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Tax resistance and voluntary contributions in the Middle Roman Republic

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Abstract: Nella Roma repubblicana le forme di tassazione dei cittadini erano considerate in modo negativo e la plebe, attraverso i suoi rappresentanti, tentò più volte di reagire; anche i ricchi cercarono di sottrarsi ai loro doveri. Non sono mancati, tuttavia, casi di contribuzioni volontarie: il ruolo degli esempi, l'aspettativa di un rimborso o, meglio, di un profitto e il timore di perdere tutto in caso di sconfitta in guerra sembra essere stato decisivo in tal senso. Purtroppo, per la Repubblica medio-romana possiamo ricostruire tutti questi eventi solo grazie alle informazioni fornite da autori che scrivono secoli dopo, ma non tutti i dettagli delle storie devono essere considerati anacronistici. Lo scopo di questo articolo è mostrare come il governo abbia cercato di convincere i cittadini a pagare e chi, in definitiva, ha tratto profitto da questa situazione.
Keywords: tassazione, contributi volontari, motivazione, plebe, cittadini benestanti.

In Republican Rome taxation was very often unpopular. Romans found three solutions to this problem: 1) do not pay taxes, 2) offload the weight of taxation onto someone else or 3) fuel the growth of personal wealth. In Roman republican times the last two seem to have been the only possible solutions.

Firstly, I will examine all of our sources concerning willingness or unwillingness to pay taxes and consider who had to pay; I will then discuss whether some sources are to be considered anachronistic for our purposes; finally, I will try to offer a reasonable picture of the matter, answering the question of how the Republic could persuade citizens to pay taxes and who, ultimately, took advantage of this situation.

1. Willingness or unwillingness to pay

Of course, a Republic has to be based on the agreement of its members and their willingness to 'bear fardels' for the benefit of all[1]. Sometimes, however, needs (*necessitas*) must: writing in the first century BC, Cicero claimed that citizens should not normally pay tributes (he is referring to the *tributum*, which I will discuss shortly)[2]; however

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1 This statement is rightly and repeatedly stressed also by J. France, *Tribut. Une histoire fiscale de la conquête romaine* (Paris 2021) 26, 34, 36, 49, 53, 219–220, 347, 350, 376, 378.

2 Cic. *Off.* 2.21.74: *Danda etiam opera est, ne, quod apud maiores nostros saepe fiebat propter aerarii tenuitatem assiduitatemque bellorum, tributum sit conferendum, idque ne eveniat, multo ante erit*

> If any state (I say 'any', for I would rather speak in general terms than forebode evils to our own; however, I am not discussing our own state but states in general) – if any state ever has to face a crisis requiring the imposition of such a burden (*necessitas huius muneris*), every effort must be made to let all the people realize that they must bow to the inevitable, if they wish to be saved[3].

Willingness to pay was an essential factor for Roman fiscality; that was the principle which pushed the Senate to introduce *tributum*, a levy to fund the army which was defined 'une contribution directe extraordinaire sur la fortune', a 'theoretically refundable' property tax[4]: according to Livy, when *tributum* was introduced in 406 BC to pay *stipendium*, the tribunes of the Plebs objected to it, claiming that 'the senators had therefore been generous at other men's expense' (*patres ex alieno [...] aliis largitos*)[5], because 'for where, they asked, could the money be got to-

providendum. 'The administration should also put forth every effort to prevent the levying of a property tax, and to this end precautions should be taken long in advance. Such a tax was often levied in the times of our forefathers on account of the depleted state of their treasury and their incessant wars' (ed. and transl. W. Miller).

3 Cic. *Off.* 2.21.74: *Sin quae necessitas huius muneris alicui rei publicae obvenerit (malo enim quam nostrae ominari; neque tamen de nostra, sed de omni re publica disputo), danda erit opera, ut omnes intellegant, si salvi esse velint, necessitati esse parendum* (ed. and transl. W. Miller). P. Cerami, *Aspetti e problemi di diritto finanziario romano* (Torino 1997) 55; J.W. Atkins, *Roman Political Thought* (Cambridge 2018) 68. This was the case of the Second Punic War, as N. Rosenstein "*Bellum se ipsum alet?* Financing Mid-Republican Imperialism", in H. Beck/M. Jehne/J. Serrati (eds.), *Money and Power in the Roman Republic* (Brussels 2016) 129 pointed out.

4 J. France, "Les catégories du vocabulaire de la fiscalité dans le monde romain", in *Vocabulaire et expression de l'économie dans le monde antique.* Textes réunis par J. Andreau et V. Chankowski (Bordeaux 2007) 337; J. Tan, *Power and Public Finance at Rome (264–49 BC)* (Oxford 2017) 93; see already G. Luzzatto, s.v. *Tributum*, in *Novissimo Digesto Italiano* 19 (1973) 852, H.C. Boren, "Studies relating to the *stipendium militum*", *Historia* 32 (1983) 430 and J. Muñiz Coello "El *stipendium*, el cuestor y *qui aes tribuebat* (Gai *inst.* IV 26)", *Klio* 93 (2011) 131. As B. Bleckmann, "Roman War Finances in the Age of the Punic Wars", in H. Beck/M. Jehne/J. Serrati (eds.) *Money and power in the Roman Republic* (Bruxelles 2016) 87 has noted, 'in some cases, the *tributum*, which was by no means collected every year, had the character of a more or less voluntary loan rather than a tax'. About the much discussed refundability of the *tributum* see now M. Morelli, "L'efficacia nel tempo delle norme tributarie romane", *Teoria e storia del diritto privato* 12 (2019), 25 for further bibliography.

