The Challenge to the Auspices

Studies on Magisterial Power in the Middle Roman Republic

C. F. Konrad
The Challenge to the Auspices
The Challenge to the Auspices

Studies on Magisterial Power in the Middle Roman Republic

C. F. KONRAD
VXORI OPTIMAE
Preface

No public action of the Roman State, the *populus Romanus*, at home or at war, was to be carried out without prior permission from Jupiter Optimus Maximus: permission obtained, through auspices, by the magistrate (usually a Consul, Praetor, Censor, or Dictator) in charge of the intended action. It was for the individual magistrate to take the auspices, and either proceed with the action or—should Jupiter withhold permission—refrain from it; but if a question arose as to the correct meaning of the god's answer or message, a greater degree of expertise was called for. It was furnished by the Augurs, nine experts—and usually senators—who could advise a magistrate individually, or as a body submit a formal interpretation to the Senate, who would issue the necessary directives to comply with whatever augural law required.

Auspices thus occupy a fundamental place in the—unwritten—constitution of the Roman State. They are an instrument of Roman government; they are also part of Roman religion. The study of the latter has undergone wide-ranging changes over the past generation or two. In the context of this book, the most significant—and salutary—development has been the abandonment, by and large, of a view that saw little more than empty ritual in Roman religious practices as a whole, and mostly cynical manipulation for political purposes in the practice of augury in particular.¹ Recent work more specifically on aspects of Roman government, especially in the area of warfare and military command, carefully and judiciously considers the role of auspices.²

This book examines, in a collection of related studies, a range of situations in which auspices led to questions about the legitimacy of a magistrate's action or status, and became a matter of political contention. It is primarily concerned with the institutions affected by those events: an attempt to understand, as precisely as possible (and readers will be keenly aware of just how difficult it is to extract reliable information from the evidence that has survived), their functioning, their rules, their practices. It has little to offer in the way of theoretical discussion; although, to some extent, my views on the larger questions that surround the role of augury in Roman religion and government may become clear from my treatment of individual issues. In general terms, I proceed from an assumption that the Romans, high and low alike, took their gods to be real, and took them seriously.

¹ Champion (2017) offers a perceptive up-to-date approach.
² Note especially Rüpke (1990), Vervaet (2014), and Berthelet (2015).
The gods to be taken seriously included, first and foremost, Iuppiter Best and Greatest, the god of auspices. As a whole, the Roman ruling class—the Nobles—at least during the period of the Middle Republic, the third and second centuries BC, appears to have embraced and observed the rules imposed by augural law scrupulously and without contention; it would be difficult to argue with Craig Champion’s recent conclusion that “Roman elites believed in their gods, in the sense that they held a collective conviction that proper observance of orthopraxy’s demands had a direct bearing on the well-being of the empire.” To ask Jupiter’s permission and act in accordance with his response, to observe his messages and heed their meaning (especially if a warning), was treated as a form of genuine communication, evolved over the primordial centuries of the community, and indispensable for its continued existence. Moreover, as Lindsay Driediger-Murphy observes, “Roman institutions worked ultimately only through the compliance of the elite”; in consequence, “the pre-eminence of consensus and peer pressure in Republican life would have compelled compliance with the rules of the augural system as the majority defined them at any given point in time.” Without doubt, this puts the matter accurately—as a whole. But any society has its doubters and unbelievers, professed or covert; and individuals do not always act in accordance with collective conviction.

The book takes its origin from a curious entry in the Fasti Capitolini, which under the year 217 BC list the second dictatorship of Q. Fabius Maximus Verrucosus as having been *interregni caussa*, “for reason of an interregnum.” No connection seems conceivable between the Dictator and an *interregnum*, the situation that obtained when, for one reason or another, no regular magistrates were in office, and the auspices reverted collectively to the *patres*, the patrician members of the Senate (or perhaps all Patricians). A caretaker—the Interrex—chosen *auspicato* by the *patres* for five days at a time managed the *res publica* until he could successfully conduct the election of new Consuls; in this way, since no auspices carried over from the magistrates of the previous year to those newly elected, the auspices were renewed *de integro*. The strange appellation *interregni causa*, occasionally noted by scholars but rarely discussed, called for explanation; and the explanation prompted two distinct—albeit related—further avenues of investigation.

In 223 BC the College of Augurs concluded that the Consuls of that year were *vitio creati*, elected under flawed auspices, and the Senate duly instructed them to abdicate their office, in order for the auspices to be renewed in untainted form through the process of an *interregnum*. But one of the Consuls, Gaius Flaminius, balked at the order, and openly disputed the Augurs’ ruling. He refused to abdicate, at least at first; eventually, though, he yielded, and the desired *interregnum*
ensued. What made him step down? The circumstances may have required a magistrate with greater power—a Dictator, “for reason of an interregnum.”

The attempt to solve the puzzle made it necessary to re-examine the nature of the dictatorship and the role of imperium and auspices as markers of legitimate power for Roman magistrates. But this remarkable instance of a Consul publicly challenging a ruling by the College of Augurs also led to a second line of inquiry, one that gave this book its title: an investigation into a series of attempts—mostly in the third century BC—by leading actors in the res publica to question the traditional role of auspices in the proper conduct of warfare.

For Flaminius in 223 was not the first Roman magistrate who refused to submit to the rules that represented the augural side of the republican constitution, nor the last. During the lifetime of one generation in the third century, a number of instances are known in which senior Roman magistrates chose to contest the rule of auspices and the authority of the Augurs. One case is reported even earlier, in the fourth century; two more in 249 BC; another in 242 or 241; and in 217, Flaminius in his second consulship again made a point of ignoring the auspices. All those instances are well known, but merely seen as isolated incidents. The present study aims to understand them as expressions of a larger sense of disaffection among elements of the Roman political class. Observing auspices according to all the augural rules could restrict, sometimes severely, a military commander’s freedom of action in the field. To encounter five attempts, in a span of just over thirty years (between 249 and 217), at challenging the practice suggests the presence of a set of mind that did not subscribe to the inescapable necessity of obtaining Iuppiter’s permission, through auspices, for all public acts; and some of those in a position to launch a challenge chose to seize the opportunity. Had any of them prevailed, more might have been encouraged to follow; and each time a military operation was conducted successfully without the proper observance of augural rules, upholding and enforcing such rules in future would have become ever more difficult. If auspices could be shown to be unnecessary in the sphere of war, moreover, their efficacy in the realm of domestic government could be called into question as well.

This book is a composite work rather than a straightforward monograph. Its overarching themes (if such a term may be applied here) are the nature of Roman magistrates’ auspices and imperium—the essential elements in their legitimate exercise of power—and attempts to challenge the necessity of auspices. It makes no pretense at a comprehensive treatment: what follows is a series of studies (pursued over the course of some twenty years) that investigate individual cases and problems, and that, in exploring points of detail, hope to shed light on wider matters. To set the stage, it begins (Chapter 1) with the first reported instance of a Roman magistrate openly acting contrary to orders from his superior, and justifying his action by disputing the subordinate status of his own auspices: the famous
Preface

dust-up pitting the Dictator L. Papirius Cursor against his Magister Equitum, Q. Fabius Maximus Rullianus, in the late fourth century. Chapter 2 reconsiders our knowledge of imperium and auspices, particularly insofar as both concepts relate to the constitutional qualification to command an army. Chapter 3 examines in depth the peculiar position of the dictatorship within the framework of Roman magistracies, under the aspects of both public and augural law: the nature of the Dictator's imperium and auspices, and the state of his powers relative to the Consuls (and, by extension, lower magistrates). Yet the Dictator, when appointed, did not manage the res publica all by himself. As his first official act he named a deputy, the Master of the Horse. It was this deputy that first contested the auspices, and this office, as we shall see, would be instrumental in defusing the constitutional crisis of 223 BC; it was the subject of a constitutional dispute as late as 47 BC. Of all Roman magistracies, the Magister Equitum may be the most shadowy and least understood. What was his precise relation to the Dictator? Could he exist independently of the latter? Could he triumph? The answers are attempted in several case studies (Chapter 4).

