

# **Die Verfassung der Römischen Republik**

## **The «Constitution» of the Roman Republic**

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## COMMENTARY on BOOK VI

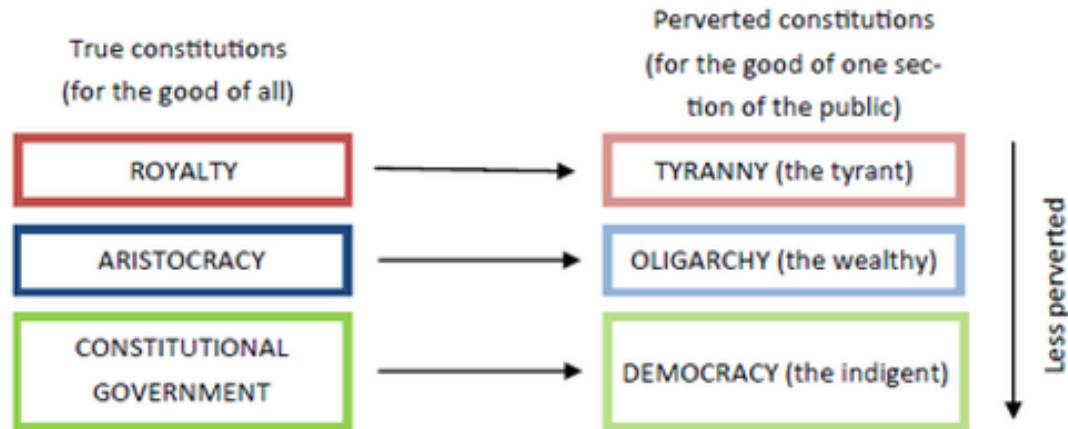
The political doctrine of **anacyclosis** (ἀνακύκλωσις) is a cyclical theory of political evolution.

The theory of anacyclosis is based upon the Greek typology of constitutional forms of rule by the one, the few, and the many.

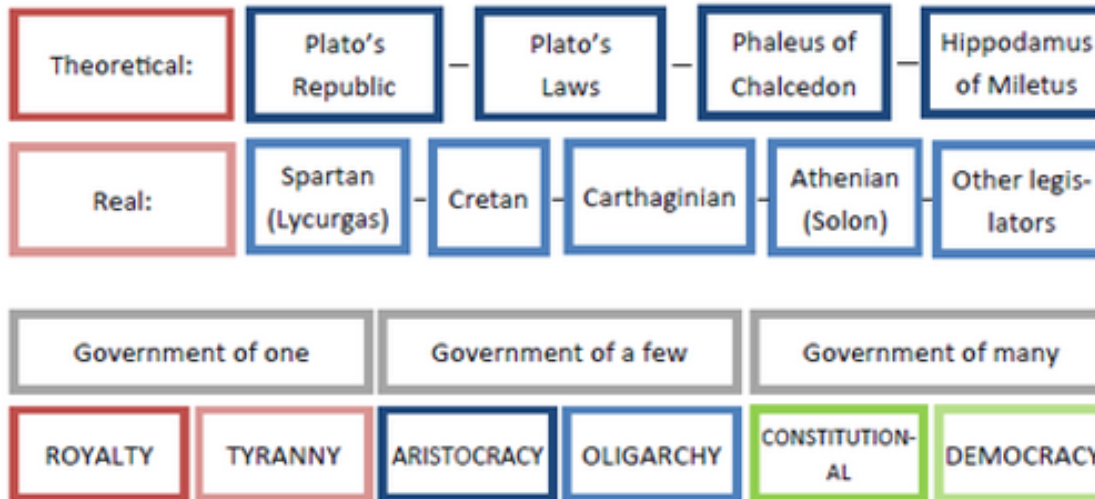
Anacyclosis states that three basic forms of «benign» government (monarchy, aristocracy, and democracy) are inherently weak and unstable, tending to degenerate rapidly into the three basic forms of «malignant» government (tyranny, oligarchy, and ochlocracy).

In P. the order followed is monarchy, kingship, tyranny, aristocracy, oligarchy, democracy, and ochlocracy.