5 A similar but inverted line of reasoning was used by Cicero; he accuses those who want to gain popularity by making a gift of something they do not own: *qui vero se populares volunt ob eamque causam aut agrariam rem temptant, ut possessores pellantur suis sedibus, aut pecunias creditas debitoribus condonandas putant, labefactant fundamenta rei publicae, concordiam primum, quae esse non potest, cum aliis adimuntur, aliis condonantur pecuniae, deinde aequitatem, quae tollitur omnis, si habere suum cuique non licet* (Cic. *Off.* 2.22.78). 'But they who pose as friends of the people, who for that reason either attempt to have agrarian laws passed, in order that the occupants may be driven out of their homes, or propose that money loaned should be remitted to the borrowers, are undermining the foundations of the commonwealth: first of all, they are destroying harmony, which cannot exist when money is taken away from one party and bestowed upon another; and second, they do away with equity, which is utterly subverted, if the rights of property are not respected' (ed. and transl. W. Miller). C. Tiersch, "Political Communication in the Late Roman Republic: Semantic Battles between *Optimates* and *Populares?*", in H. van der Blom/ C. Gray/C. Steel (eds.), *Institutions and Ideology in Republican Rome. Speech, Audience and Decision* (Cambridge 2018) n. 110.

gether, save by imposing a tribute on the people?' (*unde enim eam pecuniam confici posse nisi tributo populo indicto?*). However, senators 'were themselves the first to contribute' (*patres [...] conferre ipsi primi*), 'most faithfully, according to their rating' (*summa fide ex censu*): their example was followed by wealthy plebeians (*primores plebis*) and then the Plebs (*vulgus*, here in Livy's piece) 'vied with one another who should be the first to pay' (*certamen conferendi est ortum*)[6]. The antonym pair *patres/populus*, very common in Roman history, which was characterised by duality, as S. Pittia rightly pointed out, has here become more nuanced to explain the participation of all levels of tax payers[7]; nevertheless, willingness was the guiding principle and virtuous practices and behaviours were shown as shining examples to follow. On the other hand, the motivations, though legitimate, of those who were 'contributing against their will' (*inviti conferentes*) were presented as a problem for the Roman Republic, which was a logical conclusion to reach[8]!

There were other, more exceptional levies; they were defined *tributum temerarium* and were put in place in times of urgent necessity[9]. Especially in those circumstances, willingness was an essential factor.

In 242 BC leading citizens (οἱ προεστώτες) provided the ships for the final battle against the Carthaginians, but only if their spending would be reimbursed; their vaunted 'patriotism and generosity' (εἰς τὰ κοινὰ φιλοτιμία καὶ γενναιότητα) were possible only 'on the understanding that they were to be repaid if the expedition was successful' (ἐφ' ᾧ τὴν δαπάνην κομιοῦνται κατὰ λόγον τῶν πραγμάτων προχωρησάντων)[10]. In 214 BC, thanks to the generosity (*benignitas*) of different parts of the population (publicans, slave owners, knights, centurions, orphans and widows), it was possible not to burden the *aerarium*; but publicans and slave owners expected their money at the end of the war (*bello confecto*) and the possessions of orphans and widows were actually administered by a *quaestor*, who had to pay

6 Liv. 4.60 (ed. and transl. B.O. Foster). On the value of the examples, especially of single historical characters, in Livy's work see J.D. Chaplin, *Livy's Exemplary History* (Oxford 2000). H. Zehnacker, "Rome: une société archaïque au contact de la monnaie (VIe–IVe siècle)", in *Crise et transformation des sociétés archaïques de l'Italie antique au Ve siècle av. J.-C.* (Rome 1990) 323 rightly supposes that this tale can be a "réedition" rather than a "projection dans le passé" of that of 210 (Liv. 26.35–36), for which see *infra*, n. 13.

7 S. Pittia, "L'invisible hiérarchie censitaire romaine", in *Vocabulaire et expression de l'économie dans le monde antique.* Textes réunis par J. Andreau et V. Chankowski (Bordeaux 2007) 168.

8 Liv. 5.10.4; see also 5.20.7–8. The problem caused by unwillingness to pay is stressed by Tan, *loc. cit.* (n. 4) 93–94.

9 Fest. s.v. *tributorum conlationem* (p. 500 ed. W.M. Lindsay). A. Berger, s.v. *tributum temerarium*, in *Encyclopedic Dictionary of Roman Law*, Transactions of the American Philosophical Society, 43,2 (Philadelphia 1953) 745; Cerami, *loc. cit.* (n. 3) 43–44.

10 Pol. 1.59.6–7 (ed. T. Büttner–Wobst, my own transl.). Tan, *loc. cit.* (n. 4) 111 and n. 72, with discussion and bibliography.

on their behalf[11]. It has to be noted that, a little earlier that same year, there had been another non-voluntary contribution[12].

In 210 BC, during a very difficult economic situation, the consuls proposed that all the citizens, 'according to their census and classes, as before' (*ex censu ordinibusque, sicut antea*), would provide thirty days' money and food; however, 'in response to that edict there was such a protest among the people, such indignation' (*ad id edictum tantus fremitus hominum, tanta indignatio fuit*): people said that 'as for themselves, they could not be compelled by any force, by any authority, to give what they did not have' (*se ut dent quod non habeant nulla vi, nullo imperio cogi posse*)[13]. Therefore, consul Laevinus decided to change tack: he exhorted senators to give almost all the gold, silver and money that they had, in order to give an example to the rest of the population and to urge it to do the same; 'if there is a duty which you wish to lay upon an inferior, and you first set up the same obligation as against yourself and your family, you more readily find everyone submitting', as Laevinus said in a speech that was defined an example of 'etica fiscale', tax ethics[14]. This was, according to Livy, a successful strategy: senators gave as *voluntaria conlatio*, 'voluntary contributions', only a small part of their fortune, but even that small part was so impressive that it urged the others to do the same, because the equestrians followed the example of the senators and the plebeians followed the example of the equestrians; it began a *certamen adiuvandae rei publicae*, 'competition in helping the republic', as in 406 BC. As a result, the sum needed to set up the fleet was collected:

11 Liv. 24.18.10–15 (ed. F.G. Moore). C. Nicolet, "Le *stipendium* des Alliés Italiens avant la guerre sociale", *PBSR* 46, (1978) 2; P. Peppe, *Posizione giuridica e ruolo sociale della donna romana in età repubblicana* (Milano 1984) 49; F. Pina Polo/A. Díaz Fernández, *The Quaestorship in the Roman Republic* (Berlin/Boston 2019) 95.

12 Liv. 24.11.7–9; see *infra*, n. 34. Similarly, the publicans that normally participated in the auctions would have required payment only at the end of the war and the same was said by the owners of freed slaves who expected a reimbursement: Liv. 24.18.10–12; Val. Max. 5.6.8.

