

Cambridge University Press

978-1-107-04090-8 - Magistracy and the Historiography of the Roman Republic: Politics in Prose

Ayelet Haimson Lushkov

Excerpt

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Introduction: exemplarity, magistracy, and narrative

Livy's account of the otherwise uneventful year 199 BC ends, according to annalistic custom, with the election of the following year's magistrates. Rather than the typically laconic announcement of the new consular college, however, Livy in this case elaborates on the unusual nature of the campaign:

neque ipse consul memorabile quicquam gessit, comitiorum causa Romam reuocatus; quae ipsa per M. Fulvium et M'. Curium tribunos plebis impediabantur, quod T. Quinctium Flamininum consulatum ex quaestura petere non patiebantur: iam aedilitatem praeturamque fastidiri nec per honorum gradus, documentum sui dantes, nobiles homines tendere ad consulatum, sed transcendendo media summa imis continuare. res ex campestri certamine in senatum peruenit. patres censuerunt qui honorem quem sibi capere per leges liceret peteret, in eo populo creandi quem uelit potestatem fieri aequum esse. in auctoritate patrum fuere tribuni. creati consules Sex. Aelius Paetus et T. Quinctius Flamininus. (Livy 32.7.8–12)

However, the consul achieved nothing worth remembering, because he was summoned back to Rome to hold the elections. These were held up by M. Fulvius and M'. Curius, tribunes of the plebs, because they would not allow T. Quinctius Flamininus to seek the consulship after the quaestorship: they said that noblemen now spurned the aedileship and the praetorship and did not strive for the consulship through the steps of office, thus giving proof of themselves; instead, through skipping the middle offices, they joined the lowest to the highest. The matter was debated in the Campus Martius and then reached the senate. The senators determined that, so long as a person sought an office which the laws allowed him to hold, it was fair that the people should have the power to elect whomever they wish. The tribunes accepted the authority of the senate, and Sex. Aelius Paetus and T. Quinctius Flamininus were elected consuls.

This account, notable merely because the elected consul went on to much greater glory, is one of any number of anecdotes in Livy and other authors in which a political problem specific to the republican system

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arises, is negotiated, and finally solved.¹ The anecdote is, primarily, about magistracy, albeit in the rather broad sense that a magistrate, and the conditions for his tenure of magistracy, are the subject of the debate. The crux in this particular case is Flamininus' accelerated progress up the *cursus honorum*, and the episode offers us a rhetorically crafted reconstruction of two reasonable but conflicting positions: Flamininus wishes to stand for office prematurely; the tribunes wish to protect conventional practice. However, although the episode ends with a functional resolution – the tribunes accept the authority of the senate and the elections proceed – there is no actual reconciliation or synthesis of the two positions: the moral validity of the tribunes' objection remains, as does the validity of the senate's reliance on law and the people's wishes.² Further, although the language of the passage is carefully crafted as a symmetrical exchange – the tribunes' metaphorical *documentum* is answered by the senate's concrete *leges* – in reality this symmetry is purely formal. The basis of the two different positions exists in entirely different realms, one ethical, the other legal. While the resolution achieves the consensus necessary for the functioning of the electoral process, the lack of synthesis between the two leaves the reader to consider the validity of each position, free from the pressure either of active engagement or of an imminent tear in the fabric of the state. The anecdote thus encourages the reader to reflect simultaneously on a welter of political concerns, from the qualifications of Flamininus to the authority of senate and people; from the power of the tribunes to the force of law; from the conventions of the *cursus honorum* to the innovations of political ambition; and finally from ethical principle to the need for pragmatism.

These anecdotes do not exist in isolation and can be read against a number of comparable episodes which fall into two main groups. The first consists of parallel iterations of the same episode across a range of authors. Plutarch, for example, preserves a slightly different version in the *Life of Flamininus*, probably drawn not from Livy himself but from a common source.³ The second, perhaps more important, group consists of

¹ On Flamininus' early career, see also the account in Plut. *Flam.* 1–2. Badian 1971: 109–10 and Carawan 1988: 211–12 and Pfeilschifter 2005: 31–52 reconstruct Flamininus' career before this election. On the episode: Briscoe 1973: 180–1, Pfeilschifter 2005: 52–65. Translations of quoted passages are my own.

