

When Kings Become Philosophers:
The Late Republican Origins of Cicero's Political Philosophy

By

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A dissertation submitted in partial satisfaction of the
requirements for the degree of

Doctor of Philosophy

in

Ancient History and Mediterranean Archaeology

in the

Graduate Division

of the

University of California, Berkeley

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Summer 2016

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Abstract

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This dissertation argues that Cicero's *de Republica* is both a reflection of, and a commentary on, the era in which it was written to a degree not previously recognized in Ciceronian scholarship. *Contra* readings which treat the work primarily as a theoretical tract in the tradition of late Hellenistic philosophy, this study situates the work within its historical context in Late Republican Rome, and in particular within the personal experience of its author during this tumultuous period. This approach yields new insights into both the meaning and significance of the work and the outlook of the individual who is our single most important witness to the history of the last decades of the Roman Republic.

Specifically, the dissertation argues that Cicero provides clues preserved in the extant portions of the *de Republica*, overlooked by modern students in the past but clearly recognizable to readers in his own day, indicating that it was meant to be read as a work with important contemporary political resonances. Among those which are still traceable in the mangled palimpsest which is our only source for the majority of the treatise are comments on the proper apportionment of authority and governmental responsibility among senate, magistrates and *populus* that grew out of Cicero's handling of the Catilinarian conspiracy and its aftermath, and reflections on the importance of political engagement, even under the adverse circumstances of the First Triumvirate, which were heavily influenced by Cicero's own political travails in the late 60s and 50s B.C.

As such, the *de Republica* represents a novel kind of literature within the Roman tradition. Living in an elite culture that privileged political action, yet unable to act politically in traditional ways under the constraints imposed by his enforced alliance with the triumvirs, Cicero attempted to forge a new kind of statesmanship, one carried out through the medium of the written word. The *de Republica* is thus written as a political act, a thoughtful response to contemporary conditions written by an intelligent commentator who, unable any longer to steer the ship of state by conventional means, was seeking a new way of exerting an influence on the course of events.

WHEN KINGS BECOME PHILOSOPHERS:
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CONTENTS

Contents	i
Acknowledgements	iii
1. <u>Introduction</u>	1
2. <u>The <i>De Republica</i></u>	11
Statesmanship, Philosophy and the Sources of Ethical and Political Knowledge	13
Shouting in Corners	18
Questions of Identification	28
Cicero as Author	31
Conclusions	37
3. <u>Cicero's <i>Annus Mirabilis</i></u>	38
Cicero and His Consulship	39
Creating the Legacy of 63	44
Conclusions	55
4. <u>The Bona Dea Scandal</u>	57
The Mixed Constitution in Greek Political Thought	57
Cicero's Mixed Constitution	62
<i>Auctoritas Senatus</i> and the Bona Dea Scandal	75
Conclusions	92
5. <u>The Preface to the <i>de Republica</i> and the Question of Political Participation</u>	94
The Fish Fanciers	96
Cicero and the Knights	100
Cicero and Pompey	104
Conclusions	109

6. <u>Exile, Return and the Triumvirate</u>	112
<i>Otium and Negotium</i>	114
The <i>Pro Archia</i>	117
<i>De Consulatu Suo</i> and the Perils of Self-Praise	119
The Triumvirate and its Discontents	123
Exile and Accommodation	133
The Composition of the <i>de Republica</i> and Political Self-Fashioning	136
The <i>de Republica</i> as a Political Act	143
7. <u>Conclusion</u>	150
Bibliography	154

ACKNOWLEDGEMENTS

The author of a dissertation owes a debt not only to those who assisted in the production of the manuscript, but to everyone who contributed to his evolution as a scholar, and I therefore offer my thanks to all of my teachers, colleagues and friends who have helped me, in ways large and small, to get where I am today. Some names however naturally stand out, I would like to acknowledge them particularly.

Foremost among these is Erich Gruen. I came to Berkeley very largely because of the reputation he has established over decades not only as an historian, but also as a mentor without equal, yet even so I have been impressed again and again over the years by the depth of his commitment to his students, and especially to myself. Although notoriously unsparing, his critiques have always been fair, always constructive, and even occasionally tempered with a hint of approval. They have not only played a key role in sharpening up this study, but have also contributed inestimably to my growth as a scholar. Thank you Erich.

Several other members of the AHMA/Classics community also deserve special thanks. Carlos Noreña, Tony Long, Chris Hallett and Ron Stroud have all been not only outstanding teachers, but extraordinarily unstinting with their time. Thanks are also owed to the members of both Erich and Carlos' dissertation groups for all of the valuable feedback.

The road to a doctoral degree is a long one, and I received a great deal of help even before I got to Berkeley. I'm grateful to all of the Classics faculty at UC Santa Barbara, where I received my M.A., and especially to Robert Morstein-Marx and John Lee. The direction that my educational career ultimately took also owes much to the advice and guidance of early mentors Dana Sutton and Gregory Bucher.

And finally, for contributions too numerous and varied to describe, my wife Jessica and my parents, without whose loving support I could not possibly have come to the end of this long journey.

INTRODUCTION

It has been the fate of many works of ancient literature to be read avidly in one era and neglected in the next, rising and falling in the esteem of scholars and others as they excite the interest or arouse the indignation of the times. Few ancient corpora however have had the meteoric career of Cicero's philosophical works. Although we know all too little about their reception in antiquity there is evidence that some at least were highly regarded¹. The treatises were studied throughout the Middle Ages, revered by Renaissance humanists, and reached the pinnacle of their influence in the Enlightenment². By the nineteenth century however a rapid decline in Cicero's prestige had set in; thinkers with views as widely divergent as Marx and Mommsen denounced Cicero as unoriginal, unimaginative and even unlearned. The early twentieth century was no kinder; Syme was convinced that in his own time Cicero's *de Republica* had gotten altogether too much attention³, and as recently as 1983 Finley was able to echo Mommsen's judgments on Cicero's philosophical output as a whole⁴. More telling still was the simple lack of interest in these works on the part of most scholars until the 1980s, and the instinctive defensiveness of those who did venture to touch them. Nearly all conceded that the objects of their study were basically derivative, and having done so these brave few were forced to justify their projects on grounds other than the intrinsic worth of Cicero's philosophical thinking.

Such grounds could of course be found. Indeed, the belief that Cicero was little more than a translator of more original Greek thinkers (a belief given a certain credence by Cicero's remark in a letter to Atticus referring to his own writings as ἀπογραφαί), seemed to justify mining the treatises to recreate the lost works and doctrines of the Greeks whom Cicero was supposedly transcribing. The desire on the part of students of the Hellenistic philosophical schools to fill out their fragments with fully preserved arguments no doubt went some way towards strengthening the conviction that Cicero had acted as a simple conduit for the preservation of Hellenistic thinkers, and much ink was spilled attempting to link Ciceronian works with earlier Greek philosophers. However, while there is a general agreement in a few cases, as for example on Cicero's extensive use of Panaetius in *de Officiis*⁶, for the most part no consensus has emerged as to whose

¹ Powell (1995), 5.

² Wood (1988), 2-6.

³ Syme (1939), 144.

⁴ Finley (1983), 128.

⁵ *Att.* 12.52. The meaning of the passage has always been somewhat obscure however, and few scholars recently have taken seriously the suggestion that it was meant as a genuine renunciation of creative input throughout the entire philosophical corpus. See especially Douglas A.E. in Dorey (1965) 138; Powell (1995), 8-9 and n. 20.

⁶ For *Off.* 1-2 we know this from Cicero himself: see *Att.* 16.11.4. Exactly how closely he follows his source is still a matter of dispute. For a typical view see Dyke (1996) 1-29; Cicero is allowed more creative input in Long, A.A. (1995), 221-4.

works Cicero had been following⁷.

Historians too found uses for the treatises, albeit limited ones. Largely in the service of source criticism, intellectual historians have of course combed them for clues as to when and where a given work was composed, what Cicero had been reading at the time, and with whom he might have been discoursing on matters philosophical. The historical milieu of those dialogues, set in the past and populated with important historical figures, were generally deemed to have been well researched, faithfully rendered and therefore valuable as sources for the periods, people and events they depicted. Biographers have shown a natural interest in the dialogues in which Cicero himself and his intimates feature.

More generally historians found in the major themes of the philosophic works support for and elaboration of key elements of the standard political narrative of the Late Republic. The three treatises of the 50's B.C., and especially the *de Republica*,⁸ with which this study is particularly concerned, all share an interest in the operation of the state, and are thus examined for insight into the failure of Republican government in the years leading up to their composition (the late 60s and 50s). In particular scholars have picked up on the concern evinced in all three that the state should have the right sort of leadership, and this has generally been understood as an indictment of the Senate's *principes* in the years leading up to the outbreak of civil war in 49, more proof, as the conventional wisdom would have it, that the traditional senatorial oligarchy was indeed becoming increasingly fragmented and incapable of sound government, composed as it was partly of indifferent voluptuaries, partly of incompetent reactionaries, among whom precious few could be found willing to put the good of the commonwealth ahead of their own interests. The idealized statesman of *de Oratore* and *de Republica* (and more indirectly *de Legibus*), active, civic-spirited, cultured and wise, was meant, on this understanding, to be the antithesis of Rome's leaders as they actually were, a way for Cicero to vent frustrations with the leading figures of the day and to direct them, if possible, towards the sort of virtues and political behavior which might yet save the rapidly sinking ship of state⁹.

Closely linked to the rehabilitation of the nobility is a recurring concern in the dialogues of the 50s with the legitimacy of government in general, and with the

⁷ The *Quellenforschung* (now ordinarily a dismissive term) has been under attack since Boyancé (1936). See also Griffin (1995), 326-7; Rawson (1975), 148. Source criticism for Cicero's philosophical works received new impetus with the publication of Fortenbaugh and Steinmetz eds. (1989), but so far from leading to a new consensus this collection of essays has, if anything, further muddied the waters.

⁸ These are, in addition to the *de Republica*, the *de Oratore* and the *de Legibus*. All dates hereafter are B.C. unless otherwise indicated. Cicero is generally thought to have begun work on *de Oratore* in 55 (*Att.* 4.13.2; c.f. *Fam.* 1.9.23), and on *de Republica* in 54 (*Q.Fr.* 2.12.1; 3.5.1-2). The evidence for *de Legibus* is less conclusive. Most now think it was begun in 52, being a sequel to *de Republica*, and on the basis of the reference to the death of Clodius at 2.42. It appears to have still been unfinished in 46 (*Fam.* 9.2.5) and still uncirculated in 44 (*de Div.* 2.1). It may never have been completed.

⁹ Habinek (1994), 55.

auctoritas of the senatorial order in particular¹⁰. That legitimacy depends ultimately on the consent of the people is a notion that Cicero suggests is fundamental to Roman government and traces the notion back to the early days of the monarchy¹¹. The need for popular legitimacy convinced Cicero that the people needed some role to play in governance, even if only to show their consent to be governed by their betters¹². This imperative in turn meant that those who would lead the commonwealth needed to convince the people of their fitness to rule by their conspicuous virtue, competence, civic spirit and benevolence. When they were able to do so, the result would be harmony within the commonwealth and support for the existing order¹³. By corollary, failure would erode not only the legitimacy of the ruling class, but support for the constitution generally. Reading all of this in conjunction with certain passages from the letters, historians have taken this emphasis on harmony, as perhaps Cicero meant his contemporaries to take it, as a reflection of a real and serious deterioration of the *auctoritas* of the Senate, which in turn undermined the foundations of republican government itself. In particular scholars have been concerned with the emphasis Cicero placed on the attitude of the equestrian order towards senatorial leadership and with the so called *concordia ordinum*, the breakdown of which is thought to have contributed to the eventual collapse of republican government in the 40s¹⁴.

Historians whose work has a more social bent have sought to make Cicero the archetype for whole classes of Romans. For the Marxist historian Neal Wood, Cicero's primary original contribution to political philosophy came in his emphasis on the central importance and inviolability of private property and the social status that came with it, which in turn was the natural consequence of Cicero's own status as a member of the propertied class¹⁵. For others his political experiences and attitudes are typical of those who came from outside the old nobility and his political frustrations further proof that the vitality of the innermost circles of the Roman ruling class, where real power in Rome resided, was progressively sapped by an exclusivity so unbending as to refuse to admit anyone without the proper pedigree, even someone who, like Cicero, consistently and vehemently espoused suitably conservative political doctrines¹⁶. At the same time that espousal has earned him the status of spokesman for the viewpoint of an oligarchy which, despite his best efforts, he never quite felt he had been able to join. His conservative approach to political theory and his failure to suggest bold constitutional innovations in

¹⁰ *Rep.* 1.51-53; *Leg.* 3.28-41.

¹¹ *Rep.* 1.25; cf. Livy 1.17-9.

¹² *Rep.* 1.43, 53, 55, 69; 2.31.39, 50, 55-7; 3.43; *Leg.* 3.23-6, 34, 38; cf. *Sest.* 137. Cicero represents the idea as controversial, esp. at *Leg.* 3.34-37.

¹³ See esp. *Leg.* 3.28; cf. *Rep.* 1.39; 2.69.

¹⁴ *Att.* 1.17.8-10; 1.18.3,7; 1.19.6; 1.21.7-8; *Q.Fr.* 1.1.32; Mitchell (1991), 88-9; Rawson (1975), 90, 100-1. Given the scholarly attention lavished on it, the phrase *concordia ordinum* itself is very rarely attested in Cicero's surviving corpus – *Att.* 1.14.4; 1.17.9; 1.18.3; *Fam.* 12.15.3; *Cat.* 4.15; *Clu.* 153. The phrase *consensus ordinum* in *Har. Resp.* 60 seems to have a similar meaning. See Boren (1964); Strasburger (1931).

¹⁵ Wood (1988), 90-142.

¹⁶ Wood (1988), 42; Rawson (1975), 90-1.

the face of the Republic's serious and obvious problems, has been seen as symptomatic of a more general failure of imagination among the real powers at Rome, a sort of paralysis which was caused by a combination of knee-jerk reactionism and a misplaced nostalgia for the *vetus respublica*.

Until fairly recently, historians have thus tended to read the *de Republica* as a reflection of, rather than a set of reflections on, the political world of the late republic. However, the last decade or so has seen the beginnings of a long overdue change in this regard, with several books out that treat the work not merely as a product of its times, but an intelligent commentary on, and perhaps even an attempt to influence, the course of contemporary events. Catherine Steel's *Reading Cicero: Genre and Performance in Late Republican Rome* (2005) considers the ways in which Cicero used various kinds of literature (including the treatises of the 50s BC) to fashion his image as a politician in his own time, and ultimately to craft a new way of being political, a role ideally suited to his talents and resources, which would allow him to exercise an ongoing influence over the course of events. Other recent works also suggest that Cicero's philosophical writing is more heavily politicized than had earlier been appreciated. Yelena Baraz's *A Written Republic*, while concerned primarily with the philosophical works written in the 40s BC, makes the important point that already in the 50s, when the *de Republica* was being composed, Cicero was thinking about philosophical questions in practical, political terms, and in particular about philosophical writing as a political tool.¹⁷ For Matthew Fox and Henriette van der Blom, Cicero's use of history in the *de Republica* is similarly political, rather than merely philosophical, in nature and has resonances in the contemporary political scene.¹⁸ Jed Atkins considers the *de Republica* as an attempt to reconcile the idealizing, abstract realm of political philosophy with the vagaries of the real world of Roman politics.¹⁹

These recent works represent two salutary trends in the scholarship on the *de Republica*: first, they place renewed emphasis on Cicero as an original thinker, engaged in an effort to comment on and shape the world around him, rather than simply a product of his time who merely exemplifies that world; and second, they steer clear of the trap of looking at the *de Republica* solely, or even primarily, as a contribution to a philosophical dialectic conducted with long-dead Greeks, and instead read it as a contribution to a contemporary political dialogue within a Roman context. However, the aforementioned works, while asserting the existence of contemporary political resonances in the *de Republica*, only hint at what those resonances may have been. All are, in one way or another, concerned with Cicero's approach to the challenges of combining political messages with philosophical and historical genres literary genres, and treat his methodology in terms which are largely detached from the question of what political views the work expresses, and what in the political scene of the mid-first century, and Cicero's experience of it, may have inclined him to those views. In so doing though, they

¹⁷ Baraz (2012), 67-78.

¹⁸ Fox (2007), 91-104; van der Blom (2010), 230-237; cf. Bringmann (2010), 145-174.

¹⁹ Atkins (2013), 80-119.

lay the groundwork for an investigation which does address this latter question, and indeed invite one. The purpose of this study is to begin that process by suggesting what some of those contemporary political resonances may have been.

This is not wholly new territory by any means. Between 1917 and 1939 there were several attempts to find in the *de Republica* some program of action created in response to the dangers then menacing senatorial government.²⁰ The generally acknowledged failure of these attempts has created an atmosphere in which few scholars have been willing, even in recent years, to advance specific suggestions about connections between the work and the political scene of its period. Jonathan Zarecki, it is true, has recently attempted to revive, in a more nuanced form, Eduard Meyer's theory that the *rector* of the later books of the *de Republica* is meant, in some sense, to be Pompey.²¹ Without passing judgment on this approach, the following study will pursue a different one. Rather than seeking after a political program as such, it will instead examine Cicero's own turbulent political career, and trace the influences that this had on the interests and anxieties evinced in the *de Republica*. In so doing it will build on the advances made in recent scholarship as outlined in the foregoing, placing Cicero as author at the center of the analytic approach and treating him as a thoughtful commentator on the momentous events in which he himself was a key participant, and also reading the treatise as an explicitly political piece, one meant not only as a reaction to contemporary events, but as an attempt to shape them. Unlike earlier work, it will be concerned not only with abstract considerations, such as what it means for a Roman statesman to write philosophy, but also with the specific connections between the *de Republica* and the times in which it was written.

With those goals in mind, the period of particular interest will be the dozen years or so from 63 BC, when Cicero reached the acme of his political career in holding the consulship, down to late 50s, when the *de Republica* was first circulated.²² If, as this study posits, the influence of contemporary events can be traced in the work, and if Cicero wrote it as a political piece meant to do political work in its own time, then the period during and immediately prior to its composition is the natural place to look for connections to the real world. But it also recommends itself because the available evidence becomes much fuller during this span than it had been earlier. In particular, we are blessed with an abundance of evidence in the form of Cicero's letters to his closest confidants, his brother Quintus and his longtime friend Titus Pomponius, better known as Atticus. Almost certainly neither circulated, nor edited with a view to circulation during their author's lifetime, they are rightly considered to be the most unguarded expressions of Cicero's thinking that we possess. They are certainly far more reliable in this regard than the speeches, either forensic or deliberative, which were written to achieve very

²⁰ For a fuller discussion, with references, see below ch. 6.

²¹ Zarecki (2014), 45-104; Meyer (1922).

²² The date at which the work was first circulated is, of course, not precisely known, but almost certainly came before Cicero departed to take up the governorship of Cilicia in 51. See *Fam.* 8.1.4 (*tui politici libri omnibus videntur*).

specific purposes and whose political outlook, if any, was adapted (often patently) to fit the circumstances. Similarly, most of his remaining epistles (with the exception of those to his wife Terrentia, daughter Tullia and secretary Tiro which generally contain less of political import than those to Atticus and Quintus) are likewise written to achieve definite aims and should not be read as transparent windows onto his own thinking. Moreover, it has become increasingly clear that the treatises too, as works meant for a wider audience, were intended to play a role in the creation of their author's public persona as well as to do other kinds of political work.²³

This unique collection of letters thus provides with perhaps the most fully developed portrait of an individual to survive from antiquity, and sheds particular light on his political views. However, if the letters to Quintus and Atticus are our best evidence for Cicero's political thought they are of course far from being simple and straightforward reflections of contemporary reality. Needless to say, all of the usual considerations that apply when attempting to reconstruct historical events from the first hand accounts of participants (even the most sincere) apply equally to using Cicero's letters for the writing of Late Republic history. The student of that history must be particularly aware of Cicero's capacity for rationalization in reflecting upon his own activities, verging in some cases on gross self-deception. The most egregious cases are well known, as for example in his regular conflation of his own interests with those of the commonwealth, or in his efforts to explain and defend his deference to Caesar, Pompey and Crassus after his return from exile.²⁴ Other, often more subtle, instances of rationalization abound, but while this poses challenges for the historian in certain respects, it also represents an opportunity for biographers and others interested the mindset of the person from the ancient world we know the best.

While giving full weight to these *caveats*, and due consideration to other textual evidence, including Cicero's letters to other correspondents, this study will give especial emphasis to these two collections for reasons that go beyond their candor about political matters. For one, the letters to Atticus in particular provide valuable evidence for Cicero's thinking on the intersection of the political and the philosophical. This is crucial because, although it will be argued below that the *de Republica* should be read first and foremost in a political, rather than a philosophical framework, the importance of philosophy to any complete understanding of the work is not in dispute. Indeed if, as this study asserts, Cicero provocatively chose an outwardly philosophical mode of expression (the dialogue) through which to undertake an essentially political act, understanding the interplay between the political and philosophical becomes a matter of the utmost importance.

Both Cicero and Atticus had an abiding interest in Greek philosophy. Cicero's early influences included close contact with two successive heads of the Academy, Philo

²³ Catherine Steel's recent book (2005), about which there will be much more to say later, has been pioneering in this regard.

²⁴ *Att.* 1.19.7.

of Larissa²⁵ and Antiochus of Ascalon²⁶, as well as two prominent Stoics, Diodotus²⁷ and Posidonius²⁸ together with a number of lesser figures, and while he ultimately came to identify himself as an Academic he was clearly influenced by the teachings of both schools. We know somewhat less about Atticus' early education, but he developed a well known affinity for Epicureanism (if a relatively non-dogmatic one²⁹) and was such a devoted lover of all things Attic that he attracted the cognomen by which he is now generally known. The two men, who had had known each other in youth, though we don't know how well, met and became reacquainted while studying in Athens in the early 70s. By the time that Quintus had married Atticus' sister Pomponia a decade or so later, a close friendship had developed between the two which would continue for the rest of Cicero's life. Certainly neither could be fairly called a philosopher (both would probably have shunned the term), but their shared interest in philosophical matters is manifested in their correspondence in later years. By the time the surviving *ad Atticum* sequence begins in earnest in the late 60s we find them sharing philosophical works between their libraries, discussing the relative merits of various thinkers and doctrines, and liberally salting their discussions with what Miriam Griffin called "philosophical badinage"³⁰. Important above all for our purposes is that their shared intellectual background gave Cicero both impetus and opportunity to think about the Roman political world and his own place in it in philosophical terms throughout the late 60s and early 50s, the years immediately before he set out to distill his ruminations into the treatises of the later 50s. When he came to reflect upon the most important events of his public life – particularly his consulship in 63, and his exile in 58-7, his reflections were often shared with Atticus, and philosophy provided a language in which to discuss their political and ethical dimensions and a framework in which to explain them.

The letters to both Atticus and Quintus offer another very useful perspective on the questions under consideration here. Written as they are to men whom Cicero considered to be virtual *alter egos*, they come closer than anything else could to a kind of internal dialogue in which he attempted to come to an understanding of who he was as a political figure and what his career meant in the context of contemporary events. Here a debt should be acknowledged to the work of Steel, already cited above, who considered the ways in which Cicero used various forms of mass communication to craft a public image for himself. Taking this as inspiration, what follows will attempt to understand Cicero's use of private communication to develop a private understanding of the self. Cicero's intimacy with Atticus and Quintus, the genuine esteem in which he held them, and his honest desire to retain their good opinion give the self-representation in which he engages in these collections an added significance. When Cicero develops a certain

²⁵ *Leg.* 1.53; *Acad. Post.* 1.46; *Fin.* 1.16; 5.3; *ND* 1.93; *Tusc.* 3.38; *Att.* 13.39.2; 16.7.4; *Fam.* 13.1.2

²⁶ *Brut.* 306; *ND* 1.6; *Tusc.* 2.9. Cicero seems to have preferred the moderate skepticism of Philo to the Platonic orthodoxy of Antiochus, but speaks of both men admiringly.

²⁷ *Acad.* 2. 115 ; *Att.* 2.20.6.

²⁸ *Hort. fr.* 44; *Fin.* 1.6; *Tusc.* 2.61; *Div.* 1.150; Plut. *Cic.* 4.

²⁹ Rawson (1975), 27.

³⁰ Griffin in Powell (1995), 325-46.

persona in letters to more distant acquaintances, some of whom he held in relatively low regard, his purposes are often more limited, and he has more reason and more scope to tailor that persona narrowly to fit those purposes, even to the point of intentional distortion. In trying to explain himself to Quintus and Atticus, who knew him better than anyone else, and whose opinions and advice he genuinely valued, he would have naturally been more likely to represent himself and his record in ways which accorded closely with his own self image.

The evolution of that self image, and of its owner's understanding of the political world of late republican Rome, is another area in which this study aims to make a contribution. Most scholars of the last century have seen in Cicero a politically static figure, a lifelong reactionary, steeped in conservative principles from his earliest days and unwaveringly committed to nostalgic program of restoring the republic as it had been, or as he imagined it to have been, a century or more in the past. Nearly all influential biographers of the last fifty years trace the roots of Cicero's political thinking far back into his youth, despite the relative paucity of evidence for his views prior to 63. For Elizabeth Rawson his conservatism went all the way back to Arpinum³¹. Wood similarly looks to connections with various members of the early first century nobility for the source of Cicero's political outlook³². For Thomas Mitchell both his political activity and his political philosophy grew out of an "instinctive attachment to the established order" which characterized him throughout his life and derived from "his conservative heritage and early mentors"³³. Indeed, so consistent were the basic elements of Cicero's political ideology in Mitchell's view that there was no need to trace their development – twenty years of prodigious literary output on political and related ethical questions can be treated as an unchanging unity³⁴.

It is within this context that the *de Republica* is typically read – i.e. as the exposition of ideas and view deriving not from its author's personal experience of Roman political life, or from an ongoing process of evolution and reevaluation conducted in the midst of a turbulent era in Roman history, but rather as the expression of views which Cicero had absorbed almost literally in his infancy and had never seen occasion to reappraise. This view, although still widespread, rests on shaky foundations. If the ideals expounded in the treatises could be traced in other parts of the Ciceronian corpus it might be possible to make a convincing argument that they had developed at an early date, but such efforts run up against insuperable difficulties. The letters, with only a handful of exceptions, date from after 63, and those which are earlier offer little by way of evidence

³¹ Rawson, (1971). cf. Rawson (1975) 12-5, Habicht (1990), 16.

³² Wood (1988), 43.

³³ Mitchell (1991), 11.

³⁴ Ibid 9-62 (esp. 12). There may be some, possibly unintended, significance however to the fact that Mitchell places his account of Cicero's political ideas at precisely that point in his two volume biography (immediately after the account of his consulship in 63) where we start to get reliable evidence for Cicero's real views in the letters, and from which date I will argue much of his political thinking really starts to take a more definite shape.

for what their author's political convictions may have been; if anything the absence of significant content of this kind should be taken as evidence that in the years prior to his consulship Cicero was not yet grappling seriously with the questions which would command his attention later. The letters of the late 60s and early 50s present problems of their own, to which we will turn presently. As for the speeches, themes sounded in some of them can certainly be correlated with similar ideas in the treatises, but we should be chary of reading into this proof of longstanding philosophical commitments. Good advocates had to be ideologically flexible if they were to be able to adapt their craft to a wide variety of clients, juries and circumstances. This was particularly true of men who, like Cicero, wanted to use their forensic activities to forge connections with the powerful and thus advance their careers. In such circumstances Catonian rigidity could be an enormous liability, and there is ample evidence that Cicero was well aware of this pitfall and consciously chose to avoid committing himself ideologically in the courtroom³⁵.

If the forensic speeches are of limited value in this regard, might we plausibly expect more from the more explicitly political speeches? Here too caution should be the watchword. Many of the same considerations which have already been mentioned as limiting the use we can make of forensic speeches apply similarly to deliberative ones, and do so particularly to those which Cicero delivered before he achieved the consulship – the pinnacle of the *cursus honorum* and for most ambitious Romans the ultimate prize of political life. Prior to achieving that goal a political aspirant was well advised to mould his public posture to the needs of building the strongest possible base of support he could. If he were a new man this approach was all the more imperative. Without the ready-made networks that membership in the old republican nobility conferred, a *novus homo*, such as Cicero, had to assiduously seek friendships, avoid giving offense whenever possible, and where necessary pick his battles with the needs of the next canvas foremost in his mind. Often a stance which avoided ideological commitments altogether offered the best chance of being all things to all people (or at any rate enough people to win office). That at least is the advice offered, supposedly to Cicero by his brother Quintus, in the pamphlet on electioneering known as the *Commentariolum Petitionis*. Its authenticity has been questioned, but that debate need not detain us. Most scholars credit its arguments even if they question its authorship, and it certainly seems to fit other available lines of evidence about Roman electioneering closely³⁶. High office in general was won by cultivating personal connections and earning goodwill by services rendered rather than by allowing oneself to be lead into controversial positions through strict adherence to a rigid set of political views. Ideological flexibility was as important to the consular hopeful as to the advocate.

The deliberative speeches therefore turn out to be of no more use than the forensic in attempting to take our knowledge of Cicero's political thought farther back than his consulship. Since the letters also begin in earnest at, or really just after, that point it

³⁵ As even Mitchell ((1979),149) concedes.

³⁶ Most of those who doubt that it was in fact written by Quintus suppose it to be a rhetorical exercise of the early empire. See Rawson (1995) 57.

would seem that efforts to pin down his views on government prior to 63 are doomed. Historians and biographers however would suggest another approach. The study of Cicero's upbringing and in particular the study of his relationships with prominent statesmen and intellectuals might, the suggest, offer valuable clues to the formation of the philosophical and ideological commitments whose expression is only observable later in life. Problems however quickly emerge with this approach too. Above all we must confront the fact that Cicero's biography is, in fact, essentially autobiography. Most of what we know about his younger days comes from Cicero himself, either directly or indirectly through later authors who drew on his own writings to fill out the details in their own. And the bulk of that autobiography, particularly where it touches upon his intellectual development is derived from his own writings of the period of the late 50s and 40s. Given that first century Romans, no less than twenty first century westerners, respected consistency of convictions, we must take seriously the possibility that Cicero has emphasized some aspects of his upbringing and elided others, resulting in an appearance of lifelong continuity in his political commitments that is illusory. Of course this consideration need not lead us to conclude that the biographic details we get from the treatises and elsewhere are false. In fact it would be surprising if Cicero stooped to outright invention in relating his memories of the people and events which left a deep impression on him in his younger days. But even if we accept the literal truth of the details he relates of his youth and education we can still appreciate the ways in which the manner of the telling exerts a subtle but profound influence on the overall picture which emerges from those details. With precious little independent information we are left in the hands of a master of persuasion, who had good reasons to carefully control the image of his own early intellectual formation which he presented to his audiences.

The purpose of the foregoing has not been to engage in a full analysis of the evidence for Cicero's political leanings prior to 63 (that would be a book length work in and of itself) but rather to open up an intellectual space in which it is possible to imagine a more dynamic Cicero than what most recent historiography has allowed – not the political weathervane of Mommsen's imagination, but a man of a character sufficiently sensitive and reflective to allow for some evolution in his views on the rapidly evolving political milieu in which he lived and over which he exerted a meaningful, if variable, influence. What follows will make the case that an evolving Cicero is not merely possible, but more probable than a static one, by examining a series of important episodes in his life in the twelve years from 63 to 51, noting their influence on his outlook on Roman political world and related questions, and arguing that evidence for the changing understanding of that world can be traced in what survives of the *de Republica*.

THE *DE REPUBLICA*

In a 1972 article James Zetzel, one of the foremost authorities on Cicero's political philosophy in general, and the *de Republica* in particular, considered the portrayals of Scipio Aemilianus and his "circle" in two of Cicero's treatises: *de Republica* and *de Amicitia*. The differences that he detected in the way these characters were depicted in the two dialogues led him to draw conclusions about the degree to which the respective works were direct responses to the contemporary political world. "Unlike the *De Republica*" he concludes, "the *De Amicitia* is concerned neither with Greek philosophy nor with Greek philosophers like Panaetius: it is a profoundly Roman work, and accurately reflects its historical context. It is the work of a senior statesman, cautiously emerging from a long retirement, and highly sensitive to the political atmosphere".³⁷ The *de Republica* is thus set up as the antithesis to the *de Amicitia* in these respects: as primarily concerned with the Greek philosophical tradition, at most superficially Roman in outlook, detached from its historical context, insensitive or indifferent to the contemporary political atmosphere, and with little or no connection to Cicero's identity as a senior Roman statesman.

New scholarship has recently begun to try to reintegrate the *de Republica* into its historical context, but as of yet there has been no comprehensive rebuttal to the long dominant view neatly encapsulated by Zetzel. Such a rebuttal, however, is overdue and, moreover, necessary if the ground is to be cleared for developing a new way of looking at Cicero's treatise. At the heart of Zetzel's position lies a dichotomy between sets of related concepts, with philosophers, theoretical knowledge and the Greek set up in opposition to statesmen, practical experience, and the Roman. In closely associating the

³⁷ Zetzel, J. (1972), 179. Z.'s argument is that the "Scipionic Circle", which many scholars once took quite seriously, is a Ciceronian literary invention. He finds support for this view in inconsistencies in the way that the group is depicted in the *de Rep.* and *de Ami.* respectively, inconsistencies which he sees as a natural outgrowth of the different characters of the two works and the fact that the Scipionic circle, as nothing more than a convenient fiction, can be variously molded to suit the very different needs the two treatises. Earlier in the article he therefore argues that "the work [i.e. *de Republica*] although vaguely based on Roman politics, rests largely on Greek philosophy, and is distinctly removed from the unpleasant contemporary scene. The Scipionic Circle as it is seen here is therefore primarily a cultural, Hellenic body" (*ibid* 177). In fairness to Z. it does appear, in the introduction to his 1995 commentary on the *de Republica* that he softens the stance taken in the passages already quoted. But although, in the section entitled "Argument, Structure and Sources", which is mostly devoted to a discussion of Cicero's use of various Greek philosophers, Z. does allow that "*Rep.* reflects the political world in which it was written", he does so only insofar as imagining that it served as a kind of escapist fantasy that grew out of Cicero's disenchantment with the current political situation and a kind of impotent yearning for the "good old days" (1995, 28-9). He still rejects entirely the suggestion that the work can have been meant to serve any practical purpose, concluding "Cicero's subject is ethics, and the concern of [modern] pragmatic critics [of the *de Republica*] is power; the two are not the same thing... the subject of *Rep.*, like that of its Platonic model, is broadly ethical, not narrowly political" (1995, 28-9).

de Republica with the former Zetzel *et al.* necessarily distance it from the latter, and in so doing also alienate it from its contemporary Roman political context. In its radical form this position is extended to include the claim that the *de Republica* is little more than a translation of one or another of the Hellenistic philosophers, or else is a combination of several such sources, a foreign transplant without connection to its author's own time and place.³⁸ Less radical versions make allowances for more creative forms of interaction with the Greek tradition, and indeed for some uniquely Ciceronian contribution, but see even that element of the work in terms of its place in a discourse that is fundamentally Greek and theoretical.³⁹ In either case the typical corollary to this view has been that, to the extent that the treatise is Greek, it also un-Roman, to the extent that it is theoretical it is also impractical, and to the extent that it is written by an aspiring philosopher, Cicero's experience as a statesman recedes in importance. The connection between the *de Republica* and the world of Late Republican politics, on this understanding, is at best tenuous, at worst non-existent.⁴⁰

The tenacity of this view is in large part attributable to a reaction against the clumsiness of early efforts to read the *de Republica* as either a manifesto prefiguring the principate or a political pamphlet calling for a dictatorship for Pompey.⁴¹ Such simplistic ways of viewing the connection between Cicero's treatise and the contemporary Roman political scene were easily demolished and in the process the very notion that the *de Republica* might have been intended to do political work in, or even to have been a thoughtful reaction to its own times was so thoroughly discredited that it has taken half a century for it to be revived. But the conventional view also draws strength from the undeniable fact that Cicero's work invites comparison with important works of Greek political philosophy. Its dialectical format and inspirational *Somnium Scipionis* are clearly meant to recall Plato's *Republic*, and the idea that the Roman constitution was an ideal "mixed" form obviously harkens back to Polybius (who in turn no doubt used an earlier philosophical source that may have been known to Cicero directly). The discussion of constitutional forms and their cycles, as well as the question of the necessity of justice (or its opposite) in the state, had long and well known philosophical pedigrees.

The antitheses between philosophers, theoretical knowledge and Hellenism on the one hand and statesmen, practical experience, and *Romanitas* on the other, is clearly present in Cicero's treatise too, a fact that encourages readers to consider where the work itself belongs.⁴² Modern scholars, who have by and large been students of philosophy,

³⁸ Müller (1989), 101-114; Frede (1989), 77-100; Girardet (1989), 114-132; Douglas (1968), 27-34.

³⁹ Lintott (1997), 80-85; Ferrary (1984), 87-98; Wheeler (1952), 49-51; Pöschl (1936), 72-8; Sabine and Smith (1929), 7-40, 94-95.

⁴⁰ Syme (1939), 144-58.

⁴¹ Especially Ferrero (1901), Meyer, E. (1922) and Reitzenstein, R. (1924), refuted by Heinze. See Zetzel (1995) 27 n. 56, 57. More recently Geiger (1984), 42-3. Cf. Sabine and Smith (1929), 46-47.

⁴² As Zetzel himself realized (1995, 15-16, 125), although he is mainly interested in these antitheses as literary structuring mechanisms.

marking the associations noted above between the *de Republica* and a range of Greek philosophical works have, unsurprisingly, tended to put it on the Greek theoretical side of that dichotomy. But Cicero was above all a Roman statesman, and something of an accidental philosopher who took to writing treatises only when he found his hopes for the state and his place in it disappointed. Moreover, he was writing for an aristocratic audience whose members were often deeply concerned with the practical aspects of politics and for the most part only superficially acquainted with, and casually interested in, Greek philosophy. It should not be surprising then to find clear indications in the *de Republica* itself that Cicero crafts an authorial persona which emphasizes his role as a statesman over his knowledge of Greek theory and makes it clear that he sees, and that he intends his readers to see, the work as profoundly Roman, fundamentally practical in its outlook and highly relevant to its contemporary political context.

Statesmanship, Philosophy and the Sources of Ethical and Political Knowledge

A natural starting point will be to identify instances within the *de Republica* where this antithesis is prominent and consider their significance. First, there are several points in the prefaces to books one and three where Cicero addresses *sua voce* the relationship between statesmanship and philosophy, the practical and the theoretical, the most explicit discussion of which is to be found in book 3. Our fragmentary version of this book begins with Cicero describing in his own voice the development of language, mathematics and astronomy among the earliest humans. Then the text breaks off, and after a gap of four leaves, in which the development of the arts of ethics and politics was apparently discussed, the text resumes, with Cicero still writing *sua voce*, in a crucial programmatic passage to which the present discussion will frequently return...

... quorum animi altius se extulerunt et aliquid dignum dono, ut ante dixi, deorum aut efficere aut excogitare potuerunt. Quare sint nobis isti, qui de ratione vivendi disserunt, magni homines, ut sunt, sint eruditi, sint veritatis et virtutis magistri, dummodo sit haec quaedam, sive a viris in rerum publicarum varietate versatis inventa sive etiam in istorum otio ac litteris tractata res, sicut est, minime quidem contemnenda, ratio civilis et disciplina populorum, quae perficit in bonis ingeniis, id quodiam persaepe perfecit, ut incredibilis quaedam et divina virtus existeret. Quodsi quis ad ea instrumenta animi, quae natura quaeque civilibus institutis habuit, adiungendam sibi etiam doctrinam et uberiores rerum cognitionem putavit, ut ii ipsi, qui in horum librorum disputatione versantur, nemo est, quin eos anteferre omnibus debeat. Quid enim potest esse praeclarior, quam cum rerum magnarum tractatio atque usus cum illarum artium studiis et cognitione coniungitur? aut quid P. Scipione, quid C. Laelio, quid L. Philo perfectius cogitari potest? qui, ne quid praetermitterent, quod ad summam laudem clarorum virorum pertineret, ad domesticum maiorumque morem etiam hanc a Socrate adventiciam doctrinam adhibuerunt. Quare qui utrumque voluit et potuit, id est ut cum maiorum institutis, tum doctrina se instrueret, ad laudem hunc omnia consecutum puto.
(Rep. 3.4-6)

... their minds rose higher and succeeded in achieving, in thought or action, something worthy of what I have previously called the gift of the gods. So let us grant that those who theorize about ethical principles are great men, as indeed they are; let us grant that they are learned, and that they are teachers of

truth and moral excellence, provided that we also grant that this other branch of study is by no means contemptible, whether it was invented by men engaged in the ever-changing world of politics or was set out by those men in the course of their peaceful studies – I am speaking of the art of governing and the training of peoples, an art which in the case of good and able men still produces, as it has so often in the past, an almost incredible and superhuman kind of excellence. If, then, someone thinks, like the men who are taking part in the discussion recorded in these books, that he should add scholarship and a deeper understanding of the world to the mental equipment which he possesses by nature and through the institutions of the state, no one can fail to acknowledge his superiority over everybody else. For what can be more impressive than the combination of experience in the management of great affairs with the study and mastery of those other arts? Who can be regarded as more completely qualified than Publius Scipio, Gaius Laelius, and Lucius Philus, who, to make sure of including everything that brought the highest distinction to eminent men, added this foreign learning derived from Socrates to the native traditions of their forefathers? Hence my opinion that anyone who achieves both objectives, familiarizing himself with our native institutions and with theoretical knowledge, has acquired everything necessary for distinction.

This passage, sometimes read in combination with other, similar sections, has convinced many that Cicero pictured the acquisition of theoretical knowledge and political experience respectively as making distinct, but equal, contributions to the training of the perfected statesman. Indeed, the relatively weak claim *haec quaedam ... minime quidem contemnenda, ratio civilis et disciplina populorum* (“that this other branch of study is by no means contemptible... I am speaking of the art of governing and the training of peoples”) might even induce some to go further and argue that practical experience of government is, if anything, the junior partner in this arrangement. Most, at any rate, would add that the author is implicitly offering himself as a contemporary model for such a man – a sort of latter day Scipio – who manages to bridge the antithesis the work develops between Roman and Greek, the practical and the philosophical, by combining political experience at the highest levels of Roman government with a wide reading and profound understanding of Greek political philosophy.⁴³ This way of understanding the antithesis of the practical and the theoretical has in turn been central to the belief that the *de Republica* is in essence a conventional philosophical tract, for it gives Cicero a motive for writing such a text. The *de Republica* itself is thus understood as having been meant to provide, for the first time in Latin, the theoretical learning which Roman statesmen might now add to their experience of government, thus obtaining the full background needed for excellence in statecraft.⁴⁴ Read in isolation, or in combination with a selective sampling of other parts of the work, this interpretation seems plausible enough, at least at first.⁴⁵ If however we look more carefully at this passage, and situate it within a more holistic understanding of the *de Republica*, a different and more complex picture of the relationship between philosophy and statesmanship emerges.

To begin with, the nature of the antithesis at work at *Rep.* 3.4-6 requires further explication. Two kinds of knowledge, a *ratio vivendi* on the one hand and a *ratio civilis*

⁴³ Zetzel (1995), 15-16; How (1930), 25.

⁴⁴ Zetzel (1995), 15-16, 125; Mitchell (1991), 20-24; Rawson (1975), 152.

⁴⁵ Scipio's eulogy of philosophy at *Rep.* 1.26-9 in particular might be taken as reinforcing this interpretation.

et disciplina populorum on the other, are mentioned, which we might translate as “ethical theory” and “political theory and the training of peoples” respectively. So are two groups of people: those referred to as *homines... eruditi... veritatis et virtutis magistri*, are almost certainly to be understood as philosophers, although Cicero does not use that word here (though he may have in the lost portion that immediately precedes this section); the other, *vir in rerum publicarum varietate versatis*, are clearly statesmen. The ways in which the two types of men are related to the two spheres of knowledge, and the ways in which the latter are related to one another, are not however made fully explicit here. On the conventional view, both the ethical and the political spheres of knowledge would be developed by philosophers, and the ideal statesman would then learn what the philosophers had to teach in order to have all of the tools necessary to govern well. This way of understanding the relationship between philosophy and statesmanship is compromised however by Cicero’s claim that at least the political sphere may have been discovered by statesmen themselves. This assertion may reference something said in the preceding, lost portion of book 3 but it also, fortunately, harkens back to a surviving section of book 1 which does much to illuminate the later passage. In book one Cicero had written...

*Nihil enim dicitur a philosophis, quod quidem recte honesteque dicatur, quod non ab iis partum confirmatumque sit, a quibus civitatibus iura descripta sunt.*⁴⁶ *Unde enim pietas aut a quibus religio? unde ius aut gentium aut hoc ipsum civile quod dicitur? unde iustitia, fides, aequitas? unde pudor, continentia, fuga turpitudinis, adpetentia laudis et honestatis? unde in laboribus et periculis fortitudo? Nempe ab iis, qui haec disciplinis informata alia moribus confirmarunt, sanxerunt autem alia legibus.*
(*Rep.* 1.2)

For nothing is said by philosophers – nothing right and honorable at any rate – which has not already been brought into being and established by those who have drawn up laws for states. Where does devotion come from? Who gave us our religious observances? What is the source of law, either the law of nations or this civil law of ours? From where did justice, good faith and fair dealing come? Or decency, restraint, the fear of disgrace and the desire of praise and honor? Or fortitude in hardship and danger? Why, from those men who have taken these values, shaped by teaching, and either established them in custom or confirmed them in law.

The tense switch, from the present in *dicitur* to the perfect in *partum confirmatumque sit*, is key, for it makes the statement claim something far more sweeping than the assertion that statesmen merely implement the lessons they learn from philosophers. If those who have given laws to states have already implemented the precepts later developed by philosophers, the former by definition must have access to the same kinds of knowledge after which the latter strive in their discussions. The subsequent list of the various gifts bestowed upon states by their leaders give a sense of the range and scope of that

⁴⁶ *descripta* – thus P (the Vatican palimpsest), retained by Büchner and Bréguet; Ziegler, Krarup and Halm amend to *discripta*. Confusion between the two forms in manuscripts is so common as to compromise our own understanding of what difference in meaning, if any, existed between them (see Zetzel 1995, 100). Modern scholars ascribe to *discribere* the notion of distribution, to *describere* the idea of establishment. The latter sense seems preferable here. For the phrase *iura describere* see *De Orat.* 1.33, 3.76. Cf. *Sest.* 91.

knowledge, encompassing both the typical business of law-givers (the establishment of the state religion and its rites, as well as the civil law), which would generally be classified as belonging to the political arts, and all of the main virtues, thus extending the range of the statesman's competence to include the realm of ethics. Taken together the passage amounts to an assertion that statesmen are able to arrive at political and ethical truths just as philosophers do. Indeed, he goes so far in the section immediately following the one quoted above as to claim that, insofar as statesmen are better able to get larger numbers of people to live morally upright lives by crafting the apparatus of the state than philosophers are able to by means of lecturing, the former excel the latter in respect to wisdom itself.⁴⁷

Disciplina sometimes refers to a branch of philosophical learning or to a particular philosophic school, and a skeptic might be tempted to point to the phrase *haec disciplinis informata* as tending to point in the opposite direction; that is to say, to a prior role for philosophy in informing the actions of statesmen. Several considerations however militate against this view. The first, of course, is that in reversing the order of precedence it would make the passage self-contradictory. But it would also involve Cicero in a chronological absurdity, since it was generally agreed that the famous law-givers, both Greek and Roman, whom he doubtless has in mind when he writes of those *a quibus civitatibus iura descripta sunt*, lived at least a century earlier than any ethical or political philosopher.⁴⁸ Indeed, he goes to considerable trouble (with Scipio as mouthpiece) to debunk the long-standing myth that Rome's second king, Numa Pompilius, had been a pupil of Pythagoras of Samos, by pointing out that Numa had died 140 years before Pythagoras arrived in Italy.⁴⁹ The considerable space devoted to demolishing the tale demonstrates not only that Cicero was sensitive to chronological issues as regards the dates of ancient law-givers and ethical philosophers, but more importantly that he was a pains to refute the notion that the Roman king generally given the most credit for shaping Rome's early institutions had owed any of his wisdom or policies to a Greek philosopher.⁵⁰ Indeed, the bulk of the second book of *Republica*

⁴⁷ *Rep.* 1.3 - *qui his urbibus consilio atque auctoritate praesunt, iis, qui omnis negotii publici expertes sint, longe duco sapientia ipsa esse anteponendos.* ("I believe that those who govern such cities by their counsel and authority ought to be regarded as far superior to those without experience in public affairs in respect to wisdom itself.")

⁴⁸ At *Rep.* 3.6 these fields are traced back to Socrates. The Roman kings in their roles as law-givers are of course the main substance of the second book of the *de Republica*. Reference is made in *de Republica* to several legendary Greek law-givers. Lycurgus receives special attention – 2.2, 15, 18 42, 43, 50, 58; 3.16; 4.5. Others mentioned include Solon Theseus, Draco and Minos.

⁴⁹ *Rep.* 2.28-9. For the story see Diod. 8.14; Plut. *Numa* 1.3-4, 8.2-8, 11.1-2; Ovid, *Fasti* 3.151-4; *Met.* 15.1-8, 15.60-72, 15.479-84. Cicero was not the only one to spot the chronological problems – see also Dion. Hal. 2.59.1-2; Livy 1.18.1-3. See Gruen (1990), 158-70, 191.

⁵⁰ That Cicero saw Numa in this light is confirmed by *Rep.* 5.3. Lest anyone miss the point, Scipio's refutation of the connection between Numa and Pythagoras is rounded off by the following response from one of his interlocutors - *Di immortales, inquit Manilius, quantus iste est hominum et quam inveteratus error! Ac tamen facile patior non esse nos transmarinis nec inportatis artibus eruditos, sed genuinis domesticisque virtutibus.* ('Ye gods' said Manilius, 'what a howler! And to think that people have

consists of a detailed examination of the evolution of the early Roman state during the monarchy and the early years of the Republic, and Cicero's discussion of the myth of Numa and Pythagoras, coming in the midst of it, highlights the conspicuous absence of philosophers during Rome's formative period and serves as a pointed reminder that the city's constitution, customs and morals owed nothing to Greece and philosophy, and everything to the genius of Roman statesmen.

The term *disciplina* has a variety of senses, and need not mean anything more specific than teaching or training. Such training might be imagined as coming from a variety of sources, but there is evidence from elsewhere in what survives of *de Republica* that Cicero conceived of it as being provided by statesmen themselves. We have already seen the term once, in *Rep.* 3.4 (quoted above), where it was paired with *ratio civilis*, an art which Cicero suggests may have been developed by statesmen, and the term appears again later in a passage which gives a clearer sense of what he had in mind. Scipio had been discussing what the particular concerns of the ideal statesman (the much discussed *rector rei publicae*) should be. After a lacuna of unknown length, the discussion resumes, with Scipio still presumably speaking...

... civitatibus, in quibus expetunt laudem optumi et decus, ignominiam fugiunt ac dedecus. Nec vero tam metu poenaeque terrentur, quae est constituta legibus, quam verecundia, quam natura homini dedit quasi quendam vituperationis non iniustae timorem. Hanc ille rector rerum publicarum auxit opinionibus perfecitque institutis et disciplinis, ut pudor civis non minus a delictis arceret quam metus. Atque haec quidem ad laudem pertinent, quae dici latius uberiusque potuerunt.
(*Rep.* 5.6)

...states in which the best men strive for praise and honor, shunning disgrace and dishonor. They are not deterred so much by fear of the penalty prescribed by law as by a sense of shame – that dread, as it were of justified rebuke which nature has imparted to man. The statesman develops this sense by making use of public opinion, and completes it with the aid of education and training [*disciplinas*]. So in the end citizens are deterred from crime by moral scruples as much as by fear. That will do for the question of praise, which could be discussed at greater length and in greater detail.

This is followed by a brief passage in which the good life is said to be dependent on a good state, after which the Vatican palimpsest ceases. But although the context of the above quoted passage is mostly lost, its main point seems clear enough. The best statesman induces the citizens in various ways, including the use of *disciplina* (“training”), to willingly do what the law commands. The introduction, therefore, of the term *disciplina* into the conversation does not imply that such a person is dependant on philosophy for the task of instructing the people in ethical conduct.

believed it for so long! Still, I'm happy to discover that our learning derives not from imported foreign arts but from our innate domestic virtues').

Shouting in Corners

Although statesmen had access to the same kinds of political and ethical knowledge that philosophers did, the means by which they attained their enlightenment, Cicero suggests, were different. Those differences were bound up with the manner of their respective lives and the relationship between those lives and the attainment of virtue. Philosophers in the *de Republica* are repeatedly depicted as living and theorizing in isolation from the realities of political life. At *Rep.* 1.2 philosophers are described as *isti in angulis personant* (“those fellows shouting in their secluded little nooks”). The image comes from Plato’s *Gorgias*, where it appears as a sneer in the mouth of Callicles, Socrates’ main dialectical opponent, who despises philosophers for conducting their conversations in private, rather than taking part manfully in the public life of the city.⁵¹ And although Cicero clearly disapproved of Callicles’ arguments for the superiority of injustice in *Gorgias*⁵², something in this image of the philosopher disputing in secluded corners evidently struck his as apt, for, it appears in a similar context in *de Oratore*, the treatise which Cicero completed a year or so before beginning to pen *de Republica*. The relevant passage offers some interesting parallels with *Rep.* 1.2-3. At *Orat.* 1.56 Crassus, one of the two main interlocutors of the dialogue, is addressing the question of whether an orator was qualified to discourse on questions of ethics, or whether that was more properly the sphere of philosophers. In the course of a lengthy exposition Crassus says...