13 Liv. 26.35 (ed. and transl. F.G. Moore). This tale is not to be considered entirely truthful: as C. Nicolet, Tributum. *Recherches sur la fiscalité directe sous la République romaine* (Bonn 1976) 73–76 and 78–79 has already noted, it is likely that the protesters were, if not wealthy, at least not the poorest, that is the same persons who had to provide the non-voluntary contribution in 214 BC (Liv. 24.11.7–9: see *infra*, n. 34); in other words, the small and middle landowners; *contra*, see Tan, *loc. cit.* (n. 4) 134 n. 44 (see also 140): 'the affected taxpayers were limited to the upper property classes'; N. Rosenstein, "Aristocrats and Agriculture in the Middle and Late Republic", *JRS* 98 (2008) 25, who considers this episode historical.

14 Liv. 26.36 (ed. and transl. F.G. Moore): *"si quod iniungere inferiori uelis, id prius in te ac tuos si ipse iuris statueris, facilius omnis oboedientis habeas"*; Cerami, *loc. cit.* (n. 3) 58–59. See also Liv. 34.6.14 (eds. W. Weissenborn/M. Müller/W. Heraeus, transl. E.T. Sage), who refers to those years: 'we all, following the example set by the senators, gave our gold and silver for the public use' (*aurum et argentum omne ab senatoribus eius rei initio orto in publicum conferebamus*).

> The knightly order followed this unanimity of the senate, the populace that of the knights. Thus without an edict, without constraint on the part of any magistrate, the state lacked neither oarsmen to fill the complement nor their pay[15].

Once again, instead of coercion, willingness was the guiding principle in solving the economic issue, yet here again wealthy people did not donate but merely lent their possessions: the equivalent of the loan was repaid in three instalments, although not punctually[16].

Another example of voluntary contribution is famous: the contribution in jewellery from Roman *matronae*, almost at the end of the Punic war. While it is debatable whether the first or second Punic war is referred to in this piece, the majority of scholars believe it to be the second[17]. Hortensia, daughter of the famous orator Hortensius, speaking before the triumvirs in 43 BC, remembered that women had never paid taxes[18], but that *matronae* voluntarily donated their jewellery to aid the Romans in winning the war against the Carthaginians; nevertheless, Hortensia said, instead of gifting land, houses and so on, 'without which life is not possible for free women', they gave only a part of their jewellery (ἀπὸ μόνων τῶν οἴκοι κόσμον); ultimately, they gifted 'what they themselves were willing to give' (ὅσον ἐβούλοντο αὐταί).

This tale does not seem to be a *hapax* in the Roman world and its history; according to Livy, the gold needed to make a golden crater as an offering to Apollo

15 Liv. 26.36.8–12 (ed. and transl. F.G. Moore): *hunc consensum senatus equester ordo est secutus, equestris ordinis plebs. Ita sine edicto, sine coercitione magistratus nec remige in supplementum nec stipendio res publica eguit.* Tan, *loc. cit.* (n. 4) 137–138 has defined it "a dramatic set piece", similarly to Muñiz Coello, *loc. cit.* (n. 4) 133 who spoke of 'fuerte carga dramática que el historiador imprime a todo el capítulo'.

16 Liv. 29.16.1–3 (204 BC, first instalment); 31.13 (200 BC, third instalment: the second, probably paid in 202 BC, was not mentioned); 33.42.3 (196 BC, last instalment, perhaps necessary in order to pay the sums that were not completely paid in 202). See *infra*, § 2 and C. Gabrielli, *Contributi alla storia economica di Roma repubblicana. Difficoltà politico-sociali, crisi finanziarie e debiti fra V e III sec. a.C.* (Como 2003) 164–168. On other occasions there was a delay in the payment of the sums: for example, this also happened when enemies had to be paid (cfr. Liv. 22.23.6–7: *tardius erogaretur*).

17 App. *B. Civ.* 4.33.141–142 (eds. P. Viereck/A.G. Roos/E. Gabba, transl. H. White). The sentence 'when you were in danger of losing the whole empire and the city itself through the conflict with the Carthaginians' (ὅτε ἐκινδυνεύτε περὶ τῇ ἀρχῇ πάσῃ καὶ περὶ αὐτῇ τῇ πόλει, Καρχηδονίων ἐνοχλούντων) may suit better the second (see Peppe, *loc. cit.* [n. 11] 49–50), but the first Punic war threatened Rome, perhaps more than our sources would have us believe: L. Loreto, *La grande strategia di Roma nell'età della prima guerra punica (ca. 273–ca 229 a.C.). L'inizio di un paradosso* (Napoli 2007) 246.

18 This is not exactly true: the women *sui iuris* – *viduae* in a broad sense: *D.* 50.16.242.3, upon which see M. Penta, "La *viduitas* nella condizione della donna romana", *Atti dell'Accademia di Scienze morali e politiche di Napoli* 91 (1980); Peppe, *loc. cit.* (n. 11) 49 n. 100; M. Bretone, *Storia del diritto romano* (Roma/Bari 1987) 320; T.A.J. McGinn, *Prostitution, Sexuality and the Law in Ancient Rome* (New York/Oxford 1998) 150 – were invited to contribute: C. Cambria, "*Res parva magistro dicata*", in C. Russo Ruggeri (ed.), *Studi in onore di Antonino Metro*, t. I (Milano 2009) 345–347. See further on, § 2.

after the conquest of Veii was collected in 395 BC from the Roman *matronae*[19]; similarly, the gold needed to pay the tribute demanded by the Gauls after the pillage of 390 BC was collected from the *matronae* too[20]. In 389 BC the gold was paid back to them, although we do not know which gold was paid back, whether that given in 395, 390 or both (if both anecdotes are reliable)[21]. When willingness was the only solution, Roman *matronae*, alongside their patrician husbands (in my opinion, they were in fact following their husbands' examples) seem to be on the front line. However, of course, these are not actually instances of proper taxation but of extraordinary levies: Festus mentions the contribution of Roman *matronae* in 390 BC and that of 210 BC as examples of *tributum temerarium*[22].

