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THE FIVE-DAY INTERREGNUM IN THE ROMAN REPUBLIC

In the Roman Republic, in the case of the death of both consuls or a situation which made it impossible to proceed with the election of their successors, the Senate would decide to establish an interregnum.[1] For that the senators chose several persons of patrician dignity from among their midst, and awarded them the auspices and the signs of magisterial power. The interreges had the task of preparing for the elections of new consuls and hold the electoral assembly. Although the interreges had been chosen by the Senate, rather than elected by the People, and were in power for a short period, they resembled extraordinary magistrates. The interrex was appointed by the senator with auspices; likewise, the magistrate was elected in accordance with the will of the gods (*auspicato*). As well as the auspices and the attributes of magisterial power (*lictores*, *fasci*, *sella curulis*), the interreges were provided with an *ius agendi cum patribus et cum populo* and could summon the People to the centuriate assembly.[2] In an epistle to C. Trebatius Testa (*Fam*. 7.11.1), written in January 53 (all dates are B.C.), Cicero ironically said that, with such a large number of interreges, an experienced lawyer could use them to prepare a defence in civil suits by asking each interrex for two adjournments to obtain legal assistance.[3] Interreges, albeit as part of a jest, were seen here as holders of some civil jurisdiction.[4] Referring to Asconius' clarification that a certain M. Lepidus was appointed interrex because he had been elected as a curule magistrate,[5] Theodor Mommsen concluded that every interrex was regarded as magistrate.[6] In fact, Asconius means here that Lepidus held a curule magistracy in addition to his being interrex (or, more precisely, the magistracy entitled him to this role).[7] Nevertheless, the notion of extraordinary magistrate has been frequently applied to the interrex by modern scholars.[8] When interreges periodically appeared at the head

[1] Cic. *Leg*. 3.9; Livy 4.7.7; Dion. Hal. *Ant. Rom*. 11.62.

[2] Varro, *Ling.* 6.93; Cic. *Leg*. 3.4.10; Gell. *NA* 14.7.4.

[3] As the law courts were closed during an interregnum, no legal business could be transacted. For adjournments, see A.D.E. Lewis, '*Advocatio*: a postponement *in iure*', in R. van der Bergh (ed.), *Ex Iusta Causa Traditum: Essays in Honour of Eric H. Pool* (Pretoria, 2005), 215–28.

[4] Cf. Livy 41.8.6, 9.11.

[5] Asc. *Mil.* p. 33 Clark: *M. Lepidi interregis is enim magistratus curulis erat creatus.*

[6] See T. Mommsen, *Römisches Staatsrecht* (Leipzig, 1876^2), 1.10 n. 2, 626–7.

[7] See E.S. Staveley, 'The conduct of elections during an interregnum', *Historia* 3 (1954), 193–211, at 196–7; A. Magdelain, '*Auspicia ad patres redeunt*', in M. Renard, R. Schilling (edd.), *Hommages à J. Bayet* (Brussels, 1964), 427–73 = A. Magdelain, *Ius imperium auctoritas. Études de droit romain* (Rome, 1990), 341–83, at 352 n. 28.

[8] See E. Herzog, 'Das Institut des Interregnums im System der Staatsverfassung', *Philologus* 34 (1876), 497–515, at 504, 513; E. Friezer, 'Interregnum and patrum auctoritas', *Mnemosyne* 12 (1959), 301–29, at 301; J. Jahn, *Interregnum und Wahldiktatur* (Kallmünz, 1970), 26–7; J. Bleicken, *Zum Begriff der römischen Amtsgewahlt. Auspicium – potestas – imperium* (Göttingen, 1981), 263; J. Linderski, 'The auspices and the struggle of the orders', in W. Eder (ed.), *Staat und Staatlichkeit in der frühen römischen Republik* (Stuttgart, 1990), 34–48, at 38.

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of the Republic as holders of auspices and of the signs of the highest power for five days, the Romans became accustomed to thinking that the interreges received supremacy for that period.

According to the inscriptions first cited by Mommsen, there were also interreges in other Italian cities.[9] It is possible to think that interreges became part of the political system in the Roman colonies, since the *lex Ursonensis* also mentions an interrex among other municipal magistrates alongside a duumvir and a prefect.[10] However, according to the suggestion of Michael Crawford, the office of the interrex had been relevant for the foundation time of the colonia Genetiva in Urso, but it had become obsolete by the time of Flavian rule, and all references to it were removed from the text on the bronze table by the engraver, so that only one mention of it was accidentally preserved in chapter 130 of the *lex*.[11] The Italian inscriptions from Benevento (*Beneventum*), Ostia, Fondi (*Fundi*), Formia (*Formiae*) and Cumae—all examined by Edoardo Bianchi—are also dated from the first century B.C. to the first century A.D.[12] In view of the fact that Benevento was a Latin colony, and since Fondi, Formia and Cumae were ancient *municipia*, Bianchi suggests independent local origins of the institution in these cities.[13] In his interpretation the interregnum could have developed jointly with another archaic institution, that of the *reges sacrorum*, also known in Italian cities.[14] However, the available evidence allows us rather to speak of Roman influence on the spread of the institution of municipal interreges from the Late Republic to the Early Principate.[15]

Sometimes scholars accept that interreges possessed the magisterial (military) *imperium*.[16] André Magdelain draws attention to the fact that almost all known interreges were previously senior magistrates, so he suggests that they had military *imperium* for holding the electoral assembly.[17] He argues that, when the consulship was vacant, the auspices 'returned' to patrician former holders of auspices and *imperium*, who designated one of their number to serve as interrex. In the speech delivered, according to

[9] See Mommsen (n. 6), 624–38; E. Bianchi, 'L' *interregnum* fuori di Roma: origine e funzione dell'istituto nelle città italiche', *Storia antica e antichità classiche* 145 (2011), 57–78.

[10] *CIL* II², 5 (1998), 287–324, at 306 (ch. CXXX.50). Cf. J. González Fernández, 'Los Municipia civium Romanorum y la Lex Irnitana', *Habis* 17 (1986), 221–42, at 222–3.

[11] M.H. Crawford, *Roman Statutes* (London, 1996), 1.398, 1.453; id., 'Arranging seating', *Athenaeum* 81 (1997), 613–18, at 614. Cf. P.M. López Barja de Quiroga, 'Estructura compositiva de la "Lex Ursonensis"', *Studia Historica. Historia Antigua* 15 (1997), 47–61, at 58–9; A.R. Jurewicz, 'La lex Coloniae Genetivae Iuliae seu Ursonensis – rassegna della materia. Gli organi della colonia', *RIDA* 54 (2007), 293–325, at 309 n. 127.

[12] See Bianchi (n. 9), 61, 63, 66–7, 71.

[13] For the Latin origin of the interregnum in Fondi and Formia, see also S. Mazzarino, *Dalla monarchia allo stato repubblicano. Ricerche di storia romana arcaica* (Milan, 1992²), 143.

[14] E. Bianchi, *Il* rex sacrorum *a Roma e nell'Italia antica* (Milan, 2010), 35–87, esp. 64–70 for Fondi e Formia; other Italian pieces of evidence of *reges sacrorum* are presented for Boville, Lanuvio, Velletri, Tarquinia and Fiesole.

