



# *Res Publica* & THE ROMAN REPUBLIC

*'Without Body or Form'*

Louise Hodgson

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FOR MY PARENTS  
*Thank you for everything*



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*De tuis rebus nihil esse quod timeas  
praeter universae rei publicae interitum tibi confirmo.*

As for your affairs, I assure you that you have nothing to fear  
apart from the destruction of the whole commonwealth.

M. Tullius Cicero to Toranius, c. January 45,  
*Epistulae ad Familiares* 6.21.3



## Defining Terms

I remember the great Moses Finley, who tended to allow his rhetoric to run away with him, once pronouncing to a bemused audience that ‘there’s no way you can always translate *res publica* the same way into any language, including the original Latin’.

Chris Pelling

This book tells the story of an idea: *res publica*. Broadly speaking, it belongs with general studies of Roman Republican political terminology like Hellegouarc’h’s *Le Vocabulaire Latin des relations et des partis politiques sous la République* (published 1963 and still unmatched) and studies of specific terms such as *libertas* (Wirszubski 1950, Arena 2012), *maiestas* (Drexler 1956, Bauman 1967), *populares* and *optimates* (Seager 1972b, Robb 2010), *nobilitas* and *novitas* (Brunt 1982), and *factio* (Seager 1972a). It will be clear from the other inhabitants of this prospective bookshelf that my study is in no small part a philological one and I make no apologies for basing it equally in no small part on a series of close readings of as varied a range of texts as possible, given the shortcomings of the source material (more on that below). Previous work on *res publica* has been largely linguistic: Drexler (1957, 1958) examined the vocabulary and metaphors associated with *res publica*, Stark (1967) provides ‘semasiologische Untersuchungen’ that aim to reconstruct *res publica* from its constituent parts (*res*, *populus*, *publicus*, *privatus*, *sacer*, and other relevant terms), Suerbaum (1977) explores the relationship between *res publica* and monarchic power in Cicero’s *De Republica* and various imperial authors, and Turcan (2011) discusses Roman ‘notions de l’État’ chiefly from the perspective of *status rei publicae*, the condition of the *res publica*. Others engage with iterations of *res publica* in specific texts, most commonly Cicero’s *De Republica*; so Schofield (1999) examines Cicero’s use of a

property metaphor, Kempshall (2001) traces the reception of Cicero's definition of *res publica* in mediaeval and Renaissance thought, and Márquez (2012) addresses the conception of the political community this definition reveals. Rather than being a strictly linguistic study of *res publica*, my philology is cushioned with political history; and rather than dissecting a specific text or historical moment, I aim to show what *res publica* meant and was made to mean during a particular historical period, that of the late Roman Republic. Since the term was politically ubiquitous, often used emotively, and as a consequence is hard to define, the temptation to take it as a universally understood and relatively uncontroversial given is rarely resisted. A close look at how *res publica* was perceived and manipulated, however, brings into focus not just the political crises of the late Republic but also the various attempts to clean up these crises through dubiously legal (and often outright illegal) emergency measures. Although this book is at root a philological study of a political concept, it therefore aims to make a historical point about a politically turbulent period.

The first step is to work out what *res publica* meant. As Moses Finley's remark suggests, however, this is by no means a straightforward task. The main stumbling block is that *res publica* is a common term in our surviving sources, is used in a variety of ways across those sources, and very few Romans themselves ever seem to have tried to produce any sort of theoretical definition (in, again, our surviving sources). The marked lack of ancient theorizing, whether political or philosophical or legal, over what *res publica* entailed suggests the Romans were more interested in engaging with *res publica* than in developing a fully articulated concept of what it might be. This is a problem for modern readers: either we struggle to translate *res publica* in a way that accurately captures the nuances of a given context, in which case any one of a dozen different translations may stand in for the Latin term, or we resort to leaving it untranslated and assuming that everyone knows what we mean by it, which risks resulting in an equally misleading (because dangerously vague) reification. Julius Caesar might be taken to have been expressing just such a conceptual hollowness when he said (notoriously) that '*res publica* is nothing, a mere name without body or form'.<sup>1</sup> Morgan, in fact, in the course of arguing that Caesar was making an extremely pedantic grammatical

<sup>1</sup> Suet. *Jul.* 77, *nihil esse rem publicam, appellationem modo sine corpore ac specie.*

point, dismisses *res publica* as a meaningful concept at all on the basis that it was by this point a 'slogan'.<sup>2</sup> While it is true that 'in the interests of the *res publica*' (the slogan in question) might be little more than an empty refrain, this does not mean that the concepts it appeals to are meaningless; although 'the public interest' may be a slogan, for example, 'the public' is not. To put it another way, Morgan fails to distinguish between *rei publicae causa*, which is indeed a slogan, and *res publica*, which is the concept the slogan invokes. As I will argue in Chapter 5, Caesar's engagement with this concept was much more imaginative than taking his words at face value would suggest. Without understanding what *res publica* did or could mean, however, it is impossible to understand what people like Caesar were doing (or were perceived to be doing) when they invoked it in order to further their political activities.

It may be easiest to start with what *res publica* was not. Despite the temptation for translators, it did not mean 'the Roman Republic', in the sense of the political superstructure that succeeded the monarchy and lasted until the Augustan principate.<sup>3</sup> Nor was it the term for Rome's corporate identity: 'Die offizielle römische Staatsbezeichnung ist nämlich nicht etwa *res publica*, sondern *populus Romanus*, in offiziellen Dokumenten meist noch erweitert zu *senatus populusque Romanus* (SPQR).'<sup>4</sup> However, *res publica* also was not 'a republic' in the sense of a specific type of political system,<sup>5</sup> defined by the *Shorter Oxford English Dictionary* as any state 'in which supreme power is held by the people or their elected representatives' or by Flower as fundamentally "'government with the participation of the governed", rather than anarchy or tyranny'. Flower considers *res publica* to be the term through which 'Romans who came after the end of the hereditary monarchy defined the new government as the "public matter"',<sup>6</sup> but Feig Vishnia points out that *res publica* only acquired the sense of 'a state that was not subject to the rule of one man' under the

<sup>2</sup> Morgan 1997: 27.