19 Liv. 5.25.8–9, Val. Max. 5.6.8; Plut. *Cam.* 8.3; Zonar. 7.21.14–18 (p. 148 ed. Dindorf). C. Soraci, "La decima nelle fonti letterarie greche e latine. Studio sulle origini e sul significato del termine", *Quaderni Catanesi di studi antichi e medievali* n.s. I (2002) 363–366.

20 The collected gold (Liv. 6.14.12) was not sufficient and therefore Roman *matronae* gave theirs: 'when the gold in the public coffers was insufficient to make up to the Gauls the stipulated sum, they had accepted what the matrons got together, that they might not touch the sacred gold' (Liv. 5.50.7, ed. and transl. B.O. Foster: *cum in publico deesset aurum, ex quo summa pactae mercedis Gallis confieret, a matronis conlatum acceperant ut sacro auro abstineretur*; cfr. 34.5.9: 'when the City was later captured by the Gauls, how was it ransomed? Why, the matrons by unanimous consent contributed their gold to the public use' (eds. W. Weissenborn/M. Müller/W. Heraeus, transl. E.T. Sage: *iam Urbe capta a Gallis aurum, quo redempta urbs est, nonne matronae consensu omnium in publicum contulerunt?*). Cambria, *loc.cit.* (n. 18) 347–348. According to R.M. Olgivie, *A Commentary on Livy. Books 1–5* (Oxford 1965) 684, that piece is a copy of that of 395 BC, but the opposite is possible too. Nevertheless, it is hard to believe that the honor of *laudationes* – given to them, according to Livy, as a reward for having donated their personal jewellery – demanded, as a 'public–spirited gesture', 'a publicly visible repayment', to the point that 'they were given a small rhetorical space in civic life': K. Milnor, "Women in Roman Society", in M. Peachin (ed.), *The Oxford Handbook of Social Relations in the Roman World* (Oxford 2011) 611–612. About the ransom required when the City was captured by the Gauls see now U. Roht, "The Gallic Ransom and the Sack of Rom", *Mnemosyne* 71 (2018).

21 Liv. 6.4.2. T. Spagnuolo Vigorita, F. Mercogliano, s.v. *Tributi*, in *ED*, XLV (1992) 92 suppose that Livy's piece was concerning the gold paid in 390 BC and that is logical, because the gold given by the Roman *matronae* in 395 BC was a sort of indemnity for the spoils of the war, that had enriched their families; booty was often and partially employed for public purposes, to forgive the payment of the *tributum* or to give the *stipendium:* E. Gabba, "Esercito e fiscalità a Roma in età repubblicana", in *Armées et fiscalité dans le monde antique.* Colloques nationaux du CNRS (Paris 1977) 20; Muñiz Coello, *loc. cit.* (n. 4) 132–134; Ph. Kay, *Rome's Economic Revolution* (Oxford 2014) 21–85, which focuses in particular on the years of the Second Punic War; Bleckmann, *loc. cit.* (n. 4) 87; it could also be used to build votive temples: M. Aberson, *Temples votifs et butin de guerre dans la Rome républicaine* (Rome 1994).

22 Fest. s.v. *tributorum conlationem* (p. 500 ed. W.M. Lindsay): *tributorum conlationem, cum sit alia in capita, illud ex censu, dicitur etiam quoddam temerarium, ut post urbem a Gallis captam conlatum est, quia proximis XV annis census alius non erat. Item bello Punico secundo M. Valerio Laevino, M. Claudio Marcello cos. cum et senatus et populus in aerarium, quod habuit, detulit*; 'the levying of taxes, which is done per person, and that according to the census, is also said properly *temerarium*, as when it was collected after the capture of Rome by the Gauls, because, in the fifteen years which followed this misfortune, another census was not made. It was the same in the Second Punic War, under the consulate of M. Valerius Levinus and M. Claudius Marcellus, when the senate and the people carried to the treasury all the money they possessed' (my own transl.).

All of these accounts reflect similar attitudes regarding taxation; I would like to define it as a kind of "encouraged taxation", warmly supported by the Roman state at every stage of its history.

2. Who had to bear the fardel of taxation?

Answering this question requires another: which taxes are we referring to? If we are referring to *tributum*, in theory no citizen was exempt from it, as Livy's account states[23]. Obviously, the poorest citizens were already excluded from taxation, as they were from politics, by the Servian constitution[24].

But while plebeians hoped that the weight of payments would fall upon wealthy citizens, especially landowners, patricians would have liked to distribute the *tributum* among the whole population, so that the plebs would bear the greater part of it. This was evident from the above quoted text: *unde enim eam pecuniam confici posse nisi tributo populo indicto?*, 'for where, they asked, could the money be got together, save by imposing a tribute on the people?' Consider also what Livy states later on: *tribuni plebis seditiosis contionibus faciebant, ideo aera militibus constituta esse arguendo ut plebis partem militia partem tributo conficerent*, 'the tribunes of the plebs delivered seditious speeches, in which they alleged that the senators had established pay for the troops for this reason, that they might ruin one half of the plebs with fighting and the other half with taxation'[25].

The Plebs' hopes were listed by Livy, who attributes some proposals to those who wanted to become *tribuni militum* in 424 BC. The proposals were: 1) *agri publici dividendi*, 'dividing up the public domain', 2) *coloniae deducendae*, 'planting colonies', 3) *vectigali possessoribus agrorum imposito in stipendium militum erogandi aeris*, 'levying a tax on the occupants of the land and distributing the money as pay for the soldiers'[26]. This was, as rightly noted, an evident example of anachronism: the proposals of the tribunes were perfectly understandable in the Gracchan age, as they included not only the division of public land, but also the founding of colonies[27]. However, the proposal of taxing landowners to collect money for the army may not actually be so anachronistic: it could go back, if not

23 Liv. 4.60, above mentioned.

24 D.H. 4.21.2 (ed. K. Jacoby, transl. E. Cary: τοῖς δὲ πένησι τοῖς πολλοστὴν ἔχουσι τῶν πολιτικῶν μοῖραν εὐλογίστως καὶ πρᾴως φέρειν τὴν ἐν τούτοις ἐλάττωσιν, ἀφειμένοις τῶν εἰσφορῶν καὶ τῶν στρατειῶν): 'the poor, who had but the slightest share in the government, finding themselves exempt both from taxes and from military service, prudently and quietly submitted to this diminution of their power': Spagnuolo Vigorita, Mercogliano, *loc. cit.* (n. 21) 87.