[15] For the Roman origins of the institution, see Cic. *Rep*. 2.23: *prudenter illi principes nouam et inauditam ceteris gentibus interregni ineundi rationem excogitauerunt* ('the nobles then prudently resolved to establish an interregnum, a new political form, almost unknown to other nations', trans. F. Barham).

[16] See S.D. Oakley, *A Commentary on Livy Books VI-X* (Oxford, 2005), 3.492–3.

[17] Magdelain (n. 7), 341–4, 367–8; A. Guarino, 'Il vuoto di potere nella "libera respublica"', *AAN* 82 (1971), 288–312 = A. Guarino, *Le origini quiritarie: Raccolta di scritti romanistici* (Naples, 1973), 129–51, at 145; Jahn (n. 8), 14–19; Linderski (n. 8), 38–9; M. Gusso, 'Politica, istituzioni e interregnum nel 77 A.C.', *RCCM* 43 (2001), 51–66, at 65. For a discussion, see T.C. Brennan, *The Praetorship in the Roman Republic* (Oxford, 2000), 16–17.

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Sallust, in the Senate by L. Marcius Philippus (*cos*. 91) in 77, the interrex Ap. Claudius was addressed in a *senatus consultum ultimum*, which shows that he was thought to have some executive power.[18] However, Briggs Twyman draws attention to the fact that Claudius was the consul of 79 assigned to Macedonia, but delayed his departure to his province because of illness.[19] He could possess military *imperium* as proconsul, not as interrex, but he had hardly any troops to command. Real power rather belonged to Q. Lutatius Catullus (*cos*. 78), who is mentioned by Sallust as the second addressee of the 'ultimate decree' of the Senate. An important role in the defeat of the rebellious consul M. Lepidus belonged to Cn. Pompey, who either held the praetorian *imperium* independent to Catullus (στρατεύματος ἡγεμών), or was his legate.[20] Chief authority is given to Claudius by Philippus, who was his nephew, the son of an older sister, most likely because he was chosen as an interrex during his staying in Rome. The proconsul Claudius with the title of interrex perhaps seemed to his nephew more honourable than the ordinary proconsul Catullus.[21]

That the Romans did not consider interreges as magistrates follows from the words of Ap. Claudius Crassus in Livy's reference to 367: 'we [patricians] as private citizens have the auspices which your order [plebeians] does not possess even as magistrates.'[22] As Jerzy Linderski has argued, the patricians carried out auspices during the interregnum as private citizens (*priuatim*), without occupying any office or being magistrates.[23] The *patres*, to whom the care of auspices passed in the absence of consuls, did not possess executive power and were appointed for the holding of consular elections as soon as possible. The interrex was a representative of the senators (*patres*), while a magistrate was elected by the People (*populus*). Therefore, consul and praetor were magistrates of the Roman People, but the interrex was not.[24] Stuart Staveley emphasizes that 'the interrex of the Republic had not gradually evolved into a magistrate or even its equivalent: he remained, as in earlier times, the nominee of the *patres*'.[25] The semantics of the term *interregnum* denote the period between two kings (*reges*), so that from the origins the interreges were senators who looked after the state in the absence of high magistrates rather than ruled instead of them. Later, however, the 'looking after the Republic' received the sense 'to have power over the People'. At the same time, the death of consuls led to the termination of their power (*potestas* and *imperium*), not to the passing of it to the *patres*.

[18] Sall. *Hist*. 1.77.22.

[19] B. Twyman, 'The Metelli, Pompeius and prosopography', *ANRW* 1.1 (1972), 816–74, at 841–2.

[20] For Pompey's office, see T. Hillman, 'Pompeius' imperium in the war with Lepidus', *Klio* 80 (1998), 91–110, at 92–6, 102, 109–10; K.M. Girardet, 'Imperia und prouinciae des Pompeius 82 bis 48 v. Chr.', *Chiron* 31 (2001), 153–209, at 166 = K.M. Girardet, *Rom auf dem Weg von der Republik zum Prinzipat* (Bonn, 2007), 1–67, at 16; F.J. Vervaet, 'Pompeius' career from 79 to 70 B.C.E: constitutional, political and historical considerations', *Klio* 91 (2009), 406–34, at 407–17.

[21] Similarly, enumerating the recipients of the *senatus consultum ultimum* in 52, Asconius (*Mil.* p. 34 Clark) put in the first place the interrex, then the tribunes and after them the proconsul Pompey, who alone among them had military *imperium* and troops in command.

[22] Livy 6.41.6: *nos quoque ipsi sine suffragio populi auspicato interregem prodamus et priuatim auspicia habeamus, quae isti ne in magistratibus quidem habent.*

[23] Linderski (n. 8), 35–8.

[24] For the difference between interreges and magistrates, see U. Coli, 'Regnum', *SHDI* 17 (1951), 54–9, 156–7; Staveley (n. 7), 194–7. R.M. Ogilvie, *A Commentary on Livy, Books 1–5* (Oxford, 1965), 409; F. Wieacker, *Römische Rechtsgeschichte. I: Einleitung, Quellenkunde, Frühzeit und Republik* (Munich, 1988), 224.

[25] Staveley (n. 7), 195.

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My attention was drawn to this ambiguity with the magisterial status of the interreges. It may reflect the evolution of the interregnum from the archaic custom of the regal period to an institution of the Republican public law. Ancient evidence for the procedure of the institution also shows its peculiarity. For the interregnum, the senators were divided into *decuriae* and ruled, holding the insignia of magisterial power (Serv. *Aen*. 6.809: *senatus per quinque dierum interregnum regnasset per decurias*). Their rule, however, is differently depicted by Livy and by Dionysius of Halicarnassus.[26] According to Livy, every ten senators jointly were in office for five days, during which time the insignia of power belonged to one of them. Dionysius suggested that the senators ruled successively, each for five days, despite the fact that they were arranged into groups of ten interreges who received the admission to the rule according to the casting of lots. Under the Later Republic, indeed, each interrex was in office for five days. Mommsen recognized a link between the five-day period and the duty of a magistrate to take the oath of entering the office within five days.[27] However, it remains unclear why the senators would form 'groups of ten' if every interrex ruled for five days and then transferred the office to the next interrex, regardless of whether the next interrex belonged to the same group of ten or not.

Alfred Heuss argued that the groups of ten interreges are an anachronistic construction, which did not take place in early Rome.[28] However, the matter seems to have a satisfactory explanation without rejecting ancient testimonies. Livy (1.17.5-6) describes the first interregnum after the death of Romulus as consisting of one hundred of the *patres* who were organized in groups of ten. During the five days when each ten men exercised authority, only one of them was accompanied by lictors and held the signs of power. In the light of evidence from other authors, this scenario has commonly been understood to mean that each interrex governed for five days, while the remaining nine senators were his assistants. Power was shared among the groups rather than among the individual senators. However, the situation can be understood in a different way, if we compare Livy's reference with Plutarch's description of the same interregnum after Romulus' death. Plutarch (*Numa* 2) writes that the interregnum was arranged in such a manner that each of the senators in turn assumed the insignia of royalty, made the customary sacrifices to the gods and transacted public business, for the space of six hours by day and six hours by night. Thus, keeping watch for twelve hours—six nights and six days—was the duty of each interrex. This is consistent with the statement of Livy, who says that the ten senators were jointly responsible for the state for five days. It is possible to suggest that in former times the duration of the interregnum was no more than five days for ten men, rather than for one. This explains the division of senators by tens, precisely the number of interreges needed to keep the auspices for twelve hours each over the five days. The testimonies of Livy and Plutarch were hardly idle antiquarian constructions and rather went back to the earlier augural books, in which augury was considered the prerogative of the kingship.[29]

[26] Livy 1.17.6; Dion. Hal. *Ant. Rom*. 2.57.1-2.

