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Dignitas and res publica

Caesar and Republican Legitimacy*

How do you define the Roman Republic, as distinct from the Principate, also called the *res publica*?¹ A fairly traditional way of doing so would be to point to the collective rule of the elite in the Senate, a power-sharing arrangement policed by limiting the opportunities for individual members to oustrip their peers in power and influence, and decisively bringing them down (on the example of Scipio Africanus) if they did. Thus was *regnum* prevented. The trouble with this model is that it largely leaves out the Roman People, whose votes and other forms of support were often precisely what gave that disequilibrating boost to a successful senatorial contender for popular favor – a general or urban politician or both. No *contio* is known to have applauded an appeal to senatorial solidarity or ‘elite equilibrium’. On the contrary, when in 67 Q. Lutatius Catulus, acknowledged leader of the post-Sullan Senate and revered *princeps civitatis*, opposed the assignment of extraordinary resources to Pompey to combat endemic piracy, he knew that talk of maintaining equilibrium among senators was a lost cause before the voting public and resorted instead to the suggestion that by investing all hope in one man the People were giving hostages to fortune. To his rhetorical question whose gist (the exact wording is lost) was, “After you have entrusted all your hopes in one man, how will you fare if something should happen to him?” the audience immediately roared back that they would then turn to him, Catulus.² The exchange illustrates the impotence of the idea of ‘elite equilibrium’ among the citizenry in two ways, both in that Catulus seems to have been unable to give voice to the central principle underlying his objection and in the nature of the audience’s response, which for all its apparent spontaneity well expresses the popular perspective that

* I would like to thank Alexander Yakobson for reading and commenting on a first draft of this paper with his customary acumen.

¹ For some preliminary comments on this question and other ideas developed in this paper, see Robert Morstein-Marx, Nathan S. Rosenstein, ‘The Transformation of the Republic’, in: *idem* (Eds.), *A Companion to the Roman Republic* (Oxford 2006) 625–37.

² *Cic. Manil.* 59; cf. *ORF* p. 334, fr. 5–6, with Robert Morstein-Marx, ‘Mass Oratory and Political Power in the Late Roman Republic’ (Cambridge 2004) 181–82. On the ‘silencing effect’ of the conditional speech-situation, see *ibid.* esp. 160–240.

the People were free to choose their champions to advance their interests – and to respond to circumstances by choosing others if need be³.

In fact it is worth pausing for a moment to contemplate *how little* the idea of the ‘collective rule of the élite’ was actually recognized in the fully public sphere, so far as our quite copious evidence allows us to tell. Speeches in the *contio* always seek to forge, or reinforce, a strong bond of trust between the audience, which is typically deemed as embodying the Roman People, and the speaker, who is also a political agent seeking to make political use of the impression of popular support he creates in the assembly. It is remarkable that the Senate or nobility *as a collectivity* is virtually left out of this rhetorical relationship, unless they are outright demomized (as in Sallust’s tribunician *contiones*)⁴. This is noteworthy and surely important: in the rhetorical construction of shared Republican ideology, *the dominance or even leadership of the Senate as a collectivity* plays virtually no role (except when it is denounced by certain tribunes). Individuals, not the Senate as a whole, serve the Republic well, receive the popular *beneficium* of election, and are mindful of their consequent debt to the Roman People⁵. The same is obviously true of honorific monuments – epigraphs on manubial temples, for instance, inscriptions on statues and arches, or triumphal plaques – not to mention in the supreme honorific ritual itself, the triumph⁶. None of these emphasizes the Senate; the institution as such hardly even makes an appearance in them. Now of course one may make the conceptual jump and view the honorific monuments of all *bene de re publica meriti* as a collective monument, as it were, to the collective rule of the nobility or Senate⁷. Some such general effect seems likely; yet I think we are

3 Although to my knowledge the point is never explicitly made in our evidence, a popular reply to the punitive threat of *regnum* could also be constructed along precisely these lines.

4 *Morstein-Marx* (n.2) 204–78, esp. 224–28, 230–36: even ‘pro-senatorial’ *contiones* succeeded largely by suppressing or disguising the power of the Senate. Note however that the ‘anti-senatorial’ oppositional stance represented well by Sallust’s tribunician *contiones* attacks not the Senate as an institution but the moral quality of its present leadership (ibid. 231–32).

5 *Morstein-Marx* (n.2) 258–76; see now too *Andrew M. Riggsby*, *Caesar in Gaul and Rome: War in Words* (Austin 2006) 195–207. In the famous fragment of L. Crassus (ORF³ p. 244, fr. 24) a kind of generalized relationship of obligation between Senate and People is suggested – but here explicitly in terms of senatorial *subordination* (*nohite sinere nos quoquam servare, nisi vobis interitis*).

6 See e.g. ILLRP 122, 319, 392; *Int.* 41, 28, 8–10. Regarding the exaltation of the individual general in the triumph, this has induced *Egon Flaig* to treat the triumph as if it were something essentially antithetical to the Republic (Ritualisierte Politik. Zeichen, Gesten und Herrschaft im Alten Rom [Göttingen 2004] 32–48, and *idem*, Warum die Triumphe der römische Republik ruiniert haben – oder: Kann ein politisches System an zuviel Sinn zugrunde gehen?, in: *Karl-Joachim Hölkeskamp, Jörn Rüsen, Elke Stein-Hölkeskamp, Heinrich Theodor Grottel* [Eds.], *Sinn (in) der Antike. Orientierungssysteme, Leitbilder und Wertkonzepte im Altertum* [Mainz 2003] 299–313). A more attractive alternative would be to accept that the exaltation of individual achievement was something central to the Republic; cf., e.g., *Karl-Joachim Hölkeskamp*, *Die Entstehung der Nobilität* (Stuttgart 1987) 238.

7 A frequent theme in *Karl-Joachim Hölkeskamp’s* work, esp. *Entstehung der Nobilität* (n.6) 204–40 (with 250); *idem*, *Conquest, Competition and Consensus: Roman Expansion in Italy and the Rise of the Nobilitas*, in: *Historia* 42 (1993) 12–39, at 26–30; *idem*, ‘The Roman Republic: Government of the People, by the People, for the People’, in: *SCI* 19 (2000) 203–33, esp. 212, 219

missing something indeed if we overlook the fact that (like the conitional speeches) honorific monuments are in the first instance very forceful assertions of individual rather than collective achievement, and indeed that in their competitive, self-assertive nature they are much more suggestive of elite disharmony than of equilibrium.

An important result of the ‘turn’ of many Roman republican historians over the last couple of decades toward political culture is that the popular perspective on the political system now actually matters. Those of us who have taken the ‘cultural turn’ have left behind the narrowly elitist perspective characteristic of older models of Republican political life and are inclined to explore how élite and mass were jointly implicated in a ‘self-spun web of signification’ that shaped cognition and action on both sides. Sub-cultures such as the nobility or Senate clearly had distinct perspectives and interests, but we can no longer simply conflate them with those of the Republic itself – the *Senatus Populusque Romanus*, or indeed as the phrase is first attested, *Populus Senatusque Romanus*⁸. For investigation of political culture, the main focus must be on the fully public sphere, where senators and plebs communicated over a common ground consisting of shared values, beliefs and norms. It follows that *the public consensus* on the central ideas and practices characteristic of the Republic is, or should be, definitive for our understanding, not the particular viewpoint of senators as senators, who were members of a relatively cohesive small collectivity with rules and norms of behavior that functioned to preserve group solidarity. The difficulty is of course that this viewpoint (which is not single but admits of a range of variations) is the one that is ‘normalized’ in nearly all of our sources, above all Cicero, but to a greater or lesser extent also the entire historiographical tradition on the Roman Republic. It is very hard to escape. Yet escape it we must, if we acknowledge that the Republic was not merely the Senate but the ‘People and Senate of Rome’.

1. Virtus, dignitas and populus

The fundamental complexes of ideas through which Romans made sense of their public life are of particular interest as frameworks of cognition that structure action. And among these complexes of ideas that shaped Romans’ response to their institutions and circumstances, one of the most fundamental, and at first glance one of the most alien to our way of thinking, is the characterization of political office as a *honor* bestowed by the *populus Romanus* for a person’s *dign-*

(= SENATUS POPULUSQUE ROMANUS. Die politische Kultur der Republik – Dimensionen und Deutungen [Stuttgart 2004] 257–80, esp. 265, 272; cf. also SPQR [n.7] 163); *idem*, *Rekonstruktionen einer Republik: Die politische Kultur des antiken Rom und die Forschung der letzten Jahrzehnte* (Munich 2004) esp. 102–103. Also *Morstein-Marx* (n.2) 79.

⁸ ILLRP 514 (edict of L. Aemilius Paulus, 190 BC, procos. Hisp. Ulc.) lines 6–7; cf. *Pol.* 21, 10, 8.

tas, 'worthiness', demonstrated by his moral qualities and his prior services to the state⁹.

The motor of Roman excellence was fuelled by a competition for *honor*: *vult paene virtus honorem, nec est virtutis ulla alia merces*, writes Cicero in the "De re publica" ("excellence desires honor, as it were; and there is no other reward for excellence than this")¹⁰. Even Cicero's *rector* in the "De re publica" must be "nurtured by glory", which had long provided a stimulus for great Romans to do "many amazing and brilliant deeds"¹¹. It is easy, and perhaps pointless, to multiply texts to illustrate this fundamental and familiar conception of the Roman economy of honor. One of the more memorable ones is in Sallust's 'archaeology' in the "Catiline", where "such great desire for glory had filled" the Romans (*tanta cupido gloriae incesserat*) after the expulsion of the kings – to whom other people's *virtus* was a source of fear rather than a stimulus to excellence – that the city grew in power in an incredibly short period of time and *virtus* overcame all obstacles (*virtus omnia domuerat*). "Their greatest struggle however was the competition among themselves: each one hastened to strike the enemy, climb their wall, *to be seen* (note the emphasis on observation by the community, the bestower of honor) while they were doing

⁹ See also Robert Morstein-Marx, *Publicity, Popularity and Patronage in the Commentarii Petitionis*, in: Clant 17 (1998) 259–88, esp. 265–74, on the ideology of election. On *dignitas*, see especially Joseph Hellegouarc'h, *Le vocabulaire Latin des relations et des partis politiques sous la république* (Paris 21972) 388–415, who rightly emphasizes how *dignitas* involves a relationship of exchange between the individual and the community that is governed by *fides* and implies the obligation of repayment on both sides; cf. also the concise account at Hölkeskamp (n. 6) 212–13, in the midst of an excellent review of the self-definition of the Roman nobility (204–40), oriented in particular toward the *populus Romanus* as audience, with service to the *res publica* as the fundamental standard. See also L. Robert Lind, *The Tradition of Roman Moral Conservatism*, in: Carl Deroux (Ed.), *Studies in Latin Literature and Roman History 1* (Brussels 1979) 7–58. Older scholarship on *dignitas* such as Helmut Wegehaupt, *Die Bedeutung und Anwendung von dignitas in den Schriften der republikanischen Zeit* (Diss. Breslau 1932) and Chaim Wyszubski, *Libertas as a Political Idea at Rome During the Late Republic and Early Principate* (Cambridge 1960) 36–40, 74–79, is marked by a rather pious reading of Cicero. See also below, n. 50.