25 Liv. 4.60 and 5.10.6 (ed. and transl. B.O. Foster).

26 Liv. 4.36.2 (ed. and transl. B.O. Foster): *agri publici dividendi coloniarumque deducendarum ostentatae spes et vectigali possessoribus agrorum imposito in stipendium militum erogandi aeris*; cfr. also 5.12.3. Boren, *loc. cit.* (n. 4) 429.

27 Nicolet, *loc. cit.* (n. 13) 68 and 82, who assumes that the piece reflects the situation that occurred between 167 and 123 BC.

to the fifth, then to the fourth century BC, to which the proper fiscal revolution of Rome can be dated[28] and when it is not unlikely that patricians already had significant parcels of land[29].

A piece by Dionysius of Halicarnassus reports an apparently similar proposal, advanced this time by a member of the Senate, Appius Claudius, in 486 BC: he suggested that a commission of senatorial decemvirs would measure public lands (δημοσία γῆ), some of which would be sold, the others leased for five years; the proceeds of the rent would cover payments to soldiers and supplies needed for the war[30]. This account was certainly an anachronism, as it has been recently pointed out[31], but, unlike the previous one, it could have arisen in patrician circles. Indeed, the main difference between this proposal and the previous one is that the former would concern all lands (and so it would have especially hit the patricians as traditional landowners), while the latter would only include public lands that had been leased; meaning that this measure justified and legalised the appropriation of public lands by wealthy citizens; and so we can understand why patricians proposed it. The appropriation of public lands by wealthy citizens was a much debated issue in the Gracchan period and therefore it was stressed in our sources from the first century BC, which often echo events from the second century BC.

Another similar proposal was, in fact, made by private citizens (*privati* in Livy: that is, wealthy men) in 200 BC. Ten years earlier (210 BC), as mentioned earlier, they had lent money to the Republic to defray the expenses of the second Punic war, which they now wanted returned. However, the Roman Republic could not, during a new war, repay all of its debts to wealthy private citizens and so, the same private citizens (*magna pars eorum*) had an idea (in their own interest, of course): the Republic should sell *agri venales* and they would buy them. They had to pay only a *vectigal* (one *as* per *iugerum*) on them, to show that they were lands

28 H. Humm, *Appius Claudius Caecus. La République accomplie* (Rome 2005) 375–384. 'The Appian's piece' (*BC* 1.7.26–27), concerning the rent that the Roman government demanded for occupied land, has been considered reliable (see, for instance, Th. Mommsen, *Römische Staatsrecht*, 3 [Leipzig 1887–88³] 87 and 1115, who considers it valid for the most ancient times, 'in älterer Zeit'; L. Homo, *Le istituzioni politiche romane. Dalla Città allo Stato*, tr. it. [Milano 1975] 82; Nicolet, *loc. cit.* [n. 13] 81–82; Spagnuolo Vigorita, Mercogliano, *loc. cit.* [n. 21] 88 n. 30), but it could also be an anachronism; however, in my view, it is not necessary to think it was a valid issue only in the second century BC, as has been supposed: S.T. Roselaar, *Public Land in the Roman Republic. A Social and Economic History of ager publicus in Italy (396–89 BC)* (Oxford 2010) 90–95.

29 De Martino (1979) 183–191. The same can be said for the Greek world, where taxing properties must have been an extraordinary measure, but already applied in the fourth century BC: J. Pernin, "L'impôt foncier exitait-il en Grèce ancienne?", in *Vocabulaire et expression de l'économie dans le monde antique.* Textes réunis par J. Andreau et V. Chankowski (Bordeaux 2007) 382.

30 D.H. 8.73.3 (ed. K. Jacoby, transl. E. Cary: τὸ δὲ προσιὸν ἐκ τῶν μισθώσεων ἀργύριον εἰς τοὺς ὀψωνιασμοὺς τῶν στρατευομένων ἀναλοῦσθαι καὶ εἰς τὰς μισθώσεις ὧν οἱ πόλεμοι χορηγιῶν δέονται): 'the money coming in from these rents should be used for the payment of the troops and the purchase of the supplies needed for the wars'.

31 Roselaar, *loc. cit.* (n. 28) 27.

of the State[32]. Therefore, wealthy citizens would contribute to the common cause, but they were in fact increasing their own fortunes. As Nicolet said, 'on a vraiment l'impression qu'à la foule de 210 s'est substitué un groupe étroit représentant une assez forte puissance politique et financière': a few wealthy citizens seem to control and rule the economy of the Republic[33].

Sometimes, however, there was no repayment nor possibility of profit: when the Republic needed a fleet in 214 BC, citizens were required to contribute to furnish and pay sailors, in varying degrees depending on their income and civic status; 'it was the first time that a Roman fleet was manned with crews secured at private expense' (*tum primum est factum ut classis Romana sociis navalibus privata inpensa paratis conpleretur*): indeed, this was not a voluntary contribution, but a liturgy and the money was never reimbursed[34].

Women and orphans contributed as well, albeit in a different and exceptional way, to the welfare of the homeland. Indeed, as we have seen, women did not normally pay taxes, but the *viduae* were not like other women: they (like orphans) had the possibility of disposing of their assets, so they could and had to contribute to the welfare of the homeland[35]. According to literary tradition, they were required to pay, already by the time of the monarchy, a fee for the maintenance of horses, a tax called, by Festus and Gaius, *aes hordiarium*[36], but afterwards (it

32 Liv. 31.13 (ed. E.T. Sage). L. Cracco Ruggini, "Esperienze economiche e sociali nel mondo romano", in *Nuove questioni di storia antica* (Milano 1968) 713–714; Gabrielli, *loc. cit.* (n. 16) 164–168.