# Aristotele's anacyclosis

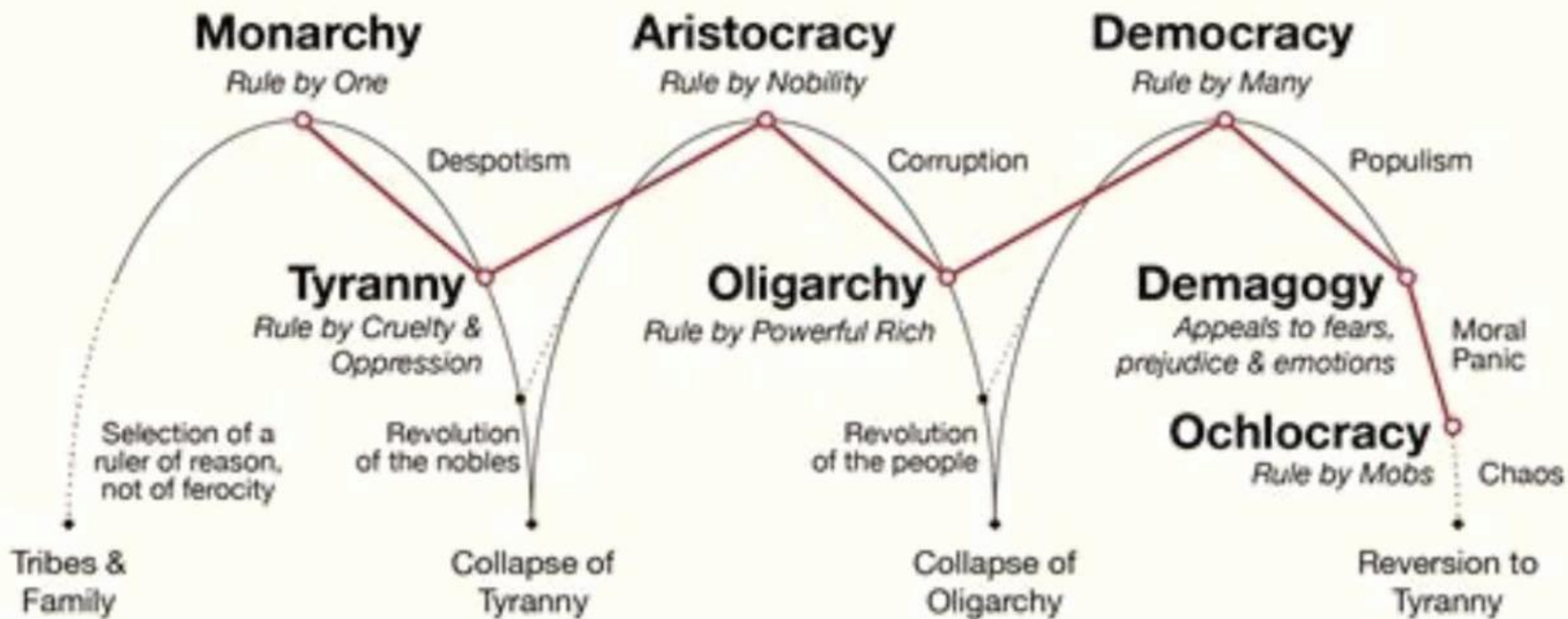


Constitutions considered by Aristotle and his school:



# Cycles of Political Revolution

*Polybius, Anacyclosis, Histories, ~160 BCE*



# The Roman constitution book VI

Plan of the chapters 11-18

11. General remarks

12.Powers of Consuls 13.Powers of Senate 14.Powers of People

15.Checks on Consuls 16.Checks on Senate 17.Checks on People

18. Summary

## The Roman magistrates

All magistrates have a specific *potestas* (a set of functions and powers) associated with their office.

In addition, consuls, praetors and the dictator are granted *imperium*.

*imperium* > power of a civil and military nature (*domi et militiae*); it is a jurisdictional power (i.e. the power to judge and sentence) and a coercive power (i.e. the power to use force against citizens); it confers the right to take the auspices and consult the augurs (religious rites preceding any public act); it grants the right to command the army, order conscription (*dilectus*) and the collection of taxes, and to issue edicts and decrees.

It is conferred by the *Comitia Curiata* through a specific *lex de imperio*

# The Roman magistrates

The Roman magistracies do not form a coherent whole, as they developed at different times and under different circumstances: it was not until 180 BC (*lex Villia annalis*) that the *cursus honorum* (= the senatorial career) was organised according to a fixed order; this often led to political conflicts and disputes over jurisdiction between different magistrates.

Common features:

hierarchy: this stems from a magistracy's position within the *cursus* and from its powers.

specialisation: varied and diverse; the powers of some magistrates overlap; generally, the higher-ranking magistrates have broader powers.