² *Per leges* is here anachronistic (compare Plut. *Flam.* 2.1 παρά τοὺς νόμους): the *lex Villia annalis*, which regulated the minimum ages for progression up the *cursus honorum*, would not be passed until 180 BC. On the *lex Villia*: Astin 1958, Brennan 2000: 170–1. Flamininus was not yet thirty in 199 BC (Polyb. 18.12.5; Plut. *Flam.* 2.2). so *per leges* emphasizes the inapplicability of the future *lex Villia*.

³ For the traditions of Flamininus' career, see the discussions in R. E. Smith 1944 and Carawan 1988: 209–12.

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episodes that treat similar themes. The general topic of progress through the *cursus honorum*, for instance, features in a number of episodes in Livy and elsewhere, as in Scipio Africanus' premature candidacy for the aedileship some seven books and thirteen years earlier (25.2.6–8), with which Flamininus' candidacy shares certain features and interests.⁴ Read within either grouping, Livy's Flamininus episode is a set piece, a single iteration of a larger narrative topos, which is itself part of the annalistic theme of political activity in Rome.⁵ Our episode is also an *exemplum* of a sort, typifying a whole set of political behaviors – of candidates, tribunes, and senators – as well as, at a further level of analysis, the various historiographical ways of writing about those behaviors. It is thus possible to view these debates, and others like them, through a number of different lenses, each emphasizing different issues or reinforcing common concerns. At times these debates are connected intra- and intertextually, at other times they share only discursive or thematic similarities. What they all have in common, however, is a distinctively dialectical view of Roman politics, one that originates in the narrative formulations of the event. These formulations highlight the internal and external polysemy of perspectives that govern political behavior and the conflicts of values that underscore the workings of the Roman republic.⁶

The argument of this book is twofold, proceeding through a series of close readings of political anecdotes or *exempla*, largely drawn from Livy but supplemented by other authors. First, it takes advantage of the god's-eye view of events characteristic of narrative to study the historiography of Roman political behavior, and more specifically of magistracy as a textual phenomenon. It argues that these anecdotes construct a distinctive image of political culture and political ideas, which juxtaposes and scrutinizes competing values and exemplifies the methods involved in resolving the consequent tensions within the community. This discursive construction of magistracy leads into the second part of the argument: that magistracy offers a uniquely rich instance of the exemplary habits that suffuse Livy's work, because the historical protocols, procedures, and institutions which governed it lent themselves especially well to the exemplary preoccupations of the *Ab Urbe Condita* (AUC).

⁴ Briscoe 1973: 181. See my more detailed treatment in Chapter 4: 151–9 below.

⁵ Kraus 1994b lays out the case for the importance of *topoi* as an organizational tool within Livy's text.

⁶ In the Anglophone philosophical tradition, Berlin 1958: 29–39 and Williams 1981 remain seminal on moral dilemmas and the idea that there is no perfect calculus by which to solve conflicting obligations.

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This affinity not only made magistracy a powerful tool for understanding the economy and sociology of exemplarity within Livy's work but also opened the narrated republic itself to constant redefinitions of its character and features. In articulating an approach to politics and political thought that is inherently dialectical, the *exempla* show the republic, at least in its textual manifestation, to be an imperfect compromise, which often struggles to reconcile rival principles, authorities, and opinions, and in doing so exposes these elements for consideration and invites reflection on their merits. The intersection of narrative, exemplarity, and magistracy thus ultimately yields a unified theory of literature and politics, interrogating not only public office, but also the rhetorical mannerism that shaped its textual presentation.

The semiotics of magistracy

Fundamental to the project of this book is the idea that magistracy is a useful heuristic paradigm for both the literary and the political systems that make up Livy's text, and by extension that magistrates are "good to think with" for the substance and the formal features of the narratives they participate in. A reasonable opening question, therefore, is why that should be case, and subsequently, what it is about magistracy that sets it apart from other types of phenomena or *exempla*. As a preliminary answer, this book will suggest that magistracy naturally possesses a triple valence when it comes to exemplary discourse. It participates in the construction of other *exempla* (of *severitas*, *pietas*, *fortitudo*, *uirtus*, and so forth); it offers a vehicle for the creation and negotiation of exemplarity through the political procedures of election, contional oratory, and other types of magisterial behavior; and finally, it is not only an object of study in itself but also a way into thinking about republican ideology, at least as understood by Livy and other, principally late republican and early imperial, authors. The consuls, for instance, have recently been styled "the very personification of the republic itself,"⁷ a paradigmatic status which made the consulship, and by extension the other elected offices too, a convenient shorthand for thinking about political culture, political problems, and political exemplarity. Although there is little need now to belabor the complexity of the Roman constitutional system, or the scope of competencies the magistrates exercised within it, the special place the magistrates held within the state is worth

⁷ Beck, Duplá, Jehne, and Pina Polo 2011: 9.