From there, the book returns to its other theme. The final years of the First Punic War saw three attempts by Roman Consuls to go against or at least without the auspices: P. Claudius Pulcher drowning the augural Chickens when they refused to eat, in 249; his colleague, L. Iunius Pullus, sailing his fleet into a devastating storm despite a prohibitive response from Iuppiter; and C. Lutatius Catulus (or perhaps his brother, Q. Lutatius Cerco) proposing to take up his command without obtaining the traditional auspices in 242 (or 241). All three cases are discussed in Chapter 5. Next, the aforementioned refusal in 223 of C. Flaminius to abdicate his consulship (Chapter 6). Finally, Chapter 7 examines the—from an augural point of view—most elaborate and serious challenge, when Flaminius, Consul again in 217, departed the City before taking office, hence without obtaining valid auspices to begin with, and suffered disaster at Lake Trasumene.

Flaminius’ catastrophe put an end to such attempts to free commanders from the constraints imposed by augural rules. It did not persuade individual skeptics that the res publica could not survive without scrupulous observance of the auspices; but it rendered politically indefensible further attempts to publicly question them, let alone any display of outright opposition and contempt in the manner of Flaminius. In the years that followed, influential leaders such as Fabius Maximus and M. Claudius Marcellus, Augurs both, demonstratively paid heed to Iuppiter’s messages, even when (as in the case of Marcellus’ second consulship, in 215) doing so was costly from a personal point of view. When, half a century later, the Augurs found the Consuls of 162 to be vitio creati, both instantly and without complaint obeyed the Senate’s directive to abdicate their magistracy. Scattered

---

5 Wilson’s thorough and stimulating Dictator (2021) appeared too late to be fully taken into account; a few points of disagreement are briefly indicated in the notes.
instances of auspices ignored, in a military context, are known from the second and first centuries, but none were accompanied by the public spectacles of opposition to the ancient practice that had marked those of the Punic Wars. Chapter 8 addresses this aftermath.

We learn best about the ancient world by examining it step by step, detail by detail. And much of what we think we know may prove, on closer inspection, to not be so. Close inspection demands close attention to the ancient sources. For the reader’s convenience, and to make clear how I understand a given passage, I have tried to translate or paraphrase most longer quotations from Greek and Latin; unless noted otherwise, translations are my own—as literal as I could manage, since smooth renderings lend themselves more to obscuring the information offered in the source than to preserving it.

I am deeply grateful to those who have read drafts of the book in whole or in part. Jerzy Linderski and Jeffrey Tatum gave invaluable advice, which I am afraid I have not always followed. The generous and constructive comments by the anonymous readers of the Press prompted me to rethink the structure of the work from the ground up; I hope the result offers a more coherent argument. Among others who made this book possible, I must single out the staff of the Interlibrary Loan office at Texas A&M University’s Sterling C. Evans Library; without their tireless efforts at obtaining publications for me, I could not have completed the work. Faculty Development Leaves granted by the University in 2003 and 2014 provided helpful relief from teaching duties. Marc Addington, as a student ages ago, got it all started with a question about dictator interregni caussa in the Fasti. My colleague, Craig Kallendorf, encouraged me to send the manuscript to Oxford. What I know about auspices and augury—little enough, in comparison to him—I learned from Jerzy Linderski; what I owe him as a scholar is beyond evaluation.

My thanks go out to the editorial staff at Oxford University Press. First and foremost, I am indebted to Charlotte Loveridge, who took an immediate interest in the proposed book, and graciously put up with innumerable questions and special requests. Cathryn Steele, Nico Parfitt, and Nivedha Vinayagamurthy made the process of turning manuscript into book a smoother experience than I could have imagined. Mike Adams produced a proper map from my hand-drawn draft. And my copy editor, Neil Morris, in his painstaking examination of the manuscript offered invaluable advice on improving the text.

Nothing, however, could have come of this without the inspiration and boundless patience of the one who, for two decades now and counting, has given me the support of a comforting home, and constant love. To Robyn I dedicate this book.

C. F. K.
## Contents

**List of Maps**  
List of Abbreviations  

1. Dictator and Magister Equitum  
   1.1 The Quarrel  
      1.1.1 A Victory or Two—or a Defeat?  
      1.1.2 The Missing Magister Equitum  
      1.1.3 Facts, Traditions, and Pictor’s Version  
   1.2 Rullianus as Magister Equitum  
      1.2.1 Competing Chronologies  
      1.2.2 The Story Not Told  
   1.3 The Challenge  
      1.3.1 Dictator vs. Master of the Horse: Imperium and Auspices  
      1.3.2 Mercy, Disobedience, and the Shadow of Defeat  
   1.4 The Play  
   1.5 The Aftermath  
      1.5.1 Cotta at Lipara  
      1.5.2 Minucius Rufus

2. Imperium and Auspices  
   2.1 Imperium  
      2.1.1 Mommsen and Alternatives  
      2.1.2 All Imperia Are Equal (but Some Are More Equal than Others)  
      2.1.3 Potestas and Imperium  
   2.2 Auspicia: Basic Concepts  
      2.2.1 Augurs, Augury, and Magistrates  
      2.2.2 The Vinculum Temporis  
   2.3 The “Auspices of Investiture”  
   2.4 The “Auspices of Departure”: the Evidence  
      2.4.1 The Praetor Approved by the Birds  
      2.4.2 Votis in Capitolio nuncupatis paludatus cum lictoribus profectus  
   2.5 The “Auspices of Departure”—a Modern Fiction  
      2.5.1 The Departure of Gaius Flaminius  
      2.5.2 Taking the Auspices along from Home  
   2.6 Repeating the Auspices  
      2.6.1 The Significance of Place  
      2.6.2 Vitium in Auspicio  
      2.6.3 Auspicia Militiae?
3. Dictator

3.1 The Lictors

3.1.1 Ahenobarbus' Fasces

3.1.2 Cicero and His Laureled Lictors

3.1.3 The Magistrate Without His Lictors

3.1.4 The Turnus

3.1.5 No Lictors, No Action

3.2 Cessation or Termination?

3.2.1 Polybios and Plutarch

3.2.2 Dionyssios

3.3 The Nature of the Office

3.3.1 Peculiar Aspects

3.3.2 What's in a Name?

3.3.3 Dictator Latinus

3.3.4 Dictator and Magister Populi

3.3.5 Imperium Valentius

3.4 Term Limits

3.4.1 Dict

3.4.2 Dictator sine Magistro Equitum

3.4.3 The Magister Equitum as Dictator

3.4.4 The Six-month Limit

4. Magister Equitum

4.1 The Auspices of the Magister Equitum

4.2 Auspices and Triumph

4.2.1 Catulus and Falto

4.2.2 Salinator and Nero

4.2.3 Furius Purpurio

4.2.4 Helvius

4.2.5 Suis Auspicii

4.3 The Consul as Magister Equitum

4.3.1 Cases of Cumulation

4.3.2 Lepidus as Magister Equitum

4.4 The Magister Equitum and the Augurs

4.4.1 Caesar and Antonius: the Time Frame

4.4.2 The Magister Equitum Named by the Consul: Constitutional Considerations

4.4.3 No Decree for Caesar

4.4.4 Lepidus' Enabling Act and the Auspices

4.4.5 The Objection to Antonius

5. Drowning the Chickens

5.1 The Pulli

5.1.1 The Evidence

5.1.2 Servius, the Tribune, and the Chickens
5.2 The Auspices at Sea 156
  5.2.1 Augural Waters 157
  5.2.2 Making a Move, on Land and at Sea 158
5.3 The Location of the Vitium: Claudius and Iunius 159
5.4 Vitium and Perduellio 163
5.5 The Sortes Praenestinae 165
  5.5.1 Consultation at Praeneste 165
  5.5.2 An Alternative to Auspices 167

