

CHAPTER XXX

THE EARLY REPUBLIC: (I) THE PLEBEIANS WIN THEIR RIGHTS

509-287 B.C.

378. The Magistrates. — In 509 B.C. the monarchy gave way to the republic.¹ In place of a lifelong king, two consuls (colleagues) with equal power were elected annually by the assembly. As each consul had a right to veto any public act of the other, the two rulers by checking each other hindered their office from growing too powerful for the good of the state. They enjoyed most of the authority of the king, together with his trappings and his attendants, as the curule chair² and the lictors. But in capital cases the consuls were compelled as judges to grant an appeal to the assembly; over the soldiers in the field, however, they exercised the same power as the king had possessed.³ The command of the army usually alternated daily. Often in dangerous wars or seditions this double rule was a disadvantage to the state. In such a case, at the request of the senate, one of the consuls nominated a dictator, who, placing the state under martial law, ruled with absolute power. He appointed a master of horse to command the cavalry. His term was limited to six months; and it was an honor to him to bring the government safely through the crisis and resign his command within the fewest possible days.

Two quaes'tors, appointed annually by the consuls, kept the treasury in the temple of Saturn on the Forum.

¹ The dates for the fifth and fourth centuries B.C., based on the ancient authors, are only approximate. Also some of the events assigned to the fifth century are less certain than those of later time.

² Cf. § 371. The curule magistrates were those who sat in curule chairs. In the republican period the chief officers of this class were the consuls, the dictator, the censors, the praetors, and the curule aediles. If a man elected to one of these offices was not already a noble, the position ennobled him and all his descendants; § 392.

³ § 371.

The supervision of the state religion passed from the king to the chief pontiff. He appointed the Vestals and the priests, including the "sacrificial king" (*rex sa-cro'rum*). This priest-king now performed that part of the public worship which the king had attended to in person. In title the first man in the state, he was the weakest in real power, as he could hold no political office.

379. The Senate. — All important places of honor and trust — military, political, and religious — were filled by patricians, especially by senators. Now consisting of three hundred members, the senate continued to exercise all the powers it had held under the king. It even gained by the downfall of the king; for the consuls felt themselves under greater obligations to consult it and to abide by its decisions. It was composed of life members, who were taken from the leading families and were men of experience and ability. For this reason it was more influential than the consuls, who at the close of their year of office could be called to account for their administration. As the senate controlled both the magistrates and the assemblies, it was the chief power in the republic.

380. The Comitia Centuriata. — For some time the army had been organized in the way devised by Servius.¹ The principle of the military system was the division of the people into classes according to property, each class to furnish a fixed number of companies (centuries) of a hundred men each. In the early republic it occurred to the Romans to use this plan of organization also for their voting assembly in place of the curiae.² Their motive seems to have been to make every citizen's voting power correspond to the completeness of his armor — that is, to his worth as a soldier. In other words, the more property a man possessed, the greater was to be his political influence.

In the new comitia, accordingly, the citizens were grouped into centuries, each century with a single vote. There were in all a hundred and ninety-three centuries. As in the army, they were divided into knights and infantry; and the infantry were subdivided into five classes, according to the amount of their property. The centuries of which this assembly was composed did not necessarily contain a hundred men each, but varied in size. A century of

¹ § 376.

² § 372.

juniors was larger than one composed of seniors, while that of the landless was by far the largest of all. Meeting in the *Cam'pus Mar'ti-us* outside the city, the assembly of centuries elected the magistrates, heard appeals in capital cases, and voted on proposals for laws and for wars. To be valid, an act of this assembly had to receive the sanction of the Senate.

ORGANIZATION OF THE COMITIA CENTURIATA

	JUNIORS (17-46 years)	SENIORS (above 46 years)
I. Class	40 centuries	40 centuries
II. Class	10 " "	10 " "
III. Class	10 " "	10 " "
IV. Class	10 " "	10 " "
V. Class	14 " "	14 " "
	84 centuries	84 centuries
		168 centuries
Cavalry		18 " "
Substitutes for the killed and wounded		2 " "
Musicians and workmen		4 " "
Landless		1 " "
Total		193 centuries

The knights (cavalry) voted first, then the first or wealthiest class, then the other classes in their order till a majority was reached. The knights and the first class formed a majority. If they agreed they decided the question, so that the voting proceeded no farther. It rarely happened that all the centuries were called upon to give their votes. These considerations make it clear that in the *comitia centuriata* the more property a man had, the more effective became his right to vote.

The *comitia curiata* continued to meet to sanction the *imperium* of magistrates after their election,¹ and to attend to other such formalities. It had no longer a real authority. Whatever its organization, a Roman assembly had little power as compared with the magistrates or with the senate.