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stressing on three related levels: institutional, cultural/historiographical, and semiotic.⁸

From an institutional point of view, which observes the system of government at Rome, the magistrates performed a bewildering range of tasks and roles. As a group, they maintained the city, sat as judges, led armies, performed various religious functions, advocated for certain interest groups, managed their own as well as a portion of the state's finances, implemented and sometimes determined Roman foreign policy, and had a hand in any number of more mundane administrative tasks.⁹ As such, they are consistently referred to as one of the three pillars of the Roman state, representing, to pick two famous formulations, the element of *potestas* (Cic. *Rep.* 2.57, complementing the senate's *auctoritas* and the people's *libertas*), or the monarchical element (Polyb. 6.11–12, complementing the senate's aristocracy and the people's democracy).¹⁰

From a literary and cultural point of view, the magistrates hold a central role as both subject and organizing principle of Roman history. The elite bias of much of Roman historiography necessarily entailed a focus on great individuals, whether admired or notorious, who tended to perform their most memorable, or infamous, actions during their times either in office or when endowed by the senate with magisterial powers.¹¹ Cato the Elder, as often, is the exception that proves the rule: his insistence on withholding the nomenclature of consuls and generals from the *Origines* demonstrates clearly that theirs were the normal names on people's lips, and consequently on the pages of history.¹² Thus, when Livy or other writers describe the

⁸ Lintott 1999 remains a good overview of the system. Shorter treatments can be found in *OCD* s.v. "Magistracy, Roman," 911; *Der Neue Pauly* s.v. "magistratus" 7.679–83; Berger 1953: 571–2, s.v. "magistratus." There are also useful charts in Brennan 2004: 63–5 (with added information about other constitutional bodies), and North 2006: 264. More specialized treatments: Develin 1979, Hopkins and Burton 1983, Eckstein 1987, Sandberg 2001, and Sivonen 2006.

⁹ On the individual magistracies: Consuls: Henderson 1957, Lippold 1963, Badian 1990, and now Pina Polo 2011, and Beck, Duplá, Jehne, and Pina Polo 2011. Praetors: Daube 1951, Stewart 1998, Brennan 2000. Censors: Schmähling 1938, Suolahti 1963, Astin 1982, Nicolet 2000. Aediles: Taylor 1939 (on Cicero's aedileship). Quaestors: Harris 1976. *Tribuni plebis*: Niccolini 1934, Bleicken 1955, Badian 1996. *Magister Populi*: Valditara 1989.

¹⁰ For Polybius' views of the Roman polity, see Walbank and Brink 1954, Walbank 1957–79, vol. 1: 673–97, 1964, 1998; see also Hahn 1995. Champion 2004: 67–99 reads Polybius' discussion of the Roman polity in the context of the cultural struggles between Greeks and Romans. For Cicero's *de Republica* see Zetzel's 1995 commentary, and most recently Asmis 2005. The connections between the *de Republica* and the *de Legibus* are the subject of a 2001 collection of essays edited by J. G. F. Powell and J. A. North.

¹¹ On consuls and consulars as the most prominent actors in Roman politics and Roman historiography, see the collection of essays in Beck, Duplá, Jehne, and Pina Polo 2011, especially part III, with articles by Hölkeskamp, Roller (esp. pp. 183–4), Jehne, and Fronda.