# The Roman magistrates

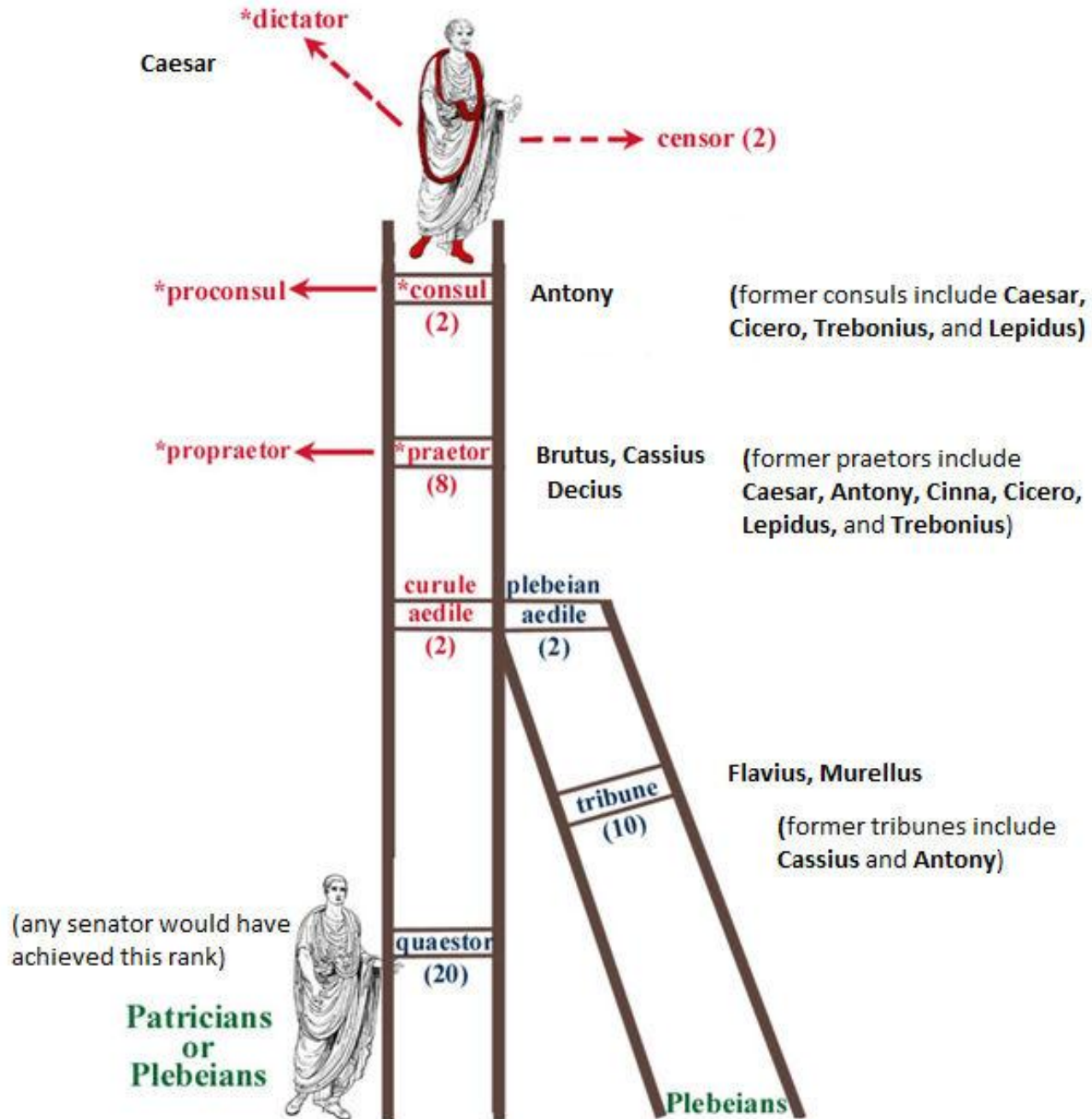
collegiality: generally 2 (or more) magistrates bearing the same title with exactly the same powers, to prevent the concentration of power in the hands of a single magistrate; magistrates generally acted individually, but could oppose any decision taken by their colleague.

annual terms: magistrates held office for one year; exceptions were the dictator (6 months) and the censors (18 months).

elective offices: magistracy is conceived as the delegation of a series of powers by the Roman people; the only exceptions are emergency magistracies: *interrex* and *dictator*.

Other characteristics of magistracies: they are unpaid (no salary or allowance), they have supporting staff (public servants, scribes, lictors, heralds, etc.), they enjoy a number of honorary privileges.

# ROMAN CURSUS HONORUM



# The Roman magistrates

## QUESTORS

originally 4 in number, subsequently increased to 10 from the II cent. BC, 20 under Sulla, 40 under Caesar

- they were responsible for public finances and public archives;
- they collaborated with magistrates and promagistrates, managing the finances of the latter
  - elected by the tribune's assembly; minimum age: 30

## AEDILES

originally there were 2 plebeian, later joined by 2 curule aediles

- they were responsible for supervising the markets, maintaining public order, overseeing the maintenance of roads and public buildings, ensuring Rome's food supply, organising games (*ludi*)
- elected by *concilium plebis* and *comitia tributa*; minimum age: 36

# The Magistrates in the Republican age

## TRIBUNES OF THE PLEBS: 10 in number

They are responsible for safeguarding the interests of the *plebs* and implementing the decisions of the *concilium plebis*.

