aim - to oppose counter gov't to oligarchic control
(2) Results
pp. 22-24
c. Account of Tiberius Gracchus (123 B.C.)
(1) Return of Comitia's Activity
(2) Maximum display of power by tribunate
(inc.)
d. 'Tribunica Potestas' in hands of bold individuals
pp. 28-29
(1) Marius
29
(2) Saturninus
30
(3) Sulpicius Rufus

Sulla's attack on powers of tribunes (84 B.C.)

p. 31
(1) Abrogation of tribune's acquired powers
22-33
(2) 'Lex Aurelia' (76 B.C.)--Partial restoration of powers
35
(5) Further restoration by Pompey and Crassus (70 B.C.)
f. Use of individual tribunes as tools of pro-consuls
g. Position of tribunate under empire as seen under

III. Conclusion
A. Cursory review of development of growth of tribunate with emphasis on:

1. Correlation of this growth with political and economic
development of Rome.
Outline of Thesis cont.

2. Relations to changing constitution of populace
   B. Personal deductions in light of worthy documentary evidence furnished in body of thesis
The Plebeian Tribunate: a History of Political Development

It is the purpose of this brief treatise to trace from an apparently insignificant beginning, the development of the principal magistracy of the commonalty in Rome—the plebeian tribunate. Since it is impossible to understand this peculiarly Roman conception of office except through analysis of the political and economic side of Rome's history, it seems logical to begin with a detailed account of Rome in the first years of the republic.

The traditional date for the fall of Tarquin the Proud is 510 B.C. and accordingly the free common wealth started with a pair of consuls the following year. "Urbem Roman a principio reges habuerent; libertatem et consulatum L. Brutus instituit—" and similarly an echo from Cicero regarding the essential elements of the Roman Republic: "Regio imperio sento duo, iisque a praecando, iudicando, consulendo, praetores, iudices, consules appellamino; militae summum ius habente, nemini parento—."

Just as this republican form of government had been prepared for by the rule of the kings—"Servius quamquam iam usu haud dubie regnum possederat, tamen, quia interdum laetari voces a iuvene Tarquinio audiebat se iniussu populi regnare———" and "Quae libertas ut laetior esset, proxumi regis superbia fecerat,— so, through the expulsion of these same kings, such a form of government seems to have been established for all

1. Dio Cassius Frag. 10
2. Tacitus 'Annales' I, 1
3. Cicero 'De Legibus' III, 3, 3
4. Livy I, 46
5. Livy I, 46
time. As Livy says "Ita induxisse animum hostibus potius portas quam regibus patefacere; eam esse voluntatem omnium ut, qui libertati erit in illa urbe finis, idem urbi sit". And yet in Livy's own time the transfer to a monarchial form of government was effected and he could not but admit that among the forms of republican despotism, the "regnum" so hated by the Romans became the accepted one, although he says with great feeling "regnum nomen alibi magnum, Romae intolerabile esse" and "natura inimica inter se liberam civitatem et regem." To be subservient to the whim and fancies of a tyrant was to the Roman mind unendurable. Yet he does want to impress on us the importance of realizing that such an ideal "libertas" cannot be had in the rule of the masses, for they are bound to be fickle and incapable of sound judgment. cf. "In liberis gentibus plebs ubique omnis fere, ut solet, deterioris erat." and "Haec natura multitudinis est, aut servit humiliter aut superbe dominatur; libertatem quam media est neque spernere modice neque habere sciant." Such an ideal 'libertas', he hastens to assure us is not to be found in the uncurbed desires of the tribunes. He might well have believed, as many others, that through Pompey and his party there might be reinstated the old form of responsible government by the 'Optimates' as opposed to the demagogy of the tribunes—but of this I will speak in another connection.

However, I do feel that Livy's attitude toward this whole problem has been aptly explained by W. J. Weissenborn in his "Einleitung" to Livy. For here he says: "Durch die sittliche und religiose

1. Livy II, 15  
2. Livy XVII, 19  
3. Livy XLIV, 24  
4. Livy XLIII, 30  
5. Livy XXIV, 25
Gemütsrichtung sind endlich auch die politischen Ansichten des Livius und seine Grundsätze über den Staat und dessen Verfassung bedingt. In der Republik haben sich alle Vorzüge und Tugend der romischen Charakters entwickelt, haben die Göter die großen Männer, welche die Stuetzer und Träger des Staats waren, mit glänzenden Erfolgen gesegnet, den Staat selbst zum höchsten Gipfel der Macht emporgehoben; daher konnte sich Livius, namentlich dem Verfalle seiner Zeit gegenüber, keine andere Verfassung für seinen Vaterland denken als die republikanische.¹ In other words Livy believed that a constitution which had once proved successful was the only one possible for his country.

The situation of the Roman community in 509 B.C. is one in which the two classes in the Roman populace, Patrician and Plebeian, are face to face. The two new chief magistrates are from the ranks of the patricians. Both religion and law, as well as the bulk of the land and the voting power in the assemblies are in the hands of the patricians. Meanwhile the laws of debt are very cruel and the prospect of getting a share in the land for tillage is less and less. The banished Tarquins and their followers find support among the Etruscan cities and Rome loses her lands beyond the Tiber. Distresses of military service fall on all citizens, while the distresses of peace are aggravated by the burdens of unsuccessful wars-------"Inter haec maior Alius terror. Latini equites cum tumultuos ad volant mantio Volscos infesto exercitu ad urbem oppugnandum venire------adeo duas ex

una civitate discordia feceret—longe aliter patres ac plebe
adfecere: exsultare gaudia plebes, ulores superbiae patrum ad-
esse dicere deos; alius alium confirmare cum omnibus potiusquam
solos perituros--------" Tradition accordingly tells of discon-
tent and intestine quarrels. Unprivileged plebeians must per-
force seek to better their condition. Naturally, and quite in
line with man's instinct for self-preservation, the plebeians' first object was bound to be personal protection against the
harsh exercise of the "imperium" of the magistrates, to es-
cape from the cruel law of debt by which the insolvent debtor
became the slave of his creditor, and to procure allotments of
the state land ("ager publicus") for their own use. Under the
existing assembly system, the plebeians could not extort
concessions by voting power. Besides all power of initiating changes rested with the magistracy: there was, therefore,
little chance that the desired concessions would be put to a
vote. So Livy, after recording the discussion which took place
in the senate regarding the existing state of affairs, con-
cludes as follows: "Demissa senatu, consules in tribunal esce-
dunt; citant nominatim iuniores, cum ad nomen nemo responderet,
circumfusa multitudo in contionis modum, negare ultra plebe
decipi posse; libertatem unicoique prius reddendam esse quam
arma danda ut pro patria civibus que non pro dominis pugnet.----
Et apparebat atrox cum plebi certamen." It would seem therefore,
that personal, social and economic relief for the plebeians

1. Livy I, 24
2. Livy II, 26
   Similarly Dion. 6, 34
3. Livy II, 32
could be brought about only by the attainment of the privileges afforded by effective voting power and initiative. I doubt whether these ends could ever have been achieved without combined action, the termination of which, luckily for the plebeians, was precipitated by combined leadership. Accordingly we find that in the period 494-449 B.C. three important steps were taken by the plebs.

First (494 B.C.) the plebeians attained the right to appoint officers of their own, "tribunes of the plebs" with sufficient power to act as their protectors and leaders. The story of this first step on the part of the plebeians could be recorded by none with so much charm as by Livy whose style and coloring is identical with that sponsored by Quintilian as the ideal style for a "scriptor rerum". "Est enim (historia) proxima poetis, et quodam modo carmen solutum, et scribitur ad narrandum, non ad probandum, totumque opus non ad actum rei pugnamque praesentem, sed ad memoriam posteritatis et ingenii famam compositur."