Etenim cum illi in dicendo inciderint loci, quod persaepe evenit, ut de dis immortalibus, de pietate, de concordia, de amicitia, de communi civium, de hominum, de gentium iure, de aequitate, de temperantia, de magnitudine animi, de omni virtutis genere sit dicendum, clamabunt, credo, omnia gymnasia atque omnes philosophorum scholae sua esse haec omnia propria, nihil omnino ad oratorem pertinere; Quibus ego, ut de his rebus omnibus in angulis, consumendi otii causa, disserant, cum concessero, illud tamen oratori tribuam et dabo, ut eadem, de quibus illi tenui quodam exsanguique sermone disputant, his cum omni gravitate et iucunditate explicet.
(*Orat.* 1.56)

And indeed when, while a man is speaking, topics often crop up which demand some mention of the immortal gods, of dutifulness, harmony, or friendship, of the rights shared by citizens, by men in general, and by nations, of fair-dealing, moderation or greatness of soul, or virtue of any and every kind, all the academics and schools of philosophy will, I believe, raise the cry that all these matters are their exclusive province, and in no way whatever the concern of the orator. But when I have allowed that they may debate these subjects in their little nooks, to pass their leisure time, it is to the orator nonetheless that I shall entrust and assign the task of developing with complete charm and cogency the same themes which they discuss in a sort of thin and bloodless style.

⁵¹ *Gorgias* 485d. See Zetzel (1995), 99. Callicles’ philosophers are whispering rather than shouting (ἐν γωνίᾳ ... ψιθυρίζοντα).

⁵² Cicero’s insistence on the importance of justice in public life finds expression in many places in his corpus; in the *de Republica* the main locus is in book 3, where he has his characters express their enthusiasm for Laelius’ speech in favor of the necessity of justice in states, and their repugnance at the opposing position.

The passage quoted above belongs to a larger debate about the range of competencies required by oratory, with Crassus championing a more expansive view and arguing that orators must have a rich understanding of the topics about which they speak. The intricacies of this discussion, and the degree to which the man skilled in speaking in *de Oratore* is to be identified with the statesman (and/or the *rector rei publicae*) of *de Republica*, need not detain us. For the present, two observations will suffice. The first can be noted briefly. Crassus is here made to assert that philosophers have unfairly claimed as their own exclusive domain kinds of knowledge which in fact fall within the sphere of other pursuits as well; the section quoted above is just part of a much more elaborate refutation of this claim. If a similar charge of jealousy was lodged explicitly against philosophers in *de Republica*, the section has been lost; the nearest the surviving text comes is the suggestion that statesmen too might be called ‘wise men’ (*sapientes*), were it not for the fact that philosophers insist that that name belongs to themselves alone.⁵³ But, if the foregoing discussion has succeeded in demonstrating that Cicero meant to argue that statesmen were capable of independently discovering the same moral and political precepts which philosophers claimed as their own, such a case is clearly being made against a claim by philosophers of the kind that Crassus explicitly rebuts in *de Oratore*.

The second pertains more directly to the image of philosophers *in angulis personantes* and hinges on the connection which the passage from *de Oratore* draws between philosophy and *otium*. In other contexts, including Cicero’s own famous formulation *otium cum dignitate*, the term *otium* need not, of course, carry any negative connotation, and can in fact be highly positive. But at *Orat.* 1.56 philosophers are being contrasted unfavorably with orators, and the tendency of the former both to conduct their discussions in secluded corners and to do so, not as part of any public business, but rather for the sake of using up their spare time, is clearly meant to make the comparison more invidious by reminding the reader that the latter acts upon the most important public stages and employs his art in the public interest. The suggestion that there is something wrong with the ways in which philosophers go about looking for truth, at least in the political sphere, recurs in the *de Republica*, and is developed in interesting ways, particularly in the preface written in Cicero’s own voice which opens the work.

The surviving portion of that preface concerns itself with the desirability of getting involved in politics. This had long been a point of contention among Greek philosophers, with Peripatetics and especially Stoics arguing that the wise man should live a politically engaged life, ranged against Epicureans who thought the opposite.⁵⁴ But, as will be argued at greater length later, Cicero was little concerned with the intricacies of this scholastic debate; the preface to the work’s opening book is in essence an exhortation to the political life. As a central part of that exhortation, Cicero develops a

⁵³ At *Rep.* 3.7.

⁵⁴ The modern literature on that debate is considerable and can only be cited selectively; much recent work has been done by Eric Brown, (2009);(2000a); (2000b). See also Trapp (2007), 215-25. The best large scale study is Carter (1986). Long and Sedley (1987) and Jaeger (1948) remain very useful.

dichotomy between the allure of *otium* on the one hand and the demands of duty to the state on the other. The surviving text opens with a list of Roman heroes who underwent toil and danger for the sake of the *res publica*. That list culminates in an extended eulogy of Cato the Censor, who *certe licuit Tusculi se in otio delectare... in his undis et tempestatibus ad summam senectutem maluit iactari quam in illa tranquillitate atque otio iucundissime vivere* (“might certainly have enjoyed his retirement at Tusculum... but preferred instead to be tossed about in these billows and storms into extreme old age rather than to live in that peace and pleasant retirement”). Further examples of statesmen, both Greek and Roman, who exposed themselves to danger for the love of country are later cited to reinforce the point (in which list Cicero includes himself with specific reference to his exile).⁵⁵ Active participation in the state and a willingness to accept the concomitant hardships is made a moral obligation – an obligation which the citizen owes to the state for the services which it has bestowed upon him from birth, and the ethical *civis* is allowed to devote only such time and energy to *otium* as may be superfluous to the needs of the political community.⁵⁶

This background lends significant color to the image of the philosopher in his *angulus*, whiling away his *otium* in obscure debates, for it puts him on the wrong side of the leisure/duty dichotomy, and thus in a position inferior to the statesman in point of moral behavior itself, one of the key subjects in which he claims expertise. And Cicero takes the argument a step further still, extending its scope to encompass politics as well as ethics. Another long running dispute among Greek philosophers concerned the question of whether virtue should be construed as essentially or exclusively practical, or whether it should embrace both politics and theoretical knowledge and science, with priority assigned to the latter. Cicero associates himself with the former view, but applies it to the political sphere, rather than that of personal ethics, arguing that political virtue is attainable only by those who put political theory into practice (i.e. statesmen), just as personal moral excellence is only attainable by those who engage in virtuous action. The passage is the context for the phrase *isti in angulis personant* with which the discussion began...

Nec vero habere virtutem satis est quasi artem aliquam, nisi utare; etsi ars quidem, cum ea non utare, scientia tamen ipsa teneri potest, virtus in usu sui tota posita est; usus autem eius est maximus civitatis gubernatio et earum ipsarum rerum, quas isti in angulis personant, reapse, non oratione perfectio. (*Rep.* 1.2)

Yet, it is not enough to possess moral excellence as a kind of skill, unless you put it into practice. You can have a skill simply by knowing how to practice it, even if you never do; whereas moral excellence is entirely a matter of practice. Its most important field of practice, moreover, is in the government of a state and in the achievement in reality, and not just in words, of those things which those men shout about in their secluded nooks.

⁵⁵ *Rep.* 1.5-8.

⁵⁶ *Rep.* 1.8. The idea seems to be of Platonic inspiration, but Cicero’s conception of the burden which the state imposes on the citizen is heavier than that sketched out by Socrates at *Crito* 51c, where only obedience to the law is demanded.

Cicero thus likens the ability to theorize about constitutions, for example, to an *ars* – a capability which one may possess, even if never employed in the creation or government of a state. But political virtue exists only where theory is put into action and, as Cicero points out again and again in his preface, political action is the hallmark of the statesman, the thing that distinguishes him above all from the philosopher.⁵⁷ The distinction appears again in the preface to the third book, where the study of the *ratio vivendi* grants philosophers the title *virtutis magistri* (“teachers of virtue”), but it is the *ratio civilis* which *perficit in bonis ingeniis... ut incredibilis quaedam et divina virtus exsisteret*. (“in the case of good and able men still produces... an almost incredible and superhuman kind of excellence.”).⁵⁸

If philosophers are unable to practice political virtue, they are equally unable to teach ethics, or to teach it at any rate to more than a very few. This too seems to be in part a function of the tendency of philosophers to speak mostly to one another in their *angulis*, an aspect of that image that goes back to Callicles, who had chastised Socrates in *Gorgias* for his failure to conduct his discussions upon more public stages, where all could hear.⁵⁹ But it is also a result of the different means available to the theoretician on the one hand, and the statesman on the other, for inducing ethical behavior in others. Xenocrates of Chalcedon, a student of Plato and later head of the Academy, had once said that his pupils benefitted from his teachings in that they now did willingly what they were compelled to do by law.⁶⁰ Cicero turns the famous saying around and uses it to demonstrate that, insofar as the law compels good behavior from all, whereas philosophy can touch the minds of only a few, statesmen are greater in respect to wisdom itself.⁶¹ Modern commentators, uncomfortable with the idea that Cicero might be suggesting that statesmen have access to the same kinds of knowledge which were considered to belong to the sphere of philosophy, have suggested that the use of *sapientia* here represents a play on words, with the genuine wisdom of the philosopher contrasted with something only vaguely analogous, a kind of practical know-how, to which a statesman might aspire.⁶² To be sure, the word can refer to non-philosophical kinds of knowledge, as

⁵⁷ Cf. *Rep.* 3.4, 6.

⁵⁸ *Rep.* 3.4.

⁵⁹ ὁ γὰρ νυνδὴ ἔλεγον, ὑπάρχει τούτῳ τῷ ἀνθρώπῳ, κἄν πάντῃ εὐφυῆς ᾦ, ἀνάνδρῳ γενέσθαι φεύγοντι τὰ μέσα τῆς πόλεως καὶ τὰς ἀγοράς, ἐν αἷς ἔφη ὁ ποιητὴς τοὺς ἄνδρας ἀριπρεπεῖς γίγνεσθαι, καταδεδοκῶτι δὲ τὸν λοιπὸν βίον βιῶναι μετὰ μειρακίων ἐν γωνία τριῶν ἢ τεττάρων ψιθυρίζοντα, ἐλεύθερον δὲ καὶ μέγα καὶ ἰκανὸν μηδέποτε φθέγξασθαι.- *Gorg.* 485d (“For, as I was just now saying, it’s typical that such a man [i.e. the philosopher], even if he’s naturally very well favored, becomes unmanly and avoids the centers of his city and the marketplaces – in which, according to the poet, men attain ‘preeminence’ – and instead lives the rest of his life in hiding, whispering in a corner with three or four boys, never uttering anything well-bred, important or apt.”).

⁶⁰ See Xenocrates fr. 3 Heinze. Plutarch also attributes the comment to Xenocrates; Diogenes Laertius assigns it to Aristotle. Cf. *Acad.* 1.17; *Fin.* 4.79.

⁶¹ *sic eos, qui his urbibus consilio atque auctoritate praesunt, iis, qui omnis negotii publici expertes sint, longe duco sapientia ipsa esse anteposendos* – *Rep.* 1.3.

⁶² Zetzel (1995), suggests that the ‘wisdom’ ascribed to the statesman here might, in other contexts, be called *prudentia*. Cf. Rudd (1998), 176.

indeed it does elsewhere in the *de Republica*, when Cicero ascribes wisdom to Roman kings for having properly situated Rome's walls on high ground.⁶³ But we are not concerned with such mundane matters at *Rep.* 1.2-3, and there is no need to assume a play on different meanings of the word. The capacities which Cicero is assigning to the statesman are the attainment of virtue and the ability to impart it to others – precisely the realms which philosophers claimed as their own. Where Cicero and Xenocrates differ is on the way in which law operates in regard to virtue. The idea that virtue consists not only in right action, but in right action undertaken for the right reasons, is at least as old as Plato, and this is the crux of Xenocrates' saying – *i.e.* that he provided the right reason which made the right action of his students genuinely virtuous.⁶⁴ The corollary to this view is of course that the strictures of law do *not*, by themselves, induce the citizen to act for the right reasons, even where fear of penalties can convince him to act rightly. By contrast, Cicero argues this precisely – that the laws do impart genuine virtue, in the full sense of the term, inclusive of right reason, to those who live under them, a point emphasized by the use of a long list of terms for virtues (*iustitia, fides, aequitas, etc.*), and reaffirmed and clarified at *de Rep.* 5.6, where the statesman is said explicitly to provide citizens with virtuous motives through the institution of laws and customs. This is much more than just some practical knack – it is, in Cicero's view, proof that statesmen possess a key capability of philosophers (the ability to make others virtuous), and that, as everyone lived under law, they were able to employ that capacity much more fully and extensively than philosophers, whose words could reach only a few.

Cicero thus argues statesmen excel philosophers in their ability to realize virtue in action. In the matter of strictly ethical virtue, the former surpass the latter because they fulfill their moral obligation to do their duty to the state while philosophers choose to pass the whole of their lives in *otium*; as regards political virtue, the statesman is again to be reckoned superior because, while the philosopher may possess political knowledge, the statesman alone is in a position to undertake political action, without which there can be no political virtue. As for teaching virtue, another field which philosophers considered to be their special province, Cicero argues that the capacities of the statesman are greater, since he too is able to make others virtuous and to do so on a much larger scale by means of law than philosophers could ever hope to do with lectures.

But what of disputation itself, the characteristic mode used by the philosopher for arriving at truth? One might suppose that Cicero would be prepared to leave this as the citadel of “the wise”; to acknowledge that here, if nowhere else, philosophers reigned supreme. Yet even here Cicero is prepared to press the claims of statesmen, not just to competence in such discussions, but indeed to superiority. The general structure of the dialogue itself constitutes an important element in that claim. The model is clearly Plato's *Republic*, a point driven home not only by the similarity of subject matter, but also of setting and scene, by the obvious adaptation of the Myth of Er in the *Somnium*

⁶³ *Rep.* 2.11.

⁶⁴ Plato *Republic*, Aristotle *E.N.*

Scipionis, as well as by direct references and one extended quotation.⁶⁵ However, in substituting Roman statesmen for Socrates and his philosophically inclined protégés in a discussion which is, at least in form, recognizably Platonic, Cicero is suggesting that Roman statesmen are perfectly capable of carrying on the same kinds of conversations that philosophers do. In addition, certain portions of the *de Republica* seem tailor made to display the philosophical competencies of Scipio and his circle. For example, although in much of the surviving dialogue Scipio holds forth for extended periods, as Socrates tends to do in the later Platonic dialogues, he and Laelius are also given a protracted scene in which they engage is the rapid back-and-forth more reminiscent of Plato's early dialectic.⁶⁶ And the extended set pieces on justice, which take up the bulk of the surviving portions of the third book of the *de Republica* and are explicitly modeled on the speeches delivered by the Athenian Academic Carneades in Rome (on which there will be more to say presently) give Laelius and Philus the opportunity to display their skill in the delivery of the opposed speeches typical of much Hellenistic philosophical debate.⁶⁷ And Scipio himself is portrayed as having engaged in philosophical debate directly with the contemporary Greek thinkers Polybius and Panaetius, whom Cicero describes as *duobus Graecis vel peritissimis rerum civilium* ("perhaps the two Greeks most learned in political theory"), and indeed as having suggested to the former the idea that the Roman constitution was the ideal one.⁶⁸ The argument that Rome's mixed constitution was ideal, and the foundation of her rise to imperial mastery of the known world, was the main theme of Polybius' famous constitutional digression in Book 6. Although clearly fictive, Cicero's attempt to appropriate this well-known bit of political speculation from Polybius and assign it to Scipio is characteristic of his larger project to carve out a space for Roman statesmen in the world of political thought.

But if the general structure of the dialogue and its *dramatis personae* make the case that statesmen can acquit themselves well in the in the hallmark activities of the philosopher, specific passages go beyond this to suggest that the kind of discourse on display in the *de Republica* is in fact better than that to be found in the works of Greek theoreticians. Cicero has Scipio himself make the assertion that the discussions to be found in even the best writings on the subject of politics in Greek are unsatisfactory.⁶⁹ The claim is fleshed out at various points in the surviving portions of the text. Plato's system of joint ownership of property appears to come in for criticism in a fragment from book 4, whose context has unfortunately been lost.⁷⁰ And the ideal state of Plato's Republic is characterized generally as being incompatible with real human behavior.⁷¹

⁶⁵ On the setting, see *Att.* 4.16; the quotation, found at *Rep.* 1.66-8, comes from book 8 of *Republic*. On the connections with Plato's *Republic* see Sharples (1986), 30ff. For references to other works of Plato, see Boyancé (1970), 222-300.

⁶⁶ *Rep.* 1.55-65.

⁶⁷ *Rep.* 3.8-42.

⁶⁸ *Rep.* 1.34.

⁶⁹ *Rep.* 1.36.

⁷⁰ *Rep.* 4.5 = Nonius 2.574.

⁷¹ *Rep.* 2.22, 52.

Carneades is roundly damned as a scoundrel⁷², and Polybius (whom Cicero numbers among the “wise” in regard to politics) is tweaked for having criticized Rome’s failure to create a system of public education, while ignoring the obvious deficiencies in Greek models.⁷³ The pedantic approach of philosophers is also critiqued in general terms.⁷⁴ But above all the Greeks in general and Plato in particular are taken to task for restricting their treatments to imaginary states, rather than directly addressing the histories of real ones.⁷⁵

It was in this last respect, in particular, that the Roman statesman is shown to be well placed to surpass the Greek philosopher even in theoretical discussion itself. The *de Republica* is packed, both in the prefaces and in the dialogue, with lessons drawn from the *exempla* of history, and in particular from the history of the greatest state of all, Rome.⁷⁶ This great wellspring of wisdom is, in turn, represented as the special patrimony of the Roman statesman. Part of this derives from lived experience, as emphasized in Cicero’s discussions *sua voce* of his consulship in the preface to book one. Likewise, Scipio’s place in Roman political history is given considerable space at prominent points in the dialogue, with extended treatments found both at the beginning of the dialogue and at the head of the climactic *Somnium Scipionis*.⁷⁷ Another element in the Roman statesman’s privileged access to the wisdom embodied in Roman *exempla* comes from networks of interpersonal connections. Scipio’s personal association with Cato is given great play at the beginning of book 2, and with his adoptive grandfather, Scipio Africanus in book 6, with special emphasis on the ways in which each of these legendary figures imparted wisdom and virtue to the young Aemilianus. For Cicero’s own part, a personal connection is drawn that links the author to the characters in his dialogue through the figure of P. Rutilius Rufus.⁷⁸ But, perhaps more importantly, the dialogue itself, like that of *de Oratore*, is meant to act as a model for the way in which the knowledge of Roman statesmen was passed from generation to generation, as each dialogue features senior Roman political figure discoursing in the presence of attentive younger ones.⁷⁹ But beyond personal links, direct or indirect, Cicero appeals implicitly to the idea, one familiar and congenial to his elite Roman audience, that an appreciation of the great

⁷² *Rep.* 3.8; *Rep.* 3.32 = Nonius 2.507-8. Cicero pointedly ignores the fact that Carneades spoke with equal force and fluency in the cause of justice in an opposed speech.

⁷³ *Rep.* 4.3. The passage of Polybius here referenced is not preserved.

⁷⁴ *Rep.* 1.38. Cf. Arist. *Pol.* 1.2; Plb. 6.6.2

⁷⁵ *Rep.* 2.3, 21-2, 51, 52. It is widely debated whether Cicero knew Aristotle’s *Politics*, which devotes considerable attention to existing states, or his various monographs on the constitutions of famous cities; if he did, he pretends not to at *Rep.* 2.22.

⁷⁶ On the question of Cicero’s use of historical *exempla* generally, see van der Blom (2010).

⁷⁷ Cicero’s own experience - *Rep.* 1.6-10; Scipio’s - *Rep.* 1.31-2, 34-37, 67; 6.9-12.

⁷⁸ *Rep.* 1.13. Cicero likewise identifies his source for the dialogue in *de Oratore* as C. Cotta - *Orat.* 1.23-29. For Cicero’s efforts to use literature to connect himself, directly and indirectly, with the great figures of the Roman past, see Steele (2005), 83-144.

⁷⁹ In *Rep.* this function is played in particular by P. Rutilius Rufus (Cicero’s supposed source for the dialogue), and Q. Mucius Scaevola (who appears as an old man in *de Oratore*). See Steel (2005) 106-12; Zetzel (1995), 5-6. Zoll (1962), 63 sees this inter-generational exchange as Platonic in inspiration.

exempla of Roman history, and for the *mos maiorum* which they embodied, ran in their own blood as descendants of those great men.

The very structure of the dialogue appears to have been designed to make this point. The *de Republica* was written in six books, and purports to relate a conversation that was conducted over a period of three days, with two books devoted to each day. Of these six books, the first two are by far the best preserved, and in them we may be able to see something of Cicero's overall design. In book one the dialogue, after some stage setting material, turns to a discussion of constitutions, with the question posed to Scipio which type of government is best. The discussion of this first book is conducted along traditional Greek philosophical lines, with its tripartite division of governments into rule by the one, the few and the many, its subdivision of these into proper and degenerate kinds, its notions of cycles, and so on. Scipio shows himself to be well versed with the best thinking on these subjects, but the end result of the discussion is unsatisfactory. For although he eventually identifies monarchy as superior either to aristocracy or democracy, Scipio declares that rule by one man, no matter how virtuous, is nonetheless imperfect. After recapitulating the problems with all three of the forms of government with which Greek theory was concerned, the conversation appears to be at a deadlock, with no truly satisfactory constitution in prospect. But, in the segue to the second book, a solution to the conundrum is offered in the form of the Rome's own constitution, which is presented as blending the various Greek forms, thus transcending the difficulties which beset them. Book 2 itself is devoted to a description of the historical development of that constitution by reference to the historical *exempla* which are the special province of the Romans. Thus the shortcomings of Greek theoretical models are shown to be solved, and their limitations overcome, by the Roman statesman armed with his unique ancestral knowledge.

Although the highly fragmentary condition of the last four books of *de Republica* makes it difficult to speak with certainty about their contents and overall shape, there are certainly tantalizing indications that the first two books set a pattern followed in the following pairs of books devoted to the next two days of conversation, with a book concerned with theoretical topics rooted in the work Greek philosophers followed by one that addressed deficiencies in that theory with concrete examples drawn from the history of Rome.⁸⁰ The fragments of the dialogue of book three are concerned, as in book one, with a stock piece of Greek political philosophy – the question of whether a state could be run without injustice, as well as with the role of justice and its opposite in the three basic forms of constitution. In each of these, it would seem, justice is as best deficient, if

⁸⁰ The inspiration for this reconstruction comes from Zetzel (1995) 16-17. In keeping with his view of the structure and function of the *de Republica* generally however, he sees the even numbered books, focused on Roman historical *exempla*, as balancing, rather than advancing on, and correcting the deficiencies of, the odd numbered books with their Greek and theoretical interests. Although books 4-6 are indeed very poorly preserved, the surviving fragments are sufficiently illuminating to allow for a general consensus about the topics covered in the later half of the work, and how that subject matter was divided among those books. Cf. Steel (2005), 75-6.

not indeed wholly absent, with one group or another in the society wronged by the exercise of power by another. It is tempting to see in book 4 a solution again offered to these problems in the form of the Roman constitution. Too little of that book survives to draw any certain conclusions, but a difference in content is clearly detectable, with the theoretical subject matter of book three giving way to a more concrete treatment of the history of real states, Rome again chief among them, reminiscent of the subject matter of book two. Books five and six are (with the exception of the *Somnium Scipionis*) more fragmentary still, but the bits and pieces that we have seem to fit the pattern detectable in the earlier parts of the work, with book five devoted to a theoretical discussion of the ideal statesman (whom Cicero calls the *rector rei publicae*) and his role in righting the ship of state in moments of crisis, and book 6 given to a treatment of important instances of crisis in Roman history, with special attention given to the Gracchan affair.

This reconstruction of the structure of the work as a whole is necessarily speculative, but it gains plausibility from the fact that it reflects, and further develops, the antithesis which Cicero develops between statesmen and philosophers throughout the surviving portions of the treatise. Many of the elements of that antithesis are captured in a richly symbolic piece of theater which occupies a central place in the middle of the dialogue – the debate about justice and injustice in book 3. For here, the statesman and the philosopher engage one another directly in disputation on a question central both to ethics and politics. The philosopher is Carneades of the New Academy, who had come to Rome together with the Peripatetic Critolaus and the Stoic Diogenes of Babylon in 155 B.C. to plead for the remission of a fine imposed on Athens. In the course of this embassy Carneades had offered his Roman hosts a demonstration of Greek rhetoric, consisting of a pair of speeches given on consecutive days. On the first he had argued that justice was indispensable to government; on the next, he had argued that government was necessarily based on injustice.⁸¹ His ability to make the case for injustice appear as plausible as that for justice had so disturbed Cato the Censor, that bulwark of traditional Roman morality, that he had urged the Senate to come to a quick decision on the embassy so as to leave Carneades no excuse to linger in Rome and continue corrupting her morals.

The philosopher was of course long gone from Italy by the dramatic date of the *de Republica*, but Cicero is able to summon him into the dialogue nonetheless by the device of having L. Furius Philus act as his mouthpiece. Lest there be any confusion, Cicero is at pains to make clear that the argument in favor of injustice which Philus is to utter is not his own, and is indeed entirely foreign to his honest and upright character. Philus himself is made to express in the strongest terms his disgust with the Carneadean arguments which he himself is about to present, and to wish that, as he is making another man's argument, he might also be able to use another man's tongue.⁸² We have no text of the actual speeches made by Carneades (nor do we hear of any such text in antiquity), and

⁸¹ Pliny, *NH* 7.112; Plut. *Cato* 22.2-5; Quint. 12.1.35; Gellius 6.14.9-10; Macrobian *Sat.* 1.5.15-16. Cf. *Acad. Pr.* 2.137.

⁸² *Rep.* 3.8.

the descriptions that have come down to us are not detailed enough to allow us to determine to what extent the case for injustice in *Rep.* 3.8-31 is faithful to that made by the philosopher in 155, but for present purposes it is enough to note that in Cicero's treatise the argument is represented as being Carneades' entirely.

His opponent in the debate is the Roman statesman C. Laelius, Scipio's close friend, whose judicious reputation earned him the cognomen *Sapiens*, and who serves in the *de Republica* as his companion's main interlocutor. Laelius takes up the case for justice but, significantly, the argument he makes is *not* represented as deriving from Carneades' other speech (the one in favor of justice); instead, Scipio is made to suggest explicitly that Laelius himself is the author of his rebuttal.⁸³ It is again impossible to know whether in fact Laelius' case owes anything to Carneades' first speech (the existence of which Cicero does not even acknowledge in the *de Republica* as we have it), but this is less important than the way in which it is depicted in the dialogue of the *de Republica*, and there the arguments made in defense of justice are represented as those of a wise Roman statesman, rather than a Greek philosopher.

The resulting debate on justice ironically does something less than justice to Carneades himself who, as an Academic, believed in arguing both sides of a case as a means of arriving at truth and no doubt intended his speeches to serve, at least in part, as a demonstration of that technique, as Cicero, a self-declared Academic by inclination, knew perfectly well.⁸⁴ Although our knowledge of his thinking is limited we have more than enough to be certain that he was neither a Calicles nor a charlatan in an Aristophanic mode. But Cicero chooses to represent him arguing only the cause of injustice, and then to have Laelius accuse him of turpitude for saying such monstrous things, taking Cato's line that he and his arguments ought not to be allowed to disturb the morals of Roman youth.⁸⁵ Having given him the worse case, and suggesting that the man himself was morally deficient, Cicero has laid the groundwork for his defeat in the debate, something he accomplishes, at least in part, by inverting the order of the original speeches so that the case for injustice is made first, giving Laelius the opportunity of offering a direct rebuttal and ultimately of vanquishing his philosophical opponent, to the loud applause of his audience.⁸⁶

Cicero was a sufficiently careful historical scholar, and sufficiently *au fait* with the major Hellenistic schools of philosophy and their main figures, to know, even if most of his audience did not, that he was taking liberties with the historical Carneades and his

⁸³ *Rep.* 3.32 = Gellius 1.22.8.

⁸⁴ He even acknowledges as much in an oblique way at *Rep.* 3.8, ascribing to Philus a very Academic interest in this mode of argumentation.

⁸⁵ *Rep.* 3.32 - *sed iuventuti nostrae minime audiendus; quippe, si ita sensit, ut loquitur, est homo impurus; sin aliter, quod malo, oratio est tamen immanis.* ("but our young men should not be allowed to hear such things; for if he [Carneades] believes what he says, he is a scoundrel; if not, as I should hope, his speech is an abomination nonetheless.") Cf. *Rep.* 3.8.

⁸⁶ *Rep.* 3.42.

speeches.⁸⁷ That he chose to craft his scene in this way anyhow, and to set Carneades up as something of a straw man is, in and of itself, telling. The discussion of justice required neither that a set piece debate be held, nor that such a scene be handled in the manner in which it was; the same issues might have been treated in any number of ways. How then should we account for the scene as we have it? The discussion up to this point should help to illuminate why a debate between a Greek philosopher and a Roman statesman about justice, cast in the way just described, should appeal to Cicero despite a certain amount of conscious distortion, for it played into so many elements of the antithesis between those two figures which in turn structure so much of the *de Republica*.

On the most basic level, the Roman statesman, in a dispute with a Greek philosopher of considerable renown, on a topic which served as one of the stock subjects of debate among philosophers, is shown relying upon his own intellectual resources and yet managing to hold his own, and more. Against the claim that such a topic as justice and its place in government was the preserve of Greek philosophy, Cicero asserts the statesman's capacity to reason about such matters and to arrive at conclusions about them which came nearer the truth than those of a philosopher. Moreover, the philosopher is shown as being himself morally compromised, despite all of his erudition and rhetorical acumen, proving that the possession of the kind of knowledge philosophers could offer was not, in and of itself, sufficient for virtue. And lastly, Carneades is pointedly depicted being unable to train others in ethics, and indeed as positively detrimental as a teacher – so much so that Laelius, echoing Cato, suggests that he and his talk must be kept away from the young men of Rome for the sake of the nation's ethical health.

Questions of Identification

The antithesis developed between the statesman and the philosopher invites the question to which group the speakers in the dialogue should be considered to belong. Cicero's answer, at least in regard to his main speaker Scipio, is unambiguous – he should be thought of as Roman statesmen. The decisive passage occurs at *Rep.* 1.34-36 and is worth quoting at length. Laelius has just suggested that Scipio should give them his views on which form of constitution was ideal, out of which he hoped a conversation would develop that would illuminate the problems then confronting the Roman state.⁸⁸ After a lacuna, he again invites Scipio to initiate a discussion of politics, and gives reasons why he is best qualified to conduct such a conversation...

⁸⁷ Although Cicero was not the only Roman aristocrat of his day to be exposed to philosophy, the depth of his engagement, especially with the Academic school, was extraordinary. While there may have been a handful of his peers capable of detecting that he was not being wholly fair to Carneades, these would likely have been few. And such people in particular may have been little inclined to quibble about a scene, surely congenial to themselves, showing one of their own acquitting himself well against a Greek philosopher.

⁸⁸ i.e. the aftermath of the Gracchan crisis.

non solum ob eam causam fieri volui, quod erat aequum de re publica potissimum principem rei publicae dicere, sed etiam quod memineram persaepe te cum Panaetio disserere solitum coram Polybio, duobus Graecis vel peritissimis rerum civilium, multaque colligere ac docere, optimum longe statum civitatis esse eum, quem maiores nostri nobis reliquissent. Qua in disputatione quoniam tu paratior es, feceris, ut etiam pro his dicam, si, de re publica quid sentias, explicaris, nobis gratum omnibus.

Tum ille: Non possum equidem dicere me ulla in cogitatione acrius aut diligentius solere versari quam in ista ipsa, quae mihi, Laeli, a te proponitur. Etenim cum in suo quemque opere artificem, qui quidem excellat, nihil aliud cogitare, meditari, curare videam, nisi quo sit in illo genere melior, ego, cum mihi sit unum opus hoc a parentibus maioribusque meis relictum, procuratio atque administratio rei publicae, non me inertiores esse confitear quam opificem quemquam, si minus in maxima arte, quam illi in minimis, operae consumpserim? Sed neque his contentus sum, quae de ista consultatione scripta nobis summi ex Graecia sapientissimique homines reliquerunt, neque ea, quae mihi videntur, anteferre illis audeo. Quam ob rem peto a vobis, ut me sic audiat, neque ut omnino expertem Graecarum rerum neque ut eas nostris in hoc praesertim genere anteponentem, sed ut unum e togatis patris diligentia non inliberaliter institutum studioque discendi a pueritia incensum, usu tamen et domesticis praeceptis multo magis eruditum quam litteris.
(*Rep.* 1.34-6)

Laelius: I wanted this to happen not just because it was right that a talk about the state should be conducted, preferably, by a statesman, but also because I recollect that you, Scipio, were formerly in the habit of conversing with Panætius and Polybius, two Greeks, exceedingly learned in these political questions, and that you used to adduce numerous arguments to prove that much the best form of government was the one we had inherited from our ancestors. If you, therefore, familiar as you are with this subject, will explain to us your views on the state (I speak for my friends as well as myself), we shall feel exceedingly obliged to you.

Scipio: Well, I can't pretend that there is any subject to which I give more attention than the one which you are suggesting, Laelius. I am aware that every craftsman in his own work, if he is any good, thinks, ponders and strives for nothing except to improve in that field. I have inherited this task from my parents and ancestors, this is, the supervision and management of the country. So I suppose I would be admitting that I was lazier than any craftsman if I devoted less effort to that great art than they do to their little ones. Yet I am not satisfied with what the foremost and wisest Greeks have left us in their writings about that topic. Nor do I venture to set my own opinions above theirs. So, as you listen, I suggest that you think of me as not wholly ignorant of the Greek views, nor as ranking them above our own, especially in this field. Think of me rather as one of the toga-wearing people, who has been given a liberal education thanks to his father's kindly concern, and has been fired from boyhood with a love of learning, but who has, nevertheless, been trained by experience and our home-grown wisdom much more than by book learning.

Laelius' invitation to Scipio to speak on questions touching the state is equally an invitation to accept the view discussed above, now common among modern scholars, that Scipio, and by extension Cicero, are ideally suited to discuss political topics because they combine, in equal measures, political experience and theoretical erudition. Scipio's response explicitly excludes any such interpretation. He certainly does not disavow the study of Greek philosophy – far from it in fact – but he rigorously subordinates it to those two well-springs of the Roman statesman's knowledge – personal experience in the management of government affairs and the ancestral precepts of the *mos maiorum*. Scipio himself is to be envisioned as a member of the “toga-clad race” – a highly evocative phrase, usually reserved for expressions of national pride – who has literally

inherited statesmanship from his illustrious ancestors.⁸⁹ His book learning has been added as a kind of accessory skill, desirable perhaps, but not central to his knowledge of the political matters or his outlook on political questions. The language is reminiscent of similar phraseology at *Rep.* 3.6, where Scipio and the rest are said to have acquired their backgrounds in Greek learning *ne quid praetermitterent, quod ad summam laudem clarorum virorum pertineret* (“so as to avoid passing over anything that might contribute to the renown of the greatest men”). And while Scipio demurely hesitates to suggest that his own analysis is superior to that of the greatest minds of Greece, other speakers in the dialogue, unencumbered by modesty, drive home the point for him, leaving the reader in little doubt as to where the analysis of the *de Republica* should be ranked in comparison with the main Greek political tracts.⁹⁰

That said, there is no reason to assume that the respect paid to philosophy by Scipio here, and elsewhere, was meant to come across as less than genuine, or that it was anything other than an honest reflection of Cicero’s own sincere and well-known admiration for Greece’s intellectual achievement. The concern of the chapter to this point has been to consider how he staked out a claim on behalf of statesmen to realms of knowledge which philosophers had jealously guarded as their own, and in so doing it has necessarily focused on aspects of the treatise which contrast the two groups to the detriment of the latter. But the point needs to be made that if Cicero ranks statesmanship above philosophy (in certain respects) in the *de Republica*, he draws the comparison not for the sake of diminishing the latter, but rather in order to elevate the former to level, quite literally, of the divine.

It is also worth pointing out, however, that the zeal for philosophy which Cicero attributes to Scipio, and the considerable fluency that he and his companions exhibit in discussing Greek philosophy, may also have a tactical purpose. Had Scipio not been depicted as fully conversant with Greek political philosophy, his decision to identify himself, for purposes of the group discussion, as a Roman statesman would lose much of its significance, for it could be viewed simply as an admission of incompetence in the field of philosophy, with which statesmanship is shown to be competing for the right to claim access to the realm of political and ethical truth. As it is, Scipio’s conspicuous display of philosophical knowledge, from his background in astronomical matters to his personal connections with Panaetius and Polybius to his ability to quote long passages from Plato, all give added force to his conscious choice to present himself as a statesman rather than a theoretician, and to his preference for the kind of ancestral knowledge which his status as a Roman statesman affords him over that acquired from the great works of philosophy.⁹¹ And what is true of Scipio, the literary creation, is of course also true of

⁸⁹ Many of these same points are reiterated at the end of book one, which Laelius concludes by reiterating Scipio’s main qualifications: his ancestry and his services in the state’s most perilous moments – *Rep.* 1.71.

⁹⁰ *Rep.* 1.37; 2.21-2.

⁹¹ Polybius was not of course, strictly speaking, a philosopher, but an historian, and Cicero appears to borrow much on his chronology in book 2 from him, something he acknowledges at *Rep.* 2.27. However, in the context of book 1, and its theoretical interest in the various forms of government, Polybius is relevant

Cicero, the creator, who puts his own philosophical knowledge on display in writing the dialogue, and thereby demonstrates that his decision to write as a Roman statesman was one based on its merits, and not arising from the ignorance of Greek thinking.

Cicero as Author

Just as we, as readers, are invited to situate Scipio and his company within the antithesis developed in the treatise between statesman and philosophers, so too are we invited to consider where Cicero himself belongs. If we take the standard view, articulated above by Zetzel, that the *de Republica* is an essentially philosophical work, concerned with Greek theory rather than with practical politics, Roman history or the contemporary political scene, we should expect that any authorial persona which Cicero might try to develop would be appropriate to this kind of subject matter, providing his academic credentials, explaining his scholastic affiliations, underscoring his devotion to the intellectual life and demonstrating his philosophical acumen. Claiming the competence to undertake such a work would clearly have been urgent, for although Cicero had a pair of rhetorical works to his name when he wrote the *de Republica*, for which his preeminence in the courts provided all the authority needed, his qualifications for writing a work of political philosophy were less obvious.⁹² He was, of course, a senior statesman, but this fact alone would not have established the proper credentials, and indeed might have been seen as a hindrance as much as a help, as the writing of philosophical tracts would have been seen, even in the mid first century B.C., as a highly unusual activity for a member of the Roman political class.⁹³

When we look at the philosophical works which Cicero penned in the mid-40s B.C. it is therefore not surprising to find him crafting precisely this kind of authorial presence, and doing so in particular in the prefaces to these works, where he can speak to the reader directly.⁹⁴ Repeated stress is placed upon his life-long love of learning, the academic pedigree he acquired as a student of several influential contemporary philosophers while studying in the east, his familiarity with the various schools of Greek philosophy and his membership in a circle of Roman philhellenes.⁹⁵ He also took pains to answer possible objections to the notion that a Roman statesman, who would normally

chiefly for his theory of the cycles of governments, advanced as part of his discussion of the Roman constitution in the sixth book of his history. Although his treatment of this subject was largely derivative, it is on this account that he is ranked alongside the noted philosopher Panaetius as the *duobus Graecis vel peritissimis rerum civilium* at *Rep.* 1.34 and treated by Cicero in this context as a theoretician.

⁹² Rhetoric, although sometimes considered a branch of philosophy, was generally considered a separate field of study – see *de Orat.* 1.55; *cf. Div.* 1.4.

⁹³ Cicero was not entirely unique in doing so; Brutus, Varro and others were also beginning to dabble in philosophic writing at about the same time – see Schmidt (1978), 115-27. But this particular mode of literary activity was still a novelty.

⁹⁴ See now Baraz (2012).

⁹⁵ Steel (2005), 106-14.

have to shoulder a heavy burden of public responsibilities, could, or should, take the time necessary to make a useful contribution to a field dominated by Greeks who had devoted their lives exclusively to study. His work in the mid-40s, he explains, was being undertaken at a time of enforced leisure, since active participation in the political sphere had been rendered impossible.⁹⁶ Having gone perforce into political retirement he could give himself entirely to study, and moreover do so without the stigma of having voluntarily chosen study over the active political service which otherwise would have been more appropriate to his station.

It is therefore remarkable, although little remarked, that Cicero makes almost no effort in the opening pages of the *de Republica* to establish his credentials as a philosopher.⁹⁷ Due allowance must of course be made for the fact that a bit more than half of Cicero's introductory material has been lost; yet enough remains that we can be reasonably sure that he took here a very different approach to establishing his competence to address his subject, especially because there is compelling positive, as well as negative, evidence. Among the more interesting passages in this regard are the two in which he does make some reference to his interest in letters. It is significant that both of these are vague and muted by comparison with the extended and forceful claims to philosophic competence in the treatises of the 40s, but more significant still is the context in which they are found. The first appears in the course of his refutation of those skeptical of political activity. These men, he says, often employ his own exile as evidence that the risks of public life outweigh the rewards, but that in fact his career should be understood as proof that men of noble spirit will always heed the call of political duty. To underscore the point he emphasizes that when danger threatened he had the option to avoid it by retreating from public life, and that his studies would have allowed him to better enjoy the resulting leisure than those without academic inclinations, but that his very nature, and a personified *res publica*, both demanded that he turn his back on the opportunity to indulge his passion for study and expose himself instead to the fury of the wicked for his country's sake.⁹⁸ The broader context of this autobiographic passage is to be found in the competing calls of duty and pleasure which structure the whole preface. Far from emphasizing the author's philosophic credentials, this passage, the first in which Cicero mentions himself explicitly, ranks academic pursuits, including, implicitly, philosophic ones, among the pleasures which Cicero himself has had to forego in favor of the more pressing demands imposed by the state. The passage is reminiscent of a similar treatment in the preface to *de Oratore*, in which, again in the first person, he laments the fact that throughout his career political events have robbed him of the opportunity to devote himself to study, and that even in the present only a little time can

⁹⁶ See especially *Acad.* 1.11.

⁹⁷ It is an indication of the tenacity of the common belief that the Cicero was writing philosophy in the *de Republica* that modern editors have all tried to correct this supposed deficiency by providing, in their introductions to their texts and translations, extensive discussions Cicero's early training in philosophy, his affiliations with the various schools, etc. See Rudd (1998) xiii-xxxiii; Sabine and Smith (1929), 7-38.

⁹⁸ *Rep.* 1.7.

be spared from urgent political duties for intellectual activity.⁹⁹ In both prefaces Cicero not only explicitly disavows the extensive and continuous devotion to academic pursuits which he might have been expected to claim as the author of an academic work, but also subordinates such studies to political endeavors, marking them out as an inferior form of activity, to be indulged only in one's spare time. When circumstances offered an opportunity to indulge his passion for study he chose instead to answer his country's call and devote himself to public service.

The only other reference in the extant preface to Cicero's interest in academic matters is brief, consisting of only the two word phrase *studio discendi* ("enthusiasm for learning"), but here too the context is interesting and the passage is worth quoting.

Quibus de rebus, quoniam nobis contigit, ut iidem et in gerenda re publica aliquid essemus memoria dignum consecuti et in explicandis rationibus rerum civilium quandam facultatem non modo usu, sed etiam studio discendi et docendi essemus † auctores, cum superiores alii fuissent in disputationibus perpolitii, quorum res gestae nullae invenirentur, alii in gerendo probabiles, in disserendo rudes.
Rep. 1.13¹⁰⁰

Wherefore, since it is my good fortune to have accomplished, in the actual government of the republic, something worthy to live in men's memories, and also to have acquired some skill in setting forth political principles through practice and also by reason of my enthusiasm for learning and teaching... [lacuna]... since while certain men in former times have shown great skill in theoretical discussion, they are discovered to have accomplished nothing practical, and there have been others who have been efficient in action, but clumsy in exposition.

Although the text is corrupt this is clearly meant to establish Cicero's dual qualifications for writing a work on the state. The first of these, his experience in government, has been extensively foregrounded by the time we reach this point in the text. The long section just discussed which takes up more than a tenth of the extant preface, gives ample scope for impressing upon the reader the fact that Cicero was one of the major figures of contemporary Roman politics. That he had achieved this status by means of a lifetime devoted to statecraft is the main point of another reference to his personal history.¹⁰¹ Thus by the time we get to the section under consideration we are well prepared to accept that practical experience forms an essential component of Cicero's authorial ethos.

The other half of that duality is more unexpected. The antithesis between practical and theoretical knowledge which is already well developed by the end of the preface might naturally incline us to read the passage as claiming that it is theoretical knowledge, derived from the study of philosophy, which complements Cicero's practical experience in affairs of state. A similar passage in *de Legibus* is often cited in support of such a reading.¹⁰² However, this is not quite what the passage seems to be saying. Rather, it asserts that Cicero uniquely combines practical experience with skill at

⁹⁹ *de Orat.* 1.1-4. Cf. *de Leg.* 1.8-12.

¹⁰⁰ The above follows the general consensus in retaining the MS text and positing a lacuna after *essemus*.

¹⁰¹ *Rep.* 1.10.

¹⁰² *Leg.* 3.14; Sabine and Smith (1929), 112.

explaining political doctrines, *i.e.* a talent for teaching; his love of learning is mentioned only as a factor contributing to the development of his skill at exposition. Such an assertion seems odd at first; we might expect that knowledge of political principles would be at least as important as the ability to explain them and thus that Cicero's knowledge of political philosophy would be placed on an equal, if not a higher, plane with his talent for teaching. This assumes, however, that familiarity with Greek philosophy is the only source from which knowledge of political principles could legitimately come. But, as we have already seen, the claim had been made earlier in the preface that another group of people are capable of arriving at ethical and political truths without the benefit of guidance from philosophers. Statesmen, Cicero says, had discovered, at an early date, all of the fundamental principles which theoreticians later rediscovered and systematized.¹⁰³ Given the fact that statesmanship offers an alternative path to the discovery of political principles, and as experience in the government of a state constitutes the other half of Cicero's unique set of credentials, he has no need to list knowledge of Greek thinking among the basic prerequisites for writing a political treatise.

The claim that Cicero had developed *in explicandis rationibus rerum civilium quandam facultatem ... usu* ("some skill in setting forth political principles through practice") has troubled some modern readers, since *de Republica* was his first work on political philosophy.¹⁰⁴ However, there is no reason to suppose that opportunities for speaking about *rationes rerum civilium* would be restricted to the publication of treatises. Indeed, given the fact that the preface is strongly asserting that statesmen are intimately concerned in practice with the same political principles which philosophers dispute in their retreats, there is nothing odd in the claim that, as an eminent statesman, Cicero has had ample opportunity to develop a faculty for laying out political concepts by experience. There is in fact no shortage of examples which could be cited in Cicero's surviving deliberative corpus, and not a few even in his forensic speeches.¹⁰⁵ The senate floor would have offered an even more likely forum for discussing such matters (although without any surviving record of its proceedings hard proof is lacking). Above all the reader is invited to imagine Cicero, as a statesman, engaging in the sort of conversation amongst friends which the statesmen of old in his dialogue are about to undertake (he would later portray himself as doing something similar as a character in the *de Legibus* and elsewhere).¹⁰⁶ Once the principle is established that the same concepts which concern philosophers also belong properly to the sphere of the statesman, it is not difficult to attribute to the latter opportunities to develop a talent for their exposition. Contemporary readers familiar with *de Oratore* might also recall that Cicero had there argued at length, through the character of Catulus, that a well trained orator, who is portrayed as also being the ideal statesman, will do a better job of explicating philosophic principles than a philosopher will.¹⁰⁷ That doing so is part of the proper function of those

¹⁰³ *Rep.* 1.2; *cf.* *Rep.* 3.4.

¹⁰⁴ Sabine and Smith (1929), 112.

¹⁰⁵ *e.g.* *Clu.* 146.

¹⁰⁶ Steel (2005), 106-114.

¹⁰⁷ *De Orat.* 1.45-56; *cf.* *Parad.* 3-5.

in government has already been established earlier in the preface when "education" (*disciplinis*) is listed along with custom and law as among the means by which a statesman instills virtue in the citizens.¹⁰⁸ Cicero is thus implicitly claiming in *de Republica* not only that he, as an experienced statesman, understood political principles as well any philosopher, but also that, with his preeminence in oratory, he was able to communicate them more effectively than they could.

It is also worth noting that while the preface to book one touches upon certain standard *topoi* of philosophic debate, Cicero's treatment of them falls well short of philosophic rigor and precision and he makes very little effort to situate his views within the currents of contemporary Hellenistic scholastic debate, as a contemporary philosopher would be expected to do. He signals, for example, his approval for the widely, although by no means universally, held view that virtue exists only in action, but without associating himself with any particular school of thought on this point.¹⁰⁹ And although what follows implies particular stances on the thorny problems of whether contemplation, discussion or ethical teaching might count as virtuous action he never raises any of these questions explicitly and certainly offers no arguments for the assumptions he implicitly makes. Nor is adequate attention paid to the question of whether virtue can be taught, and more specifically of whether actions performed under the coercive influence of the law can be genuinely virtuous. Cicero seems to allow for the possibility that virtue can be instilled through education (*disciplinae*), and appears to adopt the common view that virtue requires not merely that particular types of action be performed, but that they be performed in a virtuous state of mind.¹¹⁰ However, in what immediately follows he seems to take the novel position that statesmen can simply compel (*cogere*) citizens to be virtuous by means of their laws where philosophers have failed to convince (*persuadere*) them with their arguments. But Cicero neither acknowledges that this view is unorthodox nor offers any defense of it. Similarly, he appears to make an allusion to the Platonic idea that we owe a debt to our country for the benefits we have received from her hands, but the connection is never acknowledged, no independent defense of the idea is offered, and differences between his views and those of Socrates in the *Crito* are not discussed.¹¹¹

The refutation of those who question the value of the political life is similarly characterized by a lack of direct engagement with existing schools of thought. Indeed, it is not even immediately clear against whom Cicero is directing his arguments. In one section an identifiably Epicurean position is attacked and this, in combination with the fact that this school was particularly associated with withdrawal from political life has led

¹⁰⁸ *Rep.* 1.2.

¹⁰⁹ *Ibid.*

¹¹⁰ For Plato this meant nothing less than philosophic knowledge (*νόησις*) – see especially the *Republic* books 5-7; for Aristotle there was an element of habituation – *Pol.* 7.3; *E.N.* 1.9; *cf. Fin.* 2.19.

¹¹¹ *Rep.* 1.8. *cf.* Plato's *Cr.* 51c. See Zetzel (1995), 106. Cicero's state, which demands of its citizens as much of their energy and talent as it may require, is more demanding than Socrates' polity, which required only submission to its laws. *cf. Rep. frag.* 1a; *Off.* 1.22; *Verr.* 3.161; *Fin.* 2.45.

many scholars to assume that the whole of the preface is directed against the followers of Epicurus. But Cicero never names those against whom he is arguing and some of the views he confronts may have had no particular connection with that school; indeed, in one case his anonymous opponents are credited with a very un-Epicurean fear of death.¹¹² Similarly, he repeatedly takes for granted the idea that honor is the natural goal of the ideal citizen, ignoring the fact that Epicureans explicitly renounced the pursuit of honor and glory as a proper object for the wise.¹¹³ The possibility must be considered that the refutation of *Rep.* 1.4-11 was not intended to serve as a response to any particular philosophic school of thought, but was rather addressed to a social tendency towards political disengagement that was perhaps sometimes explained in philosophic terms.¹¹⁴ If on the other hand this section is read as a direct response to Epicurean teachings we must at least view its failure to engage directly or deeply with the specifics of that system as typical of the inattention to the demands of rigorous philosophic debate that characterizes the whole of the preface.

This tendency is no doubt largely responsible for the fact that Cicero's discussion has received scant attention from those who study ancient philosophic attitudes towards political participation.¹¹⁵ In keeping with the common view that Cicero was an uncreative and even somewhat inept philosopher the preface might be easily dismissed as a failed foray into a complex discourse in which Cicero was frankly out of his depth. There are, however, good reasons for rejecting this view. He was sufficiently familiar with the relevant Greek texts that we can safely say that the deficiencies of the preface as a piece of conventional philosophizing are not to be put down to simple ignorance.¹¹⁶ And whatever we may think of Cicero as an original thinker it would be gross injustice to

¹¹² Cicero refers to his intellectual opponents in the preface by the contemptuous *isti* (and once by *his* – *Rep.* 1.4) or employs third person plural verbs without an expressed subject. Attributing a fear of death to Epicureans seems particularly difficult given the fact that Lucretius, who had recently circulated the then definitive work on Epicureanism in Latin, had given as its explicit rationale the desire to use the teachings of Epicurus to help his readers dispel the fear of death. That said, Cicero is not above misrepresenting Epicurean views; see e.g. *Leg.* 1.39, where he employs the common stereotype of the Epicurean as a devotee of specifically bodily pleasures.

¹¹³ *Rep.* 1.7; cf. 1.2.

¹¹⁴ A possibility considered in detail in Chapter 4.

