

Taxing Wealth in the Just City: Cicero and the Roman Census*

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Working Paper Version 4.1
(October 2022)

Abstract

In 43 BC the Roman senate decided to levy *tributum*, a direct tax on property, on citizens for the first time since its suspension in 167 BC. Roman citizens were again confronted with the question of fiscal fairness. Cicero recognised the urgency in 43 BC and was disappointed when his wealthy peers did not contribute their share. In general, however, he considered property rights to be natural or pre-fiscal, so the state's purpose was to protect them. Cicero's normative political theory was, in this respect, less consistent with what I call an autonomous fiscal state than his Stoic models. He and his peers in Rome's oligarchy celebrated King Servius Tullius for entrenching property rights into the constitution by means of the census. The historian Dionysius of Halicarnassus, on the other hand, presents a more democratic view of the census that justifies the taxation of wealth.

Key words: taxation, property rights, census, Cicero, Dionysius of Halicarnassus, Stoicism

I Introduction

At the end of Book II of *De officiis* (44 BC) Cicero turns from the duties of individuals to the duties of the state. He admits that states should provide moderate aid to citizens with basic necessities such as grain and that citizens must inevitably pay property taxes in dire emergencies. “An administrator of the republic, however, must make it his priority that everyone shall keep what is his (*suum*) and that private citizens suffer no reduction of their property by the state (*de bonis privatorum publice deminutio*)...”¹ Nothing is worse, Cicero adds, than the equalization of property:

For the principal purpose in the establishment of republics and civil governments (*res publicae civitatesque*) was that individuals might keep what was theirs (*sua*). For although men congregated in communities by nature's guidance, it was in the hope of safeguarding their possessions that they sought the protection of cities (*urbium praesidia*). Care must also be taken to prevent that a tax (*tributum*) should have to be paid as it often was among our ancestors because of the empty treasury and continual wars. However, if the necessity for this burden (*munus*) arises in any state—I prefer not to forebode us anything and am not discussing our state

* The author thanks Benjamin Straumann and his ERC research group in Zurich for very stimulating exchanges of ideas as well as David Levene, Phillip Mitsis, Rene Pfeilschifter, and James Tan for comments on earlier versions.

¹ Cic. *Off.* 2.73; W. Millar translates *de bonis... deminutio*, “invasion of their property rights”.

but states in general—then efforts must be made to make everyone realize that they must yield to the inevitable if they want to be saved.²

We can gather from Cicero's other writings what sources of revenue were appropriate for the sake of avoiding the taxation of citizens' property, the protection of which was the state's goal. First, there was the imperial tribute demanded from Rome's defeated subjects and subordinated allies as protection money. Second, there were rents and indirect taxes (*vectigalia*), which were equally regarded as legitimate public revenues.³ When P. Servilius Rullus introduced agrarian legislation in 63 BC to parcel out the public land of Campania, which was leased out by the censors for rents, Cicero argued that the state's patrimonial domain (*patrimonium*) had been crucial to the maintenance of Rome's armies and grain supply during the Social War (91–87 BC) when other revenues were disrupted.⁴ A government, he thought, always ought to obtain sufficient revenue to carry out its functions, above all, the protection of private property, without having to invade those rights with direct taxation.

This passage of Cicero has had profound influence on Western political thought, especially through John Locke (1632–1704) and his theory that governments were founded for the protection of pre-political property rights.⁵ Although Cicero claims that the purpose of government was to secure the tenure of one's possessions, he also distinguishes the natural inclination to form communities from the secondary need to establish cities for protection. Already in his defense speech for Publius Sestius (56 BC), Cicero identifies similar stages in the origin of government. First, there was a state of nature (*natura rerum*) when possessions were held only by force. Next, rational men assembled humankind into civil communities (*civitates*) and taught them justice and mildness, allowing them to distinguish public from private. Finally, only after these principles had been discovered did men construct walls around houses to form cities (*urbes*) to protect their property.⁶ Cicero's property rights were, therefore, not strictly "pre-political" but they were "pre-fiscal" because they preceded onerous public duties (*munera*) such as labor or military service and taxation.⁷ The Stoic ideas that influenced Cicero will be compared below.⁸ For now, one should just imagine a political community in which citizens recognize the justice of one another's property rights in principle but generally refuse to obey an autonomous fiscal state that imposes duties in exchange for enforcing those rights.

The notion of pre-fiscal property rights will help us appreciate the implications of Cicero's theory of fiscal fairness. In *The Myth of Ownership: Taxes and Justice*, Liam Murphy and Thomas Nagel observe that few political theorists today still seriously entertain the idea that property rights are truly pre-political. However, the same idea is often implicit in arguments about taxation that regard pre-tax income or property (for example, market outcomes) as being naturally anterior to government redistribution and therefore illegitimate without the taxpayers' consent. Murphy and Nagel counter:

Private property is a legal convention, defined in part by the tax system; therefore, the tax system cannot be evaluated by looking at its impact on private property, conceived as something that has independent existence

² Cic. *Off.* 2.73–74, author's translation.

³ Cic. *Leg. Man.* 7.17: *vectigalia nervos esse rei publicae.*

⁴ Cic. *Leg. agr.* 2.80.

⁵ Long 1997: 18–19; Mitsis 2003; Straumann 2016: 185–90, 316–17.

⁶ Cic. *Sest.* 91 with Straumann 2016: 163.

⁷ Cf. Straumann 2016: 185–6.

⁸ There are also similarities with Polybius 6.5–6; Straumann 2020.

and validity. Taxes must be evaluated as part of the overall system of property rights that they help to create. Justice or injustice in taxation can only mean justice or injustice in the system of property rights and entitlements that result from a particular tax regime... Any convention that is sufficiently pervasive can come to seem like a law of nature—a baseline for evaluation rather than something to be evaluated. Property rights have always had this delusive effect.⁹

For Murphy and Nagel, in other words, just as there are no pre-political property rights there are also no pre-fiscal property rights, as Cicero imagined there were, because incomes and property values are partly the outcome of the state's legal and economic policies. They regard property as a social convention that comes to seem natural to us by means of its entrenchment by the state for taxation. This is significant because, as we shall see, taxes give the state its organizational autonomy and incentive to protect property rights and to increase the incomes of its taxpayers. Governments need revenue to get anything done, so while the taxability of wealth is not the only incentive for developing such policies, it is not a negligible factor either. Murphey and Nagel admit that the tax system defines property rights only in part. Another part of our property rights may be pre-fiscal, which of course does not mean anterior to the state in time, but in the sense that some of its value is created independently. They simply argue that any evaluation of fiscal fairness must also consider advantages acquired from the state.

Differential tax rates or exemptions are an effective instrument for compensating people who are disadvantaged by unavoidable policies in order to maintain distributive justice. Scheve and Stasavage identify compensation as the most effective argument for progressive taxation in the twentieth century. Justifications for taxing the rich based on principles of equality or ability to pay, on the other hand, tend to break down when no group is clearly disadvantaged by the state's policies. The First World War engendered a discourse on fiscal fairness wherein wealthy citizens came to acknowledge the enormous human sacrifice of poorer citizens, who had less at stake in the outcome. The rich could be persuaded that it was their patriotic duty to contribute a larger share of their income. Scheve and Stasavage's data suggest that mass mobilization for warfare had a much more significant influence on marginal tax rates than, for example, the degree of democratization. While they admit that democracies may have superior capabilities when it comes to taxing the rich, the majority of citizens will not necessarily regard it as fair, equitable, or economically efficient to impose high levels of taxation in times of peace.¹⁰

Modern historical sociology regards the "fiscal state" as a relatively recent phenomenon. Joseph Schumpeter, in an influential essay, describes the crisis of feudal forms of domain finance that ushered in what he calls the "tax state" (*Steuerstaat*). The emergent system of public finance was often what early modern writers in the German lands meant when they began to speak of the *Staat* as something separate from the ruler's privy purse. The nobility, clergy and urban elites accepted the monarchs' claims to be acting on their behalf rather than in their own personal or dynastic interests, giving their consent to the procedural autonomy of the state.¹¹ While some scholars use "tax state" and "fiscal state" as synonyms, others define the latter as a particularly sophisticated kind of tax state that uses fiscal policy to ensure self-sustaining growth.¹² I use the term "autonomous fiscal state" here in a loose sense, roughly equivalent to the tax state but also

⁹ Murphy and Nagel 2002: 8

¹⁰ Scheve and Stasavage 2016.

¹¹ Schumpeter 1976 [1919]: 329–379; Reinhard 1999: 216–226, 309; cf. Stollberg-Rilinger 2001: 11–19 on procedural autonomy in premodern state formation.

¹² Bonney and Ormrod 1999; Yun-Casalilla and O'Brien 2012; Monson and Scheidel 2015; France 2021: 64–5.

conscious of its potential to produce social benefits that increase property values and incomes in a manner that continuously expands its fiscal capacity.

Some scholars question the classification of *tributum* as a “tax” because it was earmarked for military campaigns and, in rare cases, profits from booty could be distributed to taxpayers.¹³ However, it is not obvious what baseline of fungibility should be the standard for considering involuntary payments towards government expenses as taxes. In medieval and early modern Europe, parliaments or diets would not usually approve taxation for unrestricted use by kings in peacetime but would do so in wars where common interests were at stake. Fungibility, moreover, has both advantages of disadvantages when it comes to fiscal capacity. Limiting it could encourage taxpayer compliance by making government more accountable. Compulsory labor and military service, for example, are more difficult to divert toward unintended purposes than payments of grain or money. On the other hand, easily tradeable commodities and money are economically efficient because they can be more easily scaled to match taxpayers’ ability to pay and used to hire or purchase the necessary supplies or labor. Before its suspension in 167 BC, the collection of *tributum* enabled property owners to compensate soldiers, boosting Rome’s fiscal capacity and autonomy in the military domain while preventing officials from diverting it for other ends.