In the very face of an impending attack by the allied hostile forces of the Aequi, Volscii and Sabini, the action taken by the patricians in their confused and tumultuous senate is graphically depicted by Livy. The senators' indignation caused by repeated failures to coerce the plebes into acquiescence to their wishes, gets the upper hand. They lose all semblance of control over proceedings.... "Senatus tumultuose vocatus, tumultuosius consultur, quaestionem postulantibus non sententia magis quam clamore et strepitu--" 4 What a contrast between this disorder and the ideal method of senatorial procedure advocated by Cicero in his treatise on the law! "Deinde se-

1. Dio Cassius Frag. 15 6
2. Livy II, 23
3. Quintilian X, 1, 31
4. Livy II, 29
5. Aulus Gellius 15, 27

---

6. Dio Cassius Frag. 15 6
2. Livy II, 23
3. Quintilian X, 1, 31
4. Livy II, 29
5. Aulus Gellius 15, 27
quitur," writes Cicero, "quibus ius sit cum populo agendi aut cum senatu; tum gravis et, ut arbitror, praecella lex: quae cum populo, quaeque in patribus agentur, modica sunt, id est modesta atque sedata. Vis abstero. Nil est enim exitiosius civitatis, nihil tam contrarium iuri ac legibus, nihil minus civile ac humanum quam quicquam agi per vim." Surely any vestige of such order is wanting in the story of Appius Claudius' proposal and actual "latico" of a measure so outrageous from the point of view of the plebeians as the election of the magistrate before whom there should be no appeal. "Agadum inquit "Dictatorem a quo provocatio non est, crea mus"—-the subsequent abdication of the dictatorship ("nec enim ipse frustra dictator ero")---the pressure brought to bear by the Ae-qui---the summoning of the legions in the face of plebeian opposition and finally, the inevitable sedition. ("Quo facto, maturata est seditio").

Livy accordingly appears to assume that all ten legions, the largest part of the plebs seceded under their military tribunes and the ensuing events are to be thought of as an assembly of the plebs by centuries as in the army. Mommsen (Str. 2, 149) adopts this view. Our account continues with a certain Sicinius together with the plebeian bend seceding to Mons Sacer, about three miles from the city proper. It is interesting to note that the second secession of the plebs was not to the Mons Sacer, but to the Aventine. Livy claims that "Sicinio quodam auctore iniussu consulum in Sacrum Montem secessisse; trans Anienem est, tria ab urbe milia passuum. Ea frequentior fama est quam cuius Piso auctor est in Aventinum secessionem factam esse." Here we are told

1. Cic. De Leg. III, 18, 40
2. In all fairness to the patricians, however, we must admire them for the prudence exercised in the subsequent treatment of the plebeians.
4. Livy II, 22, Livy III 64, 8
the rebels ensconced themselves in a fortified place, neither
assaulting or being assaulted by their enemies in the city.

The plebeians left behind were seized by great terror by what
the patricians might do. The later, at first indignant, later
perplexed, were finally convinced by the persistence of the plebs
that their only hope of settling troubles outside lay in securing
harmony among all the citizens. "Nullam profecto nisi in concordia
civium sper reliquam ducere." Thus Menenius Agrippa, a clever man
and an able talker, himself from the number of the plebs, was sent
as mediator. He makes the well-known and rather homely comparison
between the senseless discord of patricians and plebeians and the
vain conflict of the limbs of the body struggling for supremacy over
the stomach. Compare the following Greek themes...

Through these words the populace was made to see that the abundance
of the prosperous tends also to the advantage of the poor and that
even though the former be advantaged by their loans, the outcome of
this is not harmful to the many. Since, if it were not for the wealthy
owning property, the poor would have, in times of need no persons to
lend to them and would perish under the pressure of want. Accord-
ingly they reached an agreement, the senate for its part voting a
reduction in debt and a release from seizure of property. Thus a
truce is effected whereby the plebeians are awarded magistrates of
their own."Concessum deinde in condiciones, ut plebi sui essent
magistratus sacrosancti, quibus auxilli latio adversus consules essent

1. Livy II, 32 It is interesting to note that even at this early
date we have instances of individual plebeians raised out of the class
in which birth had placed them. cf."Plebi priandum" Livy II, 32
2. Zonaras 7, 14 cf. Cassius Frag. 15
neve cui patrum capere cum magistratum liceret. Its tribuni
plebis creati duce
--- " Since then the object of the patricians
was to get out of the difficulties in which their mistakes had
involved them as cheaply as possible, the surest means seemed
to be had in separating the plebeians from their leaders. The
debts of insolvents were cancelled but this was of no great loss
to the creditors since the interest on them must have amounted
to practically the capital. The only permanent result of the se-
cession was the establishment of the office of the "tribuni plebis",
nor was this entirely an innovation, for the ten tribes of the
plebs, subdivided into two decuries, each had their "principes".
Accordingly, when we read that the tribunes were originally only
two in number, we may safely infer that from the actual twenty
or twenty-one tribunes these two were principal and only they ad-
vanced to a higher sphere of official activity. The difference,
undoubtedly, is that, whereas the earlier tribunes were elected
by their respective tribes, the new tribunes were elected by the whole
plebeian body. The names of the first tribunes are C. Licinius and
L. Albinius, and Sicinius who was the commander of the plebes dur-
ing their secession is mentioned as one of the three who were sub-
sequently added.

The means then taken by the plebeians to exact from the pa-
tricians the desired concessions were a withdrawal from Rome to a
position outside, followed by a refusal to return or form a part of
the Roman state unless their demands were conceded. The result of
the secession was a compact to the advantage of the plebeians--

1. Livy II, 33
2. Ibid
in short, a regular 'foedus' made between the orders as between two separate communities. This amounted to a solemn recognition of the plebs as an independent community—a sort of state within a state. Foremost in significance in this connection, however, was the establishment of the tribunate, for the men who held this office were destined to be the cause of many later triumphs—triumphs which were to bring with them a growing consciousness of the limitless possibilities of this seemingly harmless remedy. For a proper appreciation of the unforeseen development of this office, it is essential that we fully apprehend three truths regarding the tribunate. In the first place, this office was not originally political, secondly, it was not a farsighted effort after democracy and thirdly, it was the outcome of pressing necessity.

It would seem, therefore, that the powers of these new officers could not possibly cause the patricians serious concern. The "ius auxili", i.e. "auxili ferendi contra consules" was nothing more than assurance to the individual plebeians of assistance against mal-treatment at the hands of patrician magistrates—a measure which was intended to benefit only the few abused members of the plebeian body within the city limits. "Plebes quos pro se contra vim auxilii ergo ducem creassit, ei tribuni eius sunt, quoque ii prohibessint, quoque plebem rogassint, rogatum est; sacrosancti sunt, neve plebem orbam tribunis relinquunto." And yet this meager concession we shall trace through its gradual development into alarming power of "inter-

1. Cicero, De Leg. III, 3, 16

* Dio Cassius Frag. 16 explains 'sacrosancti' as signifying a sacred enclosure for the shelter of such as invoked them. For 'sacra' among the Romans means "walls" and 'sancta' "sacred."
cessio" against the arbitrary acts of any magistrate.

For the present, the plebeians must be content with protection against oppression and their new magistracy was therefore instituted "auxili ferendi gratia", and the persons of these officers by oath declared inviolable, that they might feel free to step in between the rulers and the oppressed and protect the latter. Considering the 'esprit-de-corps' and the official power of the patricians, a tribune in early times would have had more than a little difficulty in bringing an accusation against a consul, since there existed another consul with equal powers and both were backed by all the patricians. But whoever laid hands on a tribune was outlawed. Yet the first tribune cannot justly be called a magistrate of the state—they are rather to be looked upon as ambassadors whose duty it was to protect the interest of their estate, the plebes. The tribunes had the right to assemble the plebes, but at first little use was made of the privilege. The resolutions passed by the plebes on the proposal of a tribune were called "plebiscita" as opposed to the "leges" of the patricians. Of course, the plebiscita did not at first affect the whole state—it was not until 449 B.C. by virtue of the Valerio-Horatian laws "ut quod tribunus plebis iussisset populum teneret." The aediles, it must have been, who acted as judges in disputes among the plebeians, for the tribunes in earliest times were not judges. The powers of the tribunes were thus very slight, partly of a negative character and not at all legislative. We must bear in mind also the fact that the election of the tribunes was assigned to the

"Vehementer id retinebatur populi comitiane essent rata nisi ea patrum approbavisset auctoritas."