[27] Livy 31.50.7; App. *B Civ*. 1.29-30. Mommsen (n. 6), 598–9.

[28] A. Heuss, *Gedanken und Vermutungen zur frühen römischen Regierungsgewalt* (Göttingen, 1982), 415–18.

[29] See Cic. *Rep*. 2.16; *Div*. 1.107, 2.80; *Vat*. 20.7; Plut. *Rom*. 22. For the kingship and augury, see D. Sabbatuci, *Il mito, il rito e la storia* (Rome, 1978), 418–30; B. Liou-Gille, *Une lecture 'religieuse' de Tite-Live I. Cultes, rites, croyances de la Rome antique* (Paris, 1998), 20–4.

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The discrepancy between Livy and Dionysius seems to reflect two different concepts of interregnum: the interrex in a group of ten could not be regarded as magistrate, whereas he could if he ruled alone. The latter, in comparison with the former, was obviously the product of long-term development. Below I will endeavour to examine the available evidence for the duration of the Republican interregna with a view to clarifying how the five-day joint interregnum of ten senators became the period of tenure for each individual interrex. The problem with the interregnum is that much of the evidence is drawn from accounts of the regal period, which, given the general source-problem for early Roman history, must be largely based on learned speculation in the Later Republic and the Augustan period. A further difficulty is that the interregnum of the Republic was different to that of the regal period, so that it is difficult to extrapolate it backwards looking at Republican practice. This is why I focus on the evidence for the Republican interregna and leave aside speculative hypotheses concerning the regal period.[30]

1. FROM THE BOARD OF TEN TO TWO INTERREGES

When mentioning the Republican interregna, Livy does not always give details. For instance, the number of interreges is unclear under the years 343, 300, 291, 222 and 208.[31] In most cases, when the number of interreges is declared by ancient authors, under the years 482, 479, 389, 351, 340, 320, 298 and 216,[32] the figure does not exceed two, although there were three listed in 396, 391 and 387.[33] Furthermore, our sources have a number of cases when there was only one interrex.[34] There is no evidence that he was a leader of the group of ten.

Any number of interreges exceeding the minimal figure in Livy's sources attracted his attention. Several interreges were appointed in 462[35] and 444.[36] Under 355 Livy (7.17.11) counts all eight interreges, Q. Servilius Ahala, M. Fabius, Cn. Manlius, C. Fabius, C. Sulpicius, L. Aemilius, Q. Servilius and M. Fabius Ambustus. The coincidence between the names of the first and the second interreges and between the names of the seventh and the eighth interreges in his list raises the possibility that we have duplication here, so that the actual number of interreges may be only six.[37] Otherwise, if one person could be in office twice with a short pause, this would preclude

[30] E. Dovere, '"Nec diuturno rege esset uno". Rilievi sull'interregno d'età arcaica', *Latomus* 68 (2009), 319–39 interprets the early interregnum as a means of preventing the usurpation of the kingship by any one of the *patres*, whom he assumes to be great landlords. Because the death of a king or consuls led to the termination of their power (*potestas*), not to the passing of it to the *patres*, the archaic interregnum was rather the religious custom of holding auspices by the *patres* during the king's five-day absence from Rome at the end of February, as Elmer Merrill and André Magdelain argued. See E.T. Merrill, 'The Roman calendar and the *regifugium*', *CPh* 19 (1924), 20–39; A. Magdelain, 'Cinq jours épagomènes à Rome?', *REL* 40 (1962), 201–27 = Magdelain (n. 7 [1990]), 279–303.

[31] Livy 7.28.9-10, 10.5.14, 27.6.8; Plut. *Marcel*. 6.

[32] Dion. Hal. *Ant. Rom*. 8.90.5, 9.14.1; Livy 6.1.8, 7.22.2, 8.3.5, 9.7.15, 10.11.10, 22.34.1.

[33] Livy 5.17.4, 5.31.8, 6.5.6.

[34] Dion. Hal. *Ant. Rom*. 3.1.1, 4.76.1; Livy 1.32.1, 3.55.1, 4.7.7-10, 5.1.1, 6.36.3; Cic. *Att*. 9.15.2, *Leg. agr.* 3.5, *Rosc.* 125; App. *B Civ.* 1.98; Plut. *Sulla* 33.1.

[35] Livy 3.8.2; Dion. Hal. *Ant. Rom*. 9.69.1.

[36] Livy 4.7.7-10.

[37] Friezer (n. 8), 306–7; Magdelain (n. 7), 361; Jahn (n. 8), 17–18.

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the senators being grouped into decuriae.[38] Besides, Livy's references to the longest interregna, giving precise numbers in the process, mention five interreges in 332, eleven in 352 and fourteen in 326.[39] Thus, Livy points out the rare occasions when the interregnum not only exceeded the term of ten interreges, but also demanded more members than two or three men. Only one of his comments may refer to the very long interregnum of 420, and this is by no means certain: 'The *greater part of the following year* was wasted in contests between the new tribunes of the plebs and some of the interreges.'[40]

As we can see, the Republican interregna very rarely exceeded the limits of ten interreges, usually being much shorter. According to Livy and Dionysius, the usual duration of the Republican interregna involved the appointment of one, two or three interreges. Even the longest interregna of five, eight, eleven and fourteen members have nothing to do with the groups of ten members that Livy and Dionysius record for the exemplary interregnum between Romulus and Numa Pompilius. In all likelihood, the Augustan historians did not find any exact record of the original order, according to which ten senators were appointed for every five days, in their earlier sources. The Senate preferred to choose an unspecified group of its own members as interreges under the Early Republic, and two or even one interrex under the Middle Republic.

Ancient chronicles hardly recorded more than the numbers of interreges, while the explanations for the interregna belonged to Livy himself or the earlier historians he used. Later Republican electoral assemblies were usually held according to a scenario scheduled in advance, and an extension of the interregnum with the participation of many interreges could occur only if the situation was out of control. This may be why Livy singled out such cases for special attention under the years 420, 355, 352, 332 and 326. If the minimal number of interreges was the regular Republican order, it is posible to suggest that the figures of five, eight, eleven and fourteen interreges could designate their holding of a joint interregnum rather than a sequential one. The duration of the interregnum in this case would be much shorter than usually suggested in scholarship. And, indeed, in the *Scriptores Historiae Augustae* (*Tacitus* 1.4) one can find the statement that 'in the time of the consuls and the military tribunes vested with consular power, whenever an interregnum was proclaimed there were always interreges, and never did the Roman Republic so entirely lack this office that there was not some interrex created, though it might be for only two or three days (*interrex biduo saltim triduoue crearetur*)'. A two-day period of office for one interrex is also mentioned by Livy (3.8.2): 'after one or two interregna had expired, P. Valerius Publicola, who had been interrex for two days, conducted the election of L. Lucretius Tricipitinus and T. Veturius Geminus—or it was Vetusius—as consuls.' The two-day period of office of the last interrex was considered by the later historians to be additional to the several fully completed five-day interregna of his predecessors, but two days could be the whole period of an interregnum in earlier times.