<sup>3</sup> As pointed out by Meier 1966: 1, Schofield 1999: 180–1, Flower 2010: 10–11, Barlow 2012: 218. For less careful associations of *res publica*/the Republic, cf., for example, Mitchell 1979: 86, Ramage 1987: 39, Nicgorski 1991: 233, Millar 2002, Vasaly 2009: 123, Arena 2012: 215, Tracy 2012: 90, Feig Vishnia 2012: 57.

<sup>4</sup> Suerbaum 1977: 3–4.

<sup>5</sup> Suerbaum 1977: 11–14, 15.

<sup>6</sup> Flower 2010: 11; cf. also Taylor 1949: 167, Wirszubski 1950: 14, 88, Stark 1967: 90, Seager 1977: 10, or the casual translation of *res publica* as 'republic' by e.g. Dyer 1990.



emperors<sup>7</sup> and the Republican evidence bears her out. Cicero writes in *De Republica* that ‘when the supreme authority is in the hands of one man, we call him a *rex*, and the form (*status*) of this *res publica* a *regnum*’,<sup>8</sup> Livy has Tullus Hostilius express his intention of making ‘one city, one *res publica*’ by resettling the Albans in Rome,<sup>9</sup> and Sallust describes how the lawful rule of the early kings, supported by a select few ‘Fathers’ who provided advice (*consultabant*) for the *res publica*, initially preserved liberty and augmented the *res publica* but ultimately degenerated into pride and domination.<sup>10</sup> It is impossible to recover the terms used by the early Romans themselves, and these are late sources, but this usage is casual enough to indicate that these writers saw no inherent conflict between *regnum* and *res publica*, because they were not equivalent concepts. *Regnum* was a system of political organization, whereas *res publica* was not. A fragment of Pomponius on the beginnings of law, which relates that after the *civitas* expanded to a certain size Romulus divided the *populus* into thirty *curiae* ‘because he managed the care (*cura*) of the *res publica* through the votes of those parts’,<sup>11</sup> suggests what *res publica* was instead: not a system of organization or government, but rather the civic affairs and property that the *civitas* was organized to take care of.<sup>12</sup> In a regal system, the king was in charge, but *res publica* refers to neither the king nor the system of government. These sources suggest a genuinely literal reading of the term: fundamentally, the *res publica* is something that should be managed for the public good, but need not necessarily be managed by the public and certainly should not be read as synonymous with the public.

I stress this last point because Schofield, for example, expresses surprise that *res publica* is translated into Greek in inscriptions as *ta dêmosia pragmata*, ‘public affairs’, rather than *to koinon*, ‘the community’.<sup>13</sup> *Res publica* does not refer to ‘the’ or even ‘a’

<sup>7</sup> Feig Vishnia 2012: 61, Suerbaum 1977: 16; cf. Chapter 7.

<sup>9</sup> Liv. 1.28, *unam urbem, unam rem publicam facere*.

<sup>11</sup> Millar 2002: 52–3.

<sup>12</sup> Cf. *CIL* I.ii.iv 3031a, for example: when P. Lucilius erected an inscription to commemorate his aedileship, he stressed his exemplary use of public funds and his restoration of various temples with his own money; this presumably explains his boast that he had donated *HS XV CC* to the *res publica*. The date of the inscription is debated, but it may be imperial.

<sup>13</sup> Schofield 1999: 182; on τὰ δημόσια πράγματα see further Stark 1967: 86–9. Also taking *res publica* to be a (political) community: Ando 1999: 15, Márquez 2012: 192, 195.

<sup>8</sup> Cic. *Rep.* 1.42.

<sup>10</sup> Sall. *BC* 6.6.

community, except insofar as a *res publica* belongs to a community and is administered by a highly politicized subsection of that community that may get very confused about the difference between its interests and those of the civic affairs entrusted to its administration for the common good. This foreshadows the reason why, despite everything that has just been said, reading *res publica* literally as ‘the public thing’ can often be misleading and should usually be avoided: different parts of the same community will have different perspectives on their shared *res publica*. On the one hand, the *res publica* is the communally possessed property/business that must be administered. On the other hand, it is clear from our texts that this was not the only way to relate to the *res publica*: not only is *in re publica* a common idiom meaning ‘in public affairs’,<sup>14</sup> but junior politicians are said to enter ‘into public life’ (*ad rem publicam*).<sup>15</sup> Opposed to this is the conscious retreat from public life, *a re publica*, a much rarer phrase.<sup>16</sup> These idioms convey a sense of metaphorical space or motion: within, into, or away from. From the perspective of the political insider, then, the *res publica* is the communal space within which those concerned with the administration of civic affairs move, and so means something closer to ‘the internal political space (however it may be organized) of a given civic community’. This distinction might be described as a concrete reading versus a metaphorical reading, except for two things: (1) these readings are not necessarily in opposition to one another; (2) the crucial difference here is between *res publica* as civic business (which must be managed) and *res publica* as a sphere of action (within which political actors move). *Res publica* may be better expressed as a field of positions that changes in meaning dependent on where a person stands in socio-political space: whether, for example, someone moves within the field, is responsible for managing the field, represents the field to outsiders,

<sup>14</sup> *Rhet. Her.* 1.8, *Cic. Fam.* 1.9.18, 1.9.21, 2.3.1, 2.8.2, 2.11.1, 6.12.4, 8.1.2, 11.1.1, 12.1.2, 12.5.3, 13.29.7, *Att.* 1.13.2, 1.16.1, 1.16.9, 1.18.2, 1.19.2, 1.19.6, 2.1.6, 2.7.4, 2.11.1, 2.15.1, 3.8.3, 5.13.3, 5.14.3, 8.14.2, 9.9.3, 15.10.1, 16.5.2, *Q. fr.* 3.2.2, 3.3.2, 3.4.2, 3.5.1, *ad Brut.* 1.1.8, 2.1.1, 2.3.16, 5.3.2, 18.3.17, 23.9.6, *Div. Caec.* 8, *Ver.* 2.5.152, 2.5.153, 2.5.177, *Font.* 26, *Clu.* 85, *Agr.* 1.22, *Rab. Per.* 27, *Sull.* 9, 11, *Dom.* 113, *De Orat.* 1.78, *Q. Cic. Pet.* 41, *Sall. BJ* 31.28.