3. The exact meaning of this phrase has been the subject of much debate. It is very probable that Livy is quoting a fact, but does not put it in its Livy III, 55 cf. Dio Cassius Frag. 16.
centuries* and not to the tribes as we might expect, for this is only further proof of the small advantages originally wrung from the patricians who exercised great influence in the centuries through their clients. It was by means of just this influence that the patricians in later years were to form a party among the tribunes. In concluding this first section of the discussion it is well to be clear on this point—that the result of the first secession was not the decided victory of the plebeians over the patricians which it might appear—yet it did afford a firm basis on which the plebeians by great and constant exertion were to build successfully.

Reference has already been made to three decisive steps taken by the plebeians between the years 494-449 B.C. The first whereby they secured the right to appoint officers of their own, I have already discussed. By virtue of the Icilian law of 492 B.C., moreover, whosoever obstructed by a tribune by word or by deed, be he private citizen or magistrate was 'hallowed'. The second step effected by legislating of Publius Volero whereby the commons gained the right of voting by tribes in their own plebeian meetings is recorded by Livy. Here he tells how Volero, in spite of hearty opposition by Appius passed his bill. "Voleronom amplexa favore plebs proximis comitiis tribunum plebis creat in eum annum qui L. Pinarium, G. Furium consules habuit—-----rogationem tulit ad populum ut plebei magistratus tributis comitiis fierent-----Tum primum tributis comitiis creati tribuni sunt. Numero etiam additos tres perinde Piso auctor est. Nominatque tribunos C. Siccom, L. Numitorius, M. Duellium, Sp. Icilium, L. Necilium. Weissenborn's comment 1. Livy II, 45ff; T.M. Taylor "History of Rome" P.67 2. Dio Cassius frag. 16. Boissevain in his 4th book explains Dio Cassius' use of "hallowed" as signifying that a person thus designated, was consecrated like any animal to be victimized. 3. Livy II, 55, 56 ff. cf. Dion 6, 89. 4. Ibid "Livy II, 56 "Tum Primum tributis comitiis creati sunt tribuni" cf. p. 12, note 1.
on the election of the tribunes is worthy of note. "Bisher in den Versammlungen in denen Tribunen gewaehlt wurden, haben auch die Patricier gestimmt"—he adds, "Doch sind es schwerlich Centuriat-Comitien gewesen, da in diesen die Magistrate des ganzen Volkes gewaehlt wurden, sondern eher Curiat-Comitien in denen die zahlreichen Klienten mit ihren Patronen stimmten, und so Wahlen durchsetzten die den Interessen dieser entsprachen. Durch den Vorschlag des Voleros wird die Wahl der Tribunen den plebeianischen Grundbesitzern allein uebertragen und erfolgt in Comitien Tributen von denen die Patricier ausgeschlossen sind."1 Similarly Aulus Gellius writes—"tribuni neque advocant patricios neque ad eos ferre ulla de re possunt."2 The story is that Publius Volero, a distinguished plebeian and centurion in the army, indignant because the patricians, to terrorize the plebeians, had assassinated Genecius, the tribune, resisted fearlessly the patricians attempts to make a levy of the most conspicuous plebeians. Further outraged by their attempt to humble him to the position of a mere private, he called first upon the frightened tribunes for help, then upon the plebeians who drove out the patricians and elected Volero as tribune. He dropped the matter of the inquiry to the 'sacrosanct' nature of the tribune, and began instead some legislation bound to involve radical changes in the tribune's position. First he declared that the plebes, on the proposal of the tribune, should no longer be elected by the centuries, but by the tribes—"ut plebei matistratus comitiae tributis fierent."3 Yet, since the first of these demands is made later by Hortensian law, it seems likely that that stipulation may not have

1. W. J. Weissenborn "Livius"—Introduction
2. Aulus Gellius 15, 27 cf. Dion. 9, 45
3. Livy II, 55
been made by Publius. Previous to the passage of the "Lex Publilia Volero" 471 B. C. the plebs held meetings of their own as we know from the election of the tribunes and the early history of the tribunate—but these were informal meetings not recognized by the state—and so their decisions could not be strictly "leges". The three states necessary as yet for the passage of a law by the plebeians were first the resolution be voted on by the 'plebis concilium', second that it be proposed by a consul to the senate, if the consul were willing, and third, that it be approved by the senate. But henceforth the plebes were allowed to elect tribunes by tribes, the registers of which would include only freeholders from the plebeians. Thus originated the "plebis comitia tributa". It is important to note here that, whereas the number of tribunes had been increased from two to five and in the course of time, to ten members, persons condemned by a tribune would and did call to their help those tribunes who had not concurred in the verdict. Thus most of the power of the individual tribune was bound to be restricted. If even one of them opposed a measure, he rendered the decision of the rest null and void. At first they did not enter the senate-house, but sitting at the entrance watched proceedings, and in case anything displeased them, they would show resistance. Next they were invited inside. Later the ex-tribunes were numbered with the senators and even some of the senators actually were permitted to be tribunes, unless they happened to be patricians. The plebeians would not accept patricians, since the office had been originated as a means of defence against the latter. But if a man gave up his patrician rank, and changed his

1. Livy II, 44
Dio Cassius 16,

2. Dio Cassius 16,
social standing to that of a common citizen, he was received. Many of the patricians, says Dio Cassius, renounced their nobility through a desire for the immense influence possible, and so became tribunes. Such was the growth of the domination of the tribunes. In addition to these officers the people chose two aediles to be their assistants in the matter of documents, and to whom supervision was given over everything that was submitted in writing to the plebes.

Now that the plebeians had succeeded in securing for themselves their own officers as well as the right to vote by tribes in their own plebeian meetings, they next produced an agitation (462-450 B.C.) for written law, which resulted in a rudimentary code—the famous twelve table of the decemvirs. Livy records how the tribune C. Terentius Harsa proposed "ut quinque viri creantur imperio consulari legibus scribendi" with the hope that he might thus deprive the patricians of sole possession of the law. The decemvirate, therefore, was established and all other magistrates of the state were suspended. Livy writes that "anno trecentesimo altero quam condita Roma erat, iterum mutatur forma civitatis, ab consulibus ad decemvires"—An interesting reference to the development of the tribuneship, and incidentally the impetus given it by the institution of the Twelve Tables is made by Cicero in his "De Legibus". Very cleverly he puts it in the mouth of his brother Quintus in words no doubt intended to express his per-

1. Dio Cassius Frag. 167
Cicero De Leg. bk. III 4, 11
2. Livy III, 35 ff.
3. Livy III, 33
sonal belief in the evils of this office.--Q. "At, Meherecle, ego
frater, quaero de ista potestate quid sentias. Nam mihi quidem
pestisera videtur, quippe quae in seditione et ad seditiorem nata
sit; cuius primum ortum, si recordari volumus, inter arma civium
et occupatis et obsessis urbis locis procreatum videmus."\(^1\) Al-
though the acquiescence of the patricians to the institution of
the Twelve Tables was beyond a doubt due to their hope that thus
they might replace the tribunate by the decemvirate's code of
law, yet after its acceptance, the tribunes with the other magis-
trates returned to the office.