33 Nicolet, *loc. cit.* (n. 13) 77; Roselaar, *loc. cit.* (n. 28) 128.

34 Liv. 24.11.7–9 (ed. and transl. F.G. Moore). Nicolet, *loc. cit.* (n. 13) 71–72; E. Baltrusch, Regimen morum. *Die Reglementierung des Privatlebens der Senatoren und Ritter in der römischen Republik und frühen Kaiserzeit* (München 1989) 54; D. Rathbone, "The *census* Qualifications of the *assidui* and the *prima classis*", in De agricoltura. In memoriam *Pieter Willem De Neeve* (1945–1990) (Amsterdam 1993) 133 and 149; M. Prell, *Armut in antiken Rom von den Gracchen bis Kaiser Diokletian* (Stuttgart 1997) 243; Cerami, *loc. cit.* (n. 3) 57–58; Rosenstein, *loc. cit.* (n. 13) 5–7 and 24–26.

35 A.J. Toynbee, *Hannibal's Legacy. The Hannibalic War's Effects on Roman Life*, I: *Rome and her Neighbours before Hannibal's Entry* (London 1965) 460–461, who thinks that widows and orphans had to pay both *tributum* and the special tax for the maintenance of horses, for which see *infra*, n. 36. But it is quite unlikely that they would pay *tributum*. The inference, supported by the expressions *praeter orbos orbasque*, 'besides orphans and widows' (Liv. 3.3.9, in 465 BC; cfr. *per.* 3) and *praeter pupillos pupillas et viduas* (Liv. *per.* 59, in 131 BC) about the existence of one (or more) separate lists including orphans and widows may also be correct, but, in my opinion, does not necessarily mean that they 'zwar steuernden', as J. Beloch, *Das italische Bund unter Roms Hegemonie: staatsrechtliche und statistische Forschungen* (Leipzig 1880) 77 supposes, or that they paid *tributum* and the tax for the maintenance of horses, as Toynbee, *loc. cit.* 461 thinks: they may have been registered to contribute to the welfare of the homeland in case of emergency economic situations, but they were not normally counted, as the above mentioned locutions attest; Livy's piece, indeed, preserved the number of taxpayers, but not that of orphans and widows: *censa civium capita centum quattuor milia septingenta quattuordecim dicuntur praeter orbos orbasque*, 'there are said to have been registered 104,714 citizens, besides orphans and widows' (Liv. 3.3.9, ed. and transl. B.O. Foster).

36 Fest. s.v. *vectigal* (p. 508 ed. W.M. Lindsay): *vectigal aes appellatur, quod ob tritum et stipendium et aes equestre et hordiar<ium> populo debetur*; '*vectigal aes*, the "tribute money" is called what is due to the people as a tribute, that is, the salary, the money for the horse and for the barley' (my own transl.); cfr. Humm, *loc. cit.* (n. 28) 134 n. 76. See also Gaius *inst.* 4.27 (ed. J. Reinach): *propter*

would be interesting to know when) it seems to have been abolished[37]. According to Plutarch, although widows and orphans were excluded from paying taxes at the beginning of the Republic, Camillus, compelled by the heavy expenses incurred by many wars, subsequently changed this situation and subjected orphans to taxation[38]. However, that was a time of urgent necessity and this practice will not have been the rule.

During the second Punic war, the money from the orphans and then that from the widows was given to the treasury, but these are presented as exceptional measures too:

> Such being now the tendency of the people to relieve the poverty of the treasury, funds, first of wards, and then of widows and single women, began also to be turned in; for those who brought in the sums believed that nowhere could they deposit them with a sense of greater safety and honesty than under the guarantee of the state. Thereafter when anything was purchased or provided for wards and widows and single women, it was paid for by an order of a quaestor[39].

Further on, Livy states that widows aided the treasury 'with their wealth' and 'widows and minors deposited their money in the treasury'[40].

Matronae did not pay taxes, because their husbands did, but, as we have already seen, they were exceptionally expected to contribute with their jewellery to the welfare of the Republic. But why did the Romans think that women had to contribute with their jewellery? Because jewellery was considered a luxury item, an

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eam pecuniam licebat pignus capere ex qua equus emendus erat: quae pecunia dicebatur aes equestre; item propter eam pecuniam, ex qua hordeum equis erat conparandum; quae pecunia dicebatur aes hordiarium; 'for that money it was allowed to take a pledge with which to buy the horse: that sum is called "money for the horse"; the same happens for the money with which to buy the horse's barley: that sum is called "money for the barley" (my own transl.)'. Liv. 1.43.9, Cic. *Rep.* 2.20.36, who do not make reference to the name of the tax. Cambria, *loc. cit.* (n. 18) 346.

37 Gabba, *loc. cit.* (n. 20) 26; Peppe, *loc. cit.* (n. 11) 138–142. *Contra*, see D.A.N. Costa, "Divieti e limiti, processuali e negoziali, applicati ai *milites* nel Tardo impero", *Cultura giuridica e diritto vivente. Rivista online del Dipartimento di Giurisprudenza–Università di Urbino Carlo Bo* 7 (2020) 9–10 and n. 36.

38 Plut. *Cam.* 2.4–5 (ed. R. Flacelière/É. Chambry/M. Juneaux). Widows and orphans excluded from paying taxes: Plut. *Publ.* 12.4 (ed. R. Flacelière/É. Chambry/M. Juneaux).

39 Liv. 24.18.14 (ed. and transl. FG. Moore): *cum haec inclinatio animorum plebis ad sustinendam inopiam aerarii fieret, pecuniae quoque pupillares primo, deinde uiduarum coeptae conferri, nusquam eas tutius sanctius deponere credentibus qui deferebant quam in publica fide; inde si quid emptum paratumque pupillis ac viduis foret, a quaestore perscribebatur.* Here the quaestor actually acted as *pro tutore gerens:* see S. Solazzi, s.v. *tutela e curatela. 1. Tutela*, in *Novissimo Digesto Italiano* 19 (1977) 917; Pina Polo, Díaz Fernández, *loc. cit.* (n. 11) 95.