6. Dictator Interregni Caussa 169
  6.1 An Inconvenient Document 169
    6.1.1 Sumner’s Interrex 170
    6.1.2 The Dictator as Interrex Substitute 172
    6.1.3 A Very Special Interrex 173
    6.1.4 The Missing Gerundive 174
  6.2 The Fasti 176
    6.2.1 Death and the Fasti 176
    6.2.2 More Oddities 178
  6.3 Flaminiius in Gaul 179
  6.4 Consules vitio facti 182
    6.4.1 Augurs and Omens 183
    6.4.2 Augural Sabotage (a Fantasy) 185
    6.4.3 The Triumph 187
    6.4.4 Abdication and the Consular Year 189
  6.5 Contesting the Auspices 193
  6.6 Abdication, Interregnum, and the Need for a Dictator 197
    6.6.1 The Abdication of Sergius and Verginius 197
    6.6.2 Abdication Forced by a Dictator? 200
  6.7 The First Dictatorship of Fabius Maximus 203
    6.7.1 Removing Flaminius: a Moderate Solution 203
    6.7.2 The Name of the Dictator 206
    6.7.3 The Sorex 209

7. The Road to Perdition 212
  7.1 Hannibal’s Pass 212
    7.1.1 Hannibal’s Options 213
    7.1.2 The Floods of the Arno 217
    7.1.3 Where was Flaminius? 219
    7.1.4 Where was Faesulae? 222
  7.2 Hannibal’s Surprise 224
    7.2.1 The Race to Arezzo 225
    7.2.2 The Campaign in Gaul 228
    7.2.3 Flaminius at Arretium 233
  7.3 Going after Hannibal 235
## CONTENTS

7.4 Ostenta Flaminiana

7.4.1 The Signs 238
7.4.2 The Fall off the Horse 240
7.4.3 The Chickens and the Standard 241
7.4.4 Auspices Valid and Invalid 243
7.4.5 Coelius, Cicero, and Livy—an Augural Perspective 245
7.4.6 Flaminius at the Lake 247

7.5 Inauspicato Consul 249

7.5.1 Redeployments for 217 249
7.5.2 Strategy 252
7.5.3 The Fog of Contempt 253

8. The Auspices Prevail 255

8.1 Disaster and Dictator 255

8.1.1 Emergency 256
8.1.2 Vitium 258
8.1.3 After Cannae 262

8.2 Contra Auspicia 266

8.2.1 The Challengers 266
8.2.2 The Cunctator and his Deputy 268

8.3 Upholding the Auspices 270

8.3.1 The Second Consulship of Marcellus 270
8.3.2 The Nature of the Vitium 274
8.3.3 Augur Optumus 276

8.4 The Triumph of the Augurs 278

8.4.1 The Vitium of the First Marcellus 278
8.4.2 Vitium and Its Consequences 280
8.4.3 The Final Test 283

8.5 Last Notes 287

Appendix: Consular Abdication and Interregnum 291

Bibliography 295
General Index 309
Index Locorum 329
List of Map

1. North-Central Italy and Appennine Passes 214
List of Abbreviations

Unless indicated otherwise below, authors whose work appears with only a single entry in the Bibliography are normally cited by author’s name and page number(s) only. Ancient authors and texts are cited as in the *Oxford Classical Dictionary*, with occasional self-evident adjustments (e.g., Varro *LL* for Varro *Ling.*) Periodicals are abbreviated according to *L’année philologique*, with the customary modifications (e.g., *CP* instead of *CPh* for *Classical Philology*).

- **CIL** *Corpus Inscriptionum Latinarum*. Consilio et auctoritate Academiae Litterarum Regiae Borussicae editum. (Berlin, 1863–).
LIST OF ABBREVIATIONS


1

Dictator and Magister Equitum

In Samnium incertis itum auspiciis est, “the Romans advanced into Samnium under uncertain auspices.” Thus begins Livy’s account of the epic quarrel between the Dictator L. Papirius Cursor (cos. I 326) and his Master of the Horse, Q. Fabius Maximus Rullianus (cos. I 322), in 324 V (8.30.1–36.1). The tale is well known: alerted by the pullarius to a problem with his auspices, the Dictator returns to Rome ad auspicium repetendum, leaving the army under the command of his Magister Equitum, with strict orders not to engage the enemy (8.30.2); Fabius, young and chafing at his subordinate position, disobeys, and wins a splendid victory over the Samnites (8.30.3–7). Rejoining his army, the Dictator, infuriated at the disobedience, resolves to have his deputy put to death; but Rullianus escapes. Back in Rome, the Magister Equitum, aided by Tribunes of the Plebs and his distinguished father, M. Fabius Ambustus (cos. III 354; dict. 351), seeks protection by mobilizing public opinion against his superior; Papirius Cursor, in turn, insists on the absolute authority invested in his office to enforce his command. The ensuing contest of wills, played out in contione in the Forum, revolves—in Livy’s telling—around a fundamental question: was the Master-of-Horse entirely and without exception subordinate to the Dictator, or could he plausibly claim his auspices as his own, not subject to those of the Dictator, and assert a right to independent action regardless of the latter’s orders? It is the first recorded instance of a Magister Equitum—indeed, of anyone—publicly disagreeing with a Dictator and challenging the legitimacy of his power, under public as well as augural law.

1.1 The Quarrel

Exactly what events led to the quarrel is far from evident. Livy’s sources here displayed a stunning range of differing accounts: some knew of two battles fought by Rullianus, both victorious; but in the earliest authors, only one was to be
found; and in some annals, the “entire matter” was passed over in silence. *Auctores habeo bis cum hoste signa conlata dictatore absentе, bis rem egregie gestam; apud antiquissimos scriptores una haec pugna inventur; in quibusdam annalibus tota res praefermissa est* (8.30.7). It will be desirable to establish some clarity on that count before addressing the constitutional issues raised in connection with the dispute.

1.1.1 A Victory or Two—or a Defeat?

Among the *antiquissimi scriptores* noted here we may count Q. Fabius Pictor, whom Livy cites when explaining what happened next: Rullianus had all the spoils of the battle burnt, be it on account of a vow he had made to that effect, be it—as Fabius Pictor had it—to prevent the Dictator from taking credit for the victory and displaying the spoils in his triumph (*seu votum id deorum cuiquam fuit seu credere libet Fabio auctori eo factum ne suae gloriae fructum dictator caperet nomenque ibi scriberet aut spolia in triumpho ferret*, 8.30.8–9). Evidently, the first historian did not believe that any vows had been involved, and was prepared to ascribe a less-than-pious-and-heroic motive to the action of his famous gentilis, preferring jealous ambition instead.4 Livy earlier had advanced two competing explanations of why Rullianus chose to disobey orders: either the young man, lacking self-control, resented that all decisions lay with the Dictator, or he simply could not pass up an opportunity for successful action (*seu ferox adulescens indig- nitate accensus quod omnia in dictatore viderentur reposita esse seu occasione bene gerendae rei inductus*, 8.30.4); it will be reasonable to conclude that the first of them, again stressing jealous ambition, also derived from Pictor.