<sup>15</sup> *Cic. S. Rosc.* 3.7, *Ver.* 2.1.33, *Har. Resp.* 43, *Sall. BC* 3.3; used also of those who have entered *ad rem publicam*, *Cic. Q. fr.* 1.2.2, *Leg. Man.* 70.

<sup>16</sup> *Sall. BC* 4.1, *BJ* 4.3.

elects administrators for the field, or discusses the field with other cohabitants.

This point is an important one, since keeping in mind the perspectives adopted by particular speakers or authors makes the muddle produced by translating *res publica* using terms like 'community' and 'state' and 'the Roman government' interchangeably much clearer. One text worth close examination in this context is Cicero's *De Republica*, not least because the existence of a dialogue *de re publica* in the middle of the first century BC might make it surprising that even by this point the concept of *res publica* seems to have remained mostly unarticulated. Although the dialogue is often read as a rather unsatisfactory attempt at a Roman version of Plato's *Politeia* that equates the ideal 'state' or 'constitution' with an idealized form of the Roman Republic,<sup>17</sup> *de re publica* is another very common idiom, usually translated as 'about political matters',<sup>18</sup> and the principal speaker of the *De Republica*, Scipio Aemilianus, explicitly denies any intention of philosophical precision or comprehensiveness, since, he says, his audience consists of 'intelligent men who have been involved with great glory, both in war and at home in the

<sup>17</sup> So Degraff 1940: 149, Taylor 1949: 153, Wood 1988: 66, 126, Nicgorski 1991: 231, 234–8, Lintott 1997: 80–1, Schofield 1999: 155, Morford 2002: 70, 77, Asmis 2005: 377–9, Turcan 2011: 625. *Contra* cf. Barlow 1987, arguing that Cicero's main concern in the *Rep.* is with civic education of future politicians, and that philosophy is a means to this end; Gabba 1991: 207, 'Cicero's aim in the *De re publica*, written in 54–1 BC, was to show the historical development of the Roman state, which, through wise adjustments and increased political acquisitions, had eventually attained its finest stage after the Decemvirate, achieving a balance of the different political powers in what amounted to a true mixed constitution'; Powell 2001: 20–32, who argues against the presumption that the dialogue discusses an 'ideal state' along Platonic lines; Cornell 2001: 55–6, Cicero is 'outlining the essential features of the principal forms of government, and the changes to which they are subject, using the historical example of Rome; it is essentially a theoretical discussion within a historical framework'; Fox 2007: 80–110, for whom Cicero's 'ironic' use of history in the *Rep.* represents an interesting and imaginative engagement with Plato and 'De re publica' does not provide a clear outline of the Roman state; what it does instead is confront the very question of how to combine an understanding of Rome's history with theoretical discussions of ways of making states work more effectively' (104). The issue is complicated by the dialogue's fragmentary condition and its genre, which invites scepticism over which, if any, of the characters speak for their Academic author; so Barlow 1987: 357, Nicgorski 1991: 232, Annas 1997: 172, Fox 2007: viii, 2–8, 43–67, 80–2. On possible relevance to contemporary events cf. Geiger 1984.

<sup>18</sup> Cic. *Fam.* 1.9.6, 2.4.1, 2.10.4, 5.2.8, 7.32.3, *Att.* 1.20.2, 2.4.4, 2.21.1, 2.22.6, 3.7.3, 4.6.2, *S. Rosc.* 2, *Ver.* 2.1.37, *Clu.* 141, *Cat.* 1.9, *Mur.* 54, *Sull.* 65, *Dom.* 3, *Q. Cic. Pet.* 5, *Caes. BG* 1.34, 6.20, *Sall. BJ* 85.44, 110.6.

greatest *res publica*'.<sup>19</sup> While Cicero's Aemilianus goes along with the prevailing philosophical tradition of beginning by defining his terms, he claims to have the luxury of providing only cursory definitions, because he is talking to people who already know what he means. The dialogue therefore features a Roman political insider talking to other Roman political insiders about how Roman politics should be conducted (albeit using a Greek theoretical framework to do so), although the fragmentary condition of the text leaves us struggling to recover much of what this entails. Scipio's distinctly cursory definition of *res publica* is provided as a stage along the way to explaining how said *res publica* should be managed and the emphasis is on almost everything but *res publica* itself, as at 1.39, where the famous dictum that 'the *res publica* is the *res populi*' leads into a definition not of what that thing might entail but of how to define a *populus*:

*'Est igitur' inquit Africanus 'res publica res populi; populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatus.'*

'The *res publica* is therefore,' said Africanus, 'the property of the people. But a people is not any collection of human beings brought together in any sort of way, but an assemblage of people in large numbers associated in an agreement with respect to justice and a partnership for the common good.' (Cic. *Rep.* 1.39)

This is a definition, as Zetzel observes, that 'implies no presupposition about the form of the *res publica*, which may include even monarchy';<sup>20</sup> it is 'defined not in "organizational" or "legal" terms (as the *civitas* is) but in "affective" terms as whatever the people care about in common or can be understood as their common property'.<sup>21</sup> Such vagueness should not be taken to be a Ciceronian innovation, even though Aemilianus notoriously expresses a preference for monarchy as the best 'pure' (*simplex*) form of political organization,<sup>22</sup> but rather as supplementary evidence that *regnum* and *res publica* are indeed

<sup>19</sup> Cic. *Rep.* 1.38, *apud prudentes enim homines et in maxima re publica summa cum gloria belli domique versatos cum loquar.*

<sup>20</sup> Zetzel 1995: 128.

<sup>21</sup> Márquez 2012: 192; cf. also Stark 1967: 43, Suerbaum 1977: 1–2.