¹ §§ 371 f. When the election of the chief magistrate passed from the *curiate* to the *centuriate* assembly, the former retained the privilege merely of sanctioning the election.

381. The First Secession of the Plebs (494-493 B.C.). — In most respects the common people lost by the overthrow of monarchy. The later kings had shielded them from the oppression of the nobles. But now that the poor no longer had a champion, the patricians began to reduce their clients to the condition of slaves. They exacted illegal rents. And if the tenant failed to pay his rent at the time agreed upon, the amount due was looked upon as a debt bearing heavy interest. The creditor had a right to seize the delinquent debtor, to hold him as a slave till he had worked off the debt, or to sell him into actual servitude to foreigners. A harsh creditor sometimes threw his debtors into his private prison and scourged them in the hope of influencing their kinsmen to redeem them. The people revolted against such injustice; the whole army, deserting the commanders, marched off in good order to a hill afterward known as the Sacred Mount, and threatened to found a new city there, which should be free from patrician control. The senate, helpless without the support of the plebeian army, sent them an ambassador.

382. Institution of the Plebeian Tribunes and Aediles (493 B.C.). — By an agreement drawn up on the Sacred Mount (493 B.C.), the plebeians were to have two annual officers of their own, called tribunes, whose persons were to be sacred, and who were to protect all citizens who felt themselves mistreated or oppressed. Any person, even a consul, who injured a tribune or hindered him in the exercise of his duties, might be slain by any one as a man accursed. The law forbade the tribune to be absent from the city over night, and compelled him to leave his door open always, that the injured and oppressed might find refuge with him at any hour.

The plebeians had two other officers, named *ae'diles*, who assisted the tribunes. Meeting by *curiae* under the presidency of the tribunes, they elected their officers and passed resolutions which were binding only on themselves. Thus organized, they maintained the liberties they had, and gradually gained more rights.

383. Spurius Cassius. — The plebeians soon found an earnest helper in one of the patricians, Spurius Cassius,¹ the most eminent statesman of his time. While he was consul, in 486 B.C., he proposed an agrarian law, the contents of which we do not know.

¹ § 395.

He may have wished to take some of the public land from the rich, who were holding it, and to distribute it among the poor. The nobles would not permit his measure to become a law. They asserted that he had offered it merely to win popularity, — that his real object was to make himself king. When, therefore, his term of office expired, the quaestors prosecuted him for treason, and he was condemned to death.

The fate of Cassius shows how helpless the plebeians still were, and how strong were their oppressors.

384. Establishment of the Comitia Tributa (471 B.C.). — Though the nobles could not control the plebeian assembly through the auspices, they with their clients attended the meetings to impede the business. Among these dependents were many who owned no land. To destroy the influence of the latter class, Pub-lil'i-us Vo'le-ro, a tribune in 471 B.C., induced the senate and the assembly of centuries to pass a law which provided that the plebeian comitia should vote by tribes, each of the twenty-one tribes to cast a single vote. As only landowners were enrolled in the tribes, the landless were excluded from the assembly. The newly organized gathering, called the *comitia tri-bu'ta*, had as yet no authority over the state, but met simply for the transaction of plebeian business. In the same year the number of tribunes was doubled, and somewhat later was increased to ten.

385. The Struggle for Written Laws (462-452 B.C.). — Up to this time the laws were unwritten. The patricians, who were alone acquainted with them, handed them down orally from father to son. This exclusive knowledge they used for the oppression of the commons; the patrician judge decided cases in favor of men of his own rank, and no plebeian could quote the law as proof of the injustice. The tribunes began therefore to urge the codification of the laws in the interest of the common people. Their aims were heartily favored by one of the patricians, Appius Claudius, a man of rare intelligence and ability. Under the influence of Appius and the tribunes, the senate yielded, and sent a committee to some of the Greek states of Italy to examine their codes of law. On their return the centuries elected ten men (*de-cem'vi-ri*), with the power of consuls, for the purpose of writing the laws. During their term

of one year they were to have absolute control of the government; all other offices, including the tribunate of the plebs, were to be suspended.

386. The Decemvirs; the Twelve Tables (451-449 B.C.). — Though plebeians were eligible to the new board of ten, the assembly filled it with patricians. Before the year ended they had engraved ten tables of the law, which, after ratification by the senate and people, they set up in the Forum, where all could read them.

