

On the Dual Office of Procurator and Prefect

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This brief paper summarizes the evidence and scholarship backing my analysis in [Herod the Procurator](#), pp. 34-35 (in context, pp. 29-36), which shows that from the time of Pontius Pilate to the time of Tacitus, equestrian governors of Roman provinces were both prefects *and* procurators.

The common practice throughout the early Roman Empire was not to defy established constitutional offices by creating new ones or radically changing their powers, but by accumulating offices and thus accumulating the powers already constitutionally provided. This is how the principate (the office of “emperor”) was created: in terms of legal authority it was not a new office, but an accumulation of existing offices (tribune, censor, consul, proconsul, *princeps senatus*, various priest-hoods, and so forth), which traditionally were not held by the same one person. (And *then* these offices were subject to minor tweaks over time that just stretched the constitution ever more slightly.)

Likewise all other changes in legal authority under the empire were accomplished by using constitutional offices in similarly novel ways. This is why procurators were empowered not by just “giving them” constitutional powers, but by appointing them to offices that already held those constitutional powers. This is how emperors avoided the appearance of being a dictator just “tossing out” the constitution, but could claim instead to be someone who respects and thus is preserving the constitution and is just using it to its maximum potential “for the good of the empire.” This is precisely why Augustus did not simply claim supreme power (a perpetual dictatorship) as Julius Caesar did, but instead gave himself supreme power *constitutionally* by stacking up offices upon himself. Provincial governance must be understood in this context.

The Analysis of Fergus Millar

Fergus Millar wrote two important articles on the subject that remain fundamental to the field of Roman administration.¹ He found several different types of procurators, all of which were private financial occupations and not (in themselves) official government offices. For example, he concluded that “the legal evidence shows clearly that procurators never had a recognised right to exercise criminal jurisdiction.”² He does discuss illegal or extralegal actions by procurators (which do not represent their actual official powers) and the slow expansion of their legal powers in the late second and third century, but neither pertains to the official nature of provincial administration in the first and early second century (when, for example, Tacitus and Josephus wrote).

Millar also shows that when procurators did exercise judicial rulings, they did so by *also* being appointed judges (*judices*), thus adhering to standard constitutional practice: giving procurators powers by appointing them to actual constitutional offices having those powers (and not just “giving them” the powers without the office).³ Over the course of the second and third centuries the office of governor for small provinces grew more commonly to be called *praeses*, “the man sitting in front, superintendant,” a more general term encompassing prefect (*praefectus*, “the man put in charge”) as well as other positions of assigned governance. Other legal phrases meaning the same thing as prefect were *pro legato*, “[acting] on behalf of the legate,” and v.a.l., *vices agens legati*, “interim agent of the legate,” in either case the “legate” being someone above them of senatorial rank (often the governor or a larger province). Occasionally reference to the phrase *ius gladii* (“the right of the sword”) was used to the same effect (referring to the actual powers of the office of prefect). When reading letters, inscriptions, and legal documents it’s important to understand these all refer to the same constitutional office, more commonly just called “prefect,” someone officially selected by a legate (or the emperor directly) to act on their behalf. Even in the Republic men of equestrian rank were appointed to prefectures and could thus use the powers of a senatorial office on a senator’s behalf (like the modern concept of a deputy sheriff).

Millar found no one on record who was definitely a procurator *and* a governor of a province (with judicial and military powers) without holding *both* titles of procurator *and* prefect (or equivalent, per above). Even as late as the third century,

¹ Fergus Millar, “Some Evidence on the Meaning of Tacitus ‘Annals XII’. 60,” *Historia: Zeitschrift für Alte Geschichte* 13.2 (1964): 180-187 and “The Development of Jurisdiction by Imperial Procurators: Further Evidence,” *Historia: Zeitschrift für Alte Geschichte* 14.3 (1965): 362-667.

² Millar 1965, pp. 364-65.