The notions of *interregnum* and *interrex* obviously originated from the word *rex*, which was the title of the Roman kings.[41] For that reason ancient Romans derived this custom from the regal epoch and defined the interregnum as the period of time

[38] However, K.J. Beloch, *Römische Geschichte bis zum Beginn der punischen Kriege* (Berlin, 1926), 28, following Livy, counts eight interreges here.

[39] Livy 7.21.2, 8.17.5, 8.23.17.

[40] Livy 4.43.8: *cum pars maior insequentis anni per nouos tribunos plebi et aliquot interreges certaminibus extracta esset*.

[41] Livy 1.17.6: *ab re quod nunc quoque tenet nomen interregnum appellatum*.

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until a new king had been appointed in place of his predecessor.[42] There seems to be an archaic Indo-European custom, according to which the sorrow after the death of the king was expressed in a five-day period of lawlessness (Greek ἀνομία) and anarchy (ἀναρχία).[43] In order to avoid the anarchy, according to Dionysius of Halicarnassus (9.69.1), the Romans invented an interregnum. If the senatorial 'reign' during the interregnum was the institution of the regal epoch, it obviously changed in character under the Republic.[44] According to Ulrich von Lübtow's hypothesis, the interregnum became the polynomial institution during the transitional period from the ancient monarchy to the Republic.[45]

It was Mommsen who first drew attention to the Roman custom of summoning the electoral assembly only under the second or a subsequent interrex.[46] He attempted to explain the removal of the first interrex from the elections as a consequence of procedural violations during the process of selecting him for this office.[47] In the usual situation, only the high magistrate who possessed *imperium* and auspices could summon the electoral assembly, while the first interrex was deprived of these attributes of magisterial power by the conditions of his appointment. He had no connection with the auspices of the preceding consul. Therefore, his status was different from that of the other interreges, each of whom is believed to have been introduced into the office by a previous interrex and under his auspices. The idea of Mommsen was carefully elaborated by Magdelain.[48] Since the first interrex had received auspices neither from any magistrate nor from the popular assembly, Magdelain defined his appointment as sacred, made with the help of Jupiter and without ratification by the *lex curiata*. The only source of this interrex's authority was Jupiter, and by the next appointment he gave the divine sanction ahead. The second interrex was appointed *auspicato* and therefore could hold the elective assembly.

This reconstruction, however, seems doubtful to several scholars.[49] Was the first interrex really appointed *inauspicato*? Why could not any augur or even a *pater* take auspices after the decision of the Senate to open an interregnum? Dionysius (2.6.1–2) refers to the role of an augur in the investiture of the magistrate, as does Livy (1.18.6–10) in the inauguration of Numa as a king. In addition, if the first interrex was able to appoint his second colleague and make him a legitimate officer with the auspices, why could he not use the same source (Jupiter) to hold the electoral assembly? According to Livy (6.41.6), each *pater,* without exception, had the auspices during the interregnum and, accordingly 'without a vote of the People', could appoint an interrex under the auspices. Livy identifies the *patres* with the patricians who had the sole right to be interreges, so that it seems that only plebeians had to be magistrates to

[42] Paul. Fest. p. 98 L: *interregnum appellatur spatium temporis, quousque in loco regis mortui alius ordinetur*.

[43] See H. Volkmann, 'Das römische Interregnum und die persische Anomia', *RhM* 110 (1967), 76–83.

[44] A. Magdelain, 'De l'"austoritas partum" à l"auctoritas senatus", in Magdelain (n. 7 [1990]), 385–403, at 388.

[45] U. von Lübtow, *Das römische Volk, sein Staat und sein Recht* (Frankfurt, 1955), 180–92.

[46] Asc. *Mil.* p. 37 Clark: *non fuit autem moris ab eo qui primus interrex proditus erat comitia haberi* ('It was not, however, the custom that the electoral assembly should be summoned by the man who was first selected as interrex', trans. J.P. Adams).

[47] Mommsen (n. 6), 631–4. Also see O. Karlowa, *Römische Rechtsgeschichte* (Leipzig, 1885), 1.45.

[48] See Magdelain (n. 7), 346–7, 350–1, 356–8.

[49] Cf. Friezer (n. 8), 311, 316–17; Jahn (n. 8), 11–32, at 23–4.

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take auspices.[50] If the first interrex was different from all others, it seems odd that there is no evidence for the procedure by which he was appointed to the office.[51] Frederik Vervaet argues that the first interrex was perfectly qualified to preside over the assembly, but that it was not customary for him to do so because of religious scruples in maintaining optimal public auspices.[52] On the basis of the fact that the auspices could only be consulted by individual persons, Jerzy Linderski has suggested that the first interrex was actually selected by lot. The suggestion, if there were any evidence for the lots, would explain why it was only the second interrex who was appointed *auspicato*, or why his successors were qualified to convene the electoral assembly.[53]

Otherwise, Joachim Jahn has suggested that Mommsen is mistaken here and that we must try to find another explanation for this custom. His own opinion was based on the theory of Elmer Merrill and André Magdelain, who argued for the origins of the interregnum from the religious custom of holding auspices by the *patres* during the king's five-day absence from Rome after the completion of every annual cycle at the end of February.[54] The custom determined the regular duration of the interregnum, which did not extend beyond five days, from the *regifugium* of 24 February to the Kalends of March.[55] In the extraordinary case of the king's death, the five-day interregna might be reiterated until a new king was inaugurated. February was the month of death, expiation and purification, and for this reason the first interrex, who resembled the 'master of the dead season', could not have the power to inaugurate the king. This task belonged to his second colleague who began his office on 1 March. Under the Republic, when the interregnum became a political institution, the Romans believed that the first interrex could not hold the electoral assembly.[56]

The information of Plutarch (*Numa* 2), cited above, provides us with another explanation of why the interregnum required the appointment of at least two interreges. The diurnal cycle of the Romans began at midnight.[57] This is clarified by Varro, who wrote that, since both magistrates should, on a single day, both take the auspices and perform the action to which the auspices were a prelude, they took the auspices after midnight and performed the action after sunrise, and are therefore said to have taken the auspices and to have acted on the same day.[58] The first interrex, whose vigil was from midnight to six in the morning, could take the auspices, but could not hold the consular elections. Elections could be held during daytime, when the office was held by the second or third interrex. Two interreges sufficed if the elections were held on the next morning and were completed by midday. The first of them started the interregnum by taking the auspices, and the elections became the duty of his successor. The third interrex was appointed if the electoral assembly continued into (or was convened

[50] Varro *ap*. Non. p. 131 L: *de caelo auspicari ius nemini sit praeter magistratum*; Fest. p. 446 L s.v. *spectio: ut ipsi* [*sc*. the magistrates] *auspicio rem gererent*.

[51] For the decree of the Senate *de patridis conuocandis qui interregem proderent* (Asc. *Mil.* p. 30 Clark), see Magdelain (n. 7), 360; Herzog (n. 8), 502–3.

[52] F.J. Vervaet, 'The lex Valeria and Sulla's empowerment as dictator (82-79 B.C.E)', *CCG* 15 (2004), 37–84, at 78–9.

[53] Linderski (n. 8), 35–8.

[54] Merrill (n. 30), 20–39; Magdelain (n. 30), 201–27 = Magdelain (n. 7 [1990]), 279–303.