<sup>22</sup> Cic. *Rep.* 1.54; cf. Powell 1994: 26–7, 2001: 27–9, Fox 1996: 9–12, Gallagher 2001: 511–12, Stevenson 2005: 148.

neither equivalent terms nor mutually exclusive.<sup>23</sup> The focus on the *populus* continues (insofar as we can tell, since about fifteen lines of it have fallen into a lacuna) throughout 1.39–41, which covers the first cause of such an association, the nature of humans that leads them to associate with others and the eventual establishment of a physical dwelling for this human association, the *oppidum* or *urbs*. At 1.41, the definition is recapped:

*‘Omnis ergo populus, qui est talis coetus multitudinis, qualem exposui; omnis civitas, quae est constitutio populi; omnis res publica, quae, ut dixi, populi res est, consilio quodam regenda est, ut diuturna sit.’*

‘Therefore every people, which is such a gathering of large numbers as I have described, every *civitas*, which is an orderly settlement of the people, and every *res publica*, which, as I said, is the property of the people, must be ruled by some decision-making process if it is to be permanent.’ (Cic. *Rep.* 1.41)<sup>24</sup>

Again, the cursory definition of *res publica* is repeated to provide a stepping stone to Scipio’s next topic: that the key to the longevity of a *res publica* is that it is ruled by a decision-making element (*consilium*), the discussion of which occupies the rest of Book 1. The *publica* half of the equation is thus fully accounted for—that is, it is clear to whom a *res publica* belongs (the organized *populus*, or *civitas*)—but the thing itself, the *res ipsa*, has not been discussed at all.<sup>25</sup> All we know is that it belongs to the *populus* and must be ruled by some form of *consilium*.

Kempshall’s study shows how much influence Augustine’s interpretation of Cicero’s definition at *De Republica* 1.39 had on what *res publica* came to mean for later writers.<sup>26</sup> As far as recovering a Republican understanding of *res publica* goes, however, Cicero’s brevity is further evidence that *res publica* was also not equivalent to ‘state’ or ‘government’, since his omissions might raise eyebrows if he were thinking about it in such terms. What powers does a *res publica* have and how should it use them? Is it concerned with the assignment of magistracies, or the administration of justice, or police action within the *civitas*, or raising taxes, or commanding armies and waging war? None of this is discussed. It is significant, however, that

<sup>23</sup> Suerbaum 1977: 15–24.

<sup>24</sup> Cf. also Cic. *Rep.* 1.43, 1.48, 3.43–4, 3.46.

<sup>25</sup> Schofield 1999: 183, Cornell 2001: 50–2, 55.

<sup>26</sup> Kempshall 2001; on Augustine’s *res publica* cf. also Hammer 2014: 398.

Cicero distinguishes between *populus* and *civitas*, and that the burden of the discussion feeds into the definition of a *civitas* as an organized *populus*, or, as it will later be characterized, as a ‘partnership in justice’ (*iuris societas*).<sup>27</sup> Cicero had his own reasons for setting up such a definition,<sup>28</sup> to which I shall return in Chapter 2; at this point, the important thing to abstract from the *De Republica* is the distinction between *civitas* and *res publica*, and the notion of a *res publica* as the political (that is, public) sphere of a given autonomous civic community (*civitas*), although this is not actually a distinction much observed throughout the rest of the dialogue, where *res publica* and *civitas* tend to be used almost interchangeably.<sup>29</sup> This semantic blurring may be at least partly due to the ‘insider’s perspective’ presented in the *De Republica*, however, since in texts that discuss communities external to Rome the distinction is clear and maintained. When Caesar addresses non-Roman communities in the *Bellum Gallicum* and the *Bellum Civile*, for example, he consistently uses the term *civitas*, rather than *res publica*;<sup>30</sup> and when he mentions local notables, they are not the *principes* in their *res publicae* (as Cicero characterizes Pompey, among others<sup>31</sup>) but the *nobilissimi* or *principes* or *primi* of their *civitates*.<sup>32</sup> The reason is not that *res publica* is a concept restricted to Rome, as Caesar makes clear:

*Quae civitates commodius suam rem publicam administrare existimantur habent legibus sanctum, si quis quid de re publica a finitimis rumore aut fama acceperit, uti ad magistratum deferat neve cum quo alio communicet.*

<sup>27</sup> Cic. *Rep.* 1.49; cf. also Cic. *Leg.* 1.23, 2.12.

<sup>28</sup> On this cf. Schofield 1999: 178–94, Cornell 2001: 50–5.

<sup>29</sup> Schofield 1999: 182; e.g. *status civitatis* (1.33, 1.49, 1.70, 1.71, 2.2, 2.39)/*status rei publicae* (1.42, 1.68, 2.60, 2.62); cf. Turcan 2011: 626–41 on *status* in Cicero and imperial authors.

<sup>30</sup> Caes. BG 1.2, 1.3, 1.4, 1.7, 1.9, 1.10, 1.12, 1.18, 1.19, 1.30, 1.31, 1.44, 1.47, 2.3, 2.4, 2.5, 2.13, 2.14, 2.15, 2.24, 2.28, 2.32, 2.34, 2.35, 3.7, 3.8, 3.9, 3.10, 3.17, 3.19, 3.20, 3.23, 3.29, 4.3, 4.6, 4.12, 4.18, 4.21, 4.27, 4.38, 5.1, 5.3, 5.4, 5.6, 5.7, 5.11, 5.12, 5.20, 5.22, 5.24, 5.25, 5.27, 5.28, 5.47, 5.53, 5.54, 5.55, 5.56, 5.57, 5.58, 6.2, 6.3, 6.4, 6.5, 6.8, 6.9, 6.11, 6.17, 6.20, 6.23, 6.34, 6.43, 7.3, 7.4, 7.7, 7.13, 7.15, 7.17, 7.19, 7.20, 7.28, 7.29, 7.30, 7.31, 7.32, 7.33, 7.36, 7.37, 7.38, 7.39, 7.40, 7.41, 7.43, 7.54, 7.55, 7.57, 7.59, 7.63, 7.64, 7.71, 7.75, 7.76, 7.77, 7.83, 7.88, 7.89, 7.90, 8.1, 8.3, 8.5, 8.6, 8.11, 8.12, 8.20, 8.21, 8.22, 8.23, 8.24, 8.25, 8.26, 8.27, 8.30, 8.31, 8.38, 8.39, 8.46, 8.47, 8.49, 8.52; BC 1.30, 1.35, 1.39, 1.40, 1.48, 1.51, 1.52, 1.60, 1.61, 2.4, 2.18, 2.19; cf. also *FRHist* 14.40b (Gell. 3.8.6–8 = F41 Peter), 14.63 (Liv. 33.30.1–10 = F63 Peter), 14.77 (Gell. 13.29.1 = F76 Peter), 15.25 (Liv. 26.49.1–6 = F24 Peter), 15.26 (Gell. 7.8.3–6 = F25 Peter), 15.33.1–11 (= F33 Peter), 15.44 (Liv. 37.60.1–7 = F43 Peter), 15.47 (Liv. 39.22.8–10 = F46 Peter).