¹¹⁵ Cicero's entry into the debate on the value of political participation has attracted little interest even among those scholars who have revived an interest in Roman political philosophy in the past twenty five years. *Rep. I* is conspicuously absent from the recent studies of philosophic withdrawal such as Brown (2009), 485-500; (2008), 79-89; (2000), 1-17; Trapp (2007) 215-225, from the balance of Balot, R. ed. (2009), as well as other important works such as Griffin, M. and Barnes, J. (1989), Powell, J. ed. (1995), and Mitchell (1991). Rawson (1975), 149 and Woods (1988), 121-3 briefly recapitulate it without offering much discussion.

¹¹⁶ Cicero plainly knew Plato, and he explicitly reports reading Theophrastus and Dicaearchus – see *Att.* 2.12.4, 2.16.3, 7.3.1. Panaetius and Antiochus of Ascalon, with whose views he was also clearly familiar, seem to have contributed to the discussion of the relative merits of βίος θεωρητικός and the βίος πρακτικός. See Zetzel (1995), 98-9. It remains unclear how well he knew Aristotle's texts, but at the minimum he was familiar with much of Aristotle's thinking, if only indirectly – see Fortenbaugh and Steinmetz ed. (1989) *passim*.

suppose that he lacked the intellectual resources to understand what he read, or the skill in exposition necessary to transfer those ideas into Latin.¹¹⁷ Nor is it likely that he wished to seem incapable in these regards. Indeed, we have already seen that elsewhere he is eager to show that Scipio and, by extension, he himself as author, have a strong philosophical background, and that Cicero claims a talent for exposition as one of his two central qualifications for writing the treatise. It is far better, if the preface fails to exhibit the form of a standard philosophical argument, to seek the reasons for this in its author's conscious choice. Like his character Scipio is made to do, Cicero chooses a mode of writing which is appropriate for a Roman consular, a statesman, and a man of practical concerns. Moreover, he does so not because he is out of his depth in the realm of philosophy, but rather because, although fully able to acquit himself capably in the theoretical sphere, he believes that a more typically Roman and practical mode of discourse is more fitting to his own station, more advantageous to his audience, and better able to arrive at a political truth.

Conclusions

This chapter began with the idea, nicely captured in an article by James Zetzel but widely held with minor variations, that the *de Republica* is a conventional work of Greek-style philosophy, and that it is, by corollary, detached from its Roman political context. The foregoing has been intended to demonstrate that Cicero's handling of the antithesis which he develops between the Greek and philosophical on the one hand and the Roman and practical on the other, as well as the ways in which he develops the character of his main speaker and his own authorial persona, all assist in cuing astute readers to recognize from the outset that what they are holding is not a traditional piece of philosophical discourse. Rather it represents a new kind of work written by a new kind of author, a statesman, deriving his authority from different sources and engaging in a different mode of argument.

These conclusions, if correct, must also influence the way that modern readers understand the purpose of the *de Republica*. On the conventional interpretation, Cicero's object is the translation of Greek political philosophy into Latin, with perhaps a few minor, and to our minds unsatisfactory, theoretical innovations of his own tossed in. But what ultimately distinguishes the statesman from the philosopher is his capacity for political *action*. Having elevated statesmen and statesmanship above the level of the philosophical, it would be ironic indeed if Cicero had intended his treatise to be read in purely theoretical terms. We should instead take the hint, as his contemporary readers would have, and ask in what way this work, written by a statesman, is to be understood as a political act. The next four chapters will attempt to address precisely that question.

¹¹⁷ Sufficient proof, if proof is needed, is readily available in the prodigious philosophic output of the mid 40s.

CICERO'S *ANNUS MIRABILIS*

The attempt to trace the influence of Cicero's political experience on the philosophical views elaborated in the treatises begins in 63 B.C. That year marks a natural starting point for a variety of reasons. It was a critical moment in his political career in several respects. Most obviously, it was the year in which he held the consulship, Rome's highest magistracy, in the course of which he was briefly exalted to yet greater heights of popularity and glory because of his role in suppressing the insurrection Catiline, although this moment of triumph also sowed the seeds of future political calamity. The year 63 is also the point at which the evidence from Cicero's own pen about his political views becomes much fuller. Although certain details about his outlook on the Roman political scene can be derived from his forensic orations, which he began publishing in the early 80s B.C., speeches on explicitly political topics, with two exceptions, date to or after his consulship.¹¹⁸ More importantly, it is just after the end of the year that we begin to get substantial numbers of Cicero's letters, and in particular his letters to his closest confidant, T. Pomponius Atticus. A handful of comparatively brief letters to Atticus, eleven in all, date to the period before his consulship; after 63, there are many hundreds. The *ad Atticum* series, which together with the letters to his brother Quintus (which begin in 61) represent the most intimate, unguarded expression of his thoughts, becomes much more candid, and explicitly political, as well as more extensive, after 63, thus providing us with an extraordinary opportunity to trace the evolution of Cicero's thinking on a number of important topics, as well as a check on the sincerity of many of his public pronouncements. Our understanding of his views is indeed so much better in this later period that the younger Cicero, although well known to us by the standards of ancient history, is a very shadowy figure by comparison with his later, post-63 B.C. self.

Above all however, as the rest of this study will argue, the conspiracy of Catiline, which dominated the last few months of Cicero's tenure of the consulship, revolutionized Cicero's thinking about the key issues of his day. Struck by the historical significance of this episode in which he had played so large a role, and captivated by the potential it offered to see himself enshrined among the heroes of the *res publica*, he used his persuasive gifts, not least on himself, to spin around Catiline's insurrection a narrative that he then extended to the whole of recent Roman history. Catiline and his fellow conspirators became, for Cicero, merely the most visible members of a great class of potential revolutionaries who, because of the ruin of their fortunes or reputations, had no stake in the current system and hoped to improve their prospects by fomenting chaos. The entire Roman political scene, with its myriad actors and agendas and ever changing

¹¹⁸ The two are the *Pro Lege Manilia* (delivered in 66 B.C.), in which he supported a law to transfer command of the war against Mithridates, and *In Toga Candida* (delivered in 64 B.C.), a denunciation of the other candidates for the consulship of 63.

alliances was resolved into a pair of opposed camps consisting of responsible citizens and patriots in one camp, opposing a large body of would-be-revolutionaries who sought to subvert the state, and in particular to undermine the authority of the senate. Himself he fashioned as the champion of the former, nobly discovering, opposing and combating the schemes of the latter. This basic conception, fleshed out with additional details which will be discussed below, then became for him the central theme around which he constructed an understanding not merely of his consulship as a whole, but indeed of Roman history since 133 B.C., in which the uprising was merely a flashpoint in a decades long war waged against the *res publica* by such subversives.

The key purpose of this chapter is to consider the ways in which, and the reasons why, Cicero reoriented his understanding of the Roman political scene and his place within it in the wake of Catilinarian episode. This will mean, in the first place, examining the political possibilities created by the conspiracy of Catiline which so captured his imagination, so as to explain in personal terms why a new conceptualization of the year 63 centered on the conspiracy was so appealing, and why he preferred it to other, more obvious, narrative frameworks. Having done so, it will be possible to turn to the nature of that conception, and flesh out its details, in the process considering how he shaped this understanding into an interpretation of Rome's recent history for public consumption which served his own immediate political needs.

Cicero and His Consulship

For any political aspirant the simple attainment of the office was a defining moment, the culmination of a brutal struggle up the *cursus honorum* and the ultimate goal of a political career. Victory gave the new consul a year in the public eye amidst the pomp and the trappings of Rome's highest magistracy, a prize of no small importance in a society which placed enormous emphasis on conspicuous public honors. When the consul's term of office expired he became a *consularis*, one of a small group of elder statesmen whose mature wisdom and prestige gave them vast, if informal, sway over affairs of state. For a *novus homo* like Cicero the consulship carried an additional benefit; his family was ennobled in perpetuity.

We can never know when Cicero began to aspire to the consulship. At the beginning of his public life such a goal would have been audacious indeed for a man of equestrian family and it may only have been somewhat later that a series of gratifying successes in the courts and in elections for lower offices convinced him to set his sights higher. But whenever it was that he began to entertain the idea, it was to these rewards that he no doubt looked. For many hopefuls the prospect of the provincial governorship which at this time ordinarily followed directly upon the consulship would have made the office that much more appealing, and indeed for some the opportunities that a pro-magistracy offered for financial gain would have been critical for repaying the debts

incurred in the quest for office. But Cicero had been able to win office without accumulating large debts, and duty in the provinces had never appealed to him. In the actual event, when the rich prize of Macedonia fell to his lot in 63, he happily traded it away to his colleague, and when he was finally did assume a provincial governorship twelve years later he accepted only under duress.

It is similarly unlikely that Cicero ever viewed his tenure of office as an opportunity to enact any particular political program. The nature of Roman political campaigns did not require him to espouse one, and indeed encouraged him to eschew knotty questions of policy wherever possible. Nor does the record of 63 suggest that he brought any covert program into office. He did however make good use of his right to convene voting assemblies, moving one law on bribery and another on *liberae legationes*.¹¹⁹ Beyond this Cicero, like many consuls, reacted to the initiatives of others, rather than forcing the action himself. His other two known legislative interventions had been in opposition to measures advanced by others: an agrarian proposal made by P. Servilius Rullus, one of the year's tribunes, and an attempt to restore political rights to the descendants of those proscribed by Sulla.¹²⁰ He also intervened on behalf an old and little known equestrian, C. Rabirius, against charges stemming from the death of Saturninus almost four decades earlier and defended the *Lex Roscia* in an impromptu speech when its sponsor was booed in the theater.¹²¹ The balance of his known activity as consul, exclusive of events concerned with the conspiracy of Catiline, consisted of winning for Lucullus his long awaited triumph, appearing as counsel for the defense in two trials in the courts, and securing a thanksgiving of the hitherto unprecedented length of ten days for Pompey in celebration of the successful conclusion of the Mithridatic war.

Taken all in all it was a record in which Cicero must have taken considerable satisfaction. The *lex Tullia de ambitu* in particular was a detailed piece of legislation that addressed an issue that had been a focus of real concern in preceding years, one which, as Rome's most celebrated advocate, he was well placed to address.¹²² As for the measure on the *liberae legationes*, the veto of a tribune forced a compromise that considerably reduced the ambition of the original bill, but if nothing else the attempt to address the abuse of the *legationes*, together with the effort to tackle electoral bribery, had demonstrated Cicero's support for honest and honorable governance. He had also adroitly handled a number of controversial events which, though not of his own making,

¹¹⁹ On the bribery law see *Mur.* 3, 67-8; *Planc.* 83; *Vat* 37; *Sest.* 133-5; *Har. Resp.* 56; cf. Dio 37.29.1, Schol. Bob. 79, 140, 151, 161, 166. On *liberae legationes* see *Leg.* 3.18.

¹²⁰ The main sources for the Rullan land bill are Cicero's three preserved *de Lege Agraria* speeches (a fourth is lost). See also *Pis.* 4; *Rab. Perd.* 32; *Sulla* 65; *Fam.* 13.4.2; *Plut. Cic.* 12.2-5; Dio 37.25.3-4; *Pliny NH* 7.117, 8.210; *Quint. Inst. Orat.* 2.16.7; *Gellius* 7.16.7. For the attempt to restore the rights of the *Sullani*: *Pis.* 4; *Quint.* 11.1.85; *Pliny NH* 7.117; Dio 37.25.3; *Plut. Cic.* 12.1.

¹²¹ The *Lex Roscia* had guaranteed that fourteen rows would be reserved for the equestrian order at public entertainments. For the episode see *Mur.* 40; *Att.* 2.1.3; *Plut. Cic.* 13.2-4; *Ascon.* (Clark) 78-9. For Rabirius, the main source is Cicero's speech in his defense before the assembly; cf. *Pis.* 4; Dio 37.26-8; *Suet. Jul.* 12; *Quint. Inst. Or.* 5.13.20.

¹²² See above n. 2

were matters which he felt compelled to confront. The issue of land redistribution raised by the Rullan land bill, questions about the limits of senatorial authority at issue in the trial of Rabirius, the political rights of the heirs of Sulla's victims, the trial of a consul-elect, and the apportioning of honors to bitter rivals Lucullus and Pompey for their exploits in the east were all sensitive matters that Cicero navigated with great success. He not only succeeded in diffusing potentially explosive political issues, but did so in a way that won him considerable credit among the influential. The instincts that had allowed a relatively unknown *equestrian* from Arpinum to climb the Roman political mountain remained with him when he had reached the summit. With a sense of the political winds that had rarely betrayed him in the past he continued to back the right horses, associating himself with the eventual winners in a variety of contests in 63, and using the opportunities that his stature as consul offered him to score points with various politically important people and classes.

The *gratia* thus earned promised to stand him in good stead in the years ahead. The consulship is often thought of as the moment in which the erstwhile political aspirant could cast off the cloak with which he had previously concealed his political leanings for the sake of the canvass and finally act according to his instincts or the dictates of his conscience.¹²³ But leaving aside the question of whether the political habits of a lifetime could be so easily and utterly reversed, a man's career did not end with his consulship. Indeed, in a sense it was the beginning, the threshold of entry into the inner circle of senior statesmen who exercised ultimate control over the direction of the state, or so at least things had worked traditionally. But respect and power were not guaranteed simply by consular status. Networks and influence still mattered and needed to be maintained and, if possible, augmented. And there were still offices and honors to which even a consular might aspire: priesthoods, embassies, special commissions of all sorts, perhaps even a censorship. With all of this in prospect political considerations bore upon the consul as much as they had upon the candidate.

These were the considerations that guided Cicero's conduct of his term in office through most of 63. His conduct was admirably suited to his goals. A more aggressive agenda in office, like that of Caesar in 59, might have allowed him to make a bigger splash, but would also have entailed political hazards. Instead he advanced meaningful, but not terribly controversial legislation, while making the most of the occasions for earning goodwill among important groups that the initiatives of others afforded him, and giving offense to as few as possible. Having won himself further into the good graces of both the people and the *principes* he could look forward in the years ahead to the dignity of a respected and influential consular, and it was to this role that he had almost certainly aspired when he first set his sights on Rome's highest magistracy. If he had ever entertained the hope that he could aim even higher, to join the pantheon of truly great figures in Roman history, there was little in his record that reflected that aspiration.

¹²³ See for example Mitchell (1979), 177.

Nor had the year itself, up to that point, provided the raw material for such lofty aspirations; indeed, by late-Republican standards it had been reasonably quiet. No foreign wars had required the dispatch of the consuls (for which Cicero was probably grateful, given his lack of interest in military affairs and his aversion to the provinces). He had enacted some modest legislation, but the more sensational Rullan land bill had failed.¹²⁴ The year had produced an average crop of political trials, but no important convictions. The Rabirius affair had been by turns lurid and bizarre, but had ended in farce. The forum and the *campus* had been placid; rumor had swirled of potential violence in the run up to the elections, but in the event a spat in the theater had been the nearest thing to civil disorder.¹²⁵ These events had offered many opportunities for the kind of political posturing which was a constant feature of Roman political life, with its myriad players and ever-shifting alliances. But they were important in their moment; there was little to hold the imagination of future generations. If great leaders are forged in great crises, there was little in 63 through the end of September that offered a springboard to more lasting renown. Indeed, if Cicero's literary fame had not contributed substantially to the survival of information about the events of his consulship we would know little about most of them, none at all about some.

Then came the conspiracy of Catiline. Its history is well known, and the particulars have been discussed endlessly. Rather than rehash them, the conspiracy needs only to be set in the context of the discussion up to this point. The relative quiet of 63 suddenly erupted into insurrection, and rumors of arson and bloodshed hung over the city. The conspiracy of Catiline was sensational by any standards, and in particular by comparison with the events of the year up to October, when the solid evidence of the conspiracy first became public. Scholars have generally agreed, rightly, that the plot had little chance in the end of installing Catiline and his intimates in power in Rome, or of securing the redress sought by the humbler men who made up his army. But there was real danger nonetheless. Desperate men in arms might do considerable damage in the countryside before they could be rounded up, as the revolt of Spartacus had lately shown. Rumors of agitation among the slaves of southern Italy, even if baseless, will have reawakened unpleasant memories of a decade earlier. And the city of Rome, with neither a constabulary nor a fire brigade, was terribly vulnerable to even a small band of determined assassins and arsonists. The conspirators numbered among them several senators and equestrians, including members of the nobility, men with the means to give force to their designs.¹²⁶

¹²⁴ In addition to the bills already mentioned one other piece of legislation from 63 is known – the *lex Labiena de Sacerdotiis*. Cicero seems to have played no role in its passage, for or against. Our only source is Dio 37.37.1-2.

¹²⁵ Dio 37.26-7 has sometimes been interpreted as indicating civil disorder associated with Rabirius' trial. But, leaving aside for the moment the fact that the passage is patently hyperbolic, as a whole it implies that political, rather than physical, wrangling is meant.

¹²⁶ We know the names of 11 senators: P. Cornelius Lentulus Sura, C. Cornelius Cethegus, P. Autronius Paetus, L. Vargunteius, Q. Curius, L. Cassius Longinus, L. Calpurnius Bestia, P. Cornelius Sulla, Ser. Cornelius Sulla, Q. Annius Chilo, and M. Porcius Laeca. Equestrian conspirators included M. Fulvius Nobilior, L. Statilius, P. Gabinius Capito and C. Cornelius, but the list, which comes from Sallust (*Cat.*

Citizens in all walks of life in Italy therefore had good reason to fear. Some of them may have had some sympathy with the slogans which had formed the basis of Catiline's canvass in 63 and which no doubt served as the rallying cry of his uprising. But the methods by which he proposed to champion the oppressed will have been odious to all but the most diehard radicals. The number of people ultimately induced to join the intrigue in Rome appears to have been small to judge by the number of arrests eventually made. At the end of the day the attempt to rouse the countryside in support of the rebellion made no significant headway outside of Etruria where it attracted perhaps a few thousand supporters. The rest of Italy recoiled from the prospect of mayhem.

Cicero's resolute and farsighted handling of the conspiracy won almost universal approbation and secured for him the lion's share of the credit for its suppression, despite the fact that the *coup de grace* was ultimately delivered by his colleague Antonius in January of 62, by which time Cicero was again a *privatus*. The intense anxiety aroused by the revolt gave way to relief and heartfelt gratitude for the consul who had taken the lead in preserving Rome from fire and Italy from war. Among an adoring people he was *in excelsis*, mobbed by well-wishers and cheered wherever he went. The senate showered him with honors, voting a thanksgiving in his name and granting him the title of *pater patriae*, an honorific granted to no Roman before, except in legend to Romulus and Camillus.¹²⁷ Instead of taking the customary oath upon laying down office he declared instead that he had saved the commonwealth by his exertions alone, to the rapturous applause of the assembled crowd.

In mid-63 Cicero can hardly have imagined rising to such dizzying heights of fame and honor. The conspiracy of Catiline had opened new realms of possibility for his future place in the Roman state and indeed in Roman history. The man whose main positive achievement as consul had until recently been the promulgation of a law concerning the sponsorship of gladiatorial shows by candidates was now hailed by his fellow citizens as the hero who had saved the city and the state. In early October the fast approaching end of his year in office had held out to him the prospect of becoming the eight hundred eighty eighth ex-consul; now he was the Father of the Fatherland.

7.14), is not exhaustive. Of the senators the four Cornelii, as well as Cassius Longinus, were men of the highest birth. The conspirators included an ex-consul (Lentulus), another man who had been elected consul, but subsequently disqualified (Autronius), an ex-praetor (Cassius Longinus) and a tribune-elect for 62 (Bestia).

¹²⁷ Cicero was exceptionally fond of the title – see *Pis.* 6, *Sest.* 121; *Att.* 9.10.3; *Phil.* 2.12; cf. *Plut. Cic.* 23.6. Pliny positively asserts that Cicero was the first to receive it – *N.H.* 7.117 cf. *App. B.C.* 2.1.7. For grant of the title to Romulus – *Div.* 1.3; *Livy* 1.6.3,6; to Camillus – *Livy* 5.49.7; 7.1.10; *Plut. Cam.* 1.1; *Eutrop.* 1.20.3. Caesar was to receive it in 45 or 44, and it was offered to Augustus in 2 B.C. For a recent discussion with bibliography see Miles (1995), 99-100.

Creating the Legacy of 63

Not long after his return to private life he seems to have begun a concerted effort to have his consulship in general, and his role in the defeat of the conspiracy of Catiline in particular, immortalized in a variety of contexts. One effort he put on foot in 62 was to have the events of the previous year enshrined in literature. The specifics of the early stages of this campaign are difficult to trace in detail, not least because our best source of evidence, the letters to his most intimate correspondents, fail us in 62; the *ad Quintum* letters begin, and the *ad Atticum* letters resume after a four year hiatus, in 61. But his defense of the Archias in 62 appears to have been linked to an attempt to get the poet to write an epic based on the events of 63.¹²⁸ He also tried to enlist two other potential Greek encomiasts, Thyillus and Posidonius by name, either in 62 or early in 61, and to have worked on various other, unnamed, artists, all without success.¹²⁹ He had more luck with Atticus, who seems to have produced something in Greek in 61 or 60, although text is lost and little is known about its contents.¹³⁰

He also seems to have encouraged eulogies from leading politicians of the day. Of these the most important by far in 62 was Pompey, and in a letter now lost, possibly open, addressed to Pompey in June as he was winding up affairs in the east, Cicero detailed the great accomplishments of his consulship. In addition to keeping the great man informed, the letter, no longer extant, appears to have been, implicitly if not explicitly, an invitation to Pompey to associate himself with these glorious events by lauding their author. That at any rate is the impression given by the follow-on letter, which has survived, in which Cicero expresses his disappointment that Pompey had failed to say anything flattering about him in his response¹³¹. Although nominally private, Pompey's reply clearly was either meant to be public, or at least had to potential to be made such either by the sender or the receiver, as Cicero's response implies. By way of providing Pompey an excuse for what, in the Cicero's view at least, was an otherwise inexcusable omission on his part, he attributes the failure to praise the achievements of 63 to a fear *ne cuius animum offenderes*¹³². Unfazed by this initial rebuff he continued to work on Pompey, trying to elicit from him the public approbation that he so earnestly desired¹³³. From the latter's return in December of 62 until the advent of the "First Triumvirate", which marked the beginning of a decided decline in

¹²⁸ *Arch.* 28-30; *Att.* 1.16.15.

¹²⁹ *Att.* 1.16.15, 1.20.6, 2.1.2.

¹³⁰ *Att.* 2.1.1.

¹³¹ *Fam.* 5.7.2-3. Pompey's response is also lost.

¹³² *Fam.* 5.7.3

¹³³ *Att.* 1.19.7 - *itaque primum eum qui nimium diu de rebus nostris tacuerat, Pompeium, adduxi in eam voluntatem ut in senatu non semel sed saepe multisque verbis huius mihi salutem imperi atque orbis terrarum adiudicaret.* *Att.* 1.20.2 – *verum tamen fuit ratio mihi fortasse ad tranquillitatem meorum temporum non inutilis sed merhercule rei publicae multo etiam utilior quam mihi, civium improborum impetus in me reprimi cum hominis amplissima fortuna, auctoritate, gratia fluctuantem sententiam confirmassem et a spe malorum ad mearum rerum laudem convertissem.* cf. *Att.* 2.1.6.

Pompey's popularity, Cicero was intensely concerned with the tone of his remarks about the events of his consulship, remarking his delight or disappointment to Atticus variously as Pompey spoke of them more or less approvingly, and keeping careful track not only of the state of his relationship with Pompey, but also with public perception of that relationship¹³⁴. He similarly enthused to Atticus when other *principes* offered public encomia, and we may well imagine that made similar efforts to encourage them to do so¹³⁵.

The effort to have the events of 63 immortalized by a chorus of eulogists posed certain problems however. Most obviously, not all of those recruited would cooperate. By 60 it was becoming increasingly obvious that neither Posidonius nor Thyillus, nor any of the other Greek poets he had approached was going to produce the epic he craved; even Archias, whose citizenship Cicero had secured in court, ultimately failed him. Moreover, as Rome's leading orator he could be a harsh critic. The one known example of an artistic celebration of 63 written by someone other than Cicero himself seems not to have been altogether satisfying, although his criticism is muted in view of the fact that the author was none other than Atticus¹³⁶. The poets he solicited were no doubt men whose talents he admired, but the political figures he approached were determined by their status rather than chosen for eloquence, and it is unlikely that men such as Pompey and Crassus were able to eulogize Cicero in the grand style that was his ideal. But above all, leaving it to others to sing the praises of 63 meant allowing others to impose their own interpretation of those events on the public imagination and the historical record. Having developed an elaborate understanding of the events of his consulship, their significance, and what they meant for his place in Roman politics and Roman history (to which we will come presently), he was no doubt loathe to relinquish entirely to others the chance to write the story of his *annus mirabilis*. The *laus* he hoped to receive from others was critical in establishing the magnitude of the events of 63, and in giving a rough shape to the nature of his accomplishment, but for the purposes of adding nuances to the picture he hoped would live in men's memories he would have to rely on his own talents, for which purpose they were well suited.

As an acknowledged master of the manipulation of historical *exempla* he knew all too well that the legacies of great men and the significance of great events were potentially highly plastic. The major figures from the recent past, men such as the Gracchi, Marius and Sulla, had been his playthings in the courtroom, on the rostra and in the senate, becoming heroes or villains as the nature of the audience and the needs of occasion demanded, their records seen in whatever light the orator cared to cast upon them. Now reckoning himself a member of this august company, fully alive to the power of his own eloquence and well aware of the capacity of words to shape perceptions, Cicero had no intention allowing others to fully define his legacy, or to leave it prey to

¹³⁴ *Att.* 1.12.3, 1.14.2-4, 1.16.11, 1.17.10, 1.19.7-8, 1.20.2, 2.1.6.

¹³⁵ *Att.* 1.13.3, 1.14.3-6, 1.16.5.

¹³⁶ *Att.* 2.1.1 – *quamquam tua illa (legi enim libenter) horridula mihi atque incompta visa sunt*

the vagaries of contemporary political currents or the whims of future historians. Instead he seized every opportunity to define the meaning of his consulship in the present and impose his own terms on the judgment of history.

Much of the fruit of that effort is now lost. We know that he produced an account in something like the annalistic tradition which, he hoped, would afford the material for a full-scale history written by another, although the hoped for book was never in fact produced. An epic poem entitled *de consulatu suo* was also written, of which only a few fragments have survived. Moreover Cicero himself attests that he wove the theme of the glory of his consulship into speeches in the senate, at least one *contio*, and probably other occasions for public oratory, but apart from the four forensic orations discussed below these have not survived.¹³⁷

Our ability to trace chronologically the evolution of Cicero's understanding of his own legacy is further limited by the fact that many of the key sources can not be dated precisely. The best we can hope to do is assign important works to more generally defined periods, and the years between the end of Cicero's consulship and the beginning of his exile provide one such convenient block. To judge from the surviving exile letters, Cicero was not engaged in literary activity of any kind during the exile itself, and given the need to reestablish himself politically when he returned, and to put his chaotic private affairs in order, he probably had little time to write in the period immediately following either. Moreover much had changed in the months he spent as an exile in southern Italy and Greece, both for himself and for the state.

The evidence for the period 62 -58 includes written versions of at least thirteen speeches delivered in 63, of which nine survive more or less intact. Of those, eight were put on paper in 60, while the publication date of the *pro Murena* is unknown¹³⁸. Only three speeches delivered in 62 seem to have been circulated. Two of these, the *pro Archia* and *pro Sulla* have come down to us, but when the versions we have were written is uncertain. The third, *contra contionem Q. Metelli*, survives only in fragments, but a reference to it in a letter of dated January 25, 61 B.C. indicates that this speech at least was written up within a year of its delivery¹³⁹. The same letter refers to other speeches committed to writing at roughly the same time and sent to Atticus as a group, and these are likely to be the *pro Archia* and *pro Sulla* (and perhaps *pro Murena* as well). The only other speech made before Cicero's exile which has come down to us is the *pro Flacco* of

¹³⁷ *Sulla* 2 - *multis enim locis mihi et data facultas est et saepe dabitur de mea laude dicendi*; *Sulla* 34 - *an me existimasti haec iniuratum in iudicio non esse dicturum quae iuratus in maxima contione dixissem*; *Att.* 1.14.3 - *Crassus, postea quam vidit illum excepisse laudem ex eo quod [hi] suspicarentur homines ei consulatum meum placere, surrexit ornatissimeque de meo consulatu locutus est, ut ita diceret, se quod esset senator, quod civis, quod liber, quod viveret, mihi acceptum referre; quotiens coniugem, quotiens domum, quotiens patriam videret, totiens se beneficium meum videre. quid multa? Totum hunc locum, quem ego varie meis orationibus, quarum tu Aristarchus es, soleo pingere, de flamma, de ferro (nosti illas ληκόθους), valde graviter pertexuit.*; cf. *Att.* 1.16.8-10; 1.17.9.

¹³⁸ *Att.* 2.1.3.

¹³⁹ *Att.* 1.13.5. For this, and other lost speeches of 63, see Crawford (1984), 77-91.

59; here again we are left in ignorance about the date at which the written version we have was produced, but, working on the assumption that most of the published speeches were circulated shortly after they were given, we can tentatively group it with the others as speeches disseminated between the end of Cicero's consulship and the beginning of his exile¹⁴⁰. Read together with the surviving letters from 62 to mid-58 it is possible to get a coherent view of what Cicero thought that his glorious year had meant, both for himself and for Rome.

One immediately striking fact is that the history of 63, for Cicero in retrospect, is overwhelmingly that of the Catilinarian conspiracy. The fact has been alluded to before, but to get a firm sense of the relative importance that Cicero ascribes to the various episodes that comprised the history of 63 it is necessary to look at the four surviving speeches which were not explicitly concerned with any particular event of that year - the speeches in defense of Murena, Sulla, Archias and Flaccus. Extensive sections of each are devoted to memorializing the defeat of the conspiracy and Cicero's central role in that defeat¹⁴¹. In the case of the *pro Sulla* this is at least partly owing to the fact that the defendant is accused of having been complicit in the conspiracy. But even so the considerable space in the *pro Sulla* devoted to dilating on the danger posed by the conspiracy, Cicero's glory, the intervention of the gods, etc. cannot be understood as strictly necessary to the case, and should rather be grouped with the extended sections devoted to the same themes in the other three speeches, to which they are obviously foreign, as constituting a clear case of self-promotion on the part of the advocate. By contrast there are virtually no references to the other known events of Cicero's consulship in which he took a prominent part, with the single exception of a group of references to his role in the drafting and championing of the *lex Tullia de ambitu* in the *pro Murena*¹⁴². However, since Murena was being charged under that very law and Cato, one of the prosecutors, had apparently made much of the irony that the law's author was defending the first man charged under it, Cicero had little choice but to devote space to his own role in the passage of his *lex*. Where Cicero discusses his *annus mirabilis* in ways that are extrinsic to the legal matter at hand (i.e. where he does so as a matter of choice, with motives that almost certainly extend beyond the case itself), the year 63 is the conspiracy of Catiline.

The letters to Atticus show a similar pattern. There are fewer explicit historical references in the letters than in the speeches for a variety of reasons: the correspondents knew each other well enough that they were unnecessary; the letters tend to focus more narrowly on the present and look to the past more rarely; and they were meant for private

¹⁴⁰ On the particular significance of the period thus delimited, see below.

¹⁴¹ *Mur.* 4, 6, 49-52, 78-82, 84-7, 90; *Sulla* 2-3, 6-10, 18-21, 25-30, 32-35, 40, 53, 58, 75-6, 82-85, 87, 92; *Arch.* 28-30; *Flac.* 1-2, 5, 94-6, 98-9, 102-3.

¹⁴² *Mur.* 3, 5, 37, 47, 67-9, 89. Apart from the foregoing there is only one brief reference to another event of 63 in which Cicero played an important role – the debate on the Rullan land bill – at *Sulla* 65. An attempt to repeal the *lex Calpurnia de ambitu*, which took place in January 63 but in which Cicero played no known part, is mentioned at *Mur.* 43-7.

rather than public consumption, and so had no role to play in Cicero's conscious efforts to memorialize his achievements. Nevertheless, references to 63 inevitably occur from time to time and again the Catilinarian episode dominates. The *ad Atticum* series from 61 to 59 contains four explicit references to the conspiracy and none to other events of 63¹⁴³. In addition there are several mentions of the year of Cicero's consulship without reference to any specific event, but in many of these cases the nature of the reference fits the circumstances of the defeat of Catiline far most closely than any other incident of that year: mention of the physical destruction of the city and the slaughter of its citizens; Cicero as savior of Rome, the empire and the world; the *severitas consulatus mei*; and divine intervention can really only refer to the conspiracy and its suppression¹⁴⁴.

The Catilinarian episode was *the* event of Cicero's consulship, and his understanding of its significance therefore naturally came to dominate the meaning he attributed to the year in general. But what to make of it? The events of those last months of 63 were well known to everyone in Rome. The conspiracy had been the talk of the town since mid-October at the latest, and in case anyone had failed to notice, the consul himself had reiterated them *ad infinitum* in the senate, from the rostra and eventually in the courts. The nature of the main events of those weeks, and their notoriety, therefore imposed certain constraints on the narrative that could be spun out of them afterwards. But Cicero, the lifelong advocate and an acknowledged master of his trade, knew better than anyone that widely divergent interpretations could be developed even in instances where the facts of a case were not in dispute, and he therefore retained considerable latitude in how he could develop the main themes of the achievement of his *annus mirabilis*.

One version of the meaning of Catiline's uprising had of course been in circulation from the moment the conspiracy came to light. Although we see Catiline himself and his attempted *coup d'état* through the eyes of unrelentingly hostile sources we can nevertheless get a picture, which is at least broadly accurate, of the way that Catiline himself hoped that he and his movement would be understood. His sudden departure from Rome in November of 63 had of course limited his ability to explain himself once in open revolt, but his campaign for the consulship of 62 had given him ample opportunity to air the themes which, after his electoral defeat, he no doubt hoped would attract the oppressed to his banner. In his canvass he had railed against the members of an optimate *factio* which had gathered all wealth and political power into

¹⁴³ *Att.* 1.14.5, 1.19.4, 2.1.5, 2.25.1.

¹⁴⁴ Destruction of the city and the slaughter of the citizens – *Att.* 1.14.3; the severity of his consulship – *Att.* 1.16.7; Cicero as savior of Rome – *Att.* 1.16.5; of the empire and the world – *Att.* 1.19.7; divine intervention – *Att.* 1.16.6. All of these references echo themes explicitly associated elsewhere with the conspiracy – see below. Two further references are too general to allow any specific ascription: *Att.* 1.15.1 mentions enmity that Cicero had attracted during his consulship. This is probably allusion to the execution of the Catilinarians, but might be understood to encompass other events. *Att.* 1.19.10 justifies Cicero's recent poetic self-glorification, arguing that nothing else is more worthy of panegyric. If we had the text of the referenced poem (*de consulatu suo*) we know more precisely what this meant.

their hands to the jealous exclusion of everyone else. The *pauci* had acquired their hold on money, honor and power only because no one had yet come forward to rally the *miseri* to their own defense, and he therefore offered himself as the champion of the formerly leaderless majority which had been despoiled and disenfranchised by a narrow clique¹⁴⁵.

In defining himself in this way Catiline was breaking no genuinely new ground, but rather positioning himself within an evolving debate about the distribution of political power and its fruits which had played a prominent role in Roman politics in one form or another since at least the time of T. Gracchus. Those on the other side of this debate of course viewed themselves not as a cabal dedicated to monopolizing what rightfully belonged to all but rather as men whose lineage and experience made them best suited to serve as the empire's stewards and who acted particularly as the guardians of venerable traditions and values that had made Rome great in the first place. Those who challenged their ascendancy they cast as demagogues who took up popular causes only for the sake of establishing themselves as tyrants. These conflicting claims, which are now generally associated with loosely defined groups going by the names *populares* and *optimates*, described the complex political reality of late republican Rome poorly at best, as scholars in recent decades have repeatedly and rightly pointed out¹⁴⁶. But, however inaccurate that dichotomy between the *optimates* and the *populares* might be, it offered a ready-made narrative with which Cicero might have associated himself. Prominent men of the recent past such as Scipio Aemilianus, Scipio Nasica, L. Opimius and Sulla certainly had associated themselves, or at any rate had become associated, with "the *optimates*", and even such distant figures as Servius Ahala came to be drawn anachronistically into the *optimates/populares* framework. Had Cicero been the diehard reactionary which many modern students of republican history take him to be, a politician in the mould of M. Calpurnius Bibulus or L. Domitius Ahenobarbus, he might have willingly taken up the role offered to him by Catiline's version of the conflict at the heart of his political movement and ranged himself with Ahala, Nasica, Opimius and other venerable *optimata* heroes as the defender of senatorial privilege, the *mos maiorum* and all the rest.

Indeed, it would in fact be wrong to say that Cicero rejected this role altogether; even if he himself was fully alive to the fact that an imagined world of *optimates* and *populares* was a very crude description of the real Roman political scene he would have seen opportunities to take advantage of that way of understanding recent Roman history, at least in carefully chosen contexts, and on occasion he does so. But the astute politician, who had risen from obscurity to ascend each rung in the Roman political ladder *suo anno* by appealing to all sectors of the electorate, saw a chance to transcend the divisions inherent in the *optimata/popular* dichotomy and once again position himself as the champion of citizens of every class and political leaning. Earlier in 63 he had pulled off the same trick more than once. He had won *gratia* among men of wealth for

¹⁴⁵ *Mur.* 49-51; *Off.* 2.84; *Ascon.* (Clark) 93-4; *App. BC* 2.2; *Sall. Cat.* 2102, 31.7; *Plut. Cic.* 14, *Cat.* 2.18; *Dio* 37.30.2. Mitchell (1979), 226-33.

¹⁴⁶ For an alternative perspective, see Wiseman (2009).

his opposition to the Rullan land bill while simultaneously taking a popular stance as the defender of the absent Pompey. In Rabirius' trial he had upheld an interpretation of the *s.c.u.* congenial to the senatorial order while taking a *popularis* stance in defense of the rights of Roman citizens to appeal the verdicts of magistrates and protecting the reputation of the popular hero Marius. Now an attempt to overturn the existing political order by assassination, arson and war offered another opportunity to position himself in a way that would win him universal gratitude. The fear that Catiline's plans aroused in Roman citizens in all walks of life, rich and poor, urban and rural, has already been noted.¹⁴⁷ The dangers, real and imagined, formed the basis of Cicero's claim to have been the savior of the whole *res publica*, and as such receive extensive and highly embellished treatment in the speeches circulated between 62 and 58.¹⁴⁸ The genuine anxiety of those last months of 63 also made it possible to gloss over any sympathy with the aims, as distinct from the methods, of Catilines' conspiracy; when extreme violence had been in prospect the complexities of earlier political alignments could be reduced, at least in rhetoric, to a simpler world divided into two camps, *boni* and *improbi*, with Cicero at the head of the former.¹⁴⁹

One aspect of this *consensus bonorum*, as he would come to call it, deserves special attention. In the years after his consulship Cicero claimed that in the crucible of 63 he had forged a *concordia ordinum*, by which he meant that he had bound the equestrian and senatorial orders together by ties of common interest and affection.¹⁵⁰ The unspoken but necessary corollary to that assertion is of course that the two highest orders in Roman society had previously been estranged. That idea no doubt was meant to recall the political battles of the late second and early first centuries over the composition of juries, which had once been an issue of some importance. However, the picture of an equestrian order alienated from the senate prior to 63, and reunited with it thereafter, is surely overdrawn. Even at the height of the dispute over the make-up of the courts it is unlikely that knights and senators, always united by a great web of economic, social and political bonds, ever faced off as warring camps; indeed, the idea that the equites and the senators constituted monolithic blocks each united by a kind of class consciousness is itself surely a gross oversimplification at best. Moreover, the question of juries, however contentious it may once have been, had been laid to rest by the *lex Aurelia* of 70, after which date there is no indication of further fuss over the issue.¹⁵¹

¹⁴⁷ See above, 14-15.

¹⁴⁸ *Sulla* 3, 6-7, 18-19, 33, 53, 82; *Mur.* 6, 49-51, 78-82, 84-6, 90; *Flac.* 1-2, 95-6, 102; *Arch.* 28.

¹⁴⁹ *Sulla* 9-10, 20, 29, 32, 35; *Arch.* 28; *Flac.* 5, 96-7, 103.

¹⁵⁰ Although the formula *concordia ordinum* appears only once in Cicero's extant corpus (*Att.* 1.18.3) variations of the phrase are common and the theme was one genuinely important to him. It has been the subject of considerable scholarly attention: Strasburger (1931); Lepore (1954); Boren (1964), 51-62; Eagle (1949) 15-30; Nicolet (1966), (1974); Mitchell (1979), 202; Wood (1988), 193-4, 198-9, 210; Temelini (2002).

¹⁵¹ It has even been suggested that tension between the orders had dissipated well before 70 – see Gruen (1974) 28-30.

But if the notion of a rift at the top of Roman society which needed to be healed was an anachronism in 63, the idea nevertheless held an obvious attraction for Cicero. He himself, though a member of the senate, descended from an old equestrian family. His origins and background made him a natural spokesman for the *ordo equester* in the senate and throughout his career he had made a consistent effort to build ties with the order as a whole and with influential subgroups, such as the *publicani*¹⁵² Much of the advocacy in the senate which he undertook in support of such groups was grubby business, but it was the price that had to be paid for maintaining the crucial political support of wealthy and influential backers.¹⁵³ Casting himself as the architect of a great movement of national solidarity provided a chance to ennoble the role he had long played, and would continue to play, as mediator between the senate and important business communities within the equestrian order. At the same time, stressing the importance of maintaining that union offered Cicero, as its creator and strongest link, an important continuing role in the Roman political scene. Out of these considerations grew the idea that he had created a *concordia ordinum* in the course of repressing the conspiracy of Catiline, and Cicero continued to cling to this notion long after it had become readily apparent that it had always been an illusion.

The danger of mayhem had given Cicero the means to unite the great majority of Italian society against the uprising, and Catiline's comparatively small band of followers had been isolated, driven into the open and crushed. Yet here, in Cicero's great triumph, lay the germ of a problem. With the conspiracy's ringleaders apprehended and the Manlian army defeated the peril might seem to have passed for good. But transient dangers offered only the hope of ephemeral glory, especially with the imminent return of Pompey likely to push Cicero out of the limelight by the end of 62. There was a real risk that Rome, always abuzz with rumor, scandal and intrigue, would all too soon come to forget his *Wunderjahr*. Cicero himself could, and often did, remind Roman audiences of his glory and encouraged others to do so, but as attention inevitably shifted to new crises and new sensations his would become an increasingly lonely voice, and constant reiteration of the theme would eventually cause it to grow stale¹⁵⁴. The solution that Cicero contrived was to come to a new understanding of the nature of the conspiracy itself. In more prosaic moments he defined it, as others no doubt did, as a group of individuals who were cooperating or had cooperated in more or less direct fashion in a particular attempt to enforce change in Roman politics by violence. In this sense the conspiracy had ceased to exist. But alongside this ordinary definition he began to develop another in which the men, mostly of senatorial or equestrian status, arrested in Rome in late 63 and into the early months of 62, along with the few thousand humbler rebels who formed Manlius' army in Etruria, were merely the most visible members of a vast pool of degenerate, wicked and desperate men which included citizens of all stations, lurked in every corner of Italy, and might at any time raise up another Catiline and

¹⁵² *Verr.* 2.2.181; *Man.* 4; *Rab Post.* 15; *Phil* 6.13; *Fam.* 13.9.2; 13.10.2; *Q.Fr.* 1.1.32, 35; *Post Red. in Sen.* 32-3; Mitchell (1974) 100; Wiseman (1971), 69, 136; Taylor (1964), 64.

¹⁵³ eg. *Att.* 1.17.8-9; 1.18.3; 1.19.6; 2.1.8.

¹⁵⁴ Specific reference to his glory: *Sulla* 9, 26-7, 82-5; *Arch.* 28-30.

menace the *res publica* anew¹⁵⁵. In defeating the revolution of 63 Cicero had saved the state at a moment when it seemed that these men, whom he most commonly refers to collectively as *improbi*, were on the verge of overwhelming it. But, on Cicero's new understanding, only some of these dangerous malcontents had unmasked themselves by openly joining their leader. Others, perhaps the larger part of the whole, had for one reason or another stood aloof and therefore posed an ongoing threat.

Cicero's descriptions of these crypto-revolutionaries are all studiously vague. A handful of his personal *inimici*, with Clodius at their head, are eventually identified more or less explicitly as belonging to this group, but it seems unlikely that Cicero had many real individuals in mind when he spoke of the *improbi*.¹⁵⁶ As he had often done before in the courtroom Cicero was conjuring up a shadow enemy in default of a real one. Although it must surely have been tempting to claim a complete victory and suggest that he had rid Rome of those who threatened her stability once and for all, the notion of a continuing risk carried with it even greater benefits. Most obviously it gave the glory of his consulship an ongoing significance as the signal event of an indefinite, perhaps perpetual, struggle, but it also gave him a means of addressing another potentially thorny issue. It was noted in passing above that when Cicero went to lay down his office on the last day of December, instead of giving the normal oath he had declared that he had saved the state by his actions alone, to the loud applause of the onlookers. In the years that followed he remembered his famous words as one of the triumphs of his consulship, but the fact was that they were not the speech he had come to the forum to give. As they resigned, outgoing consuls were normally invited to speak to the crowd at length about their accomplishments in office, but Cicero was forbidden to do more than swear the customary oath by one of the new tribunes for 62, Metellus Nepos, on the grounds that a magistrate who had put citizens to death without trial should not be allowed to address the *populus*.¹⁵⁷ In cooperation with another tribune, L. Calpurnius Bestia, he had been attacking the executions in *contiones* on legal and other grounds for much of December and he may well have been testing the waters, or even laying the groundwork, for a criminal charge. In the end the matter did not make it to court that year; Nepos' tribunate was cut short when a riot in a voting assembly he had summoned early in 62 resulted in his suspension from office and precipitate departure for Asia.¹⁵⁸

The matter rested there for the moment, but the episode had been a harbinger of things to come. At P. Sulla's trial L. Torquatus, the prosecutor, picked up the cry that Cicero's highhanded treatment of his captives amounted to an attempt at *regnum*.¹⁵⁹ The traction that charge seems to have had already in 62 caused Cicero considerable alarm, and the letters to Atticus, beginning in 61, attest to his ongoing anxiety in regard to a

¹⁵⁵ *Sulla* 28-9, 33, 75-6; *Mur.* 50, 78-82; *Flac.* 94-5, 98-9.

¹⁵⁶ e.g. *Att.* 1.16.9.

¹⁵⁷ *Sulla* 34; *Rep.* 1.7; *Fam.* 5.2.6-7; *Pis.* 6-7; *Att.* 6.1.22; *Dom.* 94; *Plut. Cic.* 23.1-2; *App. BC* 2.7; *Pliny NH* 7.117; *Gell.* 5.6.15; *Dio* 37.38.

¹⁵⁸ *Sest.* 62; *Plut. Cat. Min.* 26-9; *Cic.* 23.3; *Dio* 37.43.

¹⁵⁹ *Sulla* 21-35.

possible criminal trial. For a time in late 61 and 60 it seemed that the danger might gradually recede, but his apprehension grew again when Clodius, by then an inveterate enemy, revived the issue of the executions. By 58 Clodius had been able to secure a tribunate through the unusual practice of adoption into the ranks of the plebians, and in March won passage of the law that sent Cicero into banishment.¹⁶⁰

From the beginning his legal position had been dubious. The authority on which he had acted on December 5th rested on a vote taken in the senate in favor of the execution of the conspirators then in hand. Such votes would normally have been advisory, requiring confirmation by one of the assemblies, and the argument that this one was legally binding depended in turn on an *s.c.u.* that by that time was weeks old. Moreover, the *s.c.u.* itself was a relatively recent innovation, dating back only to the late second century, and the scarcity of legal precedents meant that much about it was still in contention. Moreover, the prosecution of prominent figures of the older generation had by that time become a standard avenue for the advancement of young politicians, one which Cicero himself had used to make his name in the seventies, and as the executions continued to rankle, the consul who had carried them out became an increasingly tempting target for any number of potential prosecutors.

But apart from the legal risks the continuing unpopularity of the executions also jarred uncomfortably against Cicero's efforts to project the image of a hero beloved of every honest citizen. If all of the wicked had fallen with Catiline, the hostility directed against the savior of 63 would be very hard to explain, while the possibility that the Father of the Fatherland might be hauled into court so that some young noble could score political points by highlighting his *invidia* was at best unbecoming. Here too the notion of Italy still teeming with Catilinarian sympathizers could be useful. The idea that a residual group of *improbi*, akin to Catiline in spirit, was now seeking to avenge him and his gang by destroying Cicero, and to achieve in court what their brethren had been unable to do on the battlefield, nicely explained the constant recurrence of expressions of odium in connection to the events of December 5th. Simultaneously, it elevated the increasingly likely prospect of Cicero's involvement in what would have been fairly typical political trial by associating it with the epic struggle between the stalwart consul and the forces that had threatened, and continued to threaten, the safety of state and the lives of all good citizens. The result was an aggressive effort to emphasize the fact that a Catilinarian rump had not only survived, but bore a special hatred for Cicero and was responsible for recurring public displays of indignation over the executions.¹⁶¹

Valuable though it was to cast the uproar about the executions in a flattering light, it still remained to say something about the legal questions at issue, which revolved around the scope of the senate's right to take action without the authority of the assemblies in times of emergency and the question of what in fact constituted an

¹⁶⁰ *Att.* 1.19, 2.1, 5, 7, 9, 18-25.

¹⁶¹ *Sulla* 18, 25, 27-30, 33-5, 82-4, 92; *Mur.* 4, 52, 82, 87; *Flac.* 96, 103.

emergency. A degree of circumspection was required. To grapple explicitly in public with the tricky issues of law at stake would come perilously close to admitting that there might in fact be reasonable grounds for a trial, an admission that would have been abhorrent to Cicero as well as dangerous. It was still possible though to lay the groundwork for a possible future legal defense by various indirect methods. One feature of the accusations leveled at Cicero appears to be that the executions had been an act of cruelty. While certainly not constituting a breach of the law in and of itself, *crudelitas* smacked of the arbitrary use of power and it was, besides, the notion that Cicero had acted as a tyrant that gave the legal question at the heart of his case its powerful emotional resonance. That fact in turn explains the conspicuous effort in the *pro Murena*, and particularly in the *pro Sulla*, to rebut the charge of *crudelitas* and substitute the term *severitas*, a good old Roman value and a word with a more acceptably magisterial ring.¹⁶² The charge of tyranny is also undermined in the *pro Sulla* by a sustained attempt to cast the executions as something imposed upon a reluctant consul by the *res publica* herself, and as an act demanded by the situation but alien to his natural leniency.¹⁶³ Suggestions that he acted under the guidance of divine providence, in addition to adding to the majesty of event, may also have been meant to give his actions an air of inevitability.¹⁶⁴

Above all however Cicero's defense, if it came to a trial, would rest on the authority of the senate and he is therefore at pains to paint himself, at the moment of decision on the Nones, as the obedient servant of the *curia*.¹⁶⁵ The attempt to place the onus of ultimate responsibility on the house indisputably exists in a certain tension with the Cicero's self representation elsewhere as a lone figure fending off the assaults on the *res publica* unaided, and he makes no real effort to resolve that tension, instead allowing the two images to jostle uncomfortably side by side.¹⁶⁶ But if he felt that sharing responsibility for the decision to execute took a little polish off his personal achievement, he must in the end have decided that it was a price worth paying for the protection afforded by the senate's legal sanction, even if the value of that sanction was itself in dispute. Besides, reminding everyone of the senate's role in the controversial decisions of December, and implying that the *auctoritas* of the order as a whole was in the dock along with consul, would make it harder for the house to allow Cicero alone to take the fall for their collective decision, an option that might otherwise appear irresistible if the political heat, which had always been directed to some extent at the senate in general, became too intense.

If his legal jeopardy was a source of ongoing anxiety for Cicero he could and did take satisfaction in a different aspect of the Catilinarian episode. His career had been built almost entirely in the courts and in service as a magistrate in the city of Rome; his early experience of military life in the Social War had been distasteful and he had found a brief

¹⁶² *Sulla* 8, 20, 87, 92; *Mur.* 6.

¹⁶³ *Sulla* 8, 76, 87.

¹⁶⁴ *Sulla* 40, 86; *Mur.* 82.

¹⁶⁵ *Sulla* 21, 82, 85; *Flac.* 96.

¹⁶⁶ See for example *Mur.* 79-80, 86; *Flac.* 1.

stint abroad as quaestor in western Sicily politically unrewarding. A career built almost exclusively on work in the courts, although far from unheard of by the mid-first century, remained something of an anomaly, and it was certainly not the typical route to great renown, which was still ordinarily won on the battlefield, as it always had been.¹⁶⁷ But the conspiracy, and the reaction of senate and people to Cicero's handling of it, seemed to open up a new path to glory. Much of his success in foiling the conspiracy had rested on his vigilance and his network of informants who had provided him with details of the conspirators' plans, and eventually with the evidence needed to prove their guilt, a fact he duly acknowledges. But, at least in Cicero's eyes, the ultimate defeat of the conspiracy had been achieved through oratory, and here was something excitingly new. In the past the safety of his clients could have been fairly attributed to his eloquence, and the well spoken senator could of course be seen as having a salutary influence in government counsels, but for the survival of the state itself to have been won through oratory was something potentially unique in the whole of Roman history. His chosen field of endeavor, in which he had for some time now been preeminent and which before had primarily held out the hope of winning *gratia* and securing personal advancement, now seemed capable of vying with the accomplishments of the military figures of Roman history in its value to the *res publica*.