The passage of the Valerio-Horatian laws in 449 B.C. marks
the conclusion of what I am considering the first stage in the
development of the office of tribune. This measure whereby the
'plebiscola' were given the power of laws binding on all "ut quod
tributim plebes iussisset populum teneret"\(^2\) is open to question for
this same provision was to be made later in the well-known "lex
Hortensia" of 287 B.C. In Niebuhr's\(^2\) discussion of the Lex Valeria
Horatia, I discovered what seemed to me a very plausible explana-
tion. He believes that the law was not as I have quoted it from Livy who
may have confused it with the "Lex Hortensia", but rather as fol-
lows--"ut quod plebes tributim iussisset, quarum rerum patres au-
tores facti sint, populum teneant."\(^3\) He bases his argument on the
observation that from this time forth, the tribunes, after getting
the plebes to pass a resolution, brought it before the curies in-
stead of waiting as formerly for the sanction of the senate. This
is very probable, since this was not a tribunician but a consular

2. Niebuhr "Lectures on Rom. History" P. 196
3. Livy II, 55
rogation. It is the Hortensian Law which finally makes the preliminary resolution of the senate unnecessary thus giving the plebes power to pass any resolution whatever. This afforded a real victory for democracy, since from this time on, a resolution of the plebes sufficed for real laws. Whereas we cannot discover with actual certainty the contents of the Valerio-Horatian law, we are perhaps fair in assuming this much: first, that some means were effected by which a resolution of the plebes could easily be converted into a law binding on the whole 'populus', including the patricians—secondly, that the right of appeal was restored and safeguarded by enacting that any magistrate who presided at a meeting electing a magistrate from whom there should be no appeal "provocatio" would be held an outlaw and subject to death,—and thirdly, that the persons of the tribunes were further protected.

Turning, for the time being, to another phase of the development of the tribunician office, I shall consider the means taken by the plebeian magistrates to break down the barrier between them and the patricians. In 445 B.C. the tribune Camuleius first effected the passage of the famous marriage law, a blow to the patrician "nobility" of birth in that it sanctioned inter-marriage of plebeians and patricians. Encouraged, no doubt, by his success this popular leader agitated for having the consulship thrown open to plebeians. There is no difficulty in understanding this stand taken by the tribunes, since (as I have explained earlier) the patricians by a mere transfer to the plebeian order, were free to hold the tribuneship. A struggle ensued with the outcome that the nobles, in an effort to prevent the populace from further exceeding their bounds, yielded to them

1. T. M. Taylor "Const. Hist. of Rome" P. 95
   Willems "Le Senat Romaine" § 8, III, P. 81
the substance of authority, if not the name. Their next move was a foil to the plebeians in that they decreed that in any year the place of consul might be filled by military tribunes with consular power, an office which occurs five times between 439 and 364 B.C. Boisseyvain (Book VI) interprets Dio Cassius' statement that it was agreed that three of these military tribunes should be from the ranks of the plebeians and three from the patricians. This does not mean that consuls ceased to be, for sometimes consuls and at other times military tribunes were appointed.* In the words of Cicero "Deinde cum esset (tribunatus) cito necatus tamquam ex XIII tabulis insignis ad deformitatem puer, brevi tempore nescio quo pacto recreatus multoque tueior et foedior renatus est." Livy seems to underestimate the plebes so far as to believe that they merely wished a claim to the office, but did not feel capable of filling it and accordingly elected patricians to the office, instead. This is but further proof of his prejudice in favor of republican ideals. With the institution of this office, the contest between the classes entered another phase. Henceforth according to Niebuhr in his lectures, "The rejection of plebeians at elections, and the like no longer arose from any external opposition, but from the internal dissention of the plebeians themselves. From now on, some of the members of this office were to be won over to the interests of the senate."²

*That the need for extra officers may have conduced to this trans-
formation in chief magistrates, seems probable since, with the res-
toration of the consulship in 367 B.C. the office of praetor was in-
stituted to relieve the chief magistrates; thus to offset the pres-
sure of the plebes, the patricians deprived the consuls of various 
powers which they conferred on other officers such as, the praetors, 
dictator, and others.

1. Cicero: De Leg. III, 8, 19
Thus senators were able to neutralize one tribune's power by the veto of another. An instance of this was the Land Bill of 417 proposed by one tribune and blocked by others. Similar use of the right of "intercessio" blocked for a time the passage of the Licinian laws. Here we must clearly understand that the occasional weakening of the plebeian tribune is to be traced to the different interests of the rich and poor plebeians and not, as formerly, between the two great classes. Wealthy plebeians were most often elected to the tribunate and used the needs of the poorer to win the consulship for themselves. An instance of Licinius and Sextius with their colleagues and the combined plebs against the election of new magistrates: "Licinius Sextiusque tribuni plebis refecti mullos curules magistratus creari passi sunt; eaque solitudo magistratum et plebe reficiente duos tribunos et iis comitia tribunorum militum tollentibus per quinquennium urbem tenuit."\(^1\) This reform proposal of Licinius had two great ends:\(^2\) one, mentioned above, that no more military tribunes should be elected, but consuls instead, one of whom must be a plebeian. Struggle as they might, the patricians could not prevent the passage of this bill. The second law established the principle that the plebeians should have a share in the "ager publicus".

No individual was to possess more than 500 jugera, the surplus to be divided into lots of seven jugera. The third bill had to do with the temporary settlement of debts of

1. Livy VI, 35
the plebeians—the interest added to the capital was to be cancelled and the rest paid back in yearly installments.

Thereafter, numbers of wealthy plebeians were passing into the senate so that the political power, hitherto peculiar to the patrician Order, was dying out. After the year 367 B.C., we find tribunes sitting and speaking in the senate, if not yet summoning it. Their negative power was a means of controlling the administration of other magistrates as well as their fellow-tribunes in the interests of the Nobles. In 327, when the augurs decreed the deposition of a plebeian dictator under the pretext of a flaw in the manner of his election, the tribune vetoed the act. Again in 314, when the patricians sought the latter's aid against the plebeian dictator of the year, they met with refusal, and in 300, when the question of admitting plebeians into the sacred college of Augurs, they were at first divided but later the bill was passed. But whenever the rights of their office were menaced, the tribunes insisted on their privilege. Accordingly we read that in 357, when a consul commanding a field away from Rome passed a law in a meeting of the tribes, the plebes decided that this must not be encouraged or even allowed so far from the intervention of their tribunes, took strong measures. When in 353, the dictator wanted to effect the return of two patrician consuls, the tribunes, blocked the election till the dictators term was at end; then followed a series of interreges.

until finally the patricians gave way and the Licinian laws were once more observed.

However it was quite natural for the mass of plebeians to be more interested in laws of debt than in constitutional rights and privileges and as a result tribunes often found it advisable and even necessary to abolish loans and institute new debt-regulations to secure the support of this important class on their measures. Later in 287 B.C. intolerable pressure of debt led to the last secession of the plebeians and the famous law of the dictator Hortensius, a resolution by the plebes binding on all "ut plebiscita universum populum teneret."

In the thirty-eighth book of his annals, Livy narrates an interesting instance of a tribune's exercising his right of "intercessio". Aemilius Lepidus, one of the new consuls for the year 187, determined to get revenge on Fulvius who had been presiding officer at consular elections both years earlier when the former had lost in election. To gain his end, Lepidus arranged to bring into the House some Ambraciotes with a woeeful story of their maltreatment at the hands of Fulvius. But Aemilius' own colleague, G. Flamininus, defended him. Accordingly Fulvius, on his return some time later, demanded a triumph. Again a tribune, acting for Aemilius, who was then absent, said he would block all action till the return of the consul—but he, in turn was blocked by another tribune and eventually a triumph was granted. Still later in 151 B.C. the war in hither Spain called Licinius Lucullus with reinforcements which were raised with difficulty. Lots were drawn for those who were to be en-

1. Livy XXXVIII, 43, 44
2. Livy XXXIX, 4, 5.
3. Livy Epit. 47
4. Livy Epit. 48
rolled since service in Spain was hated and it was hard to fill the ranks. Thus the consuls tried to enforce the levy and unwilling recruits appealed to the tribunes who intervened to prevent the forced drafting of some of their personal friends. The consul disregarded their opposition and the tribunes, falling back on their traditional rights of their office seized the consuls and threw them into prison.

