

## An Unsung Hero of Early Rome

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In the year 485 BC, in an ancient city-state on the banks of the Tiber River in Central Italy, a man who had just laid down the office of the chief magistracy was tried and convicted of treason for aspiring to tyranny. Conviction of this charge involved capital punishment, the social demotion of his family, and confiscation of his property by the state. The city-state was Rome, which nearly twenty-four years earlier had forcibly overthrown one-man rule in favor of a republican constitution in which the executive office consisted of an annually elected dual magistracy. The magistrate so indicted was Spurius Cassius, a member of the senatorial elite who had distinguished himself for having held the chief magistracy of the fledgling Roman Republic three times—in 502, 493, 486 BC. In the year 493 he had distinguished himself by creating in his name the important Cassian Alliance spelling out the terms of Rome's relationship with its Latin neighbors. When Cassius had entered office in 486 BC he was the most prominent Roman statesman alive. One year later the public hero had become a pariah.

This turn of events within the first generation of the Roman Republic has not received much attention in modern treatments of Roman history. The skepticism of 19<sup>th</sup> century historians regarding our knowledge of early Roman history before 300 BC has made modern writers overly cautious in their treatment of the Roman world before that date. In the view of some writers Spurius Cassius is dismissed as a demagogue who probably received his just deserts for overreaching his power, and other writers have simply rejected this episode entirely as an anachronistic "overlay" reflecting later events from the Gracchan period in the late 2<sup>nd</sup> century BC, that is, three and a half centuries later. (We shall return to this bias in modern historiography.) As for the ancient sources, we have mainly two writers—the Roman historian Livy and his contemporary, the Greek historian Dionysius of Halicarnassus. Both writers of the late 1<sup>st</sup> century BC seem to have used mainly the same sources, but do not always coincide in their interpretations: Livy is less diffuse and somewhat neutral toward Cassius, whereas Dionysius is overtly unsympathetic.

The charge of "aspiring to tyranny" was based on Cassius's plan to distribute public land to worthy plebs (the "common people" of the citizenry), and to some Latins. The proposal was met with hostile opposition from his colleague in the chief magistracy and from the senate. The hostility soon reached the plebeian ranks as reflected in the criticisms made by the plebeian tribunes, the officers recently created to protect the interests of the "common people." The tribunes complained that Cassius as a state magistrate patronizing plebeian interests was

intruding in their sphere of competence This hostility might have been deflected, if Cassius had first consulted with the senate; but he more than likely realized that he would not have gotten their approval because many members of that elite body were in the practice of "squatting" on such public land and thus arrogating it for their own use and profit. He apparently had not anticipated the hostile reaction of the plebeians and their tribunes. At this point a more cautious man would have prudently dropped the matter. Blinded by his own self-righteousness, Cassius instead pressed the issue and thereby thrust himself into the tragedy that ensued.

A number of questions arise at this point. For example, to what degree may Cassius have been aware beforehand of the hostility that his proposal would unleash? How did he see his chances of success, and why would he assume such a frightening risk? How are we to judge whether he was simply a popular hero seeking to redress social inequity, or was he betraying the public confidence of the fledgling republic by seeking autocratic power for himself? In order to respond to these questions we must return to the discussion of bias in modern historiography. The skepticism toward Roman history before 300 BC alluded to earlier has produced a rather stilted and static picture of people, institutions, and even events for this earlier time period. The following is a list of some of what I call the "static fallacies" of early Roman history found in both ancient and modern historiography: that the Roman state from the very beginning was the exclusive preserve of patricians; that the juristic distinction between patricians and plebs went all the way back to the beginning of the state and possibly 150 years beyond; that the head magistrate at the very beginning of the republic was consul, and that the office was held exclusively by patricians until 367 BC. These "static fallacies" need to be challenged. A problem that commonly applies to them has to do with the nature of the social orders. The word 'order', from the Latin *ordo*, signifies a type of class distinction based on a clan or kinship relationship rather than an economic distinction. Therefore birth and family are the fundamental distinguishing characteristics of a Roman social order. The word 'patrician', obviously associated with the Latin word *pater*, refers to the original 'fathers' of clans or elders of Roman society and when formally acting as a public body they were the *senatus*, the 'assembly of elders.' The patricians and their descendants, as public elders, had a juristic identity both as the leading members of the original clans and having the right by birth of membership in the senate, but we also know that several times in early Roman history, chosen men were added to the patrician order. The problematic question involves the "closure" of the patriciate, i.e. the closing of their doors to any further newcomers. We shall return to this question shortly.

*Plebs*, a Latin word associated with the Greek *plethos* meaning 'fill' was used originally as a vague descriptive term to label those permanent residents in the state who did not have

original clan affiliation. The plebs became a social order in the juristic sense when circa 494 BC they swore an oath of protection and loyalty to their new leaders, the plebeian tribunes.