¹⁰ *Resp.*, 3, 28 Powell. On *virtus* generally, see now Myles McDonnell, *Roman Manliness: Virtus and the Roman Republic* (Cambridge 2006), whose interest however is more in the semantic range of the term in literature than its central role in republican political culture.

¹¹ *Aug. civ.* 5, 13, 24–27: *Etiam Tullius... in eisdem libris quos de re publica scripsit, ubi loquitur de instituendo principe civitatis, quem dicit alendum esse gloria et consequenter commemorat maiores suos multa maiores suos multa mita atque praecleara gloriae cupiditate fuisse*. In his new edition Jonathan G. F. Powell, probably rightly, does not regard this as a fragment but as a restitutum (cf. ad fr. 13 incertae sedis Powell); Komat Ziegler listed it among fragments of the Fifth Book in his Teubner ed. (5, 9), which James E. G. Zetzel accepts in his recent translation (Cicero "On the Commonwealth" and "On the Laws" [Cambridge 1999] 90). For interpretation of this important text, see Richard Henze, Cicero's "Staat" als politischer Tendenzschrift, in: Hermes 59 (1924) 75–94, at 77 n. 6, and Karl Büchner, M. Tullius Cicero: *De re publica* (Heidelberg 1984) 412–17. Büchner rightly points out that *suos* doubtless indicates that Scipio is the one who expresses this sentiment (for which compare also *Sall.* *Iug.* 4, 5, citing "P. Scipio" along with Q. Fabius Maximus), but of course that does not any less make it part of the doctrine of the work.

such deeds."¹² Polybius famously saw the peculiar effectiveness of Rome's institutions (such as the aristocratic funeral) designed to inculcate a love of honor in its young men as one of its greatest assets in its march to dominance over the Mediterranean: by this means "young men are prompted to undergo anything for the interests of the community in order to attain the glory that attaches to good men"¹³.

The authoritative arbiter and judge of the competition for *honor* was the Roman People. Recall Polybius's words, in his account of the 'Roman constitution': after describing the considerable powers possessed by the Senate (especially in the area of state finance) and the consuls (especially regarding military operations in the field), he anticipates his reader's question whether anything is left for the People.

"Yet a role is left to the People, and indeed it is a most weighty one. The People are the sole arbiters of honor and punishment in the state – two things by which alone monarchies and republics and in a word all forms of human society are held together. For among those who do not recognize a distinction of this kind or recognize it but fail to administer it well, none of their undertakings can be carried out properly, since that is impossible when good men receive equal honor with the bad" (6, 14, 3–5).

Polybius goes on to note that the People (in his day) judged the most serious crimes, including those in which the defendant has held the highest offices; and also that it was they "who confer offices upon those who are worthy – which is the finest prize of political virtue" (6, 14, 9). Particularly noteworthy in this context is the way in which Polybius regards this *exclusive right to distribute honors* in the state as a central popular prerogative, an important source of power for the Roman People – indeed, according to his schema, a 'democratic' element of this blended constitution. It follows from this that to interfere with this right would be to derogate from the very *summa potestas* of the People: this could indeed be seen as an offence against the very freedom of the ruling nation of the world¹⁴. When push actually came to shove, even statutory law might have to give way to this more fundamental principle: Scipio Aemilianus was twice elected to the consulship in a manner contrary to laws establishing the basic rules of the *cursus*, and both times the law had to be temporary rescinded (or a personal exception granted) to allow the Roman People to have their way¹⁵. Aemilianus had, of course, a nice *exemplum* in his grandfather: the future Africanus, when canvassing for the aedileship before the

¹² *Sall.* *Cat.* 7, 1–6: *sed gloriae maximum certamen inter ipsos erant: se quisque hostem ferre, mirum ascendere, conspici dam tale facinus faceret propebat* (6). On *virtus* in Sallust, see now McDonnell (n. 10) 356–84.

¹³ *Pol.* 6, 54, 3; cf. 6, 52, 11; 55, 4.

¹⁴ *Cic.* *Planc.* 11: *Est enim haec conditio liberorum populorum principumque huius principis populi et omnium gentium domini atque victoris, posse suffragatis vel dare vel detrahere quod vult civique*. For *summa potestas* of the Roman People, see *Cic.* *har. resp.* 11: *populus Romanus, cuius est summa potestas omnium rerum*. 'Popular sovereignty' is a convenient shorthand phrase, but inevitably runs up against complications (Morstein-Marx [n. 2] 120 n. 11; Hölkeskamp [n. 7] 20).

¹⁵ See *Marianne Elster*, *Die Gesetze der mittleren römischen Republik* (Darmstadt 2003) nos. 202 and 217.

customary age, is said to have overridden the opposition by declaring, “If the Citizens of Rome want to make me aedile, then I am old enough.”¹⁶

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The moral underpinnings of this popular right are further illuminated by a valuable passage in Cicero’s *Brutus*, where, lamenting Gaius Scribonius Curio’s moral downfall in taking Caesar’s side in the Civil War – that is, in Cicero’s view, in seeking mere power rather than *honor* – Cicero comments that

“since ‘honor’ [= political office] is the reward for virtue conferred upon a man by the favorable judgment of his fellow-citizens, one who has obtained such honor by their good opinion and votes seems to be both honored and honorable.”

cum honos sit praemium virtutis iudicio studioque civium delatum ad aliquem, qui eum sententis, qui suffragis adeptus est, is mihi et honestus et honoratus videtur.

This however Curio did not do (following the example of his new leader, Caesar):

“But one who gains power by some chance or even against the will of his fellow-citizens, as he hoped to do, he I say has won the mere appearance of honor, not honor itself.”

Qui autem occasione aliqua etiam incitis suis cretus nactus est imperium, ut ille capiebat, hunc nomen honoris adeptum, non honorem puto (Brut. 281).

This text adds important emphasis on the point that what makes ‘*honor*’ truly *honor* is precisely its basis in the favorable judgment of Roman citizens, expressed concretely through their votes (*suffragis*). Only thus can it be a “reward for excellence” (*praemium virtutis*)¹⁷; anything less is sham honor, and no true mark of *virtus*.

The ‘meritocratic’ character of republican political culture has for some time now been strongly emphasized by *Karl-Joachim Hölkeskamp*¹⁸. The term is useful in suggesting a distinction from ‘aristocracy’, which in modern times at least carries a stronger sense of hereditability and less emphasis on public achievement than was the case in Rome; but it might be noted that in ancient terms the Roman Republic could be viewed (despite Polybius) as the ‘perfect aristocracy’, in which an open, public field of competition before an audience and jury of citizens strongly reinforced the credibility of the “rule of the best”¹⁹. In his more recent work

¹⁶ *Lib. 25, 2, 7*. See however *Hans Beck*, *Karriere und Hierarchie. Die römische Aristokratie und die Anfänge des cursus honorum in der mittleren Republik* (Berlin 2005) 335–36.

¹⁷ *A. E. Douglas* (M. Tulli Ciceronis Brutus (Oxford 1966) 208) compares *Arta*, eth. Nic. 1123b 35.

¹⁸ Most recently in: *Konstanz und Konkurrenz: Die politische Kultur der römischen Republik in neuer Sicht*, in: *Klio* 88 (2006) 360–96; cf. *idem*, *Rekonstruktionen* (n. 7) 73–105. An orientation in English to *Hölkeskamp*’s views may be found in *idem*, *Conquest, Competition and Consensus* (n. 7), and *idem*, *The Roman Republic* (n. 7) (= SPQR [n. 7] 257–80). See also *Alexander Yakobson*’s stimulating response to *Hölkeskamp*, published as: *Il popolo Romano, il sistema e l’élite: il dibattito continua*, in: *StudStor* 47 (2006) 377–93.

¹⁹ As even *Fergus Millar*, *The Roman Republic in Political Thought* (Hanover etc. 2002) 169–72, acknowledges. Aristotle considered election to be an *aristocratic* characteristic and the use of the lot as the democratic method of appointment to magistracies (e.g. *Pol.* 1294b7–9). Similarly, in Cicero’s *Republic* aristocrats are *chosen* (*delecti*) by the People (1, 42, 1–3; 42, 6; 43, 2, esp. 51, 2).

Hölkeskamp invokes the sociologist *Georg Simmel*’s theory of competition, which emphasizes coherence rather than disorder in a competitive context, and interprets the Roman People as a ‘third party’ (‘dritte Instanz’) à la *Simmel* to serve as an independent arbiter between competing members of the élite on the basis of a shared consensus on fundamental values. This perspective is particularly valuable for showing why the Roman élite ‘needed’ the People²⁰. It also places due emphasis upon the necessity for the competitors to accept certain basic ground rules as given and unchallengeable: among them, indeed, the fundamental popular right of suffrage.

Honores were distributed by the People through their votes in elections which, whatever the tawdry realities actually underlying them, were publicly construed as conferring a *praemium virtutis* upon those who had shown, or given good grounds to expect, that they were worthy (*digni*) of such distinction (*honor*). To reward *virtus* with *honor* was a central and inalienable popular role in this system. For this to be so, the Roman People must be seen as on the whole competent judges of civic *virtus*. (I say ‘on the whole’ because of course there were face-saving explanations, on display particularly in the “Pro Murena” and “Pro Plancio”, for why one who was evidently *dignus* might fail to be elected²¹.) Why should this be so? The reason need not be any assumption of the common people’s high cognitive capacity: *im-pertissimi* they were sometimes called in private. Rather, taking my cue from the passage of Sallust cited above (Cat. 7) I suppose that the public sphere of open action before the collective gaze of the community was regarded as on the whole a far more reliable test of true merit than any closed or exclusive process of selection by one or a few self-proclaimed experts, who are precisely because of their small number and remoteness from public scrutiny relatively easily corrupted by personal favor or enmity²². On the other hand, distinctions given by mere individuals deconstruct themselves and dissolve into mere bribes rather than *honores*; as the “Brutus” passage shows, *virtus* could *only* be authoritatively judged by the Roman People.

This judgment was embedded in an ongoing relationship of exchange between individual politician and the People. The distinction (*honor*) of election to public office was understood to be a *beneficium* conferred by the Roman People that put the politician under obligation to repay the debt in the form of loyal and self-sacrificing service to the People’s interest²³. The exchange continued beyond this

and aristocracy is a system based on *virtus* (1, 52, 1); cf. *Pol.* 23, 14, 1 (*aristokratikōn politēmōn*). *Alexander Yakobson* has now well emphasized the interdependence of ‘democratic’ and ‘aristocratic/oligarchical’ elements of the Roman Republic (art. cit., n. 18 above); cf. already *Hölkeskamp* (n. 6) 248–50.

²⁰ *Hölkeskamp* (n. 18) 377–85; cf. *idem*, *Rekonstruktionen* (n. 7) 85–92.

²¹ Similarly, Cicero’s “statesman” in the “De re publica” should be honored by a grateful People (above) – but might not be, in which case he will be consoled by his consciousness of having acted rightly (3, 31; 6, 12 with *Maec.* *Somm.* 1, 4, 2 Powell, with *Büchner* [n. 11] 320, 435–38).

²² Cf. also Caesar’s fascinating account of the *certainem virtutis* between the centurions Pullo and Voranus (Gall. 5, 44).