Now, in both those instances of motivation that we can deduce as having been attributed by Pictor—for giving battle and for burning the spoils—the language stresses not merely Rullianus’ ambition but his constitutional subordination under the Dictator, and resentment thereof. In consequence, that feature is certain to have been present already in Pictor, not merely introduced by Livy or some intermediary: the entire point of burning the spoils rested on the Dictator’s ability to claim them for himself, on the grounds that any battle fought by the Magister Equitum was fought under the Dictator’s auspices; mere private ambition or rivalry would render the act absurd. It stands in stark contrast to the alternative motives offered: a military opportunity too good to pass up, and fulfillment of a vow previously made—neither of which has any bearing on the Master-of-Horse’s

---

3 Oakley *CL* 2: 694–697, 704–707, 711–714; 4: 584; Forsythe 1999: 60–61. Against the notion, once popular, that Livy did not directly consult Fabius Pictor or other second-century authors: Northwood *passim*; Oakley *CL* 1: 17–18 (with earlier literature); 4: 474; Rich 2005: 147. Ridley sums it up decisively: “One of the most outrageous and totally unproven charges against Livy is that he was lying when he claimed to have consulted Fabius” (2014: 470).

being subordinate to the Dictator, or on the ensuing power struggle between two magistrates. But just as with the “jealousy” pair of motivations, so with the alternatives: they form a consistent picture in which Rullianus acts as would any good Roman commander, seizing the opportunity and honoring the gods who granted him victory. Jealousy plays no part in his decisions, and nothing hints at the fact that he was challenging a higher authority. Oakley noted that Pictor’s comment about Rullianus’ treatment of the spoils “shows that already in his day there was rivalry over aristocratic self-advertisement.” Yet the close coupling of the jealousy motif with Rullianus’ subordination under the Dictator shows something more: not only the critical—not truly hostile, to be clear about that—elements in Livy’s portrayal of Rullianus in this scene can be traced to Fabius Pictor, but also the implied debate, in Livy’s subsequent account, on the Dictator’s powers vis-à-vis his Magister Equitum.5

As regards Rullianus’ victory, Livy’s “earliest authors” (surely Pictor, and perhaps some others6) knew of only a single battle (8.30.7). Later writers had two, both victorious: no doubt they were also the ones who preferred to attribute Rullianus’ action to military opportunity and vows to be honored. But in yet another group of accounts, says Livy, *tota res praetermissa est.* The statement is intriguing. Were it not for Livy’s assurance that his oldest sources told of one battle, one would naturally conclude that those who omitted the matter preserved what really happened—the one- and two-battle versions both being later accretions to the story. To complicate things further, a fourth version of the tale can perhaps still be extracted from the sources: it may help solve the puzzle.

Twenty-one years later (by his reckoning), Livy tells of a Dictator who returned to Rome *auspiciorum repetendorum causa*, leaving his Magister Equitum in command of the army. The latter, intent on foraging, walked into an ambush, was beaten with heavy loss of life, and forced to withdraw into camp again (10.3.5–6):

(5) profectus dictator cum exercitu proelio uno Marsos fundit…(6) tum in Etruscos versus bellum; et, cum dictator auspiciorum repetendorum causa profectus Romam esset, magister equitum *pabulatum* egressus *ex insidiis* *circumvenitur* signisque aliquot amissis foeda militum *caede* ac fuga in castra est compulsus.

Virtually the same thing had happened in 324 V: while Papirius was haggling with the Senate and People in Rome over whether to execute his insubordinate Master of the Horse, a group of foragers was ambushed and slaughtered (in virtually


6 Oakley *CL* 2: 711: “almost certainly a reference to Fabius Pictor and perhaps to Fabius alone.”
identical language: *frumentatores cum circumventi ex insidiis caesi loco iniquo essent*; but the *legatus* now left in charge of the camp, mindful of what would happen to him should he disobey the Dictator’s orders to stay put, dared not act to rescue them (8.35.10–11).7

1.1.2 The Missing Magister Equitum

The Dictator in 301 V was M. Valerius Maximus;8 as his Magister Equitum, Livy reports M. Aemilius Paullus—but he was not so sure about the latter (10.3.3–4, 7–8). To wit:

(4) id magis credo quam Q. Fabium ea aetate atque eis honoribus Valerio subiecit; ceterum ex Maximi cognomine ortum errorem haud abnuerim.

(7) qui terror non eo tantum a Fabio abhorret quod, si qua alia arte cognomen suum aequavit, tum maxime bellicis laudibus, (8) sed etiam quod memor Papirianae saevitiae nunquam ut dictatoris iniussu dimicaret adduci potuisset.

It was hard to believe that Rullianus, at his age and with his distinguished career, would have held a subordinate position under Valerius (and the common surname “Maximus” might have caused the error); more to the point, not only did Fabius’ military skill and reputation render such a defeat improbable, but given his past experience of “Papirian” severity, he surely could never have been led to engage the enemy against the Dictator’s command. The comment reveals something not expressly stated in the narrative: on this occasion, as in 324 V, the Magister Equitum engaged the enemy in violation of the Dictator’s orders (*dictatoris iniussu*) to stay put.

“Although [Livy] does not mention any discrepancy in his sources, it is plain that he found one.” Certainly, but what exactly did that discrepancy consist of? “Perhaps some sources made Paullus hold the post, others Maximus.”9 Perhaps some did; but the unusual coyness—Livy having no trouble, normally, saying just that—suggests that he faced a bigger problem. Some sources, evidently, did not

---

7 Cf. Chaplin 110.
8 Or FC 452 = AUC 453, the last dictator year; Livy reports the events *M. Livio M. Aemilio coss.*, or 302 V. (With the dictator years done, all those dates now resolve into 301 B.C., insofar as any consistent chronology can be attempted.) It is fairly certain that Livy thought of Valerius not as Corvus but as his son: he never calls Corvus “Maximus” in those instances where identity is not in doubt, and the avoidance of “Corvus” in all reference to the man he calls “M. Valerius” (with or without “Maximus”) in Book 10 suggests the son. If so, Livy apparently did not accept the well-established tradition of Corvus’ six consulships, held forty-six years apart from first to last. See Oakley *CL* 2: 238–239; in favor of Corvus: *MRR* 1: 170 n. 2.
9 Oakley *CL* 4: 70. Walt 282 entertains confusion with Rullianus’ son, Fabius Maximus Gurges (*cos. I 292*).
simply have Rullianus, but also Paullus, as Magister Equitum; more precisely, they had Rullianus, followed in the office by Paullus. One such source survives (whether Livy consulted this particular one is immaterial): the Fasti Capitolini.

Though *abd(dicavit)* is not preserved (*InscrItal* 13.1: 38–39), the presence of a second Master of the Horse in the same year, 301 V, leaves nothing else to restore. It makes Rullianus the only recorded Magister Equitum to abdicate while the Dictator remained in office—enough of an anomaly to call for explanation. Oakley suggests that he “may have fallen ill.” In fact, the historian’s concluding remark (10.3.8) leaves no doubt about the nature of his embarrassment: some sources did not merely have Rullianus as Magister Equitum but ascribed to him that ignominious defeat, incurred while acting *in iussu dictatoris*. And in at least some of those sources the defeat had humiliating consequences for Rullianus: he abdicated, and was replaced. Almost the same thing, again, had happened in 324 V: after giving in, at last, to the pleas of Senate, Tribunes, and the People, Papirius the Dictator refrained from punishing Rullianus, but suspended him from acting as Magister Equitum: *dictator praeposito in urbe L. Papirio Crasso, magistro equitum Q. Fabio vetito quicquam pro magistratu agere, in castra rediit* (Livy 8.36.1). No wonder Livy found it past belief that, in all those years, one of Rome’s most distinguished field commanders should have learned nothing in the areas of discipline and elementary tactics—and twice suffered the disgrace of being removed from office.