³ Millar 1965, p. 364.

in full official contexts their title was not “procurator” but, for example, “procurator and praeses” (in modern parlance a *presidial procurator*), hence even at that late date the powers of a governor were not assigned to procurators except by *simultaneously* appointing them to the constitutional office of “legal deputy” (the office of prefect or *praeses*). As Millar says, inscriptions even at that late date “call equestrian governors ‘*proc[urator] Aug[usti] (item) praeses*’ or ‘*proc[urator] et praeses*’ rather than just ‘procurator’.”⁴ Millar likewise points out that even as late as the third century procurators could only appoint judges to cases if they were *also* holding the office of *praeses*; and procurators could only judge cases themselves if they were also a *praeses* or officially appointed to the office of *iudex* (meaning “judge”).

Millar concluded after his second study: that (1) only from “the early second century onwards” were procurators ever “exercising legal powers within imperial estates” (a far cry from governing provinces); that (2) procurators sometimes acted outside the law; and (3) the earliest evidence of their ever holding legal powers outside of ruling on property disputes within imperial estates dates to the third century, and even then this evidence still only concerned property cases. There is no evidence of any procurator governing any province, without also holding the office of prefect or its equivalent (*praeses, pro legato, v.a.l.*).⁵ There are examples of governors being referred to as only prefect *or* procurator (when in reality we know they were both, as for example the prefect of Egypt), but there is little chronological consistency to this practice (for example, presidial procurators are sometimes called just “prefect” or “praeses” even after Tacitus, and are sometimes called just “procurator” even before Claudius), except that “procurator” becomes more common (but not exclusively so) as the centuries go by. But this still only reflects customs regarding which title to mention, not which titles were actually held. The evidence shows clearly (as Millar documents) that both titles were actually held by provincial governors of equestrian rank into the third century.

In his previous paper Millar noted that the procurators of provinces had held imperial powers since the time of Augustus (well before Pilate took office) and no change in this fact occurred under Claudius or at any time before Tacitus (“there is no evidence that there was a change in the judicial powers of these procurators”).⁶ He notes in fact that “their criminal jurisdiction is sufficiently well illustrated by the history of Judaea in the [whole of the] Julio-Claudian period,” meaning all the prefects of Judea since the beginning (including Pilate) *were procurators*. Thus when he says they were “originally called *praefecti*” he doesn’t mean *instead* of

⁴ Millar 1965, p. 366.

⁵ Millar 1965, p. 367.

⁶ Millar 1964, p. 181.

procurator; he means that it became more common (contrary to the usual practice before Augustus) to refer to them by their title of procurator rather than prefect, even though they were both. His remarks have since been misinterpreted as saying the name of the office was changed by or after Claudius. But that is specifically what Millar is saying there is no evidence of: Claudius made no change to these facts at all. Claudius only altered the powers of procurators of imperial estates (not provinces), and even that was likely accomplished only by appointing them to the constitutional office of *iudex*, and not by creating a new constitutional office.

The Analysis of A.M.M. Jones

Millar cites for this point the work of A.M.M. Jones, “Procurators and Prefects in the Early Principate,” *Studies in Roman Government and Law* (1960). It is instructive to read what Jones actually says. Jones remarks (quite rightly, and in line with my opening point) that “it seems very improbable that two emperors so careful of constitutional proprieties as Augustus and Tiberius would have given the title ‘procurator’ to provincial governors, and a careful examination of the evidence has made it very improbable that they did.”⁷ The same argument holds for Claudius in comparison with the Flavians, Antonines, and Severans: if the latter dynasties (who were far more distant from Tiberius and Augustus and certainly more profligate in tinkering with the traditional constitution) maintained the requirement of simultaneously appointing provincial procurators to the office of *prefect* or *praeses* in order to grant them judicial and military powers, we must conclude Claudius made no change to that practice. And there is no evidence he did. Moreover, since this procedure worked perfectly well, there would have been no reason at all for Claudius to have changed it.