²³ *Morstein-Marx* (n. 2) esp. 258–66, cf. *Hölkeskamp*, *Entstehung der Nobilität* (n. 6) 209–21.

point, for this service also itself created a debt on the People's part. The alternation of services is nicely encapsulated by two closely related formulae of praise: *bene meritis in rem publicam* ("one who has served the state well") and *bene meritis de re publica* ("one who has earned the gratitude of the state"). Both phrases refer to the same kind of man and the same kind of actions, but the former stresses his services to the community and the latter emphasizes the debt the community owes him as a consequence of those very actions. One idea flows into the other: "A thankful People should reward citizens who have served the Republic well/earned the gratitude of the Republic" (*populi grati est praemia adflicere bene meritos de re publica civis*), cries Cicero, for instance, in the "Pro Milone" (82). Should the People in fact be 'ungrateful' (*ingratus*), then of course there was nothing for the patriotic citizen to do but accept the decision with dignity²⁴. On the other hand, if *Hilfskamp* (following *Simmel*) is right to insist that Roman aristocratic competition was based on a clear consensus about certain ground rules, then to tamper with or subvert the Roman People's cherished prerogative of distributing *honores* within the polity might well be felt on both sides of the *Senatus Populisque* divide as a troubling violation of one of the most basic ground rules of this 'meritocracy'.

2. Caesar's *dignitas* in 49 BC: "eine ganz persönliche Sache"?

Only if we start from this central element of republican 'political culture' can we take in the full force of Caesar's self-justification in the approach to civil war in 50-49. For there has been a frequent modern tendency to write as though in resting his case on the offense done to his *dignitas*, Caesar was lapsing into a kind of solipsistic megalomania, anticipating Louis XIV's famous theory of monarchy: "L'état, c'est moi." In his "Dignitatis contentio" of 1974 – a book that is certainly the most profound and balanced investigation of Caesar's motivation and strategy in that crisis – Kurt Raaflaub erects a dichotomy between Caesar's 'personal' and 'public' rationales for war, indeed between Caesar's *dignitas* and the *res publica*, and thus construes Caesar's defense of his *dignitas* against the assault of a *factio* as an apparently unconscious, un concealed, and to some extent natural, but nevertheless unrestrained, assertion of self-regarding 'personal' motives over communal 'public' ones²⁵. For Raaflaub, to avow such a cause for engaging in a Civil War

²⁴ As Cicero declares Milo will do (Mil. 92-105).

²⁵ Kurt Raaflaub, *Dignitatis contentio* (Munich 1974) passim, esp. 1-3 (in einer ganz persönlichen Sache²⁶) 147-49, 183-92, 212-25. Raaflaub is of course fully aware of the 'public' dimension of *dignitas* (171-72), and also acknowledges at times that Caesar, "and a substantial portion of his contemporaries", saw no clear dichotomy between his 'personal' and 'public' rationales for his actions (153-55, 217, 225); yet the emphasis remains upon the personal/public dichotomy. For a recent summary, see *idem*, *Caesar the Liberator?* Factional Politics, Civil War, and Ideology, in: Francis Cairns, *Eloine Fanham* (Eds.), *Caesar Against Liberty? Perspectives on his Autocracy* (Cambridge 2003) 35-67, at 59-61.

against "the legitimate government" is "horrifying", not least perhaps because Caesar does it so openly and unabashedly²⁶, yet at the same time he does much to validate Caesar's claim that the war was provoked by his enemies who had seized control of the Senate, and also rightly emphasizes how effectively Caesar's words, and to some extent deeds, aligned him with the traditional political values of the Republic²⁷.

I have the greatest respect for Raaflaub's book, a formidable work of learning, and if I single it out here it is precisely because it still stands as the most important study of Caesar's *dignitas*-claim at the outbreak of the Civil War. But in his emphasis on a relatively sharp dichotomy between Caesar's 'personal' reasons for engaging in a civil war (which are viewed as paramount) and his 'public' rationale, the book stands in what was already a well-established tradition of scholarship on Caesar – that associated in particular with the Caesarian studies of Raaflaub's great teacher, *Christian Meier*, who supervised the Basel dissertation on which "Dignitatis contentio" was based²⁸. My own view, however, is quite different. Against the background I have sketched above of traditional Roman conceptions of public service, I shall argue that to make a stand on a claim of *dignitas*, as Caesar did, was to emphasize perhaps the most central principle of the *res publica*, a crucial cog in the mechanism of the meritocracy that induced men to show *virtus* in the service of the community, thereby earning the *praemium virtutis* of honor. Further, I submit, for Caesar to make a plausible argument that this mechanism was being actively sabotaged by a faction for reasons of personal hostility was not to place personal claims over the public ones of the community but precisely to show that *one's enemies* were setting *their* personal vendetta over the interests, and the rights, of

²⁶ Raaflaub, *Dignitatis contentio* (n. 25) e.g. 2 ("erschreckend"); similar comments at 118, 155, 217. For "die legitime Regierung", see 21, 105 (ironic?); on legitimacy see further below (part 3). Raaflaub's explanation for Caesar's emphasis on personal motives is that by characterizing the struggle as essentially a personal one Caesar could seek to move the argument away from tricky and contentious arguments about the good of the *res publica* (*Dignitatis contentio* (n. 25) 215-17, 325-27).

²⁷ Raaflaub supports Caesar's case against his *inimici* at *Dignitatis contentio* (n. 25) 71, 113-25, 308, 320; for an engaging summary of his quite nuanced views on responsibility for the Civil War, see now *idem*, *Caesar the Liberator?* (n. 25) 40-56. For the 'republicanism' of Caesar's arguments in late 50 and early 49, see *Dignitatis contentio* (n. 25) 165-74, 220-25, 313-15, 325-26. On all this, contrast now *Klaus M. Girardet*, *Caesar's Konsultationsplan für das Jahr 49: Gründe und Scheitern*, in: *Chiron* 30 (2000) 679-710 (= *idem*, *Rom auf dem Weg von der Republik zum Prinzipat* [Bonn 2007] 121-58), who sees Caesar's disinclination to allow his enemies to destroy him as nothing less than a "Staatsstreich" (708-9), a "Militärputsch" against "die Regierung" (680).

²⁸ See *Christian Meier*, *Caesar* (Engl. trans. New York 1982) 1-14 (= 11-25 in the German original, Berlin 1982); cf. 435 in the original (= 361 Engl.). Where Caesar is characterized as having "keine Sache" but only a "persönlicher Anspruch". (See also below, n. 50.) *Meier's* emphasis on the 'personal' nature of Caesar's motivation and self-representation substantially echoes *Hermann Strasburger*. *Caesar im Urteil seiner Zeitgenossen* (Darmstadt 1968) esp. 31-34. The Cambridge philosopher Raymond Geuss makes interesting use of *Meier's* version of Caesar in his recent book on "Public Goods, Private Goods" (Princeton 2001) 34-54: "utterly clear-headed, historically well-documented (and eventually successful) narcissism on such a grand scale" (45).

the Roman People, and therefore that *they* were undermining the Republic rather than he²⁹.

I shall try to steer clear of apologia – which is frankly difficult to do, since scholarship seems to have been so heavily influenced by the ultimate consequences of Caesar's crossing of the Rubicon, so strongly inclined to view everything through the interpretive prism of 'the rise of powerful individuals' in the Late Republic, that it will sometimes be difficult to clarify the public significance of the principles Caesar espoused in 50–49 and bring out their force without appearing to choose his side. The conception of political office as *honor* is rather alien to modern sensibilities, as is also the way in which this idea is, in Rome, deeply embedded in the community and based upon service to the community (*merita in rem publicam*) rather than a kind of solipsistic sense of inherent personal superiority; while all this is of course well known to Roman historians, it somehow seems to slip away from discussions of Caesar at the Rubicon. Add in the frequent modern tendency to treat the Senate, however illegitimate its actual mode of operation, as the self-evident and unchallengeable locus of legitimacy in the Republic – something that would be news not only to Sallust but even Cicero³⁰ – and we have plenty of reasons why Caesar's arguments in 50–49 have not been heard with full clarity. But this paper is not ultimately about Caesar, or about Caesar alone; it is an attempt also to translate some of the recent gains in the study of republican political culture into our narrative of the crisis of the Republic, in particular to give due attention to the traditional popular-aristocratic principles of 'meritocracy' rather than seeing the Late Republic always from the Catonian perspective, with its near-exclusive focus on maintaining senatorial equilibrium by bringing down those who rose too far above their peers.

Just before the battle-lines met at Pharsalus on August 9, 48 BC, the front-rank centurion Crastinus called upon his men to follow him and do their duty for their *imperator*: "This one battle remains", Caesar reports Crastinus as saying, "and through it he will recover his *dignitas* and we, our freedom."³¹ This is a provocative and interesting collocation, given the perspective of hindsight and the polar opposition we so often consequently construct between 'Caesarism' and *libertas*. In a recent paper, *Raaflaub* claims that "here *libertas* is equivalent with *civitas* (citizenship)" but does not show why we should suppose that Caesar, while writing

²⁹ *James S. Raaflaub*, Caesar's *Dignitas* and the Outbreak of the Civil War, in: *SyllClass* 7 (1996) 133–41, esp. 136 (at n. 6), goes much too far by dismissing the copious evidence that Caesar himself, along with others, characterized his actions as a defense of his *dignitas* (see *Cic. Att.* 7, 11, 1; *Lig.* 18; *Deiot.* 11, and in general *Raaflaub*, *Dignitatis contentio* [n. 25] 149–51, 183–92 et passim), but he argues more clearly than others have done that Caesar does not set *dignitas* in opposition to *res publica* and opt for the former (see below, n. 52).

³⁰ For Sallust, the entire "Bellum Jugurthinum" may be adduced as evidence. For Cicero, the Senate's standing was contingent on its service to the community, including the *plebs* (*Sest.* 137; *rep.* 1, 39–42 with *Malcolm Schofield*, Cicero's Definition of *Res Publica*, in: *Jonathan G. F. Powell* [Ed.], Cicero the Philosopher [Oxford 1995] 63–83; cf. 1, 52, 5). *Morstein-Marx* (n. 2) 223.

³¹ *Caes. civ.* 3, 91, 2: *Unum hoc proelium superest, quo confecto et ille [sc. Caesar] suam dignitatem et nos nostram libertatem reciperebimus.*

this sentence, would not have expected the word to be read in its primary and traditional way³². Even if *Raaflaub* is right to argue that Caesar's exploitation of *libertas*-ideology in fact diminished through the course of the Civil War, we should not impose a possible pattern so rigidly on the evidence by insisting on a special interpretation of the word *libertas* in this one instance³³. In the absence of a persuasive reason to do so, I assume on the contrary that in relating this story Caesar really did mean to associate his cause with the 'freedom' of the Roman People, as he had of course done earlier in the work³⁴. The close connection expressed here between 'freedom' and Caesar's *dignitas*, I suggest, is significant.

The reference to recovery of freedom can be taken as an allusion in the first instance to the suppression of the right of veto of the pro-Caesarian tribunes, Mark Antony and Gaius Cassius Longinus, on January 7, 49, and their effective or physical expulsion from the Senate³⁵. The association of tribunician rights with freedom in the civic ideology of the Roman citizen is of course strong and clear³⁶. From a distant vantage-point in time one may easily dismiss Caesar's defense of the tribunate as a mere pretext, as Suetonius claimed (*Iul.* 30, 1–2), but there is no good reason to suppose that the argument lacked force in its immediate context³⁷. (Why then would Caesar have emphasized it?) Certainly in his account of the onset of the war, Caesar represents this cause as one that would have a strong rhetorical effect upon his army: after his harangue to the Thirteenth Legion at Ravenna his men duly shout back to him that they are ready to avenge the injuries done to their commander *and to the tribunes of the plebs*³⁸.