[55] Cf. Guarino (n. 17), 134–5.

[56] Jahn (n. 8), 23–4.

[57] Plut. *Quaest. Rom.* 84; Gell. *NA* 3.2.7–10; *Dig.* 2.12.8.

[58] See the quotations from Varro's *Human Antiquities*, Book 16, fr. 2, cited by Aulus Gellius (*NA* 3.2.2-10) and Macrobius (*Sat*. 1.3.2-7): *post mediam noctem auspicantur et post exortum solem agunt*.

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in) the afternoon. This would explain why Livy's usual duration of the Republican interregna is represented by two or three interreges.

In his speech *De domo sua*, Cicero stresses that 'the auspices of the Roman people must come to an end if no patrician magistrates are created, as there will be no interrex, for he must be a patrician, and must be nominated by a patrician'.[59] He also pointed out that, in the absence of high magistrates, the auspices passed to the senators.[60] Auspices have often been considered a symbol of a magistrate's power. However, Cicero meant only that senators acquired the right to hold the elective centuriate assembly in the absence of high magistrates: 'whenever there shall be no consuls or *magister populi*, let the auspices belong to the *patres*, and let them produce from among themselves someone duly to create consuls through the assembly.'[61] The aim of the Republican interregnum was to enable the elections of new consuls; therefore, only the interrex who held the consular elections was significant. On several occasions, Livy stresses the particular role of one interrex among his ten colleagues: 'ten men exercised authority, [but] only one had its insignia and lictors.'[62] In the process of time the ritual became routine and this changed the purpose of the interregnum from the watching of the divine will to the holding of the electoral assembly. When this idea became dominant in the Roman public consciousness, it entailed further changes in the interregnum. Since only one interrex sufficed for the task of convening the electoral assembly, his colleagues became his honorary assistants as a tribute to tradition, and for this purpose their number was irrelevant. It seems no accident that the group of long interregna with five, eight, eleven and fourteen interreges is related by Livy as occurring during the second half of the fourth century. The earliest priestly chronicles are recently dated to the turn of the fourth and third centuries, so that Livy's data of interregna could be reliable only starting from that period.[63] Thus, the polynomial interregna between 355 and 326 could be the latest attestation of evidence for the early Republican institution, which thereafter registered a significant change in its development. The numerous holders of the honorary title most likely had been appointed to help the chief of the board in organizing the elections before this role was accepted later by the Senate as a whole.

This change coincided with the introduction of the dictatorship as a tool for consular elections (*comitiorum habendorum causa*). Although the interreges and the dictator originally solved different problems, Livy (7.22.10) for the first time mentions the dictatorship of M. Fabius Ambustus for holding consular elections under 351. After that, the dictatorship gradually relinquished its former military duties, these probably passing to the consuls. Between 351 and 202, twenty of the fifty-six known dictatorships were appointed for the holding of an elective assembly.[64] Of the twenty dictators appointed during the First and the Second Punic Wars, between 263 and 202, only two had military

[59] Cic. *Dom.* 38: *auspiciaque populi Romani, si magistratus patricii creati non sint, intereant necesse est, cum interrex nullus sit*.

[60] Cic. *Brut.* 1.5.4: *dum enim unus erit patricius magistratus, auspicia ad patres redire non possunt* ('for as long as there is a single patrician magistrate left the auspices cannot revert to the Senate'). The notion 'patrician magistrate' was usually applied to consuls, praetors and censors; Cicero means a consul here.

[61] Cic. *Leg.* 3.9: *ast quando consules magisterue populi nec erunt, auspicia patrum sunto, ollique ec se produnto qui comitiatu creare consules rite possit*.

[62] Livy 1.17.5-6: *decem imperitabant: unus cum insignibus imperii et lictoribus erat.*

[63] See T.P. Wiseman, 'The prehistory of Roman historiography', in J. Marincola (ed.), *A Companion to Greek and Roman Historiography* (Malden, MA, 2002), 1.67-75, at 70.

[64] See A. Kaplan, *Dictatorship and 'Ultimate' Decrees in the Early Roman Republic 501-202 B.C.* (New York, 1977), 169–73.

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tasks (*rei gerundae causa*). The new short-term dictatorship for consular elections certainly had an impact on the shape of the interregnum, when one senator was obliged to appoint a consul within five days. The dictator could hold the elections over several days or even on one day, which is comparable with the Republican practice of interreges, according to the passage from the *Scriptores Historiae Augustae* cited above.

Since the preparation of the electoral assembly was rationalized and the Senate began to schedule the elections in advance, large groups of interreges became unnecessary. This is probably why the board of ten senators had been gradually developed into the smaller body of two or three interreges. The last stage of the progress must have occurred during the third century. Any early evidence of the interregna for the period between 290 and 222 is lost, together with the second decade of Livy. The earliest reliable data about the interregna available to us probably derives from the first Roman historians, Fabius Pictor and Cincius Alimentus, who may well have received information about the interregna of 222, 220, 216 and 208 from direct witnesses. Surprisingly, however, neither Livy nor Dionysius provides sufficient evidence for these interregna.[65] Actually, we have witnesses of two undated interregna of Q. Fabius Maximus Verrucosus Cunctator[66] and of the interregnum of C. Claudius Centho and P. Cornelius Scipio Asina in 216.[67] Most likely, the Second Punic War, when many old Roman institutions underwent modification, finally eliminated the discrepancy between the interregnum and the dictatorship for elections. The reduction of the interreges in number was probably justified by the fact that they were appointed only from the patricians, whose number had decreased in comparison with the growing number of plebeians. They could cope with their task in one, two or three days, and the five days remained significant in the sense that, according to the custom, the interregnum could not be longer than this.

At the same time, the custom did not allow the interregnum to be managed by one interrex only, at least until the Later Republic. Originally the senator who began the interregnum had been in office during the six hours from midnight. In the early morning he held the auspices and appointed the second interrex. Thus, according to the original function of the interregnum, the first interrex who was in office at night was not able to hold elections. Asconius (*Mil.* p. 37 Clark), the only source that mentions the custom that the electoral assembly should not be summoned by the first interrex, can hardly have had a good knowledge of how the archaic institution, obsolete in his time, had functioned. Modern scholars interpreted the preclusion of the first interrex from convening the electoral assembly as a prohibition. As far as we can tell, there was no such ban in the ancient arrangement, by which ten interreges were customarily appointed. According to Vervaet, while it was the norm that the first chosen interrex refrained from convening the assembly, this practice was evidently not fixed in statute law.[68] The impression of the ban rather originates from the practical interpretation of the ancient custom under the Middle Republic, when the reduction of the number of interreges to a reasonable minimum of two developed.[69] Asconius most likely discovered the

[65] For a more detailed account of the interregna of the third century, see Jahn (n. 8), 109–11, 115–16, 119–24, 135–6.

[66] *CIL* XI 1828 (p. 1274) = I^2 p. 193 n. XIII = *ILS* 56 = *Inscr. It.* XIII 3 no. 80.

[67] Livy 22.33.9-22.35.7; T.R.S. Broughton, *The Magistrates of the Roman Republic* (New York, 1951–86), 1.250.