My goal in this article is to contextualize Cicero’s theory of pre-fiscal property rights in the imperial late Republic, when the Roman census no longer fulfilled its original fiscal purpose. Part II sets the scene with the fiscal crisis of 43 BC, which continued under the Triumvirate and necessitated the imposition of *tributum* on for the first time in generations. Part III looks back from there to contrast how *tributum* was levied before 167 BC using wealth classes, centuries, and tribes recorded in the census every five years. The principal sources for that period, Livy and Dionysius of Halicarnassus, writing in the wake of the Triumvirate, also reveal moral attitudes towards the census and its original fiscal justification ascribed to King Servius Tullius. Part IV compares this normative discourse about fiscal fairness with Cicero’s appraisal of the Servian census, whereby pre-fiscal property rights were entrenched in Rome’s constitution and limited the state’s autonomy. On this point, Cicero exhibits a remarkable divergence from the Stoic natural-law tradition, which was more conducive to an autonomous fiscal state. Part V returns to the late Republic’s twilight, arguing that pre-fiscal property rights had come to seem natural because the state no longer collected taxes, though its inability to do so, paradoxically, make property rights insecure. Part VI responds, by way of conclusion, to different interpretations by other scholars and compares some Greek evidence.

II Cicero and the Fiscal Crisis of 43 BC

As Cicero noted in the passage of *De officiis* (44 BC) quoted above, Rome’s forefathers regularly paid property taxes “on account of the depleted state of their treasury and their incessant wars.” In such calamities it was their civic duty to do so but Cicero hoped for the sake of Rome that those days were gone.¹⁴ In June 43 BC, having re-entered public life after Caesar’s assassination, Cicero wrote to his friend Cornificius, proconsul in Africa, that the public treasury was almost empty and since the troops needed to be paid, it would be necessary to impose a property tax.

¹³ Nicolet 1976: 19–26; 1980: 153–5; Tan 2022: 3 n. 4; repayment of taxes from spoils seems to have been extraordinary: Dion. Hal. *Ant. Rom.* 5.47, 19.16.3; Livy 39.7.4–5 (cf. 10.46.6).

¹⁴ Cic. *Off.* 2.74; for the historical context, see Long 1995.

As regards the expenses to which you say you are being put, and have already been put, for military purposes, I am afraid I cannot help you. The Senate is bereaved, both Consuls lost; and the treasury is in terribly low water. Efforts are being made to raise money from all sources in order to discharge promises given to the soldiers who have deserved so well. I don't think it can be done without a special levy (*tributum*).¹⁵

Notice here Cicero's nod to the principle of fiscal fairness in his remark that soldiers "deserved" their pay. The tax in question, which the senate decreed in 43 BC to finance Octavian's war against Antony and Lepidus is described by Cassius Dio:

And since there was need of much money for the war, they all contributed the twenty-fifth part of the wealth they possessed and the senators also four obols for each roof-tile of all the houses in the city that they either owned themselves or occupied as tenants. Besides this, the very wealthy contributed not a little in addition, while many cities and many individuals manufactured the weapons and other necessary accoutrements for the campaign free of charge; for the public treasury was at the time so empty that not even the festivals which were due to fall during that season were celebrated, except some minor ones for form's sake. These contributions were given readily by those who favoured Caesar and hated Antony; but the majority, being burdened alike by the campaigns and the taxes, were irritated, particularly because it was doubtful which of the two would conquer, and yet quite evident that they would be slaves of the conqueror.¹⁶

Cassius Dio echoes nothing of Cicero's partisan concern for Octavian's deserving soldiers since the citizens as a whole allegedly stood to lose no matter which side won. The four per cent tax fell on all property owners, while the senators paid an additional tax on roof tiles (four Greek *obols* each, which equals ten Roman *asses*), while the "very wealthy" paid more, which perhaps refers to the one per cent tax that Cicero mentions in a letter to his friend Brutus on July 27, 43 BC or to other special taxes introduced at this time.¹⁷ Cicero blames disappointing returns from the 1 per cent tax on shameless underreporting of property by the wealthiest citizens:

However, unless I am perhaps mistaken, our knottiest political problem is the shortage of money. The honest men (*boni viri*) become more obdurate every day at the mention of a special levy (*tributum*). The proceeds of the one per cent, thanks to the scandalously low returns (*censu*) put in by the wealthy folk, are entirely absorbed in the bounties of the two legions. Yet limitless expenses hang over us both for the armies which are now defending us and for yours.¹⁸

The levy of 43 BC was apparently the first time that *tributum* had been collected from citizens since 167 BC, when the senate suspended it in light of the treasure brought back from Macedon and the regular imperial surpluses.¹⁹ Its return must have sent Roman minds racing back to refashion the collective memory of their glorified past, the *mos maiorum*. Cicero's criticism of the wealthiest citizens not paying their share stands in contrast to the noble behavior of the senators when the *tributum* was first levied for the siege of Veii from 406 to 398 BC, as told by Cicero's younger contemporary, the historian Livy (4.59–60). While the plebs at first rejoiced and praised the senate for offering to pay soldiers from the public treasury, the tribunes of the plebs warned that a property tax would be an insufferable burden on everyone and offered to protect anyone who refused to contribute. Nevertheless:

¹⁵ Cic. *Fam.* 417 [12.30], June 43 BC, trans. D.R. Shackleton Bailey.

¹⁶ Cassius Dio 46.31.4–32.1; cf. Cic. *Ad Caes. Iun. Frig.* 4.5.

¹⁷ Scuderi 1979; Nicolet 1980: 178–80; García Morcillo 2020: 287–8.

¹⁸ Cic. *Ad Brut.* 24 [18.5], trans. D.R. Shackleton Bailey.

¹⁹ Pliny *NH* 33.56; Plut. *Paul.* 38.

The Fathers had made a good beginning and persevered in supporting it. They were themselves the first to contribute, and since there was as yet no silver coinage, some of them brought uncoined bronze in wagons to the treasury, and even made a display of their contributing. After the senators had paid most faithfully, according to their rating, the chief men of the plebs, friends of the nobles began, as had been agreed, to bring in their quota. When the crowd saw that these men were applauded by the patricians and were looked upon as good citizens by those of military age, they quickly rejected the protection of the tribunes and vied with one another who should be the first to pay.²⁰

If the Romans had lost the moral integrity to sacrifice their property willingly for the good of the commonwealth, they had also forgotten how *tributum* was collected in the early Republic or at least decided that it was no longer practicable. In Livy's story, taxpayers contributed funds immediately and directly to the central Roman treasury (*aerarium*) but this may be an anachronism. It may have been true in 43 BC since Cicero wrote on 27 July about the growing reluctance of "honest men" (*boni viri*) to contribute and about the so-far dismal returns on the one per cent surtax on the very wealthy. As we shall see in the next section, the social order of wealthy citizens known as the *tribuni aerarii* was probably responsible for collecting the tax and paying the soldiers before 167 BC but the institutions by which they did so had fallen into decay by 43 BC.

Since 167 BC, Roman private wealth had increased dramatically but state revenue did not follow suit and the census, which had previously been used to apportion taxes, was no longer used regularly to keep up-to-date records of property ownership.²¹ In the triumvirate period, after Octavian, Antony, and Lepidus came to terms in November 43 BC, a wild array of taxes and punitive measures were imposed on citizens to remedy the ongoing fiscal crisis until Octavian discontinued them for good in 36 BC. There was apparently no method for partitioning them among the citizens, only harsh penalties for purportedly false self-declarations, which provoked unrest in Rome and the Italian municipalities.²² When in 42 BC, the triumvirs published a list of 1,200 prominent women and demanded declarations of their property for taxation, they assembled in the forum, where Hortensia, daughter of the great orator Quintus Hortensius Hortalus, gave a speech. She railed against this injustice against women, who had no share in government, having to pay taxes and fear informants who would challenge property declarations for bounties. Fiscal fairness, therefore, is the topic of the oldest recorded political speech (for which we have at least an authentic Greek paraphrase) written and delivered in a public assembly by a woman.²³

III *Tributum* Before 167 BC

Before discussing arguments about fiscal fairness, we must consider how the system for levying *tributum* worked before its suspension in 167 BC. In 43 BC, as we just saw, the rate of four per cent was applied to all propertied citizens with an additional one per cent and other special taxes on very wealthy citizens. Many earlier scholars held that 0.1 per cent had previously been the standard rate of taxation in Rome because in 204 BC the senate imposed a fine of "one *as* per 1,000" on citizens in twelve Latin cities that neglected to send military contingents.²⁴ However,

²⁰ Livy 60.6–8, trans. B.O. Foster.

²¹ Tan 2017: 3–39, esp. 21; Pfeilschifter 2002; see further, Section V below.

²² Cassius Dio 47.16–17; see García Morcillo 2020: 387–94.

²³ Appian, *BCiv* 4.32–34; for the authenticity of the speech, cf. Val. Max. 8.3.3. and Quint. *Inst.* 1.1.7.

²⁴ Livy 29.15.9; e.g. Schwahn, *RE* 7.A s.v. *tributum*, p. 7; Frank 1933: 139; Marchetti 1977: 108–11, 126–9, Gabba 1977: 31–3.

this was supplementary to whatever tax those cities had to collect from their citizens in order to pay the contingents of troops that Rome requested at the allies' expense, analogous to Rome's own *tributum*. The censors similarly imposed fines on Roman citizens as a specified percentage of their personal valuation and sometimes even raised those valuations in order to increase tax liability. Cato the Censor famously ordered citizens to declare their luxury goods, valued them at ten times their actual worth, and imposed a fine of "three *asses* per 1,000" on them.²⁵ However, the rate of such fines, whether 0.1 or 0.3 per cent of property values, tells us nothing about the rate of taxation.²⁶

Claude Nicolet has argued that *tributum* in Rome before 167 BC was not a fixed percentage as in the triumviral period but a partitioned tax, which is now the widely accepted opinion.²⁷ That means that expenditure for each campaign season was calculated in advance based on the number of soldiers and distributed among the taxpayers.²⁸ The pay for infantrymen (*aes militare*) was drawn from male property owners, while widows and orphans furnished money for the publicly funded cavalry (*aes equestre*).²⁹ The senate could easily have used Roman citizens' total property valuation in the last census, which was conducted every five years, dividing it by expenditure to calculate a standard percentage expected from each individual. Demosthenes used this method to estimate potential property-tax rates in Athens in the fourth century BC (normally one or two percent but theoretically as high as six and two thirds per cent), while Messene in the Peloponnese settled on the rate of eight obols per mina (1.3 per cent) to partition the city's payment of 100,000 *denarii* to Rome in ca. 70–30 BC.³⁰ In an extraordinary act of munificence in 187 BC, friends of Manlius Vulso persuaded the Roman senate to reverse the procedure by ordering the urban questors to distribute a share of the spoils paraded in his triumph to the taxpayers from the treasury at the rate of "25½ *asses* per 1,000" (2.55 per cent).³¹

How did Rome ensure that tax revenue did not fall short of expenditure? Setting the rate based on the last census might not correspond with reality because changes of fortune, exemptions, and avoidance cause variability. Greek *poleis* typically selected wealthy citizens as intermediaries who would be liable for a fixed sum and use their local knowledge to adjust the rates as necessary.³² Varro tells us that the tribes of Rome served as taxpaying districts: "*tributum* was so called from the *tribus* because that money which was levied on the people was exacted tribe by tribe (*tributum*) in proportion to each citizen's financial rating in the census (*pro portione census*)."³³ Key to

²⁵ Livy 39.44.1; cf. Plut. *Cat. Mai.* 18.2

²⁶ Nicolet 1980: 158–9; Humm 2005: 392; cf. Taylor 2020: 127.