As they had not finished writing the laws, and as their government gave satisfaction to all alike, it was decided to elect decemvirs for the following year. On the new board were Claudius and three — possibly five — plebeians. Their liberal policy, and especially their efforts to promote manufacturing and commerce, angered the peasants and most of the patricians. As the senate and assembly refused, accordingly, to consider the two tables engraved in the second year, Claudius, with his colleagues, determined to remain in office till they secured the ratification; for the constitution compelled no magistrate to retire against his will. Hereupon their enemies accused them of acting like tyrants and of attempting to maintain themselves in power for life. The plebeians seceded again to the Sacred Mount, and thus compelled the senate to depose the decemvirs contrary to law. Claudius and one of his colleagues were thrown into prison, where they were probably murdered; the other members of the board fled into exile. Then Va-le'ri-us and Ho-ra'-ti-us, consuls in 449 B.C., secured the ratification of the two tables.

387. Contents of the Twelve Tables. — Intermarriage between patricians and plebeians was prohibited by one of these laws, as it had already been by custom. With this exception the Twelve Tables equalized the private rights of all, and continued to be the fountain of justice for centuries. As a part of their education thereafter Roman boys had to commit them to memory, — a text-book more useful than entertaining. The following are a few of the more interesting laws: —

Let none make use of gold in funerals. But if the teeth of the deceased are fastened with gold, let none be prosecuted for burying or burning the deceased with that gold.

Let not women scratch their faces or tear their cheeks or raise lamentations on account of a funeral.

Let the father have power over the life and death of his son.

Let no man take more interest for money than one per cent a month. If he shall do otherwise, let him be fined four times that sum.

If any one breaks the limb of another and makes no reparation, let retaliation take place.

If any one shall publish slander or write verses to the defamation of another, let the offence be capital. If any shall assemble in the city privately at night, let the offence be capital.

388. The Laws of Valerius and Horatius (449 B.C.). — Before this time the resolutions of the *comitia tributa*, the assembly of tribes, were binding on the *plebs* only.¹ But Valerius and Horatius, who were friendly to the lower class, had a law passed which gave their assembly legislative power. With the previous consent of the senate, the resolutions of the *comitia tributa* were henceforth to have the force of law for the whole people.

It was a great gain for the tribunes, who alone had presided over this assembly. Soon, however, state officers began to call it for the election of such minor officials as the *quaestors*,² and occasionally for other business.

Some time afterward it was agreed that the tribunes should place their bench at the door of the senate-house, through which they could listen to the proceedings within. If, then, the senate passed an act to which they had no objection, they signed it, thus abandoning their right to oppose the enforcement of the act. But if the measure under consideration displeased them, their "Veto," shouted through the door, ordinarily caused the proposal to be dropped. If the senate or magistrate ignored the prohibition, the tribunes resorted to obstructing the administration of the government in every possible way — even by sedition and secession. After more than a century and a half of this kind of warfare (449–287 B.C.), the tribunes succeeded in establishing for themselves an un-

¹ § 384.

² The *quaestors* were at first appointed by the consuls (§ 378), but soon after the decemvirate they came to be elected by the tribes.

restricted right to veto all acts of the magistrates, the senate, and the assemblies.

389. The Canuleian Law (445 B.C.); the Consular Tribunes (444-367 B.C.). — A few years after the consulship of Valerius and Horatius, a law of the tribune Can-u-lei'us permitted marriage between the two social classes. Those wealthy and influential plebeians who alone were in a position to profit by this reform looked upon intermarriage with the patricians as a stepping-stone to office. They reasoned rightly; for immediately after the passage of the Canuleian law, the patricians formed a plan of admitting them to office, though not to the consulship. It was agreed that whenever the senate so determined, military tribunes¹ with consular power — or, more briefly, consular tribunes — should be elected for the year in place of consuls, and that both classes should be alike eligible to the office. The plebeian candidates, however, were so often defeated that at length the leading men of the party came to regard the consular tribunate as a disadvantage to their cause.

390. Institution of the Censors (443 B.C.) and of the Military Quaestors (421 B.C.). — All the powers of the consuls did not pass to their substitutes, the consular tribunes; for in 443 B.C. the Romans created two new patrician magistrates, the censors, whose chief duty was to make a register of the citizens and their property and to assign each man to his tribe and class, — a work hitherto performed by the consuls. They also let out the privilege of collecting the taxes to the highest bidders, and attended to the erection of public buildings. They were elected at intervals, usually of five years, and were required to complete the census within eighteen months after their entrance into office.

For a long time the censors remained strictly patrician magistrates. In another direction, however, the plebeian leaders began to meet with greater success in their struggle for office. In 421 B.C. two military quaestors were instituted to attend to the financial business of the army. At the same time it was agreed that plebeians

¹ Before this time they were purely military officers appointed by the consuls. Six military tribunes commanded each legion. The change mentioned in the text consisted in the occasional election of from three to six additional "military tribunes with consular power" to take the place of the consuls for the year.

also should be eligible to the office of quaestor, whether civil or military.