The chance to put skill in oratory on the same level with military prowess was too good to pass up, and Cicero aggressively pushed the line that his eloquence had saved the commonwealth, and that the arts of the forum deserved a place of honor equal to that of the arts of war. His correspondence with Pompey in 62, already mentioned above, had suggested that a political alliance between the two men might be forged on the basis of combining their complimentary talents, with Pompey's marital acumen balanced by Cicero's mastery of the political and oratorical.¹⁶⁸ A similar line of reasoning is introduced, somewhat awkwardly given the context, into Cicero's defense of Murena in late 63.¹⁶⁹ Indeed, he tentatively goes even farther here and there, pointing out the art of persuasion offered an advantage over resort to arms in the potential if afforded for bloodless victories.¹⁷⁰

Conclusions

It seemed, at least for a brief time in late 63 and early 62, that the conspiracy of Catline had given Cicero an unlooked for opportunity to become one of the great figures in Roman history. He aggressively seized that opportunity, and turned his undeniable talents as a master of words and perceptions to fashioning a legacy that made the most

¹⁶⁷ Among men of recent fame the careers of Scipio Aemilianus, Marius, Sulla and Pompey are the most obvious. All had made their reputations primarily in the field.

¹⁶⁸ *Fam.* 5.7.2-3; see above p. 17-18.

¹⁶⁹ *Mur.* 24, 29-30.

¹⁷⁰ *Sulla* 33; *Mur.* 84; *Cat.* 1.11; 2.28.

out of the events that had vaulted him into great renown. The multifaceted understanding of those events that took shape in Cicero's mind and found expression in his rhetoric in the aftermath of the revolt formed a reasonably coherent picture of the events of late 63. According to that account a great cancer that had long festered unseen within the body politic irrupted in the last months of 63, threatening to destroy the state itself and rob its citizens of life and liberty. Through dint of vigilance, wisdom and the power of his oratory a consul had beaten back the menace which would otherwise have overwhelmed the *res publica*. His eloquence had unmasked a hidden conspiracy, rallied all honest citizens to the nation's defense, and above all united its highest orders by healing the rift that had estranged the knights from the senate. The safety of the state had forced upon him stern, but fair, measures which were contrary to his lenient nature but justified by the nature of the emergency and fully authorized by the senate. The leading role which he had playing in suppressing the conspiracy had earned him the undying hatred of those men who were Catiline's sympathizers and kindred spirits and who menaced the republic still. He accepted the risk which their enmity entailed in the hope that in offering himself as a lightning rod he could avert danger from the state.

This picture, whatever may be said about its veracity, was congenial to its author in a number of ways. By making the suppression of the Catiline's movement into an existential struggle pitting all honest citizens against a vast and shadowy conspiracy of wicked desperados bent on the destruction of Rome itself, he lifted the events on which he glory depended onto an epic plane. By arguing that men of Catiline's ilk remained and represented a continuing danger to the state, he gave the events of 63 an enduring importance which in turn might keep his achievements before men's eyes and promised him an ongoing role as Rome's champion against the enemy within. A residual pool of Catilinarians also offered a convenient explanation for the public demonstrations of resentment over the executions of the Nones of December and allowed Cicero to portray his legal jeopardy as a kind of martyrdom. Emphasis on the *auctoritas* of the senate and on its role in the decision to execute Lentulus, Cethegus et al conferred, he hoped, a measure of legal security. There were of course competing versions of the events of 63 being put about, and how many people Cicero was able to win over to this conception of the events of his consulship we can not be sure. For present purposes however it is enough to say that he believed it. If there had ever been a distinction between the version of events he offered for public consumption and the one that himself believed that distinction had already melted away by the time we get in window into his private thoughts in 61 with the letters to Atticus and Quintus. The story of his *annus mirabilis* became the basis for his understanding of the great events of his time and his place within them, and in so doing would ultimately come to provide the foundation for the treatises of the late 50s.

THE BONA DEA SCANDAL

In the mangled Vatican manuscript, our only extensive source for the *de Republica*, the first two books are the only ones for which more than half of the original text survives. The bulk of the discussion in them is concerned with the question of constitutions: their typology, and development, and in particular with the ideal blending of the basic constitutional types – monarchy, aristocracy and democracy – in a “mixed constitution” with Rome as archetype. It is not surprising then that the constitutional theory of the *de Republica* has received the lion’s share of the modern scholarly attention, and more no doubt than it would have had more of its later books survived. For those who see the work as largely derived from various Hellenistic originals, the constitutional theory of *de Rep.* is doubly appealing because it belonged to a long established line of Greek political thinking stretching back to Plato, and because in this case at least we seem to have a solid Hellenistic source in Polybius, who had famously suggested that Rome was the ideal “mixed constitution” in his extended digression on the Roman constitution a century before Cicero took the idea up again. Given the fact that so much of the relevant text has survived, and the scholarly attention lavished on this element of the work, it serves as a natural point of departure for a study of the contemporary relevance of the work, and the ways in which Cicero’s personal experience of politics in mid first century Rome may have influenced his approach to writing political theory.

The Mixed Constitution in Greek Political Thought

The notion of a “mixed constitution” naturally implies that there are component parts of which it is a mixture, and the idea that there were three “basic” types of government appears first in Herodotus, although it may have already been well established by his time.¹⁷¹ The idea of a mixed constitution itself however first appears, in nascent form, in Thucydides’ description of the constitution of Theramenes at Athens in 411 as a “combination of the few and the many”.¹⁷² To this duality Plato added “the one” to form the classic Greek trinity,¹⁷³ introduced the notion of natural, predictable constitutional change,¹⁷⁴ and advocated a mixed constitution in the *Laws*, identifying it with the Lycurgan system.¹⁷⁵ Aristotle provides the most extensive extant treatment of

¹⁷¹ Herod. 3.80-82; Plato (Statesman 291a-292a, 301a-303b) and Aristotle (Politics 1278b-1280a) provide their own, suitably refined, definitions.

¹⁷² *Thuc.* 8.97.2.

¹⁷³ *Menx.* 238c-d.

¹⁷⁴ *Rep.* 8 & 9. The idea was probably the germ that eventually became Polybius’ ἀνακύκλωσις (the notion that the evolution of constitutions is cyclical, following a rigidly deterministic pattern).

¹⁷⁵ *Laws* 691c-692c; 712 d-e.

the idea, delineating several different forms,¹⁷⁶ and in the Hellenistic period it was further elaborated by Stoics as well as Peripatetics.¹⁷⁷ Areius Didymus knew it, and there is reason to suspect that Dicaearchus may have made a contribution to it.¹⁷⁸ Amongst the Romans, Cato the Elder was clearly acquainted with it in the early to mid second century, ascribing a mixed constitution to Carthage in the *Origines*.¹⁷⁹ Polybius himself may therefore have gotten the idea from any one of number of different sources – which one(s) is unknowable and, for present purposes, unimportant.

In short, the idea of the mixed constitution as a political ideal was a philosophic commonplace by the first century B.C.¹⁸⁰ Cicero had almost certainly encountered it many times in various guises in his extensive reading by the mid 50s B.C., and there is no good reason to assume (as has from time to time been suggested) that he is following Polybius, Posidonius, Panaetius, or any other single author, exclusively in the first two books of *de Republica*.¹⁸¹ The very fact that he is not mechanically reproducing any known single text makes it difficult to demonstrate with certainty that he had read any particular one of them, although there is strong circumstantial evidence that he knew both Plato and Polybius.¹⁸² It is somewhat more doubtful that he had read Aristotle's *Politics*, at least in the form we now possess, but it is reasonably certain that he knew something about his views on constitutional theory, both directly from Aristotelian works now lost to us, and indirectly from other Peripatetic sources.¹⁸³ But while the belief that Cicero is straightforwardly translating a particular source has gradually fallen out of favor, few attempts have been made to identify uniquely Ciceronian contributions to idea of the mixed constitution.¹⁸⁴ And yet, the version of the mixed constitution found in the *de*

¹⁷⁶ See esp. *Pol.* III-IV.

¹⁷⁷ *Diog. Laert.* 7.131; *Cic. Fin.* 4.79; Walbank (2002), 203; (1972a) 136-7.

¹⁷⁸ Alders (1968), 13ff.

¹⁷⁹ *Cato.* Fr. 80 Peter = Serv. 4.682. See Rawson (1991), 101; Arena (2012), 85f.

¹⁸⁰ As further proof we may note that the mixed constitution also appears again at the end of the century in Dionysius of Halicarnassus (*Ant. Rom.* 7.55-56).

¹⁸¹ For references and a convincing rebuttal of the idea, see Ferrary (1988), 363-81; Ferrary (1984) has a good discussion of previous scholarship.

¹⁸² Cicero had definitely read Plato's *Laws* by the time he began his own *de Legibus* (the latter references the former directly at *de Leg.* 3.5, and indirectly elsewhere.) However, insofar as *de Leg.* is later than *de Rep.* this does not *quite* prove that Plato's *Laws* had a direct influence on *de Rep.* Given the frequent references to Plato in *de Rep.* however and the reverence accorded him there, it is difficult to imagine that Cicero had not read all of the relevant Platonic material available to him before composing *de Rep.* As for Polybius, apart from the obvious relevance to his own theme there is the fact that Scipio is made to claim at the outset of the dialogue that he had discussed constitutional theory with P. (and Panaetius) on many occasions – a clear signal that Cicero knew the constitutional digression in book 6.

¹⁸³ He was likely to have been familiar with Aristotle's works in dialogue form (*Q.Fr.* 3.5.1), and among these were the *Politicus* and *Statesman* whose titles are preserved in Diogenes Laertius and Hesychius. See Chroust (1965), 346-353. On Cicero's knowledge of Aristotle and his thinking generally, see Frede (1989), 77-100, who sees *Politics* book 3 as the ultimate source of Cicero's mixed constitutional theory, mediated via Theophrastus. C.f. Zetzel (1995), 20-21.

¹⁸⁴ Other Ciceronian innovations in constitutional theory have gotten more attention. That Cicero's understanding of the ways in which one kind of constitution can change into another is more flexible and realistic than those of either Plato or Polybius has been noted by many (see, e.g., Sharples (1986), 36-9).

Republica is substantially different from variations on the theme in main extant Greek sources: Plato's *Laws*, Aristotle's *Politics* and Polybius' history. It will be useful to sketch out briefly the relevant aspects of these three works before moving on to consider how Cicero's own conception differs from them, and why.

In Plato's *Laws* the problem of constructing an ideal constitution is essentially that of finding a happy and stable medium between the extremes of autocracy and anarchy, which he associates with tyranny and democracy respectively.¹⁸⁵ A mixed constitution, like that of Sparta, has a role to play in ensuring that power does not become overly concentrated, and thus lead those who wield it into arrogance and injustice.¹⁸⁶ Just as small ships can be torn apart by overlarge sails, or small bodies sickened by taking too much food, so a person's soul, on Plato's account, is ruined by an excess of power.¹⁸⁷ The key characteristic of such the mixed constitution therefore is that it divides power among various persons and groups and thereby avoids the moral hazard that attends the excessive accumulation of power in one person, while at the same time concentrating power sufficiently to avoid the democratic tendency towards the breakdown of order.¹⁸⁸ That said, Plato pays comparatively little attention in the *Laws* to the way that power is apportioned among government officials and other decision makers in his ideal state. The real solution to the problem of governance, as he sees it, is subordination of all citizens to the power of a set of laws, which are to be created by a semi-divine, nearly omniscient lawgiver at the moment when a political community is formed, and the majority of the *Laws* is therefore devoted to propounding an ideal legal code and explaining its rationale. Since most of the important decisions are made in advance by the founding law-giver, the question of the day-to-day administration of the state recedes in importance. But it does not disappear entirely; the exercise of political power is still necessary if the laws are to be enforced and certain kinds of non-legislative decisions made, and that power still poses a danger. The diffusion of political power within a mixed system serves mainly to buttress that system by removing the arrogance of power as a source of instability, which might otherwise undermine the obedience of the citizens to the laws.

Zetzel (1995), 19 has further observed that while Polybius assumes that constitutional decay (from the proper to the degenerate form) occurs at the moment that power is passed from one generation to another, Cicero allows for the decisive factor to be a change in the personality of a single ruler (at least in the case of the switch from monarchy to tyranny). The fact that Cicero sees the origins of the state lying in natural human sociability, while Polybius finds it in human weakness, has been highlighted by Schofield (1995), 63-83. On the lack of biological metaphors in Cicero, which are central to Polybius' analysis, cf. Walbank (1972), 142-4.

¹⁸⁵ *Laws* 693d-701e.

¹⁸⁶ *Laws* 691d-692c; 712 d-e; c.f. 713c-714a; 875a-d.

¹⁸⁷ *Laws* 691c-d.

¹⁸⁸ Plato is less explicit about the value of a mixed constitution in preventing a slide towards the other extreme – that of democracy and anarchy. It may be fairly said however that by providing for some limited centralization of power it implicitly addresses this problem as well.

Aristotle too sees the mixed constitution as a balancing of two elements, but for him these are not countervailing tendencies towards the excessive concentration and dispersion of power, but rather a pair of social groups – the rich and the poor – which he sees as fundamental and pre-existing elements of any society with frequently conflicting interests. His mixed constitution therefore, which he calls the *πολιτεία*¹⁸⁹, is a combination of democracy and oligarchy. As in much of his other philosophical thinking, Aristotle seeks the ideal in a mean between two political extremes, and the combination that creates a *πολιτεία* can take various forms, corresponding to different *viae mediae* between the extremes of democracy and oligarchy.¹⁹⁰ One form of combination (with several sub-categories) consists of various mixtures of democratic and oligarchic institutions. Another, seemingly different sort of mixed constitution can be formed by giving power to a group intermediate between the rich and the poor – what we might call a “middle class”.¹⁹¹ But in either case, the stability of such a mixed constitution, or “polity”, which for Aristotle, like most other ancient constitutional thinkers, is its chief virtue, depends on maintaining the proper balance of political privileges between distinct social groups – the rich, the poor, and in some cases at least a third class intermediate between these.¹⁹² These groups Aristotle understands as having distinct corporate identities, and as possessing power independent of that granted by that society’s constitution (i.e. extra-political power) on the basis of some combination of their numbers, their wealth and other qualities (free or noble birth, culture, etc.).¹⁹³ To be stable, a constitution must enjoy the support of the group which has the greatest extra-political strength. Thus the best practicable constitution for most societies is that which grants political privilege to the social class that is preponderant, with oligarchies best suited to societies in which the rich are most powerful, democracies to those which the poor dominate, and mixed constitutions to those where a middle class is ascendant.¹⁹⁴ By corollary, constitutions are most likely to suffer instability when the extra-political power of social groups falls out of step with their constitutional position as, for example, when a group becomes either rapidly wealthier or suddenly poorer without a commensurate change in its political privileges.¹⁹⁵ Thus the balance needed in a stable mixed constitution is largely a matter of maintaining proportions. However, this proportionate equality carries with it its own hazards. Since groups tend to seek their own advantage by amending constitutions to improve their own political position, any constitution which

¹⁸⁹ The term *πολιτεία* is given a variety of other meanings in the *Politics*. There is general agreement that these include its use generically to refer to any constitution, and specifically to one or more particular kinds of constitution (1279a). As to whether his specific use of the term is to a single constitution with diverse features, or two several different constitutions, is a matter of much debate.

¹⁹⁰ *Pol.* 4.8 (1293b-1294b).

¹⁹¹ *Pol.* 4.11 (1295a-1296b).

¹⁹² Wood (1988), 161.

¹⁹³ *Pol.* 4.12 (1296b).

¹⁹⁴ *Pol.* 4.12 (1296b-1297a). Aristotle also notes that a middle class can retain power in a stable *πολιτεία* provided only that it is more powerful than either the rich or the poor alone, as these two groups are rendered incapable of cooperating against the middle class by their innate mutual antagonism.

¹⁹⁵ *Pol.* 5.7 (1306b-1307a). It is often enough for a change in power (or, in the cases of aristocracy in the loose sense, of merit) to *appear* to have occurred in the eyes of one social group.

leans towards either the many or the few by favoring the poor or the rich respectively will tend to drift further in the direction towards which it originally inclined, ending ultimately in absolute democracy or narrow oligarchy.¹⁹⁶ The *Politics* thus strongly implies (though Aristotle never draws this conclusion explicitly) that the most stable constitution is that in which a society's social units both have equal extra-political power and enjoy equal political privilege.

Like Aristotle, Polybius is interested in establishing a balance between competing *loci* of power, but whereas for Aristotle this meant social units, Polybius is concerned with balancing the powers of the various organs of government. For Polybius, much as for Plato, the principle problem of the "simple" constitutions, in which power belonged solely to the one, the few or the many, lay in the fact that such power led to the corruption of those who wielded it, whose arrogance and self-serving behavior in turn led to the collapse of the existing political system and the instantiation of a new one, which was doomed to become corrupt in its turn. The solution to this dilemma of an endless *πολιτειῶν ἀνακύκλωσις* was to be found in the balancing of the powers of the monarchic, oligarchic and democratic elements, such that none could come to dominate the others. In the particular case of Rome such a "mixed constitution" involved apportioning power among the consuls, the senate and *populus* in its assemblies. Thus the bulk of his discussion of the Roman system is concerned with delineating the powers of these three groups and enumerating the ways in which each is dependant upon the cooperation of, and potentially checked by, the others in the execution of its designs.¹⁹⁷ Unlike in Plato's *Laws* however, these safeguards do not, in Polybius' account, cure the disease of arrogance, nor prevent one of these *loci* of power from attempting to subordinate the others, but rather frustrate such attempts by providing a means by which the other two can thwart the efforts of whichever group which aims at domination.¹⁹⁸ The purpose of the mixed constitution for Polybius is thus to secure, not the moral improvement of the citizens, but rather the stability of the system itself. Since political revolution, on this understanding, is the result of the abuse of authority by a either the one, the few or the many when in possession of absolute power, it follows that the Roman government (and any other organized on similar principles) will be highly stable, since absolute power is unattainable.¹⁹⁹ At the same time, Polybius claims, the various stakeholders in the system, accustomed perforce to cooperating with one another, will find it easy to work

¹⁹⁶ Ibid. Aristotle allows however that the reverse is also possible, albeit unlikely, in cases where an imbalance is recognized by all as a danger to the whole society.

¹⁹⁷ *Poly* 6.12-18. One exception should be noted; although Polybius says that each group in his tripartite structure is beholden to both of the other two (6.15.1, 6.18.1), he omits to explain how the senate is checked by the consuls. He does note that the senate's will may be frustrated by the tribunes of the plebs (6.16.4), but considers these to be an aspect of the popular (democratic) element, rather than assimilating them to the magisterial (monarchic) one (6.16.5).

¹⁹⁸ *Poly*. 6.18.5-7.

¹⁹⁹ For all of its strengths however, Polybius does not consider the Roman system to be perfectly stable, and indeed suggests that decline had already begun in his own time (6.2.5, 9.12-14).

together for the common good in moments of crisis, especially when confronted with external threats.²⁰⁰

Cicero's Mixed Constitution

From this tradition, mediated to some degree through various Hellenistic sources, Cicero undoubtedly drew heavily. At the most fundamental level, Cicero's principle objectives for his ideal state, stability and domestic harmony, are those of nearly all ancient constitutional theorists.²⁰¹ Basic features of earlier constitutional thinking are also clearly present. The notion of the three basic constitutions, the idea that these have corresponding "perverted" forms, and the belief that there are patterns in the ways in which these forms mutate, one into another, from causes inherent in the nature of each (*ἀνακύκλωσις*), all clearly stock material of Greek political philosophy, feature in Cicero's discussion of the mixed constitution as well. And certain aspects of his thinking can be more specifically identified with a particular tradition or author; the concept of proportionate equality is clearly Aristotelian, for example.²⁰²

But, points of similarity notwithstanding, Cicero's conception of the mixed constitution differs significantly from all known antecedents. Whereas the corrupting influence of political power was central (albeit in different ways) to the theory of the mixed constitution of both Plato and Polybius, for instance, Cicero shows little interest in it.²⁰³ To be sure, he is fully alive to the danger of granting political power to those already corrupted, but that is a different matter. We must always of course acknowledge that the fragmentary nature of the text makes it possible that a discussion of the corrosive moral affect of power has been lost, but it should be regarded as strong circumstantial evidence that in the many surviving places where Cicero mentions that monarchy is subject to instability if the ruler is or becomes corrupt, no mention whatever is made of the possibility that power itself is intrinsically corrupting.²⁰⁴

It is also surely telling though that whereas Polybius, Aristotle and, to a lesser extent perhaps Plato, are all interested in balancing the political power of various elements within the state (with variations in detail and purpose), Cicero has no such

²⁰⁰ *Poly.* 6.18.2-4) – he no doubt has the Second Punic War (into the narrative of which the constitutional digression is inserted) in mind here. But he also, somewhat curiously, gives no details about how the system encourages such cooperation, other than the vague suggestion (6.18.2) that the system inspires a friendly competition amongst the various *loci* of power.

²⁰¹ *de Rep.* 1.69; 2.69. C.f. Wood (1988), 161.

²⁰² *Rep.* 1.43, 53 *et passim*. C.f. Frede (1989), 86.

²⁰³ Differences between Polybius' and Cicero's models have been the object of considerable scholarly attention, albeit with considerable variation among views: Pohlenz (1931), 87 n.1; Pöschl (1936), 99-107; Cole (1964), 467-470; Walbank (1972), 130-146; Nippel (1980), 142-146; Ferrary (1984), 91-92; Lintott (1997), 80-85; Asmis (2005).

²⁰⁴ *Rep.* 1.44, 48-50, 65-68, 2.43, 45-51.

inclination. Indeed, one of the signal features of the ideal state of the *de Republica*, universally acknowledged by modern commentators, is its distinctly unbalanced character, with real political power reserved primarily for the nobility (acting either as senators or magistrates), while the lower classes are given only a nominal role in governance, giving their assent to the decisions of their social betters periodically, but making virtually no other contribution, and certainly never initiating political action.²⁰⁵ The checks on the operation of political power that lie at the heart of the Roman system according to Polybius go unmentioned by Cicero either in the theoretical discussion of the mixed constitution in book one or in the extended history of monarchic and early republican Rome, with a single, very revealing, exception, to which we will come in a moment. Nor is there any hint that Cicero shares Plato's concern for the corrupting influence of power and the need to distribute it widely, or Aristotle's interest in matching the intrinsic extra-political power of various social groups within society to their political privileges. But if Cicero's mixed constitution does not require a balancing of political power, in what sense then is it mixed? The answer to that question lies in one of his unique contributions to ancient political thought.

Whereas for Polybius the basic units of the state had been the various organs of government (the assemblies, the senate and the consuls), differentiated by their political powers, and for Aristotle groups of citizens defined by wealth, Cicero's system combines both approaches. A division of society generally into the few and the many on the basis of wealth is clearly one structuring element, and the *populus* is one of the three units of the *de Republica*'s conceptual system, and treated therein for the most part as a pre-existing social group, as in Aristotle, rather than as a creation of the constitution itself. But the few, rather than standing at the opposing pole of a binary system, are divided into two units defined by their political functions, the senate and the magistrates, very much in the spirit of Polybius' analysis.

The motive behind the adoption of this curious, hybrid system is to be found in the very different relationship each part bears to the political system as a whole. For Greek thinkers the central question of constitutional theory was the degree to which each component part of their constitutional systems partook of political power, and the advantage of mixed constitution lay in the fact that it produced stability by balancing the powers exercised by various groups (with differences of course in detail from one thinker to another). For Cicero the issue is rather different. He sees each form of government (in its uncorrupted form) as possessing its own unique virtue or virtues, and by corollary considers the key defect of the basic types to be that they possess only their own particular virtues while lacking those of the other two types.²⁰⁶ Democracy, Scipio says, enjoys the benefit of liberty which involves, *inter alia*, a kind of strict equality before the law.²⁰⁷ Aristocracy embodies a different kind of equality, political rather than legal and

²⁰⁵ Cicero's discussion of the Servian Centuriate Assembly at *Rep.* 2.39-42 provides perhaps the most pointed instance of the exclusion of the lower classes from real political influence.

²⁰⁶ *Rep.* 1.43.

²⁰⁷ *Rep.* 1.46-50; cf. 1.55.

proportionate rather than simple, in which honors and offices are distributed according to merit, and therefore also ensures that the state is directed by those most qualified to govern.²⁰⁸ The discussion of monarchy is less explicit and systematic, but various analogies Scipio draws to the role of Jove as ruler of the gods, the role of the *paterfamilias* in the Roman family, and the city's early monarchy suggest that it has a certain naturalness to it. The office of the dictator is also mentioned as evidence that unity of leadership is crucial in a crisis, while an analogy of the body politic with the well ordered mind, in which reason rules the other elements (anger, desire, etc.) suggests that the concentration of power also makes possible a more rational approach to government.²⁰⁹

A mixed constitution, for Cicero, is one which combines the various virtues of the three simple types, rather than one in which power is necessarily balanced. This then is the theme that connects books one and two of the *de Republica*. In book one, the virtues of the proper forms of the simple constitutions (kingship, aristocracy and democracy), are spelled out in detail, with Scipio explaining the advantages offered by each in turn; in book two he describes how the Roman constitution progressed by stages through the various simple types, including their corrupted forms, eventually to arrive at a mixed form that enjoys the virtues of each of the three basic types. Roman government begins as pure monarchy under Romulus, but gradually acquires democratic and aristocratic elements as time goes on.²¹⁰ It becomes tyranny, the degenerate form of kingship, under Tarquinius Superbus,²¹¹ followed by, if not democracy, then at least a period with democratic features, as the commoners demand and secure a series of concessions from the *principes*. This in turn is followed by an aristocracy under the first decemvirs, and an oligarchy (the degenerate form of aristocracy) under their successors.²¹² A discussion of the post-decemvirate constitution, which for Scipio represented the realization of the perfect mixed constitution and which was still in force with comparatively minor modifications in his own day, doubtless occupied the gap in the text that followed Scipio's discussion of the decemvirate.²¹³

The loss of this crucial section of the text, at the culmination of the long historical sketch that occupies most of book 2, is unfortunate, but much of the gist of what it contained on the question of the nature and advantages of the mixed constitution of the mature republic (i.e. after 449 B.C.) can be reconstructed from comments elsewhere in the text. In particular, two passages, which stand near the end of books one and two

²⁰⁸ *Rep.* 1.43, 51-3; cf. 1.55.

²⁰⁹ *Rep.* 1.54-64.

²¹⁰ *Rep.* 2.3-43.

²¹¹ *Rep.* 2.44-49; Spurius Cassius, Marcus Manlius and Spurius Maelius are also mentioned as would-be tyrants. Tiberius Gracchus was almost certainly also listed as such in the lacuna immediately following 2.49.

²¹² *Rep.* 2.52-63.

²¹³ The lacuna falls at *Rep.* 2.63.

respectively, appear to be programmatic; both are spoken by Scipio, and both are brief and worth quoting.

Quod ita cum sit, ex tribus primis generibus longe praestat mea sententia regium, regio autem ipsi praestabit id, quod erit aequatum et temperatum ex tribus optimis rerum publicarum modis. Placet enim esse quiddam in re publica praestans et regale, esse aliud auctoritati principum inpartitum ac tributum, esse quasdam res servatas iudicio voluntatique multitudinis.
(*Rep.* 1.69)

That is why, though monarchy is, in my view, much the most desirable of the three primary forms, monarchy is itself surpassed by an even and judicious blend of the three simple forms at their best. A state should possess an element of regal supremacy; something else should be assigned and allotted to the authority of the aristocrats; and certain affairs should be reserved for the judgment and desires of the masses.

Id enim tenetote, quod initio dixi, nisi aequabilis haec in civitate compensatio sit et iuris et officii et muneris, ut et potestatis satis in magistratibus et auctoritatis in principum consilio et libertatis in populo sit, non posse hunc incommutabilem rei publicae conservari statum.
(*Rep.* 2.57)

One must bear in mind what I said at the outset, namely that unless a state maintains a fair balance of rights, duties, and functions (the magistrates having adequate power, the aristocratic council adequate influence, and the people adequate freedom) its constitutional organization cannot be preserved from change.

The reference in the latter quotation (*id enim tenetote, quod initio dixi* – “One must bear in mind what I said at the outset”), appears to be to the former. It appears then that in practice, the benefits of the various simple constitutions are achieved under the mature republican constitution by assigning to the magistrates, the senate and the *populus* respectively that which is appropriate to their nature and their proper function within a well-ordered system, namely *potestas* to the magistrates, *auctoritas* to the senate, and *libertas* to the people. For present purposes it is the relationship between the first two of these, the *potestas* of the magistrates and the *auctoritas* of the senate, that is of greatest interest, but a few words should be said also about the third part of the system, *libertas*.

Libertatis differs from *potestas* and *auctoritas* in two important respects. First, Cicero treats it as an end in and of itself, unlike the other two, which are instead means to the end of good government. Secondly, as has already been noted, in Cicero’s conception of the ideal state only *potestas* and *auctoritas* can be considered to be political power in the ordinary sense of that term. *Libertas*, by contrast, would appear to consist of equality before the law and protection from certain kinds of coercive power, together with forms of participation in the political process which are essentially symbolic.²¹⁴ There are hints here and there that true *libertas* must involve at least some measure of

²¹⁴ Wood (1988), 162-175. See also Nippel (1980), 142-146 and Ferrary (1984), both of whom argue that the main feature of Cicero’s system is aristocratic dominance with popular consent.

political sway; in his discussion of the basic constitutional types, for example, Scipio expresses the view that the grant of merely token authority to the *populus* is insufficient to produce true liberty.²¹⁵ However, he is not speaking *sua voce* at this point in the text, but rather giving voice to those who defend democracy as the best for of government. And what may at first seem to be echoes of the theme in book 2, where Scipio is giving his own views, are restricted to the discussion of the shortcomings of monarchy, and appear to be making the much more limited point that under a king liberty cannot exist, even if certain vehicles for the expression of the popular will exist, since they exist only at the pleasure of the monarch.²¹⁶ And there is, moreover, positive evidence that Cicero conceives of *libertas* in terms that include only token forms of political power. He has Scipio emphasize the dangers posed when the *populus* wields genuine power, with a particular emphasis on the fact that it can lead to the arbitrary exiling of innocent *principes*, a point on which more will be said later.²¹⁷ He suggests that undiluted *libertas* is inimical to *aequabilitas* of the relative kind in which honors and offices are awarded on competence and merit, and to *concilium*.²¹⁸ And, perhaps most tellingly, he has Scipio loudly praise the statesmanship of the early republican figure Publicola for securing the *auctoritas* of the senate against popular agitation by granting the people a series of concessions, most of which were essentially symbolic, and none of which granted the people significant political power.²¹⁹ Having enumerated these, Scipio concludes by saying...

²¹⁵ He says *Itaque nulla alia in civitate, nisi in qua populi potestas summa est, ullum domicilium libertas habet; qua quidem certe nihil potest esse dulcius, et quae, si aequa non est, ne libertas quidem est. Qui autem aequa potest esse, omitto dicere in regno, ubi ne obscura quidem est aut dubia servitus, sed in istis civitatibus, in quibus verbo sunt liberi omnes? ferunt enim suffragia, mandant imperia, magistratus, ambiuntur, rogantur, sed ea dant, quae, etiamsi nolint, danda sint, et quae ipsi non habent, unde alii petunt; sunt enim expertes imperii, consilii publici, iudicii delectorum iudicum, quae familiarum vetustatibus aut pecuniis ponderantur.* - “So liberty has no home in any state except that in which the people wield supreme authority; for there is certainly nothing sweeter than liberty, yet if it is not equal throughout, it isn’t liberty at all. For how can liberty be equal throughout, I will not say in a monarchy, where slavery is evident and unmistakable, but in those states where everyone is free in name only? They register their votes, they bestow military commands and political offices, they are canvassed and asked to say yea or nay; but they confer only what they would have to confer even if they didn’t want to – things which they themselves do not have, in spite of being asked for them by others. For they have no share in the supreme power, or in national policy-making, or in legal decisions (those are made by specially appointed judges). All things are apportioned on the basis of one’s ancient lineage or wealth.” – *Rep.* 1.47.

²¹⁶ *Rep.* 2.43, 50.

²¹⁷ *Rep.* 1.62 - *Ergo etiam illud vides, de quo progrediente oratione plura me dicturum puto, Tarquinio exacto mira quadam exultasse populum insolentia libertatis; tum exacti in exilium innocentes, tum bona direpta multorum...* – “In that case you are also aware of another fact, on which I shall probably enlarge in the course of my talk, namely that after Tarquin’s expulsion the populace reveled in an extraordinary excess of liberty; that was when innocent people were driven into exile, when many had their property seized as plunder...” cf. 2.53.

²¹⁸ *Rep.* 1.43, 55, 62, 66-69; 2.58.

²¹⁹ *Rep.* 2.53-56. The popular measures undertaken by Publicola (Publius Valerius) mentioned are: having the axes removed from the *fascēs* when the consul was in the city, ordering that the rods be lowered when he spoke to popular assemblies, having lictors attend the consuls in alternate months (so that the symbols of power would not be more numerous in the republic than they had been under the kings), moving his abode

Haud mediocris hic, ut ego quidem intellego, vir fuit, qui modica libertate populo data facilius tenuit auctoritatem principum. Neque ego haec nunc sine causa tam vetera vobis et tam obsoleta decanto, sed inlustribus in personis temporibusque exempla hominum rerumque definitio, ad quae reliqua oratio derigatur mea. Tenuit igitur hoc in statu senatus rem publicam temporibus illis, ut in populo libero pauca per populum, pleraque senatus auctoritate et instituto ac more gererentur...
(*Rep.* 2.55-6)

It was no ordinary man, in my view, who by granting the people a modest amount of liberty preserved more easily the authority of the leading citizens. You see I do have a reason for talking on to you about these old outdated things. In those famous figures and times I am noting examples of men and events for us as reference-points in the remainder of my talk. In those times, then, the senate maintained the state in the following condition: though the people were free, little was done through them; most things were done on the authority of the senate according to custom and precedent...

Several important points emerge from this brief passage: first, *libertas* which is more than “moderate” represents a threat to the *auctoritas* of the senate; secondly, *libertas* can indeed be moderated in such a way as to preserve the senate’s authority while also maintaining a *populus liberus*; thirdly, that this means in practice leaving to the people very little actual role in political deliberation; and lastly that a wise statesman will aim to institute just such a state of affairs. Thus, in essence, Scipio argues the chief virtue of the democratic form of government can be incorporated into a properly constituted mixed constitution without granting significant power to the people. It might be objected that the period in question predates the decemvirate, and thus does not belong to the “ideal” republican constitution post-449 B.C., but the fact that Valerius is here tagged as a paragon of Roman statesmanship, perhaps even as a model for the *rector rei publicae* whose character and role is preserving the state seems to have been the main theme of the *de Republica*’s culminating, and mostly lost, final two books, is strong evidence that the approach which he took to establishing the boundaries of *libertas* is one which Scipio (and Cicero) highly approve.

What then about the other two corners of the Roman constitutional triangle, the magistrates and their *potestas* and the senate with its *auctoritas*? Begin with magisterial *potestas*. In what we have of the *de Republica* the term *potestas* appears twenty seven times. As a basic matter of common usage the term should refer in this context to the official, legally established prerogatives of the various magisterial offices, but understanding exactly how it functions as the particular prerogative of the magistrates within the mixed constitution (since, strictly speaking, the senate and the popular assemblies also had forms of *potestas*), and specifically how it intersects with the *auctoritas* of the senate and the *libertas* of the people is difficult, as Cicero offers no technical definition of the term, and of the twenty seven instances in which it appears, only three are explicitly connected with the consuls or magistrates in general.²²⁰ One has

from the top of the Velian Hill (where the kings had lived) to its base, and confirming the old tradition that corporeal and capital punishments could be appealed (a tradition that Scipio traces back to the monarchy).²²⁰ The term *imperium* also appears in certain relevant contexts, sometimes as a synonym for *potestas* (*Rep.* 1.63; 2.50, 55), and sometimes paired with it (*Rep.* 2.15, 23, 61), but it is also given different meanings. It

already been quoted above²²¹; another, immediately preceding, asserts that the consuls of the early republic wielded a *potestas* which was analogous to that of a king, but limited in duration.²²² The third, found in the prologue, has Cicero saying in his own voice that he had used his *potestas* as consul to save the *res publica*. None of these usages provides us with a full and explicit explanation of the way the political power is apportioned in Cicero's ideal system.

Other uses of the term however do reflect, albeit indirectly, on the functioning of magisterial power in the ideal state. That *potestas* is the proper domain of magistrates is emphasized, for example, by fact that the degenerate forms of the simple constitutions are characterized by the use of that kind of power by either the people (in ochlocracies), or by a clique (in oligarchies).²²³ More importantly for the argument being made here however is the shifting nature of the relationship between *potestas* and *auctoritas* in the period of the kings. The historical narrative at the heart of book two is, as previously mentioned, one which traces the evolution of Roman government through a variety of phases which include variations on the simple constitutions as well as nascent forms of mixed constitution, and it is from this narrative that the relationship between *potestas* and *auctoritas* can best be understood.

Rome begins as an absolute monarchy under Romulus (interrupted briefly by a period of joint rule with the Sabine king Tatius). But the period of pure kingship does not last long; on Cicero's telling, soon after Romulus founds the city and combines his original settlers with the Sabines, he institutes a council of elders which Cicero describes as a proto-senate. This marks the beginning of a trend which sees the power of the senate, and of the aristocracy in general, increase over time, and ends with the state firmly under the control of the *curia* in the early republic. Scipio describes the earliest phase of this process thus...

sed quamquam ea Tatio sic erant discripta vivo, tamen eo interfect, multo etiam magis Romulus patrum auctoritate consilioque regnavit. Quo facto primum vidit iudicavitque idem, quod Sparta

often seems to have a more negative connotation than *potestas*, representing power that is abusive, excessive or resented (*Rep.* 1.47, 50, 67, 68; 2.55, 63). It is the regular term Scipio uses to denote the regal office when describing successions under the monarchy (*Rep.* 2.25, 31, 33, 35, 38). *Imperium* is also Cicero's preferred term to refer to the power exercised by reason over the other elements of the mind in the analogies he draws between the mind and the state (*Rep.* 1.60; 3.37), but also as something that the wise man will show little regard for, along with wealth, honors, etc. (*Rep.* 1.27, 28; 3.40). Other uses include as a way of referring to Rome's empire (*Rep.* 2.5, 10; 3.24; 6.16), or to military commands (*Rep.* 1.47; 2.56; 3.27, 40). Of all of the uses of *imperium* in the *de Republica*, the most potentially interesting for the argument made here occurs at *Rep.* 2.58, where it is said that the tribunes of the plebs were created to oppose the *imperium* of the consuls. As it stands however the passage is a *non sequitur*, with *ac ne Lycurgi quidem disciplina tenuit illos in hominibus Graecis frenos* having no obvious referent. The passage also poses other problems, and an interpolation is to be suspected. See Rudd, 191, and below, n. 65.

²²¹ *Rep.* 2.57 (see above, p. 13).

²²² *Rep.* 2.56.

²²³ *Rep.* 1.43-44; 2.61; 3.44-45. cf. 1.47-48, 63. By contrast, kingship turns into tyranny not when a monarch acquires *potestas*, but when he abuses that which he has – *Rep.* 2.49-51.

Lycurgus paulo ante viderat, singulari imperio et potestate regia tum melius gubernari et regi civitates, si esset optimi cuiusque ad illam vim dominationis adiuncta auctoritas. Itaque hoc consilio et quasi senatu fultus et munitus et bella cum finitimis felicissime multa gessit...
(*Rep.* 3.14-15)

These things [the senate and the tribes] had been set up while Tatius was still alive, but after his death Romulus relied still more on the authority and advice of the Fathers in discharging his royal duties. In doing so he was the first to realize and accept something which Lycurgus had realized a little earlier in Sparta, namely that states are better governed and controlled by the king's sole power and prerogative when the authority of all the best men is allowed to act upon the absolute monarch. Thus protected and supported by this council, which was a kind of senate, Romulus waged many highly successful wars against his neighbors...

The appearance of the key terms *auctoritas* and *potestas*, which by this point in the book have already been used to demarcate the unique functions of the aristocratic council (soon to be the senate) on the one hand, and the *praestans et regale* element which Cicero associates with kings or magistrates depending on the form of the government on the other, situates this particular moment in Roman history within the wider question of the relationship between these two elements of the constitution. In other words, royal/magisterial *potestas* is already beginning to cede its place of primacy in the state to the *auctoritas* of the *principes*. That process is of course still far from complete during Romulus' reign, and the kings remain the dominant figures in the state down to the end of the monarchy, but the role of the senate is already significant in the period of Rome's founder.

The process continued after his death. Indeed, Cicero suggests that the *curia* would have taken over the government of Rome at that moment had the state been sufficiently mature to allow it. However, the people had formed a sentimental attachment to monarchy and the aristocracy wisely chose to indulge them in that by giving way for a new king. But it was the senators who picked Numa to be the city's next monarch, and showed their statesmanship by inventing the *interregnum* so that the royal power would continue without interruption even while the new king was being chosen, thus exerting an influence not just on Roman governance but on the monarchy itself.²²⁴ Of the three kings after Numa Cicero has little to say, reflecting the paucity even of mythological detail about these figures, but a longer section on the reforms of Servius Tullius follows that is of interest. The beginning and end of Scipio's description of his reign are missing, but what survives depicts the establishment of the *comitia centuriata*. The moment of creation for one of Rome's popular assemblies might have served as an opportunity to discuss the means (albeit limited ones) by which the *populus* could now exert a form of political power. Cicero however uses this event as an opportunity to dwell on the plutocratic features of the *comitia* and to emphasize that, while it may have given the people a vote, its real effect was to strengthen the hand of the elite.

²²⁴ *Rep.* 23-24.

For as long as Rome remains a monarchy however, Scipio emphasizes that the proper distribution of governmental functions remains impossible.²²⁵ The overthrow of Tarquinius Superbus removes this obstacle and the senate moves to center stage. Scipio describes government in the first years of the republic in these terms...

Tenuit igitur hoc in statu senatus rem publicam temporibus illis, ut in populo libero pauca per populum, pleraque senatus auctoritate et instituto ac more gererentur... Quodque erat ad optinendam potentiam nobilium vel maximum, vehementer id retinebatur, populi comitia ne essent rata, nisi ea patrum adprobavisset auctoritas.
(*Rep.* 2.56)

At that time, then, the senate maintained the state in the following condition: though the people were free, not much was done through them; most things were done on the authority of the senate according to custom and precedent. And (a factor that was perhaps the most vital in maintaining the power of the aristocracy) the rule was staunchly retained whereby the people's corporate decisions were not valid unless endorsed by the senate's authority.

The *curia* clearly dominates the state here. The people's role in government is thus limited essentially to giving their assent to decisions made or endorsed by the senate, and then only occasionally. As for the consuls, they are mentioned, but the only instance of magisterial activity in early republican history that Cicero mentions is that of Publicola (already mentioned above, p. 15-17), whose role is to grant to the people certain symbolic concessions in order to dampen popular demands for some form of genuine political influence. Moreover, he does this for the sake of *facilius tenuit auctoritatem principum*.²²⁶ The *principes* might, of course, be taken to mean the aristocracy as a socio-economic group, but the introduction of the term *auctoritas*, which as been used throughout the first two books up to this point to refer specifically to the form of political power wielded by the senate as an institution, strongly suggests that the *curia* is meant here. And so, even where the magistrates do act in the first years of post-monarchical government, they do so for the purpose of buttressing the power of the senate.

Cicero's story does not end there though, nor indeed could it have. The chief advantage of the mixed constitution, as we have seen, is its stability. If the ideal constitution had been achieved in the immediate aftermath of the overthrow of Superbus, it would be hard to then explain the institution a few decades later of the oligarchic decemvirate. And besides, part of the underlying structure of the historical narrative of book 2, also discussed in the foregoing, is that Rome passes through versions of the three simple constitutions, including their corrupted forms, on its way to achieving the perfect blend. The tyranny of Superbus and the excess of popular power that saw the banishment of innocent *principes* immediately after the overthrow of the tyrant represent the decadent forms of two of the simple types, but oligarchy has not yet appeared. The period of senatorial dominance just described above cannot, of course, count as that for Cicero, for

²²⁵ *Rep.* 2.42-3. cf. 2.50.

²²⁶ *Rep.* 2.55.

to do so would be to admit that it was bad, whereas he wants to claim just the opposite. So for both of these reasons, the historical account had to be taken down to 449 B.C.

The treatment of the decemvirate itself is relatively straightforward. The first body of ten is a true aristocracy, ruling wisely in the interest of the whole body politic, as represented by the promulgation of the Twelve Tables, while the second group of *decemvires* form an oligarchy, acting in their own self-interest and abusing their power. However, taking the narrative down to 449 had other implications; Cicero was compelled to say something at least about the Conflict of the Orders and the origins of the tribunate as well, and fitting those events into the story required nuance and tact. Roman history to this point had, on his telling, seen the uninterrupted growth of the influence of the senate, to the point that it dominated the state on the eve of the Conflict of the Orders. But both the plebian secessions and the office of the tribune posed challenges to the ascendancy of the senate, and some discussion of these events was unavoidable.²²⁷

It is not surprising then that the tone of the relevant passage presents a sharp contrast with the bulk of the account of early Rome. For the most part, this had consisted of a triumphalist narrative, marked by a long series of political and cultural advances leading inexorably towards the creation of an ideal state. There had been bumps along the way of course, but when these are encountered Scipio is careful to remind his audience that they were passing events. The kings, for all of their contributions to Rome, had imposed burdens as well, but they had been swept away in the revolution of 509 B.C. The people had temporarily exercised a dangerous amount of power, but they had been pacified by Publicola. The decemvirate had been a hazardous experiment in rule by a clique, but it too had passed from the scene. Those aspects of Roman governance which would eventually be incorporated into the mature republican constitution had, up to this point, all been hailed as great achievements, and indeed as guided by providence, with their virtues lavishly praised: the creation of the senate under Romulus; the establishment of the *comitia centuriata* under Servius Tullius; the “popular” reforms of Publicola.

But the creation of the tribunate is treated apologetically, even critically. Of the early stages of the Conflict of the Orders he writes *defuit fortasse ratio, sed tamen vincit ipsa rerum publicarum natura saepe rationem*.²²⁸ The best that Cicero can bring himself

²²⁷ *Rep.* 2.59, where Cicero writes that the first tribunes were elected specifically *ut potentia senatus atque auctoritas minueretur* (“in order to reduce the power and authority of the senate”). Just before this (*Rep.* 2.58) the text reads *nam etiam Sparta regnante Theopompo sunt item quinque, quos illi ephoros appellant, in Creta autem decem, qui cosmo vocantur, constituti ut contra consulare imperium tribuni pl., sic illi contra vim regiam constituti* (“For in Sparta too, in the regime of Theopompus, five officials called ephors (and in Crete ten, called cosmoi) were appointed to offset the power of the king, just as here the tribunes of the plebs were elected to limit the authority of the consuls”). This latter passage is however, suspect on other grounds (see above n. 50), and the contradiction between it and the passage quoted previously provides further grounds for bracketing the section from *Rep.* 2.58.

²²⁸ *Rep.* 1.57 (“There was, perhaps a certain lack of calculation in the matter, but the very nature of politics sometimes prevails over calculation.”)

to say of the event is *id... fieri natura rerum ipsa cogebat*.²²⁹ And even this claim he subtly undermines, for the creation of the tribunate is treated in what follows neither as the inevitable result of some structural defect in the Roman state as it existed at the time, or as a natural and necessary step on the road to a more perfect constitution. Nor is it viewed through the lens of conflict between the rich and the poor, with each seeking its own advantage (as Aristotle would almost certainly have seen it), nor as the abuse of power on the part of a governing body (the senate in this case) grown arrogant by having become accustomed to the unrestrained exercise of absolute authority (as Polybius and Plato would have understood it). Instead, it is depicted as a kind of accident, the result of a momentary lapse of judgment on the part of the otherwise astute *patres*. The proximate cause of the secession of the plebs in the traditional narrative was debt and the prevailing system of debt bondage.²³⁰ Cicero emphasizes that the problem of debt among the masses was a recurring one and that on all other occasions the senate had found adequate solutions to the problem. Unaccountably, it failed to in this one instance, and thus the tribunate was created *per seditionem* in order to limit the power of the senate.²³¹ To further emphasize the point, Cicero underlines the aberrant nature of this episode by immediately following his account of it by dilating on the senate's wisdom and far-sighted guardianship of the republic in this period. He also makes an obvious effort to minimize its importance, emphasizing that the stature of the senate remained undiminished, and its sway nearly so. That the creation of the tribunes did not significantly shift the balance of power within the state is further emphasized when, in introducing his next major topic (the decemvirate), after discussing a few minor events Cicero begins by saying *sed aliquot ante annis, cum summa esset auctoritas in senatu populo patiente atque parente...*²³²

It should be noted that he is not advocating for an end to the institution of the *tribunus plebis*, or even calling for its powers, including those that accrued long after its creation, to be curtailed. Sulla's diminution of the office, overturned in stages over the next decade, was remembered fondly by many genuine conservative diehards, and some no doubt nourished the hope that the office might once again be stripped of most of its powers. But there is no evidence in what we have of the *de Republica* that Scipio makes any such suggestion. Moreover, the discussion of the tribunate in *de Legibus* makes clear that Cicero himself saw the institution as indispensable.²³³

²²⁹ *Ibid* ("It was inevitable, perhaps, in the nature of things that this happen")

²³⁰ C.f. Livy 2.22-34.

²³¹ *Rep.* 2.59. Earlier Scipio claims that the tribunes were intended to limit the power of the consuls (*ut contra consulare imperium tribuni pl., sic illi contra vim regiam constituti*), but the passage from which the phrase comes is problematic and an interpolation is suspected. See Rudd (1998), 191. The consuls are not mentioned in the remainder of the relevant section, and the *tribuni* are instead discussed as existing and acting in opposition to the senate.

²³² *Rep.* 2.61 ("A few years earlier, at a time when the supreme authority resided in the senate, while the people were docile and obedient...". The decemvirate follows the birth of the tribunate by a few years; the *aliquot ante annis* refers to the passage of a minor law regarding cattle to which Cicero had just briefly alluded.

²³³ *de Leg.* 3.16-26.

It also shows, however that that he saw it as a necessary evil rather than as a straightforward good, among whose main virtues were that it served to moderate the demands of the multitude by setting over it leaders who could be held responsible by the aristocracy for their behavior, and by giving the people the semblance of political equality without much of the substance.²³⁴ The only alternative in Cicero's view to such a sop is violent revolution from below, which is why the tribunate must be tolerated. The point made earlier, that the mixed constitution of the *de Republica* is not one characterized by the careful balancing of power among its component parts, therefore still holds. If the tribunate, on Cicero's telling, is a balancing mechanism, it is one only of the most minimal kind, for it produces not true political equality but rather the appearance of it²³⁵, and does so not because of any particular virtue intrinsic to the distribution of power, but rather for the sake of preventing something worse.

In summary then, Cicero lays out a theory of the mixed constitution which, unlike its Greek predecessors, is characterized by a distinct lack of balance in political power, with the senate clearly dominating. Its mixed nature instead takes the form of a combination of different virtues inherent in monarchy, aristocracy and democracy. The historical account that makes up the bulk of book 2 illustrates the process by which the *curia* became preponderant, celebrating key moments on the way to the ascendancy of senatorial *auctoritas*, which gradually eclipses the *potestas* of the regal/magisterial element. That potentially awkward moment in Rome's history when *auctoritas* of the *curia* encounters its first serious check in the form of the Conflict of the Orders is carefully handled in such a way as not to seriously embarrass the narrative of growing senatorial clout culminating in the ideal constitutional form. The remainder of the chapter will be devoted to considering what in Cicero's own background might incline him to design and describe his ideal state in this way. Before proceeding to that discussion however, some ground clearing is in order.

It might be objected that Cicero's description of the ideal state is simply a faithful reproduction of Roman governance as it actually functioned during the early and middle republic – i.e. under the domination of the senate, with the magistrates distinctly in the background and the people's voice heard only occasionally and only *pro forma*. If that were the case however, we would still need to explain why Cicero chose that period as his ideal, rather than some other. And the reality was at any rate more complex than simple, consistent senatorial dominance. Without wading into debates about the degree to which Rome's governance was democratic, a la Fergus Millar and his critics, or to what extent its consuls could act independently of senatorial consensus, it should suffice to say that early republican history provided a sufficiently rich and varied stock of characters, myths and events that a skilled rhetorician like Cicero could have told its story

²³⁴ *de Leg.* 3.23-24.

²³⁵ This is precisely the kind of device that Aristotle warns against, preferring a genuine balance of powers – see *Pol.* 4.13 (1297a-b).

in any number of ways to suit his own purposes. To understand the telling, we have to inquire into those purposes; reference to independently existing historical realities are unhelpful.