An instance which perhaps best shows the changing trend of the two strong censors\(^1\) of 169 B.C., C. Claudius Pulcher and Tiberius Sempronius Gracchus. After instituting several radical changes they interfered with the tribune Rutilius in that they ordered a wall built by the latter's client to be demolished. The enraged tribune\(^2\) sought the backing of his colleagues who held back and even allowed the censors to fine the builder of the wall. The tribune, in a fit of displeasure issued a bill cancelling the action of the censors. Because the censor called for order in a mob-meeting summoned by Rutilius, the tribune, the latter accused the censor of violating the tribune's right of freedom from interruption in addressing the plebes (Covocare plebem), a privilege insured by the Icilian\(^3\) Law of 492 B.C. In the face of a charge of 'perduellio' (high treason) brought on by the tribune, the censors escaped. Thus we see, that the tribune once irresistible within the city-limits can now be defied—that the tribunes of this date, while officially endowed with the same powers as their predecessors cannot really practice these powers when face to face with another

1. Livy XLIII, 14-16
3. cf. P.l1, note 1.
magistrate backed by the senate.

Undoubtedly no Roman magistrate could have been less guilty of unworthy motives than the tribune, Tiberius Gracchus, son of the censor; even men like Cicero in a later day, who influenced by party-spirit blamed him in his undertaking, yet found much in him to admire. Whereas, in his treatise on the law, Cicero, speaking to his brother says of Tiberus Gracchus, "Quin ipsum Ti. Gracchum non solum neglectus, sed etiam sublatus intercessor evertit. Quid enim illum aliud perculit, nisi quod potestatem intercedenti collegae abrogavit?"—and this by way of reply to Quintus' query: "Quid bonis iuris viris Ti Gracchi tribunatus relinquit?" Yet, in spite of Cicero's own statement that "nunia potestas est tribunorum plebis.—Quis negat?" he does recognize that Tiberius was a young man of great purity of character who disturbed the state only 'mildly' of. "An vero vir amplissimus, P. Scipio, pontifex maximus, Ti Gracchum mediocriter labefactantem statum rei publicae privatus interfecit." This tribune 133 B.C. clearly saw that if matters continued to go on as they were the plight of the lower classes at Rome would become a desperate one indeed. Accordingly he brought forward a bill enacting practically the same claims as the Licinian-Sextian law of 367 B.C., that no one should occupy land in excess of 500 jugera "nequis plus quam mille agri jugera habet", that the lands thus gained by the state should not be allowed to be sold, that wealthy Romans might be prevented from getting possession of them again. Land thus reclaimed was to be apportioned in 50 jugera lots to the poor citizens and allies, to be


*Niebuhr (P.500) interprets the 'mille' as signifying 500 jugera for the father and 250 for each of the two sons still within his 'Patricia Potestas'.
heritable and subject to small rent. By this measure and by an extension of the Roman franchise to Italian allies, Gracchus hoped to regenerate the middle class of people which had entirely disappeared. Little did Tiberius guess the hard wall of opposition he was to meet, for all the tribunes, save Octavius alone, and the assembly of the people supported him. The senate was the sole opposing force and we must remember that the bill of Gracchus did not require the sanction of the senate (according to the Hortensian Law), but once passed by the tribes, it might be executed—the only means of checking it was the tribunician 'intercessio' and the senators secured this opposition in the person of Gracchus' colleague, Octavius. The latter interposed his veto and the only course remaining for Tiberius was to depose his colleague. Since consuls had been known to be deposed this seemed likely enough and Tiberius was driven to this act of formal injustice by Octavius' persistent refusal to coincide with his will. The agrarian law was carried. Now, Gracchus realizing the hatred of the opposition party feared for himself, should he lose that position which guaranteed him inviolability. He presented himself therefore as candidate for the tribuneship the following year. Perhaps it is unfair to his commendable purpose to credit him with an earnest desire to finish the work of one of the "triumviri agrorum dividendorum"—a work which he realized would be made impossible for him, if he were not secured against the fury of the senate. In earlier times, tribunes had been re-elected to office and possibly, if many of those whom he endeavored to benefit were not kept away from casting their vote in Rome, by work in their fields.

1. Dio Cassius Frag. LXXXIII
2. " ibid. writes that Gracchus attempted to secure the tribuneship[in company with his brother] the following year, and to appoint his father-in-law consul, and that to accomplish this he was willing to promise anything to anybody.
he may have been able to outwit the unpopularity instigated against him by the senate. However, to the discredit of the senate it can be said, that on voting-day they fell into the lamentable error of opposing force with force,* pursued and murdered the tribune, several of his followers and consigned hundreds without a judicial verdict to prison as traitors to the state. It is because they realized what a dangerous game they were playing that the oligarchs, after their first fury had passed, allowed the laws of Gracchus to stand.

The allotment of land was vigorously carried out by the "triumviri agrorum dividendorum" to membership in which body Gaius Gracchus succeeded. Many beneficial results came from the enforcement of the law, for succeeding census-reports showed a marked increase in the able-bodied population. It is a fact that the poor who had been expelled from their lands by the rich, and had not given in their names to the censor, were now ready to enroll themselves. These farmers, as Gracchus in all probability intended that they should, became a check to the vast hordes of slave labour.

Gaius Gracchus who had been serving quaestorship in Sardinia entered on the tribuneship on December 10, 123 B.C. He was easily the greatest orator in Rome. Like his brother in bravery, culture and a capacity for winning an enthusiastic following, as well as in his unswerving pursuit of his aims, he was profited by the recollection of his brother’s experience. Thus equipped he intended to follow in his brother’s lead. In general he aimed at setting up a counter-government to restrict the senate, to give the major part of executive power

*Plutarch: Ti Gracchus, 20 writes that the aristocracy banished some of Gracchus’ followers, slew others and went so far as to fasten up one in a chest with vipers.
Cicero: De Oratore III., 56, 214
to the mercantile class, and the chief legislative powers to the assemblies. We are not justified in assuming that he proposed to make himself monarch. Of him Dio says, ¹ "Graecus had a disposition like his brother, only the latter (Tiberius) drifted from excellence into ambition and then to baseness, whereas this man was naturally intractable and played the rogue voluntarily and far surpassed the other in his gift of language. But it was this great authority which made him envied even by the members of his faction and he was ruined by his own devices."

Although we cannot be sure of the order of Gaius' measure, we can have but little doubt of which enactment he engineered first: most essential to successful management of his legislation was a continual tribunate. Accordingly a law was carried legalizing the re-election of a tribune. Two measures followed by which he was to avenge his brother's death; the first, directed at Octavius (which was later withdrawn) whereby a magistrate who had been deposed by the people should be ineligible for office in the future; the second, aimed at the commission which had put his brother to death, whereby a magistrate who had put to death a Roman citizen without a regular trial should be put to death before the people. ² This was very significant for it recognized that no Roman citizen could be legally put to death without sentence by the Comitia, a right which the senate alone claimed to possess. I might well note here that out of the original powers of the tribune, there had been developed a very extensive criminal jurisdiction which made the tribunes and aediles the

1. Dio Cassius Frag. LXXXIV
Similarly Plutarch: G. Graecus 12, 17
2. Clodius, the tribune makes use of this technicality later in his attack on Cicero, under the pretext of illegal condemnation of the Catilinarians without a fair trial.
chief prosecuting offices of the republic; the tribunes activity in cases of political character. This order of things lasted until Sulla's time when the administration of criminal justice was entrusted to the standing courts, "Quaestiones perpetuae", by Pompey (B. C. 70), the people fancying that the corruption of the courts would be relieved by restoring this power to the tribunes. Cicero, in his "De Legibus" in his reply to his brother's statement "Pompeium vero nostrum, ceteris rebus omnibus semper amplissimis esero laudibus, de tribunicia potestate taceo; nec enim reprehendere libet, nec laudare possum", explains that Pompey did what he honestly believed to be right and necessary at that particular crisis of politics. cf. "Pompeium vero quod una ista in re non ita valde probas, vix satis mihi illud videris attendere, non solum ei, quid esset optimum, videndumuisse, sed etiam quid necessarium". Thus in the restored powers of the tribunate Pompey was to make for himself a usable tool, and whereas the tribunate had often times been the tool of the senate, he was to make it for a few momentous years the instrument of great proconsula. I shall trace it later to its use as a democratic means applied by Caesar to overthrow a worn-out Republic.