²⁷ Nicolet 1976; 1980: 153–69; Bleckmann 2016: 87; Rosenstein 2016b; Taylor 2020; France 2021: 53–69; Tan 2022.

²⁸ Thus Dion. Hal. *Ant. Rom.* 4.19.1 (quoted below) and Livy 5.10.5: "The more they increased the number of soldiers, the more money they needed for pay, which they tried to collect by taxation" (*Quantum autem augebatur militum numerus, tanto maiore pecunia in stipendium opus erat, eaque tributo conferebatur*).

²⁹ Livy 1.43.9 claims the rate was fixed at 2,000 *asses* for each unmarried woman; Cic. *Rep.* 2.36, Plut. *Publ.* 12.3 and *Cam.* 2 for orphans also being taxed with widows; cf. Gaius 4.26–7 for *aes militare* and *aes equestre*.

³⁰ Dem. 14.27 for an εἰσφορά of 60, 120, or 500 talents on a total valuation of 6,000 talents; IG V 1.1432–1433 with Migeotte 2008 for the εἰσφορά ὀκτώβολος in Messene.

³¹ Livy 39.7.5; Taylor 2020: 122–3, 126–8, 213 n. 100, estimates that 23 million *denarii* were left for reimbursement after deducting other expenses from the reported booty and suggests that the total valuation of Roman property was about 900 million *denarii*; cf. Nicolet 1976 and older literature cited there for different interpretations.

³² Van Wees 2013: 44–61 for the ship-commissioners (ναυκράτοι) in archaic Athens; Migeotte 2014: 281–2, 522 for prepayment liturgists (προεισφέροντες) in Athens, Teos, and Priene; Antiph. Frag. A.2 Loeb for Samothrace; the collectors (ἐκλογεῖς) of the εἰσφορά ὀκτώβολος in Messene were the city's "distinguished men" (ἄνδρες ἀγαθοί), who were probably assigned tribe by tribe for each class of taxpayer; Migeotte 2008: 219.

³³ Varro, *Ling.* 5.181 and similarly Livy 1.43.13; Nicolet 1980: 157.

Nicolet's reconstruction are the *tribuni aerarii*, whose title also suggests a tribal affiliation. The lexicographer Festus claims that they were "called so because they distributed the money (*aes*)", while Varro writes: "Those to whom the money was assigned that they might pay it to the soldiery were called *tribuni aerarii*."³⁴ The jurist Gaius and a fragment of Cato the Elder mention a formulary legal procedure involving the antiquated right of soldiers to seize a pledge (*pignoris captio*) from the *tribuni aerarii* who pay them.³⁵

Although the title is commonly translated as "treasury tribunes", they were not agents of the central treasury and arguably not even public officials.³⁶ They constituted a social order (*ordo*) belonging the highest census class (*amplissimo ex censu*) in the first century BC. This probably means that they met the wealth qualification for admission into the equestrian order (400,000 sesterces) and could accordingly be called equestrians in the broad sense of the term. Yet they were distinct from members of the equestrian order in the strict sense, whom the censors honoured by enrolling in the 18 equestrian centuries along with senators and furnished with a horse at public expense.³⁷ Cicero mentions them collectively taking up arms around 100 BC alongside the equestrian order to defend republican liberty from a subversive plot. A judiciary law that remained in effect from 70 until 46 BC stipulated that juries in cases of magisterial embezzlement should consist of one-third senators, one-third equestrians, and one-third *tribuni aerarii*.³⁸ Antony's judiciary law of 44 BC opened jury service to all members of the first class, whose minimum census of 40,000 sesterces was much lower than equestrian qualification that the *tribuni aerarii* met.³⁹ That they were Rome's wealthiest citizens, without the prestige of a public horse, is consistent with their responsibility for paying the soldiers and collecting taxes before 167 BC.

The Roman general Fabricius boasted in a speech, put in his mouth by the historian Dionysius of Halicarnassus, that when he was consul in 282 BC he sacked many Italian cities, "from which I enriched my entire army and paid back the taxes to private citizens, which they contributed in advance (προεισφέρειν) for the war..."⁴⁰ Claude Nicolet identifies these citizens as the *tribuni aerarii*. In Athens after 378 BC, the three hundred wealthiest citizens were distributed among 100 fiscal groups called symmories (συμμορίαί), three per symmory, as prepayment liturgists (προεισφέροντες) to recover the taxes from members in proportion to their valuations. Each symmory was adjusted to ensure that its members—probably about a dozen taxpayers—had roughly equal total valuation, so that the tax could be partitioned equally among the symmories. The advantages were that Athens could count on receiving the full revenue in advance, it required little bureaucracy, and members of each symmory could scrutinize one another's property valuations and contributions because they were collectively liable for their symmory's quota. Dionysius refers to Rome's sixth census classes as symmories, which were divided into 193 centuries for wealth-based conscription, taxation, and voting.⁴¹ The term is otherwise rare, so a

³⁴ Festus (Lindsay 1997) s.v. *aerarii tribuni: a tribuendo aere sunt appellati*; Varro, *Ling.* 5.181, trans. R.G. Kent.

³⁵ Gaius 4.26–7 with Aul. Gell. *N.A.* 6.10.2–3: "pledge for military pay, which a soldier should receive from the treasury tribune," *Pignoris captio ob aes militare, quod aes a tribuno aerario miles accipere debebat*; cf. Nicolet 1980: 162.

³⁶ Tan 2022 and forthcoming b.

³⁷ Badian 1972: 83–4; Ramsey 2005: 21, 29; Kleinman 2016: 54–5; Davenport 2019: 35–37; Gauthier 2019; Tan forthcoming a.

³⁸ Cic. *Rab.* 27, *Planc.* 21, *Q.Fr.* 2.5, 2.16; Asc. *In Pis.* 17C, with Lewis 2006: 213–14.

³⁹ Ramsey 2005: 24–32.

⁴⁰ Dion. Hal. *Ant. Rom.* 19.16.3: ἐξ ὧν τὴν στρατιὰν ἅπασαν ἐπλούτισα, καὶ τὰς εἰσφορὰς τοῖς ἰδιώταις, ἃς εἰς τὸν πόλεμον προεισήνεγκαν, ἀπέδωκα.

⁴¹ Dion. Hal. *Ant. Rom.* 4.18.2–3, 7.59.3–4.

comparison with Athens is possible, though Dionysius also uses it to describe Rome’s tribes, where the levies and tax collection actually took place.⁴²

Dionysius of Halicarnassus, who came as a scholar in Greek rhetoric and history to Rome around 30 BC at the beginning of the Augustan age, presents archaic Roman institutions as those of a full-fledged polis, tracing the Romans’ lineage and culture back to the Greek world.⁴³ For that reason alone, one must be cautious not to read too much into the terms *συμμορία* and *προεισφέρειν*. On the other hand, Dionysius relied on Roman authors who knew the taxation system first-hand before its suspension in 167 BC such as Fabius Pictor (ca. 270–200 BC), who wrote in Greek and may have used such terms already, Cato the Elder (234–149 BC), who was elected censor in 184 BC, and Vennonius (2nd century BC), to whom a Latin fragment has recently been attributed that gives a similar description of centuries and tribes.⁴⁴ This Roman tradition credited King Servius Tullius with ranking citizens into six classes based on valuations, as show in Table 1, though this probably began only in the late fourth century BC.⁴⁵ Citizens in the top five classes were called in Latin *assidui*, liable for property taxes and military service, while the so-called *proletarii* of the sixth class were assessed per head (*capite censi*) and exempt from all but naval service.⁴⁶ The minimum valuation for *assidui* was reduced several times to create a larger pool of potential conscripts and taxpayers.⁴⁷ Age groups were divided, half of the centuries in each class being *iuniores* (age 17–45) and half *seniores* (age 46–60) except in the proletarian sixth class.

Table 1: Rome’s Census Classes according to Dionysius of Halicarnassus⁴⁸

Class (συμμορία)	Valuation (τίμημα)	No. of Centuries (λόχοι)	Vote/Tax Share
First Class + equestrians	> 100,000 <i>asses</i>	80 18	51 per cent
Second Class + artisans	> 75,000 <i>asses</i>	20 2	11 per cent
Third Class	> 50,000 <i>asses</i>	20	10 per cent
Fourth Class + trumpeters	> 25,000 <i>asses</i>	20 2	11 per cent

⁴² Nicolet 1976: 39–45; 1980: 160–1; Humm 2005: 390–7.

⁴³ For his political thought, see Gabba 1991: 152–89 and Pelling 2018; cf. Viidebaum 2021: 176–213 for his relation to the Athenian rhetorical tradition.

⁴⁴ Fabius Pictor described the *census* of Servius Tullius (Livy 1.44.2), while Dion. Hal. *Ant. Rom.* 4.15.1 praises Cato as a credible author on the Servian reforms; Adamo 2017: 79–81, following the restorations of Ammannati 2011, attributes P.Oxy. XVII 2088 (FRHist 109) to Vennonius (FRHist 13) and argues that he discussed centuries and tribes.

⁴⁵ Humm 2005: 345–72, 384; cf. Nicolet 1980: 85 and Rieger 2007: 282–3; Walter 2016 for the historiography of the regal period; cf. Dion. Hal. *Ant. Rom.* 4.43 and Livy 1.42 for the anachronistic (10 dr.) capitation tax that preceded the property census.