391. The Licinian Law (367 B.C.).— But the leaders of the commons desired especially to have the office of consul thrown open to them. Many plebeians, too, felt oppressed by debts, and were discontented with the way in which the authorities disposed of the public land.

When they acquired land in war, they either (1) granted a part forthwith to settlers, or (2) leased, or (3) sold it. To these ways of disposing of the land the poor did not object; but (4) the larger part was left unsurveyed, and the authorities proclaimed that all who wished might "occupy" it on condition of handing over to the government a tenth of the grain and a fifth of the fruit produced each year. From those who kept flocks on these lands, a share of the animals, both oxen and sheep, was required. In spite of the liberal form of the proclamation, however, it is clear that the patricians and wealthy plebeians alone exercised the privilege of "occupying" or "possessing" portions of the unsurveyed land. They bought, sold, and bequeathed it, till in time they came to look upon it as their own. Not satisfied with this advantage, a rich proprietor often ejected his poor neighbors from their small farms, which he then annexed to his estate. There is no wonder that the poor were dissatisfied with the unjust working of this system. The tribune Li-cin'i-us with his colleagues accordingly proposed a reform bill, which he urged all discontented plebeians to support. After a long struggle the bill became a law in 367 B.C. Its provisions were as follows:—

(1) There shall be no more consular tribunes, and one of the two consuls shall henceforth be a plebeian.

(2) Interest already paid on debts shall be deducted from the principal, and the balance of the debt shall be paid in three equal annual instalments.

(3) No one shall occupy more than five hundred acres (*ju'ge-ra*)¹ of the public land. Probably provision was made for distributing the surplus among the poor in seven-acre lots.

(4) No one shall pasture more than a hundred cattle or five hundred sheep on the public land.

¹ The Roman acre (*jugerum*) was about two-thirds the size of ours.

392. The Effects of the Licinian Law. — The second clause of the law was but a superficial remedy for the distress of the poor; it did nothing to remove the cause of poverty.

The patricians were still eager to retain in their own hands as much authority as possible. The senate accordingly would not permit the first clause to go into effect till the people had consented to the institution of three new patrician magistrates: the prae'tor, who was judge in civil cases, and two curule aediles, who were to supervise the streets and public buildings, the markets, and the public games. After gaining admission to the consulship, the leaders of the plebs had less difficulty in winning their way to other places of honor and power in the state. At the end of the century we find them eligible to all offices and to the college of pontiffs and of augurs. The opening of the consulship to plebeians gradually enlarged the nobility. Henceforth it consisted not only of patricians but also of all plebeians who were admitted to a curule office,¹ — themselves called "new men," — together with their descendants. In other words, the patricians and the plebeians ceased to be the political parties; thereafter the parties were (1) the nobles, who were office-holders and their descendants, and (2) the commons, who were the other citizens.

Understanding that the fewer they were the more honor would be theirs to enjoy, the nobles strenuously opposed the admission of new members. They preferred to have one of their number hold the consulship four or five times, and other high offices in addition, rather than to receive new men into their privileged society. But when a law² was passed that no one should hold the same office within a period of ten years, or more than one office at a time, a greater number of new men was necessarily elected, and, in consequence, the nobility became more representative of the people as a whole.

393. Liberation of the Assemblies. — While the leaders of the plebs were winning political rights, the people in their assemblies were striving for legal freedom from the control of the senate. It has been stated above³ that no act either of the centuriate or of the tribal assembly was valid unless authorized by the senate.

¹ § 378, n. 2.

² The Genucian Law, 342 B.C.

³ §§ 380, 388.

In the latter half of the fourth century B.C., however, the centuriate assembly succeeded in shaking off this control. From that time it was constitutionally free to pass whatever laws it saw fit. Even more important was the emancipation of the tribal assembly. In 287 B.C., a law of the dictator Hor-ten'si-us declared that without the consent of the senate a resolution of the plebs in their tribal assembly should have the force of law.