But, to return to the legislation of the tribune, Gaius Gracchus, he next endeavoured to insure the support of the populace by introducing the "Lex Frumentaria" (instituting monthly doles of corn at less than half the average price to any Roman citizen); the "Lex

1. Cicero: De Leg. III, 9, 23
2. Cicero: De Leg. III, 2, 26
Agraria"¹ (reviving his brother's board of three men on the division of land) and the "Lex Militaris" (lessening and equalizing the burdens of those in military service). His next enactment, and a radical one, concerned the order of 'equites' whom Gaius saw fit to detach from the senatorial party. These 'equites' were for the most part the richest men of Rome, great capitalists and speculators, so important a group that the loss of their support would be, as Gracchus well knew, a great loss to the senatorial order. His enactment, therefore, was that the 'album indicum' (list of judges) should be composed of citizens who were non-senators and from the 'equites'. By giving over into the hands of these men the law courts which had formerly been claimed by the senators, he was able to break up the senatorial clientele. This active tribune proceeded to pass the "Lex Acilia de Repetundis"², a piece of legislation regarding extortion by provincial magistrates and at the same time the "Lex Judicaria" which made the jury courts the exclusive possession of the 'equites', that they might have no mercy in trials of senatorial magistrates. In spite of the support which Gracchus hoped for from the 'equites', he must have foreseen the grave dangers in store for the provincials at the hands of these men intent on their financial interests alone. Furthermore, Gracchus enacted a "Lex de Provinciis consularibus"³ which lessened the senate's influence by stating that the provinces to be assigned should be selected before the consuls were elected.

While Gracchus was putting through all this and more legis-

2. Cicero In Verr. III, 6
3. Sallust: Jugurtha, 27

lation of which much might be said, the senators resisted with but little result. They must now face a powerful hostile agent in the form of the 'equites'. Their only hope of outwitting the tribunes they perceived in producing an opponent capable of wresting from Gracchus the support of the Italians and the 'equites'. Just such opposition was found in the person of Livius Drusus who came forward with proposals more attractive to the populace. Gaius, like his brother, fell in the riots which now seemed to characterize every shift in control. In summarizing the legislation of the tribune, Gaius Gracchus, I accept the statement of historians that his work was full of contradictions. In the effort to check distress, he originated a vast pauper-mob within the state; and in an equally earnest effort to lessen the burden of taxation in the provinces, he encourages extortion by giving it over to the 'equites'. Perhaps, had he not been blinded by his great hatred of the senate, he would have foreseen all this. We are now safe in concluding that whereas the tribunate, in the hands of the Gracchi had failed to get, or at least to keep the moral support and enthusiasm of the mob and was gradually weakened by subservience to the senate and the despotism of succeeding 'principes', it would soon find itself unequal to the strain.

Not long after the passing of the Gracchi in 119 B.C., to be exact, the tribune Marius carried a bill in the face of the senate, regarding the prohibition of corrupt practice prevalent at the elections. Of the more violent tribunes, Saturninus in 103 B.C.

0 It is important that the reader understand that at the time of the Gracchi, besides the new order of 'equites', the two great popular divisions were the "Optimates" and "Populares".
* Cicero: "Pro Archia Poeta" of 'Studia Graecae etin Latio Vehemenser tum celebantur quam nume eisdem in opidibus'--It was Gracchus who originated the praiseworthy plan of increasing the Roman populace not by the low and uneducated, but by numbers of wealthy and educated Latins.
carried a law appointing a special investigation of a case of embezzlement in Gaul. By Marius' sixth consulship\(^1\) 100 B.C., Saturninus by craft got himself re-elected tribune and joined with the former to overthrow Senatorial control. In this year of his tribunate, Saturninus passed the "Lex Apuleia"\(^2\) providing for the distribution among Romans of the possessions of the conquered Cimbri, and the foundation of colonies in Sicily and Achaia, as well as a terrific lowering of the price of corn-doles. It is most significant to note that this law held a clause which asserted that any senator refusing to observe these laws should lose his position. Metellus, a prominent senator, even went into exile, on this account. Again in 99 B.C. Saturninus effected his election to the tribunate and went so far as to murder a senatorial opponent of his comrade, Glauceia, at that time a praetor. This revolt Marius was finally led to crush, by joining forces with the senate. All this but shows to what limits a violent tribune might go. By way of justification of the action taken in such instances by the senatorial order, Cicero says,\(^3\) "Quid iam de Saturnino reliquisque dicam? Quos ne depellere quidem a sine fisco potuit res publica." The first attempts at reform from the senatorial side were made in 91 B.C. by the tribune Livius Drusus, the man who outbid Gaius Gracchus in popular favor. He aimed at restoring the Law courts from the hands of the 'equites' to the senate, at least in part. Naturally the 'equites' resisted so that Drusus by means of more 'Agrarian' and 'Frumentaria' laws won over the populace to the senate against

1. Cicero I Cat. II, 4 and Plutarch, 'Marius', 29
3. Cicero: De Leg. III, 9, 20. Similarly Cicero IV Cat. 2
4. Tacitus III, 27, 3.
Livius, when opposed by the Consul Philippus summoned the senate and got them to pass favorably on his resolutions. Much quarreling ensued with the result that Drusus was murdered and his laws nullified.

Next among the most prominent measures carried by tribunes is the "Lex Plantia Papiria" of 90 B.C., giving full citizenship to citizens and inhabitants of allied Latin states, who gave in their names within 60 days. The law reads: "Si qui foederatis civitatibus ascripti suisse; si tum, cum lex ferebatur, in Italia domicilium habuisse; et si sexaginta diebus apud praetorem essent professi." By virtue of this enactment such towns now became incorporated in the republic; Latin became the official language; Roman law was used and their government was modeled on that of Rome.

Before passing on the radical changes in the powers of the tribunate legislated by Sulla, the measures of the tribune Sulpicius Rufus are worthy of notice. In the first place, Sulpicius affords us an example of a patrician renouncing his birthright that he might stand for the tribuneship. His violent disposition did not help him win success—because he hated the senators he advocated removing those steeped in debt. This and other laws of his met with such great opposition that Sulpicius drove the Consuls from Rome thus necessitating the return of Sulla with the sword to quell him.

Naturally enough, one of Sulla's first regulations concerned the future of the tribunate. We have seen how this office evolved as an

1. After incurring the dissatisfaction and ill-will of both Senate and Equites, Drusus lost his popularity. cf. Cicero "De Oratone" I, 7 "tribunatus Drusi Pro Senatus Auctoritate suscettus infrangi iam debilitarique videbatur".
2. Cicero: Pro Archia III, 7
organ of the Plebes for their protection, later won equal rights for the plebeians with the patricians, and gradually individual tribunes sank into the position of a tool of the senate. In the hands of the Gracchi and their followers it had been restored to a reform-instrument which became more and more revolutionary. To weaken the unheralded power of this office was Sulla's cherished ambition realized by the following enactments:—

First: he restored legislative initiative to the senate. Although the senate nominally still held the privilege of deliberating on a measure before it was submitted to the vote of the comitia, this practice had long since fallen into disuse. Of his enactment Cicero says: "Quam ob rem in ista re vehementer Sullam probo, qui tribunis plebis sua legiis injuriae facienda potestatem ademerit, auxili ferendi reliquerit." Thus the tribune deprived of the right to propose measures as he chose to the comitia tributa, would lose the power of prosecuting criminals before it—a power which had been acquired, as is often the case, rather by practice passing into habit than by any definite series of enactments. By finally providing that persons who had been tribunes should be ineligible to other offices, he resolved to make this magistracy far less attractive to ambitious office-seekers. In this way, the tribunate as a great office controlling the Comitia Tributa in matters legislative and juridical was destroyed. The power of 'intercessio' developed into the position of a significant factor in legislation for many years, he did not take away, but he so restricted and checked it that its power was no longer formidable.