Their powers (*tribunicia potestas*) are the most extensive amongst those of Rome's magistrates:

- *sacrosanctitas* ('immunity'): whilst in office, a tribune cannot be prosecuted and cannot be prevented from carrying out his political initiatives by other magistrates
- *intercessio*: a tribune may block the political initiatives not only of a fellow tribune, but of any other magistrate
- *ius auxilii*: a tribune may prevent the enforcement of a magistrate's judgement
  - they could convene assemblies and present bills; they could summon the Senate to seek its advice

# The Magistrates in the Republican age

## PRETORS.

originally (in the regal period) they were military leaders; later they specialised in the administration of justice.

Initially there was only one; then, at the end of the First Punic War, there were 2: the urban praetor and the peregrine praetor.

From the end of the 3rd cent. BC, further praetors were created to administer the provinces: two for Sardinia and Sicily (227 BC), one for Spain (197 BC); their number then increased, reaching 16 under Caesar.

Powers: *imperium domi et militiae*; right to convene Senate and People.

Elected by the Centuriate Assembly, received their *imperium* from the Curiate Assembly.

Requirements: to have served as quaestors; minimum age: 39 years.

# The Roman magistrates

## CONSULS: 2 in number

Powers: *imperium domi et militiae* (until Sulla, thereafter only *domi*), right to convene the Senate and the People (*ius agendi cum senatu and cum populo*). Until Sulla (80 BC), the consuls' main duty was the command of the armies (see Polybius); from Sulla onwards, it was the supervision of Rome's domestic policy.

They were elected by the Centuriate Assembly and received their *imperium* from the Curiate Assembly.

Requirements: to have served as a *praetor*; minimum age: 42 years.

# The Magistrates in the Republican age

**CENSORS:** 2 in number

Duties:

- they coordinate the *census* operations and the *lectio senatus*
- *cura morum* ('oversight of public morals'): they may impose fines and issue a censorial note (a kind of official reprimand)
- they manage public assets, in particular contracts (*locationes*) for the provision of services, the collection of taxes, and the management of public property

They are elected every 5 years (and remain in office for 18 months)  
by the Centuriate Assembly

Requirements: they must have served as consuls; minimum age: 44  
years

# The Roman Republican Senate

During the Republican era, the Senate had neither legislative nor electoral powers: it was a body with advisory functions vis-à-vis the senior magistrates (issuing decrees = *senatus consulta*), designed to assist and support them in their decision-making.

The composition of the Senate varied over time: originally, the traditional (theoretical) number was 300 senators, 600 senators from the time of Sulla, 900 under Caesar, 1,000 during the Triumvirate; under Augustus (and the Empire), the number returned to 600.

# The Roman Republican Senate

An *album* (list of senators) drawn up by the censors every five years through the procedure known as *lectio senatus*.

Requirements for admission to the Senate:

- to be a Roman citizen born free (not a freedman)
- to reside in Rome
- not to practise any trade or occupation deemed disgraceful or contaminated
- to belong to the first census class
- to have held a curule magistracy (the Senate is therefore an assembly of former magistrates)
- to be of good moral character (at the discretion of the censors)
- to be born in a senatorial family (with few exceptions)

# The Roman Republican Senate

The Senate may deliberate on any matter referred to it by a senior magistrate (consuls, praetors, tribunes of the plebs). In particular, it is primarily consulted on:

**foreign relations:** it manages Rome's relations with foreign powers and allies (e.g. treaties); it receives and sends ambassadors; it ratifies the decisions taken by magistrates in the provinces

**war:** it orders the conscription of troops (*dilectus*); allocates troops and funds to magistrates sent to the provinces; grants triumphs, ovations or supplications to victorious generals