¹² Nepos, *Cato* 3.4, Pliny, *HN* 8.11 = *HRR* F 88 = *FRHist* F 115. Astin 1978: 213 suggests that Cato could hardly have omitted all the names of *imperatores*, although he acknowledges that such names

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political life of the republic, they necessarily also describe the political life of the magistrates, and vice versa. The magistrates further provided one of the fundamental organizational principles of Roman history, whose basic unit was the consular year, identified and labeled by the relevant consuls' names. Magistrates played an especially important role, moreover, in the constitutional changes which structure the familiar narrative of Roman history. Indeed, constitutional development in Rome is tantamount to a change in the identity of the ruler (kings or consuls), the number of the rulers (decemvirs, military tribunes, or consuls), the hierarchy of office (the gradual codification of the *cursus honorum*), and, finally, the control and definition of access to the magistracies (patricians, plebeians, and the struggle of the orders). Thus, republican magistracy possessed a double valence in Roman political thought: not only were the magistrates the actual, historical players who enabled political action by the Roman people, they were also the unit according to which Roman time was divided and Roman history narrativized. The magistrates were therefore ubiquitous and vital, both in the city itself and in the various forms of its representation and commemoration, and as such were frequently at the center of debate, whether as active participants or passive subjects, or, as in Flamininus' case, both.

Finally, on the semiotic level, the magistrates were, in many ways, a shorthand for speaking about an entire ideological system. Scipio Aemilianus famously pronounced that *ex innocentia nascitur dignitas, ex dignitate honor, ex honore imperium, ex imperio libertas* (ORF 32 "standing is born from moral purity, office from one's standing, command from office, and freedom from command"). Though perhaps a naïve view of the relationship between ethics and political deserts, the emphasis on *honor* and *imperium* clearly connects the moral qualities (*innocentia*) of the office-holder with social and political outcomes, namely public standing and public office. But especially relevant here are the two steps following from public office – *honor* and *imperium* – and their connection to *libertas*. Aemilianus makes Roman freedom contingent not on the benign *honor* but on the more aggressive *imperium*. That choice in turn shapes how *honor* is to be understood: not as a social good similar to *dignitas* but rather a political good – magistracy – from which individual authority (*imperium*) and the characteristic independence of the republican state (*libertas*) flow.¹³

may have appeared in non-military contexts. One might also compare Caesar's treatment of his officers in the *Bellum Gallicum*, which uses them to showcase Caesar himself in the best light and prioritizes the centurions over Caesar's legates: Welch 1998.

¹³ Wirszubski 1968: 38 sees in this formulation a "sectional and exclusive *libertas* belonging to a Scipio and his likes." Whether or not Aemilianus' concept of *libertas* is class-derived, which to some

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The same connection between magistracy and freedom is pronounced too in the historiographical tradition. When Livy begins narrating the history of the republic in the second book of the *AUC*, he defines his topic not only as the *res gestae* of the newly free people, but also, more specifically, as annual magistracies (2.1 *annuos magistratus*). He refers here to the literary convention of the consular year, but his coupling of magistracy with the rule of the law (2.1 *imperia legum*) at the dawn of the republic immediately situates magistracy at the heart of the new ideology. Likewise Cicero, formulating a law code for his idealized republic in the *de Legibus*, writes that a magistrate is a speaking law, and law a silent magistrate (*Leg. 3.2 uereque dici potest, magistratum esse legem loquentem, legem autem mutum magistratum*), thus further cementing the connection between magistracy and the foundations of republican liberty.¹⁴ The Decemvirs, on the other hand, the body responsible for the laws of the Twelve Tables, and especially its president Appius Claudius, quickly became an archetype of tyrannical conduct.¹⁵ Whether positive or negative, in other words, tinkering with the idea of magistracy was a useful and productive way of thinking about what the republic was and what the republic meant, and the image of magistracy became, as the figure of the emperor would later become, exemplary not only of itself and of the aristocratic battle for honors, but also of the state and its ideology.

It is possible, of course – indeed desirable – to adopt a similar approach to the study of either of the remaining elements of the Roman state, that is, senate and people. The scope of this book leaves little room for those two important bodies, but I do not mean to suggest that they were any less representative of republican ideology. On the contrary, senate, people,

extent it must have been, his articulation of *libertas* in terms of magistracy holds true. Arena 2012: 142–3 follows Wirszubski's view of Aemilianus' *libertas* as limited and connects Aemilianus' view to the exponents of democracy in, e.g., Cicero's *de Republica*.