⁴⁶ Originally there was probably just a distinction between *assidui* and *proletarii* as in the Twelve Tables (Flach 2004: 41–2, 175–6, sec. 1.4).

⁴⁷ Livy 1.43 gives 11,000 sextantal *asses* as minimum for *assidui*; Polyb. 6.19.1 implies that it was lowered to 4000 *asses* during the Second Punic War; Cic. *Rep.* 2.40 indicates a minimum of 375 *sesterces* at the dramatic date of his dialogue, 129 BC, which was still valid in the imperial period; Rathbone 1993: 124–5, 139–46; Taylor 2020: 41; Gauthier 2019: 287.

⁴⁸ Dion. Hal. *Ant. Rom.* 4; Livy 1.43; Polyb. 6.19.3 and Gaius, *Inst.* 2.274 confirm that the minimum for the first class was 100,000 *asses*; cf. Rathbone 1993: 126–7 and Gauthier 2019: 286–8.

Fifth Class	> 12,500 <i>asses</i>	30	16 per cent
Sixth Class	< 12,500 <i>asses</i>	1	< 1 per cent

Total 193

Dionysius’s account of King Servius Tullius differs from Livy’s only in minor details except for the elaborate treatment of the king’s democratic ideology. The monetary units for the census classes suggest that they used the same or related sources dating around 211–141 BC.⁴⁹ The following passage is worth quoting because it contains the only description of how the taxes were partitioned and it conveys a distinctive conception of fiscal fairness.

As to the expenditure that would be needed for the provisioning (ἐπισιτισμός) of the soldiers while on duty and for the various warlike supplies (χορηγία πολεμικαί), he would first calculate how much money would be sufficient, and having in like manner [as in the levy of soldiers] divided that sum among the 193 centuries, he would order every man to pay his share (ἐπιβάλλον) towards it in proportion to his rating (ἐκ τῆς τιμῆσεως). Thus it happened that those who had the largest possessions, being fewer in number but distributed into more centuries, were obliged to serve oftener and without any intermission, and to pay greater taxes than the rest.⁵⁰

Dionysius employs the term “share” (ἐπιβάλλον) to describe what each taxpayer contributes “in proportion to his valuation” (ἐκ τῆς τιμῆσεως) towards his century’s tax quota.⁵¹ He explains that the higher tax burden on the wealthy was due to the number and size of centuries in each census class or “symmory” rather than each individual’s property valuation. As the last column in Table 1 shows, just over half of the entire fiscal burden would be shouldered by those centuries of the first census class, whose property minimum was 100,000 Roman asses.⁵² This unequal distribution of taxes by centuries was the original justification, Dionysius and Livy agree, for the corresponding advantage that smaller centuries in the higher census classes had with respect to voting power in Rome’s centuriate assembly (*comitia centuriata*).⁵³

The partition of *tributum* by century cannot have been strictly equal among all 193 centuries. Conscription must have targeted the junior centuries, while taxation fell harder on the senior ones if soldiers on active duty were tax exempt, which is difficult to reconcile with an equal provision of soldiers and taxes.⁵⁴ By Dionysius’s own account, the entire sixth-class century was exempt and the two centuries of artisans contributed war supplies instead of money for soldiers’

⁴⁹ The libral *as*, originally a pound (323 g) of bronze, was minted with declining weight from the early third century BC; the lighter semi-libral *as* (132 g) was minted ca. 217 until 212/211 BC when a new sextantal *as* (tariffed at 1/10 of a silver denarius) was introduced, which was standard for Dionysius’s and Livy’s source down to ca. 140 BC, when the *as* was re-tariffed at 1/16 *denarius* and the *sesterce* (1/4 *denarius*) became the typical unit of account; Rathbone 1993: 124–5; Yarrow 2021: 111–28; cf. R. Thomsen 1980: 151–6.

⁵⁰ Dion. Hal. *Ant. Rom.* 4.19.1–2, trans. E. Cary.

⁵¹ Dion. Hal. *Ant. Rom.* 4.19.1, κατὰ τὰ τιμήματα τῶν βίων; Latin authors use similar language: Varro 5.181, *pro portione census* and Livy 1.42.5, *pro habitu pecuniarum*; for *τίμησις/τίμημα* as a term for census class, cf. Arist. *Pol.* 1308b2, Diod. Sic. 18.18; Pollux 8.132; Dionysius uses the term ἐπιβάλλον already in *Ant. Rom.* 4.9.7 for this tax and consistently in this passage to denote an individual’s or the century’s share of the partition from a lump sum.

⁵² The equivalent, 1 talent 4000 drachmas, was roughly the minimum for performing the triarchy-liturgies in classical Athens, which perhaps two per cent of citizens could afford: Davies 1984: 15–24, 34–5; Rosenstein 2016b cites Polyb. 2.24.14 with 23,000 eligible for the Roman and Campanian calvary as a low minimum in the first class but then assumes arbitrarily, against all ancient testimony, that the number of centuries was proportional to the population in each class; cf. France 2021: 57–63.

⁵³ Dion. Hal. *Ant. Rom.* 4.21.1; Livy 1.43.10.

⁵⁴ Livy 5.10.1–10; Nicolet 1976: 33; Rosenstein 2016b: 87.

pay.⁵⁵ This detail about the centuries of artisans, on the other hand, lends credibility to the notion that centuries were used for the assessment of *tributum* within the tribes. A rhetorical treatise of the late fourth century BC suggests that it was commonplace in the Greek world for cities to register artisans in the census separately from propertied citizens and to have them contribute weapons instead of money for tax levies (εἰσφοραί).⁵⁶

The old Servian centuries described by Dionysius and Livy were probably already obsolete when the source they used was written after 211 BC. The centuriate assembly (*comitia centuriata*) seems to have been reformed around 241–218 BC. Instead of 18 equestrian and 80 infantry centuries in the first class, infantry centuries were reduced to 70, with one junior and one senior century representing each of the 35 tribes. The right to vote first in elections was taken away from the equestrian centuries and instead drawn by lot by junior centuries of the first class.⁵⁷ These changes benefited tribes farther from Rome, which had been underrepresented at the assembly but bore an equal or greater burden of conscription and taxation during the exhausting First Punic War (264–241 BC). The other 105 centuries of the lower census classes were not adjusted to fit the tribes, which meant that they still had to rely on voters in attendance in Rome with the same property valuation, irrespective of tribe, to represent their interests in the assembly just as everyone did before the reform.⁵⁸

Dionysius' account of conscription and taxation by century must refer to the time prior to this reform but centuries may still have played some role in fiscal administration afterwards.⁵⁹ Rome's censors had the authority to punish citizens with removal from their tribe and century. As one scholiast explains, "he became a treasury-citizen (*aerarius*) and was consequently not in the register of his own century (*in albo centuriae suae*) but remained a citizen only in the sense that he made payments for *tributum* as an individual (*pro capite suo*)."⁶⁰ The phrase *pro capite suo*, which Astin translates "according to his personal liability", contrasts with how citizens enrolled in centuries paid. Livy reports an early anachronistic case when the censors removed the former dictator Mamercus Aemilius and "made him an *aerarius* at eight times his valuation."⁶¹ An *aerarius* would thus pay strictly accordingly his valuation rather than as member of his tribe and century, where some collective liability could conceivably have mediated what individuals paid.

Conscription and tax collection were carried out within territorially delimited tribes but the centuriate structure defined by the census could have facilitated fiscal administration within them. Military tribunes (*tribuni militum*) conscripting soldiers there must have used census records

⁵⁵ Dion. Hal. *Ant. Rom.* 4.19.1 (ἐπισιτισμός and χορηγίαί πολεμικαί) with 4.17.3: δύο μὲν ὀπλοποιῶν τε καὶ τεκτόνων καὶ τῶν ἄλλων τῶν κατασκευαζόντων τὰ εἰς τὸν πόλεμον εὐχρηστα; Cic. *Rep.* 2.39–40 and Livy 1.42.3–7 place these artisans (*fabri*) in the first class, horn- and trumpet-blowers in the fifth; Humm 2005: 304–5; cf. Cassius Dio 46.31.4–32.1 (quoted above) for levies of weapons from artisan groups in conjunction with later εἰσφοραί.

⁵⁶ [Arist.] *Rh. Al.* 2.33–4.

⁵⁷ Staveley 1953; Grieve 1985; Tan forthcoming a.

⁵⁸ Tan forthcoming a; Livy. 1.43.3, the old Servian tribes, by contrast, "did not have anything at all to do with the number and distribution of centuries," *neque eae tribus ad centuriarum distributionem numerumque quicquam pertinere*.

⁵⁹ Nicolet 1976: 39–45 and Gabba 1977: 30–3 insist on the plausibility of partition by century but postulate reforms no later than the mid-third century BC; cf. Northwood 2008: 268; Bleckmann 2016: 87.

⁶⁰ Ps.-Asconius 189 Stangl with Astin 1988: 15: *aerarius fieret, ac per hoc non esset in albo centuriae suae, sed ad hoc non esset civis tantummodo ut pro capite suo tributū nomine aera praeberet*; cf. Kubitschek, *RE* s.v. *aerarius*; Nicolet 1980: 85–6; Crawford, *BNP* s.v. *aerarius*; Tan 2019: 62–4 argues that *cives sine suffragio* also paid *tributum* in this way, directly to the treasury rather than to the *tribuni aerarii*, possibly making the revenue more fungible to the state.