³² *Raaflaub*, Caesar the Liberator? (n. 25) 57 n. 72. Cf. the earlier comment at *Dignitatis contentio* (n. 25) 172 n. 291. *Cic. Lig.* 18 and a passage of *Lucretius* (1, 278–89) do not seem very relevant to the interpretation of the word at *civ.* 3, 91, 2.

³³ Note that even if the coin of Palkannus with the tribunician bench and rostra on one side and *libertas* on the other is redated from 45 to 48 or 47 at the latest (*Brigitte Mampel*, *Libertas – Honos – Felicitas. Zur Prägung des Münzmeisters Palkannus*, in: *Chiron* 4 [1974] 327–42), this still is roughly contemporaneous with or even slightly later than the battle at Pharsalus. On Caesar's 'freedom' propaganda, see also *Raaflaub*, *Dignitatis contentio* (n. 25) 155–82, *Stefan Weinstock*, *Divus Iulius* (Oxford 1971) 133–62, and *Gerhard Dobesch*, *Caesars monarchische Ideologie*, in: *Gianpaolo Urso* (Ed.), *L'ultimo Cesare. Scritti riforme progetti poteri congiure* (Rome 2000) 89–92.

³⁴ *Civ.* 1, 22, 5, defining the nature of the struggle at Corfinium: *se non malifici causae ex provincia egressum sed ut se a contumeliosis inimicorum defendere, ut tribunos plebis in ea re ex ceterate ex-plebis in suam dignitatem restitueret, ut se et populum Romanum factione paucorum oppressum in libertatem vindicaret*. Cf. *Appian's* report of the content of Caesar's letter to the Senate read out on January 1, 49 (*civ.* 2, 128).

³⁵ *Caes. civ.* 1, 5; 1, 7, 2–4. *Cic. fam.* 16, 11, 2 insists that no violence was done to the tribunes; cf. however *App.*, *civ.* 2, 33. *Raaflaub*, *Dignitatis contentio* (n. 25) 72–79, and *idem*, *Zum politischen Wirken der caesarfreundlichen Volkstribunen am Vorabend des Bürgerkrieges*, in: *Chiron* 4 (1974) 293–326, at 321–26. On Caesar's 'liberty' propaganda in general, see now *Raaflaub*, *Caesar the Liberator?* (n. 25) esp. 50–56.

³⁶ See e.g. *Cic. leg. agr.* 2, 15; *Rab. perd.* 12; *Sall. hist.* 3, 48, 12. *Morstein-Marx* (n. 2) 267; *Raaflaub*, *Caesar the Liberator?* (n. 25) 52.

³⁷ Cf. *Dion. Hal.* ant. 8, 87, 7–8.

³⁸ *Caes. civ.* 1, 7, 8: *Condemnati legionis XIII, quae aderat, milites... sese paratos esse imperatoris sui tribunorumque plebis iniurias defendere.*

However, it is notable that in Caesar's representation of the response of his men, they pledge to defend not only the tribunes but their commander, more specifically his *existimatio* and *dignitas*³⁹. And certainly, in the "De bello civili" Caesar seems to rest his case even more on his enemies' attack upon his *dignitas* (and his consequent 'need' to appeal to his army to defend it) than on the violation of the rights of the tribunes. But this in itself should give us pause, and induce us to ponder more deeply the underlying set of values invoked in the 'dignitas'-argument⁴⁰. For if we assume that Caesar's purpose in the Civil War commentaries was to put his cause in the most favorable light – as we surely must⁴¹ – then either he has committed one of the greatest blunders in the annals of apologia-writing by founding his case on a purely personal good, or we should consider instead how *dignitas* was embedded in a wider nexus of civic values so that to invoke it was simultaneously to bring into play the fundamental principles of the Roman 'meritocracy': that *virtus* should receive due *honor*, and that the Roman People alone had the right to confer this reward. This alternative also has the advantage of again neatly linking Caesar's 'dignitas'-argument' with his claim to be defending the freedom of the Roman People⁴¹, specifically, the theoretically absolute freedom of the ruling nation of the world to honor those who had served them well without interference by other interested parties among the senatorial elite. The arbitrament of a 'dritte Instanz', after all, needs to be respected by all competitors if it is to serve its systemic function.

I do not propose to repeat here at length what I have recently argued in detail elsewhere about the fundamental issues in play during the development of the crisis of 51–49⁴², but a few results of that study are central to this one. Above all, setting aside the fear of a trial and conviction which has often implausibly been seen as a key underlying motive allows the issue of Caesar's *dignitas* to emerge in its full significance and with sharper contours. At its basis, the conflict came about because Caesar's enemies sought to deprive him of the *honor* he sought for his victories in Gaul – an opportunity to be elected consul for a second time (as would have been the certain result were the Roman People given the choice) and perhaps even a triumph (of which he had been 'cheated' on a technicality in 60). The right to pursue the consulship in absentia, conferred with a great show of unanimity in the Law of the Ten Tribunes of 52, was designed to secure these objectives for him

³⁹ Text in n. 38; cf. §7. Against drawing too much significance from the word order, in which Caesar refers to himself before the tribunes, see *Ruebel* (n. 29) 140. *William W. Batstone, Cymbria Damon, Caesar's Civil War* (Oxford 2006) unduly minimize the 'public' argument in this speech (at 131–33) and indeed take remarkably little notice overall of Caesar's 'dignitas'-claim⁴⁰.

⁴⁰ See now *Batstone, Damon* (n. 39) esp. 41–60 on the opening chapters of the "Bellum Civile", and *Riggby* (n. 5) esp. 191–214. Of older works, *John H. Collins, Caesar as Political Propagandist*, in: ANRW 1.1 (1972) 922–66, still stands out: "The positive propaganda of the Bellum Civile is to be seen most clearly in the picture of Caesar personally as the loyal son of the republic, forced to take up arms in the republic's defense, and seeking the over-all good of the state rather than a selfish *regnum*" (957).

⁴¹ Above, nn. 31 and 34.

⁴² For details and supporting arguments, see *Robert Morstein-Marx, Caesar's Alleged Fear of Prosecution and his Ratio Absentis in the Approach to the Civil War*, in: *Historia* 56 (2007) 159–78.

– which is precisely why Caesar's enemies attempted to undermine this right, inconveniently (for them) enshrined in a statute of the Roman People. In response, Caesar insisted on the letter of the law, which allowed him to be elected consul while still in his province at the head of an army; and when his enemies responded by seeking to relieve him of his command he ensured his formal continuation through the veto of friendly tribunes. When his enemies still did not yield however he was forced into the awkward position of continuing to assert his right to use his *ratio absentis* in the summer of 49, which strained the patience even of relatively neutral observers like Cicero; by the end of 50, Pompey's patience had snapped and he had come to agree with Caesar's inveterate enemies that a second consulship for Caesar must be stopped at all cost⁴³. But the only way to do this was to fight. Hence the flurry of hostile activity in the Senate at the beginning of 49, and the passage on January 7 of the 'Emergency Decree' – a virtual declaration of war against Caesar whose consequences could hardly have been in doubt to anyone⁴⁴.

Dignitas was obviously very much at issue when the man who had won dozens of battles against Rome's most inveterate enemies, for which he had been voted 55 days of supplications by the Senate, and had added all Gaul to the *imperium* of the Roman People, was treated as if he were a seditious tribune fomenting riot in the city⁴⁵. But this was only the final and most extreme step in a protracted campaign to deprive him of the *honor* that was his due upon his return⁴⁶ – specifically, the second consulship and triumph. And with these *honores* the rights of the Roman People were directly implicated⁴⁷. It is important to recognize that Caesar's sense of entitlement was not merely based on his own arbitrary judgment: in Cicero's letters it is without exception assumed that Caesar would certainly be elected if the *comitia* were given the chance to vote on his candidacy⁴⁸. (Pompey himself, during

⁴³ *Cic. Att.* 7, 8, 4–5; 9, 3.

⁴⁴ *Radlauh, Dignitatis contentio* (n. 25) 77; *Erich S. Gruen, The Last Generation of the Roman Republic* (Berkeley etc. 1974) 489. This is not to say that the speed and resolution of Caesar's response did not catch his opponents off guard. This is well established by *Hans-Martin Otmer, Die Rubikon-Legende: Untersuchungen zu Caesars und Pompeius' Strategie vor und nach Ausbruch des Bürgerkrieges* (Boppard a. Rhein 1979). However, *Otmer* goes too far when he holds the state of Caesar's preparations against him (*Morstein-Marx* [n. 42] n. 82): by Cicero's own estimation, this was a war that Caesar "did not want but did not fear" (Ann. 9, 6, 2).

⁴⁵ This is surely the rhetorical point of *Caes. civ.* 1, 7, 5–6, too often read as a disquisition in *Staatstreue*.

⁴⁶ *Caes. civ.* 1, 85, 10: *in se uno non servari quod sit omnibus datum semper imperatoribus, ut rebus feliciter geritis aut cum honore aliquo aut certe sine ignominia domum revertantur exercitumque dimittant*. Note also that tradition enjoined upon the amici of a commander in his province to defend his *dignitas* during his absence: *Wegehaupt* (n. 9) 41–47.

⁴⁷ *Radlauh, Dignitatis contentio* (n. 25) 171–72: "praktisch die gesamte politische Argumentation Caesars im BC sich direct oder indirect auf Entscheidungen des römischen Volkes abstützte oder den Willen und die Interessen des Volkes in Rechnung zog".

⁴⁸ *Cic. Att.* 7, 4, 3; 7, 9, 3; 7, 15, 3; 7, 17, 2; 7, 18, 2; 7, 26, 2; 8, 11D 7; 8, 12, 2; *Caelius ad Cic. fam.* 8, 9, 5; 8, 9, 8; 11, 3; 8, 14, 2. "With his prestige and popularity his election as consul, whether he stood in person or in absence, was a certainty" (*Peter A. Brunt, Cicero's Officium in the Civil War*, in: *JRS* 76 [1986] 12–32, at 17).

the abortive negotiations of February, 49, wrote to Caesar that the second consulship and triumph were nothing less than appropriate recognition of “your extraordinary achievements”⁴⁹. The consulship was in the gift of the Roman People, not of some *pauci potentes* in the Senate.

This alone, in my view, refutes the notion (associated above all recently with the work of *Christian Meier*, though it is certainly older than him) that Caesar’s conception of his *dignitas* was somehow extreme and ‘absolute’ (‘verabsolutiert’), detached from the restraints of communal or traditional norms⁵⁰. On the contrary, as I have argued, Caesar’s ‘*dignitas*-claim’ in 50–49, so far from being ‘absolute’, was predicated precisely on the thoroughly traditional republican norm that – within the bounds of law and procedural norms⁵¹ – voters meeting in the *comitia centuriata*, not a few self-proclaimed ‘champions of the Republic’, were the ones entitled to choose the consuls of the Roman People. As for Caesar’s famous insistence that he cherished his *dignitas* in preference to his very life (civ. 1.9.2), this was one admirable though ‘perfectly ordinary’ Roman sentiment⁵². Indeed, this was one of Cicero’s own central concerns for *himself* at the outbreak of the crisis⁵³: for Cicero, as for Caesar, “the welfare of the *res publica*, as he saw it, was bound indissolubly with the preservation or restoration of his own *dignitas*”⁵⁴. Cicero’s outraged complaint against Caesar after the crossing of the Rubicon, *ubi est autem dignitas nisi ubi honestas?* (Att. 7.11.1), is too often cited as a self-evidently valid

critique when it is in fact nothing more than a truism with which Caesar would have been the first to agree.