¹⁴ On Cicero's transformation of the Greek "doctrine that the laws are over the magistrates," see Dyck 2004a: 432–3. In particular, as Dyck points out, the idea that law is a silent magistrate derives from Xenophon's *Cyropaedia* 8.1.22, where it is applied to a king rather than a magistrate. Note, however, that Dyck translates *legem loquentem* as "living law," which somewhat downplays Cicero's attention to speech and speech acts. For the idea of animate law (*nomos empsychos*) embodied in kingship developed by the pseudo-Pythagorean tradition see Noreña 2011: 53. For the more pedestrian measure of reading the laws out loud, see my discussion on pp. 164–7 below. Arena 2012: 48 argues that laws and citizen rights were "the institutional means through which the status of political liberty was established and maintained, rather than the incarnation of liberty itself." Given the complexity of the Roman political thought-world, there seems little need, however, to see the two opinions as mutually exclusive.

¹⁵ For the formation of the annalistic tradition on the decemvirate: Ungern-Sternberg 1986. Livy cements the connection with a reiteration of the Lucretia motif (cf. n. 22 below). On Claudian arrogance: Vasaly 1987.

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and magistrates each offer the reader a distinctive entry into the conflicting discourses which formed Roman political theory, and one might with equal profit look at anecdotes on assembly or contional speech, senatorial procedure, and the clashes between the two.¹⁶ The distinctive contribution of magistracy, however, is necessarily focused on their essential quality: the ability to act on behalf of the Roman people, the most concrete manifestation of which was the *imperium* given to the curule magistrates and the more limited *potestas* of the tribunes. *Imperium*, however, represents only one type of individual authority more broadly conceived, and it is in the relational or situational aspects of authority – the negotiation between law and pragmatics, between constitutional and familial obligations, between success and failure, and between universalizing *exemplum* and the contingencies of the moment – that this book finds its animating questions.¹⁷

This conception of magistracy has been neatly captured by Hans Beck. In response to a question posed by Plutarch – “Why was it that when [the Romans] gave a public banquet for men who had celebrated a triumph, they formally invited the consuls and then sent word to them requesting that they not come to the dinner?” (*Quaest. Rom.* 80) – Beck observes the following:

Moreover, while the consuls claimed the right of highest honor, the story makes it clear that there were other distinctions, such as a triumphator’s rights and privileges, which under certain circumstances challenged the superior power of the consul, whether present or not . . . Plutarch reveals that if such a conflict between authorities arose, the Romans were not shy about practical solutions that enabled them to navigate around the provisions of their constitution without actually abandoning it.¹⁸

Beck’s formulation applies precisely to the Flamininus example above: two valid demands meet in an attempt to negotiate some defining element of magistracy – the *cursus honorum*, and the *decorum* expected of up-and-coming magistrates in adhering to its steps. The Livian episode’s conclusion

¹⁶ For an example of the plebs’ perspective, see my discussion of Val. Max. 5.4.5 in Chapter 1. For plebeian views of contional speech: Morstein-Marx 2004: 207–30. For plebeian culture more generally, Horsfall 2004, and for the world of the citizen, Nicolet 1989. For a senate-centered approach to historiography, see Pittenger 2008.

¹⁷ On relational approaches and “scripts”: Kaster 2005: 8–9, and *passim* (see index s.v. “scripts”). Goldhill 2012: 262–3 suggests replacing “text” with “script” as a more useful critical term. He sees scripts as “a written or oral template which has the strange ability of maintaining itself through innumerable re-incarnations – and which only comes to voice in and through performance” (262), and which retains its integrity even when the script is performed (i.e. read, acted, or interpreted) partially or with rhetorical distortions.

¹⁸ Beck 2011: 78. Cf. Val. Max. 2.8.6, at the close of a section devoted to *ius triumphandi*.

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further illustrates Roman pragmatism, even at the expense of vocal and principled opposition, in an effort to reconcile the competing demands of ambition and ideology. Likewise, the tension Beck describes between the *triumphator* and the consuls is more than a problem of mere decorum; it also exposes a contention over honor and supremacy. In the presence of the consuls, as both Plutarch and Valerius Maximus state, no one else can hold the highest honors, and their absence from the feast therefore protects them from diminishment, albeit temporary, just as it protects the *triumphator* from having his limelight stolen. The deliberate avoidance of direct negotiation, however, also poses further revealing questions about the unique status of both consul and *triumphator*, and about what each of them represents in relation to the other. In a real sense, a *triumphator* was a magisterial *exemplum*: a consul or praetor exercising his *imperium* to the fullest, with beneficial results to himself and the Roman people. *Triumphatores* were thus a privileged sub-category of the bigger set of magistrates, and the requested absence of the consuls constructs them, too, as equal to the *triumphator* in potential.