⁶¹ Livy 4.24.7.

subdivided by century as long as wealth-classes and age groups were operative criteria, so the treasury tribunes (*tribuni aerarii*) could have done so for levying taxes.⁶² Fellow tribesmen of the same century in the non-equestrian classes—except the first class after the centuriate reform—numbered on average just few dozen men.⁶³ These were peer-groups of similar wealth and age, belonging to the same voting college, who would presumably know one another and could bear some collective fiscal liability. Unlike tribal affiliation, which was a lasting part of one’s identity, one’s century changed regularly through one’s life cycle. Every five years, the censors used new declarations to assign citizens, so they must have kept records of total taxable property by century and could have ensured that each century of the same class had roughly equivalent valuations. One could even hypothesize that each century within each tribe had one or more *tribuni aerarii* responsible for its *tributum*, allowing them to exercise a measure of discretion in the assessment of individuals like the secretaries of the Athenian fiscal symmories and assigning each group some collective liability.⁶⁴ To have at least one per century per tribe would require about 200 *tribuni aerarii* per tribe in the third century BCE. That implies 7,000 in Rome, which is an order of magnitude consistent with them being the subset of first-class citizens who met the equestrian census qualification but did not obtain a public horse. With a smaller population and fewer tribes in the fourth century BCE or earlier fewer *tribuni aerarii* would be necessary to collect the taxes and pay the soldiers.⁶⁵

IV Property Rights and Fiscal Fairness

Putting historical reconstruction aside, let us return to the concept of fiscal fairness. Dionysius emphasizes that the onerous military and financial obligations to the republic came from owning property. The wealthy are described as deriving greater benefits from the successful conduct of war than poorer citizens: “those who had greater prizes at stake should suffer greater hardships, both with their persons and their possessions.”⁶⁶ One has to fight for the right of ownership and one fights not as an individual but as a political community. This maps onto the order of the ranks in battle that Dionysius attributes to each of the classes: as heavy infantry the first class serves in the front rank, bearing the brunt of the clash with the enemy, while the second class is drawn up behind them, the third, fourth, fifth and sixth classes respectively further towards the rear.

Before describing these reforms, Dionysius has Servius Tullius give two speeches to win support from the poorer citizens for his usurpation.⁶⁷ There he promises to relieve debt, abolish debt slavery, tax the wealthy, and redistribute public land. He vows, “to make the government fair and impartial and justice the same for all and towards all”, especially to prevent the injury and

⁶² Cornell 1995: 190–4, esp. 194; Humm 2005: 387–393, esp. 392; Armstrong 2016: 280; 2019: 91–2.

⁶³ Taylor 2020: 38–45 estimates about 270,000 adult males, 25% in the first and 10% in the sixth class; per tribe that yields roughly (because tribes varied in size) 75 in each junior century and 30 in each senior century of the second to fifth classes on average; the population breakdown of those classes by Rosenstein 2016b: 88–89 is unreliable because the number of centuries need not reflect their size; the 18 equestrian centuries were fixed at 1,800 citizens, including all senators, or about three per century per tribe: Davenport 2019: 37–8; Livy 1.43.8; Dion. Hal. *Ant. Rom.* 4.18.1.

⁶⁴ Christ 2007 with Harp. s.v. διάγραμμα, who defines the “secretary” (διαγραφεὺς) as, “the one appointed in the symmories to judge how much each man ought to contribute”; cf. the collectors in Messene (above n. 30), whom Migeotte 2008: 220 identifies as the wealthy citizens and compares to the Athenian secretaries.

⁶⁵ Tan forthcoming proposes a similar ratio with perhaps 850 *tribuni aerarii* for 40,000 citizens in 341 BC.

⁶⁶ Dion. Hal. *Ant. Rom.* 4.19.3.

⁶⁷ Dion. Hal. *Ant. Rom.* 4.9: cf. 4.8.3: “flattering and courting the poorer citizens” (*dēmagôgein kai therapeuein tous aporous tôn politôn*).

maltreatment of the common people by the wealthy as if they were their slaves. In response, the assembly applauds him as a lawful, just, and democratic ruler, giving the people's consent to his acquisition of kingship.⁶⁸ Such a vision, however naïve its faith in the monarch's virtue, corresponds to what we today might call an autonomous fiscal state with a powerful king who uses taxation to compensate for other forms of social inequality. He apportions tax burdens and redistributes land to citizens based on criteria of fiscal fairness beyond simply the ability to pay: he has wealthy citizens compensate poorer ones for the benefits they enjoy from the state by paying higher taxes and by performing more military service. It is not impossible that this democratic portrayal of Servius Tullius goes back to the third century BC, when the First and Second Punic Wars put huge strains on Roman finances and manpower.

By the late Republic, however, Servius Tullius' legacy was hotly contested and this legacy was crucial to the discourse over constitutionalism.⁶⁹ Cicero, Livy, and Dionysius reconcile popular and oligarchical traditions about Servius Tullius in their own ways. In Dionysius' telling, the wealthy citizens became uneasy and resentful about having to shoulder the burden of military service and taxation, so the king deceived the poorer citizens by devising a method of voting by centuries to give the wealthy more political influence. Following Dionysius closely, John Adams in his *Defense of the Constitutions of the United States of America* (1787) perspicuously focuses attention on the weakness of Servius Tullius. He praises his "excellent equitable regulations" with respect to taxation and military service but accuses the king of "undermining the authority of the people" in order to "appease the fury of the patricians" with his unequal voting laws: "the king had been driven to the necessity of this artful flattery of the patricians, by his not being independent of them, and by their sharing with him in the executive power."⁷⁰ The people, in other words, placed their naïve faith in the virtue of the king and failed to establish a government with checks and balances that would be strong enough to protect them from the domination of wealthy patricians. By the moral standard that Dionysius had established in the speeches of Servius Tullius, the king's deception was obviously unjust, breaking his promise to establish an impartial government. Dionysius later states in a more elitist tone in line with Livy's version that the people tacitly acquiesced and it was best for those who bore a greater fiscal burden to control the government. However, the rhetoric of equality and fiscal fairness, before Servius betrays the people, associates the king with a democratic ideology and evinces a certain critical distance from the oligarchical tradition.⁷¹

Livy and Cicero lay much more emphasis on the justice of Servius Tullius's oligarchical reforms. According to Livy, the census was, "a most useful thing for a government destined to such wide dominion", which established that king's reputation as "the originator of all distinctions among the citizens, and of the orders which clearly differentiate the various grades of rank and fortune."⁷² Just as Dionysius, he observes that Servius Tullius compensated the wealthy citizens

⁶⁸ Dion. Hal. 4.9.8–4.10.1.

⁶⁹ Gabba 1991: 164–5 argues that the king's democratic reputation was effaced by the oligarchical faction in Rome, especially after Sulla presented his voting laws and property distinctions as a restoration of the Servian census; cf. Appian, *Bella civilia* 1.266; Solon of Athens was similarly contested by conservative and democratic discourse.

⁷⁰ Adams 1851 [1787]: 545–6.

⁷¹ Dion. *Ant. Rom.* 4.21.1; Dionysius was no populist but his work is starkly Atticizing and the identification of Servius Tullius with his contemporary Solon is unmistakable (4.9.7); Hogg 2018: 204–5 detects elsewhere a critical view the patrician oligarchy in Dionysius that anticipates the civil wars and rise of Augustus; cf. Pelling 2018: 208–9, 218–19 for Servius Tullius as a possible model of Augustan renewal.

⁷² Livy 1.42–43; cf. 26.36.2–5 where Laevinus puts a similar argument before the senate in 210 BC; the proportionality of the fiscal burden with voting power accords with the partition of taxes by centuries described by Dionysius.

for assuming a greater fiscal burden by granting one vote for each of the centuries, which were smaller in the higher census classes. Cicero goes even further, citing the king's creation of unequal-sized voting centuries as a basic lesson in political justice:

By distributing them in this way he contrived that the preponderance of the votes should be in the hands, not of the masses, but of the wealthy. He thus safeguarded a principle which should always be observed in politics, namely that the greatest power should not rest with the greatest number.⁷³

Claude Nicolet suggests that every account of the Servian census illustrates the same Pythagorean conception of geometrical equality elaborated by Plato and Aristotle. He even quotes the part in Dionysius where Servius Tullius, to please the people, has the wealthy bear greater fiscal-military burdens because they enjoy greater advantages from the state with respect to property.⁷⁴ However, the standard of proportionality there is quite different from the statement of Dionysius elsewhere and of Livy that greater fiscal-military burdens entitled the wealthy to a greater share of political power. Cicero introduces yet another standard of proportionality when he suggests that a fiscal burden not even necessary to justify the unequal distribution of political power because the unequal distribution of property was sufficient. The cornerstone of this argument is that the pre-fiscal distribution of property is natural, so taxation or redistribution cannot legitimately be used by states to compensate for other forms of inequality.

Far from compensating poorer citizens for a state that protects an unequal distribution of property, linking higher taxes with a greater share of political power multiplies the advantages of wealthy male citizens with respect to the protection and further acquisition of property.⁷⁵ In Rome, it even allowed them to suspend property taxes altogether in 167 BC, removing the putative justification for the unequal ranking of citizens in voting centuries. Hortensia's speech in 42 BC castigated the triumvirs for taxing women, who had no share in government at all, let alone one proportional to their wealth. Though of distinguished family, her political and legal status was inferior to a proletarian *paterfamilias* in Rome's patriarchal regime. The spectacle accordingly confounded social norms: Rome's wealthiest women led by Hortensia, a group socially exclusive but politically excluded from public discourse, spoke truth to power and instructed magistrates about constitutional precedents. Given the people's hostility to the triumvirate, which was also treading on male citizens' rights, Hortensia's speech on behalf of these women struck a chord. It won such applause in the crowded forum that the magistrates had to desist from dispersing the impertinent ladies by force and agreed to scale back the number liable for taxation.⁷⁶ The rhetoric of geometrical equality among citizens requires some standard of proportionality, whether wealth to taxes, taxes to voting rights, or voting rights to wealth, but women in Rome did not even enjoy the baseline equality of men as citizens before the law.

Cicero's theory of justice was strongly influenced by Stoic philosophy, which had radical implications for human equality, including gender equality, which were never fully realized in antiquity. His *De officiis* imitates the work "On Duty" (Περὶ τοῦ καθήκοντος) by the Greek Stoic Panaetius (ca. 185–109 BC), who joined the intellectual circle in Rome around Scipio Aemilianus.

⁷³ Cic. *Rep.* 2.28, trans. N. Rudd; cf. Cic. *Rep.* 2.40.

⁷⁴ Dion. Hal. *Rom. Ant.* 4.19.3 with Nicolet 1980: 57–60; France 2021: 33–6; Arena 2016: 77–8 n. 10 also equates these different conceptions of proportionality and claims that Cicero's is consistent with popular sovereignty.

⁷⁵ France 2021: 35 misses the mark with his gross generalization: "Pour les Ancients, c'était un système juste."

⁷⁶ Appian *BCiv* 4.32–34; García Morcillo 2020: 389–90.