Those who see in Cicero himself an inveterate reactionary might argue that his purpose was directed less by his own personal experience of politics than by the ethos of his social class (or at any rate that of the class to which he aspired to belong), on the grounds that traditional elites in aristocratic societies disparage the multitude and the value the kind of aristocratic solidarity which the senate represented. It has already been argued (and will continue to be argued in what follows), that there are good reasons to reject this view of Cicero on other grounds than the reading of the *de Republica* being offered here. But leaving that aside, problems with this perspective remain. Just as the store of national memory of early republican history was varied and complex, so too were the (mostly) aristocratic attitudes which informed those memories. While reverence for the senate and its place in Roman political life among the elite is undeniable, there were also countervailing tendencies which complicate the picture. The ideal of popular sovereignty, however real or unreal the people's power may have been in practice, was deeply rooted in Roman consciousness, and not just among the lower classes. Many among the elite appealed to it in political discourse, including at times Cicero himself, and only the most skeptical of modern commentators would suppose that all such appeals were wholly cynical. But if the sidelining of the *populus Romanus* in Cicero's system cannot be explained entirely by reference to aristocratic prejudice, it is harder still to understand the comparatively subordinate place assigned to magistrates, even consuls, in Cicero's version of the Roman constitution on the grounds that this conformed to the universal view of the elite. For as devoted as most Romans of the senatorial rank certainly were to the privileged place of the *curia*, they also cherished the individual achievements of the magistrates in their own pedigrees, and looked forward to asserting their own personal glory in the highest offices. Indeed, it might be fairly argued that the contradictory tendencies within the elite to seek aristocratic consensus on the one hand and to aim for personal and familial preeminence on the other constitute the warp and weft of Roman political life. And Cicero whom, as we have already seen, had come to assign mythic proportions to his own consulship, was certainly not immune to the pull of personal *gloria* and the attraction of putting the lone figure wielding magisterial *potestas* at the center of Roman history.

Why then does he choose to elevate the *auctoritas* of the senate in the way that he does? The answer lies not in the days of the early republic, nor in political attitudes that he received with his mother's milk, but rather to the much more recent past. As will be explained in what follows, Cicero had very real, and very powerful, personal reasons for conceiving of the Roman state in this way, and in particular to asserting the subordination of the magistrates to the authority of the senate. For him, the question became one literally of political life or death.

Auctoritas Senatus and the Bona Dea Scandal

When Cicero laid down his consular office at the beginning of 62 B.C. he had reached the pinnacle of his career. A political life marked by a nearly unbroken string of successes had been crowned with a triumph which had raised him to hitherto un-hoped for stature. The Catilinarian conspiracy had been a blessing in disguise, an unforeseen opportunity, or so it seemed, for the consul to enter the pantheon of genuine Roman heroes, and for the next eighteen months he basked in newfound fame and popularity. Despite some early rumblings of discontent over the execution without trial of several conspirators on December 5th 63 B.C., the majority of Romans, recently delivered from the threat of arson, servile insurrection and civil war, were genuinely grateful.

Cicero's handling of Catiline's plot had indeed been deft, and in quashing it with relatively little loss of life and property he had done the *res publica* a service of real value. However, for a variety of reasons discussed in the introduction, the events of 63 came quickly to assume even grander proportions in the mind of their protagonist. In what survives of the speeches delivered, written up and circulated between the advent of Catiline's conspiracy in late 63 and Cicero's banishment in early 58 we can detect a well thought out effort to establish a narrative about the conspiracy and the social and political context in which it occurred which was carefully tailored to match Cicero's political interests. Letters to his intimates Atticus and Quintus bring the picture into sharper relief, elaborating on the comparatively simple narrative of the speeches and demonstrating that Cicero's own views on these questions came very close to those he was offering for public consumption. Perhaps more importantly the letters, which are numerous and for the most part datable with some precision, are better able than the surviving speeches to give a clear picture of how that understanding was affected by and adapted to the evolving political situation in the years immediately following 63.

In public Cicero often claimed to have saved the state. In private letters to Atticus he goes somewhat farther and claims not only to have saved it, but to have reformed it as well. Such claims are often made without further explication – Atticus had been with Cicero in Rome throughout 63 and for most of 62 and had no doubt already had an earful on the subject – but where additional detail is provided the claim seems to rest on two achievements: forging on *consensus bonorum* anchored more narrowly in a restoration of *auctoritas senatus*, and the establishment of a *concordia ordinum* between senators and equestrians.²³⁶ The importance of unity among the highest orders and the need to maintain the dignity and influence of the *curia* were evidently stock themes of Ciceronian

²³⁶ The claim is made most explicitly at *Att.* 1.18.3 (*sic ille annus duo firmamenta rei publicae per me unum constituta evertit; nam et senatus auctoritatem abiicit et ordinum concordiam diiunxit.*) Atticus himself seems to have confirmed Cicero in this opinion - *Att.* 1.16.6. That Cicero's attempt to attribute his settlement of the *res publica* to divine intervention is false modesty is evident from other occasions on which he is less bashful about taking sole credit for having restored the constitution; in addition to the foregoing see *Att.* 1.16.1,7, 1.17.10, 2.1.7-8.

oratory, but nowhere in the surviving speeches does he claim to have brought about these twin desiderata himself.²³⁷ Only to Atticus does he claim not only to have saved the state but to have rebuilt its foundations as well. *Auctoritas senatus* will be considered in this chapter, *concordia ordinum* in the next.

The authority of the senate had been an important political issue long before Catiline's conspiracy. That it should be so was probably inevitable. A technically advisory body, the senate was naturally sensitive to threats to the informal sway which had traditionally afforded to extensive political influence despite the fact that formal power was vested entirely in the assemblies, magistrates and courts. When tribunes bypassed the *curia* repeatedly in the late second and early first centuries and introduced legislation into the assemblies over the objection of the *patres* it became clear that the senate's preeminence in government could not be taken for granted. The sense that the house's preeminence was in decline made the question of *auctoritas senatus* acute and informed Sulla's efforts to reform Roman government in the late 80s B.C. Although some of his attempts to buttress senatorial authority were enduring, others, most importantly the reorganization of juries and restrictions meant to prevent tribunes from seizing the political initiative away from the senate, were whittled away over the course of the 70s with the result that in the decade leading up to 63 anxiety about the senate's authority was again very much in evidence. That year saw the emergence of yet another threat to senatorial predominance in the form of challenges to the *senatus consultum ultimum*, an innovation of the late second century the scope of which was still poorly defined in the middle of the first. Whatever the significance of the Rabirius trial (it is argued above that its significance is largely unrecoverable²³⁸) it in some way concerned what was obviously a long standing and still open debate about what the final decree meant.

The authority of the senate was thus very much a live issue in the late 60s. It was in this context that Catiline's conspiracy irrupted, and Cicero, in suppressing it, came to believe that he not only saved the state but reestablished the authority of the senate as well. In the letters to Atticus in which the claim is made, however, he doesn't elaborate on his reasoning and we are left to infer in what sense the defeat of the conspiracy had restored it. The connection is not immediately obvious. Unlike earlier political battles in which the influence of the senate was thought to be in jeopardy, the focus in late 63 was not on a controversial piece of tribunal legislation or the composition of juries. If our sources are to be trusted Catiline himself did not consider his movement to be an attack on the senate as an institution, but rather on a clique that had co-opted it. By contrast, in Cicero's version of events Catiline meant to destroy not the senate specifically but the *res publica* in general. On either account *auctoritas senatus per se* was not at the heart of the conflict. And although modern historians often understand the events of 63 differently

²³⁷ *Att.* 1.14.4.

²³⁸ Chapter 3.

than contemporaries did, most would agree that the issues at stake did not include the role of the senate *vis-à-vis* other organs of government.

Key to understanding what Cicero meant by his claim is an examination of the contemporary context in which it was made. The relevant letters (*Att.* 1.16-18) were written in the aftermath of the Bona Dea scandal, which was concerned in the first instance with sacrilege and infidelity but, as it involved two prominent members of the nobility, quickly assumed important political dimensions. The events of Clodius' alleged intrusion into the female-only rites and the fallout that ensued, including a sensational trial before an extraordinary court, are too well known to require rehearsal here. What is important for present purposes is the great significance that Cicero ascribes to what he viewed as a disaster all around, and in particular as the undoing of the restoration of the authority of the senate which he had achieved in 63. But as in the case of the Catilinarian conspiracy it is not readily apparent why Cicero sees such a strong connection between *auctoritas senatus* and the Bona Dea affair. The typical *loci* of conflict over the role of the senate are again absent. Clodius would later become the sort of tribune whose cavalier treatment of the *curia* could be seen as a danger to that body's traditional place in Roman government, but in 61 that was still years in the future and could hardly have been predicted on the basis of his career up to that point.²³⁹ To be sure, the will of the house had been thwarted when a tribune vetoed a decree which would have instructed the consuls to urge upon the assembly a measure setting up an extraordinary court in which the presiding praetor would choose the jury, contrary to normal practice.²⁴⁰ But such a veto was unexceptional in itself, and in any event it was not Fufius' veto that occasioned Cicero's angst about the unraveling of senatorial authority, but rather Clodius' subsequent acquittal.²⁴¹

But why? Roman courts were meant to be independent; even the broadest understanding of *auctoritas senatus* did not encompass the right to influence verdicts. It might of course be supposed that it was the behavior of the senatorial jury members which occasioned Cicero's dismay. He had once argued in his speeches against Verres that the senatorial order had been in the dock along with the defendant and that the failure of senatorial jurors to convict an obviously guilty member of their own *ordo* would bring the whole order into disrepute and place senatorial privilege in jeopardy. Whether that judgment is accurate, or indeed whether Cicero himself had believed it when he said it, need not detain us. In Clodius' case the senate had given ample evidence of its hostile attitude towards the defendant in the debates about the constitution of the extraordinary court, which the defendant had vocally opposed, and the senatorial order in general therefore could not be accused of protecting one of its own. The behavior of individual

²³⁹ For a good discussion of the generally unremarkable trajectory of Clodius' early career, see Tatum (1999), 43-61; also Rundell (1979), 303.

²⁴⁰ Controversy continues to attend the *quaestio extraordinaria*. For a review of some of the issues involved see Tatum (1999).

²⁴¹ Cicero reports the veto at *Att.* 1.14.5 (February 61). References to the collapse of senatorial *auctoritas* come from letters written between July 61 and January 60.

jurors was naturally another matter. Talk of jury tampering seems to have begun almost immediately after the verdict was returned (if not earlier), and rumors of bribery might have given an unsavory appearance to decisions on the part of some senatorial jurors to vote for acquittal. But any disrepute arising from the suspicion that the defendant had been acquitted on account of bribery, as opposed to senatorial solidarity, would naturally have attached itself to individuals rather than to the entire order. Moreover, the altered composition of juries since the *lex Aurelia* of 70 meant that if a cloud of suspicion lingered over the jurors it cast its shadow over senators and non-senators alike, and would thus have been less likely to taint the senate as an institution. As for Clodius himself, Cicero no doubt saw him as a discredit to his order, but hardly unique in that, and could hardly have claimed that he was capable of destroying the prestige of the institution single handedly.

The connection, in Cicero's eyes, between the Bona Dea affair and the authority of the senate turns heavily on his own involvement in the political wrangle which grew out of the scandal. The best evidence comes from Cicero's own account in his letters to Atticus.²⁴² The rites of the Bona Dea were celebrated sometime in December, and the first mention of the scandal comes from *Att.* 1.12, written on the Kalends of January. In that letter he calls it an *insigni infamia*, but he devotes only two sentences to relating it (perhaps because Atticus will already have heard of it from other sources) and registers no personal reaction to the sacrilege, although he imputes one to his correspondent; whether seriously or in jest is uncertain.²⁴³ The next letter however, composed Jan. 25th, goes into more detail, relating how the matter was raised in the senate, how a *rogatio* was promulgated for the establishment of a *quaestio extraordinaria*, how Clodius and his supporters resisted the bill, and the attitudes of various important players. This noteworthy passage requires some additional attention.

credo enim te audisse, cum apud Caesarem pro populo fieret, venisse eo muliebri vestitu virum, idque sacrificium cum virgines instaurassent, mentionem a Q. Cornificio in senatu factam (is fuit princeps, ne tu forte aliquem nostrum putes); postea rem ex senatus consulto ad virgines atque ad pontifices relatam idque ab iis nefas esse decretum; deinde ex senatus consulto consules rogationem promulgasse; uxori Caesarem nuntium remisisse. in hac causa Piso amicitia P. Clodi ductus operam dat ut ea rogatio quam ipse fert et fert ex senatus consulto et de religione antiquetur. Messalla vehementer adhuc agit severe. boni viri precibus Clodi remonentur a causa, operae comparantur, nosmet ipsi, qui Lycurgei a principio fuissetus, cotidie demitigamur, instat et urget Cato. quid multa? vereor ne haec neglecta a bonis, defensa ab improbis magnorum rei publicae malorum causa sit.
(*Att.* 1.13.3)

²⁴² Our other sources are late, contradictory and prone to (sometimes spectacular) error. They include Plut. *Cic.* 28 f., *Caes.* 9 f.; Suet. *Div. Iul.* 6.2; Dio 37.45; App. *B.C.* 2.14, *Sic.* 7; Livy Per. 103; Asc. 44 C.; Sch. Bob. 85-91. See Balsdon (1966), 66.

²⁴³ *Att.* 1.12.3 (*credo te audisse cum veste muliebri deprehensum domi C. Caesaris cum sacrificium pro populo fieret, eumque per manus servulae servatum et eductum; rem esse insigni infamia.*) The tone of the following line (*quod te moleste ferre certo scio.*) is a subject of debate, but one which, as it pertains more to Atticus' attitude to the event than Cicero's, can be passed over here. See Tatum (1990), 207 n. 23.

No doubt you have heard that, when a sacrifice was taking place in Caesar's house, a man in woman's clothes got in; and that after the Vestal Virgins had performed the sacrifice afresh, the matter was mentioned in the House by Cornificius. Note that he was the prime mover, rather than one of us. Then a resolution was passed, the matter was referred to the Virgins and the priests, and they pronounced it a sacrilege. So the consuls were directed by the House to bring in a bill about it. Caesar has divorced his wife. Piso's friendship with Clodius is making him do his best to have the bill shelved, though he is the person who has to bring it forward under House orders – and a bill for sacrilege too! Messalla at present takes a strict view of the case. The *boni* are dropping out of it under persuasion from Clodius. Gangs of toughs are being formed. I, who at the first was a perfect Lycurgus, am daily cooling down. Cato, however, is pressing the case with energy. Why say more? I am afraid that what with the lack of interest shown in the case by the best *boni*, and its championship by the wicked, it may cause great mischief in the state.

The claim *nosmet ipsi, qui Lycurgeti a principio fuissemus* is an interesting one. The reference to Lycurgus, whether the famous Spartan νομοθέτης or the lesser known Athenian advocate, is clearly meant to indicate sternness, as shown by *cottidie demitigamur*.²⁴⁴ It is tempting to read this as an indication of Cicero's genuine reaction to what was after all the profanation of an important religious rite by a member of the aristocracy.²⁴⁵ But the notion that Cicero was profoundly offended by the sacrilege itself doesn't easily square with the brevity and matter of fact tone with which Cicero reported the matter to Atticus in his previous letter.²⁴⁶ Moreover, the sentence under consideration comes from a section of the letter which relates the public stances of various other important figures, including Caesar, the consuls Piso and Messalla, and Cato, as well as of the *boni* and the *improbi* generally. In context it makes more sense therefore to understand the Lycurgus reference as a description of Cicero's political posture, rather than a personal reaction. Reading the text in this way has the additional benefit of providing an explanation for why he found himself "softening day by day". While there was nothing in the various political maneuvers he reports in this section which would have had any influence on his response to the profanation itself, the fact that the *boni*, among whom he hoped to be counted and who had apparently also taken a stringent stand at first, were now *precibus Clodi removentur a causa* would have given him good cause to gradually back off his own initial hard-line stance lest he be left politically isolated. It is also worth noting that whatever Cicero's position, his role in the development of events

²⁴⁴ Thus Shackleton Bailey (1965), 304, who favors identifying the person referenced as the Athenian advocate, as better matching the context.

²⁴⁵ For an alternative point of view see Mulroy (1988). The notion that Clodius' presence at the ceremony constituted more a *faux pas* than an act of sacrilege has found little favor, although many would agree that the matter was blown out of proportion for reasons of personal animus.

²⁴⁶ *pace* Tatum, who prefers to ascribe considerable importance to heartfelt revulsion at the profanation of the rites among Romans generally and to Cicero's reaction specifically – Tatum (1990), 207-8. While sympathetic to the suggestion that genuine religious feeling is too often downplayed in modern scholarship I think in this case that the best reading of the texts suggests that religious scruple played at most a minor role in Cicero's reaction to the Bona Dea scandal. It may be tempting to suppose that the change in Cicero's tone in speaking about the matter owed to some new revelation that came to light between the composition of *Att.* 1.12 and 1.13, but neither the latter, nor any of the subsequent letters provide any new information about the sacrilege itself, and Cicero is clearly already in possession of the key elements of the scandal (the identity of the perpetrator and the nature of the crime) when he wrote the former.

seems not to have gone beyond giving his opinion when his turn came to speak in the senate.²⁴⁷ The principle figures driving events on the political stage instead appear to have been the relative obscure Q. Cornificius, who first introduced the matter into the *curia*, and Messalla and Cato who next took up the cause, to be joined later by Hortensius, Lucullus, C. Piso and the Cornelii Lentuli.²⁴⁸ Cicero at this stage was not taking the initiative himself, but merely responding to that of others.

But the political storm that arose around the Bona Dea affair had a tendency to draw in those who would rather have avoided the fray, as well as those who joined it enthusiastically. Among them was Pompey, whose stature meant that his opinion would inevitably be sought, although the great man, recently back from his historic conquest and reorganization of the east, would no doubt rather have seen other subjects at the top of the political agenda²⁴⁹. In his first speech upon his return to Rome he had avoided taking controversial positions which might make him unneeded enemies, and when called upon to give his opinion on matters related to the Bona Dea affair, first in a *contio*, then in the senate, he had continued to hedge.²⁵⁰ Without a strong reason to stick his neck out for Clodius, and in need of support in the senate, it was natural that Pompey would align himself with the overwhelming majority of senators which favored the senatorial bill establishing a *quaestio extraordinaria*²⁵¹. But he avoided giving gratuitous offense to Clodius and his partisans (who were influential, if not numerous), refusing to denounce, or even specifically address, the sacrilege and Clodius' role in it, instead couching his support for the bill in terms of his general respect for *auctoritas senatus*.

²⁴⁷ In 61 Cicero's prestige was such that he spoke second (after C. Piso) - *Att.* 1.13.2.

²⁴⁸ *Att.* 1.13.3, 1.14.5. Cornificius' motives are unclear. Gruen (1974), 275 n. 51 suggests that he acted at Caesar's behest; Moreau (1982), 60 n. 145 disagrees. For his career see MRR 2:132, 152. Cicero does not attest to his playing any further role after the single mention at *Att.* 1.13.3. See also Tatum (1999), 72. On the personal motives of the other figures mentioned see Balsdon (1966), 68-9.

²⁴⁹ Balsdon (1966), 69-70; Rawson (1975), 95. His comment, reported by Cicero (*Att.* 1.14.2), made after he had been asked for his opinion twice in the public arena, that *se putare satis ab se iam de istis rebus esse responsum* indicates his impatience with an issue that had upstaged his own agenda.

²⁵⁰ *Att.* 1.14.1-2 (*Prima contio Pompei qualis fuisset scripsi ad te antea: non iucunda miseris, inanis improbis, beatis non grata, bonis non gravis. Itaque frigebat Tum Pisonis consulis impulsu levissimus tribunus pl. Fufius in contionem producit Pompeium. res agebatur in circo Flaminio et erat in eo ipso loco illo die nundinarum πανήγυρις. quaesivit ex eo placeretne ei iudices a praetore legi, quo consilio idem praetor uteretur. id autem erat de Clodiana religione ab senatu constitutum. Tum Pompeius μάλῃ δημοκρατικῶς locutus est senatusque auctoritatem sibi omnibus in rebus maximam videri semperque visam esse respondit et id multis verbis. Postea Messalla consul in senatu de Pompeio quaesivit quid de religione et de promulgata rogatione sentiret. locutus ita est in senatu ut omnia illius ordinis consulta γενικῶς laudaret mihique, ut adsedit, dixit se putare satis ab se etiam de istis rebus esse responsum.*)

²⁵¹ Fufius' hopes for a more positive response from Pompey probably rested on the latter's friendship with the consul Piso and his strained relations with Hortensius, Catulus, C. Piso and Lucullus, all of whom were associated in one way or another with the prosecution. Although such considerations evidently did not move Pompey to oppose the senatorial *rogatio* they may have acted to restrain him from taking a stronger stance on the question of the *incestum* itself. See Tatum (1999), 76-7.

In his effort to stand above the fray the reluctant Pompey unintentionally drew an equally reluctant Cicero into the forefront of the Bona Dea imbroglia, although at first neither may have realized what was to come. Pompey's vociferous endorsement of senatorial authority was almost certainly inspired by little more than a desire to allay fears that he would behave autocratically after his return from the east, and to demonstrate his goodwill towards the body which would soon be called upon to approve his arrangements there and provide his discharged soldiers with land. However, they were construed much more broadly, as covering not only the *rogatio Pupia Valeria*, but also the decision more than a year earlier to execute the Catilinarian conspirators, for that is surely what Cicero means when, referring to Pompey's remarks, he writes *Crassus... vidit illum [i.e. Pompey] excepisse laudem ex eo quod [hi] suspicarentur homines [i.e. the senators] ei consulatum meum placere*.²⁵² The immediate effect of Pompey's remarks and their reception was wholly welcome to Cicero, eliciting a generous tribute from Crassus (who, at least in Cicero's eyes, had been induced by the senate's obvious approval for himself to vie with his archrival in showering praise on the hero of 63) and giving the orator himself another platform from which to sound his now customary Catilinarian themes, to the usual loud applause.²⁵³

However, the association thus formed between the executions in 63 and the Bona Dea affair soon began to take on a more menacing aspect. The senate's overt hostility was an obvious problem for Clodius and his supporters, but it offered an opportunity too. The embattled young nobleman, who had not shown any particular affinity for popular gestures in his career thus far, now began to tap that undercurrent of hostility towards the aristocracy and the senate which had been the wellspring of populist politics for decades. The unprecedented method of empanelling a jury proposed by the senatorial *rogatio* made it possible to argue, with some plausibility, that *senatus auctoritas* was being used to compromise the independence of the courts and trample the rights of a Roman citizen. This is clearly the view that Fufius hoped to elicit when he questioned Pompey about the jury selection procedure specifically at the *contio* which Cicero mentions to Atticus in mid-February 61.²⁵⁴ Pompey refused to denounce the senate's *rogatio*, but Clodius' position continued no doubt to be that the *curia* was running roughshod over his rights as

²⁵² *Att.* 1.14.3. "Crassus saw that he [Pompey] was being praised because they [the senators] understood him to be approving of my consulship." Shackleton Bailey sees this as a reference to the ultimate decree, but the *s.c.u* of October 21, 63 was by this time far less controversial than the way that it was applied on the Nones. The phrase *de ipsis rebus* has long troubled commentators. Bailey is certainly right to translate "these matters" rather than "your affairs". Bailey (1965), 307-8; *contra* Tatum (1999), 77 n. 144. The significance of *ipsis* is to be found in Pompey's irritation at repeated questioning about the scandal – see above n. 14. Tatum ((1999), 77) suggests that Pompey explicitly praised Cicero in his response to Messalla in the senate, but *suspiciarentur* is strongly against this, as is *tamen ab illo aperte tecte quicquid est datum libenter accepi* at 1.14.4. Moreover, *locutus ita est in senatu ut omnia illius ordinis consulta γενικῶς laudaret* suggests that Pompey's comments in the *curia* were in the same vein as those made at Fufius' *contio* where there is no suggestion of explicit praise of Cicero's consulship. See Balsdon (1966), 70; Shackleton Bailey (1965), 141, 307-9.

²⁵³ *Att.* 1.14.3-4.

²⁵⁴ See above, n. 10; Tatum (1999).

a citizen. In keeping with the conventions of Roman political discourse, his effort to exploit Roman sensitivities about citizens' rights would have relied heavily on references to historical *exempla*, and in this connection it was inevitable that the execution of the Catilinarians would figure prominently²⁵⁵. Nepos had already laid the groundwork, arguing the year before that Cicero and the senate had acted illegally in putting Roman citizens to death without a trial, the *s.c.u.* notwithstanding, and the charge seems to have resonated with at least some sectors of the public. Clodius could now argue that his own case fit a pattern of behavior in which the senate arrogated to itself the power to suspend the rights of citizens and engage in judicial irregularities. He seems to have begun using Cicero's name to whip up *invidia senatus* shortly after an attempt to have the *rogatio Pupia Valeria* defeated in the assembly, perhaps by underhanded means, was thwarted by Cato and other members of the *boni*, and an effort to persuade the senate to alter or drop it was defeated overwhelmingly.²⁵⁶

Although we lack specifics about the ensuing public debate, which continued throughout the rest of February and into March, it seems clear that the Clodius' tactics remained unchanged, with the executions on the Nones playing an important role in his efforts to discredit the senate.²⁵⁷ Cicero began to respond, and according to his own retrospective account he was soon engaged in open rhetorical warfare with Clodius and his supporters.²⁵⁸ Looking back on those clashes after the conclusion of the trial Cicero

²⁵⁵ For Cicero and the execution of the Catilinarians as a *topos* in wrangles over *senatus auctoritas* in the Bona Dea affair see Tatum (1999), 77-9; (1990), 206-8.

²⁵⁶ *Att.* 1.14.5.

²⁵⁷ Exact dates are uncertain, but it would seem that Clodius, and probably others, were convening *contiones* on the subject of the *Rogatio Pupia Valeria* for between four and six weeks. *Att.* 1.13, written on Jan. 25th makes no mention of public meetings on the subject (although political maneuvering behind the scenes was well underway), while the next letter, written Feb. 13th indicates that Clodius has been holding meetings for some time (*Clodius contiones miseris habebat* - *Att.* 1.14.5). The *rogatio* would have ceased to be an issue after Hortensius agreed to drop the offending jury selection clause sometime in mid-March. Cicero's letter reporting that Asia had been assigned to Quintus (*Att.* 1.15) was written March 15th, presumably soon after provinces were allotted. This in turn would have followed shortly after the law creating the *quaestio extraordinaria* was passed, since the assignment of praetorian provinces, long delayed by the deadlock over the *rogatio Pupia Valeria*, would by this time have been urgent. Thus the period during which regular *contiones* were held on the subject of the *rogatio* would have begun sometime after January 25th and before February 13th, and lasted until mid-March.

²⁵⁸ *Att.* 1.16.1; this was written in early July, after Clodius had been acquitted. In *Att.* 1.14, written in mid-February, in which mention of his name being used to arouse *invidia senatus* is first made, he gives no indication that he was himself participating in public debates on the subject. *Att.* 1.15 is an oddity. This brief letter is concerned primarily with the appointment of Quintus as governor of Asia. The appointment itself shows that the amended *rogatio* had already passed, since the senate had suspended all business, including the apportioning of praetorian provinces, until the question of Clodius' trial was resolved (*Att.* 1.14.6). But it makes no mention of the new *rogatio*, or any other political news as the other letters from this period habitually do. It may have been written in haste, or perhaps was kept short because Cicero had no recent letter from Atticus to which to respond (*nullae mihi abs te sunt redditae litterae*). Lacey's suggestion that the phrase *odia et inimicitias rei publicae causa* is a specific reference to the Bona Dea affair is highly unlikely; the idea that Cicero had become the target for the odium of the *improbi* as a result of his suppression of the Catilinarian conspiracy was already a standard element of his political thinking – see above ch 2. Lacey (1974), 88.

liked to think of them almost as a moral crusade, a *locum resecandae libidinis et coërcendae iuventutis* for the sake of *sanandae civitatis*.²⁵⁹ In the course of meetings which he describes as *pugnās et quantas strages* he depicts himself as furiously assailing *levitatem senum, libidinem iuventutis*.²⁶⁰ He represents himself *post eventum* as having taken a consistently stringent attitude from the start, founded on outrage not only at the sacrilege itself, but at the moral decay of Roman society generally, and particularly within the younger generation, of which Clodius' actions were merely an especially prominent example. If true that image would square well with modern reconstructions which see Cicero as a lifelong reactionary. But the evidence of Cicero's previous letters on the subject, considered above, undermines the impression he is trying to make at *Att.* 1.16.²⁶¹ His initial personal reaction to the news of the profanation had been mild, he had taken no important part in the maneuvering which eventually resulted in the trial, and had adjusted his own public posture to that of the prevailing political mood, stern when the matter was first brought before the *curia*, then milder later as the senate's leading figures wavered in their enthusiasm for a showdown with Clodius. What eventually drew Cicero into the fray was the fact that his own name and record had been associated with the anti-Clodian faction, at first indirectly, and perhaps inadvertently, by Pompey, then explicitly by Clodius and his supporters. When Cicero later told Atticus that in the public sparring that followed he had made havoc in denouncing the irresponsibility of the elderly and the license of the young this was probably true in a limited sense, since such ethical posturing would have been a natural part of his rhetorical arsenal. But a desire to reform society had not been the impulse that pushed him into the arena; the assault on his reputation and the legacy of 63 had provided the impetus.

The debate into which he had flung himself was cut short when the lead prosecutor, Hortensius, fearing that tribunician vetoes would prevent the case coming to trial indefinitely, arrived at a compromise with Fufius whereby the latter would stop obstructing the establishment of an extraordinary court, provided that the bill would be amended to the effect that the jury selection would occur according to the regular procedure rather than under the exclusive control of the presiding praetor, as in the original *rogatio*.²⁶² Thereafter Cicero's only involvement in the Bona Dea affair appears to have been as a witness at the trial. In his evidence he punctured Clodius *alibi*, but more apparently had been expected of him by the prosecution, for whom his testimony

²⁵⁹ *Att.* 1.18.2. See also Epstein (1986), 230. Some scholars have accepted Cicero's depiction of his motives: Balsdon (1966) p. 66; Gelzer (1969), 112. The majority however have been skeptical.

²⁶⁰ *Att.* 1.16.1.

²⁶¹ It may seem odd that Cicero would contradict himself in this way, but it must be remembered that the relevant letters were written months apart, and that Cicero was exchanging letters with a large number of other correspondents during this period, making it easy to become confused as to what he had said to whom, and when. An example of such confusion, or at least of a lapse of memory, is evident at *Att.* 1.18.2, where Cicero can't quite recall whether Atticus had been in Rome when the Clodian scandal emerged, despite the fact that he had himself written to Atticus to inform him of the event (*Att.* 1.12).

²⁶² *Att.* 1.16.2; in Cicero's view the decision was the result of Hortensius' miscalculation, as well as his concern that Fufius would maintain his veto indefinitely. Tatum (1999), 80 argues plausibly that Clodius had cherished the hope that obstruction of the *rogatio Pupia Valeria* would prevent a trial entirely.

seems to have been a disappointment. Atticus heard about it and wrote to ask him why he had suddenly lost his appetite for the fight. Cicero's response is worth quoting in full.

ego enim quam diu senatus auctoritas mihi defendenda fuit, sic acriter et vehementer proeliatum sum ut clamor concursusque maxima cum mea laude fierent. quod si tibi unquam sum visus in re publica fortis, certe me in illa causa admiratus esses. cum enim ille ad contiones confugisset in iisque meo nomine ad invidiam uteretur, di immortales! quas ego pugnans et quantas strages edidi! quos impetus in Pisonem, in Curionem, in totam illam manum feci! quo modo sum insectatus levitatem senum, libidinem iuventutis! saepe, ita me di iuvent! te non solum auctorem consiliorum meorum, verum etiam spectatorem pugnarum mirificarum desideravi. postea vero quam Hortensius excogitavit ut legem de religione Fufius tribunus pl. ferret, in qua nihil aliud a consulari rogatio ne differebat nisi iudicum genus (in eo autem erant omnia), pugnavitque ut ita fieret, quod et sibi et aliis persuaserat nullum illum iudicibus effugere posse, contraxi vela perspiciens inopiam iudicum neque dixi quicquam pro testimonio nisi quod erat ita notum atque testatum ut non possem praeterire.
(Att. 1.16.1-2)

As long as I had the senate's authority to defend I fought so fiercely and resolutely that enthusiastic crowds rallied around me and cheered me. If ever you lauded me for courage in defense of the state you would certainly have marveled at my bravery on this occasion. When that fellow [Clodius] betook himself to *contiones* [public meetings] and used my name to whip up the crowd's animosities, ye gods what battles I waged! What havoc I wrought! What onslaughts I led against Piso, and Curio and that whole gang! How I upbraided the older men for their frivolity, the younger for their passions! How often, by the gods, I wanted you there, not only as an advisor, but as a witness of these titanic struggles! But when Hortensius had taken the notion of letting the tribune Fufius bring forward his bill about the sacrilege, which differed from the consular bill only in only in the manner of jury selection (although it was on this that everything depended) and fought to get it passed, because he had convinced himself, and others, that no jury could acquit Clodius, I reefed my sails, having taken note of the poverty of the jury, and said nothing as a witness except what was so well known and thoroughly documented that I could not omit it.

The letter then goes on to an account of the trial, eventually coming to a lurid description of the manner in which the jury, which had been set to convict, was bought off at the last moment and Clodius' acquittal secured.²⁶³ Cicero's answer to Atticus' question, in brief, is that he, seeing that the jury was venal, intentionally said as little as possible in the expectation that saying more would be pointless, since Clodius was going to escape justice through bribery. This version of events however is beset by unlikely claims and internal contradictions.

Although Cicero claims that he and others knew from the moment the jurors took their seats that they could be bought, his own testimony elsewhere in the same letter undermines his point.²⁶⁴ Only a few lines after blasting the jurymen as *maculosi senatores, nudi equites, tribuni non tam aerati quam, ut appellantur, aerarii*, he speaks in glowing terms about this same ruffraff. When Clodian roughs caused an uproar as he was called to give his testimony the jury had evidently surrounded him and gestured at their throats, thus indicating that they were willing to lay down their lives to protect him, a gesture which in his view ranked among the finest honors ever paid to a statesman in a

²⁶³ Att. 1.16.5-6.

²⁶⁴ *ut primum iudices consederunt, valde diffidere boni coeperunt* – Att. 1.16.3.

court of law. As Tatum points out, this “silly discrepancy” must undermine our confidence in Cicero’s judgments on the quality of the jurors.²⁶⁵ The impression that we are dealing here with fiction is reinforced by the scurrilous details with which the tale of the bribery itself is embellished. The business transaction is carried out by a slave, and an ex-gladiator at that. Even more scandalously, in lieu of cash promised or paid (or perhaps in addition), the jurors are bribed with sex – offers of rendezvous arranged with women, and even with youths of noble families.²⁶⁶ Cicero relishes relating these particulars and wallows in outrage (*o di boni, rem perditam!*), but such sordid tidbits sound more like the typical products of the city’s rumor mill than established facts. Moreover, Cicero gives the prosecution good marks for its role in the jury selection process, saying elsewhere *accusator tamquam censor bonus homines nequissimos reiceret*. But if true the accuser’s scrupulous conduct of the challenge must have ensured that few real rascals were empanelled.²⁶⁷ Yet Cicero would have us believe that there were scarcely any reliable jurors on the panel, saying that among so many men of the lowest sort there were only *pauci tamen boni inerant, quos reiectione fugare ille non potuerat, qui maesti inter sui dissimilis et maerentes sedebant et contagione turpitudinis vehementer permovebantur*. Later however he writes that twenty five jurors (nearly half the total) *ita fortes tamen fuerunt ut summo proposito periculo vel perire mauerint quam perdere omnia*. The inconsistency is manifest. Moreover the closeness of the final vote (31 votes for acquittal, 25 for condemnation) must itself call into question Cicero’s suggestion that the outcome of the trial was virtually decided by Hortensius’ retreat on the jury selection clause of the senatorial *rogatio*, since Clodius’ escape was in the end a near run thing. In his angst over the verdict Cicero was no doubt ready to lend a willing ear to whatever version of events most blackened the jury, but stories would only have begun to circulate in earnest after the verdict had been returned.²⁶⁸ Cicero’s appraisal of the jury is clearly retrospective, and therefore his claim to have moderated his testimony in the foreknowledge that the jury would be bought off is specious.

It remains then to explain why his appearance in court was so lackluster. That it was can hardly be in dispute – Atticus had plainly heard about it from other sources. The passage already quoted from *Att.* 1.16 offers some clues. Its opening line explains that Cicero’s enthusiastic involvement had lasted *quam diu senatus auctoritas mihi defendenda fuit*. The reference to *senatus auctoritas*, which might otherwise have been somewhat opaque to his reader, he further explains by dating his involvement in the fray

²⁶⁵ Tatum (1999), 81.

²⁶⁶ *Att.* 1.16.5 – *biduo per unum servum, et eum ex ludo gladiatorio, confecit totum negotium. Arcessivit ad se, promisit, intercessit, dedit. Iam vero (o di boni, rem perditam!) etiam noctes certarum mulierum atque adolescentulorum nobilium introductiones non nullis iudicibus pro mercedis cumulo fuerunt.*

²⁶⁷ There may however have been a few whom Atticus would agree to call ruffians. Cicero mentions three jurors (Talna, Plautus and Spongia) who were evidently somehow notorious (*Att.* 1.16.6). None can be positively identified. For what little is known of the names see Shakleton Bailey (1965), 318. But three rascals in a jury of fifty six hardly guaranteed that Clodius could buy his acquittal.

²⁶⁸ That the rumors were quickly and widely circulated is clear from *Att.* 1.16.8-10. Cicero could assume that everyone in his senatorial audience, at any rate, was familiar with them. cf. Catalus’ remarks at *Att.* 1.16.6.

to when *ille ad contiones confugisset in iisque meo nomine ad invidiam uteretur*.²⁶⁹ The manner in which Cicero's name was used to stir up animosity against the senate has already been discussed. Cicero's brief description of his response provides few specifics about the content of his speeches. He writes that he attacked Piso and Curio, and that he assailed the irresponsibility of the old and the license of the young.²⁷⁰ *Ad hominem* directed at his principle tormentors no doubt played a role in Cicero's retort, but the challenge to what he considered the crown jewel of his political career surely required a more direct response, and the connection which his opponents drew between the record of 63 and the question of *senatus auctoritas* would have been an irresistible invitation to speak on one of his favorite topics.²⁷¹ Much of a stock variety was therefore no doubt said both about the immortal Nones and about senatorial authority in general. In more immediately relevant terms Cicero's natural stance, given the fact that his own legal position in regard to the executions on the Nones depended heavily on a broad interpretation of authority of the senate, would have been to range himself alongside the anti-Clodian *factio* in support of the *rogatio Pupia Valeria*.

It was on these terms then, that the public wrangle played itself out in *contiones*. Of those clashes Cicero later said *flavi et omnis profudi viris animi atque ingeni mei*, and here at least we have no reason to doubt him.²⁷² Although he had fought in a battle which was not of his own choosing the symbolic connection drawn between the events of the Bona Dea affair and his record in 63 had given the matter a potent relevance for him and he had come to be an ardent warrior in the cause. It therefore doubtless came as a shock when Hortensius yanked the rug out from beneath him by acceding to Clodius' demands and agreeing to the deletion of the jury selection clause which had been at the heart of the debate, or at least Cicero's part in it.²⁷³

It is worth pausing for a moment and considering the event from these two men's very different vantage points, for although their interests aligned for a time in February and early March they were really always accidental allies, with widely divergent interests in the Bona Dea affair.²⁷⁴ For Hortensius, as for his collaborators in the prosecution, the trial, like so many others in the late republic, was at root an opportunity to score a victory

²⁶⁹ In fact Cicero seems not to have begun to respond immediately, since *Att.* 1.14.5 mentions an early, perhaps tentative and elliptical, use of Cicero's record by Clodius, without any mention of a riposte on the orator's part. But the sense of a protracted battle in the passage under consideration here implies that Cicero's engagement began in earnest not long after 1.14 was written, prompted no doubt by increasingly frequent and explicit attacks on the record of 63.

²⁷⁰ Piso is M. Pupius Piso the consul; Curio is almost certainly not the *pater* but the *filius*, who was more prominently active on Clodius' behalf. The reference to the irresponsibility of old age and the license of youth may refer directly to these two individuals – the symmetry is at least suggestive.

²⁷¹ He had recently relished speaking on the same theme in the senate – *Att.* 1.14.4.

²⁷² *Att.* 1.18.2.

²⁷³ Lacey (1974), 89; Tatum (1999), 80. For the procedural mechanics of altering the original *rogatio* see Asc. 44C; Balsdon (1966), 70.

²⁷⁴ i.e. the period between the promulgation of the *rogatio Pupia Valeria* and the amended form of the bill which would eventually become the *lex Fufia*.

over a personal enemy.²⁷⁵ For all that was exceptional about the proceedings, the driving force and ultimate significance of the trial were mundane. The jury selection clause in the *rogatio*, which occasioned so much public debate, had been included by its backers for tactical advantage, probably as a way of securing a sympathetic panel.²⁷⁶ It was something desirable, but not essential, and could be sacrificed if that became necessary to clear a path for the prosecution to proceed. What position Hortensius *et al.* took on the question of *senatus auctoritas* or, for that matter, whether they even considered the senate's authority to be in any way at stake, is unknown, but they almost certainly saw no harm to the prestige of the house or the safety of the republic in dropping the *rogatio* and, in so far at least, their judgment was probably sound. The senate as a whole seems to have concurred, for although naturally sensitive to threats to their authority it voted for the compromise measure without demur. In the unlikely event that the original *rogatio* had been voted down in an assembly (absent the sort of shenanigans that Cicero reports at *Att.* 1.14.5) it might seem as though a rebuke had been given to the *curia* and a limit placed on its freedom of action; as it was, the voluntary withdrawal of the bill meant that the people never had a chance to have their say in the matter and the question was allowed to pass quietly out of sight and mind.

For Cicero the affairs of those weeks had a significance which was altogether different and considerably more profound. Its most straightforward aspects have already been discussed. The need to defend the legality of the executions had both drawn Cicero into the public debate and dictated his stance. But the history of the Catilinarian conspiracy had another, more subtle influence on the way in which Cicero viewed the unfolding events of the Bona Dea affair. From an early stage Clodius and his supporters came to be associated in Cicero's mind with Catiline and his conspirators. References to the conspiracy, absent from the first letters to mention the Bona Dea scandal, begin with *Att.* 1.14.5 (*concurabant barbatuli iuvenes, totus ille grex Catilinae duce filiola Curionis*), coincident with the first mentions of anti-Ciceronian agitation by Clodius and his friends (*ibid*). Later in the same letter, speaking of the support offered by the consul Piso to Clodius, he writes that *neque id magis amicitia Clodi adductus fecit quam studio*

²⁷⁵ For the personal motives involved, see Dio 37.46.2; Balsdon (1966), 68-9; Tatum 73-4. Of the leading figures in the anti-Clodian camp it seems that only Cato could plausibly claim to be acting without an ulterior motive.

²⁷⁶ Tatum (1999, 75-6) declares it unlikely that jury packing was the object, but he can cite little support for his own explanation, that jury selection by the presiding praetor was ordinary in *quaestiones extra ordinem*. He argues further (1999, 76, 276 n. 102) that the *rogatio Pupia Valeria* must have included provision for jury challenging because the *lex Fufia* did. This line of reasoning presumably rests on what Cicero says at *Att.* 1.16.2, i.e. that the *lex* differed from the *rogatio* only in regard to the jury. However his phrase (*iudicum genus*) would naturally encompass all aspects of the jury selection process, including the presence or absence of a challenge by the advocates. The fact that jurors would have to be drawn from the three orders and come from the *album iudicum* would hardly be sufficient protection against jury packing. Gruen (1974, 248) comes much nearer the mark in writing of the *rogatio* that "its object was little short of inquisitorial procedure". Further clarification might come from knowledge of the identity of the presiding praetor, but unfortunately our sources are silent on this point. See also Balsdon (1966), 69; Moreau (1982), 97-8.

perditarum rerum atque partium. This too would seem to evoke the conspiracy, insofar as it is difficult otherwise to see the connection between the profanation of the rites and “subversion”. The assimilation continued after the verdict had been returned. At *Att.* 1.16.9 Cicero writes that in a speech in the senate shortly after the end of the trial he had buttressed the flagging spirits of the *boni* by reminding them that Catiline and Lentulus had also been acquitted, each twice.²⁷⁷ Clodius was the third such enemy to be turned loose upon the state by a jury, but his fate, Cicero reassures them, would be the same.²⁷⁸

The most telling passage of all comes somewhat earlier as Cicero sets the stage for the speech just cited; it too is worth quoting at length.

Sed tamen, ut te de re publica consoler, non ita ut sperarunt mali tanto imposito rei publicae vulnere alacris exsultat improbitas in victoria. Nam plane ita putaverunt, cum religio, cum pudicitia, cum iudiciorum fides, cum senatus auctoritas concidisset, fore ut aperte victrix nequitia ac libido poenas ab optimo quoque peteret sui doloris, quem improbissimo cuique inusserat severitas consulatus mei. Idem ego ille (non enim mihi videor insolenter floriarum cum de me apud te loquor, in ea praesertim epistula quam nolo aliis legi), idem, inquam, ego recreavi adflictos animos bonorum, unumquemque confirmans, excitans...

(*Att.* 1.16.7-8)

And yet, to offer you some comfort on public affairs, rascality does not exult so merrily in victory as bad men had expected after the infliction of so grave an injury on the state. They quite supposed that with the collapse of holiness, shame, the integrity of the courts and the authority of the senate, that openly triumphant villainy and vice would wreak vengeance on the best in our society for the pain branded by the severity of my consulship upon the worst. Yet once again it was I – I don’t feel that I am bragging offensively when I talk about myself in your hearing, especially in a letter which I don’t wish to be read to other people – well, I say, it was I yet again who revived the drooping courage of the honest men, fortifying and raising them one by one...

This brief section captures themes familiar from the analysis of Cicero’s treatment of the legacy of 63 contained in chapter two. For various reasons Cicero preferred to see his victory over the conspirators, glorious as it had been, as less than total. On his understanding the men who had openly backed Catiline had been only the most visible elements of a larger group which included all wicked and ruined men whose nature, habits or situation in life made them mortal enemies of morality, order and indeed the state itself. Those who had revealed themselves by joining openly with Catiline had been rounded up and disposed of, but many more, perhaps the larger part of the whole, had staying in hiding during the revolt of 63 and remained at large. They bore a special hatred for Cicero as the author of Catiline’s downfall and were responsible for periodic irruptions of *invidia Ciceronis*. For the most part they had been lying low, but they would eventually come out of the woodwork to menace the *res publica* anew.

²⁷⁷ P. Cornelius Lentulus Sura was one of the conspirators executed on Cicero’s authority on the Nones. Rumors of bribery had swirled around one of his acquittals, when and on what charge are unknown. See *Plut. Cic.* 17.3.

²⁷⁸ *cf. Att.* 2.1.5.

For Cicero the events of the Bona Dea affair had come to represent the fulfillment of that prophecy. Clodius had been assimilated to Catiline but, what was more, the young patrician's friends and political allies had morphed into the fiendish revolutionaries of 63, men so consumed by vices that they hated all that was good and were driven by desperation and dissolution to try to destroy the state. They were drawn from that element which had been sympathetic to Catiline during Cicero's consulship, but for one reason or another had not openly joined him. They had been stung by the defeat of the conspiracy and had been biding their time, nursing their resentment and looking for a chance to avenge their fallen hero. The Bona Dea scandal had ranged them against their opposites, the *boni*, who had rallied to the defense of the state in 63, in an open contest between good and evil. That moment represented a great opportunity for the former, since *in unius hominis perditio iudicio plures similes reperti sunt*.²⁷⁹ The logic is reminiscent of the Catilinarian orations, in which Cicero explained that his initially hesitant moves against the conspiracy were intended to lure other sympathizers into unmasking themselves. The events of 63, in his eyes, were replaying themselves.

The fact that Clodius' supporters had publicly condemned the executions on the Nones may, in Cicero's mind, have lent a specious plausibility to the notion that they were men drawn from the same cadre from which the Catilinarian conspirators had come, were animated by the same motives and were aiming at the same ends. A more sober analysis shows his version of events deserves little credit. Clodius had played no part in the conspiracy of 63; indeed, if anything he had come to Cicero's aid.²⁸⁰ His intentions on that night in December 62 when he had entered Caesar's house dressed as a flute girl, whether tryst or prank or political statement, in fact bore no comparison with the enormity of Catiline's plans to carry out a *coup d'état* through the spread of murder and mayhem. His supporters may have numbered among them some who could fairly be called callow, but they included several respectable elder statesmen too, including Murena, Marcus Rex, Pupius Piso and the elder Curio, none of whom made plausible revolutionaries.²⁸¹ Nor, for that matter, did Clodius himself. Whereas Catiline's career and finances had come badly off the rails by mid-63, to the point that *novae res* may have seemed to him to be the only alternative to bankruptcy and political extinction, Clodius' career was making steady progress and his finances appear to have been sound. Indeed, even the more moderate claim that Clodius was out to destroy the authority of the senate (as opposed to destroying the *res publica* altogether) falls flat, for although he had, for tactical reasons and with considerable justification, questioned the senate's attempt to

²⁷⁹ *Att.* 1.16.9.

²⁸⁰ Asconius (50 C) preserves a rumor to the effect that Clodius had considered joining Catiline as he fled Rome. Few modern commentators have found the claim plausible (although see Lintott (1967), 158-9). Plutarch (*Cic.* 29.1) suggests on the contrary that Clodius had offered Cicero gratifying support at the time of the conspiracy. Whether or not Plutarch is correct we can confidently say that had there been real evidence connecting Clodius with Catiline, we would hear a great deal about it from Cicero himself. In the actual event he contents himself with vague allusions to similarities between the two in character, habit, motive etc. See Tatum (1999), 59-60, 78-9 for a good discussion of the evidence.

²⁸¹ For the identity of Clodius' partisans see Tatum (1999), 69-71.

introduce into his trial an extraordinary legal procedure which violated judicial norms, that can hardly have been taken as proof that he meant to demolish *senatus auctoritas*.²⁸² The connection which Cicero attempts to draw between Clodius and Catiline fails to convince.²⁸³

The inadequacies of the assimilation of Clodius to Catiline notwithstanding, the idea had a profound influence on the way that Cicero read and reacted to the political events of the period. For a time he had readily fallen back into the role he had assumed in 63 as of champion of the republic against the subversive activities of dangerous revolutionaries, waging epic warfare with his oratory. Since he was not directly associated with the prosecution he was probably not consulted about the decision to compromise with Fufius and abandon the *rogatio Pupia Valeria*, but the decision can hardly have failed to affect him. The volte-face of his erstwhile allies not only left Cicero looking rather silly for having taken such an outspoken stand on the issue, but also suddenly deprived him of a role he clearly relished, and he appears to have taken no part in the public debate thereafter.²⁸⁴ It was now too late to beg off from acting as a witness for the prosecution since he had apparently already made it known, at least in part, what he intended to say in evidence. But he said no more than he had to, and evidently much less than he had once intended; his desire to reform society and check the license of youth was evidently insufficient in and of itself to elicit more than the minimum to which he had already committed himself.

But if Cicero, stung at having been left in an exposed position by Hortensius, could no longer summon up the enthusiasm to say as much at the trial as he had once intended, he clearly still had an emotional stake in its outcome, as evidenced by the lugubrious tone of *Att.* 1.16.6. Upon initial inspection his handwringing seems difficult

²⁸² Laws written for the benefit or to the detriment of a particular individual, *privilegia* in Roman legal parlance, were forbidden by the Twelve Tables. Clodius may have argued that the jury selection clause of the *rogatio Pupia Valeria* constituted just such a measure. Cicero himself condemns *privilegia* elsewhere (*Dom.* 26, 43, 57-8, 62; *Leg.* 3.44).

²⁸³ Tatum (1999: 78-9) treats the assimilation of Clodius to Catiline as a mere rhetorical ploy on Cicero's part dating to their well known clashes in the 50s. Cicero, to be sure, claimed emphatically in a variety of public contexts that Clodius was a new Catiline, down to and even after the death of the former in 52. However, as just demonstrated, the association already existed in Cicero's imagination in mid 61, and the fact that he shares his conviction with Atticus, without any trace of humor or irony, indicates that it was his sincerely held belief that Clodius was Catiline's successor, and not mere rhetorical posturing intended exclusively for public consumption.

²⁸⁴ *Att.* 1.16.1-2. *postea vero... non possem praeterire*, compresses two events – Hortensius' deal with Fufius and the beginning of the trial – which in fact were probably separated by a considerable period. Although we get no dates from our sources the trial could not have begun until the altered *rogatio* was confirmed by a vote in one of the assemblies, and there would probably have been time allotted by the praetor for preparation of arguments, gathering of witnesses, etc. In the meantime public debate no doubt continued. Given the fact that Cicero is here suggesting that the decision to give in to Clodius on the key clause of the *rogatio Pupia Valeria* lead directly to the empanelling of an unreliable jury, the chronological compression is perhaps understandable, but is also misleading. On the phrase *contraxi vela* see Bailey (1965), 149, 314.

to explain. With the passage of the *lex Fufia* the issue of *senatus auctoritas*, which had occasioned his involvement in the first place, would have rapidly faded into the background. Without it the trial would seem to have held little of significance for Cicero, and to have become nothing more than the factional feud that for others it had probably been all along. But the month or so during which debate had raged had changed his perspective. The rhetorical battles in the forum had meant that he was now, to some extent anyway, a party to the feud to which he had no connection at the outset, and it was probably already clear before the start of the trial that he and Clodius were now *inimici*.²⁸⁵ But that fact alone cannot explain why Cicero believed the achievements of his consulship had been swept away as a result of the verdict.²⁸⁶ The assimilation of the Bona Dea affair to the Catilinarian conspiracy explains his attitude, giving the trial an almost existential quality for him which a more prosaic view could never support.