What is especially salutary about Beck's framing of the episode is his focus on the "pragmatic solutions" the Romans came up with for such problems, an approach that opens up, rather than reduces, the scope of inquiry into the Roman constitutional sensibility. The contribution this book has to make, while fully in agreement with such broad horizons, takes Beck's insight in a different direction: it argues that the literary depictions of this problem-solving process rely on a heuristic framework which is exemplary in its logic, that is, one that looks to imitation, replicability, precedent, and decorum as its guiding principles. More specifically, this book looks to the literary techniques through which politics is depicted and argues that those formal and rhetorical mannerisms give important structure to the representation of magistracy in historiographical texts.¹⁹

The operation of exemplarity

In thinking about the ways in which historiography participated in political discourse, exemplarity presents itself as an especially useful heuristic device which provides the moral and literary infrastructure for much of Roman commemorative production. Indeed, historiography, and especially Livy, made ample use of the Roman penchant for exemplary discourse, which

¹⁹ For a similar approach to the problem of history writing as a literary text, see Elliot 2013: 198–232 on Ennius' *Annales*.

explicitly connected the rhetorical form of the anecdote with the cultural values the anecdote explored.²⁰ Exemplarity, and the habits of thought it engendered, governed and shaped the movement between universals and particulars, a capacity it shares with other units of narrative composition such as topoi, allusivity, and intertextuality. It also fueled an inclination, for both author and reader, to evaluate events and characters along certain lines and towards certain commemorative goals. Exemplarity is thus one of the main hermeneutic frameworks of this book. Studies of exemplarity to date, however, have typically focused on attention-grabbing deeds and their inculcation of moral values, or alternatively on establishing the ways in which internal audiences teach the audience how to read *exempla*. This book differs by examining, for the most part, a different type of anecdote, which in turn suggests a different account of its didactic function. It also views exemplarity from two related aspects: one internal, wherein exemplarity governs the way in which certain episodes are delivered to the reader, relying on recognizable and acknowledged *exempla*; and one external, which views exemplarity as a heuristic device which governs not only the content of *exempla*, but also their modes of production. What this second function amounts to, as this book will argue, is a type of meta-exemplarity, wherein *exempla* invite the reader to think not only about their moral content, but also about the way in which that content was produced, and the consequences of that evaluation in the broader context of both literary and political writing. In a nutshell, this book will argue that magistracy offers a convenient figure or even mannerism through which to articulate a number of issues, pertaining both to the literary economy of Roman historiography (though especially of Livy's *AUC*) and to any articulation of the republic and its ethical dimensions. To explain how this type of exemplary discourse works, and what benefits can be drawn from it, we might profitably return to the Flamininus episode to ask what it is exemplary of, and how it functions as an *exemplum*.

²⁰ The role of the anecdote in the writing of history has received a great deal of attention from New Historicist critics. See, e.g., Gallagher and Greenblatt 2001: 49–74. For the use of anecdotes for details of Roman history, see Saller 1980, esp. 82: “In contrast, anecdotes can be valuable evidence for the attitudes and ideologies of peoples.” On exemplarity in Livy: Jaeger 1997, Feldherr 1998, Chaplin 2000, and Langlands 2011; on possible connections between Livy and Ennius: Elliot 2009b and 2013: 213–18. On exemplarity in Roman culture: Hölkeskamp 2003 and Roller 2004. Morgan 2007: 122–59 discusses *exempla* as part of an ethical discourse in the early empire. Roller 2009a discusses exemplarity as a mode of historical knowledge, as does the growing bibliography on exemplarity as *memoria* in n. 21 below. For exemplarity as a theoretical approach to literature: Goldhill 1994. For a reception-centered view of classical exemplarity: Hampton 1990 on the uses of exemplarity in Renaissance literature, and Vlassopoulos 2009: xiv on the use of historical narrative as “patterns in order to elucidate the present and future of modern communities.”