The exclusive legislative power of the Roman People was likewise under attack from Caesar’s opponents. The Law of the Ten Tribunes that secured the conditions for obtaining both consulship and triumph was a statute of the Roman People, promulgated by the whole tribunician college acting in unanimity, that could not be wished or argued away⁵⁵. Caesar presses precisely this point when he describes his response to the message Pompey sent him at the outset of the conflict: “he was aggrieved that his enemies had insultingly torn from his hands the favor done him by the Roman People (*beneficium populi Romani*) and that he was being dragged back to the city after six months had been snatched away from his command, although the People had decreed that he should be allowed to be a candidate *in absentia* at the next election”⁵⁶. Cicero too regarded the People’s will on this matter as definitive⁵⁷. And to make matters worse for Caesar’s enemies, the only available way to break the logjam their *bête noire* had constructed in 50–49 *without* yielding to him on the Law of the Ten Tribunes was to suppress a tribunician veto – just about the most direct violation of the rights of the Roman People imaginable.

Ultimately, that was precisely the course they took. By mid-December, 50, Pompey, and no doubt Caesar’s long-standing *inimici*, felt that a second consulship for Caesar was the worst of all possible outcomes, to which even civil war was to be preferred⁵⁸. The ultimatum of January 1, followed by the ‘Emergency Decree’ six days later, follows straightforwardly from that decision⁵⁹. Let us be clear therefore on the fundamental rationale for war on the side of Caesar’s opponents: since the conqueror of Gaul would clearly be elected consul for a second time by the People if they were given a free choice, it was essential that they not be given the opportunity to commit this grave and potentially fatal error. Explicitly denying

⁴⁹ Cic. Att. 7, 26, 2: *pro tuis rebus gestis amplissimis*. Cf. Suet. Jul. 30, 4 *tantis rebus gestis*, cf. *Plut. Caes.* 46, 1; *Caes.* civ. 1, 13: *tantis rebus gestis*. Cicero had publicly spoken as early as 56 of Caesar’s inevitable triumph as something virtually owed to him: Cic. prov. 32–35 (cf. 29).

⁵⁰ A frequent theme in *Meier*’s work on Caesar, e.g. *Res publica amissa* (Wiesbaden 21980) 298; *idem*, *Caesars Bürgerkrieg*, in: *idem*, *Entstehung des Begriffs Demokratie. Vier Prolegomena zu idem*, *Caesars Theorie* (Frankfurt 31977) 70–142, at 126 (also “übersteigert[er]” and einer historischen Theorie (Frankfurt 31977) 70–142, at 126 (also “übersteigert[er]” and “pervertiert[er]”); *Meier* (n.28) e.g. 357–58 (431–32 in the original), where he is characterized as “ganz einseitig” way to the ideal of “Leistung”, unrestrained by the senatorial norms of “Respekt” and “Disziplin”. Cf. similarly *Radflamb*, *Dignitatis contentio* (n.25) 151 n.198; 329; *Martin Jehne*, *Caesar* (Munich 2001) 76, and *idem*, “Über den Rubicon. Die Eröffnung des römischen Bürgerkriegs am 10. Januar 49 v. Chr.”, in: *Wolfgang Krieger* (Ed.), *Und keine Schlacht bei Marathon: Große Ereignisse und Mythen der europäischen Geschichte* (Stuttgart 2005) 25–49, at 38. The view did not, of course, originate with *Meier* (cf. *Wegehaupt* [n.9] 38–41) and commands wide assent (e.g. *Lind* [n.9] 29; cf. *Gerhard Dobesch* [n.33] 89–123, at 92: “Sie ist vom Volk anerkannt, aber leidet sich nicht von diesem her”).

⁵¹ True, to be elected again in 50 for 49, Caesar would have required formal dispensation from the *lex Cornelia* (as Pompey had enjoyed in 52) which demanded a full ten years’ period between reiteration of the consulship. However, this objection did not apply to the election of 49 for 48 for which Caesar ultimately aimed (cf. *Caes.* civ. 1, 32, 2), and it is precisely this prospect in December, 50, that Pompey refused to countenance (Cic. Att. 7, 8, 4–5; 7, 9, 3).

⁵² *Ruebel* (n.29) 137–38. As *Ruebel* shows (139; contra *Radflamb*, *Dignitatis contentio* [n.25] 216–18), Caesar’s famous pronouncement at civ. 1, 9, 2 does *not* place his *dignitas* above the *res publica*; just the contrary. Cf. *Hellebrandt* (n.9) 408–11, at 409 “Défendre sa propre dignitas, maintenir celle de ses amis est un devoir essentiel d’un Romain de l’aristocratie: toute son activité est dominée par ce souci de la dignitas.”

⁵³ Cic. Att. 7, 17, 4; 9, 7a fam. 6, 1, 3, with *Bryant* (n.48) 15–16.

⁵⁴ *Bryant* (n.48) 16.

⁵⁵ For the importance of Caesar’s right to canvass in absentia for his triumphal hopes, see *Morstein-Marx* (n.42) From n.46 to n.49. For the attempts of his enemies to undermine his legal right, see nn.52–53, 62.

⁵⁶ *Caes.* civ. 1, 9, 2: *Doluisse se quod populi Romani beneficium [cf. also 1, 32, 3] sibi per contumeliam ab inimicis extorqueretur ereptoque semestri imperio in urbem retinere, cuius absentis rationem haberi proximis comitiis populus iussisset*. Note that Caesar mentions the People’s favor to him twice with different words, effectively amplifying its importance. Against *Charlet*’s interpretation of this troublesome passage, see *Morstein-Marx* (n.42) n.78. Cicero adopts Caesar’s perspective, and emphasis on the Roman People, in his letter to Caesar written on March 19 or 20, 49: *iudicetque eo bello te violari, contra cuius honorem populi Romani beneficio concessum inimici atque invidi interentur* (Att. 9, 11a.2). While this passage need constitute no more than an ingrating ‘echo’ of Caesar, it helps to confirm the civic context of *dignitas*.

⁵⁷ Note, e.g., Cic. fam. 6, 6, 5: *rationem haberi absentis non tam pugnacivi ut liceret quam ut, quoniam tunc ipso [sc. Pompeio] consule pugnante populus iussisset, habere*. Also Att. 7, 7, 6: *Quid ergo? exercitum retinens cum legis dies transierit rationem haberi [i.e. in the elections of summer 49] placet? mihi vero ne absentis quidem, sed cum id datum est, illud una datum est... cum hoc aut depugnandum est aut habenda e lege ratio*.

⁵⁸ Cic. Att. 7, 8, 5 *non modo non expetere pacem istam sed etiam timere visis est*. Cf. 7, 9, 3–4.

⁵⁹ *Caes.* civ. 1, 2, 6–8; 1, 5, 2–4. *Radflamb*, *Dignitatis contentio* (n.25) 13–105 (supplemented by *idem* [n.35] 306–26) remains the essential study of the final stage of the crisis.

Caesar's *ratio absentis* or manipulating electoral procedures and intimidating the voters with Pompey's legions in Italy⁶⁰ were distinctly less attractive alternatives to forcing Caesar to fight in a situation under which his disinclination to yield to senatorial decrees designed for his destruction could be construed as rebellion against the legitimate authority of the Senate.

Historians may argue forever about whether Caesar in effect drove his opponents to such an extreme step by his unyielding exploitation of allied tribunes' vetoes and his apparent readiness to hold on to his province and army, combined with his insistence on the continued validity of his electoral privilege (the so-called *ratio absentis*), beyond a common interpretation of his command's terminus⁶¹. Certainly, Pompey, Cato and others had as good reason to mistrust and fear Caesar as Caesar had to fear and mistrust them. Cicero reports Pompey's hardened attitude to Atticus in mid-December, 50: "His view is that if Caesar is made consul, even after giving up his army, it will mean the subversion of the constitution" (Att. 7, 8, 4). To the objection that if one was able to put up with Caesar as consul once before, one could bear it again, Cicero represents the Pompeian response as: "Ah, but he was weaker then ... and yet stronger than the entire state. What do you think he will be like now?" (Att. 7, 9, 3). In other words, the fear was that Caesar would be too powerful to be constrained within the civic framework of a Republic: he would be, in effect, a *rex*. This was not an irrational fear, given the experience of 59, when Caesar had suffered no grave consequences for his violation of constitutional norms to overcome the (also questionable) obstructionist tactics his foes used against him⁶². And he certainly was stronger now, both in terms of military and financial resources and in popular support. Pompey and Cato too fought for the Republic – or, rather, *their* Republic, as *Martin Jehne* rightly puts it⁶³ – and they deserve a sympathetic hearing, as befits the actors in one of History's greatest dramas⁶⁴. Their cause must not be trivialized.

Equally, however, we should guard against our tendency to align our viewpoint with Cicero's simply because it is mostly through his eyes that we see the crisis of the Late Republic. Even if Pompey and his allies justified their neglect of the traditional rights of the Roman People and the traditional norms of the 'meritocracy' in the name of defending the Republic against *regnum*, this justification, had they

⁶⁰ Caesar in fact treats Pompey's persistent presence on the outskirts of the City, long after he had received a Spanish proconsular assignment, as a reason to fear that free electoral choice might be subverted: *cy. 1, 9, 5 profisciscatur Pompeius in suas provincias, spsi exercitus dimittant, discedant in Italia omnes ab armis, metus e civitate tollitur, libera comitia <habeantur? H. Fuchs, reported by Radflamb. Dignitatis contentio (n. 25) 166 n. 266> atque omnis res publica senatus populoque Romano pernititur. Cf. in the same vein Hirtius, [Caes.] Gall. 8, 52, 4 fore eo facto liberam et sui iuris civitatem.*

⁶¹ On all this, see *Morstein-Marx* (n. 42).

⁶² *Meier* (n. 28) 1–2, 222–23; 346 (11; 275–76; 419 in the original); *Radflamb. Dignitatis contentio* (n. 25) 20–21, n. 24, 148, 317–27; *Jehne*, Caesar (n. 50) 76–78, and *idem*, "Über den Rubicon" (n. 50) 38–40.

⁶³ *Jehne*, Caesar (n. 50) 77, and *idem*, "Über den Rubicon" (n. 50) 39–40.