[68] Vervaet (n. 52), 78. Cf. Livy 5.31.7–9, 6.5.6, 7.22.2, 8.3.5, 9.7.15, 10.11.10 for a few examples of the procedure in which the first interrex appoints a successor (*prodere interregem*); after this procedure this second interrex or one of his successors actually organizes the election of high magistrates.

[69] For the minimal number of two interreges, see also Magdelain (n. 7), 351; Heuss (n. 28), 424.

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obsolete practice in the augural books, which could hardly be older than the Middle Republic, even if they contained a description of very ancient customs. For the custom of appointing not fewer than two interreges, augurs had to explain why the first interrex was necessary if the task to hold the consular elections belonged to his successive colleagues.

After the main actors of the interregnum were reduced to two, their functional roles became very different. The first interrex only took auspices at dawn, and this allowed Robert Bunse to argue that his task was the renovation of auspices.[70] Virtually the entire five days remained at the disposal of his successor, who held the consular elections. If he was unsuccessful in his mission, after his five days were completed, he had to appoint a third interrex with the same task. In this case he played the role of appointing interrex, and thus the second five-day interregnum did not need two interreges. Each of the interreges after the first one was ready to hold the elections and in principle each had the right to hold the office for the whole period of five days. He was not necessarily held responsible if the elections did not take place during his period of office. This appears to be how the Republican interregnum came to consist of several individual terms of five days.

In the surviving books of Livy there is no information about any interregnum after the Hannibalic War. Ancient writers ceased to mention the institution from 208 to 82. For this period, interregna are not discussed directly in any source, and their existence is assumed by scholars on the basis of analysis of situations when consuls were elected. In particular, the interregnum of 162 manifests itself in an anecdote about Sempronius Gracchus, which is narrated by Cicero to illustrate the ancestral faithfulness to the augural law.[71] For the second century, Robert Broughton mentions only the interregnum of 162, while Joachim Jahn refers to four others under the years 175, 152, 109 and 106.[72] We have no report on the duration of these interregna.

It is tempting to conclude that, like the dictatorship, the interregnum fell out of use after the Second Punic War, while later interregna until 82 are reconstructed on the basis of information given by later authors. However, it is doubtful that the only way of resuming auspices in the absence of consuls was ever abandoned by the Romans.[73] None the less, under the Republic the interregnum was focussed on an election rather than keeping vigil for divine signs, as it had been in early Rome. The auspices, which became part of the accession to the high Republican offices, preserved their significance until the time of Pompey and Caesar, while already Cato the Elder had complained about the decline of the augural auspices.[74]

2. THE SOLE AND TWOFOLD INTERREGNA IN THE LATE REPUBLIC

Sulla's 'election' to the dictatorship was made by the centuriate assembly under the direction of the interrex L. Valerius Flaccus.[75] The law that appointed Sulla as a dictator in

[70] Livy 5.31.7; 6.5.6: *auspicia renouare*; R. Bunse, *Das römische Oberamt in der frühen Republik und das Problem der "Konsulartribunen"* (Trier, 1998), 143–4.
[71] Cic. *QFr.* 2.2.1; *Nat. D.* 2.4.11; *Div.* 1.33.36, 2.62.74; Livy 29.38.7.
[72] Broughton (n. 67), 1.442; Jahn (n. 8), 150–9.
[73] Cf. Friezer (n. 8), 320; Jahn (n. 8), 29.
[74] Cic. *Div.* 1.28, 1.77, and cf. Livy 22.3.11; Val. Max. 1.6.6.
[75] Cic. *Att.* 9.15.2; *Leg. agr.* 3.5; *Rosc.* 125; App. *B Civ.* 1.98; Plut. *Sulla* 33.

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82 has recently been intensively discussed in scholarship.[76] The appointment of a dictator with the help of an interrex is considered by scholars to have been made completely contrary to the Roman rules for magistrates. However, strictly speaking, neither a dictator nor an interrex was an ordinary magistrate. The dictatorship was revived by Sulla 120 years after the Romans had ceased to use it.[77] Certainly, Sulla's dictatorship was different from the obsolete institution of earlier times, and its course had a strong influence on the perception of the interregnum in later ancient historiography. Flaccus is said to have been the interrex who was scheduled to hold the elections. Appian calls him 'a five-day ruler' (πενθήμερον ἄρχοντα), suggesting that he was appointed for the five days, during which time he moved to legitimize the dictatorship of Sulla. Actually, he needed a senator who would appoint him *auspicato*, and the latter was not mentioned by later writers because his role of holding the auspices did not seem to them very important.[78]

For Appian, the initiative for the whole arrangement belonged to Sulla himself, who from the beginning had a plan to become dictator with the help of the interregnum. Therefore, after the appointment of Valerius Flaccus, Sulla ordered Valerius to make him dictator.[79] At the same time, one can see that Sulla attempted to keep up the ancient procedure for the appointment of the interregnum. He applied for the elections in the centuriate assembly after both consuls had lost their lives, Cn. Papirius Carbo in Sicily and C. Marius the Younger in Praeneste. He even left the city for a time while the Senate chose an interrex. According to Appian, the senators chose Valerius Flaccus, expecting that *he would soon hold the consular comitia*.[80] Appian emphasizes that an interrex was usually appointed for the purpose of holding the consular assembly (ὅ δε ὁ ἐν τοσῷδε βασιλεὺς καὶ τότε ἐγίγνετο ἐς τὴν τῶν ὑπάτων χειροτονίαν). In other words, the Senate had actually appointed Flaccus for the holding of the consular elections before Sulla intervened in the matter. It is possible that Sulla had suggested that he himself be elected as consul, but at the last moment he then changed his opinion in favour of the obsolete dictatorship. Sulla's order to Flaccus to appoint him as dictator seems to be the result of his desire to paralyze any possible opposition by concentrating all power in his own hands. It was certainly a necessary move, from Sulla's point of view, because he faced the danger of reducing his power, which was to go to two newly elected consuls. Having accomplished his own election as dictator, Sulla allowed

[76] For the interregnum of 82 B.C., see M. Castello, 'Intorno alla legitimità della lex Valeria de Sulla dictature', *Studi in onore de Pietro de Francisci* (Milan, 1956), 3.39-60; Jahn (n. 8), 161–5; F. Hinnard, 'De la dictature à la tyrannie. Réflexions sur la dictature de Sylla', in F. Hinnard (ed.), *Dictatures, Actes de la table ronde, Paris, 27–28 février* (Paris, 1988), 87–92 = F. Hinnard, *Rome, la dernière République. Recueil d'articles* (Bordeaux, 2011), 39–48; F. Hurlet, *La dictature de Sylla: monarchie ou magistrature republicaine*? (Brussels / Rome, 1993), 29–50; Vervaet (n. 52), 37–84; F. Hinnard, *Syllana varia. Aux sources de la première guerre civile* (Paris, 2008), 44–9.

[77] App. *B Civ.* 1.98; Plut. *Sulla* 33.1.

[78] On the same idea, see Magdelain (n. 7), 351; Hurlet (n. 76), 45–7. Vervaet believes that, since Flaccus is mentioned by Appian as the only interrex in 82, the centuriate assembly was convened by him, despite the fact that it was not customary for the first *interrex* to convene the Comitia. See Vervaet (n. 52), 77–8.

[79] H. Bellen, 'Sullas Brief an den Interrex L. Valerius Flaccus. Zur Genese der sullanischen Dictatur', *Historia* 24 (1975), 555–69.