As Livy continues his narrative in Book 10, the Magister Equitum suffers no punishment or reproach. When the Dictator, with fresh levies, returns to the camp, he finds that his deputy has things well in hand: *omnia spe tranquilliora et composita magistri equitum cura…invenit*; the camp relocated to a safer position, the defeated units punished, the troops eager to engage the enemy and redeem themselves (10.4.3–4). Soon a full-scale battle is fought, a splendid victory achieved; but it is a close affair, as the Dictator deliberately allows the enemy to surround and nearly overwhelm a Roman detachment (10.4.6–5.11). Only a headlong cavalry charge at the last moment wins the day (*emissus eques libero cursu in hostem invehitur…itaque, ut prope serum auxilium iam paene circumventis, ita universa requies data est*, 10.5.7–8).

Rullianus’ victory in 324, too, was the work of his cavalry, charging in wild abandon (8.30.6). Valerius Maximus also tells the story (3.2.9), but with a twist not in Livy: Rullianus’ army was on the verge of suffering defeat (*manus cum hoste, sed tam infelici quam temeram consceruit: procul enim dubio superabatur*), when the cavalry saved the day, and the Magister Equitum from being accused of
having commenced battle in poor judgment (strenuus ille quoque flos ordinis equestris, cuius mira virtute...male commissi proelii crinem levatus est).

A further oddity obtrudes. After the quarrel in 324 V, no Magister Equitum is mentioned as accompanying Papirius on his victorious campaign against the Samnites (8.36): naturally, since Rullianus had been prohibited from acting in his official capacity. No such prohibition is recorded, or can be inferred, for the Master-of-Horse in 301 V; yet in like manner, from Livy’s long, vivid description of the battle in Etruria, he is conspicuously absent, in stark contrast to other such pieces:10 a legatus has taken his place in the narrative (at 10.4.7), virtually from the point the Dictator returned to the camp and found his deputy in control of the situation. After the victory, dictator triumphans in urbem rediit (10.5.1–13).

Then again, a discrepancy: habeo auctores sine ullo memorabili proelio pacatam ab dictatore Etruriam esse. Some authors told of the Dictator putting down the Etruscans without any battle worth mentioning (and, presumably, without noting any presence of the Magister Equitum in Etruria).

That alternative “exposes [Livy’s] longer version as the product of annalistic elaboration and invention.”11 The Dictator of 301 V (assuming there was one) fought no battle against the Etruscans, in the earliest tradition. We should not, however, rashly apply the same reasoning to the story about the Master of the Horse. The latter’s defeat is told in brief, sparse narrative, without any of the romantic and anecdotal detail that fills chapters 4 and 5 (the Dictator’s return and victorious campaign); we can rightfully expect better of annalistic invention. Although coming under the label of the Etruscan War, the incident stands isolated—carefully so, one almost senses—in Livy’s narrative; its actual place is with the Marsian campaign (told in equal brevity), separated by a dozen lines of text (10.3.7–4.4) from the “long” version of the maneuvering and fighting near Rusellae. Most of all disturbing, the involvement of Rullianus. Why invent a defeat and abdication in disgrace at this point in the man’s career? (It clearly was not needed to make the “long” version of the Etruscan War look plausible.) Invent it so clumsily, and patently parallel to what had happened in 324 V, that any reader, not just Livy, could see that something was amiss?

1.1.3 Facts, Traditions, and Pictor’s Version

If we look at what we find in Livy, his sources, Valerius Maximus, and the Fasti, not from the prospect of a finished history but from the perspective of what later

---

10 E.g., 2.20.7–9 (Aebutius at Lake Regillus, 499 or 496 V); 4.33.7 (Cossus at Fidenae, 426 V); 6.12.10 (Quinctius Capitolinus against the Volscians, 385 V); 6.29.1–2 (Sempronius Atratinus against Praeneste, 380 V); 7.15.6–7 (Valerius Poplicola against the Gauls, 358 V); 8.38.14–39.5 (M. Fabius Ambustus against the Samnites, 322 V); 9.22.4–10 (Aulus Cerialanus at Saticula, 315 V); 9.23.6, 15 (C. Fabius Ambustus at Lautulae, 315 V); 9.40.8–10 (Junius Bubulcus at Longulae, 309 V).
11 Oakley CL 4: 46.
ages had to tell about Fabius Rullianus (differently put, if for a moment we suspend the chronological fixation of those events, in particular what appears, in the finished history, as a twenty-one-year interval between two identical acts of disobedience), a measure of clarity emerges.

(1) Rullianus was Magister Equitum.
(2) When the Dictator goes back to Rome to repeat the auspices, Rullianus, against his orders, engages the enemy.
(3) His action results in:
   (a) two battles, both victorious;
   (b) one battle and victory,
      (bb) though according to some only after almost certain defeat;
   (c) nothing worth reporting;
   (d) a defeat.
(4) By the time the Dictator returns to the camp, his deputy has the situation under control. (Note how, at precisely this point, the Magister Equitum disappears from Livy’s “long” version of the fighting in 301 V.)
(5) The Dictator decides to execute Rullianus; both return to Rome.
(6) A group of foragers is ambushed and cut down.
(7) After much recrimination, argument, and begging for mercy, the Dictator refrains from punishment, but
(8) suspends Rullianus from office.
(9) Rullianus abdicates as Master of the Horse.
(10) The Dictator returns to his army, wins a splendid victory without any known participation of a Magister Equitum, and triumphs.

What transpires is a perfectly coherent tradition about Rullianus’ experience as Magister Equitum—except for #3 and, to a lesser degree, #8–9. Even here, though, we find an element common to defeat (3d) and victory (3a and/or 3b): all those versions know of Roman foragers caught and destroyed in an ambush, the difference being that, in (3d), the Master-of-Horse leads out the main body of the army (pabulatum egressus…signis amissis, Livy 10.3.6), whereas in #3a/b = 6 the legatus left in command of the camp during the Dictator’s absence fails to come to the rescue of the frumentatores (Livy 8.35.10–11). Livy does not mention this event until after the conflict between Dictator and Magister Equitum has been resolved; it is part epilogue, part transition to the next chapter (8.36), which focusses on the continuing political education of Papirius Cursor. That the Romans should be bloodied in a skirmish (6) so as to illustrate the deleterious effects of the Dictator’s saevitia comes as no surprise in writers who took up Rullianus’ cause, or tried—like Livy—to see merit in both sides of the dispute; that the details of that skirmish should so closely imitate those of #3d is too much coincidence for comfort.
We can now reconstruct, with a fair degree of probability, the elements of the story as told by the first historian. Fabius Pictor presented the one-battle version (3b), along with #1–2, 5, and 7. Since he reported a victory, he need not emphasize #4, although Rullianus’ long contio (Livy 8.31) clearly shows the Magister Equitum in control of camp and army. This part in Livy, of course, might derive from the two-battles-and-victories (3a) tradition, and in any case contains much subsequent elaboration, but the repeated stress on the Master’s independence—alleged or desired—from the Dictator suggests that it was not entirely missing from Pictor’s account. Whether he included the slaughter of the foragers (6), and at what point in his narrative, is hard to tell: the incident’s distinctly anti-Papirian bent in Livy does not obviously point to Pictor, nor rule him out; in any case, Livy must have found it in representatives of either the #3a or 3b tradition, if not both. Pictor further gave either #8 or 9; had he shown no consequences at all suffered by Rullianus, Livy certainly would have noted that. If Pictor had Rullianus abdicate (9), the praepositus in urbe L. Papirius Crassus may have been, in his account, the suffect Magister Equitum; but one would expect the latter to accompany the Dictator on his renewed campaign: hence Livy’s version (8 = 8.36.1) is perhaps more likely to reflect Pictor’s. As for #10, Livy makes much of the Dictator’s realization that he must balance severitas with comitas (8.36.2–7): in other words, Papirius Cursor develops the very quality Rullianus’ supporters had found wanting in him, and which he had attacked in them. That, too, might point to Fabius Pictor, but it could equally well be Livy’s own contribution—or, as we shall see, belong to an even earlier version of the tale. That Pictor omitted the Dictator’s battle and triumph seems improbable. Unlike the writers in the two-battles (3a) tradition, with their strong (it appears) endorsement of Rullianus, his version was critical of the Magister Equitum, hence, presumably, not outright hostile to Papirius. #3a would be less likely to mention a triumph—not necessarily, though, out of sheer malice; but those authors certainly would lack the incentive to create one for Papirius.