Anthony Long has argued that the Stoics were the only Greek philosophical school to assign property ownership a fundamental role in human morality. By the psychological process of “appropriation” (οικείωσις) one’s proprietary care begins with one’s body and extends through childhood to our families and further outward to all humankind as one acquires the mature identity of an *anthropos*. Human beings, male or female, learn justice through appropriation of one another as moral subjects, recognizing themselves as fellow citizens in a world city or “cosmopolis” governed by a constitution of rational natural laws. Cicero was especially fond of the Stoic doctrine that humans are naturally inclined to appropriate material goods and to treat one another reciprocally as legitimate property owners. Unlike the Cynics, who renounced political status and material possessions to live in accordance with nature, the Stoics believed that being interested in property acquisition or money making, which was scorned by the elitist philosophers of the Academy and Lyceum, was natural and beneficial for the political community.⁷⁷

Cicero, nevertheless, diverges from the Stoic conception of property in two subtle ways. First, the Stoics believed that the ownership of material property had no bearing on human equality. Their core doctrine was that every human being has by nature ownership of just one thing, namely, himself or herself as a moral subject, which makes him or her fully human. Poverty and slavery may be unnatural states, from which humans are rationally inclined to free themselves, but one cannot attach any moral significance to our legal status or material property.⁷⁸ On this point, Anthony Long observes, “we can see why the ex-slave Epictetus, in contrast with the wealthy Cicero, emphasizes morality as a person’s only inalienable property and source of autonomy.”⁷⁹ The German philosopher Georg Wilhelm Friedrich Hegel (1770–1831) took a position that might have pleased Cicero when he claimed that freedom and self-ownership become fully realized in the ownership of material property and the absence of slavery.⁸⁰ However, this certainly goes beyond Stoic doctrine. As Long notes: “Human beings in Stoicism can be free and fully realized as human without owning material property or even if they have the legal status of slaves. Yet, *qua* human, every person in Stoicism has the nature and the right to choose material property that does not belong to someone else.”⁸¹

The second way in which Cicero’s conception differs is related to the distinction made above between pre-political and pre-fiscal property rights. Neither for him nor for the Stoics were property rights genuinely pre-political. Cicero did not think that they existed in the beastly state of nature, “before natural or civil law was laid down”, where possessions were held precariously by violence. His view in *Pro Sestio* (56 BC) was in line with the Stoic doctrine just mentioned that private property emerged as soon as human beings came into contact with other moral subjects, learned justice, and recognized that what was the common interest (*res ad communem utilitatem*) was public (*publica*).⁸² In *De republica* (54–51 BC), Cicero famously defines the republic as the *res populi* or “property of the public”, adding that, “a public (*populus*) is not every kind of human gathering, congregating in any manner, but a numerous gathering (*societas*) brought together by legal consent (*iuris consensu*) and community of interest (*utilitatis communione*).”⁸³ These criteria

⁷⁷ Long 1997.

⁷⁸ Aristotle’s elitist views of natural slavery and civic virtue (based on birth, education, and property sufficient for leisure) were partially shared by Cicero: see Connolly 2007: 94–95; cf. Long 1997: 17, 23–24 for the contrast between the Peripatetic and Stoic views.

⁷⁹ Long 1997: 30.

⁸⁰ Hegel, *Grundlinien der Philosophie des Rechts*, sec. 41–71; Long 1997: 30.

⁸¹ Long 1997: 30.

⁸² Cic. *Sest.* 91 with Straumann 2016: 162–6.

⁸³ Cic. *Rep.* 1.39, trans. N. Rudd.

correspond to the higher-order constitutional rules of natural law and common interest that Cicero derived from Stoic philosophy. However, the affinity with Stoic doctrine ends when Cicero claims in *De officiis* (44 BC) that taxation defeats the purpose for which states and republics are created, namely, for the preservation of private property. Fiscal obligations (*munera*), for him, arise only after the acquisition of property rights, when people find it necessary to build cities and encircle them with walls for protection.

Nothing in the Stoic conception of property, by contrast, was “pre-fiscal” in the sense that would preclude an autonomous fiscal state, which levies taxes for the right of access that entitles one to own property. On the contrary, one of the intellectual impulses behind the emergence of fiscal states in early modern Europe was the movement known as “Neo-Stoicism” led by men such as the Dutch philosopher Justus Lipsius (1547–1606).⁸⁴ The world is, after all, understood by the Stoics as the communal property of humankind.⁸⁵ That the Stoic cosmopolis should be understood in this way is not surprising given that Greeks generally considered the *polis* and its territory to be the communal property of its citizens.⁸⁶ Chrysippus uses the following metaphor: “Just as, though the theater is something communal it is correct to say that the seat each person occupies is his, so in civil society or the world, while these are communal, no principle of justice opposes each person’s owning what is his individual property.”⁸⁷ Private ownership is legitimate but only as long as it is in conformity with the higher-order constitution of the community. To extend Chrysippus’s metaphor to its logical conclusion, no person can claim a seat in the theater as his own without paying the community for his ticket; and would it not be fair to pay a higher price if one obtained a better seat?

V Pre-Fiscal Property in the Late Republic

Cicero probably arrived at his conception of pre-fiscal property not through the Stoa, Academy or Lyceum but through his Roman political and legal experience, forming an attitude toward taxation that was for the most part representative of the oligarchical elite in the Late Republic.⁸⁸ Before 167 BC, Roman imperialism was financed largely by direct taxes on property owners.⁸⁹ Citizens were able to leverage their role as taxpayers and soldiers to pressure the patrician senate to adopt policies favorable to them or demand larger contributions from the wealthiest citizens to compensate poorer ones for personal sacrifices as infantrymen and rowers in the fleet.⁹⁰ James Tan has argued persuasively that the suspension of property taxes in 167 BC ushered in a new age of Roman politics. Vast imperial resources made this possible but Rome’s competitive oligarchy preferred to privatize that wealth as much as possible. The senate’s policies created private rent-seeking opportunities for elites rather than maximizing public revenue. Taxation would have created a more autonomous fiscal state, in which magistrates could bestow benefits on the people to enhance

⁸⁴ See Oestreich 1982 and Brooke 2012.

⁸⁵ Long 1997: 23–4.

⁸⁶ Chaniotis 2004; cf. Schwahn, *RE* 5A.1, s.v. *Tele*, p. 230.

⁸⁷ Cic. *Fin.* 3.67 with Long 1997: 24–5; cf. Annas 1989: 167–8; for a different interpretation, see Mitsis 2010: 233–8 and Veillard 2015: 67–9.

⁸⁸ Long 1995: 234–6.

⁸⁹ Rosenstein 2016a.

⁹⁰ Tan 2017: 93–143; France 2021: 69–81.

their own standing among their elite rivals. Tiberius and Gaius Gracchus belonged to the first generation that had no experience of taxation on Romans' property in Italy.⁹¹

The Gracchi and their political heirs proposed ambitious state policies to address social problems and promote public welfare using public revenues. For Cicero and his elite Roman peers of the first century BC, their fate was a prime example of the danger of magisterial power conferred by the people. It was Tiberius Gracchus's claim that the people were sovereign and could remove an obstructionist tribune that apparently provoked his assassination rather than his agrarian legislation *per se*.⁹² Public land was, after all, theoretically at the disposal of the people and Gracchus had proposed to compensate the possessors with imperial taxes, which were poised to surge after the inheritance of the Attalid kingdom in 133 BC.⁹³ Yet the senate was suspicious of the powers that would fall to the land commission and Gracchus himself, whom they feared would become a king in the mould of Servius Tullius's popular legacy. Moreover, Cicero would later argue that public land was no longer really at the disposal of the people because those who had appropriated it, including Rome's allies in Italy who were still in possession of territories annexed by Rome, obtained by their labor and long occupancy certain legal rights tantamount to private ownership.⁹⁴ This is significant because if their property was protected by natural law, as Cicero maintained, it was constitutionally illegitimate for civil authorities to undermine it by taxation or redistribution. The second-century BC philosopher Gaius Blossius, on the other hand, found in the Stoa arguments to justify Gracchan authority. He remarked that whatever his friend Tiberius Gracchus did, even if it was to burn down the city of Rome, was justified as long as he was acting in the interest of the people. After Tiberius's death, Blossius fled to Asia Minor and joined the revolt of the "citizens of the sun" with its (radically Stoic) proclamation of human equality.⁹⁵

The Gracchi, of course, would not have proposed to re-introduce taxes on citizens' property in Italy. There was broad consensus across the political spectrum that Rome's imperial resources were more than sufficient to meet its public expenses; the debate was rather whether Rome should levy higher taxes on provincials and do more to curb the rent-seeking behavior of its governors and tax farmers. With the provincials' wealth at Rome's fingertips, the question of fiscal fairness, as James Tan poignantly observes, was no longer a question of who should pay but of who gets what.⁹⁶ Even the duty of propertied citizens to perform military service for a state that served their interests, which the Gracchan reforms sought to keep viable, fell away by the end of the second century BC, as generals began recruiting poorer citizens with promises of largesse. Liam Murphy and Thomas Nagel, the political philosophers quoted at the beginning of this article, point out that "any convention that is sufficiently pervasive can come to seem like a law of nature—a baseline for evaluation rather than something to be evaluated."⁹⁷ The immunity from taxation must have seemed natural to Roman citizens, becoming entrenched by the passage of time.

Its fiscal-military purpose obsolete, the census fell into decline in the late Republic. Even though censors were appointed, they repeatedly failed to carry out the census. Though scheduled every five years, all but one (in 70 BC) between 97 and 23 BC were incomplete. It had always been a public ritual: the citizens appeared by tribe and were called out alphabetically to give public declarations before the censors' adjudicators, either on Rome's Campus Martius or in their local

⁹¹ Tan 2017: 144–70.

⁹² Cic. *Leg.* 3.2.4 and *Mil.* 72 with Straumann 2016: 123–5.

⁹³ Plut. *Ti. Gracchus* 14; Livy *Epit.* 58.

⁹⁴ Straumann 2016: 139–45; cf. Roselaar 2010: 243–51, for the occupation of public land by Rome's allies.

⁹⁵ Cic. *Amic.* 37, Val. Max. 4.7.1–2, Plut. *Tib.* 8, 17, 20; Strabo 14.1.38; Shaw 1985: 45–6; Erskine 2011: 161–180.

⁹⁶ Tan 2017: 169.