To demonstrate the point, Jones presents inscriptions showing governors still being called prefects in the subsequent reign of Nero.⁸ And even later, towards the end of the first century, when the Alpine provinces of Raetia and Vindelica were combined, we have an inscription identifying its governor as *procur[ator] Augustor[um] pro leg[at]i*, in other words he was a prefect of the legate *and* a procurator of the emperors ([ILS 1348](#)). It’s worth pointing out that this is exactly when Tacitus was serving as a consul and provincial legate himself (his political career began under Titus in 80 or 81 and he was made consul under Nerva in 97), so he would certainly be well aware of the fact that provincial prefects were also imperial procurators, and vice versa. For that is exactly what the inscriptions show was the

⁷ Jones 1968 (a Basil Blackwell reprint of the 1960 text), p. 117.

⁸ Jones 1968, p. 118.

case precisely when Tacitus was advancing in imperial offices and provincial commands. Similarly, Jones demonstrates that this fact had long been so well known that the Jewish ambassador Philo, even before the reign of Claudius, knew that Pontius Pilate was *both* a procurator *and* a prefect, as he tells us Pilate was “one of the prefects [*hyparchoi*] appointed procurator [*epitropos*] of Judaea.”⁹

Jones concluded, from all the evidence available to him (and this already before Millar, who read Jones and left this point unchallenged), that “procuratorships and prefectures may nevertheless not always have been kept strictly apart,” showing that appointing one man to both is a practice in evidence even during the Republic. He points out that we have abundant evidence that this was in fact true of the prefect of Egypt, and “the same was probably true of all prefects of provinces.”¹⁰ He adduces more examples under Vespasian (for Sardinia) and Trajan (for Mauritania), and so on. (Again, Tacitus knew Vespasian personally, and wrote during the reign of Trajan.) Jones concludes his analysis with the remark that perhaps Claudius dispensed with this practice, but his own evidence abundantly contradicts that, and Millar subsequently demonstrated that Jones was misreading Claudius on this point.

Thus even Jones’ one suggestion that perhaps there was a “change in title” for provincial governors, which even Jones’ own evidence refuted, Millar specifically and extensively refuted again in his following two papers (finding instead that the development under Claudius that Tacitus refers to was the assignment of limited judicial powers to the procurators of private imperial estates; and again, even that was probably accomplished by simultaneously appointing them to the constitutional office of *iudex*, and thus not really a change in the legal authority of the procuratorship by itself).

The Analysis of P.A. Brunt

In this context we can now read the somewhat confused thoughts of P.A. Brunt, who attempted something of a rejoinder to Millar.¹¹ Brunt is the one who erroneously says:

From Claudius’ time these equestrian governors, outside Egypt and at times Sardinia, bore the title of procurators. But earlier they seem to have been called prefects, an appellation accorded even in the Repub-

⁹ Jones 1968, p. 119; Philo, *Embassy to Gaius* 38, §299.

¹⁰ Jones 1968, pp. 123-24.

¹¹ P.A. Brunt, “Procuratorial Jurisdiction,” *Latomus* 25.3 (July-September 1966): 461-89.

lic to equestrian officials in the service of the state ... [and] these prefects, or presidial procurators, commanded troops and performed all the tasks that fell to a governor.¹²

But Brunt then cites evidence that this was not actually a change of title, but only a change in preference for which title to refer to them by, *as they had always held both offices*. For example, Brunt cites an inscription for the Sardinian procurator that reports his office as *proc[urator] Aug[usti] et praef[ectus]* (and in later centuries, *proc[urator] Aug[usti] et praes[es]*), thus illustrating the fact that they were both, and remained both, from Augustan times to well past the era of Trajan. Similarly, Brunt shows that the governor of Mauretania was a *proc[urator] Aug[usti] pro leg[ato]*, which again is just another way of saying he was procurator *and* prefect.¹³

Brunt claims one inscription identifies a governor of Noricum solely as procurator ([ILS 1349](#)), but he's wrong: it does not say the man in question (Gaius Baebio) *governed* Noricum, only that he served as procurator *in* Noricum (literally *in Norico*), having previously been the prefect *of* Moesia and the Maritime Alps. Baebio thus had governed Moesia and the Maritime Alps; but he did *not* govern Noricum. He merely held a procuratorship there (and not even the principal procuratorship, since he wasn't the provincial procurator but merely one of many procurators in the province).