1.2 Rullianus as Magister Equitum

It passes belief that Fabius Rullianus should have, as Master of the Horse, disobeyed the Dictator, suffered defeat, and been removed from office twice in his career, twenty-one years apart; we may with confidence embrace Livy’s judgment in that regard. And yet, there are grounds to suspect that at least one source (not necessarily used by Livy) did imply just that.

1.2.1 Competing Chronologies

Under 301 V, the Fasti Capitolini noted Rullianus’ abdication as Magister Equitum. No iteration survives on the stone, but the Chronographer of 354 lists Corvo II et Rulliano II: coming from a tradition very close to the FC, this may be safely taken to reflect what stood in the marble. Nor would anyone expect otherwise: surely the Fasti could not omit the man’s first turn at that office, in 324 V (by the document’s reckoning). By the time they were compiled, he and Papirius had become inseparable: witness the latter’s elogium (InscrItal 13.3: 39 no. 62), bello Samnitium cum auspicii repetendi caussa Romam redisset atque interim Q. Fabius Amb[usti f.] Maximus mag[ister] equitum inui[su eiu]s proelio c[onflixisset—].

But the stone for 324 V is not extant, and the late chronographers offer an intriguing variant. The one from 354 simply indicates a dictator year (hoc anno dictatores non [sic] fuerunt), without names. The Fasti Hydatiani, however, have dictator…Papinius [sic] Cursor et magister equitum Drusus, which finds its parallel in the Chronicon Paschale: Παπίνιος Κούρσωρ ἀντιγραφεὺς…, Δροῦσος στρατηγὸς ἵππεων. The mysterious Drusus has long since been identified with the ancestor of the Livii Drusi, presumably father of M. Livius Denter (cos. 302); Suetonius attests a magisterium equitum for the family (Tib. 3.1).13 The Fasti must have shown Rullianus as Master of the Horse, given their virtually certain iteration under 301, and the near impossibility of omitting his service under Papirius Cursor. What of Drusus?

Under 301 V, the Fasti Hydatiani list Corvinus dictator et Aemilius magister equitum; no mention of Rullianus. Yet the FC had both, one after the other. Why not the same in 324—Rullianus followed by Drusus? Both are dictator years, the product of chronological manipulation (would that we understood the how and why!); for each, some of the literary sources had Rullianus as Magister Equitum, disobedient and disgraced. (That cannot be contested, even if one were to reject the conclusion reached above, namely, that some of Livy’s sources for 324 V reported Rullianus’ battle as a defeat.) In both years, the Fasti Hydatiani omit Rullianus: if their source showed him as having abdicated on both occasions, his presence in the office may not have seemed worth noting. No rational argument can be adduced why the FC, noting his abdication in 301, should not also note it on the earlier occasion, if a substantial strand of the tradition thus reported it. That such a strand existed has been argued above. Now a Livius Drusus could not have been substituted for Rullianus, of all men, in an even exchange:14 if ever there was a tradition that had Drusus, and only Drusus, as Master of the Horse to Papirius Cursor, it would have to be earlier than the latter’s association with Rullianus. Perhaps there was; but it cannot possibly have been the FC’s version.

14 As Bandel 92 thought possible.
Once Rullianus entered the record for 324 V, a pre-existing Drusus as Magister Equitum must either disappear or become Rullianus’ suffect; if Rullianus belonged to Papirius’ dictatorship from the very beginning, Drusus could only enter the record as suffect—or be ignored by those who preferred to have Rullianus end his term suspended, rather than abdicate. That a Drusus-only version (if such did exist at all) survived in Livian family tradition, and re-emerged in Suetonius, is conceivable; that it produced, from independent compilation, the entries in the late chronographers is not. The *Fasti Capitolini*, under 324 V, had two Magistri Equitum: first Fabius Rullianus, *abdicavit*; then Livius Drusus.15

We should not rashly assume falsification when mere confusion will suffice. The chronology of early Rome (the fourth century in particular) is a morass with preciously few islands of firm ground, and the ancient historians experienced no fewer challenges, or better success, in navigating across it than do their modern counterparts. That the same event—Rullianus in disgrace as Magister Equitum—should eventually be reported, in different sources, some twenty years apart may be disturbing, but it has parallels.16

The *Fasti* show C. Maenius (cos. 338) as Dictator in 320 and 314 V (*InscrItal* 13.1: 36–37), both times with M. Folius Flaccinator (cos. 318) for Magister Equitum; yet the literary sources know of only one dictatorship, in 314 V. That appointment was prompted by anti-Roman activities in Capua; Diodoros writes of a full-fledged rebellion that folded without a fight when confronted by the Dictator’s army (19.76.3–5; cf. 19.73.1), while Livy describes Maenius’ designation as *quaestionibus exercendis* (9.26.7, 14). Both agree that the Campanian ring-leaders took their own lives rather than face the *ingens terror* of a trial conducted by a Dictator; Livy tells how, subsequently, the Dictator’s investigation was expanded to conspiratorial activities in Rome itself, where it ran into such vociferous opposition from the “Nobles” that Dictator and Magister Equitum thought it best to abdicate (9.26.8–20).

In the *Fasti*, Maenius’ and Folius’ appointment in 314 is listed as *rei gerund(ae) caussa* and identified as their second one, after an earlier turn at Dictator and Magister Equitum in 320 (no designation survives). The discrepant designations under the year 314 need not perturb. Diodoros’ account would seem to bear out the stone’s *rei gerundae*; Livy’s *quaestionibus exercendis* may simply have anticipated what he himself clearly describes as a redirection, subsequent to the initial appointment, of Maenius’ activity after the conspiracy at Capua had collapsed.

15 Thus, essentially, already Jahn 91–92. But the *Fasti* certainly did not have a third; Tarpin’s assertion (276 n. 107) that the Dictator named L. Papirius Crassus as a second Magister Equitum, side by side with the suspended Rullianus, has no basis in the evidence. Crassus (*praeposito in urbe*, Livy 8.36.1) was most likely the Praetor of 325 V (the same year as 324 V, unless the dictator years are real); of the Consuls, one was fighting with his army among the Vestini, and the other’s illness had prompted the appointment of the Dictator (Livy 8.29.6–14).