⁹⁷ Murphy and Nagel 2002: 8.

municipality.⁹⁸ By the late second century BC, however, strict rules about attending in person were being relaxed and in Cicero's time it was commonplace for the wealthy to send proxies to make declarations. The census was still highly valued by elites in theory as a foundation of the Roman oligarchy and accordingly features prominently in Cicero's ideal constitution in *De legibus* but in practice was no longer scrupulously carried out.⁹⁹ One reason for this decline, Rene Pfeilschifter argues, was that the late Republican census had lost its egalitarian ritual dynamic. Whereas the rich and powerful distained to stand in line with the commonfolk, the latter must have seen only the inequality of wealth and rank on display.¹⁰⁰ Without fiscal compensation as justification, the pageant was onerous and embarrassing—a reflection of nature's unfairness rather than harmonious civil government.

In the fiscal crisis of 43 BC, Rome consequently lacked sufficient institutional capacity to identify citizens' taxable wealth and Cicero's political theory was put to the ultimate test. The civil wars had torn the fragile consensus about constitutional norms. With his last great political works, *De legibus* (ca. 46–43) and *De officiis* (44 BC), Cicero tried to provide the written constitution and the moral philosophy, respectively, to restore the Roman Republic and bring it into conformity with natural law. However, expenditures had grown enormously and the provinces had already been drained of resources, so when the civil wars resumed after Caesar's assassination in 44 BC, Cicero realized that direct taxes would again be necessary. He was disappointed, as we saw in the letter quoted above, that fellow elites refused to pay their fair share. His own moral theory taught that it was in their rational interest to consent to pay taxes when the Republic was in peril. Stoic doctrine would also have told him that the state's "community of interest" could override private property rights. The trouble was that he and his elite Roman peers had come to regard with great suspicion the organizational autonomy of the state, especially under the influence of ambitious rivals such as an Octavian or an Antony, and their authority to levy property taxes.

The paradox of pre-fiscal property rights is that the state, as an organization, has very little incentive to protect those rights because it is unable to tax the property. The system predating 167 BC had been decentralized and unbureaucratic but its institutional design encouraged compliance and legitimated the wealth-based social hierarchy: magistrates, senators, and popular assemblies alike were credibly committed to it. In the late Republic, on the other hand, just as immunity from taxation came to seem natural, the security of property rights became increasingly precarious.¹⁰¹ Cicero condemns the confiscations of Sulla, Caesar, and Antony but of course makes no link between taxation and property rights.¹⁰² The proportional taxes on wealth levied in 43 BC were ineffective because no one could be held responsible; tax collectors had resort to crude proxies such counting roof tiles. The fiscal situation in Rome continued to deteriorate after Cicero's death, prompting additional taxes and some anti-tax riots.¹⁰³ The inability of the state effectively to tax its citizens drove those in command of its armies to large-scale proscriptions and confiscations of property. Cassius Dio writes, "Since the triumvirs stood in need of vast sums of money and had no other source from which to satisfy the desires of their soldiers, they affected a kind of common enmity against the rich."¹⁰⁴ Civil war is admittedly a precarious situation, when powerholders are

⁹⁸ For census procedures, see Nicolet 1980: 49–73; Kunkel and Wittmann 1995: 391–471

⁹⁹ Astin 1985; Pfeilschifter 2002: 442–5, esp. 443 n. 14 on Cicero and the census.

¹⁰⁰ Pfeilschifter 2002: 445–55, 460–3.

¹⁰¹ On the proscriptions as evidence for property insecurity, see García Morcillo 2020: 381–7; cf. Kunkel and Wittmann 1995: 238–40, 577–9; Rivière 2016; Piacentin 2022.

¹⁰² Cic. *Phil.* 2.64–5, 4.8.9, *Off.* 2.27 and 2.83.

¹⁰³ Nicolet 1976; 1980: 180–5.

¹⁰⁴ Cassius Dio 47.6.5; cf. Appian *BCiv.* 4.5 on the fiscal crisis as cause of the proscriptions.

prone to neglect the state's interests, but even when individuals (lastly Augustus) acquired political supremacy in Rome they did not acquire the necessary infrastructure to tax its citizens. Rome's fiscal strength was its empire and, while there were obviously rich provincial estates, the greatest concentrations of wealth in Italy were constitutionally off-limits.

Only from a provincial perspective could Rome be forgivably mistaken for an autonomous fiscal state. It was autonomous from society in the sense that Rome could adjudicate disputes and assign fiscal burdens on provincial subjects more or less impartially, fiscal because its methods of taxation were to some extent conducive to economic growth, and a state because it was at least somewhat successful in claiming a monopoly on legitimate violence within its territory. Yet this autonomy was compromised by a minimal bureaucracy, dependent upon urban elites who siphoned off rents; taxation was predatory insofar as Roman interests did not align with those of provincial taxpayers; and the legitimacy of imperial domination could be contested. In comparative history, one speaks more accurately of Rome as a tributary empire than an autonomous fiscal state. However, a Stoic-inspired proposal for turning it into such a state was penned in Greek by Cassius Dio in the third century AD. Put in the mouth of Augustus's advisor Maecenas in dialogue with Agrippa in 29 BC, it must be read in the context of Caracalla's citizenship edict (AD 212) and the legal philosophy of Dio's contemporary Ulpian (ca. 170–228 AD).¹⁰⁵ Patrimonial land should be sold, so buyers have an incentive to improve it, and cheap government loans should be offered to stimulate investment, while anything that yields profit should be taxed, so that the revenues can sustain a standing army and everything that contributes to a well-governed state (πόλις). This spelled what was unthinkable in Cicero's time: Romans in Italy paying taxes no differently than provincials. "For," Dio's Maecenas claims, "it is only just and proper that no individual or district should be exempt from these taxes, as long as they enjoy the benefits derived from the taxation as much as the rest."¹⁰⁶

VI Conclusions

The argument and its conclusions may be clarified by responding to alternative points of view and comparing perspectives from the Greek world. The first alternative would be to insist that Cicero's normative theory is entirely consistent with an autonomous fiscal state; even if it failed to arise in Rome (because its imperial revenue obviated the need for direct taxes), this historical fact is arguably irrelevant to his thought. He certainly advocated a measure of state autonomy: he argues that an impartial judge was necessary to protect the weak from the strong, likening Rome's early kings to the Median king Deioces in Herodotus, who was chosen because of his reputation for justice to resolve disputes for the common good.¹⁰⁷ One can interpret the Herodotean narrative as a cautionary tale about the origins of an autonomous fiscal state: in return for his judicial service, Deioces had the people provide him with guards and build seven concentric walls around his palace and treasury (θησαυροί). This gave him sovereign power (τυρρανίς) that rendered him autonomous from society, as illustrated by his withdrawal into the fortress where he judged cases only by

¹⁰⁵ Gabba 1962; Ruiz 1982: 354–8; Honoré 2002: 32–3, 84; 2010; Lavan 2021: 218–39.

¹⁰⁶ Cassius Dio 52.28–29, καὶ γὰρ καὶ δίκαιον καὶ προσήκον ἐστὶ μηδένα αὐτῶν ἀτελῆ εἶναι, μὴ ιδιώτην, μὴ δῆμον, ἅτε καὶ τῆς ὠφελίας τῆς ἀπ' αὐτῶν ὁμοίως τοῖς ἄλλοις (52.28.6); contrast Agrippa's speech against an autonomous fiscal state, advocating consensual contributions and non-professional citizen armies (52.6).

¹⁰⁷ Cic. *Off.* 2.41.

responding to written petitions.¹⁰⁸ Cicero was thankful that the rule of kings in Rome was soon replaced by the rule of laws, which further guaranteed impartial justice.¹⁰⁹ It is tempting to see his republican constitution, with its mixture of magisterial power, senatorial authority, and popular liberty, as a “shackled Leviathan” that paves the way to the modern fiscal state by preserving its organizational autonomy from society while aligning its interests with society as a whole.¹¹⁰

I have argued, nevertheless, that Cicero’s normative conception of the Servian census put Rome under significant constitutional constraints with respect to taxation, which restricted the state’s autonomy and entrenched the political domination of property owners.¹¹¹ In this respect, his political thought reflects his own historical context in late republican Rome. To see what is meant by “significant” constraints, it is instructive to contrast how John Locke resolved the conflict between private property and public taxation. When he published *Two Treatises of Government* in 1689, England was emerging as the most precocious fiscal state in Europe.¹¹² Like Cicero, Locke believed that governments were created for the protection of natural (pre-political) property rights but he was well aware of the need for public spending:

It is true, governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection, should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent, i.e. the consent of the majority, giving it either by themselves, or their representatives chosen by them: for if any one shall claim a power to lay and levy taxes on the people, by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government.¹¹³

Locke’s transition from the state of nature to civil government proceeds by majoritarian consent.¹¹⁴ Thomas Hobbes already used the majoritarian principle, especially in *De cive* (1641) but implicitly still in *Leviathan* (1651), to describe the social covenant that justifies people’s obedience to their sovereign, though contrary to both Locke and Cicero he did not ascribe property rights any priority before civil government.¹¹⁵ Cicero, on the other hand, emphatically rejects majoritarianism in the passage of *De republica* (2.28) describing Servius Tullius’ reforms. His legitimate government was embodied in the senate and the oligarchically constituted centuriate assembly, which passed the most authoritative laws and elected the magistrates who became senators. The census codified a pre-fiscal distribution of property into Rome’s civil constitution, so the government could not become autonomous from the interests of propertied citizens, could not levy taxes by majority vote without those citizens’ consent, and could not use taxation to compensate for the advantages that they derived from state policies. This reflects Cicero’s normative views and arguably those of the

¹⁰⁸ Hdt. 1.96–100.

¹⁰⁹ Cic. *Off.* 2.41–42, trans. W. Miller: “The reason for making constitutional laws was the same as that for making kings. For what people have always sought is equality of rights before the law,” *Eademque constituendarum legum fuit causa, quae regum. Ius enim semper est quaesitum aequabile.*

¹¹⁰ Cf. Acemoglu and Robinson 2019 for the “shackled Leviathan”.

¹¹¹ Arena 2016 detects a shift in Cicero’s thinking from *De re publica*, where the people are sovereign, to *De legibus*, where they have only “empty liberty” (*species libertatis*, 3.39), but his view of the Servian census in *De re publica* (cf. n. 74 above) already implies that property distinctions have constitutional priority before the *populus* is duly constituted in the *comitia centuriata*, so the people (as equal citizens) cannot be regarded as sovereign; for Cicero as an alleged proponent of popular sovereignty, see also Schofield 2021: 46–52.