The same considerations also make sense of the strange vicissitudes in his public behavior. He had gone from being an anti-Clodian stalwart in February to being a timid and reluctant witness in the trial, and had then reverted to vigorous denunciation of Clodius and his supporters after the verdict had been returned. Given the importance he placed on the outcome of the trial his change of attitude requires an explanation, and if we reject, as it has been argued above that we must, his own (*i.e.* that he saw the handwriting on the wall and pulled back from the foreknowledge that the jury would be bought) another must be provided. The discussion so far suggests a reasonable reconstruction. Stung by the deal that resulted in the *lex Fufia* and deprived of the leading role he had formerly played in the debate he lost his enthusiasm for active participation in the anti-Clodian cause, dropping out of a public debate in which he no longer had an obvious role.²⁸⁷ Unwilling to stick his neck out for the prosecution which had treated him so cavalierly, he was only a tepid witness at the trial. The verdict however altered the dynamic. With it he could triumphantly claim that his opposition, evidently vocal, to the prosecution's deal with Fufius had been inspired by the knowledge that it would bring the prosecution to ruin.²⁸⁸ His sense of vindication, tinged with *Schadenfreude*, directed mainly at Hortensius, is easily detectable. With the prosecutors and their tactics discredited he was able to step back into the leading role from which he had been sidelined, and he reports with evident relish the heroic part he played after the trial in buttressing the flagging moral of the *boni* and quashing the exultation of the

²⁸⁵ Either as a result of what had been said in *contiones*, or because Cicero had let it be known that he intended to refute Clodius' alibi at the trial, or perhaps both.

²⁸⁶ *Att.* 1.16.6 - *rei publicae statum illum quem tu meo consilio, ego divino confirmatum putabam, qui bonorum omnium coniunctione et auctoritate consulatus mei fixus et fundatus videbatur, nisi quis nos deus respexerit, elapsum scito esse de manibus uno hoc iudicio...*

²⁸⁷ Indeed, he probably could not have participated even had he wished to. With the question of *auctoritas senatus*, and thus of Cicero's record, now moot there will have been little incentive for a magistrate to summon him to speak at a *contio*, and as a *privatus* he could not address the people on his own initiative.

²⁸⁸ *Att.* 1.16.3. It is tempting to see in Cicero's bitterness over the deal that led to the *lex Fufia*, and his criticism of it, the seeds of his falling out with the leading *boni* which rapidly developed over the course of the months after the Bona Dea trial, became acute in 58, and was only superficially patched up in the years after. Hortensius in particular must have found the carping of a professional rival difficult to endure.

improbi.²⁸⁹ Renewed consideration of the matter in the senate, which had had no occasion to discuss it since the passage of the *lex Fufia*, gave him the platform he had been lacking. He was back in his Catilinarian mode, taking center stage and using the power of his oratory to defend the state against the assaults of the depraved.

Conclusions

Cicero the dyed-in-the-wool reactionary of modern *communis opinio* is difficult to detect in the Bona Dea scandal. If Tatum is right in claiming that Clodius' profanation of the rites occasioned genuine religious offense among conservative Romans, Cicero seems not to have partaken in it to any great degree, and certainly did not let whatever personal reaction he may have had dictate his public response.²⁹⁰ What drew Cicero into the melee was the attack on his handling of the Catilinarian conspiracy initiated by Clodius and his supporters. His legal vulnerability, stemming from the executions on the Nones, naturally induced him to defend the broadest possible interpretation of *auctoritas senatus*, which in turn dictated that he support the *rogatio*. His alignment in this case with many of the leading *boni* was largely accidental. His motives had been different from theirs from the outset and the divergence in their interests soon became manifest when Hortensius abandoned the *rogatio* in order to get the case to trial. For the *boni* the tussle about its unusual jury selection clause had been about tactical advantage in the upcoming trial, a valuable asset to be sure but one which could be sacrificed if the situation demanded it. By contrast, for Cicero the debate over the scope of *auctoritas senatus*, with all of its implications for his own career, was the very heart of the matter. In a manner familiar from the discussion of the previous chapter Cicero framed his defense of his own interests as a wider principle, in this case the defense of senatorial authority. The correspondence with Atticus shows that he quickly came to believe his own rhetoric, genuinely viewing the whole affair as a contest between *boni* and *improbi*, fought for the sake of the prestige of the senate, which he himself had only recently revived. The belief, periodically reinforced in the years following, that the senate's authority, the strongest pillar of order and stability, was under continuing threat from subversive elements became one of the principle factors that informed the writing of his political treatises.

The history of the Catilinarian conspiracy had loomed large throughout. Initially content to watch events from the sidelines Cicero had been drawn into the debate because of the need to defend the record of his consulship. The legal jeopardy that arose from the execution of the conspirators on December 5th largely dictated the stances he would have to take, and pushed him into an artificial alliance with the prosecutors. But above all the elaborate narrative that he had spun for himself around the events of 63 served as a template for understanding those of 61. Clodius and his partisans were assimilated in

²⁸⁹ *Att.* 1.16.8-10.

²⁹⁰ Tatum (1999), 65-8.

Cicero's imagination to Catiline and his conspirators, allowing Cicero to avoid grappling with the thorny legal issues at the heart of both his own case and the *rogatio Pupia Valeria*, instead substituting a simpler narrative about a struggle between good and evil. Moreover, the association invited him to step into his cherished role as defender of the *res publica*. Momentarily deprived of that podium by the passage of the *lex Fufia* he eagerly returned to it when Clodius' acquittal made it possible. It would not be the last time that the glorious Nones would cast a long shadow over Cicero's understanding of the Roman political landscape and his place within it.

Above all, the Bona Dea imbroglio contributes crucially to our understanding of the development of Cicero's political attitudes as expressed in the *de Republica*. As argued in the first half of the chapter, Cicero sets up as an ideal state a version of early republican history in which senatorial *auctoritas* is the central, dominant force. His reasons for doing so are not to be found either in the complex and unrecoverable realities of early Roman history, nor in the ingrained prejudices of his class, but rather in his own personal experience of Roman politics. The aftermath of the Bona Dea scandal was the crucible in which those views were formed. During the period examined in this chapter, a challenge emerged to the legacy of Cicero's *annum mirabilis*, against which he attempted to defend himself by appealing to *senatus auctoritas*, which thus became central to the narrative that he spun for himself and others around the leading events of the time, around the cherished memory of his consulship, and indeed around the whole of Roman political world. Over the course of the two years that followed, the assault of his enemies upon the Nones took on even more dangerous proportions, and the failure of his arguments to secure his own safety led to the exile which was to become the greatest psychological trauma of his life. The banishment was later lifted, but the danger always remained that the attacks could be renewed by Clodius or others, and thus it was only to be expected that belief in the ultimate authority of the senate would also remain central to his thinking. The effects of this dramatic, and ultimately bitter, experience found expression years later on the pages of the *de Republica*.

THE PREFACE TO THE *DE REPUBLICA* AND THE QUESTION OF POLITICAL PARTICIPATION

Chapter 1 considered the manner in which the beginning of the *de Republica* served to create an authorial persona for its author that emphasized his identity as a politician, rather than as a philosopher, and thus framed the whole of the work in a way that keyed readers to approach it with contemporary political relevancies in mind. But the preface merits attention in other respects as well for, as so often in great literature, it does work on several different fronts at once. It has long been recognized, for example, that it has an important literary function, for it creates one half of the frame for the whole work, foreshadowing the *Somnium Scipionis* wherein Cicero concludes his treatise by declaring not merely the preeminent, but indeed the cosmic significance of political life. It was common practice in both philosophical and historical works to open with an assertion of the importance of the subject matter being treated, and the preface clearly serves this purpose as well, dramatically so in combination with the concluding ‘apotheosis’ of Scipio to which it points. But might there be other important work being done in the preface? And, in particular, might Cicero’s introductory remarks not merely point to the possibility of contemporary political resonances in later parts of the work, but contain such resonances itself? If so, the most natural place to begin looking is in the preface’s stated purpose, which is to encourage the reader to embrace the active political life.

If we approach the *de Republica* as a philosophical work, Cicero’s advocacy for the virtues of political engagement would seem to be directed towards a long-standing debate within the Greek philosophical tradition. Defending his way of life before a jury, Socrates had declared that a wise man in Athens had no choice but to avoid a public life if he wished to live long enough to be of any good to himself and his community.²⁹¹ In so doing he touched off a discussion about whether there was a proper place for the sage in the political sphere (and if so, what it was) that lasted throughout the rest of antiquity. Plato and Aristotle had both considered the relative merits of a life devoted to pure contemplation and one devoted to political activity, each coming down, albeit with reservations, on the side of the life of public participation.²⁹² Among the Hellenistic schools the Academics, Peripatetics and especially the Stoics tended to advocate the life of political engagement, while the Sceptics, Cynics and Epicureans generally rejected it, although these injunctions were always more nuanced than categorical requirements to participate or the one hand or abstain on the other. The debate drew upon some of the most profound questions with which ancient philosophy dealt and featured several cases

²⁹¹ *Apol.* 31c4-32a3.

²⁹² Plato considers various forms of engagement for the wise man, from the gadfly of the *Apology* and the one true “*politikos*” of the *Gorgias*, to the guardian of the Republic, to the nomothetes of the *Laws*. Aristotle on the other hand is less explicit about a unique role for the wise; in the *Politics* it seems as though the sage is to participate in the same way that any other citizen would in a well ordered state.

in which different schools came to similar conclusions by very different routes, as well as instances in which thinkers working from similar premises arrived at very different determinations about the right place for the wise in the public sphere.²⁹³

The issue was thus an old one by Cicero's time, and one in which we know he had an interest, since he uses it as a stock debating topic in several of his rhetorical treatises.²⁹⁴ Yet modern commentators who have treated the preface of the *de Republica* as a contribution to this philosophical debate have found Cicero's contribution to it to be a very modest one.²⁹⁵ That judgment is not altogether unfair; although allowance has to be made for the fact that the mangled manuscript drops us into the midst of the discussion, what we have seems to indicate that it was not the purpose of Cicero's remarks to break bold new ground in philosophical theory, for which purpose the brief compass of the preface would be far too small in any case. Rather than engage with the foundational questions which formed the basis of the philosophic debate Cicero merely asserts his preferred answers to such questions as whether political life arises from something fundamental in human nature and whether virtue can exist independently of virtuous action.²⁹⁶ Even where he makes provocative claims, as in his insistence that the lawgivers of old had discovered all of the principles which philosophers later expounded, no extensive defense of the idea is offered.²⁹⁷ In the place of a truly theoretical discussion traditional Roman reverence for public service is deployed, through a series of references to great Roman statesmen in which Cicero himself plays a prominent role, and in a refutation of traditional arguments against political participation, resulting in a text which is hortatory, rather than analytical.

Thus modern students of philosophy (and perhaps ancient ones as well), have seen the opening of *de Republica* as something of a disappointment, a failed foray into a complex discourse in which Cicero was frankly out of his depth. Whether or not we agree that Cicero was ill-equipped to engage the best Greek thinking on such a question, it seems reasonable to look for significance in the preface which goes beyond the purely philosophic. However, at first glance the preface as an exhortation to political engagement would appear poorly suited to provide such significance – a summons to the

²⁹³ For references, see above, Ch. 2.

²⁹⁴ *de Or.* 3.112; *Part. Or.* 66; *Top.* 82.

²⁹⁵ In addition to the usual bleak judgments rendered on Cicero's philosophical originality cited in earlier chapters it is worth noting that his entry into the debate on the value of political participation receives scant attention even among the more receptive scholars who have revived an interest in Roman political philosophy in the past twenty five years. *Rep. I* is conspicuously absent from the recent studies of philosophic withdrawal (see above, ch. 1, n. 19), as well as from the balance of Balot (2009), and from other important works such as Griffin and Barnes (1989) and Powell (1995).

²⁹⁶ *Rep.* 1-2.

²⁹⁷ *Rep.* 2. Even here, Cicero is not entirely original. Aristotle and his followers, who engaged in the study of constitutions past and present, in the *Politics* and in the constitutional monographs, suggest that they at least believed that some of the key concepts in political philosophy had been discovered by statesmen, even if it remained to philosophers to extract the key concepts and incorporate them into a systematic understanding of politics.

active public life seems oddly superfluous in a era in which the political game was carried on with greater gusto than in any other period of Roman history before or after. Indeed, the general consensus among modern historians is that, if anything, the late Republic suffered from a surfeit of political engagement as too many aspirants competed for too few offices and honors. The rising cost of entry into the political arena and the enormous stakes in contests for the highest magistracies are often cited as key contributing factors to the instability that ushered in civil war and, ultimately, monarchy in the years immediately after Cicero penned *de Republica*. And although Epicureanism, which had won some adherents among Rome's political elite by the mid-first century B.C., and against which Cicero rails in the preface, preached abstention from politics, there is little evidence that its popularity had generated widespread political apathy in Rome; indeed, many of the best attested Epicureans are also known to have been quite politically active.²⁹⁸

And yet, withdrawal from political life, philosophic and otherwise, is a recurring theme in Cicero's letters in the years leading up to the composition of *de Republica*, cropping up with such regularity and prominence that the connection between the phenomenon in the late 60s and early 50s on the one hand, and his vigorous renunciation of it in his first true political treatise on the other, is worthy of investigation. Four episodes from this period are of particular interest in this connection: his frustration at what he perceived as an unforgivable abdication of responsibility on the part of some of the aristocracy's most powerful figures in the 61 and 60 BC; his own flirtation with a life of philosophic retirement in 59; his enforced abandonment of the political scene during his exile in 58-7; and the uneasy alliance with the triumvirs in the first years after his return. The first of these will be the subject matter of this chapter; the others will be considered in the one following.

The Fish Fanciers²⁹⁹

When the correspondence with Atticus, our best source for Cicero's genuine views on political affairs, resumes in January of 61 after a hiatus of more than three years we find his attitude towards the political scene highly sanguine. In the first great political event of the year, the Bona Dea scandal and its fallout, he was heartened to find the

²⁹⁸ The most famous example of a professed Epicurean heartily engaging in politics is that of C. Longinus Cassius, Caesar's assassin (*Fam.* 15.16.3). His philosophic conversion belongs to the early 40s BC, but there are earlier examples, of which the firmest are C. Vibius Pansa and C. Trebatius Testa (*Fam.* 7.12); Caesar has been suspected by some of Epicurean leanings (see Mulgan (1979) for bibliography and a rebuttal). C. Memmius, the recipient of Lucretius' *de Rerum Natura*, may have been another, his destruction of Epicurus' house in Athens notwithstanding (*Q.Fr.* 2.9.3). Momigliano, A. "Review" *JRS* v. 31 (1941), 149-57 suggests several other names, but his identifications have found little favor since then. See also Powell (1995) and Griffin (1995), 325-46.

²⁹⁹ This translation of Cicero's term - *piscinarii* - is Bailey's (1965).

senate “an Areopagus, as resolute, strict and brave as can be”³⁰⁰, speaks warmly of leading role played by several of the most prominent figures of the day, including Hortensius, Favonius and Cato³⁰¹, and has a special regard for one of the consuls, M. Valerius Messalla.³⁰² The outcome of the ensuing trial was a grave disappointment to Cicero, but he took solace in the fact that he was able to restore the courage of the *principes* in a series of speeches in the senate, and put the acquittal down not to any lack of zeal on the part of the *boni*, but rather to a tactical miscalculation by the prosecutor and jury tampering on behalf of the defendant. In the political sparring that followed the trial he felt that he had gotten much the better of Clodius and others he regarded both as personal enemies and as pernicious elements in the body politic, and felt secure in his own position within the political order.³⁰³

By the end of the year however his assessment both of Rome’s political situation and of its leadership had soured dramatically. From December 61 through the middle of the following year he complains repeatedly to Atticus that the political situation is unstable - indeed in his more melancholy moments he groans that the Republic is lost - and ascribes this dramatic change to a sudden lack of initiative on the part of men to whom he refers, somewhat cryptically, as the *piscinarii*, or fish fanciers.³⁰⁴ Like many of the inside jokes that fill his letters to Atticus the precise meaning of the term is a bit obscure. The men Cicero had in mind were owners of estates that featured the large ornamental ponds built to keep exotic fish, which had become a faddish status symbol among the aristocracy in Rome in recent decades, as well as symbols of *luxuria* to those who found such ostentation excessive. Lucullus and Hortensius are the two most obvious *piscinarii*; the extravagance of their ponds became legendary and modern commentators have on occasion assumed that Cicero refers to these two men exclusively. However, it is unlikely that Cicero’s angst was occasioned by the behavior of Hortensius and Lucullus alone, influential though they were and, given that the practice of keeping elaborate fishponds was long established and widespread among the nobility, it is more likely that Cicero had in mind a larger group when he spoke of the *piscinarii*.³⁰⁵ The

³⁰⁰ *Senatus* Ἄρειος πάγος, *nihil constantius, nihil severius, nihil fortius*. – *Att.* 1.14.5.

³⁰¹ *ibid*

³⁰² He disapproved heartily of the other, M. Pupius Piso, but was pleased to see that he had no kindred spirits among the other magistrates apart from a single tribune, Q. Fufius Calenus (*Att.* 1.13.2; 1.14.6).

³⁰³ For discussion and references, see above, Ch. 4.

³⁰⁴ General situation: *Att.* 1.17.8-10; 1.18.3-8; 1.19.6-8; 1.20.2-3; 2.1.6-8. Of the *piscinarii* specifically he writes: *Beatos homines, hos piscinarios dico, amicos tuos, non obscure nobis invidere* – *Att.* 1.19.6; *meos bonos viros, illos quos significas, et eam quam mihi dicis obtigisse Σπάργαν non modo numquam deseram sed etiam, si ego ab illa deserar, tamen in mea pristina sententia permanebo. illud tamen velim existimes, me hanc viam optimatam post Catuli mortem nec praesidio ullo nec comitatu tenere. nam ut ait Rhinton, ut opinor, “οἱ μὲν παρ’ οὐδὲν εἰσι, τοῖς δ’ οὐδὲν μέλει. mihi vero ut invideant piscinarii nostri aut scribam ad te alias aut incongressum nostrum reservabo* – *Att.* 1.20.3; *nostri autem principes digito se caelum putent attingere si nulli barbati in piscinis sint qui ad manum accedant, alia autem neglegant* – *Att.* 2.1.7.

³⁰⁵ Pliny *NH* 9.80.170; *Macr. Sat.* 3.15; *Varro R.R.* 3.17; *Columella R.R.* 8.16; *Plut. Luc.* 39.3; *cf.* *Mart.* 10.30.24. Macrobius mentions L. Marcius Phillipus, along with Hortensius and Lucullus as men whom Cicero called *piscinarii*. C. Hirrus is said by Pliny to have provided Caesar with huge numbers of edible fish from his private ponds, and other contemporary figures are named as well. Indeed, Cicero’s brother,

language of his references to the fish fanciers reinforces the impression: the plurals (rather than duals) in οἱ μὲν παρ' οὐδέν εἰσι, τοῖς δ' οὐδέν μέλει at *Att.* 1.20.3 suggest more than two individuals, while the equation of the *piscinarii* with the *principes* at *Att.* 2.1.7 strongly implies that Cicero is speaking of a broader group. Hints in the letters can give us at least a general sense of whom the term encompassed. They are described at various points as men of wealth and influence, as friends of Atticus, as envious of Cicero, and as politicians who had once shared the latter's "optimates" politics, but had lately abandoned the fight. That constellation of characteristics best describes the most blue-blooded of the Roman upper classes, a circle in which Atticus is known to have moved, which would be likely to resent the entrance of a parvenu like Cicero into the circle of consulars which their families had traditionally dominated, and which would have best fit Cicero's description of *optimates*.³⁰⁶ Hortensius and Lucullus themselves clearly belong to this group, but how many others, and whom, Cicero may have had in mind is hard to know. There must have been many senators who shared the background and political outlook of the two most prominent *piscinarii*, but are less well known to modern historians.³⁰⁷

Quintus, apparently kept ornamental fishponds in the 50s – *Q.Fr.* 3.1.3; 3.9.7. For a full length treatment of the phenomenon see Higginbotham (1997).

³⁰⁶ For Atticus' connections with Lucullus and Hortensius see *Att.* 1.18.6; *Nepos Att.* 5.1, 5.4, 15.3, 16.1; *Varro R.R.* 3.3.3, 3.3.9-10.

³⁰⁷ Cicero gives few hints in the letters to Atticus as to why the *piscinarii* have withdrawn from politics. Delicacy may have played a role here. Debate continues over whether Atticus was in fact a card-carrying Epicurean, but there is no doubt that his abstention from politics was the result of deliberate choice, probably justified in Epicurean terms. In the period immediately prior to that under consideration here Atticus had felt the need to defend that choice to Cicero, who in turn is careful to indicate his respect for it and the grounds on which it was made – see *Att.* 17.5-6. To have blasted the decision to remain aloof from politics on general grounds would have been to risk offending a dear friend and vital ally who was clearly sensitive on the subject. The imagery of the fishponds evokes an image of men sunk in *luxuria* rather than engaged with the Muses, but there are some hints that philosophic considerations may have played a role. The two individuals whom we can say with something like certainty were included among the fish fanciers were also both well known men of culture and patrons of the poet Archias (*Pro Arch.* 6. Lucullus: *Acad. Prior.* 2.4 *Plut. Luc.* 1.3-4, 42.1-4). That they had specifically philosophical interests is attested by Cicero himself, who includes them as interlocutors in his later treatises. Cicero named dialogues after both Hortensius and Lucullus. Both appear in the former, together with Cicero and Catalus; the same group, minus Hortensius, form the cast in the *Lucullus* (= *Acad. Post.*). Cicero had considered using the two, together with himself, as the interlocutors of the *Academica* (*Att.* 13.16.1, 13.19.5; cf. *Plut. Luc.* 42.1-4) Our information about Hortensius' disengagement from the political scene, which began in 60, is deficient; for the most part it is inferred from his absence from our sources rather than on the testimony of any witness, but we have Plutarch's biography to cast some light on Lucullus' reasons for retirement from the public arena. Although not identified with philosophy *per se*, Epicurean or otherwise, the motives which Plutarch suggests for Lucullus' withdrawal from politics accord reasonably well with the arguments against political participation advanced by Greek thinkers and rebutted by Cicero in his preface to the *de Republica*. The motives which Plutarch mentions include suggestions that: 1) the political scene was "diseased" and thus beyond Lucullus' ability to control (ἐγκατέλιπε καὶ προήκατο τὴν πολιτείαν, εἴτε δυσκάθεκτον ἤδη καὶ νοσοῦσαν ὁρῶν εἶθ', ὥς φασιν ἔνιοι – 38.2) – cf. *Rep.* 1.9 *Quam ob rem neque sapientis esse accipere habenas, cum insanos atque indomitos impetus volgi cohibere non possit, neque liberi cum impuris atque inmanibus adversariis decertantem vel contumeliarum verbera subire vel expectare sapienti non ferendas iniurias*; 2) the lack of recompense for his toils on behalf of the state lead

Cicero took the sudden political disengagement of Lucullus, Hortensius and the other *piscinarii* particularly hard because, as he saw it, that they had abandoned the field at a moment of crisis. Over the course of the six months, during which the fish fanciers figure prominently in the Atticus correspondence (January to June, 60) Cicero finds much to lament on the political scene, but four events stand out as particularly significant either because they recur frequently in the letters or because of their conspicuous absence from them. The first two involved bills concerned with the equestrian order: one proposing to deprive members of that group from the immunity they had previously enjoyed from prosecution from accusations of having taken bribes while sitting on juries; the other a request from the Asian tax farmers to renegotiate the terms of a contract for which they had come to realize that they had overpaid. The other two concern Cicero's relationship with the recently returned Pompey, who had solicited his help in winning senatorial approval for the political arrangements he had made in the course of his eastern campaigns, and in settling his discharged veterans. These battles were of particular importance for him because he was at that time making an effort to firm up his political support in the face of the threat posed to his own safety by his *inimicus* P. Clodius Pulcher. Clodius had revealed his intention to win transference to the plebian order in order to win the tribunate, and strongly hinted that he would use that office to pursue his feud with Cicero. In seeking protection, the latter had turned naturally to the equestrians, his long standing allies, on the one hand and to Pompey, the leading figure in the city at the time, on the other, and hoped to win their support by lending his own assistance to them in the aforementioned political struggles. That assistance however turned out in each case to be ineffective, which cost Cicero important political capital with potential allies at a moment when he felt particularly vulnerable. That he blamed the *piscinarii* for these defeats, and that this goes far to explain his interest in the urgency of active political engagement, will be the argument of the remainder of the chapter.

him to abandon politics (πρὸς τὸ ῥᾶστον ἀναπίπτων τοῦ βίου καὶ μαλακώτατον ἐκ πολλῶν ἀγόνων καὶ πόνων οὐκ εὐτυχέστατον τέλος λαβόντων – 38.2) – cf. *Rep.* 1.3-8; and 3) political life involved danger and discomfort (ἀλλὰ τὴν ὑπὲρ τοῦ μέγιστος εἶναι καὶ πλεῖστον δύνασθαι φιλοτιμίαν καὶ ἄμιλλαν, ὡς οὔτε ἀκίνδονον οὔτ' ἀνύβριστον οὔσαν, εὐθὺς ἀφῆκε Κράσσῳ καὶ Κάτωνι – 42.5) – cf. *Rep.* 1.4 *His rationibus tam certis tamque inlustribus opponuntur ab iis, qui contra disputant, primum labores, qui sint re publica defendenda sustinendi, leve sane impedimentum vigilantibus et industriis, neque solum in tantis rebus, sed etiam in mediocribus vel studiis vel officiis vel vero etiam negotiis contemnendum. Adiunguntur pericula vitae, turpisque ab his formido mortis fortibus viris opponitur, quibus magis id miserum videri solet, natura se consumi et senectute, quam sibi dari tempus, ut possint eam vitam, quae tamen esset reddenda naturae, pro patria potissimum reddere.* (Plut. *Luc.* 38.4) And while it is true that Plutarch treats these suggestions as speculative and never claims that Lucullus employed them to explain his abandonment of the public arena, he does say explicitly that he was attacked by his old enemies, Pompey and Crassus, for his political inactivity and his *luxuria*, and it would have been only natural for a man familiar with Greek letters to employ the arguments familiar to him from his study of philosophy to defend his new mode of life, even if they described his real motivations only imperfectly (Plut. *Luc.* 38.4). On the other hand, if Lucullus and others who chose to disengage from the political scene failed to offer a defense of their changed habits, Plutarch's biography gives an idea of the motives that would be ascribed to them by others, including perhaps the later author of the *de Republica*.

Cicero and the Knights

Sometime in the second half of 61 a bill was promulgated under senatorial decree which called for equestrian jurors to be made subject to prosecution on charges of bribe taking. They had formerly been immune, but the suspicions of jury tampering which swirled around the acquittal of Clodius earlier in the year seem to have created a sudden enthusiasm for stripping them of that immunity.³⁰⁸ Although the bill failed to carry in the assembly, the senate's support for the measure had, Cicero claims, caused considerable resentment among the knights and led to the resumption of a conflict between the senatorial and equestrian orders which had been in abeyance for some time, and which Cicero once claimed he himself had been put to rest for good in 63.³⁰⁹ Shortly after this drama had played out, a deputation of *publicani* approached the senate with a request that the contract let earlier in the year for the farming of taxes in Asia be renegotiated on terms more favorable to themselves. The senate put off acting on the request for months and in the end turned it down, a move which in Cicero's eyes dangerously widened the rift created by the earlier bill on jury tampering.³¹⁰

There is good reason to doubt that the animosity aroused within Rome's aristocracy by these two events was as serious as Cicero's lugubrious account would have us believe. Had the senatorial *rogatio* on jury tampering passed in the assembly the damage to concord between the orders might have been lasting, although Cicero himself tells us that the knights offered no overt resistance to it.³¹¹ But its failure meant that the bill amounted to little more than a rebuke, and its sting, if any, no doubt faded quickly. As for the Asian tax contract, only the handful of equestrians who were parties to it were directly affected, and it may well have been that others who had been beaten out for the contract would have been quite happy to see the winning group get their just deserts for having wildly overbid. His depiction of the disappointment of this small company of knights as affecting the attitude of the whole equestrian order, which contained thousands of individuals who had a wide variety of backgrounds, interests and political inclinations, is but one example of a Ciceronian tendency to collapse the diversity of this complex group, which was in fact united by little more than the ability to meet the census requirement of 400,000 sesterces, into a monolith with a single will and purpose. Moreover, the manifest justice of the senate's positions in both cases, which Cicero himself freely admits, would also have gone far to soften any resentment arising out of these matters. This was particularly true of the Asian tax contract; the request of the

³⁰⁸ For equestrian immunity see *Cluent.* 145-56; *Rab. Post.* 16-19; Ewin (1960). The move seems to have been part of a larger program of anti-corruption legislation put on foot in the wake of the Bona Dea affair – see *Att.* 1.16.12-13.

³⁰⁹ *Att.* 1.17.8, 10; 1.18.3; 2.1.7-8.

³¹⁰ *Att.* 1.17.9; 1.18.7; 1.19.6; 2.1.8. *cf. Off.* 3.88; *Schol. Bob.* 157, Stangl. See also Ward (1977), 211; Badian, E. *Publicans and Sinners* (1972), 100-1.

³¹¹ *Qua in re decernenda cum ego casu non adfuissem sensissemque id equestrem ordinem ferre molesta neque aperte dicere, obiurgavi senatum* – *Att.* 1.17.8.

publicani had been unprecedented and neither they nor other members of their order can have felt that the senate had offered them a gratuitous affront in turning it down.³¹² And although Cicero implies again and again that dire consequences will follow from the falling out of the orders, he can in fact point to only two events which he regards as direct repercussions, and these are very dubious. The first of these was the imprisonment of the consul Metellus Celer by the tribune Flavius, the second, a series of riots.³¹³ Of the later we know very little. They seem not to have come to much; although our sources regularly record outbreaks of civic violence during this period these riots are attested only in Cicero's letter, nor is it obvious what Cicero would have had his equestrian supporters do about them in any case. The other event is well known to us, in part at least because the incarceration of a consul provided such dramatic theater. There will be more to say about it when the Flavian land bill is discussed below. For now it is enough to note out that there was little the equestrians can have done to prevent this unexpected episode, and that the order in general was in any case probably not disappointed with its outcome, which was the withdrawal of proposal which had occasioned it.³¹⁴ Long term fallout from the senate's measures appears to have been non-existent. Our other sources register no resumption of the tensions which beset relations between senate and knights in the early decades of the first century, and after *Att.* 2.1, written mid-60, the supposedly catastrophic "war" between senate and knights disappears from Cicero's correspondence, never to return.³¹⁵

But Cicero had more immediate and personal reasons for dismay. Unlike the scions of great families, Cicero had entered politics without the preexisting web of connections and clients which facilitated the careers of the nobility, and even at the height of his prestige his power did not rest on a foundation as secure as that which a member of one of Rome's great families would have enjoyed from the beginning of his ascent up the *cursum honorum*. But to the extent that he had an independent power base it lay in his good relations with the equestrian order.³¹⁶ In his forensic work he had been able to secure acquittals for several knights, as well as for senators who had fallen into legal jeopardy because of their good offices on behalf of equestrian business interests, and he had been one of their primary champions in other contexts as well.³¹⁷ Within the

³¹² *Att.* 1.18.8-9; 2.1.8.

³¹³ *Itaque nunc, consule in carcere incluso, saepe item seditione commota, adspiravit nemo eorum quorum ego concursu itemque ii consules qui post me fuerunt rem publicam defendere solebant.* – *Att.* 2.1.8.

³¹⁴ The *concurso* of *Att.* 2.1.8 (see preceding note) is probably meant to recall the dramatic events of late 63, in which a large body of equestrians came forward to protect the senate during the meeting in which Cicero delivered the first Catilinarian (*Cat.* 1.21), and again for the debate on the Nones (*Att.* 2.1.7, *Red Sen.* 12, 32; *Sest.* 28; *Phil.* 2.16, 2.19; *Sall. Cat.* 49.4; *Suet. Iul.* 14.2). The contrast between the two periods is obvious however. At the end of 63 the whole city had been gripped by fear of murder and arson; the events of mid-60 lacked a similar urgency.

³¹⁵ *Equites curiae bellum* – *Att.* 2.1.8.

³¹⁶ For a summary of the arguments see Mitchell (1979), 100-105; Berry (2003), 222-8.

³¹⁷ Many of the forensic speeches on behalf of non-senatorial defendants are little known to us, but we do have some names, of which Sex. Roscius of Ameria is the best known. Another is C. Mustius, an influential businessman whom Cicero defended sometime not long before he prosecuted Verres (*Verr.* 2.1.139). In his

order we find that that he had particularly close ties with none other than the Asian tax farming companies. These dated at least to 66 when, on his own evidence, he had advocated a special command for Pompey in the east at the behest of the *publicani* whose business interests were suffering as the Mithridatic war dragged on.³¹⁸ Those connections were no doubt powerfully reinforced when Cicero's brother Quintus became governor of the province in 62, a point which Cicero reaffirms in a letter written to his brother sometime in late 60.³¹⁹

Although these political alliances were long standing by 60 their continued strength depended on Cicero's ability to continue delivering for his equestrian allies in the political arena. Although he stresses in his letters to Atticus that he himself had taken up the knights' cause in both cases (to no avail) and tries to reassure him that his standing with them has not suffered, it is hard to believe that the men who looked to Cicero to champion their cause in the senate were satisfied with the ineffectual support he offered them.³²⁰ Even if, as has been argued above, the equestrian order took less umbrage at the events of 60 than Cicero's letters would imply, his inability to 'get the job done' in the senate would have hurt, although certainly not destroyed, his relationship with an important body of clients, and done some harm to the reputation he nourished, as all politicians must, as a valuable and potent political ally.

The driving force behind both the jury bribery *rogatio* and the defeat of the tax farmers' petition was a rising star in the Roman political firmament – M. Porcius Cato. He had made his debut on the public stage at the height of the Catilinarian conspiracy when he was barely old enough to serve as *quaestor*. Although Cicero remembered the Nones of December as the pinnacle of *his* career, it was Cato's voice which had convinced the senate to execute the conspirators it had in custody. Although he could claim his revered great-grandfather of the same name as an ancestor, his family was otherwise undistinguished, and his wealth was not extraordinary by senatorial standards.³²¹ His influence derived from the force of his personality, the uprightness of his life, and his ability to project a persona that had enormous appeal for a senatorial order

defenses of M. Fonteius and P. Oppius he was doing a service for senators who in turn deserved well of the knights. He supported the Manilian law of 66 largely on the grounds that it was in the interest of the business community and gave an impromptu speech in defense of L. Roscius Otho, who had worked to secure reserved seats for the knights at public performances and was hissed on that account at a theater performance.

³¹⁸ *Leg. Man.* 4, 15-19. A desire to attach himself to Pompey no doubt played an important role as well, but there is no reason to doubt that Cicero was eager to score points with influential *publicani* as well in the run-up to his consular bid in 64. His success in doing so is attested by the *Commentariolum Petitionis* (*Comm. Pet.* 3, 33, 50, 55).

³¹⁹ *Q.Fr.* 1.1.6, 32-5. *cf. Post.Red.Sen.* 32-3.

³²⁰ *Att.* 1.19.6, 2.1.8. He claims that the bill on jury tampering had been passed at a session he did not attend, and that by the time he learned of it he could do no more than rebuke the *curia*. We may doubt whether any knight who may have had a strong interest in the matter would have been satisfied with this explanation.

³²¹ *Sall. Cat.* 54.6.

that liked to believe it embodied the high ideals he espoused.³²² In advancing his *rogatio* on judicial bribery and holding the Asian tax farmers to their obligations he had seized the moral high ground, with the result that Cicero was driven into the uncomfortable position of defending a pair of unworthy causes, and ultimately of disappointing his most valued supporters.

Although Cato's own pedigree was not of the highest nobility, his marriage connections linked him closely with the *principes* of the previous generation. Lucullus was married to his half-sister, Servilia, while he himself was married to a daughter of L. Marcius Phillipus. Sometime later he came to an agreement with his father-in-law whereby he divorced the lady so that she could be married to Hortensius.³²³ This curious swap, which cannot be dated precisely, probably belongs to the mid 50s, but nevertheless demonstrates the intimate bonds that linked Cato to the most prominent figures among Cicero's *piscinarii*, and the *principes* of the Republic in the 60s.³²⁴ Cicero clearly expected this older generation of statesmen to understand, where Cato did not, the need to put expediency ahead of principle on occasion in order to maintain political partnerships, and thus come to his aid and either oppose or restrain their principled but callow protégé. He certainly might have hoped that they would do so as a personal favor, since he believed he had deserved so well of them during and after his consulship and, as a *consularis*, belonged to their influential circle and was therefore entitled to all of the consideration which that status implied. But his complaints to Atticus focus on what he views as the inability of the *piscinarii* to see their own self interest. Writing while the wrangle over the tax contract was still playing itself out, he complains of the indifference of Pompey and Crassus, then says *ceteros iam nosti, qui ita sunt stulti ut amissa re publica piscinas suas fore salvas sperare videantur*.³²⁵ The notion that the republic was on the verge of destruction, despite its obvious hyperbole, is a clear reference to Cicero's cherished notion of a *concordia ordinum*, a reconciliation of the senatorial and equestrian orders which he (and perhaps he alone) supposed he had established during his consulship as a great bulwark for the preservation of the *status quo*.³²⁶ As Cicero saw it

³²² Gruen (1974), 55; Cicero often gives hints that Cato enjoyed a standing that made him hard to criticize publicly – see e.g. *Att.* 2.1.10 (*quod Sicyonii te laedunt, Catoni et eius aemulatori attribuis Servilio. quid? ea plaga nonne ad multos bonos viros pertinet? sed si ita placuit, laudemus, deinde in dissensionibus soli relinquamur.*); cf. *Att.* 1.17.9 (*heros ille noster Cato*). Even in discoursing with Atticus he had to temper his criticism – see *Att.* 2.1.8 (*Nam Catonem nostrum non tu amas plus quam ego, sed tamen ille optimo animo utens et summa fide nocet interdum rei publicae...*).

³²³ Plut. *Luc.* 38.1; *Cato* 24.3, 25.2-5, 54.1; Appian *BC* 2.99; Lucan 2.325 ff.

³²⁴ Other family connections appear to have included the Livii Drusi, the Servilii Caepiones, the Junii Silani and the Marcii Philippi. See Gruen (1974), 53.

³²⁵ “You know the rest, who are such fools that they seem to hope that their fishponds will be safe even after the commonwealth has been destroyed”. – *Att.* 1.18.6. cf. *Att.* 1.19.8 (*privatis meis rebus propter infirmitatem bonorum ... adhibeam quandam cautionem et diligentiam*).

³²⁶ There is an obvious reference to the *concordia* explicitly in the first letter which mentions Cato's measures at *Att.* 1. 17.10, and another, only slightly more veiled, in the other extended discussion of them at *Att.* 2.1.8. For a discussion of the *concordia ordinum* and its role in the vision of Roman politics and Cicero's role in it, see above, Ch. 3.

the *piscinarii*, as men of wealth and influence with an interest in social and political stability, should obviously share his desire to preserve this system and ought therefore to have seen the vital importance of keeping the equestrians tied to the *concordia*. The fact that they took no part, or at any rate no important part, in the debates on the two measures which touched the interests of the equestrians, and refused either to oppose or restrain Cato, constituted an unforgivable dereliction of duty on the part of men who ought to have been elder statesmen.³²⁷

Cicero and Pompey

The other political ally whose friendship Cicero craved was Pompey, the dominant figure on the Roman political stage in the late 60s. As is often the case, the best evidence for Cicero's developing political and personal relationship with Pompey comes from his correspondence with Atticus, but in this instance special care is needed. Atticus shared a strong antipathy for Pompey with many members of nobility, most notably his intimates Lucullus and Hortensius.³²⁸ In deference to his friend's attitudes and in anticipation of his objections Cicero is always careful to temper his praise of Magnus while playing up his suspicions, exaggerating their differences, and repeatedly asserting his political independence even while admitting to a desire for an increasingly close political partnership.³²⁹ This tendency needs to be born in mind whenever Pompey appears in the letters, and perhaps even more so when he is conspicuously absent.

If we had only Cicero's letters to Atticus to read we might suppose that the great event of 61 had been the Bona Dea scandal, but in fact the year was dominated by a political struggle of far greater moment about which Cicero is entirely silent. In late September Pompey had celebrated his conquests in the east with a triumph of unparalleled magnificence, but this legacy would not really be secure until his *acta* were ratified by the senate, or if it came to it, by the assembly. In his early career he had

³²⁷ For a somewhat later example of Cicero interceding with an aristocratic friend on behalf of the *publicani*, see *Fam.* 1.9.26.

³²⁸ *Att.* 1.13.4; 1.20.2; 2.1.6.

³²⁹ See Lintott (2008), 160-165, who argues that Cicero's plays up his concern about contemporary political events for the purpose of justifying his overtures to Pompey. It would be going too far to claim that the worries he reports are less than genuine, but Cicero is certainly willing to employ them to argue that he is seeking Pompey's friendship out of necessity. He was forced to put his new alliance with Pompey in the best possible light for Atticus because he could hardly deny it. Indeed, its very public nature was one of its key features from Cicero's perspective, serving to warn off Clodius, and perhaps other actual or potential political enemies – see *Att.* 1.16.10; 1.19.7; 1.20.2; 2.1.6; for anticipation of Atticus' disapproval: *Att.* 1.17.10; 1.20.2-3; *cf.* 2.1.6; for Cicero's continuing political independence: *Att.* 1.19.8; 2.1.6; Indeed, apart from its monitory function, Cicero's relationship with Pompey had little by way of immediate pay-off, and this, as much as vanity, may be why he lays so much emphasis on the supposed practical benefits of Pompey's public eulogizing of his record – *Att.* 1.19.7, 1.20.2; 2.1.6. He had little else to show for the political support he was offering in return.

bypassed the *curia* more than once, and more recently he had broken with precedent in not requesting a senatorial commission to help him make his arrangements in the east. However it was clear by 61 that Pompey was ready to make amends and get on the right side of the senate by submitting his *acta* for approval by the house. But this token of respect for the senate's traditional role in foreign affairs was not enough to prevent a powerful opposing coalition from forming, of which the leading figures were Cato, Lucullus, Metellus Celer and Crassus. Of these all but Cato had obvious personal motives. Lucullus, the only *piscinarius* among the four, had the most pertinent grievance, since he was the man Pompey who had superseded him as commander against Mithridates, and whose own *acta* Pompey had set aside and now sought to replace with his own. His resentment of the man who had eclipsed him ran so deep that it succeeded in drawing him out of a comfortable retirement when nothing else would. Metellus Celer, consul in 60, had once been on friendly terms with his brother-in-law, but when Pompey divorced his sister, Mucia, shortly after his return amity quickly turned to implacable hostility.³³⁰ Crassus' feud with Pompey was well known, longstanding and born of diverse causes. Their main tactic was delay; at their insistence Pompey's provisions in the east were examined one by one, rather than being voted on *en bloc*. Given the vast scope of project that Pompey had carried out over a period of years in an area that covered much of western Asia we can be sure that the senate was occupied with the business of reviewing it all for an extended period.

And yet, despite the momentous issues at stake, the stature of the persons involved in the dispute, the vigor with which the contest was no doubt fought and its long duration, Cicero says not a word about it to Atticus. That silence cries out for an explanation. The most likely one is that Cicero preferred to avoid raising the subject with Atticus because his own involvement in it would have offended his friend's political sensibilities. The relationship between the orator and the general, however much it may have been abetted by personal rapport, would have been based in the first instance on reciprocal political benefits. Cicero's need was for protection from prosecution, a danger which had stalked him ever since Metellus Nepos had first used the issue of the executions on the Nones to whip up *invidia* against him in early 62.³³¹ Pompey's needs were equally clear – land for his veterans, on which more shortly, and the ratification of his eastern *acta*. Cicero, still riding high on the back of his consulship in 63 would have seemed well placed in the winter of 62 to help the long absent commander navigate the shoals of the Roman political scene and secure the objects which would round off his

³³⁰ *Att.* 1.12.3; *Plut. Pomp.* 42.7; *cf. Suet. Iul.* 50.1; *Ascon.* 19 (Clark).

³³¹ The reasons that Cicero advances to explain his new friendship with Pompey to Atticus vary bewilderingly from letter to letter, which is itself perhaps symptomatic of the touchiness of the subject and the fact that Cicero was being less than forthcoming with his friend. At *Att.* 2.1.6 he insists that concern for his own safety played no role at all (*nolim ita existimes, me mei praesidi causa cum illo [Pompey] coniunctum esse*). The claim is not only improbable on its face but is actually refuted by the evidence of earlier letters in which self protection is cited explicitly as part of his motivation – see *Att.* 1.17.1; 1.19.6-8; 1.20.2.

accomplishments in the field.³³² Whether the two men ever made such a *quid pro quo* explicit in their discussions is of course unknowable, but even if they did not, such an understanding would likely have been strongly implicit. At the very least we can be sure that Cicero felt entitled to Pompey's support when the danger he had long feared materialized in 58, and felt deeply betrayed when that support was denied to him. On the other side of the ledger, for Cicero to court Pompey so earnestly and so publicly and then immediately fail to support him in his most important political endeavor would surely have been viewed, by Pompey and others, as base treachery. When Cicero extended his hand to Pompey in early 61 he knew full well what obligations his new alliance brought in its train, and having accepted them at the outset he would have been compelled, by conscience as well as by the social expectations, to see them through.

The same considerations came into play the following year, when a tribune named L. Flavius, acting on Pompey's behalf, sponsored the long awaited bill which would provide land for his veterans. Here Cicero's own position had to be more nuanced, for whereas in supporting the ratification of the eastern *acta* he was positioning himself in a way that accorded with earlier political stances, particularly his advocacy of the Manilian law of 66, unreserved support for the measure that Flavius had introduced would contrast jarringly with his vocal opposition to the similar measure advanced by the Tribune Rullus three years earlier. Pompey would have to understand that Cicero's outspoken stance in 63 would make a complete *volte-face* very awkward and would open him up to ridicule and worse. He needed at least some room to maneuver and to craft a position which, if not really in consonance with the spirit of the position he had taken on the Rullan bill, would at least afford some protection against charges of bald hypocrisy. Thus we find Cicero working not to kill the land bill, but to modify it in ways that would allow him to support it without too much loss of face. The same considerations made his position *vis-a-vis* the Flavian measure a more comfortable topic of discussion with Atticus, who no doubt took a dim view of the *rogatio*, but could at least derive some satisfaction from Cicero's efforts to delete from it those measures most offensive to the well-to-do. Thus in the one letter that makes extensive mention of the bill Cicero carefully plays up his points of disagreement with it and obscures the fact that at the end of the day his position was essentially in favor of the measure.³³³ For so he was. The real crux of the matter was finding land for Pompey's veterans; the inclusion of the urban poor in the land distribution scheme was a tactical move to garner the measure additional support, peripheral to the real objective, while the mechanisms for obtaining land were merely functional elements, and thus no doubt negotiable.³³⁴ At the same time the bill's most

³³² Cicero may indeed have meant to imply just such a relationship in his famous letter to Pompey of 62, now lost. *cf.* the surviving sequel *Fam.* 5.7.3.

³³³ *Att.* 1.19.4.

³³⁴ It might be imagined that Cicero's attempts to delete mechanisms for land acquisition inimical to propertied interests amounted to an attempt to kill the bill not by outright opposition but rather by leaving it so underfunded as to be dysfunctional. However, Cicero himself seemed convinced that the alterations he was proposing would not be fatal to the *rogatio* – *populo autem Pompeioque (nam id quoque voebam) satis faciebam emptione, qua constituta diligenter et sentinam a urbis exhauriri et Italiae solitudinem*

ardent opponents, who are the same figures who were prominent in the opposition to the ratification of Pompey's eastern *acta*, appear to have been motivated above all by a desire to frustrate the general.³³⁵ Thus, in supporting the settlement of Pompey's veterans Cicero was essentially taking the general's side against his enemies, whatever the nuances of his position may have been. The tone of his letter to Atticus, in which he does all he can to project a suspicious and critical attitude towards the Flavian *rogatio*, can easily mislead us. Closer analysis however makes it clear that, although his stance stopped short of unconditional support, his position nonetheless made him one of Pompey's principle allies in a senate that was generally hostile.³³⁶

In addition to employing the magic of his oratory Pompey had no doubt hoped that Cicero could use his influence with the *boni* to smooth the passage of his legislation. If there was little hope that Lucullus, Cato, Crassus or the Metelli could be brought around there were perhaps more sanguine prospects for other influential *nobiles*.³³⁷ There are hints in the letters to Atticus of the arguments which Cicero may have employed in his efforts to win support for Pompey's legislation among wary *optimates*. Beginning in March of 60 he repeatedly mentioned to Atticus that Pompey now publicly eulogized the achievements of 63³³⁸. He takes this as a sign that Magnus is becoming a better citizen, and in particular that he is moving away from the *improbi* whom Cicero during this period associated with seditious machinations against the state itself. These passages are generally understood as arising out of nothing more than their author's naiveté and narcissism. Cicero's vanity was clearly tickled, a fact which his denials to Atticus underscore rather than refute.³³⁹ But the notion that 61 and 60 represented a delicate moment when Pompey's future role in the state hung in the balance, when he might be brought into partnership with those Cicero called the *boni* or, alternately, when

frequentari posse arbitrar. – *Att.* 1.19.4. That Cicero sees value in draining off the dregs of the city is typical of conservative thinking of the time, but contrast the view expressed privately here with his public stance in 63 – *Leg. Ag.* 1.14-15; 2.63-72, 98.

³³⁵ *Huic toti rationi agrariae senatus adversabatur, suspicans Pompeio novam quandam potentiam quaeri; Pompeius vero ad voluntatem perferendae legis incubuerat.* – *ibid.* The senate was often, although not always, opposed to agrarian legislation and other considerations may have played their part, but Cicero is explicit that hatred of Pompey was the primary motive. For a good discussion of the competing considerations that made senatorial attitudes towards land bills so vexed, see Gruen, E. (1974), 387-404 (Flavian bill specifically: 396-7).

³³⁶ *ibid*

³³⁷ The old aristocracy was not always uniformly opposed to Pompey's ambitions. Several, for example, had supported his efforts to supersede Lucullus in the command against Mithridates or subsequently joined his staff – see Gruen (1969), 74-7.

³³⁸ *Att.* 1.19.7; 1.20.2; 2.1.6-7. This generous mood contrasted sharply with Pompey's public attitude in the first weeks after his arrival, when Cicero was convinced that jealousy was causing him to be noticeably parsimonious with his praise – see *Att.* 1.13.4; 1.14.2-4.

³³⁹ *quod [praise from Pompey] non tam interfuit mea (neque enim illae res aut ita sunt obscurae ut testimonium aut ita dubiae ut laudationem disiderent) quam rei publicae. – Att.* 1.19.7; *mehercule rei publicae multo etiam utilior quam mihi, civium improborum impetus in me reprimi cum hominis amplissima fortuna, auctoritate, gratia fluctuantem sententiam confirmassem... – Att.* 1.20.2; *sibi enim bene gestae, mihi conservatae rei publicae dat testimonium. hoc facere illum mihi quam prosit nescio; rei publicae certe prodest – Att.* 2.1.6.

he might be driven into alliances with the “*improbi*”, was not farfetched. He had given early tokens of wanting to work with, rather than circumvent, the senate, disbanding his army immediately upon his return to Italy and seeking a marriage alliance with Cato. In Cicero’s eyes Pompey’s public praise for his record constituted a further olive branch offered to the proponents of order, and another sign that he wanted to respect constitutional norms and act within, rather than overturn, the system. He had to have his eastern arrangements ratified and his veterans compensated one way or another, but he clearly preferred to achieve these aims in cooperation with the *boni*, and in Cicero’s view this offered a golden opportunity to win him away from the baser elements within the state who were even then courting him and who could provide another means of securing his ends if the senate proved uncooperative.³⁴⁰ Cicero thus could, and no doubt did, make the case that it was in the best interest of the *boni* to let bygones be bygones and embrace Pompey. By giving him freely what he would otherwise sooner or later extort they had a chance to disarm a great threat to constitutional order and at the same time gain an ally against the latent danger still posed by the *improbi*, whereas resistance would prove futile in the end and bring conflict and chaos in its wake.³⁴¹

Cicero however was unable to carry his point and the Flavian *rogatio* ultimately failed. Disinclined perhaps to admit a personal defeat, Cicero explained to Atticus that the bill failed as a result of the distraction caused by sudden excitement over events in Gaul, but there was clearly more to it than that. To begin with there was Flavius’ incarceration of Metellus Celer. This proved to be a major black-eye for Pompey, who was forced to call off his errant supporter as the senate rallied to the imprisoned consul. In the only mention of the event in the Atticus correspondence Cicero treats the event as a disaster. From his own perspective as an ally of Pompey it certainly was, but to highlight that fact would have been to raise an uncomfortable point of tension between himself and a friend who would not have shared his point of view. Indeed, insofar as Flavius’ misadventure had resulted in political embarrassment for Pompey and contributed to the defeat of his land bill, Atticus would probably have welcomed it. Cicero thus said nothing about the affair at the time it occurred, and mentions it in retrospect only as proof of the decay of orderly government, without touching on its more immediate political consequences.³⁴²

³⁴⁰ *civium improborum impetus in me reprimi cum hominis amplissima fortuna, auctoritate, gratia fluctuantem sententiam confirmassem et spe malorum ad mearum rerum laudem convertissem. – Att. 1.20.2; quod a me ita praecautum atque provisum est... ut ille esset melior et aliquid de populari levitate deponeret. Quem de meis rebus, in quas eum multi incitarant, multo scito gloriosius quam de suis praedicare. – Att. 2.1.6. cf. Att. 1.19.7.*

³⁴¹ For Cicero’s notion that Italy was still brimming with Catilinarian sympathizers, ready at any moment to rise up and overthrow the *res publica*, see above, Ch. 3.