[80] App. *B Civ.* 1.98: [ὁ Σύλλας] αὐτὸς μέν που τῆς πόλεως ὑπεξῆλθε, τῇ δὲ βουλῇ προσέταξεν ἑλέσθαι τὸν καλούμενον μεταξὺ βασιλέα. ἡ μὲν δὴ Οὐαλέριον Φλάκκον εἵλετο, ἐλπίσασα ὑπάτων προτεθήσεσθαι χειροτονίαν ('Sulla went out of the city for a time and ordered the Senate to choose an interrex. They chose Valerius Flaccus, expecting that he would soon hold the consular comitia', trans. H. White).

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the consular elections to take place, and permitted the elections of M. Tullius Decula and Cn. Cornelius Dolabella as consuls for the following year.[81] Nothing is known of the interregnum for this election, which must have taken place at the end of 82.

For the post-Sullan epoch we have evidence of interregna in 77, 55, 53 and 52.[82] For each of the first two the name of one interrex is known, but available information is quite vague and does not permit any exact reckoning of their duration.[83] More useful information is available on the interregna of 53 and 52. Both are considered extremely long in comparison with any earlier interregnum, seven or eight months in 53 and around sixty days in 52.

The corruption scandal of autumn 54 prevented the consular elections from occurring on time.[84] At the beginning of the next year Rome was without any government and no successor could be appointed for any of the consuls or prefects of the city.[85] In these circumstances the Senate usually resorted to initiating an interregnum, and in this case the interregnum appears to have started, or at least was announced, at the beginning of 53. It seems that the number of interreges had already considerably exceeded the accustomed limits by January, hence Cicero's irony, in his letter to Trebatius (*Fam*. 7.11.1), about the unusually high number of interregna. However, precise evidence of the number of interreges is lacking. Dio Cassius (40.45.1-5) writes that from January to July the plebeian tribunes provoked unrest in Rome and did not allow the election of consuls, having found excuses for delaying the elections. Finally, Pompey was offered the dictatorship, but refused and took measures to get the consuls Cn. Domitius Calvinus and M. Valerius Messala Rufus appointed.[86] We know the names of only two interreges, M. Valerius Messala Niger (*cos*. 61) and Q. Caecilius Metellus Scipio (*pr*. 55), an adopted plebeian appointed on the Ides of June.[87] The reason why only these names were preserved might be that they were the first interrex who started the interregnum and the last interrex who successfully conducted the consular elections.

Our incomplete sources leave it unclear whether the interregnum lasted from January to the consular elections in June without interruption. One can suggest that there were several attempts to hold the consular elections during this period. As Dio Cassius notes, 'sometimes the omens had checked the elections by refusing to favour the interreges'.[88] According to the accustomed practice, each attempt could be represented by at least a pair of senators, one of whom took auspices in order to appoint the other as an interrex for five days. If this is correct, in 53 there would have been a series of interregna interrupted at times, rather than one continuous interregnum from January to June. In favour of this it is possible to use Cicero's terminology, who writes of many interregna (*tot interregnis*), not of one interregnum with many interreges.

In 52, the first half of January again passed without consuls, because the competition between candidates caused the postponement of the consular election for some

[81] See App. *B Civ.* 1.100.
[82] For the sources and a discussion for these interregna, see Jahn (n. 8), 161–81, 188–90.
[83] See Sall. *Hist*. 1.77.22; Cass. Dio 39.31.2.
[84] E.S. Gruen, 'The consular elections for 53 B.C.', in J. Bibauw (ed.), *Hommages à Marcel Renard* (Brussels, 1969), 2.311-21.
[85] See Cass. Dio 40.46.3.
[86] Cass. Dio 40.45.5-46.1.
[87] Broughton (n. 67), 2.229; Bunse (n. 70), 142.
[88] Cass. Dio 40.45.3: ἔστι μὲν γὰρ ὅτε καὶ οἱ ὄρνιθες τὰς ἀρχαιρεσίας ἐπέσχον, οὐ βουλόμενοι τοῖς μεσοβασιλεῦσι γενέσθαι.

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time. T. Annius Milo wanted the consular elections over as soon as possible, but his competitors, P. Plautius Hypsaeus and Q. Metellus Scipio, strove for a delay that would favour P. Clodius Pulcher. Clodius was seeking the praetorship and he knew well that this would be prevented if Milo succeeded in his aspirations to become consul. Finally, on 18 January, the Senate issued a decree to name an interrex, but the tribunes of the plebs, Q. Pompeius Rufus and T. Munatius Plancus, prevented any initiative to appoint one of the patricians.[89] Owing to the postponement of elections Milo departed for Lanuvium, his native town, and met Clodius on the Via Appia a little beyond Bovillae. As is well known, Clodius was murdered.

According to Asconius, 'in the middle of the second [or third] day after Clodius had been killed, M. Aemilius Lepidus was appointed as the first interrex.'[90] At the same time, a very large crowd of Clodians carried the body of their leader into the forum and cremated it in the senate house, so that the Curia itself and the attached Basilica Porcia also burned down. Then the Clodians, having unsuccessfully attacked the residence of the absent Milo, under the guidance of Scipio and Hypsaeus, began to demand that Lepidus summon the electoral assembly. They hastened to hold an election in the absence of Milo to prevent him from being elected. Since Lepidus would not do it, the Clodian faction besieged his town house for the whole of his five-day interregnum.[91] They broke down the doors by force and caused disorder in his house. Only the arrival of Milo's people, who also demanded an electoral meeting, saved Lepidus and caused the mob attacking his house to disperse.

Asconius states that the Clodian mob demanded that Lepidus convene the electoral assembly, as they had no clue of the custom that the election should not be held by the first interrex. It is possible to suggest that Lepidus, conversely, refused to comply with their demand because he respected the custom. However, there could be another reason for his refusal. The majority of commentators have confidently identified the interrex with the triumvir Marcus Aemilius Lepidus.[92] But there is doubt that this Lepidus could be appointed as interrex, because he attained the necessary status of a former high magistrate only in 49 (praetorship) and in 46 (consulship).[93] To justify the appointment of M. Lepidus as interrex in 52, Asconius added: 'for he had been named the curule magistrate' (*is enim magistratus curulis erat creatus*).[94] It is sometimes suggested that Marcus Lepidus became curule aedile for 52.[95] However, for this year, there were no elections before 20 January, when Lepidus was appointed as interrex. The role of interrex in 52 was more suitable for Manius Aemilius Lepidus (*cos*. 66), a

[89] See Asc. *Mil.* p. 31 Clark. Dio Cassius (40.49.5) records that the senators assembled at once on the Palatine and they voted that an interrex should be chosen.

[90] Asc. *Mil.* p. 43 Clark: *post biduum medium quam Clodius occisus erat interrex primus proditus est M. Aemilius Lepidus*.

[91] Asc. *Mil.* p. 43 Clark: *domum eius per omnes interregni dies—fuerunt autem ex more quinque—obsederunt* ('they besieged his town house the whole term of his interregnum—five days, according to custom', trans. J.P. Adams).

[92] Jahn (n. 8), 14, 178; E.S. Gruen, *The Last Generation of the Roman Republic* (Berkeley, 1974), 103; R.G. Lewis, *Asconius: Commentaries on Speeches of Cicero* (Oxford, 2007), 248.

[93] Staveley (n. 7), 196–7; Magdelain (n. 7), 429–38.