40 Liv. 34.5.10 (ed. and transl. E.T. Sage): *viduarum pecuniae adiuverunt aerarium*; 35.6.14: *viduae et pupilli pecunias suas in aerarium deferebant*; Val. Max. 5.6.8. For a contextualisation of the first livian passage see lastly G. Vassiliades, "The *lex Oppia* in Livy 34.1–7: Failed Persuasion and Decline", in S. Papaioannou/A. Serafim/K. Demetriou (eds.), *The Ancient Art of Persuasion across Genres and Topics* (Leiden 2020) 117–118.

unnecessary possession; furthermore, it was a personal item, the only valuable personal possession that they had. The use of their gold was an extraordinary measure, a last resort. However, women were not always willing to get rid of their jewels. In fact, they were normally against it: Plautus says that, although many women 'go through the streets decked out with estates upon them', 'when the tax is demanded, they declare it cannot be paid'[41].

I do not intend to deal here with *portoria*; it is enough to observe that, according to Livy, at the beginning of the Republic, plebeians were relieved from paying port taxes (*portoriisque... plebes liberata*) and that wealthy men were obliged to pay them; even if this levy did not go back to the monarchic age (although it is possible)[42], it reflects the plebeians' attitude towards it: they did not appreciate taxes in general or *portoria* in particular.

3. Not to pay?

At the beginning of this paper I pointed out three solutions to tax problems: 1) do not pay taxes, 2) offload the weight of taxation onto someone else or 3) fuel the growth of personal wealth.

1) It was possible not to pay, but only for a limited time.

We know that the tribunes obtained a suspension of the payment of the *tributum* twice (although it may have happened on other occasions, which are not remembered by tradition), in the interests of the plebeians: in 401 BC, they 'forbade the gathering of the war-tax', while in 378 BC 'the senate submitted to their terms and agreed that till the war was finished no one should pay a war-tax'[43]. The third and fourth chances to do so were in 347 BC, when 'what did the most to lighten the burden was the omission of the war tax and the levy', and in 187 BC, when, 'with regard to the tax which had been paid by the people into the treasury, whatever portion of this was in arrears should be paid out of the money which had been carried in the triumph'[44]. That was a kind of authorised (and temporary) 'non-payment'.

41 Plaut. *Epid.* vv. 226–227 (ed. F. Leo, my own transl.): *fundis exornatae multae incedant per vias, / at tributum quom imperatum est, negant pendi potest.*

42 Liv. 2.9.6; the truthfulness of Livy's tale is difficult to ascertain: S.J. De Laet, Portorium. *Étude sur l'organisation douanière chez les Romains, surtout à l'époque du Haut Empire* (Bruges 1949) 45–53; Spagnuolo Vigorita, Mercogliano, *loc. cit.* (n. 21) 88; E. Fantham, "Liberty and the People in Republican Rome", *TAPhA* 135/2 (2005) 211–212.

43 Liv. 5.12.4: *tributumque conferri prohibent*; 6.31.4: *condiciones impositae patribus, ne quis, quoad debellatum esset, tributum daret* (ed. and trans. B.O. Foster). L. Amirante, "Una storia giuridica di Roma", *Rivista di diritto romano* 14 (2014; or. ed. 1982) 57.

44 347 BC: Liv. 7.27.4 (ed. and transl. B.O. Foster: *levatae maxime res, quia tributo ac dilectu supersessum*). 187 BC: Liv. 39.7.5 (ed. and transl. E.T. Sage: *ex pecunia quae in triumpho translata esset, stipendium collatum a populo in publicum quod eius solutum antea non esset, solveretur*). About the first passage see J. Tan, *The* dilectus-tributum *System and the Settlement of Fourth Century Italy*, in

But there were other, unauthorised situations. According to Livy, augurs and pontiffs did not pay *stipendium* during the war (*per bellum*), until in 196 BC the quaestors managed to force them: 'the quaestors demanded it of the augurs and pontiffs because they had not paid the taxes during the war. The priests appealed in vain to the tribunes of the people, and the money was collected for the whole period in which it had not been paid'[45]. In this case, obviously, defaulters had to pay all the arrears, but their money was used to refund the third instalment of the loan to the *privati:* this was a struggle between people of the same economic class, the wealthiest.

2) In Republican Rome the way to avoid paying taxes was by offloading the weight of taxation onto someone else.

As we have seen, plebeians or, better, tribunes of the plebs hoped that the weight of payments would fall upon wealthy citizens, especially landowners; this is a logical inference that we can make not only for the earliest times, when it is attested to and could be anachronistic, but also for the following centuries; however, it was merely a desire that could not be fulfilled in everyday life. On the other side, the patricians, great landowners, understood (in my opinion very early on) that, especially in the case of war, it was not always possible to distribute the fiscal fardel across the whole population, so they found a way to fuel the growth of their wealth: they stated they were available to contribute more than was due for the *tributum ex censu*, but they wanted to be repaid in land, thus increasing their property holdings; as a matter of fact, agriculture remained the main driver of the economy[46].

3) Increasing property holdings[47] was thus the third solution to not "grunt and sweat under a weary life", a very "aristocratic" way to take advantage of the Roman Republic's needy situation.

J. Armstrong/M.P. Fronda (eds.), *Romans at War. Soldiers, Citizens and Society in the Roman Republic* (Oxon/New York 2020) 56.

45 Liv. 33.42.4 (ed. and trans. E.T. Sage): *quaestores ab auguribus pontificibusque quod stipendium per bellum non contulissent petebant. Ab sacerdotibus tribuni plebis nequiquam appellati, omniumque annorum per quos non dederant exactum est.* A. Lintott, *The Constitution of the Roman Republic* (Oxford 1999) 136–137.

46 J.-P. Morel, "Early Rome and Italy", in W. Scheidel/I. Morris/R. Saller (eds.), *The Cambridge Economic History of the Greco-Roman World* (Cambridge 2007) 499.