3. There had been for years 2 parallel assemblies in which the people could make laws: (a) the Comitia Tributa in which they voted by tribes on measures proposed by the tribunes (b) the Comitia Centuriae in which the people voted by centuries on measures proposed by the consuls.
Before considering the next important step in changing powers of the tribunate, I shall summarize briefly the outstanding features of this office as I have traced it thus far. The position of the tribune, originally insignificant enough, later powerful in the extreme, had lost much of its importance since the intermingling of the patrician and plebeian orders. Gradually this office came under the control of the senate and, in the case of individual tribunes declined to use as a tool for the advantage of the senatorial order. Then the time of great wars under Marius and Sulla showed the tribuneship to be of little help in getting military posts and thereby detracted from its prestige. When the tribunes could no longer be re-elected and there was no support from a popular assembly, they could be effective in only two ways—either by securing a succession of very able tribunes (and the difficulty here is appreciable)—or by revolutionary measures such as the Gracchi had instituted. While Sulla devitalized the tribune’s powers, Marius had shown that he as consul away from home midht and did entrust the management of affairs at home to the tribune.

In 70 B.C. at the beginning of his consulship, Pompey restored the full tribunician powers\(^1\) (of “tribuniciam potestatem restituere”) thus rendering the senate helpless in any proposals made by tribunes to the comitia. Again the tribunate, in the person of Gabinius\(^2\), tribune in 67 B.C. demonstrated what the rejuvenated office could do by passing, in the face of opposition from colleagues and senate alike,

1. Appian: De Bell. Civil. 1, 21  
Livy: Epit. XCVII  
Cicero: De Leg. III 9, 22  
2. Boissierain’s Dio Cassius Bk. 36
that famous measure conferring extraordinary powers for three years on one man—clearly a long step in the direction of monarchy.

This measure and a continuance of it in the form of similar proposal by the tribune Manilius in 66 B.C. are discussed at length by Dio Cassius. In both laws we see the interests, first of an ambitious man seeking to use the tribunate as a means toward securing his own ends and again the interests of tribunes of a new order—men using the powers contingent upon their office only for their personal advancement.

I am reminded, in this connection, of Cicero's condemnation of such motives on the part of any magistrate. (cf. Nihil enim praeter laudem bonii alque innocentibus neque ex hostibus neque a sociis reportandum). It is obvious that by passing his bill, Manilius was attaching himself to a man in great authority, that he might increase his own powers. Earlier in this thesis, attention has been called to the tribunician year as beginning on December 10. Manilius, like other tribunes, saw the advantage offered them in the way of extra time for getting their proposals under way before the new consuls should enter upon their official year (Jan. 1).

The discussion now reaches one of the most interesting periods in the history of Roman government. While Dio Cassius gives us a clear account of the political situation in which Caesar, Pompey and Crassus figure most significantly, he throws great light on the relations existing between Caesar, Pompey and Cicero in 59 B.C. and thereafter. After giving as brief an introductory explanation

as is possible without sacrificing clearness, I shall show how once again the tribunate is used by the men in power as a weapon against opposition. We have now to deal with a state of demoralization in Roman politics, typified at its height by scheming legislation of the politician Clodius. The well-known story is that Clodius dressed as a woman, contrived his way into a celebration in honor of the 'Bona Dea' held in the house of Julius Caesar, pontifex maximus. He hoped thus to win a rendezvous with Caesar's wife. Although his crime was discovered, he contrived a way of escape from trial before the court of pontiffs. Clodius was impudent enough to essay an alibi in which he claimed Cicero as witness—and from Cicero's just attack on Clodius date all of the orator's subsequent misfortunes. Now Dio Cassius believes that Caesar engineered the transfer of Clodius into the plebeian class that he might stand for the tribuneship and thus secretly set the man against Cicero. The vicious tribunate of Clodius which may well be considered the beginning of the Civil War occurred in 66 B.C., the year following Cicero's consulship. The two consuls, L. Calpurnius Piso and Aulus Gabinius, moved by selfish interests joined with Clodius and literally sold Cicero to them by helping him condemn Cicero under the pretense of violation of the Porsian Laws on a charge of putting the Catilinarian conspirators to death without a trial. I will not discuss the legality of this. It is enough to record Cicero's condemnation,

1. Dio Cassius XXXVIII, 12
2. Cicero ad ATT. 1, 14
3. Dio Cassius XXXVIII, 12
enforced exile and loss of property at the hands of the hostile tribe. It was always a source of satisfaction to Cicero that out of the remaining nine tribunes Clodius was not able to get one to work against Cicero and was forced to resort to the patrician class for support. In his own words: "Quod nobis quidem egregium et ad immortalitatem memoriae gloriosum, neminem in eos mercede ulla tribunum potuisse reperiri" Clodius, fortified by the knowledge that the government could not prevent him, perpetrated whatever crimes he fancied. If we remember this and appreciate the suffering which Cicero endured as a result of this tribune's machinations, it is not difficult to justify the vehemence with which he speaks of him.

"Sed ille quas strages edidit! Has videlicet quas sine ratione ac sine ulla spe bona furor edere potuit impurae beluae multorum infamatus furoribus."

The succeeding tribunes had much to do with the course of affairs in Rome and outside. We learn that while Caesar was in Gaul in 50 B.C. and Pompey's party was predominant at home, the latter proposed that Caesar be forced to lay down his imperium, the tribunes opposed the decree. It is interesting to note how the tribunate, in the person of Curio, attached itself as an ardent admirer of Caesar with the definite aim of outwitting Pompey. Pompey's proposal that Caesar be made to resign on July 1st and come to Rome for the elections was vetoed by Curio. Pompey's own offer to resign was not accepted and Curio d termined to settle all by proposing that both resign. This proposal was vetoed by the other tribunes in Pompey's interest. The

1. Cicero: De Leg. III, 9, 21
2. Cicero: De Leg. III 9, 32
   Similarly: Cicero ad Att. 1, 14
Civil War itself was precipitated by the veto of the tribunes by the motion that Caesar lay down his arms—an occasion for the consuls and senate to pass a "Senatus consultum ultimum" declaring the tribunes 'hostes' who promptly fled to Caesar at Ravenna.

In 49 B.C. when Caesar had gained control of Rome, he proceeded to assume the 'tribunicia potestas' of veto and inviolability. Since he already held the consulship and had himself elected dictator, he aspired to a position of complete power. The succeeding years of his sway certainly bear witness to the great achievements possible to a man who made use of every political office in reach.

With the rule of Octavian, the government of Rome which we have seen gradually changing in form, was converted into an empire in fact, if not in name. I know of no more concise recounting of the powers assumed by Augustus than that given by himself in his "Monumentum Ancyranum". Declining the dictatorship, he was elected consul every year. Fearing to advance too rapidly, he declined sole consulship but accepted proconsular control of provinces and the censorship. A clever man such as Augustus could not fail to realize the benefits to be derived from the 'tribunicia potestas'. Tacitus says in this connection: "Caesar dux reliquus, posito triumviri nomine consulem se ferens et ad tuendam plebem tribunicio iure contentium insurgere paulatim, munia senatus magistratum in se contrahere, mollo adversante—— ——— "2. The tribuneship once conferred upon him was afterwards prolonged for life. This gave him power to annul any decree of the senate and proposing for

1. The so-called 'Monumentum Ancyranum' is one of the most important inscriptions ever discovered, unique in that it gives us in his own words the dying statement of the founder of the Roman Principate.
2. Tacitus I, 2
its consideration any measure.