⁶⁴ Cf. *Caetius*, [Cic.] *Fam.* 8, 14, 4; *magnum et iucundum tibi Fortunae spectaculum parabat*.

even troubled to make it before the People⁶⁵, would almost certainly not have cut any ice with them. All Roman citizens were taught to hate *regnum*, the antithesis to the *libertas* that every Roman citizen cherished ever since the oath their ancestors had sworn at the foundation of the Republic. This much is evident from our knowledge of the oratory of *contiones*, in which senatorial speakers who wish to mobilize popular resentment against someone by preference turn to fear-mongering about *regnum*⁶⁶. But this does not mean that the Roman citizenry as a whole adhered to the idea, which (as was noted at the beginning of this paper) we tend to regard as definitive of the Republic, that no individual senator could be allowed to rise above his peers in the Senate so far that he could not be controlled by them collectively. Despite the prominence of this idea in our most canonical texts the policing of senatorial cohesion and equilibrium among senators does not appear to have been a fully Republican norm, openly invoked in public communication and deliberation before the general citizenry, but largely an internal, aristocratic one chiefly of concern to other senators. To judge from our evidence of fully public communication – mass speeches – the Roman People were able to distinguish between potential threats to the liberty of the *res publica* and potential threats to the full political independence of *senators*⁶⁷, and it was the former that interested them, not so much the latter. To be sure, a senator who could not be controlled by the Senate might conceivably become a threat to the People's *libertas*; but before 49 this would have required a rather abstract stretch of the imagination. There was no precedent for that. On the other hand, the threat to the People's *libertas* presented repeatedly by *pauca potentes* from the days of Tiberius Gracchus to Sulla and beyond was manifest enough to any *contio*-goer and, probably, legionary soldier. *Regnum* was understood by the populace in broader terms than mere 'monarchy': domineering rule by a clique or junta was the kind of *regnum* the Roman People had most reason in recent history to fear⁶⁸.

There was no written or unwritten law of the Republic that authorized a group of leading senators to deny the People their exclusive right to confer distinction by means of their votes within the law. And to opt for civil war in order to prevent the People from making the potentially fatal mistake of electing Caesar *cos II* was an aggravated violation of basic Republican norms and values that can hardly have been widely accepted outside narrow circles of the elite, and very likely was not accepted universally even within them (even if only for prudential reasons). Cicero observed just before his spine-stiffening interview with Pompey that he had "found scarcely anybody who is not for giving Caesar what he demands rather than fight-

⁶⁵ See n. 71.

⁶⁶ *Morstein-Marx* (n. 2) 208.

⁶⁷ See above, for instance, on Catulus's discomfiture in the debate surrounding the Gabinian piracy-bill, with *Morstein-Marx* (n. 2) 181–83. The audience of Cicero's "De lege Manilia" heard that Pompey was no threat to freedom but a paragon of Roman *virtus* and guardian of Rome's *imperium*. On the ideology of freedom in *contiones*, see *Morstein-Marx* (n. 2) 217–22.

⁶⁸ Note Cicero's denunciation in the *contiones* against Kullus's land bill of a supposed *regnum* by syndicate of Sullan flavor (esp. *leg. agr. 2, 15: X reges*). See *Morstein-Marx* (n. 2) 218–19.

ing it out" (Att. 7.6.2), and after the outbreak of hostilities he thought *regnum* was to be feared on both sides⁶⁹. From a "plebs'-eye view"⁷⁰, Caesar with his extraordinary achievements and services to the state, may well have looked to most citizens like a far more remote threat to their freedom than did those who were set upon depriving the clear import of a law of the Roman People precisely in order to deprive that People of their right to recognize and enhance the *dignitas* of one who was indisputably *optime de re publica meritis*. None of Caesar's enemies appears to have thought it in keeping with their idea of the Republic even to try to explain to the Roman People in a *comitio* why a second consulship for their hero would entail the end of the Republic⁷¹. Rather, they seem to have fortified the public sphere of the Forum to Caesar's tribunes – and ultimately circumvented it altogether (as in the past, against other popular heroes) by means of the 'Emergency Decree of the Senate'. If from the standpoint of political culture the popular perspective should count as heavily as the senatorial one in determining republican legitimacy, then Pompey's cause cannot be treated as self-evidently that of 'the Republic'.

Little wonder, therefore, that the Roman *plebs* was seen as entirely in Caesar's camp⁷². Indeed, wide swathes of Italy seem to have been quite welcoming to the 'rebellious' proconsul as he swept into the peninsula – a fact that is easy to attribute to factors that have little to do with principle, but seem to gain force when we recall Cicero's frequent emphasis before the outbreak of war upon the widespread willingness to grant Caesar's demands even among *equites* and senators⁷³. In view of all this, then, we should take seriously the possibility that Caesar's own army – whose views on the nature of the developing crisis must largely have derived from their commander's own harangues, such as the one presented at civ. 1.7 – actually believed that *they* were on the side of Republican tradition in this contest⁷⁴, not the faction of Caesar's enemies that had (so they will have learned from their commander) seized control of the Senate and was fully prepared to shed citizens' blood

⁶⁹ Cic. Att. 8, 11, 2 (cf. 7.3, 4). See *Brunn* (n. 48) 28.

⁷⁰ On which see *Morstein-Marx* (n. 2) 206–8.

⁷¹ Rightly noted by *Radflaub*. *Dignitatis contentio* (n. 25) 102–103, with 65 n. 260; cf. *idem*, *Caesar the Liberator?* (n. 25) 53; Caesarian *contiones* held by Curio and Antony are known from *Plut. Caes.* 30, 2; *Pomp.* 58, 3–5; 59, 2; *Cass. Dio* 40, 66, 5; *Cic. Att.* 7, 8, 5.

⁷² *Cic. Att.* 7, 3, 5; 7, 7, 6; 8, 3, 4–5; 10, 4, 8; 10, 8, 6; *Plut. Caes.* 30, 2; *Car. Min.* 51, 5 (cf. *Pomp.* 61, 2); *Cass. Dio* 41, 6, 1. Further sources in *Radflaub*, *Dignitatis contentio* (n. 25) 65 n. 260; cf. *Brunn* (n. 48) 27 n. 73.

⁷³ *Cic. Att.* 7, 3, 5; 7, 5, 4; 7, 6, 2; 7, 7, 5 (cf. 7, 8, 4–5; 7, 9, 3); 8, 3, 4; 8, 13, 2. See *Morstein-Marx* (n. 42) n. 83, and *Brunn* (n. 48) 18–19, for the pro-Caesar sympathies of "the rural poor among whom Rome always raised her legionaries", and the lack of enthusiasm for Pompey among "the ruling class in the Italian towns".

⁷⁴ "Not even the soldiers of Julius Caesar marched into Italy with the intent or desire to bring down the Roman Republic": *Gruen* (n. 44) 384 (cf. 491–92; 497); cf. *Karl-Wilhelm Welwei*, *Caesars Diktatur, der Prinzipat des Augustus und die Fiktion der historischen Notwendigkeit*, in: *idem*, *Res publica und Imperium. Kleine Schriften zur römischen Geschichte*, ed. by *Mischla Meier, Meret Stroblmann* (Stuttgart 2004) 477–497, esp. 479.

in order to crush a paragon of Roman *virtus*. Caesar's army is often characterized as virtually a 'private' or 'client' army, alienated from the political traditions of the Republic and motivated chiefly by hopes for material advancement and a soldierly personal loyalty toward their brilliant commander. But the assumptions on which this kind of characterization is based now seem rather dubious: on the contrary, it now seems hasty to discount the possibility that Roman republican armies even in the 50s still responded to the kind of civic-oriented, patriotic rhetoric that historians put in the mouths of their commanders⁷⁵. Caesar's men were promised various material rewards for their support in such an uncertain and dangerous undertaking as civil war: equally, they were taking a very great risk that they would never see any of them, and would in the meantime suffer heavy arrears of pay⁷⁶. Human motives are complex, and it is of course perfectly possible that many in the Thirteenth Legion were incited to action more by such promises than by the 'constitutional' outrages of Caesar's enemies on which Caesar represents himself as dwelling in the harangue allegedly delivered before them at Ravenna (civ. 1.7)⁷⁷. But that would be all too human; and underlying 'mercenary' motives for embarking on potentially profitable military campaigns would be nothing new in the history of the Republic⁷⁸. They cannot attest in themselves to the alienation or 'disloyalty' even of the men for whom they might be paramount. It is hard to escape the conclusion that Caesar's army is commonly treated as virtually a 'private', 'client' army precisely *because* it is assumed to have been disloyal.

Rebels – or those so designated by the central authority – do not always see themselves as such. Consider two instructive instances from the history of my own country. The leaders of the American Revolution traced the roots of their rebellion back to the Magna Charta and beyond, and viewed the 'tyrannical' development of the Crown in their lifetime as a violation of the English 'mixed constitution' whose unique historical mission was the preservation of freedom; the Revolutionaries were, as it were, the 'real' Englishmen, holding fast to a great, but now betrayed, constitutional tradition⁷⁹. And in the American Civil War, the leaders of the Southern Confederacy saw themselves as the true heirs of the Founding

⁷⁵ *Morstein-Marx*, *Rosenstein* (n. 1) 630–33; cf. *Peter A. Brunt*, *The Fall of the Roman Republic and Related Essays* (Oxford 1988) 257–59.

⁷⁶ Caesar made many financial promises at the outset of the campaigning; see esp. *Suet. Iul.* 33; 68, 1; cf. 38, 1, with *Cass. Dio* 43, 21, 3; *App. civ.* 2, 102. For the harsh realities they faced, and the mutinies that followed, see *Steljan G. Crissanthos*, *Caesar and the Mutiny of 47 B. C.*, in: *JRS* 91 (2001) 63–75.

⁷⁷ See in brief *John M. Carter*, *Julius Caesar: The Civil War*, Books I & II (Warminster 1991) 163.

⁷⁸ *Morstein-Marx*, *Rosenstein* (n. 1) 632–33; see *William V. Harris*, *War and Imperialism in Republican Rome, 327–70 B. C.* (Oxford 1979) 101–104, and (e.g.) *Pol.* 1, 11, 2 (First Punic War); *Leo* 42, 32, 6 (War with King Perseus); *Sall. Iug.* 84, 4 (Marius's Numidian campaign); cf. *App. Lib.* 75 (Third Punic War, with *Harris*, 102).

⁷⁹ See *Bernard Bailyn*, *The Ideological Origins of the American Revolution* (New York etc. 1992) esp. 55–93; 124–43. I owe this reference and those in the next note to my colleague in History, Prof. *John Magzewski*, for whose advice and assistance I am deeply grateful.

Fathers: in their view, they had established a free association of States based on the very principles of self-determination that had motivated the Revolution four score and five years before⁸⁰. Caesar himself claimed to be fighting for, not against, the Republic, and there is no reason to disbelieve him⁸¹. Nor does each side's intense personal interest in the outcome of a civil dispute imply that they do not actually believe in the principles they invoke in self-justification. In the recent disputed US Presidential election of 2000, for five weeks each party pressed forward to increasingly contentious and trust-eroding actions, driven not only by the desire for power but by the conviction that the other was actively subverting a central pillar of democracy: above all, the integrity of the ballot on one side, on the other, the protection of voting rights⁸². Indeed, in such situations the certitude *on both sides* of being 'right' on fundamental principles seems to add considerably to the danger that events might spiral out of control. This was probably the case in January, 49.