Otherwise, Brunt agrees with Millar that the decree of Claudius mentioned by Tacitus “conferred then *no new powers* on presidial procurators, previously called prefects” (emphasis added), but that it had only related to other procurators (Brunt is unsure whether Millar is right that it only referred to procurators of private imperial estates, but he nevertheless agrees it had nothing to do with provincial procurators).¹⁴ In other words, Brunt is not saying Claudius changed the name of the office of prefect to “procurator.” He just repeats what Millar said, that presidial procurators were once exclusively called prefects (and then Brunt mistakenly assumes Millar said this change had occurred during the reign of Claudius, but that is not in fact what Millar said, and there is in fact no evidence that ever happened, and plenty of evidence it very definitely did not).

Brunt otherwise verifies the general point that powers were conferred on procurators by appointing them to constitutional offices (thus concurring with my opening point, as both Jones and Millar do). For example, he argues extensively

¹² Brunt 1966, p. 463.

¹³ Brunt 1966, pp. 465-66.

¹⁴ Brunt 1966, p. 466.

that procurators had no constitutional legal powers well into the second or even third century *except* when they were actually appointed to the office of *iudex*, prefect, or *praeses*. For example, he remarks that when we find them exercising the power to judge cases, “the procurator was also a *iudex*.”¹⁵ The same would have been true, for the same reason, and as demonstrated by the same kind and quantity of evidence, for procurators exercising *imperium*: in order to constitutionally exercise that authority, they would also have been a *praefectus* or *praeses*.¹⁶

Conclusion

The abundant evidence adduced by Jones and Millar, and even Brunt, sufficiently confirms this. And not only confirms it, but confirms it had been that way in the time of Jesus (when Pilate governed Judaea, he was, and was known by his peers to be, both a prefect *and* a procurator, even if that fact was not always mentioned) *and* in the time of Tacitus (as inscriptions of his time attest), and in all years in between. And thus nothing had changed, except at most the frequency of which title was mentioned when mentioning only one.

¹⁵ Brunt 1966, p. 469 (in context: pp. 468-77).

¹⁶ Examples adduced to the contrary are insufficient to prove otherwise. For instance, an inscription that mentions a military roads project built through the assistance of “Tiberius Julius Justus, procurator of the province of Thrace” ([ILS 231](#)) does not clearly mean the governor of Thrace, it could simply mean the procurator assigned to manage funds in Thrace, who might not have been the governor; and even if he was, he is here being referred to in his capacity as the manager of money and lands (for the building of roads), not in his capacity as the Thracian judicial and military authority. Thus we cannot conclude from this inscription that he was not also the prefect of Thrace. Similarly, we cannot know whether Claudius Paternus Clementianus (under Trajan) was a governor of the provinces of Judaea, Sardinia, Africa, and Noricum (*Corpus Inscriptionum Latinarum* III 5776) or only a procurator in them (see K. Kraft, *Münchner Beiträge zur Vor- und Frühgeschichte* 7 [1964]: 71–74). Even if he was their governor, the fact that the governorship of Sardinia is well documented through two whole centuries as being a dual-appointment (procurator and prefect), and thus was certainly so in his time, we can conclude he was both a procurator and a prefect and only chose to mention the former on inscriptions. We otherwise have several examples of inscriptions for other equestrian governorships all the way through the second century mentioning both titles being held by them (using one appellation or another), as well as inscriptions that mention only one or the other, demonstrating both were not always stated even when both offices were held: see H.-G. Pflaum, *Les carrières procuratoriennes équestres sous le Haut-Empire romain* (1960-1961), vol. 3, pp. 1044-99. Of course it should again be noted that some of the inscriptions that say only “procurator” may only be of procurators who never served as governors.