³⁴² *Att. 2.1.8* where it is paired with some contemporary rioting. See above pg. 11-12. But if Cicero’s real concern had been damage to orderly government we might have expected him to have been quite pleased by the outcome of the affair, which saw the senate unite in defense of Metellus while Flavius and Pompey were forced to back down in humiliating fashion.

Even this episode, embarrassing as it was for Pompey, would probably not have proved fatal to the settlement of his veterans in 60 had he been able to attach other influential senators to his cause. But, as noted above, Cicero seems to have been the only figure of any real weight besides Magnus himself to throw his support behind the measure. Against the powerful combination of Cato, Lucullus, Crassus and the Metelli this proved to be insufficient, as it had with Pompey's *acta*, discussion of which his enemies had apparently managed to spin out *ad infinitum* into a kind of filibuster.³⁴³ Pompey's alliance with the hero of 63 had thus paid him no dividends. The general had no doubt hoped that some combination of the magic of Cicero's oratory and the sway he was thought to have in the circles of the *boni* would have brought enough of the leading men over to his side to carry through those measures so vital to his interests. But Cicero had once again disappointed. If Pompey protested to Cicero in person about the ruin of his legislative program the latter would no doubt have excused himself, as he had to the knights, by pointing out that he had done all that he could. But in the long run any politician's stature among his peers depends on the ability to get things done, and four times now in the space of a few months Cicero had been unable to deliver, twice on behalf of his most valued and loyal constituency, twice on behalf of a new ally who was also the dominant figure in Roman politics.

Conclusions

It is in the frustration arising out of these events in 61 and 60 that we should look for the significance of Cicero's contemporary tirades against the *piscinarii*. Events were afoot which put his political power to the test at a time when the danger presented by Clodius meant that he needed to reaffirm old connections with important supporters and build bridges to new ones. He also considered them, with varying degrees of accuracy, to be matters of the first importance for the wellbeing of the *res publica*, and fraught with dangers to the *concordia bonorum* which he credited himself with having established in 63.³⁴⁴ Navigating these shoals called for mature wisdom, and for this Cicero naturally looked to the leading figures in the senate, men of authority, wealth and experience who should have known how much they stood to lose if these delicate matters were not handled with judgment and tact. But his attempts to win them over to his point of view were met with what he, at least, considered to be a mix of indifference and folly. That Lucullus and the Metelli were unwilling to put aside private grievances for sake of the body politic where Pompey was concerned was no doubt a disappointment, but probably not a surprise, and he seems to have been similarly resigned to Cato's intransigence.³⁴⁵ But the aloof stance of other *principes* who lacked deep personal grudges and thus should

³⁴³ Magnus had to wait until 59 to have his acts ratified: Dio 38.7.5; Plut. *Pomp.* 48.3; Vell. Pat. 2.44.2. *cf. In Vat.* 29.

³⁴⁴ See above, Ch. 3, for a discussion of the *concordia*.

³⁴⁵ Crassus' attitude was equally unsurprising, but less disappointing since Cicero would not have classified him as a *bonus civis*.

have been better able to consult the public interest and their own, struck Cicero as inexcusable, and left him embittered and disappointed.³⁴⁶

In the years between 60 and 54, when most scholars reckon that the composition of *de Republica* commenced, these views were only reinforced. During those years it became clear, as it may not have been at the time, that the events of 61 and 60 represented a changing of the guard. Hortensius and Lucullus never emerged from their gardens to once again exert a powerful influence over Roman politics, and the mantle of conservative leadership passed to a younger generation of *optimates* led by Cato.³⁴⁷ Their stewardship was a source of ongoing frustration for Cicero, who blamed them for the rise of the “first triumvirate” and at the same time found their stubborn resistance to it both useless and dangerous.³⁴⁸ Later, his differences with the leading *boni* figure prominently in an important letter, written to P. Lentulus Spinther in late 54, around the time when he was writing the first books of *de Republica*.³⁴⁹ Thus, what Cicero viewed as the abdication of the *piscinarii* of 61-60 had had long-lasting, far-reaching and highly undesirable consequences which were still fresh in his mind when he wrote his paean to the active political life.

Most importantly however, the premonitions of danger from the embittered Clodius that he had felt in the late 60s were realized in 58, when he was exiled at his enemy’s instigation. Although he later spun around his exile a narrative no less heroic than the one he had created for his consulship, and claimed that he had all along enjoyed the support of all but the most ruined and wicked citizens, his decision to flee, and the letters he wrote from exile, clearly show that at the time he had doubted his support, and in particular that he felt betrayed by Pompey. The feeling that the *piscinarii* had been responsible for straining his relations with key supporters in the run-up to the most

³⁴⁶ The ill will which these disagreements engendered appears to have been mutual, for during this period Cicero also reports that the *boni* are treating him with sudden disdain. He attributes the growing gulf between himself and his erstwhile political allies to jealousy (*beatos homines, hos piscinarios dico, amicos tuos, non obscure nobis invidere* – *Att.* 1.19.6; *mihi vero ut invidiant piscinarii nostri aut scribam ad te alias aut in congressum nostrum reservabo.* *Att.* 1.20.3) but, given that he had not complained of this in earlier letters, it is hard to see why envy should suddenly manifest itself just now. Jealousy of Cicero on the part of the *nobiles* would have been natural enough, since they did not in general suffer those outside of their own circle to obtain the highest honors and, to be sure, disdain for the parvenu from Arpinum was likely always present, sometimes openly advertised, sometimes concealed in varying degrees (for a contemporary example of undisguised aristocratic scorn see Clodius’ jibes at Cicero at *Att.* 1.16.10), and Cicero was naturally sensitive to it. However, if aristocratic *hauteur* was a contributing factor to the tension which appears suddenly in this period in his relationship with the *boni*, the *proximate* cause is much more likely to be found in his decision to align himself with Pompey.

³⁴⁷ Lucullus died in the winter of 57/56. Hortensius lived until 50, but outside of the courts he appears to have been mostly inactive.

³⁴⁸ *Att.* 2.9.1-2; 2.15.1-2; 2.19.2; 2.21.1-2, 4-5.

³⁴⁹ *Fam.* 1.9.3, 5, 10, 13-17, 20-22. His spleen is directed at men whom, as in the letters to Atticus, he carefully omits to name, but Bailey (1965), 307, 311, correctly identifies them as the leading *optimates*. It has often been speculated that Cicero meant the letter, or at any rate its substance, to become public – *ibid.*, 307.

consequential battle of his life is likely to have played a role in the outpouring of bitterness towards these same men that fills the pages of the letters sent to Atticus during his banishment. The tumultuous period beginning just after that covered in this chapter, and continuing down into the mid-fifties when the *de Republica* was written, also caused Cicero to question whether he himself ought to have remained politically engaged, and the debate that he carried on with himself over this issue is the subject of the next chapter.

EXILE, RETURN, AND THE TRIUMVIRATE

The years 59 and 58 saw the realization of those fears which had played so large a role in shaping Cicero's political moves at the end of the 60s. Clodius, having finally won plebian status, went on the tribunate he had coveted, and used that office to get his revenge for the damaging testimony that Cicero had given at his trial for profaning the rites of the Bona Dea. With the acquiescence, if not the connivance, of Pompey and Caesar he successfully championed a bill that anyone who had put Roman citizens to death without trial an outlaw. Thus the hero of 63, clearly the sole target of the law, found his greatest achievement turned into the instrument of his political destruction, and as his support melted away he was forced to accept an ignominious exile. The efforts of friends and, more importantly, a falling out between Clodius and the triumvirs, allowed his banishment to be lifted some 17 months later and he enjoyed a triumphant return accompanied, or so it seemed at first, by a full resuscitation his political fortunes. Yet danger remained and Cicero, having lost confidence in his old political allies among the *nobiles*, and indeed harboring suspicions that they had intentionally betrayed him into the hands of his enemies, felt constrained to seek a close alliance with Pompey, Caesar and Crassus. The price for the protection that alliance afforded was the loss of his political independence, as he found himself again and again lending his support to causes and people he found distasteful at the behest of the triumvirs. If the appearance of growing tensions among the three men offered momentary hope that a major political realignment was in the offing which might free Cicero from the constraints under which he was operating, the renewal of their alliance at Luca in 56 B.C. dashed those hopes.

Thus, when Cicero began work on the *de Republica*, probably sometime in early 54, he would have seen little prospect in the foreseeable future for significant improvement in the political situation, and indeed the letters to Atticus at this time are characterized by a kind of melancholy resignation about the state of Roman government and his own place within it.³⁵⁰ As this period provides the immediate context within which the work was written, it is natural enough to assume that this particular moment in Rome's political history, and Cicero's discontents about it, would feature prominently and clearly in the *de Republica*. And indeed, many of the earliest modern commentators tried to read the work as a straightforward response to the condition of the state as it existed in the late 50s, seeing in it both a diagnosis of and a prescription for the political ills of day. But there was little agreement about what it is that Cicero might have been trying to say about the Roman politics in the late 50s, and even less about what solution he was offering. For Reitzenstein, for instance, the work was an anticipation of the Augustan principate, whereas for Meyer it was a call for Pompey to assume the

³⁵⁰ *Att.* 4.5,6,8a,10,18. *Q.Fr.* 3.5.

dictatorship.³⁵¹ More recently Schmidt and Girardet have seen a battle plan for the *optimates* to regain the political initiative from the triumvirs.³⁵² None of these readings of the *de Republica* has found much favor, in large part because they rely heavily on speculation about the nature of the *rector rei publicae*, the provocative, but poorly understood, figure who appears to have loomed large in the latter, heavily mutilated, parts of the work. Enough fragments have come down to us to allow for a variety of imaginative reconstructions, but not nearly enough for us to be able to speak with any certainty or precision about what sort of actor Cicero meant him to be, or what role he was to play in the state.

Even if more of the later books of the work had survived, the search for such a narrowly practical function for the *de Republica* would almost certainly be doomed to failure, as recent commentators have recognized.³⁵³ Although creative minds have found it is easy enough to fill the gapping holes in the last three books with a variety of blueprints for contemporary political action, the portions of the work which are still mostly intact, and which linger over range of philosophical and historical questions, look very little like the preamble to the kind of pamphlet that Reitzenstein et al. imagine. Moreover, the great length of time spent in composing the work (precise dates are unknown, but it is generally agreed that he was laboring on it from at least mid 54 to late 52) would have made it a poor vehicle for such a program. Those advocating for the sort of legislative enactments and other concrete actions that the aforementioned readings of the *de Republica* all assume must be highly sensitive to the exigencies of the moment and tailored their tracts to suit them, as Cicero would have known all too well. In a political world in constant flux, a program of practical action conceived in early 54 would have been hopelessly out of date in late 52 or early 51.

More importantly however, any frank discussion of the political problems of the day, which Cicero certainly saw as both numerous and serious, would have risked, indeed even required, abandoning the conciliatory political stance he had taken ever since the trauma of his exile, and giving offence to many of the very people whom he had been courting since his return in 57 in an effort to provide himself with trustworthy allies should Clodius and other *inimici* renew their attacks. The triumvirs posed the most obvious problem. To be sure, Cicero deeply resented the fact that his freedom of action was constrained by his obligations to Pompey, Caesar and Crassus, and also sincerely believed that the enormous power concentrated in their hands violated the fundamental precept of Roman government (and of aristocracies generally) that power be shared broadly within the ruling class. But to have aired such concerns publically would have endangered the alliances for which he had already sacrificed much, and upon which his safety continued to rest. If that were not reason enough, an attack on Caesar, and

³⁵¹ Reitzenstein (1917); Meyer (1922). Rebuttal by Heinze (1924), How (1930) and Meister (1939), but the idea appears again in Pöschl (1936). The idea that the *rector rei publicae* was, in some sense, Pompey has recently been revived: see Zarecki (2014), 77-104.

³⁵² Schmidt (1973); the idea is more fully developed by Girardet (1983).

³⁵³ Zetzel (1990) 27-8.

especially Pompey, with whom he had older and deeper ties, would have been viewed in Rome as a violation of their publically declared *amicitia*, which would have meant that Cicero would have been exposed to general disrepute as well as to the personal resentment of the aggrieved dynasts.

Likewise, although he had many grievances against the conservative *nobiles*, from whom he had been increasingly estranged since the late 60s and who, in his view, had abdicated their role as Rome's natural leaders and protectors through the pursuit of disastrously short-sighted and self-serving policies, he was evidently not willing to risk a full and public breach with a group of men who had once been friends, and who could be dangerous enemies, as Caesar and Pompey could attest. Cicero indeed alludes to such difficulties in a letter to his brother in 54, in which he admits that his decision to set the dialogue in the remote past made it impossible to discuss present events directly, and explains that he felt he had to do so *ne in nostra tempora incurrens offenderem quempiam*.³⁵⁴ The identity of those who might be offended by a more explicit discussion of contemporary problems is, of course, left vague, but Quintus, who knew his brother's situation intimately would not have needed to have it spelled out for him.

The need to avoid giving offense to anyone could, and to some extent no doubt did, apply to the whole of the recent past, stretching back into the 60s and perhaps beyond, and encompassing many people besides the triumvirs and the *nobiles*. But it applied *a fortiori* to the 50s, if for no other reason than that contemporary readers, like so many modern ones, would surely have been tempted to see in the work contentious statements about the issues and personalities of the day, statements of precisely the sort that Cicero urgently needed to avoid making, or even to give the appearance of making. Thus, so far from offering a candid discussion of the problems of its times and a set of straightforward prescriptions for them, we should expect the *de Republica* to tread most lightly where some commentary upon the contemporary scene might be expected. It is therefore the immediate historical context of the work's production, the period from 59 to 52, which has left the subtlest imprint on the work itself, and thus the hardest to trace. But despite the difficulties such influences can be traced, and turn out to be of profound importance.

Otium and Negotium

The most significant of these may be the impact that this tumultuous period had on Cicero's attitude towards the status of intellectual activity and its relationship with the sphere of politics. Debate about the relative merits of the active life (usually with strong political overtones) and the life of contemplation had long exercised philosophers, going back at least to Plato and Aristotle, and continued to loom large among the Hellenistic

³⁵⁴ *Q.Fr.* 3.5.2 ("lest, in touching on the present time I should give anyone offense").

schools.³⁵⁵ Later, under the influence of Greek culture, intellectual pursuits began to figure more and more prominently in the lives of the Roman aristocracy, and here too the tension between such activity and the life of public service, which had long been held as the natural and proper sphere of action for the elite, began to be felt by those with intellectual inclinations. As the Roman understanding of this question evolved, the active and contemplative lives came increasingly to be associated with the existing categories of action indicated by the terms *negotium* and *otium*, roughly translatable as “business” and “leisure” respectively.³⁵⁶ To the former had always belonged the world of political life and the world of the courts which, together with warfare, were the defining activities of the aristocracy, as well as “business” in a more narrow, and private, sense – e.g. the practice of agriculture or commerce. *Otium*, by contrast, represented time free from such engagements, devoted to relaxation and amusement. Such recreation was, not surprisingly, generally admitted to be something desirable, and indulgence in it was not dishonorable provided that it was enjoyed within limits.³⁵⁷ Too much leisure however was incompatible with the *industria*, especially in public affairs, that defined the successful Roman statesman. Indeed, it was precisely over-indulgence in *otium* that lay at the heart of Cicero’s complaints about the *piscinarii* considered in the previous chapter. The enjoyment of leisure was thus acceptable only so long as it did not intrude upon the essential public business that was the special concern of the Roman aristocrat; where it did so it shaded into *inertia* and *desidia*, words with strongly moral overtones of idleness and sloth.

It was in this latter category of *otium* that the Romans came to set the study of philosophy, and the production and consumption of literature generally.³⁵⁸ Such activities were acceptable within proper bounds, and indeed even expected at appropriate moments; young manhood, before the beginning of a political career, was viewed in particular as a time of life which an elite Roman might spend engaged largely in intellectual pursuits, as Cicero himself had done. But the intellectual belonged to a different realm than the political, and as public *negotium* assumed an ever larger role in the life of the aspiring politician, so the intellectual *otium* necessarily retreated. Books need not be set aside entirely of course, but engagement with them assumed a status subordinate to managing affairs of state. Thus, when Cicero, a Roman politician, embarked upon the unprecedented project of writing a political treatise in Latin, he did so in a climate in which the intellectual and the political were deeply alienated from one another in Roman perception. Moreover, the act of writing a treatise, with its implications of *otium*, was itself problematic, particularly for a *consularis* who, under ordinary circumstances, should have been at the height of his power, and thus fully engaged with the *negotium* proper to a man of his station. Understanding the approach

³⁵⁵ Adkins (1978) and Nightingale (2004); for Plato see Reeve (1988), Monson (2000); for Aristotle see Ackrill (1980), Lear (1988), Lawrence (1993).

³⁵⁶ For the meaning of the words (especially *otium*), see Stroup (2010), ch.1; Fagan (2006); Connors (2000); Laidlaw (1968); Balsdon (1960).

³⁵⁷ *Sest.* 98.

³⁵⁸ For a good recent discussion see Baraz (2012), Ch. 1.

that he took to negotiating the tensions inherent in this situation requires an examination of Cicero's own life, and in particular at the way that his views on the subject developed in the decade or so prior to the composition of the *de Republica*, as these years were ones in which the question of the relationship between the intellectual and the political had greatly exercised him.

Prior to 63 B.C. the issue was one which he had had relatively little occasion to confront. To be sure, he had produced a fair amount of writing for public consumption, having circulated texts of a number of his forensic speeches, as well as the youthful work on the art of discovering rhetorical arguments now known as the *de Inventione*. Many of the speeches were committed to writing after Cicero's political career was well under way, and might thus be thought to have evoked some of the same concerns that attended the composition of the *de Republica*. However, since it involved (at least notionally) nothing more than the reproduction in writing of things said in a court of law, this sort of writing could easily be understood as an extension of a form of *negotium* that was comfortably situated within the ordinary business of the Roman elite.³⁵⁹ Moreover, producing written versions of orations, particularly forensic ones, by members of Rome's ruling class had become fairly commonplace by the time that Cicero began his career at the bar, an indication that, if any anxieties about such writing had once existed, they had been allayed by the early first century. The *de Inventione* was more exceptional. As a theoretical work (possibly the first rhetorical handbook in Latin³⁶⁰), even if one devoted to an activity that constituted a standard elite mode of activity, it might have raised some of the same issues for its author that the *de Republica* did many years later had it been the work of a man of mature years and political stature. But it belongs to the period of Cicero's youth, as he himself attests, a period when intense intellectual activity was generally smiled upon, before a public career had begun in earnest.³⁶¹ Its circulation may have raised eyebrows for other reasons, but it would not have presented the spectacle of a *consularis* writing a treatise.

³⁵⁹ Steel (2005), 21-7.

³⁶⁰ It is roughly contemporary with the *Rhetorica ad Herennium*, but the exact date of composition is unknown for both works.

³⁶¹ The only indication of the date of composition for the *de Inventione* is Cicero's description of it as *quae pueris aut adolescentulis nobis ex commentariolis nostris inchoata ac rudia exciderunt, vix hac aetate digna, et hoc usu, quem ex causis, quas diximus, tot tantisque consecuti sumus* ("the unfinished and crude essays which slipped out of the notebooks of my boyhood, or rather my young manhood, hardly worthy of my present age and of my experience gained from the many and important cases in which I have been engaged"). Steel, following Rawson, is probably right to interpret *adolescentulis* fairly broadly as implying a date for the not later than 80 B.C.: Steel (2005), 35 & n.37; Rawson (1985), 19. Others have suggested earlier *termini ante quem* – Kennedy (1994), 117; Corbeill (2002), 28.

The Pro Archia

The beginning of the evolution of Cicero's thinking on questions of the relationship between the intellectual and the political lies instead in the period immediately after his consulship in 63. Eager to capitalize on the sudden and unexpected renown that had come in the wake of the suppression of the Catilinarians, he began hunting for an appropriate eulogist to celebrate his achievements in writing. One whom he approached was the Greek poet Aulus Licinius Archias, who had already written flattering accounts of other Roman grandees.³⁶² Archias seems to have initially accepted the commission and to have already begun work when he found his citizenship challenged (for reasons unknown) by a certain Gratius. Cicero, no doubt as a *quid pro quo* for the anticipated encomium, undertook the defense, and later circulated a written version of his remarks.

The first third of the speech contains introductory material and a perfunctory discussion of the documentary evidence, or lack thereof, for Archias' status as a Roman citizen.³⁶³ The bulk of the defense however consists of an impassioned plea that the jury look beyond the technicalities of the case and give the defendant the benefit of the doubt for the sake of his artistic talents, and especially because he had employed those talents on behalf the Roman state. Here Cicero stakes out a set of positions on the relationship between writing and politics that can provide a useful starting point for an investigation of the evolution of those views in the years leading up to the composition of the *de Republica*.

Cicero introduces his new theme with a flurry of claims about the public advantages that accrue from the consumption of art.

Quaeres a nobis, Grati, cur tanto opere hoc homine delectemur. Quia suppeditat nobis ubi et animus ex hoc forensi strepitu reficiatur, et aures convicio defessae conquiescant. An tu existimas aut suppetere nobis posse quod cotidie dicamus in tanta varietate rerum, nisi animos nostros doctrina excolamus; aut ferre animos tantam posse contentionem, nisi eos doctrina eadem relaxemus? Ego vero fateor me his studiis esse deditum: ceteros pudeat, si qui se ita litteris abdiderunt ut nihil possint ex eis neque ad communem adferre fructum, neque in aspectum lucemque proferre.
(Arch. 12)

You ask us, Gratius, why we are so exceedingly attached to this man. Because he supplies us with food whereby our mind is refreshed after this noise in the forum, and with rest for our ears after they have been wearied with bad language. Do you think it possible that we could find a supply for our daily speeches, when discussing such a variety of matters, unless we were to cultivate our minds by the study of literature; or that our minds could bear being kept so constantly on the stretch if we did not relax them by that same study? But I confess that I am devoted to those studies; let others be ashamed of them if they have buried themselves in books without being able to produce anything out of them for the common advantage or anything which may bear the eyes of men and the light.

³⁶² Particularly of his principle patron Lucullus (whose name he adopted as his own), and of Marius. *Arch.* 19, 21.

³⁶³ *Arch.* 1-11.

Cicero here suggests that the art of Archias enhances the business of the forum in two ways: by providing relaxation for both the mind and the senses of those engaged in such work in between periods of *negotium*, and by supplying material which can be refashioned for expression in public modes of discourse. In the process the artist produces a benefit not merely for the person consuming his art directly (e.g. Cicero), but for the broader community which benefits indirectly through the public activity of the reader. For present purposes however the most salient feature of the passage is the instrumental role given to intellectual activity. Cicero does not here assign to it an independent worth; the value of the private consumption of art lies in its potential to contribute to the common good by enabling the work of men of the forum such as himself.³⁶⁴

Moreover, this endorsement comes with an important *caveat*...

Me autem quid pudeat, qui tot annos ita vivo, iudices, ut a nullius umquam me tempore aut commodo aut otium meum abstraxerit, aut voluptas avocarit, aut denique somnus retardit? Qua re quis tandem me reprehendat, aut quis mihi iure suscenseat, si, quantum ceteris ad suas res obeundas, quantum ad festos dies ludorum celebrandos, quantum ad alias voluptates et ad ipsam requiem animi et corporis conceditur temporum, quantum alii tribuunt tempestivis conviviiis, quantum denique alveolo, quantum pilae, tantum mihi egomet ad haec studia recolenda sumpsero? Atque hoc ideo mihi concedendum est magis, quod ex his studiis haec quoque crescit oratio et facultas; quae, quantacumque in me est, numquam amicorum periculis defuit.
(Arch. 12-13)

But why need I be ashamed, who for many years have lived in such a manner that my leisure has never to pulled me away, nor has my fondness for pleasure distracted me, or even sleep to delayed me from another man's need or advantage? Who then can reproach me or who has any right to be angry with me, if I allow myself as much time for the cultivation of these studies as some take for the performance of their own business, or for celebrating days of festival and games, or for other pleasures, or even for the rest and refreshment of mind and body, or as others devote to early banquets, to playing at dice, or at ball? And this ought to be permitted to me, because by these studies my power of speaking and those faculties are improved, which, as far as they do exist in me, have never been denied to my friends when they have been in peril.

The cultivation of intellectual pursuits is acceptable only insofar as it does not detract from time that otherwise would have been devoted to activities in the sphere of *negotium*. It is a permissible, even a laudable, substitute for such empty diversions as banqueting and game-playing, and even for less frivolous forms of leisure such as the celebration of religious rites, but it must not intrude upon such public business as activity in the courts.³⁶⁵ The Muses are still to be confined to the realm of *otium*, even if they make an indirect, though important, contribution to public business.

³⁶⁴ Some suggestion of an independent worth is hinted at later (Arch. 16), with Cicero imagining, in a counter-factual clause, that poetry would still be valued for the delights it offers even if it had no practical value, but the point is not developed at length.

³⁶⁵ cf. *Orat.* 3.88.

Having thus prepared the ground Cicero moves on to the heart of his argument, devoted primarily to poetry's function in celebrating the achievements both of Rome's great men and the glory of the *populus Romanus* generally.³⁶⁶ His treatment of this subject takes a variety of forms, but two points in particular have relevance for present purposes. The first is that art can be morally edifying because it provides models for emulation;³⁶⁷ the second is that, by conferring glory on those whom it raises up as such models, it provides a stimulus to noble conduct and the endurance of labor and danger for those who hope to win similar renown for services to their country.³⁶⁸ These arguments, which grew naturally out of Cicero's relationship with his client, no doubt suggested themselves to him in a number of ways that were specific to the exigencies of the case and to his personal political position at the time. They spoke to Roman reverence for historical *exempla*, for one, and allowed him to make that case that Archias was worthy of Roman citizenship by assimilating what the poet did in words to the traditional Roman use of *imagines* and other physical memorials. And they afforded further opportunities, which Cicero in this period could never bring himself to forego, of reminding the jury of his own consular accomplishments.³⁶⁹ But they also, and not coincidentally, established a wider role for work of a strictly literary kind in the realm of the political, and indeed a central one.

This is still, however, quite some way from an understanding of the intersection of the intellectual and the political implied by the choice of a former consul to write a literary work conceived of as a political act. Archias was (perhaps) a Roman citizen in law, but a Greek by birth and not a political actor, much less a *consularis*. The engagement of the Roman politician with the literary is still conceived of in the *pro Archia* as largely passive – he reads literature, rather than producing it; he is edified by it, inspired by it, and may even be moved by a love of glory to conduct himself in such a way as to become its object, but he does not create it. Nor is there any sense in the *pro Archia* those who do create it do not do so with political ends in mind; their art may have political ramifications, but those who make it are not, as yet, imagined as having those effects in view when they write. The literary world is still firmly fixed in the realm of *otium*, with only a tenuous and indirect influence on the political world.

De Consulatu Suo and the Perils of Self-Praise

Cicero's hopes for a panegyric from Archias were cheated; the poet appears never to have repaid his defender's benefactions in verse. Others failed him too, a fact he

³⁶⁶ *Arch.* 14-16; 19-30.

³⁶⁷ *Arch.* 14-16.

³⁶⁸ *Arch.* 14, 26, 28-30.

³⁶⁹ *Arch.* 14, 28, 30.

repeatedly mourns in letters to Atticus.³⁷⁰ Unable to elicit a literary memorial from anyone else, he fell back on his own resources, writing both a highly embellished prose work on his own consulship in Greek, in late 61 or 60 B.C., and an epic poem in Latin hexameters on the same subject later in 60, the *de consuetu suo*.³⁷¹ Of the former nothing survives, and of the latter only some 60 lines, most of which comprise a single fragment are preserved (fittingly) in another of Cicero's own works.³⁷² The prose work, its ornamental touches notwithstanding, was intended as a kind of memoir, providing material for future authors to work up into full-scale histories, although here too Cicero seems to have been disappointed.³⁷³ This sort of work was not entirely novel by the end of the 60s; M. Aemilius Scaurus, Catulus, Rutilius Rufus and Sulla had already written *commentari*, and Caesar would soon provide Latin literature with its most famous example of the genre.³⁷⁴ The notion that the writing of *commentari* was, at root, the production of a record rather than a piece of literature, allowed those members of the Roman aristocracy who wrote them to avoid confronting the complexities that would have followed upon the undisguised practice of the literary art of *historia*, even in cases, such as Cicero's own, where in reality the one is at the very least shading into the other.

The production of autobiographical epic poetry represented a more substantial departure from precedent, and raised more questions about the propriety of its elite authorship. Cicero himself seems to have been aware of the difficulties that this novel form of writing entailed. The apologetic tone of his initial mention of his intentions to Atticus is telling.

poema expectato, ne quod genus a me ipso laudis meae praetermittatur. Hic tu cave dicas:
 Τίς πατέρ' αἰνήσει; *Si est enim apud homines quicquam quod potius sit, laudetur, nos vituperemur, qui non potius alia laudemus; quamquam non ἔγκομιστικὰ sunt haec, sed ἱστορικὰ quae scribimus.*³⁷⁵
 (Att. 1.19)

you may expect a poem, not to let slip any method of singing my own praises. Please don't cite "who will praise his sire?" For if there is any more fitting subject for eulogy, then I am willing to be blamed

³⁷⁰ Att. 1.16, 19, 20; 2.1. Atticus himself however seems to have obliged him with a piece in Greek – Att. 2.1.

³⁷¹ Cicero indicates in two letters from the first half of 60 that he has sent Atticus a copy of the prose work (Att. 1.19 & 20). In Att. 2.1 he compares its highly ornamental style with Atticus' comparatively unadorned history on the same subject. Att. 1.19 implies that Cicero intended to produce a version of the piece in Latin, but there is no evidence that such a translation was ever made. The hexameter poem is mentioned in Att. 1.19, but it appears that the work was still in progress at the time the letter was penned. The next mention of it comes in a letter from December of that year and implies that Atticus already has a copy in his possession.

³⁷² Div. 1.17-22.

³⁷³ Att. 1.19; Cicero indicated in Att. 2.1 that he had sent the work to Posidonius, who found it off-putting. He offered to send it to Luceius as well - Fam. 5.12.10.

³⁷⁴ Rawson (1985), 227-8; Steel (2005), 32, 40-1.

³⁷⁵ The full Greek quotation is also found in Plutarch's *Life of Aratus* - Τίς πατέρ' αἰνήσει εἰ μὴ κακοδαίμονες υἱοί.

for not choosing some other subject. However, my compositions are not panegyrics at all, but histories.

The prose work requires no such proleptic defense, but Cicero clearly anticipates an objection from his friend to the poetic piece. The unusual nature of this experimental mode of writing may also explain Cicero's strange ambivalence about the self-congratulatory nature of the work, something he at first admits, only to deny a few lines later when he attempts to rebrand the work as historical. His anxieties were well founded; the work received a hostile reception, and was decisive in cementing his reputation as a second-rate poet.³⁷⁶ Whatever effect the quality of the poetry may have had on the judgment rendered upon his merits as a poet, the awkwardness of the authorship no doubt did little to improve its reception among contemporaries.

As Cicero admits to Atticus, he had written these works, in the first instance, to add luster to his own reputation and, we may suspect, to push back against other, less favorable, interpretations of the events of late 63 that were then current and beginning to become menacing.³⁷⁷ But it is not unreasonable to think that he had also hoped that this autobiographical work would fulfill the purposes which he had set for poetry in the *pro Archia* – to wit, the creation of ethical models which could edify the reader and, by means of the glorification of its principle subjects (himself, in this case), the stimulation of others to try to achieve similar immortality through by accepting labor and danger on behalf of the *res publica*. That he himself, as a member of the political class, should undertake such a task, especially in the form of poetry with its undisguised didacticism, represents a movement in the direction of the merging of the artistic and the political, and of the conception of writing as a political act.

That process was not complete however, and the end of our longest extant fragment of the poem captures some of the ambiguities of this transitional moment. The surviving section comprises an address by the Muse Urania to Cicero, recounting the portents that marked the advent of the Catilinarian conspiracy of which he, as consul, had taken note.³⁷⁸ She goes on to explain that the doom which these omens portended would have been realized had Cicero himself not undertaken to erect a statue of Jupiter shortly before the conspiracy was hatched. This act of piety wins the favor of the gods, and in consequence the plot is revealed to senate and people by means of the Allobrogian embassy.³⁷⁹ After praising the reverence of the Romans of old for the gods and their messages to men, Urania then continues...

*Haec adeo penitus cura videre sagaci
otio qui studiis laeti tenere decoris
inque Academia umbrifera nitidoque Lyceo
fuderunt claras fecundi pectoris artis.*

³⁷⁶ Steel (2005), 32.

³⁷⁷ See above, Ch. 4.

³⁷⁸ *Con. Suo.* frag. 2 = *Div.* 17-20.

³⁷⁹ *Con. Suo.* frag. 2 = *Div.* 20-21.

*E quibus ereptum primo iam a flore iuventae
te patria in media virtutum mole locavit.
Tu tamen anxiferas curas requiete relaxas,
quod patriae vacat, id studiis nobisque sacraſti.*
(*Con. Suo.* frag. 2 = *Div.* 22)

Such were the truths they beheld who painfully searching for wisdom
gladly devoted their leisure to the study of all that was noble,
and, in the Academy's shade or the dazzling brightness of the Lyceum
poured forth the brilliance of their prolific minds.
Torn from these studies in the flower of youth,
your country set you in the thick of the struggle for public preferment.
Yet, in seeking surcease from these worries and cares
what time your country leaves free, you devote to us and to learning.

Elements of traditional Roman thinking are still very much in evidence here: the distinction between *otium*, devoted to literature and philosophy, and the *negotium* of public business is, for example, explicitly maintained. So too is the typical view that *otium* could only be properly indulged in such time as was left over from the demands of *negotium*. And yet, in significant ways the strict division of the literary and the political is beginning to collapse here in ways that prefigure what Cicero does some years later in the *de Republica*.

The passage as we now have it does not explicitly state that Cicero's early intellectual pursuits are what permitted him to properly read the portents and respond in a way that earned for Rome the clemency of the gods, but it is very strongly suggested by the juxtaposition of the story about the reading of the omens and the erection of the fateful statue with the final section where Urania notes Cicero's early training in and continuing devotion to the Muses, and it is difficult to understand the connection between the quoted section and the rest in other terms. Cicero, speaking through the Muse, is careful to stress that his piety is part of his inheritance as a Roman from the *mos maiorum*, but the knowledge of divination and of the gods which allows him to properly navigate the Catilinarian crisis seems to come in fact not from ancestral tradition, but from the intellectual realm, represented poetically by the Academy and Lyceum, and it is this knowledge which allows him to save the state at a great turning point in its history.³⁸⁰ This gives book learning an instrumental significance in the political realm that goes beyond what was suggested in the *pro Archia*. In that speech, literature had been described as providing a variety of benefits, providing relaxation, moral edification and a linguistic resource for orators looking for phrases and images with which to adorn their speeches. But in *de Consulatu Suo* time spent with the Muses actually provides the statesman with training directly relevant to his craft, knowledge which he can apply to

³⁸⁰ In antiquity divination was widely considered to be a proper science, and this is the position that Cicero himself takes in the *de Divinatione*, in which the largest of the *de Consulatu Suo* fragments is preserved. This point was not universally conceded – the passage from which the fragment comes is in fact part of an argument against the skeptical position of Carneades – but most contemporaries would have allowed that the study of divination, and of the gods generally, was one of the higher branches of learning.

problems confronting the state, which can indeed prove pivotal in its existential crises. It is therefore not surprising that Cicero, hero of his own story and model of Roman statesmanship, should depict himself as devoting what time the actual conduct of state business does not consume to intellectual exercises, which are now revealed to be directly applicable to the execution of that business. It also goes some way towards explaining why he was willing to step outside of expected modes of aristocratic behavior and to become a producer, as well as a consumer, of literature in a way that he had not previously done, for in bringing the political and literary realms closer together, he had gone some way towards making the later an appropriate arena for elite activity.

The Triumvirate and its Discontents

Cicero's willingness to push the boundaries both of genre and of the behavior socially acceptable for a man of his status was, it is true, born of frustration at his failure in pursuing the more traditional, and less potentially controversial, route of finding others to sing his praises. But it was also the product of the optimism of 63, the belief that, through his own exertions and the application of his genius, he was capable of shifting paradigms. In 63 he had, as he saw it, fashioned a new model of Roman heroism, saving the state not on the battlefield, as many of Rome's heroes had done, but through the use of oratory to create a *consensus bonorum*.³⁸¹ His artistic output in 60 represents something similar in the field of literature, an effort to carve out a unique identity for himself, and a unique mode of literary activity.

That spirit of optimism, already under pressure as the political scene (as he saw it) deteriorated in the years immediately after his consulship, soon suffered further blows. The surviving evidence tells us little about the way that the critical reception of *de Consulatu Suo* affected its author, and his return to the genre after exile with *de Temporibus Suis* shows that, disappointed though he must have been, he was not entirely put off of the idea of writing autobiographic epic. But he must have sooner or later realized this initial effort had failed to bear fruit. And worse was to come on the political front. The changed circumstances in Rome that Caesar's compact with Pompey and Crassus brought in its train led him nearly to despair of the *res publica*, and in disgust he abandoned the city in the spring of 59 for the country, taking up residence first at Antium, then at Formiae, where he owned properties. Atticus remained in Rome, and their need to communicate, combined with the relative ease with which they could exchange letters, has provided us with an abundance of letters which offer a detailed view into Cicero's thinking during these months.³⁸²

³⁸¹ See above, Ch. 3.

³⁸² *Att.* 2.4-17 cover this period (April and May 59 B.C.).

It was a time of intense, varied and deeply personal reflection about the relationship of the intellectual to the political, but one which produced questions more often than answers. What did devoting time to intellectual activity mean, exactly? Should he think of his cultivation of such pursuits as an alternative to politics at a time when action in the public sphere was constrained, or was it rather a rejection of politics altogether? If the latter, could this be understood as a means of remaining true to his principles under circumstances where the only alternative was to betray them, or did his renunciation of the political life constitute, in and of itself, the abandonment of beliefs that he had made central to his public and private identity? Nowhere in the letters does he expound a coherent view on these questions, and the ambivalences and ambiguities in what he does say strongly imply that he never formulated one in this period. They give only hints as to the directions in which his thoughts are moving, and as these are so often inchoate, tangled or in flux, teasing out the various strands calls for careful reading of the evidence.

His first letter from Antium provides a revealing glimpse into the mindset with which he approached his decision to absent himself from Rome. After mulling some of the news from the city reported in Atticus' last letter he indicates that he will wait on events before deciding whether to take a *libera legatio*, then turns to his immediate plans, writing...

Interea quidem cum Musis nos delectabimus animo aequo, immo vero etiam gaudenti ac libenti, neque mihi umquam veniet in mentem Crasso invidere neque paenitere, quod a me ipse non desciverim. De geographia dabo operam ut tibi satis faciam; sed nihil certi polliceor. Magnum opus est. Sed tamen, ut iubes, carabo ut huius peregrinationis aliquod tibi opus exstet. Tu quicquid indagaris de re publica, et maxime quos consules futuros putes, facito ut sciam. Tametsi minus sum curiosus; statui enim nihil iam de re publica cogitare.”

(Att. 2.4)

In the meanwhile, I will delight myself with the Muses with equanimity, or rather with pleasure and enjoyment, nor will it even enter my head to envy Crassus or regret that I did not abandon my principles. As for the work on geography, I will make an effort to satisfy you, but I don't promise anything; it's a big task. But since you enjoin it on me, I will do as you ask and see to it that something comes out of this tour for you. If you hunt up any political news, particularly about who you think the consuls will be, let me know. However, I'm not really all that curious; I have decided to think no more about the state for the moment.”

Clearly, Cicero had conceived of this period as one to be spent primarily in some form of intellectual pursuit, but it is equally clear that he had no particular project in mind at the outset, although he commits himself in vague terms to writing something. The fact that he set out for Antium with no fixed plan strengthens the impression made by *aequo animo*, giving the sense that the decision was to some degree enforced, an impression which is not entirely dispelled when he corrects himself and says that he is devoting himself to the Muses *gaudenti ac libenti*. And he finishes his discussion of his immediate plans by describing them in strictly negative terms, as an absence of curiosity about the political scene in Rome and a refusal to think about the state.

As his sojourn in the countryside continued, Cicero continued to try to articulate what he was doing there in letters. A range of words and phrases, all broadly denoting intellectual activity, crop up in the course of these accounts: *cum omnibus Musis rationem habere*; φιλοσοφεῖν (in various forms); *libris me delecto*; *incumbamus ad illa praeclara studia*; *philologiae nostrae*.³⁸³ However, we get very little, if any, sense of a particular intellectual project in which he is engaged, in contrast to other periods where he lays out a definite program of research.³⁸⁴ He indicates his intention to embark upon writing of one kind or another, largely at Atticus' urging; geography and history are both mentioned as subjects, as are a private memoir (ἀνέκδοτα) and a pair of speeches.³⁸⁵ But he soon begins to back off of his commitments, and there is no evidence that he did in fact produce any significant work during this period.³⁸⁶ Moreover, his descriptions of his time with the Muses are peppered with indications that his *otium* is in fact largely *inertia*. Excusing himself from producing the geography that Atticus had asked of him, he writes...

*Quod tibi superioribus litteris promiseram, fore ut opus exstaret huius peregrinationis, nihil iam magno opere confirmo, sic enim sum complexus otium, ut ab eo divelli non queam. Ita aut libris me delecto... aut fluctus numero, nam ad alacertas captandas tempestates non sunt idoneae; a scribendo prorsus abhorret animus. ... mihi quaevis satis iusta causa cessandi est. Qui etiam dubitem, an hic Anti considam et hoc tempus omne consumam.*³⁸⁷
(Att. 2.6)

I am now not so certain about what I promised in earlier letters about writing something on this tour, since I have so embraced leisure that I can hardly detach myself from it. So I read books... or count the waves, since the weather isn't suitable for fishing. At writing my soul utterly rebels. ... I find any excuse at all is good enough for doing nothing. I am even thinking about settling at Antium and spending the rest of my life here.

Even where Cicero's *otium* is equivalent to *cessandi* however, it is often given shape and form by what it is not, namely by the absence of politics from his daily life, and even from his thoughts. One example has already been noted in which Cicero associates this

³⁸³ The Muses – Att. 2.4, 5; φιλοσοφεῖν – Att. 2.5, 12, 13, 14; *libris me delecto* – Att. 2.6; *incumbamus ad illa praeclara studi* – Att. 2.16; *philologiae nostrae* – Att. 2.17. The sense σοφιστεῦν (“play the sophist”) in Att. 2.9 is a bit obscure – it could be interpreted as a reference to his current political inactivity, but it might also connote some kind of public stance – cf. Att. 2.16

³⁸⁴ The nearest we come is in a letter early in his time at Antium, in which he discusses certain obstacles that stand in the way of writing a geography, and mentions authors (Eratosthenes, Serapion, Hipparchus and Tyrannio) whom he may have been reading recently – Att. 2.6.

³⁸⁵ Geography – Att. 2.4, 6, 7; History – Att. 2.8; Memoir – Att. 2.6; Speeches – Att. 2.7.

³⁸⁶ On the geography – Att. 2.6 (see n. 33); the speeches – Att. 2.7; abjuring writing generally – Att. 2.6, 14.

³⁸⁷ Cf. Att. 2.7 – *Denique aliquid exstabit, ne tibi plane cessasse videamur* (“Something will appear anyhow, lest I seem to you to have been completely idle”); Att. 2.8 – *nihil me est inertius* (“I am the laziest man alive”); Att. 2.14 – *Ego autem usque eo sum enervatus, ut hoc otio, quo nunc tabescimus, malis ἐντυραννεῖσθαί quam cum optima spe dimicare* (“For myself however I have grown so languid that I should rather pass my life under tyranny in the ease in which I am now wasting away than fight with the greatest hope of success”)

period of *otium* with a refusal to think about politics. Similarly, in the passage just cited, after declaring that he is thinking of settling in Antium for good, he goes on to give as his reason that the place represents a haven from the political world of Rome. He ought to have been a *duumvir* in this little town, he says, precisely because its politics are so utterly divorced from those of the city – no one there has ever seen Vatinius, or bothers his head over the commissioners of Caesar’s agrarian bill.³⁸⁸ He may be disbarred from engaging in politics in Rome, but he is heartily sick of it as well.³⁸⁹ In the country his only remaining political impulse is hatred of the *improbi*, and even that without much feeling.³⁹⁰

Similar sentiments crop up elsewhere in his correspondence in this period. In another letter Cicero, after posing a variety of questions about how the triumvirate was faring and what was to be done about filling an augurship that he coveted, cut himself short and reiterated his intention to put politics out of his mind and devote himself entirely to intellectual endeavors.³⁹¹ It is a resolution he is never able to keep to – indeed he immediately follows this declaration of his intentions with a few additional questions he wants Atticus to investigate through his well placed contacts. The conflict between his renunciation of interest in politics and his incurable desire for the latest political gossip from the city is in fact a recurring theme of the letters to Atticus, upon whom he chiefly relied for news while he was out of town.³⁹² But despite his thirst for all the latest about public affairs, he continued to think of his “time with the Muses” as being characterized largely, even principally, by an absence of politics from his life. The idea appears most strikingly in a letter from late in his country tour, after he had relocated to Formiae in the hope of meeting Atticus, who was soon to depart on his own trip to Epirus. In it he imagines himself confronted with a choice between the political life and a life devoted to intellectual pursuits, expressed metaphorically as a debate between the philosophers Dicaearchus and Theophrastus, representing the claims of the political and the intellectual respectively.

Nunc prorsus hoc statui, ut, quoniam tanta controversia est Dicaearcho, familiari tuo, cum Theophrasto, amico meo, ut ille tuus τὸν πρακτικὸν βίον longe omnibus anteponat, hic autem τὸν θεωρητικὸν, utrique a me mos gestus esse videatur. Puto enim me Dicaearcho adfatim satis fecisse; respicio nunc ad hanc familiam, quae mihi non modo, ut requiescam, permittit, sed reprehendit, quia non

³⁸⁸ *Esse locum tam prope Romam, ubi multi sint, qui Vatinium numquam viderint, ubi nemo sit praeter me, qui quemquam ex viginti viris vivum et salvum velit.*

³⁸⁹ *Hic, hic nimirum πολιτευτέον; nam istic non solum non licet, sed etiam taedet.*

³⁹⁰ *Neque aliud iam quicquam πολιτεύομαι nisi odisse improbos et id ipsum nullo cum stomacho, sed potius cum aliqua scribendi voluptate.*

³⁹¹ *Att. 2.5 – Sed quid ego haec, quae cupio deponere et toto animo atque omni cura φιλοσοφεῖν. Sic, inquam, in animo est... cum omibus Musis rationem habere cogito.*

³⁹² *Att. 2.7 – Atque haec sic velim existimes non me abs te κατὰ τὸ πρακτικὸν quaerere, quod gestiat animus aliquid agere in re publica. (“I don’t want you to think that I am asking these questions with a view to practical action because my soul is yearning to get back into politics”). Cf. Att. 9, 11, 12, 14, 15*

*semper quierim. Quare incumbamus, o noster Tite, ad illa praeclara studia et eo, unde discedere non oportuit, aliquando revertamur.*³⁹³
(Att. 2.16)

As it is, since there is so great a controversy between your intimate Dicaearchus, and my friend Theophrastus, yours making the practical life out to be far the better, mine the contemplative, it would seem that I have humored both. I think that I have done more than enough to satisfy Dicaearchus; now I am turning to the other school, which not only allows me to take my ease, but reprimands me for not having done so from the start. And so, my dear Titus, let me apply myself at last to those excellent studies from which I should never have turned away.

That Dicaearchus, as the advocate of τὸν πρακτικὸν βίον, is represented as the *familiaris* of Atticus, who had always resolutely avoided personal involvement in politics, has struck some as odd.³⁹⁴ But it was not anomalous - this curious transposition of roles also occurs in an earlier letter which Cicero had rounded off by writing Κικέρων ὁ φιλόσοφος τὸν πολιτικὸν Τίτον ἀσπάζεται.³⁹⁵ The most likely solution to this riddle is that that Atticus had been resisting Cicero's inclination to retire from public life and encouraging him to return to the political scene.³⁹⁶ As we lack Atticus' side of the correspondence this supposition must remain hypothetical, but such an attitude on his part would help explain why Cicero is so persistent in abjuring politics in their correspondence from this period. But be that as it may, the key point is clear enough; intellectual pursuits were for Cicero in this period not merely an alternative to a political scene which he found unsatisfying, as has often been claimed – they were instead the antithesis of politics, defined by, and deriving value specifically from, its absence.

Indeed, they were something more even than this. In Cicero's more bitter moments at least, the cultivation of the arts came to be equated with an outright rejection not only of the political life, but of the value system that underpinned it, to which he had earlier subscribed so enthusiastically. In the wake of the suppression of the Catilinarians he had taken every opportunity to extol the virtues of political engagement and the courage of public figures in the face of labors and dangers. The image of himself, which he had lovingly embellished with all of colors of his art, was of one of a Roman statesman in the old style, who had endured endless toil and faced down a host of menaces to the *patria* on account of an abiding love of country, animated and sustained by the affection of a grateful nation and the hope that great virtue would have enduring glory as its reward. *Gloria* he saw as the highest end towards which human life could aim, and the means by which the greatest *gloria* was obtained was through conspicuous service to the state, particularly when such services were rendered its darkest hours. This was, to be sure, an outlook typical of Romans (those of the ruling classes, at any rate), but it was one which was especially congenial to Cicero himself after 63, as he saw himself

³⁹³ Dicaearcus and Theophrastus had already appeared in letters from Antium: Theophrastus – Att. 2.9, Dicaearchus – Att. 2.12.

³⁹⁴ See e.g. Huby (2001), 314.

³⁹⁵ Att. 2.12 – “Cicero the philosopher salutes Titus [Atticus] the politician”.

³⁹⁶ Cf. Baraz (2012), 71 n. 65.

as having performed great services for the *res publica* and to thus as being deserving of the rewards promised for such deeds.

It was a value system however which was difficult to reconcile with the life of a man withdrawn from the public scene and devoted to books and counting the waves. At the outset he consoled himself with the thought that he had left Rome in order to avoid being forced to sacrifice his political principles.³⁹⁷ Perhaps he took Q. Metellus Numidicus as his model.³⁹⁸ But this seems to have been a passing conceit; the idea that he had given up politics in order to remain true to himself does not recur in the later letters from Antium and Formiae. Instead there follows a string of surprisingly explicit renunciations of the beliefs that formed the foundation of his earlier public persona, and to no small extent his private one as well. In just his second letter from Antium he declared his intention to philosophize *quae putavi esse praeclara, expertus sum quam essent inanina*.³⁹⁹ Nor is it only his aspirations which have dimmed; his hatreds have become similarly muted. Since the suppression of the Catilinarian conspiracy Cicero had insisted that the natural corollary to love of country was abhorrence of the *improbi* who were working for her destruction, and his implacable opposition to this ill-defined group had been a cornerstone of his self-image. But in the next letter from Antium he writes that as his interest in politics has abated, so too even his loathing for his self-declared enemies had become much attenuated.⁴⁰⁰

Most dramatically of all, he emphasizes again and again his indifference to the fate of the *res publica*, despite his own insistence that it is in a desperate plight. In two letters he employs the old philosophic metaphor of the ship of state. In the first, he says that, having had the helm torn from his hands, his only desire now is to watch the coming shipwreck from the safety of land, a reference almost certainly to his withdrawal, literal and figurative, from the Roman political scene.⁴⁰¹ The second pictures not a shipwreck, but merely a *vehi malo* (“bad passage”), but it is in a way the more striking. In the first he describes himself as having the power to shape events taken from him against his will, and as such his desire to escape from the calamity that he foresees might be forgivable if he can do nothing to avert it (although such a desire surly still falls far short of the standards of patriotic heroism that Cicero had developed in speeches since 63). In the second however, he declares that he would rather suffer a bad pilot to steer the ship of state than to take the helm himself because he resents the ingratitude of the passengers.

³⁹⁷ Att. 2.4. – *neque mihi umquam veniet in mentem Crasso invidere neque paenitere, quod a me ipse non desciverim*. See above, p. 18.

³⁹⁸ Quintus Caecilius Metellus Numidicus had refused to take the oath that the popular tribune Saturninus had attached to his agrarian law, and given up his senate seat as a result.

³⁹⁹ Att. 2.5 – “because I have seen how empty are the things that I was thought most glorious”. The context makes clear that the things once thought *praeclara* are political in nature.

⁴⁰⁰ Att. 2.6 – *Neque aliud iam quicquam πολυτεύομαι nisi odisse improbos et id ipsum nullo cum stomacho, sed potius cum aliqua scribendi voluptate* “My only policy now is hatred of the rascals; and that without much rancor, but rather with pleasure in the expression of it.” – See above, p. 20.

⁴⁰¹ Att. 2.7 – *nunc vero cum cogar exire de navi non abiectis, sed ereptis gubernaculis, cupio istorum naufragia ex terra intueri*.