16 Càssola 1999: 10, on the phenomenon in general.
(In fact, the highly unusual dative of the gerundive—the sole occurrence in Livy—to denote the Dictators’ task, as opposed to the genitive with *causa* that normally expresses the reason for the appointment, may indicate that Livy did not intend here to give the original appellation.) Now, under 310 V, Livy, in the speech of the Tribune Sempronius, recalls how Maenius had been forced from office: *nuper intra decem annos C. Maenius dictator...cum quaestiones severius quam quibusdam potentibus tutum erat exerceret...dictatura se abdicavit* (9.34.14). “Within ten years (past)” surely points back farther, from 310 V, than to 314: indeed, it squares admirably with a dictatorship in 320 V, as reported by the Fasti.18 It does not, of course, support that document’s notion of two dictatorships for Maenius, six years apart—both Diodoros and Livy, clearly, knew of only one dictatorship in the man’s career. As did, we may say with confidence, the entire tradition prior to the Capitoline Fasti. Degrassi, unfortunately, accepted the *FC* evidence and accused Livy of carelessly transferring the designation *quaestionibus exercendis* from Maenius’ first appointment in 320 V to the “second” in 314, without considering that *quaestionibus exercendis* cannot be separated from the story told by Livy and Diodoros.19 Which is to say, no trace has survived in the literary record of a dictatorship *rei gerundae causa*—except in Diodoros, whose account concerns the same event as does Livy’s, in the same year.

The problem, and discrepancy, lie in the date of Maenius’ dictatorship: one strand of the tradition (what we may call the “low” chronology) placed it in the year we know as 314 V; another (the “high” chronology), in 320. Both, probably, put it in the year after the Caudine Forks. It is a discrepancy that plagues the entire Second Samnite War (indeed, much of the fourth century). Our surviving accounts—Livy and the Fasti alike—did not consistently follow either the “high” or the “low” tradition: the historian, although attempting to produce a coherent account, frequently, if unawares, moves from one to the other, as did no doubt already some of his predecessors. The *FC*, with disastrous consequences, “resolved” at least some discrepancies of such nature by incorporating both traditions, creating thus (among numerous other doublets, contradictions, and temporal dislocations) two dictatorships for C. Maenius—and two humiliating stints at Magister Equitum for Fabius Rullianus.20

It is surely no coincidence that, of the four dictator years, two (324 V and 301 V) feature Rullianus as Magister Equitum, and two (324 V again, and 309 V) Papirius Cursor as Dictator; Rullianus, in fact, is tied to all three instances, as Consul (*II*)

---

18 I am not persuaded by Oakley’s argument (CL 3: 443) that *intra decem annos* is simply “a vague Livian generalization.” Ridley 1989: 241 is surely correct.
20 For a possible example of another twenty-year dislocation see Holloway 123, arguing that the Carthaginian invasion of Sicily reported by Livy—and nowhere else—under 431 V (4.29.8) is really the well-known one of 409 B.C.
in 310 V and “Proconsul” in 309. No satisfactory explanation of why those particular years, along with 333 V, should have ended up as dictator years has ever been advanced, and none will be attempted here; but given our general understanding that the dictator years originated as a device to manage fourth-century chronology,21 Rullianus’ prominence among them accords well with the view pursued above, namely, that his career was subject to substantial chronological displacement in Roman historiography.

Indeed, the bizarre attribution of a second curule aedileship to Rullianus22 in 299 B.C. by Licinius Macer and Aelius Tubero (Livy 10.9.10–11, 11.9) may have its root in the same problem. What would seem, at first glance, the easiest explanation—Rullianus confused with his son, Gurges—is highly unlikely. Whatever their shortcomings and sins as historians, Macer and Tubero knew the *cursus honorum* as thoroughly as do we; if anything, they would be inclined to retroject such a pattern to a period when it had not yet solidified. If they had found a Fabius Maximus, without further identification, listed as Curule Aedile in 299, they would naturally have assumed that this must be Gurges, soon to be Consul (in 292) and at the right stage in his public life—not the great Rullianus, Censor, Dictator, and thrice Consul by that time.23 Confusion arising out of conflicting and intractable information is one thing; downright stupidity is quite another. It should not be made the basis of our explanation without grave reason or conclusive evidence. Clearly, the record(s) that contained the troublesome aedileship in 299 B.C. specified Fabius Rullianus, not just Fabius Maximus: the very story of how he came to hold that office so improbably late (Livy 10.9.10–13) shows that Macer and Tubero saw the problem, and tried to address it.24 Livy, of course, did not see the original record (whatever it was), but merely what his two authorities made of it; he noticed that it conflicted with the Aediles Piso listed under the same year (or, rather, what Livy took to be the same year25), but suspected any errors to have been caused by that year’s superfetation with men called “Maximus” (Fabius, Domitius Calvinus, and Carvilius). That Fabius Maximus Gurges might have been the Aedile did not occur to him. No one, evidently, raised eyebrows at

21 Mommsen 1859: 102, 114–117, suggesting that, in the original *fasti*, the four consular pairs in question for chronological reasons each occupied two years; but again, why this should have happened in those particular years remains unexplained. Drummond 1978 offers a full if ultimately aporistic discussion.

22 Assuming he was the Q. Fabius Maximus holding the office in 331 V (Livy 8.18.4–5).

23 Livy almost certainly knew Gorges as Curule Aedile in 295: *co anno Q. Fabius Gorges consulis filius aliquot matronas ad populam stupri damnatas pecunia multavit; ex quo multaticio aere Veneris aedem quae prope Circum est faciendam curavit*, 10.31.9. It is difficult to see in what other function Gorges could have fined anyone; cf. F. Münzer “Fabius (112)” *RE* 6.2 (1909) 1798; MRR 1: 178; Oakley *CL* 4: 187.

24 Walt 282–284.

25 It probably was not, as 299 B.C. ought to be a “patrician” year, and Piso’s Aediles are plebeians; but whether this is due to a mistake of Piso, or of Livy, or (as I suspect) an unresolved chronological dislocation, cannot be pursued here: see Münzer “Fabius (114)” *RE* 6.2 (1909) 1807; Forsythe 1994: 348; Oakley *CL* 4: 140.
Rullianus’ supposed colleague, L. Papirius Cursor; that name called for no explanation—precisely because everyone assumed, naturally, that he was the son (cos. I 293). The aedileship in 299 and the second stint as Magister Equitum in 301 V are the product not of wholesale fiction, but derive initially from an account that placed—or was taken by later writers, correctly or from misunderstanding, to place—the man (and, quite possibly, many of the related events) about two or three decades closer to the First Punic War than in what was, or became, the standard tradition.

For our current discussion, the actual year in which Rullianus was Magister Equitum is of no consequence. By Fabius Pictor’s day, his association with Papirius Cursor the Dictator appears to have been well established: indeed, the complete absence of the great quarrel in Livy’s narrative of 301 V (his sources for that year told of Rullianus’ office, disobedience, defeat, and disgrace, and he was troubled by it; but apparently he knew of no claims that this time, too, the Dictator aimed to execute his Master of the Horse) suggests—but does not prove, of course—that this connection was equally accepted in Fabian, Papirian, and popular tradition, and probably original. Rullianus’ appearance in 301 V should be considered the result of an unresolved discrepancy in the temporal fixation of his career, producing eventually a second, unhistorical tenure of the office under the Dictator Valerius Maximus.

1.2.2 The Story Not Told

As Livy noted at the outset, his sources on the incident came in three kinds: those with one battle that ended in a victory, those with two victories, and some others, in quibus…tota res praetermissa est. What, though, was “the matter” (res) they passed over?