¹¹² Brewer 1989; O’Brien and Hunt 1999.

¹¹³ Locke, *Two Treatises* 2.140.

¹¹⁴ Waldron 1988: 232–41.

¹¹⁵ Hobbes, *De cive* 6–7; *Leviathan* 18; Tuck 2015: 96–118 compares Hobbesian majoritarianism with Grotius, Pufendorf, and Locke.

oligarchy as a whole rather than actual practices or popular attitudes in the late Republic, where there was no consensus about the authority of more democratically constituted assemblies or the legitimacy of magisterial power exercised in the name of the people.

A second alternative would be to claim that Cicero was, in fact, more Hobbesian than we suppose and did not believe that property rights existed before the creation of civil states. In one of his earliest speeches, trying to secure his friend Aulus Caecina's ownership of a farm, he argues that an inheritance alone is not enough to secure one's property: "it cannot be ensured to me, except by the civil law (*sine iure civili*), that I shall be able to retain what has become my own (*meum*)."¹¹⁶ Despite his notorious reluctance to cite ancient authorities, Hobbes quotes from this speech to prove that "even Cicero" supported his conventionalist theory of property.¹¹⁷ Accordingly, when Cicero (*Off.* 2.73) describes the protection of "goods" (*bona*) that are "one's own" (*sua*) as the purpose of government, he seems to have in mind something inferior to private property in civil law. Contrary to Long's interpretation, summarized above, Phillip Mitsis has argued that the Stoics did not articulate a conception of private ownership comparable to Locke's. What are "mine" and "yours" in the Stoic cosmopolis are just temporary use-rights of communal property that are always contingent on community interests. Cicero has Scipio articulate this Stoic position in *De republica* by arguing that natural law confers ownership only on virtuous men who use their possessions for the public welfare.¹¹⁸

My solution is to distinguish Cicero's putatively natural "pre-fiscal" rights from the civil rights conferred by an autonomous fiscal state. Neither Cicero nor the Stoics claimed that property rights were pre-political. They emerge after humans enter into political communities with other moral subjects and learn justice. For Cicero, the people may subsequently take the further step of obeying a civil government with the organizational capacity to protect their property. However, his ideal constitution prevents that government from deviating from the purpose he ascribes to it by linking legitimate political authority to the pre-fiscal distribution of property. As Benjamin Straumann notes, Hobbes was too quick to enlist Cicero in his ranks because civil government secures legal rights but does not create them. The government cannot legitimately seize property that citizens acquire by natural law.¹¹⁹ The Stoics, by contrast, lay emphasis on communal ownership of property in the ideal cosmopolis. Their core doctrine was that every human being was the owner of him or herself as a moral subject, making them equal members of a political community irrespective of their material possessions. Mitsis may be right to stress the subordinate "use-rights" in Chrysippus' metaphor of the theater, quoted above, but we must not forget that what we call "private property" in the Greek *polis* was always subordinate to citizens' communal ownership of *polis* territory. It was in this respect analogous to hereditary and alienable use-rights, which were tantamount to private property, acquired on domains of kings or gods in Egypt and Mesopotamia whose supreme "ownership" justified taxation. If property rights are bestowed by the community and citizens are politically equal, as the Stoics and many Greeks took for granted, then the parameters of the debate over fiscal fairness are very different from Cicero's parameters.

Our sources are such that it is difficult to find an authentic Roman perspective on fiscal fairness that pre-dates the suspension of property taxes in 167 BC. However, if the reconstruction proposed in this article is correct and the unequal voter-centuries were also taxpayer-centuries, as Dionysius claims, then Rome imposed greater burdens on wealthier citizens than poorer ones to

¹¹⁶ Cic. *Caec.* 74; cf. Locke, *Two Treatises* 2.138 for a similarly conventionalist idea.

¹¹⁷ Hobbes, *Lev.* 24.

¹¹⁸ Cic. *Rep.* 1.27.

¹¹⁹ Straumann 2016: 186–7.

finance military expenditure. Even if the *tributum* was strictly proportional to one's personal valuation, as most scholars assume, those below a certain threshold were exempt and the costs fell on the wealthy who benefited most from the state's policies. It is likely that non-elite Romans did demand greater political rights and fiscal compensation for their sacrifices in the wars of the Middle Republic but only echoes of the normative discourse about fiscal fairness come through in our sources, filtered by the discourse of the late Republic. Hence Dionysius' moral justification for taxing the wealthy put in the mouth of Servius Tullius may just as well reflect popular attitudes of Romans in his own time or even his own Greek perspective. What we do know from Cicero's letters and the histories of Cassius Dio and Appian is that wealthy Romans were loath to pay their share in the fiscal crisis of 43 BC and the state lacked the institutional capacity to compel them.

Dionysius's Servius Tullius articulates a compensatory argument for fiscal fairness that stands in sharp contrast to Cicero's conception of the Servian reforms. Those with more property have more at stake in Rome's military successes or failures, so it is right that they perform more military service and pay a larger share of the military expenses. It is very doubtful that Rome's wealthiest citizens made more personal sacrifices in war than poorer citizens: the high mortality rate suggests otherwise.¹²⁰ If poorer citizens were bearing a larger burden of military service, either in the infantry or the navy, then the Servian compensatory argument for higher taxes on the wealthy would be even stronger. Dionysius' contemporary, the geographer Strabo, writing at the end of the first century BC identifies a similar concern for fiscal fairness in Rhodes:

The Rhodians are concerned for the people in general, although their rule is not democratic... The people are supplied with provisions and the needy are supported by the well-to-do by a certain ancestral custom; and there are certain liturgies that supply provisions, so that at the same time the poor man receives his sustenance and the city does not run short of useful men, and in particular for the manning of the fleets.¹²¹

The logic of fiscal fairness, where wealthy citizens consent to higher fiscal burdens to compensate poorer ones for naval service, is comparable to Dionysius' account of Rome's most "democratic" King Servius Tullius. Rhodes practiced a style of politics that was, as Strabo notes, *de facto* oligarchical since offices were controlled by wealthy citizens but the epigraphic evidence suggests that it maintained a democratic political culture through the civil society of associations.¹²² Nearby Halicarnassus seems to have been one of several regional hotbeds of populist democracy at the time of Dionysius' birth because Cicero's brother Quintus, as proconsul of Asia in 61–58 BC, had to intervene forcefully in order to ensure that the "best citizens" (*optimates*) were in control of government.¹²³ His family presumably belonged to this group but Dionysius was keenly aware of the democratic rhetoric on fiscal fairness from his experience as well as his meticulous study of Athenian oratory.

If such redistributive arguments were effective in Greek oligarchies, they were even more so in democratic *poleis*. The anonymous Athenian known as the Old Oligarch writes (*Ath. Pol.* 2) that it was only fair for the people to have political power and to benefit from the financial burdens imposed on the wealth because the poorer citizens served as rowers in the Athenian navy. Scheve and Stasavage cite this passage as evidence that mass mobilization in warfare was a powerful

¹²⁰ Rosenstein 2004: 107–40.

¹²¹ Strabo 14.2.5, trans. H.L. Jones; cf. Arist. *Pol.* 1302b.21–24 and 1304b.25–31 with Rohde 2019: 217–223.

¹²² C. Thomsen 2020.

¹²³ Cic. *Q.Fr.* 1.1.25.

argument for political equality in antiquity just as in the recent European and American history.¹²⁴ Even staunch critics of democracy, who had no reason to praise Athens, recognized its fiscal superiority to oligarchies. Plato observes that oligarchies had great trouble with raising citizen armies to fight willingly on their behalf and with levying property taxes (εἰσφοραί) for wars because wealthy citizens preferred to hoard their wealth.¹²⁵ Magnesia, the ideal *polis* described in his mature work, the *Laws*, had a fiscal system clearly modelled on Athens: the citizens were grouped into Solonian-style income-classes and εἰσφοραί, he suggests, should be levied either on that notional income or on the basis of property valuations. These two alternatives that Plato cites correspond precisely to the two systems with which Plato was familiar during his own lifetime, that is, before and after the reform of 378 BC, as a wealthy taxpayer in Athens.¹²⁶ Aristotle likewise regarded εἰσφοραί and liturgies as typical features of democratic regimes and lamented their burden on the wealthy but regarded them as essential for any *polis*. He criticized the Spartan oligarchy for its inability to levy property taxes effectively.¹²⁷

Oligarchies in the Greek world were generally based on wealth qualifications and practiced a form of clientelism. Individual oligarchs managed private domains, giving modest benefits to dependents to keep them out of politics, while the oligarchs collectively suppressed activism and gatherings of the common people. The corollary was a weak and insecure state without much fiscal capacity and state autonomy because wealthy citizens could not be coerced without imperiling the oligarchy's cohesion. The Athenian oligarchs who plotted to overthrow the government in 411 BC resolved, "zealously to contribute from their own private resources either money or whatever else should be necessary, feeling that from now on the burdens they would bear would be for no others than themselves."¹²⁸ The price of such a voluntary state is one beholden to interests that temporarily converge but ultimately work against their collective interests and security: oligarchs become free riders, externalizing costs onto fellow citizens and ultimately onto one another, whenever their own cohesion turns to competition.

The state's organizational autonomy from society enables it to set and pursue goals according to its own decision-making institutions and interests. The modern fiscal state has an entrenched interest in protecting property ownership, trade, and capital accumulation as long as these remain taxable or furnish credit to finance expenditure. It also serves as an impartial mediator in social conflicts as long as its institutions are not captured by any social group. In republican Rome, redistributive fiscal policies were limited to times of crisis, when social conflicts gave way to consensus. The just city was imagined by Cicero and many of his Roman elite contemporaries as a mental state of concord or harmony of citizens with unequal wealth and social rank who rally around common interests rather than a fiscal state that uses taxation to maintain its organizational autonomy from society and compensate one group with compulsory contributions from another for the disproportionate benefits that its policies confer.

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¹²⁴ Scheve and Stasavage 2016: 172–3.

¹²⁵ Pl. *Resp.* 551de.

¹²⁶ Pl. *Leg.* 955de.

¹²⁷ Arist. *Pol.* 1320a20–2; cf. *Pol.* 1271b.11–15

¹²⁸ Thuc. 8.63.4.

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