<sup>31</sup> Cic. *Fam.* 1.9.11.

<sup>32</sup> Caes. BG 1.7, 1.30, 1.31, 2.3, 2.13, 4.27, 5.5, 8.12.

Those (Gallic) *civitates* which are thought to administer their *res publica* to greater advantage have it prescribed by law that anyone who has learnt anything concerning the *res publica* from his neighbours by rumour or report must bring the information to a magistrate and not impart it to anyone else. (Caes. BG 6.20)<sup>33</sup>

Again, for Gauls as much as Romans it is the *civitas* that manages *sua res publica*, its civic business. Hence, in a despairing rhetorical fragment used as an example of antistrophe (*conversio*) in the *Rhetorica ad Herennium*, a rhetorical handbook written by an unknown author and generally dated to somewhere between 86 and 82 BC,<sup>34</sup> it is the *res publica* that is said to have vanished from the *civitas*, rather than the other way round.<sup>35</sup> Without a *civitas* there can be no *res publica*, because without a civic body there is no civic sphere. In contrast, a group of people can physically coexist in the absence of shared legal, political, and civic structures, although the rhetorical point comes from the fact that they may not be able to coexist for very long.

The pains Cicero takes to move from *populus* to *civitas* at *Rep.* 1.39–41 are remarkable mostly because, unless a similar point has fallen into the lacuna, he passes up the most obvious etymological option, as used by Varro, who notes that ‘*civis* (“citizen”) and *civitas* (“civic community”) are not the same, but both come from the same

<sup>33</sup> Similarly the *Epistula Praetoris ad Tiburtes* of 159 (CIL I.ii 586; cf. Clackson and Horrocks 2011: 147–8) uses the phrase ‘neither for you nor your *res publica*’ (*neque id vobis neque rei publicae vestrae*); Cic. *Ver.* 2.2.138, accusing Verres of mismanaging the appointment of local censors during his praetorship in Sicily, says that ‘in that census, the *res publica* of no *civitas* could be administered’; Cic. *Ver.* 2.2.112 and *Mur.* 74 feature foreign *res publicae* where *res publica* has the sense of ‘public affairs’; Cic. *Flacc.* 16 distinguishes between *res publica* and *civitas* (when inexperienced men gain control, bad men are put in charge of the *res publica* while good citizens are ejected from the *civitas*); and see Cic. *Phil.* 4.14 for historic enemies of the Roman people who had possessed a *res publica*.

<sup>34</sup> Cf. Marx 1966 (1894): 69–73, 152, Clarke 1953: 14, Kennedy 1972: 192, Corbeill 2002: 33, Fantham 2004: 92, although Douglas 1960 argues for the viability of a much later *terminus ante quem*; cf. also Winkel 1979: 332. Marx 1966 (1894): 151–2 read the *Rhet. Her.* as a *popularis* document and connected it to the Latin rhetors attacked by a censors’ edict of 92 BC (cf. also Gwynn 1926: 67–8, Clarke 1953: 14, Leeman 1963: 26). These days, the *Rhet. Her.* is usually taken at face value as a straightforward rhetorical handbook; cf. Kennedy 1972: 95, von Ungern-Sternberg 1973: 148, Gruen 1990: 180ff., Kaster 1995: 273–4.

<sup>35</sup> *Rhet. Her.* 4.19.

origin and are connected'.<sup>36</sup> It would have been simple to define a *civitas* as a community of *cives*: anyone with Roman citizenship was a member of the Roman civic community.<sup>37</sup> Because all the (male, adult) *cives* of the *civitas* are imagined as being technically capable of and/or expected to take part in public life (the *res publica*) in one way or another, the practical distinction between *res publica* and *civitas* is a fine and often rhetorically blurry one, especially when Roman politicians are talking to other Roman politicians about the internal workings of Roman politics.<sup>38</sup> This goes some way towards explaining the semantic slippage observable in Cicero's *De Republica*, where the difference between talking about the organization of the shared public sphere (*res publica*) and that of the civic community (*civitas*) shrinks to irrelevance. The civic community is the public sphere.

*Res publica*, then, can mean both the civic property/affairs of a given *civitas* and the communal spaces within which those who administer the property and affairs of the *civitas* move. In itself, the term implies no particular political organization, and the version that dominates in a given text will depend on the socio-political position and immediate aims of the text's author. For most of our surviving texts, of course, the authors are Romans and they refer to the *res publica* that belongs to the *populus Romanus*. Now, while referring to a generic *res publica* might not connote any particular political organization, talking about the *res publica* that belonged to the Roman *civitas* at any given historical moment definitely did. I isolate 'any given historical moment' because Roman political structures were as subject to change and development as those of any other polity. To take the most obvious example, the *res publica* of the regal period (or indeed the imperial period) was organized in a markedly different way from the *res publica* of the Republic, and even the classic, pre-crisis Republic did not comprise an unchanging political system held static

<sup>36</sup> Var. *L.* 10.39. Feig Vishnia 2012: 60 explains the etymological derivation of *civitas* from *co-viria* (*curia*), 'meaning "a congregation of men/men assembled together"'. Cf. also Stark 1967: 80–1.

<sup>37</sup> Quintus Cicero for one had previously characterized the Roman empire as 'a *civitas* constituted from an assembly of nations (*ex nationum conventu*)' with attendant vices and snares for the up-and-coming politician (Q. Cic. *Pet.* 54), a description that may reflect the greatly enlarged *civitas* of the post-Social War period.

<sup>38</sup> For example, the demonstration of synonymy at *Rhet. Her.* 4.38: 'you have overturned the *res publica* from its roots, you have demolished the *civitas* from its foundations'.



in a kind of metaphysical amber, as Flower's *Roman Republics* shows.<sup>39</sup> Rather than a written constitution to articulate and give permanent shape to its political structures, Rome had laws and traditional ways of doing things (*mos maiorum*),<sup>40</sup> and laws and traditions change over time.