# The Roman Republican Senate

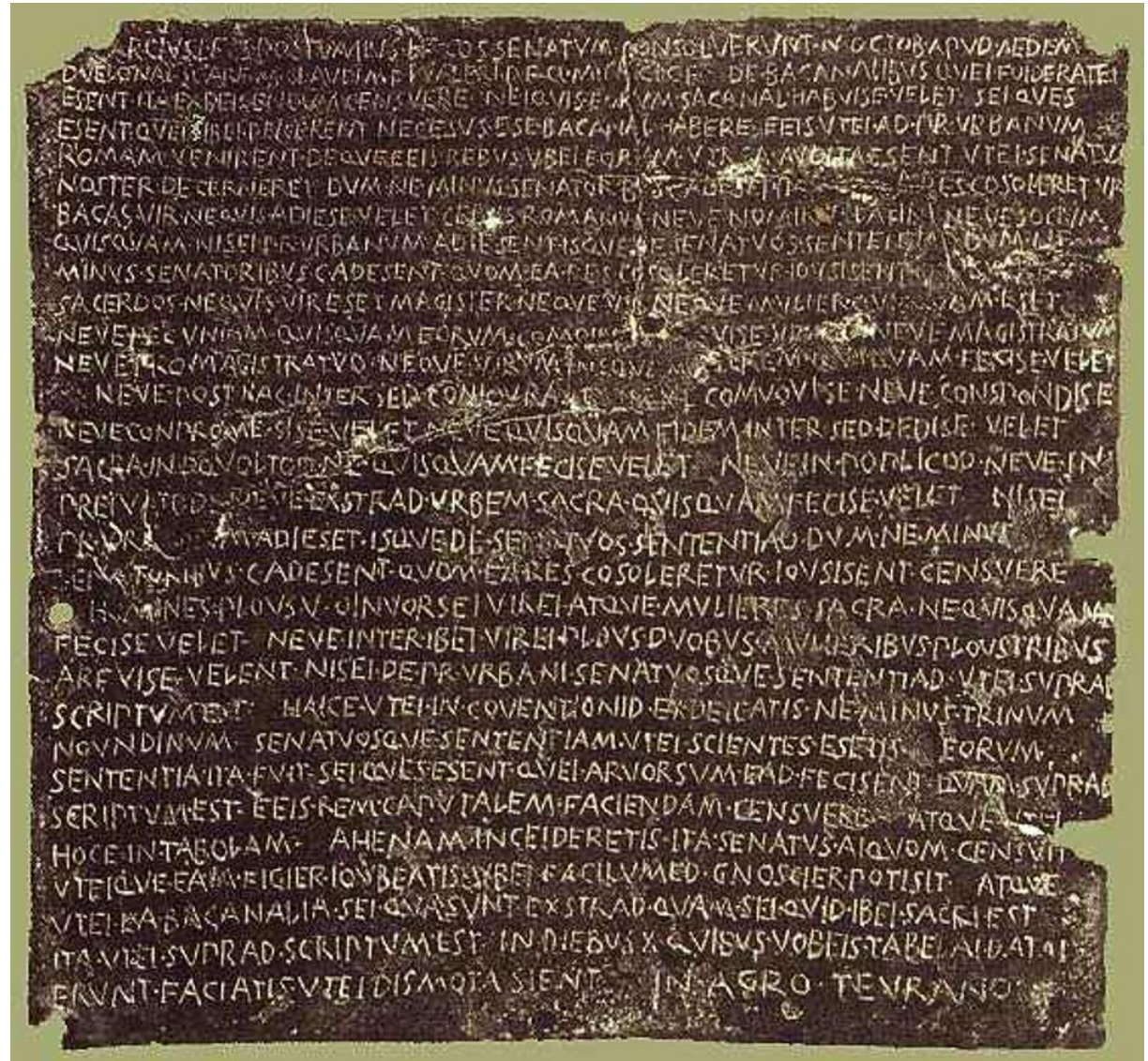
The Senate is primarily consulted on:

**legal sphere:** the Senate may be called upon to act as an arbitrator in disputes of a financial or territorial nature (including those between foreign communities). Prior to the establishment of permanent courts, senators also acted as judges in cases involving offences committed by other senators

**financial sphere:** oversight of public properties and their revenues (in the state treasury: *aerarium*), and in particular of the *ager publicus* (e.g. the establishment of colonies); management of the *tributum* and taxes from the provinces; oversight of magistrates' expenditure and public works (contracted out by the censors).

The decrees of the Senate were called *senatus consulta*.

The *senatus  
consultum de  
Bacchanalibus*  
(186 BC)