This tribunician power given Augustus in 36 B.C. was the foundation of his office on its civil side. The person of the emperor was thus rendered inviolable. This office conferred on the emperor for life gave him all the powers of the tribunate without any of the restrictions to which that magistracy was subject. Being sacrosanct, he had unlimited right to prohibit the actions of other magistrates and was nominally the representative of the people. We know that the 'tribunicia potestas' was granted to an emperor by a vote of the people, upon recommendation of the senate; to a colleague, as in the case of Tiberius, it was granted directly by the 'princeps' usually after consulting the senate. Tacitus writes: "Etenim Augustus paucis ante amis cum Tiberio tribuniciam potestatem a patribus rursum postula-bat." 1

With the death of Augustus, Tiberius based his claim to succession on undeniably strong grounds; in the first place, Tiberius held pro-consular imperium and next the 'tribunicia potestas' had been conferred upon him by the request of Augustus. Although the senate supposedly had the right to choose the successor to the 'princeps', there was, as a matter of fact, no need for exercising this power, in case the emperor had thus designated his choice. Tiberius "ne successor in incerto foret" himself attempted to name his successor by associating Drusus with himself through the 'tribunicia potestas'. Tacitus says: "Tiberius mittit litteras ad senatum quis potestatem tribuniciam Druso petebat." 2

1. Tacitus I, 10, 7
2. Tacitus III, 57, 2
His next words assert beyond a doubt that Augustus had seen it to his advantage to conceal his absolute monarchy under such titles as that of 'tribunicia potestas'. "Id summi fastigi vocabulum Augustus repperit, ne regis aut dictatoris nomen assumptum ac tamen appellationse aliqua cetera imperia praeminert."**

Gradually the 'principes' became accustomed to dating their reign from the time of assuming this power. During the republic and thereafter, we know that the years were denoted by the names of the consuls. Augustus himself, in his 'Monumentum Anicyramum' speaks of the separate times this power was conferred upon him. In this connection, Tacitus writes: "Dixit M. Silanus pro sententia ut publicis privatisve monumentis ad memoriam temporum non consulum nomina praescriberentur, sed eorum qui tribunicia potestatem gererent."¹ Looking down through the years after Augustus, we find that Vespasian was the first ruler to date his reign from the day on which the army called him emperor rather than that on which the 'tribunicia potestas' was conferred upon him. With Vespasian this power is not held before the public eye as it had previously been.

Thus in reviewing the trend of constitutional changes in the history of Rome, the tribunate appears to have been established primarily for the purpose of protecting persons outside of the patrician class against maltreatment at the hands of patrician magistrates. Whereas this seemingly harmless political device

1. Tacitus III, 57, 2
   *In point of fact the 'tribunicia potestas' was not an 'imperium' at all.*
originally functioned outside of the senate with part of the populace only, as its base, it later developed into an office providing the lower classes with organized leadership. This tribunician 'potestas' of the new leaders which gradually assumed the substance of a magistracy freed from the restraint of consulting the senate, undertook to enact political reform and removed on its own initiative obstacles in the path of its progress.

Whereas Sulla had devitalized the power of the tribune and placed the weight of responsibility on the oligarchic element, Pompey failed to recognize the wisdom of the former's legislation and reinstated the tribune. In the meantime, almost unconsciously this office had come under the control of the senate and, in the person of individual tribunes, was frequently used as a tool for the advantage of the senatorial order. It remained, therefore, for Caesar's keen insight to fully realize how all the checks of this political device might be used to advantage on his opponents.

With the accession of Augustus, the name of 'potestas' furnished a cloak for the tribune's peculiar negative power so useful to the princeps. During the rule of later emperors however, this power ceased to be held before the public eye and, just as the reign of kings had given way before the consular imperium, and that in turn had been superseded by the Empire, so too, the tribunate, powerful indeed for a time, yielded in the end to the rule of the monarchs.
Bibliography used in connection with Thesis on the Plebeian Tribune

Appianus: Historia Romana
Translated by Horace White
Published by MacMillan Co., N. Y. 1912-13
Amount read - "De Bello Civili", Bk. I Complete
  Bk. II, Sections

Beesley, Augustus Henry: Epochs of Ancient History
Published by Chas. Scribner's Sons, N. Y. 1888
Amount read - Chapters on the Gracchi, entire
  " " Marius
  " " Sulla (a few selections)

Cicero, Marcus Tullius: Selected Orations
Edited by Greenough, J. Bradstreet
Published by Ginn & Company, 4th Edition, Boston 1881
Amount read:
  In Catilinam Oratio Tertia
  In Verrem
  Pro Archia Posta
  Pro Lege Maniliana
  De Legibus and De Republica
  Published at 67 Chauncy Lane, London 1842
  Cicero's Letters ("Epistolae") translated by E. S. Schuckburgh
  Published by Clive, London 1901
Amount read - 'Ad Atticum' Letter I.

Dio Cassius: Historia Romana
Translated from the Greek by Herbert B. Foster
Published by Praefats Book Co., Troy, N. Y. 1905-06
with an epitome of the lost books 1-21 by Joannes Zonaras, six volumes.
Amount read: Volume one, entire. Volume two, opening chapters.

Dionysius the Elder:
Translated by Hopkinson, L. W. in Greek Leaders
Published by Houghton Mifflin Co., Boston 1918
Amount read - Pages 125 - 146

Frank, Tenney: A History of Rome (to 575 A. D.)
Published by H. Holt & Company, N. Y. (Am. Hist. Ser.) 1924
Amount read - Chapters XII, XIII, XXII.

Greenidge, Abel Hendy Jones
A History of Rome During Later Republic and the Principate
Published by Methuen and Co. London 1905
Amount read - Volume I, sections on the Tribunate of G. Gracchus.
Bibliography cont. - 2 -

Hoitland, Wm. Emeron: *The Roman Republic*
Published by Cambridge University Press, 1909

Holmes, Thos. Edward Rice:  
*The Roman Republic and the Foundation of the Empire*
Published by Oxford Clarendon Press, 1923
Amount read - pp 312-326 Volume I

Livius, Patavinus Titus edited by Greenough, J. B.
Published by Ginn and Co. Boston 1893
Amount read - Introduction and Bks. I and II

Livius, Patavinus Titus - *Historiae*, complete as known
Edited by J. Grellius

Livius, Patavinus Titus
Edited by Weissenborn, Wm. B. 1872-5, two vol.
Amount read - Introduction (Einleitung) in German
Volume I of Ed. VI, sections
Volume II of Ed. IV

Niebuhr, B. G.: *Lectures on the History of Rome*
Edited by Leonhard Schmitz, F. H. 3. E. Third Edition
Published by James Walton, 157 Gower St. London 1870
Amount read - Lectures XVII, XIX, XXVII, XXVIII, XXXII, XXXVIII, XXXIX, LX, LXXXIX, XC, XCI, XCIV

Plutarch: *Lives of Illustrious Men*
Translated by John Dryden 1621 - 1700
Published by DeWolfe, Piske Co. Boston
Amount read - Vol. II, Lives of Gaius Marius, Pompey
Vol. III, Lives of Tiberius and Gaius Gracchus

Quintilian, M. Fabius: *Institutionis Oratoriae Liber Decimus*
Published by Oxford Clarendon Press 1891
Amount read - X, 1, 31

Sallustius, Crispus Gaius: *Jugurtha and Catiline*
Edited by N. Butler and M. Sturgis
Published by Appleton & Co. 1870
Amount read - Jugurtha, Chapters 25-28

Tacitus, Cornelius: *Annales* (Bks. I - VI)
Edited by W. Francis Allen
Published by Ginn and Co. Boston 1890
Amount read - Bk. I, Chapters 23-23, Bk. III, Chs. 54, 57

Taylor, T. M.: *Constitutional and Political History of Rome*
Published by Methuen and Co. 56 Essex St. W. C. London 1898
Amount read - Entire History as foundation for thesis outline.

Willems, P.: *Le Senat de la Republique Romaine*
Published at Rue de Namur 22, Louvain 1863
Amount read - Chapter 1, Paragraphs 1-4