Because changes to Roman political structures and practice impacted on *res publica* as a concept, it is this change (disconcerting, destabilizing, frequently spurred by discord and civil war) that drives my study. The absence of a formal constitution meant that the Roman Republic was characterized by both flexibility (because there was space to adjust to new circumstances) and instability (because when accepted practice was disrupted by unprecedented and divisive issues, formal controls were lacking to stop the situation spiralling out of hand). Whatever rights and concepts of sovereignty may have been technically vested in the citizen body, it lacked initiative: it had no formal way to express opinions, desires, resentment, and so on other than by electing magistrates and voting on matters put to it by those elected magistrates,<sup>41</sup> although individual sections of the *populus* could make their opinions felt in various venues, such as in *contiones* or at the games.<sup>42</sup> In contrast, while the senate could express opinions, desires, resentments, and so on as loudly as it wanted, it could act only indirectly, by exerting influence on the elected magistrates (who were responsible for summoning it, as they were responsible for presiding over the popular assemblies) to take whatever action it deemed necessary.<sup>43</sup> These elected magistrates were drawn from the ranks of the highly competitive Roman elite and would go on to become, or continue to be, senators.<sup>44</sup>

Whether this delicately calibrated system was characterized more by consensus or conflict remains open for debate. Karl-Joachim Hölkeskamp, for one, proposes a model of Republican civic and political identity as 'based on a broad consensus about social norms and values'.<sup>45</sup> This 'broad consensus' concerns the way in which political activity should be carried out, rather than the particulars of

<sup>39</sup> Flower 2010; cf. also Hillard 2005: 22.

<sup>40</sup> Eder 1990: 83, Bringmann 2002: 114, Flower 2010: 65.

<sup>41</sup> North 1990: 16. <sup>42</sup> Cf. Flaig 1994.

<sup>43</sup> Lintott 1999b: 65–88, Hölkeskamp 2000: 213–14.

<sup>44</sup> On the role of the magistrates, cf. Richardson 1991: 2, Rosenstein 2007: 142, Beck 2011.

<sup>45</sup> Hölkeskamp 2010: 56; cf. also Meier 1966: 56, Gruen 1996: 216.

everyday politics, where consensus demonstrably did not exist,<sup>46</sup> and Hölkeskamp's interest lies not with 'actual politics, such as the decisions and actions of magistrates',<sup>47</sup> nor with 'the social framework and/or the "subsystem" of the political institutions and formal procedures of decision making', at least as an isolated subject of enquiry.<sup>48</sup> For Hölkeskamp, the area for study becomes 'what was *not* (and could not be) politically addressed, explicitly debated, and put on the agenda of decision making': anything 'that remains implicit in the discourse of politics, but must nevertheless be considered a fundamental part of the system and its basis of legitimacy'.<sup>49</sup> As heuristic models go, this has its merits; that said, the consensus Hölkeskamp proposes as a defining characteristic of the Roman Republic is really consensus about the rules of the game rather than consensus *within* the game, which tends to look much less serene when 'actual politics' are in the spotlight. So Joy Connolly can view the Roman Republic as 'a polity shaped by the collective experience of almost nonstop war, intense if often corrupt electoral competition, and a social hierarchy with sharply limited permeability' featuring 'a rich and righteous senatorial elite versus an impecunious People whose identity was bound up in the memory of repeatedly having fought and overcome that elite for the sake of liberty'.<sup>50</sup> Moreover, hints of debate over the rules of political engagement can be traced at most stages of the Republic's development. For example, the formalization of the *cursus honorum* by the *lex Villia annalis* in 180 BC and associated legislation may be interpreted as an expression of waning consensus in the face of a surplus of candidates and correspondingly ferocious competition for office. That is to say, the system of holding office had become so politicized that the *cursus honorum* could no longer be left to customary practice, so legislation had to be imposed to keep things from getting out of hand. Once the *cursus honorum* was subject to legal requirements, however, it became even more contentious when individuals diverged from it, most prominently P. Scipio Aemilianus, who managed to make himself so popular with the plebs that when he stood for the aedileship in 148 he was exempted from the *lex annalis* by popular demand and elected consul

<sup>46</sup> Hölkeskamp 2010: 39.

<sup>47</sup> Hölkeskamp 2010: 53.

<sup>48</sup> Hölkeskamp 2010: 54.

<sup>49</sup> Hölkeskamp 2010: 54; cf. also Gruen 1996: 216.

<sup>50</sup> Connolly 2015: 18.

instead.<sup>51</sup> His career continued on this uneven keel,<sup>52</sup> but he was not the only person involved in controversial behaviour during this period, just the most prominent. Morgan and Walsh list examples of the politicians of the period engaged in decidedly non-consensual activity<sup>53</sup> and conclude that 'to maintain that the Roman oligarchy was pursuing consensus politics between 146 and 133, therefore, flies in the face of a substantial body of evidence'.<sup>54</sup>

The year 133 supplies the classic failure of consensus politics: the untimely death of the plebeian tribune Tiberius Sempronius Gracchus at the hands of Publius Scipio Nasica, pontifex maximus and private citizen, and a mob of senators armed with broken benches. Between 133 and 88 similar violence was used twice on the domestic political stage, in 121 against Gaius Gracchus and in 100 against Saturninus and Glaucia. After 88 (to pass over the Social War of 91–88, a political failure of a different sort and on a larger stage) five years of civil war capped by Sulla's victorious return in 83 and political settlement of 82–1 were followed by political instability (Lepidus's rising in 78, the 'Catilinarian Conspiracy' in 63) and eventually yet more civil war (from Caesar in 49 to Octavian's victory at Actium in 31). Such outbreaks are both symptoms (civic violence arising from the failure of political consensus) and causes (their legacy being resentment and an increased willingness to take up arms the next time the opportunity comes round). One important theme in all these incidents was the stress laid on *res publica*, a concept that became increasingly politicized as the Republic stumbled towards collapse. From Nasica's efforts to keep the *res publica salva* to Sulla's *res publica constituta* and Pompey's fight to defend the *res publica* against Caesar, the perceived condition and needs of the *res publica* were a source of concern, controversy, division, and self-justification throughout this period.

It is at this point that *res publica* does begin to look deceptively like a slogan. The politicians of the late Republic were not thinking about

<sup>51</sup> Scullard 1960: 60, Astin 1967: 61, Develin 1978.