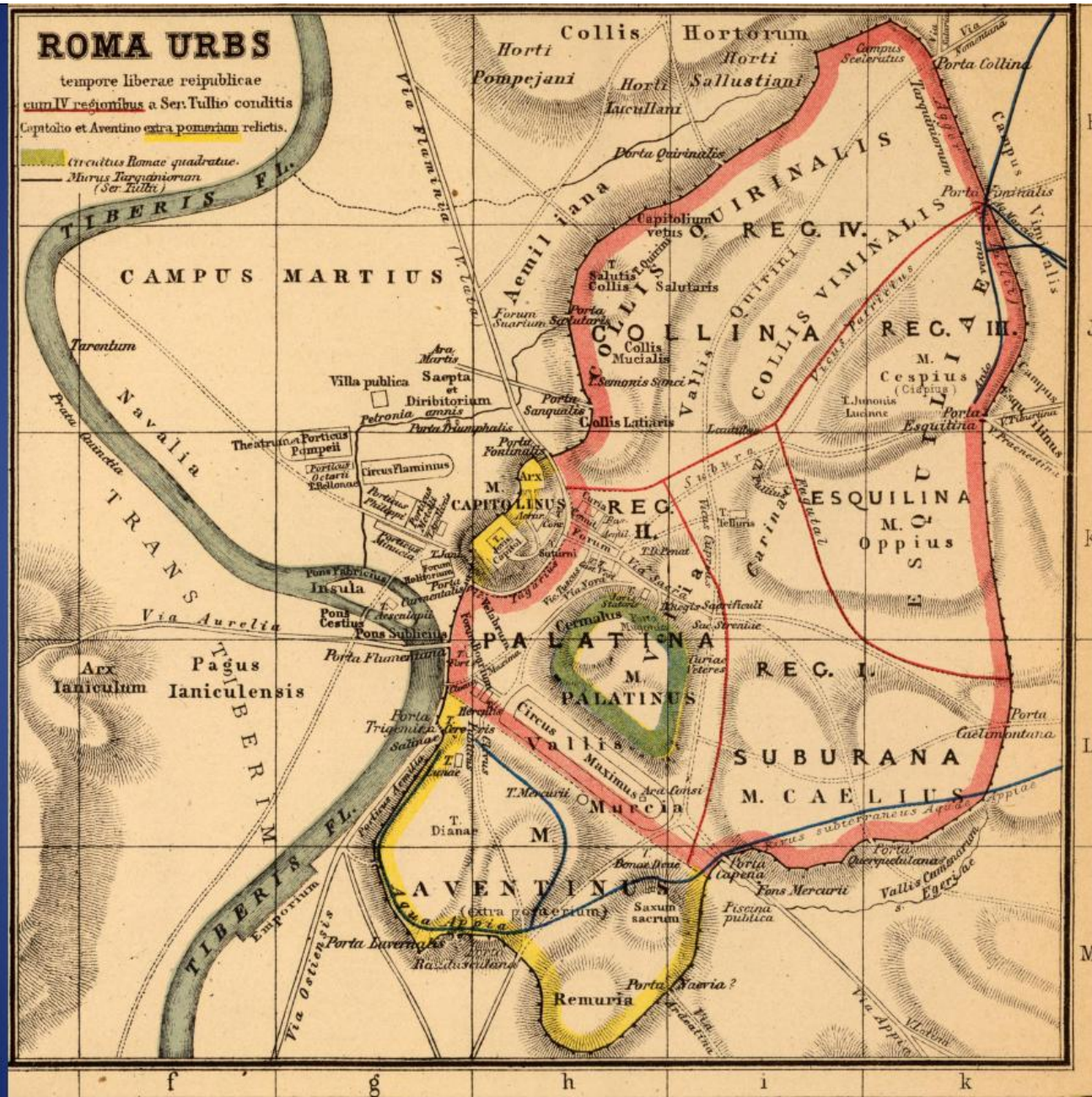
## The People in the Republican age

In ancient Rome, sovereignty belonged to the people. The four popular assemblies therefore held all the essential functions:

**legislative power:** the assemblies passed bills (*leges, plebiscita*) applicable not only to Roman citizens but also to inter-state relations (declarations of war, treaties).

**judicial power:** a crime committed by a citizen was judged by the people convened in the assembly.

**electoral power:** the popular assemblies do not directly exercise executive power, but elect magistrates and confer power upon them. The executive power is exercised by the senior magistrates (consuls, praetors, tribunes of the plebs), who also have the power to convene assemblies and introduce bills, laws.