Once Caesar had responded to the 'Emergency Decree' by leaving his province and advancing upon peninsular Italy in hostile fashion, he gave his enemies a new and powerful propaganda point in their effort to clothe their actions with republican legitimacy. Whatever men felt about the assault on Caesar's *dignitas*, a march on Italy was bound to unleash strong feelings recalled from the days of Sulla, in Cinna and Marius⁸³. That, however, was a different, if related, story – just as in very recent history, how one judged Saddam Hussein's spotty compliance with UN Security Council resolutions 686 and 687 which ended the First Gulf War and many more that followed over the next decade was a different, though related, matter from how one judged the subsequent US-led invasion of Iraq. Even so, our evidence shows that sympathy or support for Caesar remained strong even after the outbreak of hostilities among the urban plebs and all levels of society in the

⁸⁰ James M. McPherson, *Battle City of Freedom: The Civil War Era* (New York etc. 1988) 238–42, 257–58; Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South* (Baton Rouge etc. 1988) esp. 14, 26–27, 30–32.

⁸¹ See n. 34 above, with *Cass. Dio* 41, 17, 3 and *Q. Aelius Tubero's* speech against the restoration of Ligarius (*Quint. inst.* 11, 1, 80 = *ORF*³ p. 528, fr. 4 *cum scilicet interque* [i.e. Pompey and Caesar] *rem publicam vellet*). The alleged saying of Caesar's, reported by a 'fanatical' Pompeian who may even have helped to instigate the Civil War ('*T. Ampius Balbus, on whom see Morgan below*) can hardly be brought into the docket against Caesar. Too little is known about the authenticity of the supposed statement, or its intended meaning in context (on which see the interesting argument of *Elizabeth Morgan, 'Levi quidem de re...': Julius Caesar as Tyrant and Pedant*, in: *JRS* 87 [1997] 23–40, esp. 25–33), or even indeed its date (it would matter whether Caesar said this in the 50s or in early 44, where *Morgan* rather speculatively puts it). See also *Welzoi* (n. 74) 486–87.

⁸² For a brief and lucid account of the controversy and the legal issues that it raised, see *Edwin D. Doever, 'The Disputed Presidential Election of 2000'* (Westport, CT etc. 2003) 16–20, 37–51. Scholarship on the dispute has focused overwhelmingly on the disputed Supreme Court decision of Dec. 12, on the 'post-election' campaign by the two candidates, see however the informative but perhaps not entirely impartial account of *James W. Cessers, Andrew E. Busch, 'The Perfect Tie: The True Story of the 2000 Presidential Election'* (Landham, MA 2001) 171–212.

⁸³ Regarding whose 'marches on Rome' Cicero incidentally recognizes their possible 'justice' (*ius*), while execrating the cruel exploitation of victory that followed (*Att.* 9, 10, 3).

towns of Italy, while the social and political élites (*equites* and senators) were deeply divided. *Hermann Strasburger's* oft-repeated claim that Caesar's reaction prompted unanimous revision depends on the assumption that only 'responsible opinion' should count (thus effectively excluding those below equestrian status) and is even on its own terms a selective and insufficiently nuanced reading of the evidence – overwhelmingly Ciceronian in origin and perspective – on which his judgment was based⁸⁴.

For Caesar's army and, it appears, for most other Romans, the choice was *not* between Caesar and the Republic. Indeed, for many it must have appeared as if Caesar's *dignitas* and the *libertas* of the Roman People stood and fell together: this was no merely 'personal' matter.

3. Legitimacy

Since *Theodor Mommsen*, Caesar's decision to cross the Rubicon has been too often judged according to a legalistic 'constitutionality'. For most of the twentieth century, the 'elitist' tradition of Roman Republican history has also predisposed us to view the Senate, or the consulars in the Senate, as the sole repository and marker of republican legitimacy – an approach that is poorly equipped to handle cases in which the Senate's own behavior (or the manipulation or intimidation of the Senate by *pauci*) is in part precisely at issue. A new look at Caesar poised on the northern bank of the Rubicon calls not for a renewed 'Rechtsfrage' – or, for that matter, for a reductive and cynical 'Machfrage' – but for a consideration of the deeper question of *legitimacy*.

The modern study of legitimacy as a concept of political sociology begins with *Max Weber's* treatment of 'legitimate domination' ('legitime Herrschaft') in his magnum opus, "Wirtschaft und Gesellschaft (Economy and Society)". *Weber's* starting-point was the observation that, along with the many other factors that underpin *Herrschaft*, that is, "the probability that certain specific commands (or all commands) will be obeyed by a given group of persons", is "the belief in *legiti-*

⁸⁴ *Strasburger* (n. 28) 34–43. The response of the towns of Italy to Caesar's advance, and of many well-off 'optimates' when they learned they did not have to fear Sulla-style reprisals, suggests a different story, while Cicero affirms that the *multitudo et infimus quisque* were with Caesar from the start (above, n. 72, 73). Even among the élite group of correspondents with Cicero on whom he focuses, *Strasburger* accepts too uncritically Cicero's interpretations of their attitude or the ingraining assertions or suggestions they make in writing to one who was not in Caesar's camp. Here, prosopography is more revealing: the choice of many *nobiles* and leading senators not to rally to Pompey's standard at the outset of the conflict implies a much more complex reality (*David R. Shackleton Bailey, 'The Roman Nobility in the Second Civil War'*, in: *CQ* 10 [1960] 253–67, whose findings are qualified by *Hinrich Bruhns, 'Caesar und die römische Oberschicht in den Jahren 49–44 v. Chr.'* [Göttingen 1978] 31–63), well explored also by *Brunn* (n. 48). Note Cicero's characterization of the anti-Caesarian cause as rather anemic even before Caesar demonstrated his clemency at Corfinium: *in qua nullus esset ordinum, nullus apertus privatorum dolor* (*Att.* 8, 3, 4).

maxy)" ("der Legitimitätsglaube")⁸⁵. Weber saw that people do things they are asked, or ordered, to do not merely because they have no choice, or because it is in their material interest, or from force of habit, but also because (rightly or wrongly) they think the request is legitimate. The very concept of legitimacy is in fact politically fraught⁸⁶, since from an anarchist-libertarian or rational-choice point of view giving any ground to 'willing obedience' places an undue and frequently insidious limitation on personal freedom, and is likely to be dismissed as mere 'false consciousness' by the Marxists. Yet despite some efforts to 'de-legitimise' the very concept of legitimacy from these positions, most of us seem willing to accept that here Weber put his finger on an important social reality, whether or not we are all happy about it⁸⁷.

Weber's own use of the concept was to establish a typology of regimes on the basis of the differing ways in which they derive this sense of legitimacy: according to his seminal but now rather tired scheme, three historical 'ideal types' of *Herrschaft* draw legitimacy respectively from time-honored tradition, a leader's personal charisma, or legal and administrative rationality. He was less interested in exactly how the 'belief in legitimacy' was created (or lost) in political subjects, thus giving rise to the criticism that Weber treats legitimacy as something located essentially in the mental plane and more or less unaccountable (except as 'false consciousness') and inscrutable to an observer except perhaps to measure it in an opinion poll⁸⁸. David Beetham, a leading contemporary theorist of political legitimacy, has instead turned attention to how legitimacy is something actively construed by subjects interpreting accessible social facts. He posits three fundamental bases for subjects' construction of legitimacy ('dimensions' or 'levels' of legitimacy): *legality*

⁸⁵ Max Weber, *Economy and Society*, transl. Ephraim Fischhoff et al. (New York 1968) 212-13 = *Wirtschaft und Gesellschaft* (Cologne etc. 1964) 157 (ch. III.1).

⁸⁶ David Beetham, *The Legitimation of Power* (Atlantic Highlands, NJ 1991) 3-41, offers an effective defense of the concept while forcefully critiquing the Weberian emphasis on 'belief' (see further below). A concise introduction appears in *idem*, *Political Legitimacy*, in: Kate Nash, Alan Scott (Eds.), *The Blackwell Companion to Political Sociology* (Malden, MA etc. 2001) 107-16. See also Rodney Barker, *Political Legitimacy and the State* (Oxford 1990) 1-65. Jürgen Habermas's currently influential 'discursive' conception of legitimacy explored in *Legitimationsprobleme im Spätkapitalismus* (Frankfurt 1973)/*Legitimation Crisis* (Boston 1975) and *Faktizität und Geltung* (Frankfurt 1992)/*Between Facts and Norms* (Cambridge, MA 1996) is of limited use to historians since it presumes culture-specific, 'modernist' criteria of legitimacy. For the bifurcation in analyses of legitimacy between a normative, philosophical strand of thought and a descriptive, social-scientific one, see Beetham, *Legitimation of Power* (n. 86) 3-15.

⁸⁷ See, however, James C. Scott's thought-provoking conception of 'hidden transcripts' of resistance cloaked by apparent surface compliance that may be mistaken for a 'belief in legitimacy' (*Domination and the Arts of Resistance* [New Haven 1990]). Cf. Beetham, *Legitimation of Power* (n. 86) 27-37, and *idem*, *Political Legitimacy* (n. 86) 108-10; also Barker (n. 86) 20-44. Beetham cogently answers the Marxist dismissal of legitimacy as ideology at 104-108; cf. Barker's review of the Marxist tradition (to Habermas) at 84-106.

⁸⁸ Beetham, *Legitimation of Power* (n. 86) 7-15; 23-25. Barker defends Weber on the grounds that "this concern was in the first place not to account for domination, but to describe it" (n. 86) 47; cf. 58-59); see also Frederike M. Barnard, *Democratic Legitimacy: Plural Values and Political Power* (Montreal etc. 2001) 30-33.

(adherence to the established law or custom), *normative justifiability* (adherence to central political values and beliefs), and what he calls in a quasi-technical sense *legitimation* (that is, confirmation and affirmation by public acts of consent, such as elections)⁸⁹. Legitimacy is thus plausibly seen as 'multi-dimensional', not an "all-or-nothing affair"⁹⁰.

An important consequence (and advantage, I believe) of employing Beetham's development of the Weberian concept of legitimacy in our current context is that it forcefully reminds us that the major target of legitimacy-claims is the general population, and therefore that the fundamental perspective from which they should be analyzed is that of the citizenry, not of a narrow political élite. On this view, legitimacy as a sociological concept (as opposed to a legal or philosophical one) is invoked above all to explain the 'willing obedience' of subordinates to *Herrschaft*, and while the acceptance of legitimacy among a political élite is certainly an important part of this story priority in the analysis must go to the stratum (or various strata) of citizens not involved in the governmental apparatus⁹¹. It follows in my view that it is no longer enough to write as if the Senate or the consuls within the Senate were the sole or central locus and measure of legitimacy. Second, by referring an account of legitimacy back to phenomena in the public, social world (rather than to a private and strictly speaking inscrutable mental world), and by insisting that legitimacy is the result of a rational *construction* by political subjects rather than a mere belief, Beetham gives the observer the tools with which to assess degrees and nuances of legitimacy according to appropriate, culture-specific standards in a given historical context. Since each of the three 'dimensions' may be manifested in ways distinctive to a given society, and all are anchored in the norms and values of historical political subjects rather than those of the observer, the theory appears to be a self-adjusting mechanism, as it were, adaptable to a very wide variety of complex political systems⁹². There seems to be no evident reason why it should not be broadly applicable to Republican Rome, which certainly placed emphasis on the legitimating force of law, societal values and norms, and collective manifestations of support⁹³. But this larger question need not be resolved with finality here. My purpose at present is simply to use the theory to frame some old questions in a new and instructive way.

⁸⁹ Beetham, *Legitimation of Power* (n. 86) 15-24.

⁹⁰ Beetham, *Legitimation of Power* (n. 86) 19-20.