<sup>52</sup> He was elected consul again in 134, despite the law of 151 that forbade iteration of the consulship, and raised an army using private funds when the senate proved uncooperative with his special command against Numantia; on this cf. Scullard 1960: 72, and further Raschke 1987 on the increasingly tense relationship between Aemilianus and his political peers and his movement towards the *populus*.

<sup>53</sup> Morgan and Walsh 1978: 208–9.

<sup>54</sup> Morgan and Walsh 1978: 210; cf. also Hillard 2005: 10–11.

Rome's *res publica* from the truly external perspective of modern scholars seeking a holistic, theoretically informed account of Roman political structures and superstructures; rather, like Cicero's Scipio Aemilianus and his audience, they were political insiders concerned with specific aspects and problems of contemporary public life. When they complained about the state of the *res publica* or the loss of the *res publica*,<sup>55</sup> what they meant was not so much that a coherent political superstructure ('the Republic') was crashing down as that established political structures, inherited from the *maiores*, were being corrupted or discarded. To appeal to 'the *res publica*' in the late Roman Republic was therefore to invoke an inherently fluid concept in a condition of particular flux, both because political turbulence was impacting materially on the organization of 'the Roman *res publica*' and also because quarrelling public figures exploited, appealed to, or aimed to create diverging perspectives on what that system of organization was or should be. Since *res publica* was used as a key prop by all and sundry, the different ways in which it was used inflected its meaning. That this was more than an interesting phenomenon, in fact that it mirrored the disintegration of the political superstructure now known as the Roman Republic, is the main reason to examine the invocation and manipulation of *res publica* by Republican politicians. That it happened at all, however, makes it important to be sensitive to conceptual negotiation and innovation on the topic in *all* ancient texts.

The key questions for this book are therefore (1) what it meant for Republican politicians to appeal to the *res publica*, (2) what the increasing tendency to do so reveals about the dangerous fragmentation of political legitimacy towards the end of the Roman Republic, and (3) how these pressures transformed *res publica* as a concept. Meanwhile, one of the key challenges is how to make sense of our evidence. On the one hand, *res publica* is a very common term in Latin political literature, thanks in no small part to Cicero; on the other hand, Cicero aside, the material is sparse, unrepresentative, frequently fragmentary, and often lacking useful context. That said, it would be a mistake to be too pessimistic; although Cicero's uncommonly good survival rate makes him, as usual, both blessing and blockage, *res publica* is also attested by inscriptions (both commemorative, such as Augustus's *Res Gestae*, and legal documents like the *Tabula Bembina*), by fragments

<sup>55</sup> Cf. Bringmann 2002 on *res publica amissa*.

from earlier historians and orators (including Cato the Elder and Gaius Gracchus), by Caesar's commentaries, by the letters written by Cicero's contemporaries to Cicero, rather rarely by the poets (Ennius and Plautus provide relevant material for Chapter 2; Ovid supplies the title for Chapter 7), and by imperial historians such as Velleius Paterculus and Tacitus, who offer a perspective on *res publica* during the early principate. Equally, important material can be drawn from the various historical episodes in which *res publica* was explicitly at stake, starting from the murder of Tiberius Gracchus at the hands of a *privatus* who aimed to maintain *res publica salva* and leading up to the appointment of a dictator (Sulla) entrusted with 'drawing up the laws and setting in order the *res publica*'.<sup>56</sup> Overall, it is possible to recover an idea of how *res publica* developed during the Republic without depending wholly on Cicero, although my study does show the particular importance of Cicero's intellectual contribution to the process.

Rather than treating each author, genre, or text separately, I have organized my material thematically. Chapters 2 and 3 lay the groundwork for my study. Chapter 2 (*rem publicam administrare*) opens by examining the *res publica* as civic business, with a particular focus on the role of the magistrates. I argue that *res publica* as civic business forms a conceptual nexus centred on the magistrates and the need to manage this civic business. The magistrates themselves enjoyed a particularly intimate relationship with the *res publica*, especially when responsible for administering it in the field and therefore at a distance from the rest of Rome's political world. Caesar's *Bellum Gallicum* and Cicero's letters from Cilicia suggest that such magistrates were entitled to depict themselves essentially as the *res publica*. This is understandable (after all, the success of their operations abroad *did* impact on the *res publica* as a whole), but should not be taken as an indication that the individual magistrate is subsumed into his office; in particular, the extensive use that former magistrates made of achievements carried out while in office suggests otherwise. Since an individual's *dignitas* rested on his public office and achievements, however, ways naturally developed in which such *dignitas* could be challenged. In general, rivals were more likely to attack the achievement on which an individual's claim to *dignitas* rested than to challenge the link between public achievement and private *dignitas*.

<sup>56</sup> Hantos 1988: 14, 69 (n. 1), Hurllet 1993: 55.

All the same, there *were* ways to subvert this principle: firstly the elder Cato's, which shifted attention from great achievements to impeccable behaviour, and secondly the *popularis* paradigm shift that did try to subsume the magistrate to his office by assigning responsibility and credit for the administration of the *res publica* to the electoral body, the *populus*.

From *res publica* as public business, I move in Chapter 3 (*res publica salva*) to various concerns about the long-term well-being of the *res publica* as the structured political sphere, from the general fear of moral decline expressed by people like Cato to the specific fear that the *res publica* was endangered by the specific activities of specific individuals. The first clearly historical such incident seems to be P. Scipio Nasica's murder of Tiberius Gracchus in the interests of maintaining the *res publica salva*, which was followed a decade later by the formalization of this concern in the *senatus consultum ultimum* first issued against Tiberius's brother Gaius. A more generalized concern in the interim may be traced in the fragments of the annalist historians and the sole surviving relict of the *laudatio* for Scipio Aemilianus. Sulla's *res publica constituta* shows what happened when sporadic violence was not sufficient to prevent outright civil war: having contributed to the implosion of the traditional *res publica*, he used his victory to rebuild a political system that had a superficial resemblance to the previous version, even if, as Flower argues,<sup>57</sup> it should really be read as a sharp break with the past. In any case, this was an uneasy situation, as the rhetoric Cicero develops in response to Sulla's power indicates.