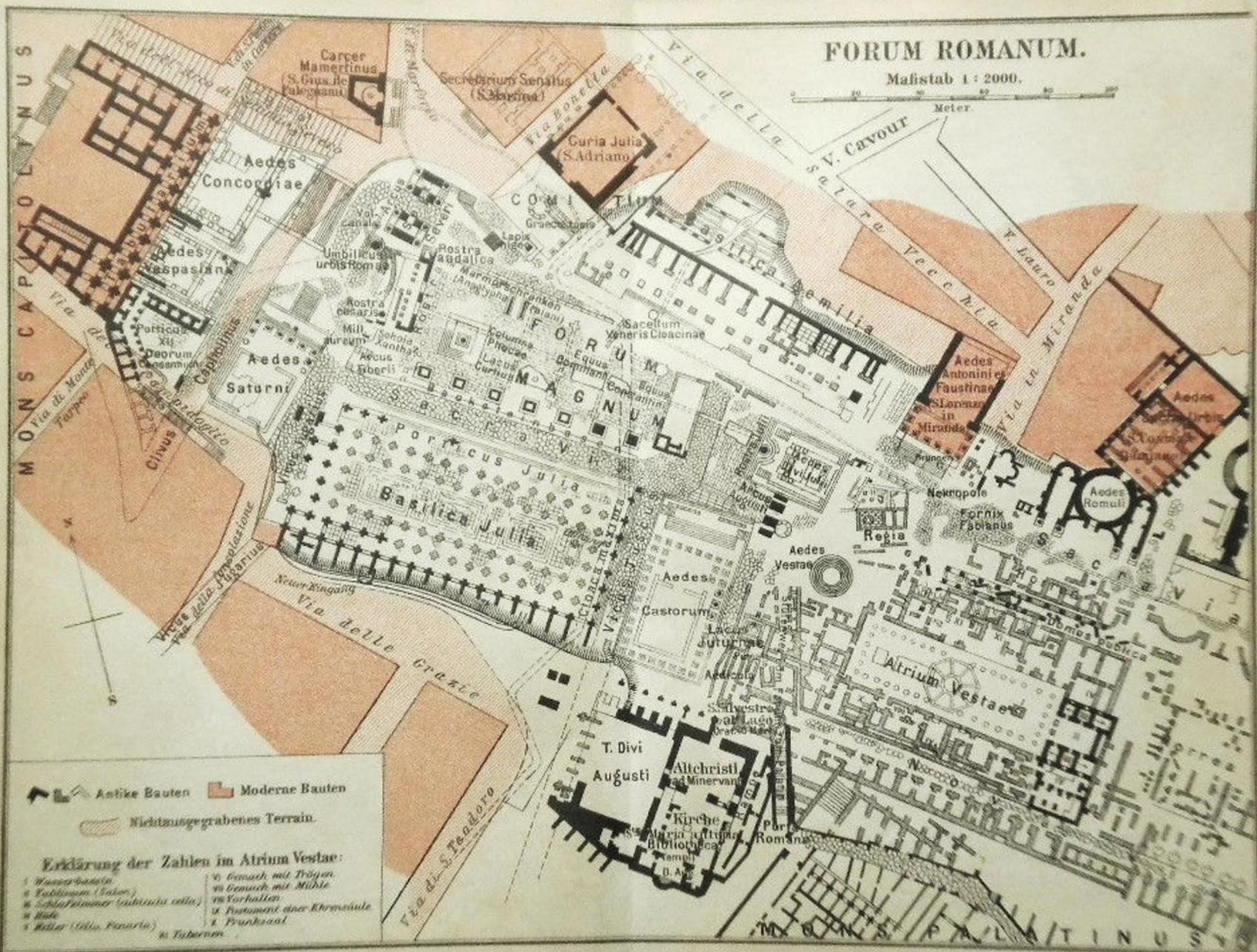




## FORUM ROMANUM.

Maßstab 1 : 2000.

Meter



# The People in the Republican age

In ancient Rome, there were four different popular assemblies, each with a different composition and meeting place:

*Comitia Curiata*: an assembly of the People organised by *curiae*

*Comitia Centuriata*: an assembly of the armed people organised by *centuriae*

*Comitia Tributa*: an assembly of the people organised by tribes

*Concilium Plebis*: an assembly of the *plebs* (excluding the patricians)

# The People in the Republican age

## CURIATE ASSEMBLIES (*COMITIA CURIATA*)

These are probably the oldest form of assembly.

They are based on a division of the people into 30 *curiae* (ancient clan-based structures, with 10 *curiae* for each of the 3 original tribes).

In the surviving sources, they generally had two functions:

- matters relating to family law (e.g. adoptions, wills)
- conferring *imperium* on the senior magistrates (*lex curiata de imperio*), and later also on the emperor

They met in the Roman Forum. As early as the I cent. BC, the *Comitia Curiata* no longer required the presence of the people: each *curia* was represented by a lictor.

# The People in the Republican age

## CENTURIATE ASSEMBLIES (*COMITIA CENTURIATA*)

These were the assemblies of the armed people: they met outside the city, in the *Campus Martius*, in an area known as the *Saepta* (meaning ‘enclosed places’).

Tradition attributes their establishment to King Servius Tullius (mid-6th cent. BC), but they assumed greater importance at the beginning of the Republican era (during the 5th cent. BC).

They were based on the division of the people into centuries (i.e. units of 100 men) according to the *census* (i.e. income).

They were summoned by the consuls and praetors (and by the dictator).

# The People in the Republican age

## CENTURIATE ASSEMBLIES (*COMITIA CENTURIATA*)

### Powers:

they elected the major magistrates (consuls, praetors, censors)

they approved laws applicable to all citizens (they were the principal legislative body prior to the 2nd cent. BC)

they conducted trials involving capital punishment, particularly before the end of the 2nd cent. BC, when specialised courts (*quaestiones*) were established

they determined foreign policy by approving treaties and declarations of war.

# The People in the Republican age

## *COMITIA TRIBUTA*

An assembly divided into 35 tribes on a geographical basis (4 urban tribes + the rural tribes, which increased over time to a total of 31)

Powers:

- they elect minor magistrates (quaestors, curule aediles)
- they pass laws applicable to all citizens (they were the principal legislative body in the 2nd and 1st centuries BC)
- they conduct trials involving non-capital sentences (crimes punishable by fines)

Presided over by the major magistrates (consuls or praetors), in the late Republican period they became conflated with the *concilium plebis*, which was also organised by tribe (*concilia plebis tributa*).