Constitutionally the assemblies were now free from the senate and were the sovereign power in the state. In form the government was therefore a democracy; but in fact it remained aristocratic, for the senate exercised more actual power than ever. As it was composed of the ablest and most experienced men in the state, its moral influence was irresistible. Through the college of augurs it controlled the auspices, which both magistrates and people religiously obeyed.¹

394. SUMMARY OF THE CONSTITUTIONAL DEVELOPMENT (509-287 B.C.)

1. **Magistrates.** — During this period the duties of government were becoming more numerous and difficult, and for that reason the number of offices gradually increased. At first (1) there were (a) two consuls, who were chief executives, judges, and commanders in war; (b) two quaestors, whose chief duty was the care of the treasury, and who were appointed by the consuls; and lastly (c) an occasional dictator, who took entire charge of the government and ruled with absolute power. Next (2) were instituted tribunes of the plebs for the protection of the citizens from oppression. At first two, the number gradually increased to ten. (3) The two plebeian aediles were their assistants. (4) The decemvirs for compiling the laws, and (5) the consular tribunes, to act in certain years as substitutes for the consuls, were temporary expedients. (6) The two censors, elected at intervals of about five years, made a census and assessment of the inhabitants. In time they acquired a supervision over the morals of the citizens. (7) Two military quaestors were appointed to accompany the army and to have charge of the military chest and the supplies. (8) The praetor was a judge in civil cases. (9) The two curule aediles had supervision of the streets, markets, and public games. Soon the plebeian aediles were associated with them in this work. The number of quaestors and of praetors gradually increased.

2. **The Assemblies.** (1) Under the kings there was but one assembly — the *comitia curiata*. (2) About the beginning of the republic a new assembly — the *comitia centuriata* — was instituted. In the former there

was equality among the members, in the latter the citizens voted in the order of their wealth — the more property a man had, the more his vote counted in the decision of the question before the people. The *comitia centuriata* took the place of the curiate assembly, leaving the latter hardly more than a mere form. (3) Early in the republic a third kind of assembly — the *comitia tributa* — was introduced. At first it attended solely to plebeian business, but the Valerian-Horatian laws gave it the right, with the consent of the senate, to legislate for the state. In this assembly all had an equal vote, as in the *comitia curiata*; but the great advantage which came to the plebeians from the tribal organization lay in the fact that it was presided over by the tribunes, who were naturally more inclined than patricians to introduce laws favorable to the commons. Soon patrician magistrates began likewise to call the people together in this form of assembly for making laws and for electing inferior magistrates. The distinction between the three forms of assembly is mainly one of organization; for all practical purposes we may consider them identical in composition.

After the institution of the centuriate and tribal assemblies, the next step was their liberation from the control which the senate exercised over them by constitutional right. This emancipation was completed by the Hortensian law of 287 B.C.

3. The Senate. — In the way described above the senate lost its constitutional right to control the assemblies. Meanwhile, however, (1) through its great ability, recognized alike by magistrates and people, (2) through its management of the auspices, it gained more real power than it had ever held before. At the close of our period it was actually, though not legally, supreme.

4. The Rights of the Plebs. — At the beginning of the republic the plebeians (1) lacked the protection due them as citizens, and (2) were debarred from all political and religious offices. They gained the necessary protection (a) through the institution of the tribunes, (b) through the publication of the Twelve Tables. Thereafter the chief aim of the leading plebeians was to win admission to the offices. They became eligible (1) to the decemvirate for compiling the laws, (2) to the consular tribunate, and (3) to the quaestorship. (4) The Licinian law then declared that one consul had always to be a plebeian. This was by far the most important gain. Afterward (5) all other offices and influential priesthoods were rapidly thrown open to them. In the early part of this struggle the right of intermarriage between the two social classes was established by the Canuleian law (445 B.C.). The alliances which the leading plebeians were able to form by intermarriage with patrician families were a great help in the struggle for political rights. Beyond the security of person and property, the masses gained little in these conflicts. The main tendency was always toward aristocracy rather than toward democracy. The leading men in the state formed a new, office-holding nobility, and the old distinction between patricians and plebeians disappeared.

Suggestive Questions

1. How did the change from monarchy to republic affect (1) the magistrates, (2) the senate, (3) the people?
2. Why did the Romans prefer the two consuls to a single king?
3. Make a table of the magistrates, showing the date of institution and the functions of each.
4. Make a table of the assemblies, showing the composition, organization, and functions of each.
5. Which assembly was the most representative of the people, and why?
6. From the laws of the Twelve Tables quoted in § 387, what may we infer as to the customs and character of the people of that time?
7. Make a list of all the laws on constitutional subjects mentioned in the chapter, with a brief statement of the contents of each.

Note-book Topics

I. **The Government of the Early Republic.** — Abbott, *Roman Political Institutions*, 24-29; Ihne, *Early Rome*, chs. x-xiii.

II. **The Decemvirs.** — Botsford, *Story of Rome*, 90-92; *History of Rome*, 76-79; Ihne, *Early Rome*, ch. xviii; Duruy, *History of Rome*, i. 327-340.

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