Oakley assumed that res simply referred to the battle (“others did not record any fighting at all”), and though calling such omission “worrying,” he suggested “haste or even anti-Fabian spite” to explain those writers’ silence. But if those authors omitted the battle fought in disobedience of the Dictator’s orders, they could not have told of the ensuing quarrel between Papirius and his Magister Equitum; and yet, if they were anti-Fabian, that quarrel, ending even under the most favorable spin (3a) in Rullianus’ disgrace, would be hard to pass up. Or does tota res here not mean what one would expect? The phrase might, conceivably,
be intended to cover not merely the battle but the entire subsequent quarrel; but Livy had yet to tell that story—only hinted at, obliquely, in the opening paragraph (cuius rei vitium non in belli eventum…sed in rabiem atque iras imperatorum vertit, 8.30.1). If that is what he meant, he took care to camouflage it. The context in which he placed the comment—immediately after narrating the battle, rather than at the end of the whole episode—naturally leads the reader to think that fighting is what Livy had in mind.28

What kind of fighting, though? One could not tell the story of the quarrel without reporting a battle first—but not necessarily a battle that Rullianus won. The unambiguous references to the first two groups of Livy's sources speak of victory, but in at least one of the single-battle versions (3bb = Val. Max. 3.2.9), defeat had been imminent, and the decision to engage the enemy is described as taken in poor judgment (male commissi proelii). Livy surely knew of the near disaster alleged in #3bb, but chose to omit that detail, and went straight to the cavalry's glorious charge, without a hint that this was what turned catastrophe into triumph. By the time his narrative of the conflict is concluded, some eleven pages later, few readers would come back to wonder if the quarrel, too, fell under the res praetermissa, or how any writers that omitted all the fighting could still have reported the dispute.

Hence three possibilities offer for the third group: it omitted the entire episode of Papirius and Rullianus (3c); or it had the Magister Equitum suffer a defeat (3d); or it included authors answering to either description. If this group's authorities consisted of #3c throughout, it is difficult to see why Livy should not clearly say so. But if they represented, at least in part, the #3d tradition, his ambiguity shows purpose: he will allow, truthfully, that some authors made no mention of Rullianus’ victorious battle(s), without divulging that they told of a defeat.

In his account of 301 V, Livy did acknowledge, with evident and considerable discomfort, that some of his sources reported a case of disobedience and defeat under the name of Fabius Rullianus, Magister Equitum. Why not acknowledge the same in the earlier context, in 324 V? No source for 301 V appears to have ascribed a victory to Rullianus, let alone two: the problem here, for Livy, was to decide whether Rullianus had held the office at all in that year. For 324 V, the historian had the word of Fabius Pictor, supported by numerous (it seems) other accounts—and Pictor's was the earliest, hence, preferable.29

And Livy (as he makes clear at 10.3.7) found it exceedingly hard to believe that a consummate commander such as Fabius Rullianus should have suffered a defeat caused by his own ineptitude. Note, for illustration, how Livy treats the campaign

28 Cf. Livy 7.9.3–5, dictatorem T. Quinctium Poenum eo anno fuisse satis constat; but Licinius Macer maintained that Quinctius was merely comitiorum habendorum causa: cum mentionem eius rei (i.e., not the dictatorship but this specific purpose) in vetustioribus annalibus nullam invenio.

29 Forsythe 1999: 18, 60–61; Ridley 2014: 470.
of 315 V: a splendid performance by Rullianus (now Dictator) at Saticula, with the fatal heroics of his Magister Equitum (9.22), followed by the initial, indecisive fight at Lautulae, told in distant, impersonal language (ancipiti proelio dimicatum est, 9.23.4) without mentioning Rullianus. Then, barely, a note that some authors reported that second battle as a Roman defeat, and that it was here that Aulus the Magister Equitum lost his life: invenio apud quosdam adversam eam pugnam Romanis fuisse atque in ea cecidisse Q. Aulium magistrum equitum (9.23.5).30

Once the situation is restored, the eventual victory at Lautulae is again painted in full color (9.23.7–17).

Which leaves the question: When did the authors of #3d have Rullianus suffer the defeat (and effective removal from office), and under which Dictator—and how many times? Here, clearly, at least two further variants obtained: one (3d1) associating the event with the (first) dictatorship of Papirius Cursor in 324 V, the other (3d2) with that of Valerius Maximus in 301. The latter variant, however, does not appear (to judge from Livy 10.3) to have contained a dramatic struggle between Dictator and Master of the Horse, but limited itself to a matter-of-fact account of disobedience, defeat, and abdication. One might be tempted to conclude that #3d2 must be the earlier and (more) original one, lacking the magnificent embellishment we read in Book 8. But much of that embellishment could have accrued later; it does not disprove the originality of a bare-bones version that told of the quarrel. The struggle with Papirius, as we have seen, was integral to the story of Rullianus probably from the beginning; it would resist transfer to a different context and Dictator. The underlying events were not so protected.

We still cannot eliminate the possibility that some of Livy’s sources did omit the entire episode, but we must note that it is far from certain. More likely, what the authors behind Livy’s third variant (3c) of what happened when the Dictator left Rullianus in command in 324 V—nothing—passed over was Rullianus’ victory, not the ensuing quarrel nor any fighting as such; instead, they reported a defeat. In other words, Livy’s third variant (3c) may be a phantom, identical in reality with the fourth variant (3d), defeat, that we have tried to rescue from oblivion.

1.3 The Challenge

Livy did not exclusively base his narrative of the episode on Fabius Pictor and representatives of the one-battle (3b) tradition. At the end of his great speech, M. Fabius Ambustus invokes his son’s two battles, both victorious through the gods’ help he had sought (deosque ab se duobus proeliis haud frustra advocatos, 8.33.21). Oakley suggests that Livy either “was deliberately making the elder

Fabius exaggerate or...had forgotten the views of the older annalists.”

1.3.1 Dictator vs. Master of the Horse: Imperium and Auspices

At the debate in Rome, the theme of dictatorial powers versus those of the Magister Equitum, as we have seen, almost certainly goes back to Pictor. The constitutional position is expressed in general assertions that the Dictator holds authority over all officials. The Dictator’s imperium is supreme, and even the Consuls—the regal power!—do obey him, as do the Praetors, elected under the same auspices as the Consuls: you would think it only just that the Magister Equitum should obey his command (8.30.11, cum summum imperium dictatoris sit pareantque ei consules, regia potestas, praetores, iisdem auspiciis quibus consules creati, aequum censeas necne magistrum equitum dicto audientem esse; cf. 8.32.3, 34.2–3, 34.5–6, 35.5).

In like manner, his auspices take precedence over those of his deputy: if a religious fault posed an obstacle for the Dictator to conduct a campaign, surely the Master of the Horse could not be unaffected and free of it (8.32.4–7, quae dictatori religio impedimento ad rem gerandam fuerit, num ea magister equitum solutus ac liber potuerit esse; 8.34.4); which specific insistence is countered with claims that the Magister Equitum ought to be more than a mere attendant (8.31.4, quod se Q. Fabius magistrum equitum duxerit ac non accensum dictatoris) and that he fought under his own auspices (8.31.1, cuius ductu auspicioque vicissent; 8.33.22).

We need not assume that Pictor presented a scene of similar length and complexity as we find in Livy; a few sentences stating the respective positions of the Dictator and his opponents would have sufficed.

Yet Livy offers another strand of argumentation in behalf of Rullianus. It revolves around the question of whether the Dictator is, or ought to be, subject to provocatio and the tribunician ius auxilii (8.33.8, tribunos plebis appello et provoco ad populum...videro cessurusne provocationi sis; countered at 8.34.6: optare ne potestas tribunicia, inviolata ipsa, violet intercessione sua Romanum imperium neu populus [in] se potissimum dictatore[m et] ius dictaturae exstinguat32). It emphasizes the restraint shown by earlier dictators in dealing with troublesome subordinates (8.33.12, se quoque—the speaker is Rullianus’ father—dictatores Romae fuisses nec a se quemquam, ne plebis quidem hominem, non centurionem, non militem, violatum; 8.33.14–15); but the historic examples cited involve, remarkably, only instances of military incompetence and defeat—not disobedience and victory. A general reminder follows to the effect that the People, penes quem potestas

31 CL 2: 736; similarly Forsythe 2005: 296; contra Chaplin 111.
32 For the text, Oakley CL 2: 739.