Chapter 4 (*res publica ipsa*) draws the arguments of Chapters 2 and 3 together through a close reading of Cicero's speeches during and after his consulship in 63. Over the course of one particularly eventful year, Cicero used the pivot of consular responsibility for managing the *res publica* to shut down disagreeable legislation and a politicized trial (*De Lege Agraria* 1–3, *Pro Rabirio Perduellionis*), defined *res publica* in terms of political structures to an audience that was probably more inclined to think of it as public business (*Agr.* 2.88–9), gave *res publica* a firm and explicit geographical location within the public and political spaces of Rome itself (*Agr.* 1.18–19), spearheaded a sporadic outbreak of violence intended to prevent what

<sup>57</sup> Flower 2010: 29; cf. further 121–34 *ibid.*

he claimed was an imminent danger to the *res publica* (*Catilinarians* 1–4), constructed the optimistic rhetorical fiction of a unified *res publica* that expelled Catiline from the city (*Cat.* 1.27–30), and ended on an uneasy note that anticipated the problems Cicero faced after his consulship (*Cat.* 4). When these problems became insurmountable, the triumphalism of *Pro Sulla* transmuted into the elaborate and unconvincing rhetorical fiction of the *Post Reditum* and *De Domo Sua* speeches, which threw the *res publica* into exile along with Cicero and brought it back with him as well. Amid all this rhetorical flannel, however, the relationship Cicero constructs more or less in passing between Pompey and the *res publica* in the post-exile speeches provides an interesting foretaste of the Augustan principate.

Insofar as it relates to the events of his consulship, Cicero's development of *res publica* is essentially concerned with rhetorical positioning. What took place during the Caesarian civil wars also involved positioning, but a less rhetorical sort. Chapter 5 (*res publica recipere*) shows that whereas the 'Republicans' positioned themselves explicitly as defending the *res publica* even after their flight from Rome and Italy, which involved a geographical dislocation that Cicero, for one, found extremely upsetting, Caesar downplayed *res publica* on his own behalf, implied heavily (without actually coming out and saying as much) that the opposition's claim was illegitimate and cynical, and restricted himself to administering a *res publica* that remained firmly in Rome. The disjunction between these two versions left those uncommitted to either side, such as Cicero and his correspondent Sulpicius, in a state of despair, especially after the 'Republican' armies were defeated and it became obvious that Caesar was not going to imitate Sulla by producing a new *res publica constituta* out of his rather tatty hat. In response to Caesar's unfree *res publica*, the 'Liberators' appealed to the *libera res publica*, a phrase that expresses a specific political condition for the public sphere they wanted to recover from the wreckage: freedom. Cicero, meanwhile, provided more detailed recommendations for rearranging the deckchairs in the *First Philippic*. His recommendations were undermined, however, by his attempts to get around the misbehaviour of his preferred champions by resorting to the rhetorical *res publica* in later speeches.

The chaos of this period is exemplified by Cicero's euphemism for the illegal behaviour of his preferred champions during the post-Caesar phase: *privatum consilium* on behalf of the *res publica*, which was afterwards appropriated by Augustus for the *Res Gestae*.

In Chapter 6 (*pro re publica*), I look at how Cicero wrenched what was originally an uneasy justification of political homicide (thanks to P. Scipio Nasica, whose example was generally commended but not imitated) into a justification of civil war activities. This was not wholly straightforward, since Caesar had acted on his *privatum consilium* when he crossed the Rubicon, and it is clear both that Cicero faced opposition and that he risked this particular argument rushing off in unwelcome directions. Cicero was playing catch-up with events during a confused and difficult period; although it may be unfair to blame him too much for the things he said, RG 1.1 shows how Cicero's claims were later picked up by Augustus in a very different climate that Cicero would not have approved at all.

Having established the Republican public business/political sphere strands of *res publica* rhetoric, pulled these aspects of *res publica* together with Cicero, and then torn them apart with the civil wars, I conclude with some observations on *res publica* under Augustus and his successors in Chapter 7. The term all but vanishes from Suetonius's *Lives* after Augustus, which suggests that *res publica* lost much of its political charge with the fall of the Republic. While *res publica* did not automatically now take on the meaning of 'the Roman Republic' (indeed, Augustus adopted another Ciceronian line and cast himself in the role of *patronus* to the grateful *res publica*), it could be made to mean this by historians like Velleius Paterculus and Tacitus, who use temporal tags such as *prisca*, *antiqua*, or *vetus* to indicate a historic state of the political sphere. I argue that whereas Velleius Paterculus and Augustus in his *Res Gestae* are tactful about the latter's power, Ovid is not; he echoes Cicero's equation of Sulla with Jupiter by equating Jupiter with Augustus and provides the title for this chapter, which incidentally serves as a response to Julius Caesar's pedantry: *res publica est Caesar*.

Everyone who writes about Roman political culture offers a new answer to an old joke: what *have* the Romans ever done for us? Sanitation, roads, and aqueducts aside, Joy Connolly opened her 2007 study of Republican rhetoric, *The State of Speech*, with the point that 'just as Rome's legions left their mark on the map of Europe, Roman ideas about citizenship and constitutions helped frame Western political thought'.<sup>58</sup> *Res publica*, the linguistic mother

<sup>58</sup> Connolly 2007: 1.



of ‘republic’, ‘commonwealth’, and ‘public weal’, remains one of the most powerful ideas the Romans have left us and it is worth making the effort to understand just what they meant by it. The story outlined here is one of conceptual flux and transformation running in parallel with the structural transformation of the Roman political system. The concepts and values invoked at particular historical moments are often revealing, as, for example, when L. Opimius dedicated a temple to Concordia after his slaughter of Gaius Gracchus, Fulvius Flaccus, and their supporters,<sup>59</sup> a monument rather to wishful thinking than any actual concord on the ground. Similarly, *res publica* gained power as a call to arms amid increasing concerns over the state of Rome’s political sphere during the final century of the Republic. Just as the absence of a written constitution gave the Republic both the advantage of flexibility and the disadvantage of instability, though, the lack of a precise definition for *res publica* meant the term could lend itself to a wide range of interpretations but also left it vulnerable to fragmentation and the appearance of meaninglessness. Under pressure from competing politicians *res publica* ultimately disintegrated as the old political system did and was likewise resurrected in a new form under Augustus. Political change, as the story of *res publica* shows, transforms ideas as well as states.

<sup>59</sup> Plut. GG 17.5; cf. Chapter 3.