# The People in the Republican age

## *CONCILIUM PLEBIS*

is the assembly of the *plebs* (excluding the patricians), organised according to the 35 tribes

Powers:

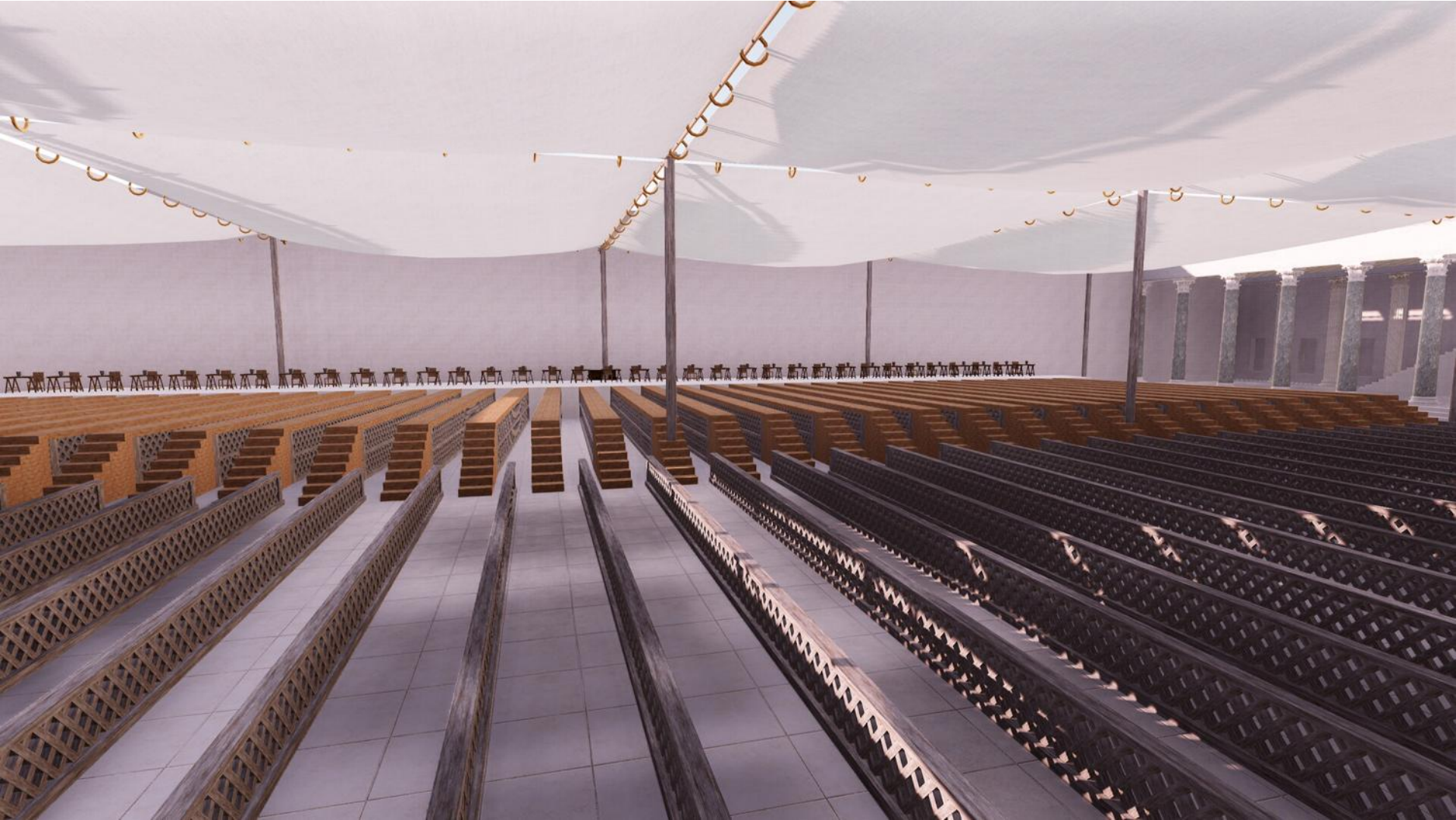
- it elects its own magistrates: tribunes of the plebs (*tribuni plebis*) and plebeian aediles
- it approves *plebiscita*, which, from 287 BC, have the force of law for the entire Roman people
- it has jurisdiction over trials initiated by the tribunes and aediles (trials involving fines that do not entail capital punishment)

From the 2nd cent. BC onwards, the *concilium plebis* was almost indistinguishable from the *comitia tributa* (*concilia plebis tributa*)

# The People in the Republican age



# The People in the Republican age



# The People in the Republican age



Voting procedures (*suffragium*) during the Republican era on coins (bearing the names of the mint masters): above, the *cista* (= urn); to the right, a wooden plank