[94] On the name of M. Lepidus, see G.V. Sumner, 'Manius or Mamercus', *JRS* 54 (1964), 41–8; B.A. Marshall, *A Historical Commentary on Asconius* (Columbia, MO, 1985), 64.

[95] See A. Cristofori, 'Note prosopografiche su personaggi di età tardorepubblicana', *ZPE* 90 (1992), 137–46, at 139–40.

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follower of Pompey (Cic. *Att*. 7.23.1).[96] If it was so, the reason why the interrex refused to convene the electoral assembly according to the demand of the Clodians was because he was their political antagonist, rather than because he was the first in office.

According to Asconius, the interregnum lasted about two months from 20 January to 25 Mercedonius; 'meanwhile, one interrex succeeded another, because the electoral assemblies for consuls were not able to be held thanks to the same disorders on the part of the candidates and the same armed bands.'[97] However, not a single one of these (supposedly) eleven or twelve interreges is named, except for the last of them, Ser. Sulpicius Rufus, mentioned also by Plutarch (*Pomp*. 54). Sulpicius nominated Pompey sole consul (*consulem sine collega*) in the intercalary month, and the latter immediately entered upon his consulship on the fifth day before the Kalends of March. Asconius (*Mil.* p. 36 Clark) mentions the decree (*senatus consultum*) by which the Senate appointed the interrex Sulpicius to hold the election of Pompey. It is possible to suggest that this act appointed Sulpicius as an interrex rather than that he received the office from a previous interrex.

Much of the period after the resignation of the consuls of 53 and before the elections of Pompey may have passed in unrest, which prevented the holding of elections. It is noteworthy that the interregnum was not established at the moment of the previous consuls' abdication but much later, without any concern for continuity of auspices. M. Lepidus was likely appointed interrex in order to hold the consular election on the following day. He refrained from doing this, because the political situation changed at the moment of his appointment. Asconius refers to the ancient custom, according to which the first interrex should not conduct elections, with the intention of explaining the refusal of Lepidus to satisfy the Clodians' demand to hold the consular elections immediately. When he did not do that, there is no evidence that he transferred his office or his auspices to another interrex as his successor. It is more likely that the Senate had been waiting for an appropriate moment and appointed Sulpicius to hold the elections, which Lepidus had been unable to hold.

CONCLUSION

The scanty information that Roman writers recorded about the duration of the Republican interregnum allows us to make tentative suggestions for the development of this institution. In very ancient times, ten interreges together looked after the divine signs from the heaven for five days, supposedly when the king was dead or the *rex sacrorum* was absent from Rome. Under the Republic, the augury of interreges acquired the narrow meaning of the auspices of appointment for holding consular elections. The number of interreges gradually lost its significance in favour of the single interrex who was responsible for the consular elections.

The evidence, which goes back to the priestly chronicles of the late fourth and third centuries, shows that the interregnum developed by way of a reduction of the number of interreges from ten to two. The first interrex was responsible for the correct start of the interregnum *auspicato*, which happened during the nocturnal hours from midnight to six

[96] J.S. Ruebel, 'The trial of Milo in 52 B.C.: a chronological study', *TAPhA* 109 (1979), 231–49, at 234 n. 7.

[97] Asc. *Mil.* pp. 33–4 Clark: *fiebant interea alii ex aliis interreges, quia comitia consularia propter eosdem candidatorum tumultus et easdem manus armatas haberi non poterant* (trans. J.P. Adams).

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in the morning. The second interrex was the one who held the electoral assembly. His being in office could be reduced in comparison to the ordinary period of five days, if he succeeded in convening the electoral assembly within a shorter period. However, it could not extend beyond the five days if the interrex was unable to cope with the problem within the allotted time. Then he should appoint his successor, the next interrex, for the following five days.

In the post-Sullan period, an interrex was appointed by a patrician senator, perhaps the urban praetor.[98] If he was unsuccessful in convening the electoral assembly during the customary five days, he should abdicate the office until a more appropriate moment. When such a moment came, the Senate appointed a new interrex. The situation influenced Augustan historiography. At variance with the rule that the first interrex could not convene the electoral assembly, more than once ancient authors refer to the interregnum as the prerogative of a sole interrex. Dionysius of Halicarnassus (3.1.1) asserts that the King Tullus Hostilius was elected under the first interrex, and Livy (1.32.1) mentions only one interrex who held the election of Ancus Marcius as king. The first Republican interrex Lucretius Tricipitinus alone was appointed for the *creatio* of the first consuls Brutus and Collatinus in 509.[99] A single interrex is mentioned by Livy under 449, 413 and 370.[100]

The evidence indicates that the image of the Sullan sole interrex Valerius Flaccus was not something unusual for ancient authors. Rather, Sulla was criticized because of his appointment as a dictator by an interrex in the centuriate assembly, a procedure which was appropriate for the consulship, not the dictatorship.[101] Dionysius (5.72.3) refers to the appointment of the first Republican dictator T. Larcius by his colleague consul Q. Cloelius, who performed the role of an interrex. Before that, Larcius delivered a speech, in which he said that they had no need of interreges, to whom it had been customary under the monarchy to give the sole power of appointing those who were to reign, since the Republic was already provided with the lawful magistrate.[102]

The surviving evidence for the late Republican interregna in 53 and 52 does not allow us to resolve the question of whether they represented a very long series of individual interreges or whether they consisted of several short attempts to convene the electoral assembly. Unlike the original concept of interregnum, the Republican interregna usually did not start at the moment the consulship ceased. At any time the Republic could be without high magistrates and without interreges. For instance, when both consuls of 43, C. Vibius Pansa and A. Hirtius, perished in battle in April, their successors C. Julius Octavianus and Q. Pedius were elected only on 19 August.[103] The news of the death of Pansa and of Hirtius had reached Rome at the beginning of May, and for more than three months the Senate did not mandate an interregnum, among other things discussing the method of holding the future elections.[104] This example demonstrates that an interregnum was necessary only for the elections, and not to fill a gap

[98] The role of an urban praetor for the appointment of a dictator and of consuls that was discussed in 49 (Cic. *Att*. 9.15.2, cf. *Att*. 9.9.3 and Gell. *NA* 13.15.4; Caes. *BCiv*. 2.21; Cass. Dio 41.36.1-2, cf. 43.1.1) led us to the suggestion that the magistrate was responsible for arranging the elections in case the highest officers were absent. For a discussion on the matter, see Vervaet (n. 52), 80–2.

[99] Dion. Hal. *Ant. Rom*. 4.76.1, 4.84.5.

[100] Livy 3.55.1, 4.51.1, 6.36.3.

[101] See Cic. *Att*. 9.15. 2.

[102] Dion. Hal. *Ant. Rom*. 5.71.3.

[103] See Broughton (n. 67), 2.334-7.

[104] See Cic. *Att*. 9.9.3; *Brut*. 1.5.4; Dio Cass. 46.45.3-5 – 46.2.

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between two consulships. Besides, the late Republican Senate had hardly enough patricians for the interregnum throughout half the year. As Cicero's reaction in January 53 shows, having several interreges with each of them for five days in office was quite an unusual situation, even under the Late Republic. All this indicates strongly that the typical interregnum hardly exceeded a period of five days, and an uninterrupted series of five-day interregna was very rare in the Roman Republic.

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