Since Spurius Cassius had held the chief magistracy three times, a rare honor, it has been assumed that he had to have been a patrician, but no one else bearing the name Cassius throughout Roman history has been identified as a patrician. (His conviction demoted his family but not his clan—if there was a clan.) Furthermore, about twelve or thirteen names of chief magistrates in the first two generations of the republic were non-patrician, and one of them was even mentioned by Livy as being a plebeian who, though poor, was held in high esteem by all because of his prudence and fair-mindedness. I am convinced that the elections taking place in the Assembly of the centuries in the early years of the republic had elected outstanding non-patricians to the head magistracy of state, an indication that the majority of voters were non-patrician. But with the fall of Spurius Cassius in 485, only patrician names appear in the magistrate-lists for the next fifteen years, and in the year 469, as well as in the years 461 and 452, non-patrician names re-appear. Obviously hostility between the orders was brewing. And in the year 450, after some tense moments in the elections, a committee of ten, called the Decemvirate, disbanded the normal offices of the constitutional state and ruled with full sovereignty to guide the state through a temporary emergency. In short, not all was well with the constitution of the young Roman Republic.

Going back to 485/4, with the fall of Spurius Cassius, the senatorial elders or patres realized that there was some endemic weakness in the chief magistracy. You will notice that I refer to this office by a generic English title—"chief magistracy," and not "consulate." I believe that the titles which were in use in these beginning years were the military titles employed in the election to the top military offices of the Assembly of the Centuries that had been created in the reforms of King Servius Tullius. It is only natural to assume that the officers of state elected in the Assembly of the Centuries would continue to bear the same titles of *magister populi* and *magister equitum*—commander of infantry and commander of the horse—as they were originally designated in the constitution of King Servius Tullius. These old titles were fundamentally military, lacking a civil dimension, and thus no longer reflected what the patrician senators expected of their peers elected to annual office. Since the senate was the repository of political wisdom in the flesh, it was only reasonable to assume that the senate should be consulted on all issues, and the magistrates should act only in accordance with the senate's advice. I am therefore advancing the theory that in reaction of the episode of Spurius Cassius, the senate began to refer to the two chief magistrates as "those who command by consulting", hence the title "consuls", which became enshrined for posterity as the title for the chief Roman magistrate.

In all likelihood the social background of Spurius Cassius, in spite of his competence and achievements, was regarded by the patricians as suspect: he appears to have been one of that small number of non-patricians who had held office and had sat in the senate. Thus an attempt was made to seal off both the offices of state and membership in the senate from men of non-patrician background. I am arguing the theory that it was at this time that the patrician order was "closed" hereafter to anyone born outside its ranks. This reaction was followed by a period when the gentilicial, or clan, nature of Roman society was elevated to prominence and the government became a patrician preserve. It was anti-progressive and divisive. The patricians were making a constitutional principle of their conviction that sovereignty was derived from the "authority of the patriciate", in Latin, *partum auctoritas*.

The reactionary regime that the patricians tried to establish was not acceptable to the majority of Romans. Mention has already been made of the emergency government of the Decemvirate of 451/450 BC. The Decemvirate turned out to be a further attempt by the patricians to validate their exclusive right to power by reiterating their conviction that the restored consulate could only be held by men of patrician birth. For nearly a century following the Decemvirate, the Roman state experienced civil chaos. Obviously, the Decemvirate's solution was unsatisfactory. The "conflict of the orders" had now become open hostility. A good example of the inventiveness of the legalistic Roman mind was the office of consular tribune, a form of magistracy sporadically employed between the years 444 and 367 BC. It was a combination of consular authority with the military power of the tribune. Essentially it was a "bastard" contrivance designed by patricians to allow occasional plebeians to hold high office but not the pristine consulship, as though they might stain the consulship with plebeian impurity and thereby risk the anger of the gods. We do not have the time here to go into all the legal and religious subtleties involved in this most curious constitutional fiction. Enough has been said to make the point that this device was one of the last-ditch efforts of the patricians to reduce the ever-expanding plebeian order to a demeaning level of second-class citizenry. The Licinio-Sextian laws of 367 BC signaled the end of the conflict between the orders by restoring the consulship and mandating that one of the annual consular seats be held by a plebeian thus integrating the plebeian order into the full rights of citizenship.

By the time he had entered office in 486, Spurius Cassius had already attained the status of hero in the eyes of the Roman people, but by the end of that year was he really transformed into a villain? You make the choice, but in the long view of human affairs we can only say that he was guilty of being caught inadvertently hammering the first nail into the coffin of patrician pretension.