⁹¹ Weber in fact emphasized the role of legitimacy both upon subordinates and upon élites on whose solidarity and support states often depend most directly: for a nuanced pluralistic use of the concept, see Barker (n. 86) esp. 107-28. Yet Beetham seems right to insist on the more fundamental causal importance of a regime's moral authority among the mass of its subjects, for which a central élite is probably a necessary though not a sufficient condition (*Legitimation of Power* [n. 86] 32-33; *Political Legitimacy* [n. 86] 108-9).

⁹² Beetham, *Legitimation of Power* (n. 86) 21-23. It is notable that Beetham's three 'dimensions' of legitimacy embrace the central legitimating mode of each of the three Weberian ideal-types of historical *Herrschaft* (24).

⁹³ The special legitimating force of Roman religion seems to be subsumable into all three of Beetham's 'dimensions'.

A virtue of the theory is that it helps us distinguish *legality* from *legitimacy*.⁹⁴ Legality is a constituent of legitimacy, but one among others, and indeed if legality is not in harmony with society's values and beliefs (normative justifiability) then its contribution to legitimacy is short-circuited, as it were. This was, I have tried to show, the fate of the senatorial decrees against Caesar in January, 49, in particular the 'Emergency Decree' of January 7. Republican political values did not condone a pre-emptive strike against a victorious and popular commander to prevent the Roman People from electing him consul with the free exercise of their vote, particularly when his right to stand was founded on a law of the Roman People, and even less so when the move against him entailed suppressing the tribunician veto. Pompey and Cato will not have seen things that way, but again it must be stressed that it is a *society's* norms and beliefs that are at issue for legitimacy – which is after all a source of acquiescence for subordinates – not merely those of an elite status-group. On the contrary, in fact, Caesar's claims to legality appear much stronger, in that they were not deeply undermined by contradictions with republican values and traditions: above all he could point to the Law of the Ten Tribunes, which provided the legal basis for his entire stand, and whose function was to ensure that he would receive the honorific homecoming which his labors on behalf of the Republic richly merited in the eyes of most citizens. Again, as regards normative justifiability, Caesar's stand on behalf of *dignitas*, of the fundamental principle of the 'meritocracy', and the exclusive popular right to apply it, seems unassailable from the viewpoint of the citizenry as a whole. Finally, although only the election of his foes were trying to prevent would have given decisive legitimation (in *Beetham's* sense) by public acts of consent or approval, the fact that our sources treat its favorable result for Caesar as a foregone conclusion indicates that popular support for him must have been palpable. Caesar could also point to the supplications voted in his honor by the Senate and celebrated by the People, and above all the lopsided senatorial vote of 370–22 in favor of Curius's proposal for mutual disarmament of both Caesar and Pompey, after which Curius was showered with flowers by his audience in the *comitio*.⁹⁵ On the other side, Caesar's enemies made little headway even in the Senate before January of 49% and they seem to have regarded mass persuasion in the Forum as entirely a lost cause. 'Legitimation' through public collective action would have worked in favor of Caesar, if anyone.

All in all, then, Beetham's theoretical framework suggests that there was a rather serious 'legitimacy deficit' on the Pompeian side at the outbreak of the Civil War. Since the concept of legitimacy as used here is descriptive rather than normative, this does not mean that Caesar was 'right' according to some transcendent political or moral rationale but that he is likely to have been able to mobilize more 'willing

obedience' among his countrymen than could the opposing side. The problems of morale that the Pompeians suffered during the opening campaign of the war seem to bear out this suspicion, and seem to confirm the analysis.

As one regards the political system as such, there is little or no reason to suppose that Caesar's crossing of the Rubicon implies that the traditional *res publica* had lost the allegiance of many or most of its citizens.⁹⁷ If the analysis above is largely correct, the opposite may even be true. Not, on the face of it, was Caesar's quarrel with the Senate as such. While in a purely formal sense the conflict in January, 49, was between the Senate, expressing its will through its decrees, above all the 'Emergency Decree' of January 7, and a proconsul who denied the legitimacy of those decrees, it is also apparent that in word at least Caesar did not deny legitimacy to the Senate but to the *factio paucorum* who (he argued) had robbed the august council of its ability to express its will freely, and had 'hi-jacked' its formal powers to use as a weapon against their enemy. At the beginning of the "De bello civile" Caesar indeed presents himself, both through his authorial comment and as a character in his story, as the *defender* of the Senate as an institution against those who would intimidate or stampede it.⁹⁸ Caesar's stated respect for the Senate *as an institution* thus neatly matches the traditional 'popular' critique – not of the Senate as such, but of those who currently led the council or even bent it to their will.⁹⁹ Whatever therefore were Caesar's innermost thoughts, the men who marched with him did not have to tell themselves that they were rebelling against the Senate or overthrowing the Republic. They marched "to liberate it from a faction."¹⁰⁰

⁹⁷ Contra esp. *Peter A. Brunt's* view, whose overall diagnosis is well represented by the stimulating lead essay in *Brunt* (n. 75) 1–92. I would dispute in particular *Brunt's* (by no means unique) tendency to conflate obedience to the (contemporary) Senate with loyalty to the *res publica*. My view is close to, and originally inspired by, *Christian Meier's* persuasive argument that in the Late Republic various crisis tendencies did not, in fact, produce a 'crisis of legitimacy' (see [n. 281] 197 = 248–49 in the original, and for the background [n. 50] esp. 1–6; 45–63; 128–51; 201–205; 301–306, with his reply to the criticisms of *Brunt* and others at xx–xxx). However, *Meier's* consideration of 'legitimacy' is rather under-theorized (the concept probably should not extend to mere 'lack of an alternative'; see for instance *Barke* [n. 86] 29–37; 56–61; but this is probably not a devastating omission), and it does, I think, pose a contradiction with his own interpretation of Caesar as living in a 'separate reality' – one in fact inhabited, as this paper has stressed, by wide sectors of the Roman citizenry.

⁹⁸ *Caes.* civ. 1, 1, 3 [Lentulus attacks a largely pro-Caesarian Senate that might well *continue* to show favor to the proconsul]; 1, 2, 6 [vote of senators *inviti et coacti* for the decree vetoed by Antonius and Cassius]; 1, 2, 7–4, 5 [continued pressure by *inimici Caesaris* and Pompey by which *plerisque vero libere decernenti potestas eripitur*]; 1, 9, 5; *discredat in Italia omnes ab armis, metus e crinita tollatur, libera comitia <shabeantur?>* H. Fuchs: *atque omnis res publica senatai populique Romano permittitur*. Note also *Hirtius*, [*Caes.*] Gall. 8, 52, 3: *neque contra senatus auctoritatem ut aliquid faecerit adducta potuit, iudicabat enim libertas sententias patrum conscriptorum causam suam facile obtineri*. For the *factio paucorum*, see *Caes.* civ. 1, 22, 5, *Hirtius*, [*Caes.*] Gall. 8, 52, 3, with *Morstein-Marx* (n. 2) 218–19. For interesting discussion of Caesar's 'pro-senatorial' rhetoric, see *Radtlaub*. *Dignitas* contentio (n. 25) 165–70, with some new points of emphasis in *idem*, *Caesar the Liberator?* (n. 25) 52–56.

⁹⁹ *Morstein-Marx* (n. 2) 230–32.

¹⁰⁰ As is frequently noted, Augustus would echo his great-uncle's claim in the opening of his *Res Gestae*; Caesar should not be held accountable for this.

⁹⁴ *Beetham*, *Legitimation of Power* (n. 86) 4–5, 121–26.

⁹⁵ [*Caes.*] Gall. 8, 52, 4–53, 2: *magnum hoc testimonium senatus erat univorsi* (§1). For the vote-count, see *App.* civ. 2, 30; *Plut.* Pomp. 58, 5; for the flowers, *App.* civ. 2, 27; *Plut.* *Caes.* 30, 2; *Pomp.* 58, 5.

⁹⁶ Note *Cic.* (*Caelius*) fam. 8, 13, 2; *Att.* 7, 7, 5.

Appendix

In characterizing Caesar at the outbreak of the Civil War as placing his personal interests over those of the state, *Hermann Strasburger*, *Christian Meier*, and *Kurt Raafflaub* have each made notable use of the famous anecdote, evidently reported by Asinius Pollio, in which Caesar at the far bank of the Rubicon weighed the evil consequences for himself if he yielded against the evil done to “all men” if he crossed¹⁰¹. But Pollio’s story probably cannot hold the weight attributed to it. To begin with, it may well be too good to be true. The vacuum left by Caesar’s own account at this moment of boundary-transgression was obviously abhorrent to later historians, poets and biographers¹⁰². Nor was his version the only one: his revelation of the precise content of Caesar’s musings before crossing the Rubicon is interestingly missing or downplayed in Suetonius’ broadly parallel but distinctive account, which says only *reputans quantum moliretur* (Jul. 31.2); but perhaps this too goes back to an eyewitness account, such as those of Oppius or Balbus¹⁰³. Since at the time Caesar could hardly in fact treat it as a certainty that his crossing of the Rubicon would actually bring ‘evil to all men’ (note the peace negotiations shortly after the outbreak of hostilities) it seems quite likely that the story was invented with the benefit of hindsight. However, even if the story is entirely true it should not be pressed into service to serve a function that is quite alien to it in its context. Caesar’s problem is a standard moral dilemma worthy of a rhetorical *maasoria*, i. e., should a man sacrifice himself to spare many others¹⁰⁴? The question sets aside entirely the potential external justification that the individual might have for *not* yielding; or rather, the force of the dilemma actually *depends* on the unstated assumption that he did have strong justification for *not* yielding. “The little scene” (as *Ernst Badian* once dismissively called it) should not be made emblematic of Caesar’s conception of his *dignitas*; the anecdote is not, in fact, about republican *dignitas* at all.

¹⁰¹ *Plut. Caes. 32, 5; App. civ. 2, 35; Strasburger* (n. 28) 34; *Meier* (n. 28) 3–4 (14–15 in the German original); *Raafflaub*, *Dignitatis contentio* (n. 25) 213.

¹⁰² *Cordula Brunscher*, *Analysen zu Suetons Divus Julius und der Parallelüberlieferung* (Bern etc. 1958) 76–77; *Jehne* (n. 50) 26–29, 40–41; cf. *Timothy P. Wiseman*, *Crossing the Rubicon, and Other Dramas*, in: *SCI 15* (1996) 152–58, at 153: “*historia* proper demanded a scene worthy of the moment and Pollio duly provided it”. It is possible that Pollio adapted the idea from *Thuk.* 2, 12, 3 (*Ernst Kornemann*, *Thukydides und die römische Historiographie*, in: *Philologus* 63 [1904] 148–53, at 148–49).

¹⁰³ *Gerhard Dobesch*, *Einige merkwürdige Überlieferungen über Caesar*, in: *Nachrichtenblatt der Archäologischen Gesellschaft Steiermark* 1–2 (1999) 49 n. 134. On Pollio’s use of eye-witness testimony to construct an authoritative persona in an inherently partisan context, see *Llewellyn Morgan*, *The Autopsy of C. Asinius Pollio*, in: *JRS* 90 (2000) 51–69.

¹⁰⁴ Cicero posed a similar dilemma for Pompey regarding his plan to fight his way back to Rome: *Att.* 9, 6, 7; cf. *Att.* 9, 10, 3; 10, 4, 3.