47 See, for instance, Liv. 31.13. It is possible that the land received was already occupied by rich Romans: G. Tibiletti, "Il possesso dell'*ager publicus* e le norme *de modo agrorum* sino ai Gracchi", *Athenaeum* 26 (1948) 177–178. As M.H. Crawford, *Coinage and Money under the Roman Republic: Italy and the Mediterranean Economy* (London 1986) 61–62 pointed out, when in 210 BC private citizens lent money to the Republic in order to defray the expenses of the second Punic war, this was 'one of the very rare occasions on which an ancient state effectively mobilised the resources of its wealthy members'. Nevertheless, Ph. Culham, "*Lex Oppia*", *Latomus* 41 (1982) 786–787, points out that this was just 'one of the measures designed to seize private funds for public uses' in those years. In a way, increasing property holdings (F. Chemain, *L'économie romaine républicaine* [Paris 2016] 66–67) is an example of the transition, well-illustrated by N. Coffee, *Gift and Gain. How Money transformed*

4. Exploiting provincials: a new strategy to escape taxation

However, when public lands were almost all sold off and so even this way of raising money was not always feasible, Roman elites found another way to avoiding paying taxes: exploiting provincials, both taxing them and confiscating their lands, thus increasing *ager publicus*. Therefore, they resorted yet again to the second solution (offloading the weight of taxation onto someone else), but changing the parties involved: they no longer distributed the taxes across the whole population, but managed to have the majority of the fardel fall on the provincials; furthermore, they rented and exploited the new provincial lands.

In so doing, they could also gain favour with the people (senators included): unsurprisingly, one of the most eagerly awaited and wished for acts of the Roman government was the non-collection of *tributum* starting from 167 BC, after the war against Perseus[48].

Now again they could apply the third solution (fuelling the growth of personal wealth), exploiting the situation, by, as Tan has recently reiterated, seizing for themselves a substantial portion of fiscal revenues[49]. So, with the conquest of new lands, public expenditure and public gain soared together: *bellum se ipso alet*, 'war feeds on itself', the famous phrase that Livy attributed to Cato to indicate that the expenses of the war would be borne by the provincials, can be understood in a broader sense, because private citizens too would benefit from a newly conquered land[50].

5. "Educational" anachronisms

According to Livy, the role of the patricians' and wealthy men's examples was decisive in pushing others to pay.

The reliability of Livy's information has been much debated; however, Michel Tarpin recently claimed that there was an internal coherence in his tales

Ancient Rome (Oxford 2017), from the system of gifts and favours to the profit based culture: the solution proposed by the patricians it is a voluntary but self-serving contribution.

48 Plut., *Aem.* 38.1; Plin., *Nat.* 33.17.56; Val. Max. 4.3.8; Cic., *Off.* 2.22.76; even before, the *tributum* was exceptionally paid back (282 BC: D.H. 19.16.3) or not exacted. See on the subject: W.V. Harris, *War and Imperialism in Republican Rome (327–70 B.C.)* (Oxford 1979) 68–71; Boren, *loc. cit.* (n. 4) 430; E.S. Gruen, *The Hellenistic World and the Coming of Rome*, 1 (Berkeley/Los Angeles 1984) 294; Spagnuolo Vigorita, Mercogliano, *loc. cit.* (n. 21) 93; K. Buraselis, "*Vix aerarium sufficeret.* Roman Finances and the Outbreak of the Second Macedonian war", *Greek, Roman and Byzantine Studies* 37 (1996) 149–172; Cerami, *loc. cit.* (n. 3) 59; T. Ñaco del Hoyo, "*Vectigal incertum:* guerra y fiscalidad republicana en el siglo II a.C.", *Klio* 87 (2005) 374; Muñiz Coello, *loc. cit.* (n. 4) 133–134; Rosenstein, *loc. cit.* (n. 3) 130.

49 Tan, *loc. cit.* (n. 4) 68–90.

50 Liv. 34.9.12. On this topic, see Rosenstein, *loc. cit.* (n. 3).

that should not be underestimated[51]. That is certainly correct, but it is undeniable that the continuous insistence on the role of examples in the field of taxation must be regarded with suspicion.

In the Augustan era, indeed, there was an attempt to present the history of Rome as a story of examples: Livy's and Dionysius' works were written to demonstrate the value of history. Of course, the Augustan era was a period of moralisation and a return to ancient customs: writers, historians above all, had the task of educating new generations to imitate their ancestors' positive examples[52].

The field of taxation did not know any exceptions. As well as the *tributum*, which was introduced thanks to the senators' example, the extraordinary collections were made possible thanks to the generosity of wealthy men. Widows, orphans and *matronae* were expected to give too: Hortensia said that, if an external war threatened Rome, they would be ready to give their jewellery for the welfare of the homeland, because they would be no less virtuous than their mothers[53]. In times of emergency, the entire wealthy population, with no exceptions, was supposed to contribute and that was part of the aristocratic mentality; furthermore, the leadership's dependence on the citizenry's financial resources especially during the First Punic War[54] may have compelled senators to give a good example, in order to convince others to do the same.

But, in most cases, willingness to pay may be attributed to the expectation of a profit: for instance, landowners were well disposed towards the proposals regarding the rent of *ager publicus*, because those proposals legitimised their exploitation of them.

6. Conclusions

Did the Middle Republic have a way of convincing citizens to pay taxes? According to literary tradition, the best solution was urging the people to pay voluntarily: in this context, willingness was the guiding principle and the role of examples was decisive. This may also have been true, but it should not be forgotten that many of the stories related by Livy are partially anachronistic; furthermore, they could have originated from the ancient Roman (and then Augustan) insistence on the importance of examples.

51 M. Tarpin, "Devenir riche par le butin: données quantitatives dans l'empire romain", in C. Baroin/C. Michel (eds.), *Richesse et sociétés*. Colloques de la MAE (Paris 2013) 71.

52 See O. Hekster, *Emperors and Ancestors. Roman Rulers and the Constraints of Tradition* (Oxford 2015) for the role of ancestors' examples in the emperor's policy. The same attitude of past idealisation can be also identified in Roman view of the defeat, as M. Engerbeaud, *Rome devant la défaite (753–264 avant J.-C.)* (Paris 2017) 296–298 has rightly pointed out.

53 App. *B.Civ.* 4.33.143 (eds. P. Viereck/A.G. Roos/E. Gabba, transl. H. White): οὐ χείρους ἐς σωτηρίαν ἐσόμεθα τῶν μητέρων, 'we shall not be inferior to our mothers in zeal for the common safety'.

54 Tan, *loc. cit.* (n. 4) 93–117.

The most effective way of convincing people to pay taxes voluntarily is the expectation of a refund or, better, of a profit; that is true of the exceptional levies. However, as Cicero attests, in the case of *tributum*, the fear of losing everything (*necessitas*) must have played a greater role than willingness[55].

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55 *Supra*, n. 2.