Whom he means these to be exactly is not specified; he may mean the citizens generally, but it seems more likely that he has the so-called *optimates* in mind, about whose failure to repay his services he had of late often complained. Either way, his declaration that he would not save the state if he could is a startling abnegation of his earlier ideals, and doubly so if it is occasioned by his annoyance not at the Roman people generally, but merely at a handful of aristocrats for whom he was rapidly losing respect anyhow. Similar sentiments, without the nautical metaphor, are expressed a little later in a passage already cited, where Cicero claims that he has now grown so accustomed to ease that he is not tempted to fight the triumvirs even though he could do so with every chance of victory.⁴⁰² And in the following letter he contemplates the possibility that P. Clodius, soon to be a tribune, might fight such a battle, either saving the state in the process or destroying it. But he seems to regard so dramatic a turn in Rome's political fortunes with neither hope or apprehension, but rather with the detached interest of a spectator at a gladiatorial show.⁴⁰³

This state of emotional detachment from the things about which he once cared so deeply was not merely concurrent with his turn towards intellectual pursuits but intimately intertwined with it. In particular Cicero repeatedly suggests that his growing indifference to the political scene in Rome (real or not) was part of a newly philosophical outlook, and the ways in which Cicero employs philosophic concepts and terms in explaining his new attitude towards the political scene therefore deserves special attention. The first intimations of such a change in outlook actually predate his self-imposed banishment to the countryside by more than a year. They were prompted by the candidacy of L. Afranius for the consulship. Cicero held the man in contempt, believing that his only qualification for Rome's highest honor was that he was Pompey's legate. The consulship had been a lifelong ambition for Cicero and he viewed his attainment of it as a recognition of his extraordinary ability and a reward for outstanding public accomplishments; the prospect of a non-entity being raised to consular dignity, not through his own merit and achievement, but rather through the influence of a powerful friend who wanted to install a surrogate in office, filled him with indignation. But there was little he could do about it; Pompey's influence was enormous, and having worked long and hard to forge his own alliance with the general, Cicero could hardly risk an open breach over the matter of Afranius. Instead, he vented his impotent rage to Atticus. "*Sed heus tu!*" he wrote in June of 61, "*Videsne consulatum illum nostrum, quem Curio antea ἀποθέωσιν vocabat, si hic factus erit, fabam mimum futurum? Quare, ut opinor,*

⁴⁰² Att. 2.14 – *Ego autem usque eo sum enervatus, ut hoc otio, quo nunc tabescimus, malis*

ἐντυραννεῖσθαι *quam cum optima spe dimicare* ("For myself however I have grown so languid that I should rather pass my life under tyranny in the ease in which I am now wasting away than fight with the greatest hope of success".)

⁴⁰³ Att. 2.15 – *Sive ruet sive eriget rem publicam, praeclarum spectaculum mihi propono, modo te consessore spectare liceat.* ("Whether he lays waste to the state or sets it on its feet again, I am looking forward to an excellent show, provided that I am allowed to watch it with you sitting beside me.")

φιλοσοφητέον, *id quod tu facis, et istos consulatus non flocci faciteon.*⁴⁰⁴ After the election, Cicero wrote again and described the accomplished fact in almost identical language – “*Consul est impositus is nobis, quem nemo praeter nos philosophos aspicere sine suspiritu posset.*”⁴⁰⁵

It is difficult to know exactly what interpretation to give to the use of the term ‘philosophy’ (in its various forms) in these passages.⁴⁰⁶ In the first, philosophy seems to represent an alternative value system which places less importance on office holding, one to which Cicero is compelled to resort by the destruction, caused by the likely election of Afranius, of the system in which he had previously placed his faith. In the later passage however, philosophy’s function is merely anodyne, allowing those who practice it to endure with equanimity what would otherwise be traumatic. Atticus was a well-known Epicurean, and Cicero may have been referring not to the practice of philosophy generally, but to his friend’s preferred school more specifically, as implied by *id quod tu facis*. The Epicurean devaluation of the political life, which Cicero at other times found highly distasteful, might have found a fleeting attraction for him in a moment when he suddenly perceived as empty the things he had once valued highly, while the school’s emphasis on the avoidance of pain would fit the sense of the second passage well. But it is also entirely possible that Cicero’s meaning is less specific, and that what he really has in mind in the first passage is nothing more than that he should now stand aloof from politics, as Atticus always had, content to live the life of a private citizen.⁴⁰⁷ But in either case, Cicero is already in this period thinking of philosophy as a form of disengagement from the political world.

The pattern reemerges in 59. One of the relevant passages has already been cited, in which Cicero imagines the choice between τὸν πρακτικὸν βίον and τὸν θεωρητικὸν βίον as a debate between the philosophers Dicaearchus and Theophrastus respectively, with Cicero siding with the latter, while Atticus endorses the former. Here he does not so much equate philosophy generally with political disengagement as represent the choice to disengage as a philosophical one. In other words, he depicts his decision to turn his back on the political scene (at least temporarily) as an intellectual preference for a particular philosophical school of thought on the subject of the best kind of life. Elsewhere however he returns to the idea that philosophy represents an emotional detachment from, or an indifference to, political matters. In the letter that immediately follows the one in

⁴⁰⁴ *Att.* 1.16 – “But see here, don’t you realize that if that fellow gets in, that consulship of mine, which Curio used to call an *apotheosis*, will become a farce? It will be necessary then, I suppose, to take to philosophy as you do, and not give a damn about those consulships of theirs.”

⁴⁰⁵ *Att.* 1.18 – “We have had a consul [Afranius] foisted on us whom no one but us philosophers could look upon without a sigh.”

⁴⁰⁶ See Bailey (1965), 325, who recognizes the ambiguity, and suggests that something as broad as “literary studies” may be meant.

⁴⁰⁷ *Cf.* Baraz (2012), 68-70.

which he first identifies himself a “philosopher”⁴⁰⁸ he refers to an incident mentioned in Atticus’ previous missive as having initially stirred up a storm of indignation at Rome, but one which had subsequently died down. The event, whatever it was (the reference is obscure) aroused similar passions in the countryside, Cicero reports, but outside the city these have not abated, and he himself, despite his rank and own erstwhile zeal for all things political, now takes the matter more coolly than any of the country folk among whom he now resides.⁴⁰⁹ His imperturbability he ascribes to philosophy, writing *Quare, mihi crede, φιλοσοφῶμεν. Iuratus tibi possum dicere nihil esse tanti.*⁴¹⁰

Another comment in the same vein comes at the end of the correspondence from Formiae. Cicero mentions a variety of recent items of news reported by Atticus, including the upcoming marriage of Pompey and Caesar’s daughter, as evidence that the triumvirs were now aiming at undisguised tyranny. But he, in his newly philosophic spirit, advises against hand wringing, writing...

Verum, ut scibis, haec in Arpinati a. d. VI circiter Idus Maias non deflebimus, ne et opera et oleum philologiae nostrae perierit; sed conferemus tranquillo animo. Di immortales neque tam me εὐελπιστία consolatur ut antea quam ἀδιαφορία, qua nulla in re tam utor quam in hac civili et publica.
(Att. 2.17)

But, as you say, we will not weep over these things [when we meet] in Arpinium about the Ides of May [May 10th], lest we squander all of the labor and lamp oil we have spent in our studies, but rather confer about them dispassionately. By the gods, I am no longer comforted by hope, as I once was, but rather by an indifference that I summon up especially in civic and political matters.

Philologiae need not, it is true, refer specifically to philosophy, but there are reasons to think that Cicero had that meaning in mind here.⁴¹¹ Emotional detachment was a defining characteristic of philosophers, particularly of the Stoic and Epicurean schools. Cicero and Atticus seem to have first met as students of the Epicurean Phaedrus, and it may be that period in particular which Cicero evokes when he speaks of *philologiae*

⁴⁰⁸ Att. 2.12 – Κικέρων ὁ φιλόσοφος τὸν πολιτικὸν Τίτον ἀσπάζεται (“Cicero the philosopher salutes Titus [Atticus] the politician”) – see above p. 21-22

⁴⁰⁹ Att. 2.13 – *Si vero in hanc Τηλέπυλον veneris Λαιστρυγονίην, Formias dico, qui fremitus hominum! Quam irati animi? Quanto in odio noster amicus Magnus! Cuius cognomen una cum Crassi Divitis cognomine consenescit. Credas mihi velim, neminem adhuc offendi, qui haec tam lente, quam ego fero, ferret.* (“If you come to this “Laestrygonia of the far gates” [Formiae], what roaring and rage you will see! Not to mention into what disrepute our friend ‘the Great’ [Pompey] has fallen, whose nickname has grown as obsolete as that of ‘Wealthy Crassus’. Believe me, there is not a man here who takes the matter as lightly as I do.” The claim is particularly striking given the emphasis Cicero had placed in an earlier letter on the refreshing indifference of the country folk at Antium to Roman political affairs – see Att. 2.6 and above, p. 20.

⁴¹⁰ Att. 2.13 – “For this reason, trust me, let us stick to philosophy. On my oath, there is nothing like it.”

⁴¹¹ *Philologia* is a comparatively rare Latinization. For parallels see Vitr. 7, pr. 4; 8.3.25. Seneca indeed contrasts *philologia* with *philosophia*, the former being given the sense of an academic exercise unrelated to the pursuit of wisdom – Ep. 108.23 (*quae philosophia fuit, facta philologia est.*)

nostrae.⁴¹² And the introduction of the term ἀδιαφορία, which was a particular favorite of the Stoics when describing the sage's indifference to that which was neither good nor bad in and of itself, is telling.⁴¹³ Cicero however gives the term an interesting twist, for his ἀδιαφορία does not specifically encompass what is morally neutral, but rather the sphere of public and political life generally including, as here, an instance where his indifference is directed at objects, such as the prospect of a tyranny at Rome, that he himself could hardly have viewed as anything other than bad in an ethical sense.

In sum, this fascinating collection of letters affords us a singular window into Cicero's reaction to what, up to that point at any rate, had been the most profound disappointment of his life. The *dominatio* of Pompey, Caesar and Crassus in 59 not only deprived him of the influence that he had hoped to enjoy as a *consularis*, but also seemed to him to change the nature of the political landscape in ways that drained the practice of politics of meaning and satisfaction. The advent of the triumvirate, combined with the refusal of the *nobiles* to accept the *novus homo* into their circle, produced a despair that drove him to abandon the Roman political scene both literally and metaphorically. The three months or so that he split between his country properties at Antium and Formiae were filled with efforts to find an alternative outlet for his energies, and groping attempts to explain what relationship this new way of life bore to the old which had been defined primarily by the political. His love of letters made recourse to intellectual pursuits of various kinds a natural choice, and on the pattern of his recent experimentation with writing as way of being political, as prefigured in the *pro Archia* and the *de consulatu suo*, he might have been expected to employ his *otium* in the production of something relevant to the changed circumstances of the Roman political world and his place within it. But although he undoubtedly read much, his time spent with the Muses never coalesced into the written work that he had initially set as his goal or, so far as we can tell, into any particular program of study. Instead intellectual activity in this period came to be defined by Cicero in mostly negative terms as the absence of politics and, at least in some of his more frustrated and dejected moments, as the repudiation of politics and the value system, with its emphasis on love of country and glory, that had previously defined his outlook on it. To philosophy he now looked not for instruction in the virtues befitting a public figure, as he once had, but rather for justifications for a life that shunned the public sphere, and for a state of emotional detachment from what he saw as the destruction of the *res publica* itself.

⁴¹² Rawson (1975), 15.

⁴¹³ See, e.g., Aristo *Stoic.* 1.79, 83; Chrysipp. *ib.* 3.9; Zeno *Stoic.* 1.47, 48; Epict. *Ench.* 32. Cf. Cic. *Acad. Pr.* 2.42.130; *Fin.* 3.16.53.

Exile and Accommodation

Cicero had once toyed with the idea of staying away from Rome for good, but this turned out to be a passing fancy, and we find him discussing a return to Rome by June of 59.⁴¹⁴ He had arranged while in Formiae to meet Atticus, himself on his way to the east, at a third country estate at Arpinum, and their correspondence breaks off with the latter's departure, not to resume for several months. Their roles were now to some extent reversed, and it is Cicero, writing from Rome, who is obligated to keep his friend up on the goings on in the city. In the remaining eight letters before Cicero's departure into exile he executes his charge dutifully. But his aversion to all things political remains very much in evidence and he acts as a reluctant reporter, his accounts being mostly terse, with little trace of the pleasure he had once taken in chewing over the minutiae of maneuverings in the *curia* and the gossip of the town.⁴¹⁵ He furthermore reports that he is studiously avoiding engaging in public deliberations and confining his activity to the courts, a course which he acknowledges as representing a significant departure from his earlier practice.⁴¹⁶ All mention of purely intellectual activity disappears – there is no mention in this period of what Cicero is reading, and no mention of any significant writing project – but his distaste for the political world remained unchanged.

A large and growing proportion of the correspondence in this period is concerned with the danger posed by Clodius' impending tribunate, and by the time the letters break off again in the late autumn of 59 Cicero is imploring Atticus to return to Rome as quickly as possible so that he may have the benefit of his advice in the coming struggle. When the correspondence resumes, Cicero is heading to the south of Italy, on his way to exile in the east. For the next nine months while Atticus remained in Rome, covering all but the first months of 58, Cicero sent him a stream of letters. Occasionally his spirits would be raised a bit by some scrap of news from his friend that could be read as suggesting that his banishment might soon be lifted, but such hopes always proved fleeting in 58 and the tone of the correspondence from this period is one of almost unrelieved despair.⁴¹⁷ For present purposes what is remarkable about Cicero's letters from exile is the striking contrast that they make with the earlier set discussed above, written from his rural estates. For his three month sojourn in the Italian countryside had been, in a sense, a self-imposed banishment, in which he purposefully cut himself off from the world of Rome. Then, he had reveled in his detachment, literal and emotional,

⁴¹⁴ *Att.* 2.6; *cf.* *Att.* 2.8.

⁴¹⁵ *Att.* 2.18, 19, 21. He was also tormented by fears that his correspondence would be intercepted and that his dire descriptions of the state of the *res publica* might fall into the hands of someone who would take umbrage with it (i.e. one of the triumvirs) – *Att.* 2.19, 20.

⁴¹⁶ *Att.* 2.23, 24; *cf.* *Att.* 2.18. His only recorded political act in the latter half of 59 consisted of a very trivial role played as a functionary in the consular elections – see *Pis.* 11, *Post Red.* 11.

⁴¹⁷ Cicero's recall was finally effected in the late summer of 57, but since Atticus had gone east to join Cicero sometime around the new year the letters break off at that point. The two surviving letters sent to his brother Quintus in this period (*Q.Fr.* 2.3,4) are similar in content and tone.

from the political, and imagined that he might substitute for his old mode of life a new one devoted to the Muses, perhaps even permanently. Now, separated from the public life of the city not by his own volition but by an interdict, his attitude is entirely changed. There is no mention in the letters from exile of intellectual pursuits of any kind, nor does he turn to philosophy as a balm for his distress at the turn of political events. So far from renouncing the pursuit of influence and *gloria*, he is almost consumed by the desire to recover his position and reputation, and his letters are concerned with little else than schemes that might lead to his political restoration.⁴¹⁸

Banishment thus marked a watershed in the development of Cicero's thinking on the question of the relationship between the political and the intellectual. For a man who had bent the course of his life from its early days towards the demands of a public career, and who had reached heights of *honor* of which he himself can scarcely have imagined at the outset, it was doubtless always wishful thinking to suppose that he could find in literary pursuits a satisfying alternative to the life of a statesman, and in philosophy a new set of values that he might substitute for the traditional Roman civic ones to which he have always cleaved, such that he could view both the disappointments of his own career and the destruction of the *res publica* with real equanimity. But it was an illusion that he could maintain when, as in the spring of 59, he disengaged with the political life of the city for a limited period of time and, to some degree at least, on his own terms. That illusion was shattered however when disengagement was forced upon him, and seemed likely to be permanent, with results that were important in shaping the writing of the *de Republica*, to which we will come presently.

Cicero's political situation after his return was similar in many respects to what it had been prior to his banishment. A brief period of euphoria⁴¹⁹ following his restoration quickly evaporated as it became clear that little had changed: the triumvirs continued to wield an outsized influence over the state, Clodius remained an implacable and dangerous foe, and the *optimates*, whom he viewed as his natural political allies, refused to either to accept him as one of their own or to sever their connections with his archenemy. In short, the same conditions that he led him to despair of the *res publica* and his own place within it, and had driven him to toy with the idea of retiring from politics for good, still defined the scene at Rome. And yet, the post-exile letters of the mid-50s bear witness to a significant change in attitude. To be sure, pessimism about the future of the *res publica* and frustration with his own position continue to pervade the correspondence with Atticus.⁴²⁰ But much has changed.

Most obviously, Cicero was not tempted into a repetition of his withdrawal from the political scene. Although he enjoyed neither the influence nor the freedom of action

⁴¹⁸ See, e.g., *Att.* 3.10, in which he lists *honor* and *gloria* first among the treasured possessions he has lost (followed by *liberis*, *fortunis*, and *fratre*).

⁴¹⁹ *Att.* 4.1-4 (roughly Sept. 57 – Jan 56).

⁴²⁰ *Att.* 4.6, 9, 13, 15, 18. Possibly also *Att.* 4.19, but there are serious textual problems with the relevant sections.

to which he felt his accomplishments entitled him, he nonetheless remained active in the Senate, and his record includes some controversial positions taken that indicate a degree of independence and even political courage.⁴²¹ His actions appear to have been sufficiently bold to have elicited expressions of concern from his brother and from concerned friends, including Atticus.⁴²² Although Cicero insists in each case that he is steering clear of danger, the regular need to reassure his intimates is proof enough that these had some cause for concern, and that he had not retreated into the political inactivity that characterized his posture during Caesar's consulship.

This change in attitude is vividly illustrated by a pair of parallel passages in two letters to Atticus written more than three years apart. The first, written in Dec. of 60, anticipates the promulgation of Caesar's agrarian legislation and ponders the relative merits of what Cicero considered the three different courses of action open to him: support for the bill, active opposition to it, or keeping his peace.⁴²³ In a discussion to which he gives the (somewhat specious) form of a Socratic dialogue, he devoted some consideration to the costs and benefits of the first two possibilities, but *quiescendum* he curtly dismissed as *quod est non dissimile atque ire in Solonium aut Antium*.⁴²⁴ At the time the letter was written he imagined himself nobly resisting the bill, with the hope of winning additional prestige. His determination however, as we have seen, melted away when he was confronted with the reality of Caesar's regime, and he not only held his tongue but in fact decamped for Antium, choosing retirement over continued political engagement of any kind.

In the spring of 56 he found himself in the same predicament, forced to choose between a dangerous conflict with the triumvirs, the bitter pill of unwilling cooperation with them, or quiescence.⁴²⁵ Having experienced both voluntary political withdrawal and enforced political extinction, Cicero now saw no option but continued engagement, even if that engagement could only be maintained on very unsatisfactory terms. Whereas in his earlier letter he gives little thought to the possibility of withdrawal, only to choose precisely that course later, he now gives the possibility of retirement extended consideration, only to reject it.

Quid, si cessare libeat et in otii portum confugere? Nequiquam. Immo etiam in bellum et in castra. Ergo erimus ὀπαδοί, qui τῶγοι ἐσσε νολυμυς? Sic faciendum est, tibi enim ipsi (cui utinam

⁴²¹ E.g. his support for Lentulus over Pompey to oversee the restoration of Ptolemy XII, and his challenge to Caesar's Campanian distributions (although he was later forced to recant the latter under pressure from both Caesar and Pompey).

⁴²² *Att.* 4.5, 6, 8, 17; *Q.Fr.* 2.4; *Fam.* 1.9. Even his young daughter, Tullia, seems to have joined the chorus of those urging him to be more cautious – *Att.* 4.15.

⁴²³ *Att.* 2.3.

⁴²⁴ “equivalent to going to Antium or Solonium.”

⁴²⁵ *Att.* 4.6 – *Ego vero, qui si loquor de re publica, quod oportet, insanus, si, quod opus est, servus existimor, si taceo, oppressus et captus, quo dolore esse debeo?* (“But think of how I suffer, when I am taken for a madman if I say what I should about the state, for a slave if I say what is expedient, and as a man beaten and crushed if I keep silent!”)

*semper paruissem!) sic video placere. Reliquum iam est Σπάρταν ἔλαχε, ταύταν κόσμει. Non mehercule possum et Philoxeno ignosco, qui reduci in carcerem maluit.*⁴²⁶

So, why shouldn't I take a rest and flee to the haven of retirement? It would be pointless. And so I must be a lieutenant after refusing to be a commander. So be it, for I see that is your advice, and I wish that I had always followed it. All that is now left to me is 'Sparta has fallen to your lot – do it proud'. But on my word, I sympathize with Philoxenus, who preferred to return to his prison.

The difficulties and indignities of his situation still clearly rankle, but he has determined to remain on the political scene and make the best of it, and this time he remained true to his resolution. Although his situation never really improved in the 50s – indeed, after Luca Caesar and Pompey kept him on a yet shorter leash – he never again availed himself of the option of retirement from public life, although he could certainly have found an excuse to do so had he wished. It was a policy to which he stuck, despite its many infelicities, right up to the outbreak of civil war in 49.

The Composition of the *de Republica* and Political Self-Fashioning

His decision to remain politically engaged appears to have brought about a change in his attitude towards intellectual activity and its relationship with the political. The correspondence in this period is almost entirely devoid of the features that were so marked in the letters written before exile from his country estates. A single outburst, occasioned by the acquittal of his hated enemy Gabinius on charges of treason, echoed some of the sentiments of 59 in milder terms.⁴²⁷ But elsewhere there is no repetition of the suggestion that he rejected the fundamental values of Roman political life in favor of purely intellectual pursuits, or that he sought from philosophy a sense of emotional detachment from the afflictions of the *res publica*. And whereas in 59 he had said much about producing a written work of some kind, but had in fact written nothing so far as we know, the years immediately after his return from exile were ones of considerable literary output, including the *de Oratore* and *de Republica*. *De Legibus*, or parts of it at any rate, can probably also be included in the list.⁴²⁸

⁴²⁶ In 60 Cicero appears to have been offered a position within the budding alliance of Pompey, Caesar and Crassus on something like terms of equality, but had turned it down. His role as a supporter of the triumvirs is now decidedly subordinate; hence the military reference. The phrase Σπάρταν ἔλαχε, ταύταν κόσμει is from Euripides *Telephus*, and is used by Cicero to indicate a course of action which is in some sense obligatory or fated (c.f. *Att.* 1.20). Similar sentiments can be found at *Att.* 4.10. Legend had it that Philoxenus of Cythera, a dithyrambic poet, was condemned to hard labor for his critical remarks on some verses of Dionysius, tyrant of Syracuse. Offered a pardon on the condition that he recant, he preferred to return to the quarries.

⁴²⁷ *Att.* 4.18.

⁴²⁸ See above for a discussion of the issues surrounding the date of composition of the *de Legibus*.

Perhaps more importantly, the nature of the works written in the mid-50s are different from those which Cicero was contemplating in 59 in that they are explicitly political in nature. The book for which he had started to gather material in that earlier period had been a geography – the kind of work for which a political angle is hard to imagine. The only other explicit mention of an intended project from those days of self-imposed withdrawal from politics, perhaps only semi-serious, had been of an ἀνέκδοτα - i.e. a private memoir, not meant for general circulation. By contrast, his major works from the middle of the decade (*de Oratore*, *de Republica*, and *de Legibus*) were all explicitly political, and the first two at any rate were certainly widely disseminated.⁴²⁹ The ways in which the *de Republica* functioned politically have of course been the subject of much discussion in earlier chapters, and many of the same arguments apply to *de Legibus*, which is an explicit continuation of *de Republica*. That the same is true of the *de Oratore* is perhaps less immediately obvious, but is now almost universally acknowledged by scholars, given both the close nexus between public speaking and politics in Roman society generally and the connections that Cicero draws in the work between the qualities of the ideal orator and those of statesmen in particular.

But Cicero is not merely talking *about* politics in these works. Rather, the post-exile period witnessed his return to the use of literature as a means of *shaping* the political landscape, in at least two distinctly different ways. In one respect, his new efforts harkened back to the false start represented by *de consulatu suo*. There were of course differences, both of genre, and of purpose, between his auto-biographic epic of the late 60s and the treatises of the 50s. But at a deeper level the two efforts were fundamentally similar, insofar as in both cases he was attempting to use a novel mode of literary production to try to control his own public image. More intriguingly however, the *de Republica* (and the other treatises) represent a more ambitious and novel use of literature, one that went beyond self-fashioning. In commenting, albeit often in an oblique way, on the contemporary political scene in Rome, and in suggesting remedies for contemporary political ills, the *de Republica* becomes a political act in and of itself – a new way to act in a world in which other, more traditional options are no longer available.

Before turning to this second, more extraordinary use of the written word, something should be said about the first – the use of literature to craft a public persona. The need to exert some form of control over the way he was perceived on the Roman political stage was clearly as acute in the mid 50s as it had been immediately after his consulship, with the difference that while he had earlier been engaged in aggressive self-aggrandizement, he now found it necessary to write defensively, as a means of putting a series of political embarrassments in the best possible light. For his decision, in the wake

⁴²⁹ There is little reason to suppose that *de Legibus* was not also originally intended for wide circulation, even if it never was in fact ‘published’. The generally accepted explanation for its absence from the list of Cicero’s treatises in *de divinatione* is that work on it was interrupted by Cicero’s unwanted provincial governorship in 51 and never completed.

of the conference at Luca, to throw in his lot with the triumvirs eventually led him into a series of public stances which were difficult at best to reconcile with his previous political posture. Soon after the conference, Cicero made his support of the triumvirs public by endorsing Caesar's request for additional legates and money to raise new legions for his campaigns in Gaul, and then went on to oppose Caesar's recall in his *De Provinciis Consularibus* in mid-56.⁴³⁰ He was also importuned by Pompey, and from a distance by Caesar, to defend various supporters of the triumvirate who found themselves hauled into court as part of the optimate counterattack against the renewed alliance of the three.⁴³¹ In 55 several *amici* of the three were brought to the bar, and Cicero consented to defend some of these. They were, for the most part, comparatively minor figures, and Cicero's appearance on their behalf did little more than to remind everyone that his services were now fully at the disposal of the powerful men with whom he had entered into a very unequal partnership.⁴³² But worse was to follow. In 54 the prosecutions of two more prominent friends of the dynasts, P. Vatinius and A. Gabinius again found Cicero summoned by Caesar and Pompey to defend their allies. To do so in these cases however went strongly across the grain, for the men in whose defense he was now being asked to speak were personal *inimici*. His animosity with the former went back at least as far as his defense of Sestius, in the course of which he made a vitriolic attack on Vatinius. But that quarrel paled in comparison to the hatred he bore Gabinius whom, along with his colleague Piso, Cicero loathed for their role in enabling Clodius to secure a tribunate, and thus his exile. Yet, under intense pressure from the triumvirs, Cicero eventually swallowed his pride and, affecting hollow reconciliations, defended both men.⁴³³

Not surprisingly his new political allegiances, and the radical changes in political posture and in personal relationships which these entailed, exposed him to ridicule, both from his enemies and from former allies. Even in the *de Provinciis Consularibus* in mid-56, which marked the beginning of his move towards the dynasts, we see Cicero forced to offer an explanation of his apparent about face. Asked in the midst of that speech why he should hate Caesar any less than Gabinius (with whom he still had a very public quarrel – the two would not formally make peace until 54), he begins to sketch out a defense of his new attitude. He admits that Caesar's role in validating Clodius' adoption (and with it the plebian status which had allowed him to become a tribune and thus to drive Cicero into exile) gave him cause for enmity, and that the two had often differed on matters of policy.⁴³⁴ But, he says, he is willing to lay his grievances aside because Caesar has done

⁴³⁰ This speech is identified by many as the "palinode" to which he refers at *Att.* 4.5.1, although the identification remains a matter of controversy; see Bailey (1978), 2.233ff.

⁴³¹ For a detailed discussion of the many cases brought against allies of the triumvirs in the years 56-54, see Gruen (1974), 312 ff.

⁴³² Indeed, in at least one case, that of L. Cornelius Balbus. Cicero could fairly claim that he was acting as his own man in defending a client who had a claim upon his gratitude, as Balbus had been of service during his exile - *Balb.* 58. The influence of the triumvirs however is also acknowledged (*Balb.* 4, 59).

⁴³³ Vatinius was acquitted. Gabinius, who had escaped in an earlier trial in which Cicero had given evidence for the prosecution, was convicted at the trial in which Cicero acted as advocate, affording the latter a measure perhaps of satisfaction.

⁴³⁴ *Prov. Cons.* 17.

the *res publica* such notable services, which ought to weigh more in the mind of a patriot like himself more than any personal injury, and because both before and after 59-58 Caesar had shown him the utmost attention and kindness.⁴³⁵

Cicero's ongoing and highly public services to the dynasts continued after his speech on the consular provinces however, keeping his embarrassing position in the public eye, and the criticism naturally continued, and broadened as well. We can get a sense of the thrust of the attacks from his speech in defense of Cn. Plancius, delivered in mid-54, in which he responds at length to charges leveled at him by the prosecutor, Juventius Laterensis. After calling into question Cicero's decision to go meekly into exile, he comes to the contemporary scene and lambastes his opponent for surrendering his independence (using his own consistency in opposition to the triumvirs as a point of comparison), and for making a political reversal and abandoning his former policy of resisting the three. Similar complaints came from friends, if perhaps put more gently. Lentulus Spinther, for example, seems to have chided Cicero in late 54 for his defense of Vatinius and questioned his reconciliation with Crassus ahead of his departure for the east.⁴³⁶ Even if Spinther had delicately avoided raising the issue directly, both critiques would have suggested disappointment with the inconstancy of Cicero's political posture, and the latter's reply shows that he was sensitive to that fact and eager to avoid any such imputation.

The response to these charges in the publicly delivered *pro Plancio*, and his private response to Spinther, have a number of similarities. In each he argues that his support for Pompey and Caesar (if not Crassus) is rooted in personal *amicitia*, and in particular for the support he received from them in his restoration (conveniently ignoring the role they played in Clodius' adoption);⁴³⁷ he pleads the need to have some regard for his own safety and that of his family (especially for Quintus, he had acted as surety for his good conduct to both Pompey and Caesar), and claims that his past services to the state entitle him to take these consideration into account;⁴³⁸ that his support for the triumvirs was not at odds with his defense of the *res publica* since in supporting their authority he was putting the state in the most capable and honorable hands;⁴³⁹ and that political independence consists not in stubborn adherence to an unchanging policy, but rather in flexibility that allows a political actor to adapt to changing circumstances.⁴⁴⁰ And, to Spinther at least, he vouchsafes that his position was also largely dictated by the personal hostility of the optimates whom he had one regarded as allies, but now saw as

⁴³⁵ *Prov. Cons.* 17-18, 20.

⁴³⁶ *Fam.* 1.9.4-22.

⁴³⁷ *Planc.* 91; *Fam.* 1.9.9-12.

⁴³⁸ *Planc.* 91-92; *Fam.* 1.9.9-10, 12 ; cf. *Q Fr.* 2.15.2 ; 2.16.2 ; 3.4.2, 4 ; 3.6.1 ; *Att.* 4.15.4; *Fam.* 2.6.4.

⁴³⁹ *Planc.* 93; *Fam.* 1.9.11.

⁴⁴⁰ *Planc.* 94; *Fam.* 1.9.21.

spiteful and contemptuous, and whom he had come to blame for his exile.⁴⁴¹ As a final justification, he adds that resistance to the dynasts would be futile in any event.⁴⁴²

It is difficult to gauge the sincerity of Cicero's *apologia*, and to weigh the respective importance of its various elements in it in his original decision to throw in his lot with the triumvirs. But for a man who had so recently prided himself on his role as the stalwart defender of traditional republicanism, and upon the *gloria* which this had once earned him, it is unlikely to have been wholly satisfactory.⁴⁴³ The triumvirate struck at the heart of the broadly based aristocratic system that he cherished by concentrating power in the hands a very narrow clique, and even Cicero, with his considerable powers of self-deception, cannot have been wholly blind to the fact that his support of that clique, injurious as it was to the system of government whose champion he claimed to be, was dictated by considerations that were, at root, basically self-interested, a fact which he tacitly admits in *pro Plancio*, and more forthrightly to Spinther. More importantly however, none of the justifications that he offers in either the speech or the letter answer a further charge which is implicit in the others. Cicero's desire for safety, his wish not to stir up conflict in the state by vainly opposing those whose power could not be resisted, and even his desire to tweak his former friends among the *nobiles*, might all have been satisfied by a policy of quiescence. Given the fact that he had in fact followed just that policy when initially confronted with the power of the triumvirs, it was natural to ask, as Spinther apparently had, why he did not again go into semi-retirement.

None of Cicero's responses to the barrage of criticism to which he was subjected fully explained why he had chosen to go beyond what could reasonably be understood as minimally necessary to meet the exigencies of his situation. The point comes through most clearly in his response to Spinther. Cicero acknowledges that his friend's complaint is not with the reconciliation with Caesar *per se* (or that with another potentially dangerous enemy, Appius Claudius), but rather with the fact that he was now going to court to defend the likes of Vatinius and, what is more, going so far as to offer a generous tribute to a man whom he despised.⁴⁴⁴ To be reconciled with a man as powerful and potentially dangerous as Caesar was clearly an act readily understandable as necessary on grounds of personal and familial safety; to offer active assistance to a man such as Vatinius, and to do so to the extent of vouching for his character was not, it would seem, similarly comprehensible. Cicero's response, summarized above, largely glosses over this distinction between what could not be omitted if his safety were to be ensured on the one hand, and the offer of his full-throated support to the triumvirs, which struck Spinther (and doubtless others) as voluntary, on the other. Responding to the question, perhaps quoted or paraphrased from Spinther's original letter, *cur autem laudarim?* ("but why then did you eulogize him?"), he can only respond by requesting that he not ask such

⁴⁴¹ *Fam.* 1.9.10, 14-17, 19-20.

⁴⁴² *Fam.* 1.9.21.

⁴⁴³ See *Att.* 4.5.1, where he admits that his "palinode" was somewhat less than honorable.

⁴⁴⁴ *Fam.* 1.9.4, 19.

questions, since it was the custom of advocates to speak well of their clients, even when less than honest.⁴⁴⁵

Cicero himself was unlikely to find such excuses altogether convincing. Even if he had felt himself bound by a sense of professionalism and the expectations of the advocate's calling to do his best for his client, this hardly answered the larger issue implicit in Spinther's question – why had he given himself whole-heartedly to the cause of the triumvirs? That he had done so he could hardly deny; indeed, he had admitted as much himself as early as April or May of 56 in a letter to Atticus. Just as Spinther had approved of his reconciliation with Caesar, but criticized the decision to defend Vatinius, so Atticus had evidently advised Cicero to come to terms with the triumvirs, but thought that the loud proclamation of that choice in a “palinode”, perhaps to be identified with the *de Provinciis Consularibus*, or perhaps another piece which praised Caesar and advertised their alliance, was a step too far, and had voiced his objections.⁴⁴⁶ To Atticus Cicero admitted that the publication of the palinode had gone beyond what necessity demanded, and that his aim had been to commit himself fully to his new partnership with the dynasts, mostly in order to put a finger in the eye the conservative *nobiles* and make his split with them irreversible.⁴⁴⁷

This would hardly serve as an explanation of his new position meant for public consumption. Although Cicero took no pains to keep his annoyance with his old noble associates private⁴⁴⁸, it would have been another matter to publically admit, as he does privately to Atticus, that this feud was the driving force behind his decision to endorse and support the dynasts. To be sure, the norms of Roman elite behavior gave great latitude to public figures to pursue personal vendettas by political means. But even here there were limits, as Cicero himself acknowledged. In both the *de Provinciis Consularibus* and the *pro Plancio*, he had argued that, for the patriot, the interests of the state ought far to outweigh any personal concerns in determining political allegiances, and there is little question that, insofar at least, he was being perfectly sincere.⁴⁴⁹ But the triumvirate struck at the heart of the broadly based aristocratic system that he cherished by concentrating power in the hands a very narrow clique, and the letters to Atticus demonstrate that, pleased though he might be with the state of his personal relations with Caesar and Pompey, he never came to regard their extraordinary role in the state and anything less than pernicious. To openly confess that he had nevertheless thrown his weight behind the ascendancy of a cabal which by its very nature threatened the foundations of the *respublica* for the sake of pursuing a personal vendetta against the *nobiles* would have been to add immeasurably to the humiliation and sense of betrayal

⁴⁴⁵ *Fam.* 1.9.19.

⁴⁴⁶ *Att.* 4.5.2. On the identification of the “palinode” see above, n.89.

⁴⁴⁷ *ibid.* His reason for wanting to burn his bridges with the optimates is not made explicit, although it seems likely that he wanted to free himself from the temptation of trying once again to forge an alliance with men in whom he no longer had any trust.

⁴⁴⁸ *Fam.* 1.9.19.

⁴⁴⁹ *Prov. Cons.* 18-24 *et passim*; *Planc.* 93.

created by the change of allegiance itself, and it is therefore unsurprising that, while he stresses his grievances with the *boni* in private to Atticus and Spinther, he downplays them in the public *Prov. Cons.* and *pro Plancio*.

Thus, Cicero's initial attempts to provide a explanation publically for his abrupt change of allegiance must have seemed something of a failure; the excuses they offered were largely those of self-interest and weakness, they failed to answer the crucial question of why he had not opted for withdrawal from the political scene rather than active support of the dynasts and, worst of all, they seem to have had little success in quieting the chorus of condemnation aimed at him. It would not then be surprising if, in this period, he had found himself casting around for another way to explain his actions that might make up some of these deficiencies. The past provided a precedent. At other crucial junctures in his career, when he had found himself under the necessity of explaining awkward episodes in his political career, Cicero's approach had been to turn controversial acts and embarrassing moments into parables of patriotism. As the execution of the Catilinarian conspirators had begun to take on the aspect of a political liability, Cicero had increasingly cast his own role as that of stalwart defender of *auctoritas senatus* against the forces which would destroy it, and with it the *respublica* itself. Similarly his exile, which he had regarded at the time as a humiliating personal defeat in which he had been abandoned by his chief supporters and as a result of which he had despaired nearly to the point of suicide, he later turned into an act of martyrdom in which he had willingly, even triumphantly, gone into banishment for the sake of saving the state from civil war between the *boni* and the *improbi*.

Confronted now with the need to cast what seemed to many to be a craven renunciation of his ideals and the abandonment of his allies in the best possible light, the publication of a treatise on government offered an excellent opportunity once again to explain his actions in the loftiest of terms. The homily on the value of political participation which constitutes the surviving portion of the introduction to the *de Republica*, has already been discussed at length in reference to its role in defining Cicero's authorial persona as a statesman (chapter 1), and its function in critiquing those among the nobility whom he felt had abandoned their posts as guardians of the established order (chapter 3). But it can, and should be read as well in the context of the political tempest swirling around Cicero at the time of the work's composition concerning his decision to actively support the triumvirs, rather than to avail himself again, as he had in 59, of the option of withdrawal from the political scene. In such an atmosphere, the work was undoubtedly scrutinized carefully by his original audience for a reaction by the author to his critics, and modern scholars should be equally attentive to the ways in which Cicero is commenting on a subject which would have loomed so large for contemporary readers, even if that commentary is allusive, bearing in mind, as mentioned in the opening of this chapter, that circumstances made it dangerous to for Cicero to speak explicitly about the affairs of the day.

Given these considerations, the injunction to political engagement with which the *de Republica* opens takes on a new significance. It can hardly have escaped the notice of a Roman reader in the later 50s that the rhetorical move in which he makes active participation in government not merely a desirable, but indeed a moral imperative for any true patriot, constituted a rejoinder to those who damned him for the active support he provided to the triumvirs and their friends. But the point is further reinforced by the nature of the argument that Cicero chooses to offer for this position. Rather than simply making the positive case for the importance of political engagement, Cicero represents himself as answering critics who would urge a man of wisdom to shun it, and his response focuses on the compromises and sacrifices which the politician must accept in the pursuit of his calling. After discussing the dangers the statesman faces from enemies, and the risk that he will be mistreated by an ungrateful nation in the manner of a Themistocles, the section culminates in the a refutation of the idea that the wise man will avoid politics because it is hopelessly corrupt, and that contact with politicians, described as *homines nulla re bona dignos, cum quibus comparari soddum* (“worthless men with whom it is demeaning to be associated”) will be degrading, as will the fact that the politically engaged must *vel contumeliarum verbera subira vel expectare sapienti non ferendas iniurias* (“endure vicious abuse or submit to outrages which would be intolerable to a wise man”). For Cicero, who had found himself compelled to consort with men whom he himself long declared to be of the worst character, and who now was lashed with contumely for having chosen those associations as the price of remaining politically engaged, the question had a special relevance. In response he turns the basis of the critique in his own favor, claiming that the presence on the political scene of men of wicked character is the strongest inducement to a patriot to remain involved, precisely so that he can counter their influence.

The *de Republica* as a Political Act

If the prologue serves to introduce the idea that political engagement is the sacred duty of the patriotic Roman, the conclusion of the *de Republica* serves to clarify what it means, in Cicero’s view, to be political. In the famous *Somnium Scipionis*, the only part of the work known to the world between the end of antiquity and the discovery of the Vatican palimpsest, Scipio recounts a “dream” in which he encounters a vision of his grandfather (through adoption) and namesake, the Scipio Africanus of Second Punic War fame (hereafter “Africanus”, to distinguish him from Aemilianus), who had been dead some fifty years at the dramatic date of the dialogue. The shade of the elder Scipio offers an extended exhortation to political virtue, in the process also revealing the physical structure of the universe and discoursing on the immortality of the soul. The scene is clearly patterned on the Myth of Er with which Plato ended his *Republic*. Beneath the superficial similarities however, lie profound differences, for whereas the story of Plato’s Er serves as the culmination of an argument about the importance of virtue in the individual, with the state serving as a useful analogy, for Cicero the state, and the

relationship of the individual citizen to it, is the central concern, and the elements borrowed from the *Republic* are turned to this different purpose.⁴⁵⁰ Thus the fate of the soul, which in the Myth of Er had depended upon its justice or lack thereof in life, in the *Somnium* is determined by the degree to which the citizen had succored the state, and Plato's metaphorical treatment of the physical universe (whatever its much debated meaning) becomes in Cicero quite literal; Scipio is given a chance to see the universe from the outermost sphere so that he may observe the smallness of the Earth within the whole and thus recognize the unimportance of earthly renown compared to the divinely ordained rewards that await the patriot after death.⁴⁵¹

What is most interesting for present purposes however is the way in which Cicero conceives of the political activity and political virtue which earns the patriot entry into eternal bliss, and the marked contrast it makes with his conception of these only a few years earlier. In the first few years after 63, when he still entertained the belief that his consulship had been a transformative moment in Roman history, and that it had earned him a preeminent place in the Roman political world, he had naturally focused on the achievement of a great deed – the suppression of the Catilinarian conspiracy – and on the *gloria* that it brought him, and had used literature as a way of augmenting that *gloria*. But the early 50s had disillusioned him; the *consensus bonorum* upon which he had hoped to build a state restored to its pristine, mid-Republican virtue, had proven ephemeral, or perhaps unreal; his own position within the state was now one which had provided him with neither power nor dignity, nor offered the prospect of either. Under these circumstances, it is not surprising that in describing political virtue and political activity, Cicero changes the way in which he understands these terms to fit his new, straightened circumstances. In the *Somnium Scipionis* comparatively little emphasis is placed on the accomplishment of concrete political successes, which now seemed beyond Cicero's grasp, but rather on the virtuous motives of the political actor and upon mental activity itself. Similarly, *gloria* is explicitly and emphatically devalued; the point of the cosmological tour given to the younger Scipio is to point out to him the small space within which his fame can spread, and the shortness of its duration beside eternity. It is difficult to imagine the Cicero of 62 BC taking such a view of *laus*; for the Cicero of the mid to late 50s however, with the glory of 63 now mingled with the humiliation of banishment and political obscurity, and with little hope of winning further palms, at least in the sphere of political action as usually understood, such a view is much more readily comprehensible.

But if the *Somnium* represents a retreat in one sense from his earlier views, it opens up other ways in which to act politically, and to be politically virtuous, ways which emphasize the mental over the practical. Having belittled worldly renown, Africanus declares that it is virtue, rather than fame, that makes great men immortal. Men's praises, the elder Scipio explains, do not constitute genuine renown; *suis te oportet inlecebris ipsa*

⁴⁵⁰ Zetzel (1995), 14-15; Sharples (1986), 30; Pohlenz (1931), 77.

⁴⁵¹ Zetzel (1995), 15.

virtus trahat ad verum decus he says (“virtue itself must draw you on by its own allure to true glory”).⁴⁵² Earlier, in summing up the route to immortality, he had said *iustitiam cole et pietatem, quae cum magna in parentibus et propinquis, tum in patria maxima est; ea vita via est in caelum...* (“practice justice and duty; these are important in regard to ones parents and relatives, but paramount in regard to one’s fatherland. This life is the path to the heavens...”). The shift here is manifest and important. For centuries Roman aristocrats had measured their worth by the tangible, practical achievements of their political careers, recorded in annals and on monuments, celebrated in public spectacles, conspicuously marked in dress and title and in a hundred other ways, and by the renown won by their ancestors for similar accomplishments and memorialized in similar ways. But Africanus depreciates these foundational elements of Roman political life, and instead emphasizes elements of character, privileging the internal over the external. This line of thought culminates in the discussion of the immortality of the soul with which the work ends. After offering a demonstration that the spirit of man is undying, the elder Scipio concludes by urging the younger to ever keep his spirit elevated above base things (bodily pleasures and the like), and instead to focus its attention on the state, its noblest occupation, saying that this is what will ensure an exalted place in the afterlife.⁴⁵³

Scipio Aemilianus himself represents an interesting vehicle for the message. At the beginning of his dream, the elder Scipio foretells his future, detailing the military achievements which would allow him to earn the name *Africanus* in his own right, and listing the offices he would hold. He then goes on to explain that, on account of the Gracchan crisis, his young namesake has reached a fork in the road of destiny.⁴⁵⁴ One path would lead to a glorious culmination for his political career, with the whole citizenry turning to him in the moment of crisis, asking him to take on a dictatorship so as not only to save the state from destruction but also to set it back in order. The other would lead to his death at the hands of his own relatives.⁴⁵⁵ What is interesting about this set up for the elaborate discussion to come, the only part of the *Somnium* that considers political action (as opposed to the simple attainment of office), is that this was *not* the path which fate in fact took, as every Roman reader would have been well aware. This treatment is all the more remarkable because in fact Scipio Aemilianus had a distinguished and successful political career. That Cicero instead emphasizes that the potential capstone of that career, the moment when Scipio might in fact have accomplished something of truly grand

⁴⁵² *Rep.* 6.25.

⁴⁵³ *Rep.* 6.29: *Hanc tu exerce optimis in rebus! sunt autem optimae curae de salute patriae, quibus agitatus et exercitatus animus velocius in hanc sedem et domum suam pervolabit* – “Be sure to employ it [the mind] in the highest matters! Now the highest concerns are for the safety of the fatherland, and animated and employed in these, it will fly the more quickly here, its dwelling place and home.”

⁴⁵⁴ *incipitem video quasi fatorum viam* – *Rep.* 6.12.

⁴⁵⁵ The sudden and unexpected death of the healthy and relatively young Aemilianus (aged 56) led to persistent rumors that he had been murdered because of his vocal opposition to the Gracchan land commission, possibly by members of his own family who also had familial ties with the Gracchi (his wife Sempronia, e.g., was T. Gracchus’ sister). There was no investigation at the time, and Scipio Aemilianus’ death may well have been natural, but Cicero appears to take these allegations as fact. – see Powell (1990), 82-3.

proportions on the political stage to parallel his martial victories, failed to materialize, is surely significant.

If what wins immortal bliss for the statesman is successful political action as traditionally conceived, then we, as readers, are left to imagine that the dream turned out to be, at least for Aemilianus himself, a mirage, and that the man who has been built up throughout the *de Republica* as the paragon of political and intellectual virtue was, in the end, denied the place in the heavens promised by his grandfather to good patriots through an act of base betrayal by an enemy of the Roman state (as Cicero would have seen it). But this seems grossly unlikely, if for no other reason that that it would completely undermine the inspirational tone of the work in general, and of the *Somnium* in particular. The point, rather, would seem to be that practical successes in the political arena, great and laudable though they may be, are not the only means to be politically active or politically virtuous, and perhaps not even the primary ones. What matters instead is always to have the safety and best interests of the state at heart. Where possible, this of course implies putting that goodwill into action, but where the potential for practical action is removed, as it had been for Scipio because of his untimely death, and as it was for Cicero himself at the time he was writing the *de Republica*, love of country alone was enough to make a citizen a patriot.

If the emphasis on the internal and the mental aspects of political virtue in the *de Republica* did nothing more than to allow the politically impotent (e.g. Cicero) to retain their status as patriotic citizens despite being unable to help the state in tangible ways, it would have served some purpose for its author. But it does much more than that, for it also opened the possibility of a distinctly different kind of political activity, and one splendidly adapted both to Cicero's situation and to his talents. If political virtue is first and foremost a thing of the mind, then it follows that activities, including the production of literature, which contribute to improvement in civic morality would be a kind of political act. As has been noted earlier in this chapter, Cicero had earlier conceived of literature as being capable of playing a supporting role in political life, providing political actors with mental refreshment, and inspiring them to patriotic political action. But the writing of literature was not, in and of itself, political. At most it could, on this understanding, provide material which statesmen could incorporate into the public oratory (which *was* considered to be political action proper), and thus influence the political scene indirectly. In switching the focus of the political from the forum to the mind of the citizen, Cicero creates an opening for literature to act in a directly political way, functioning didactically for the civic improvement of the reader.

The dialogue of the *de Republica* puts this idea into practice. Scipio et al. are not, of course, shown as engaged in writing a book, but rather in conversation. But the nature of that conversation, in which the characters are engaged in expounding political doctrine, is essentially literary in character, following a literary convention long familiar from the philosophical dialogues of Plato, Aristotle, and others. The didacticism of the dialogue is brought out in a number of ways. The makeup of the *dramatis personae*

provides one hint; the main speakers are three elder statesmen (Scipio, Laelius and Philus), but the cast also includes a number of number of younger men who have very few lines (C. Fannius, Q. Mucius Scaevola, Q. Aelius Tubero and P. Rutilius Rufus). Cicero appears to have included these nearly mute characters precisely to be listeners, so as to demonstrate his own ideal of Roman education, in which up and coming politicians learn by attending upon respected older men.⁴⁵⁶ Moreover, considerable pains are taken from the outset to develop the main characters in ways that explore their attitudes towards virtue, Scipio most obviously, but also Laelius and Philus at length in book 3, and these and other characters *passim*. And the discussion itself is largely centered exemplars of political virtue such as Cato the Censor, and includes a determined and successful effort to found a conception of governance on the principle of justice in book 3.

Above all, the dialogue represents the discussion as being undertaken consciously and explicitly for the edification of its participants. After an opening discussion about the apparition of a second sun in the heavens, Laelius suggests that the group discuss the condition of the state instead, on the grounds that it was a topic both more accessible and better able to make the discussants themselves better and happier people...

Quam ob rem, si me audietis, adulescentes, solem alterum ne metueriti... nec meliores ob eam scientiam nec beatiores esse possumus; senatum vero et populum ut unum habeamus, et fieri potest, et permolestum est, nisi fit, et secus esse scimus et videmus, si id effectum sit, et melius nos esse victuros et beatius.
(*Rep.* 1.32)

Take my advice then, my young friends, and don't worry about the second sun... in any case we can know nothing of such things, and even if we come to know a great deal, that kind of knowledge will not make us better or happier people. To have one Senate and one citizen body is achievable; if it isn't achieved, we are in serious trouble. The opposite is true at present, and we can see that if unity is brought about we shall live better and happier lives.

Roman readers, familiar with the historical context of the dialogue, would have immediately recognized the Gracchan crisis as the cause of the division of senate and state into two camps. When pressed by the young Q Mucius Scaevola as to what specifically they should talk about, Laelius responds...

Eas artis, quae efficiant, ut usui civitati simus; id enim esse praeclarissimum sapientiae munus maximumque virtutis vel documentum vel officium puto. Quam ob rem, ut hae feriae nobis ad utilissimos rei publicae sermones potissimum conferantur, Scipionem rogemus, ut explicet, quem existimet esse optimum statum civitatis. Deinde alia quaeremus; quibus cognitis spero nos ad haec ipsa via perventuros earumque rerum rationem, quae nunc instant, explicaturos.
(*Rep.* 1.33)

⁴⁵⁶ A role he seems to have cherished for himself. Most famously, he for a time believed that the young Octavian had sought him out as a mentor and guide – and illusion of which he was later painfully disabused. For this model of education in the *de Republica*, see Steele (2005), 109-10.

Those skills which make us fit to serve the community. That, in my opinion, is the finest duty that wisdom has, and the greatest proof and function of moral excellence. So then, to make sure that we spend this holiday in discussions that are primarily of benefit to the state, why don't we ask Scipio to tell us what form of government he regards as the best? Then we'll go on to other questions. After clarifying them, we will come step by step, I hope, to these very problems, and will get a systematic understanding of the difficulties that now beset us.

He then continues and suggests that a discussion by Scipio of constitutional forms would be a good starting point. The discussion is thus intended from the outset to effect the moral improvement of those who take part in it through the acquisition of knowledge, and more specifically in order that they will become better citizens by becoming better able to serve the state.

What is more though, is that although the discussion will be often be abstract, the purpose is immediate, for the dialogue has been occasioned by the division of the state into factions by the Gracchan crisis, and Laelius suggests that they undertake it in an effort to confront the danger facing the *respublica*. That is to say, their discussion of the state, although conducted on the level of the theoretical (at least in part), is nonetheless a direct response to a political crisis. It will do so by improving the participants, but not in the vague, general sense in which the poetry of Archias did, simply by providing inspirational models and mental relaxation. Instead, a discussion among statesmen, men of practical wisdom as well as of learning, will proceed through a discussion of the theoretical considerations to a well founded analysis of the problems then confronting the state. The abstract and the worldly are here intimately connected; the proper way to reach conclusions about real world events is to be discovered in a searching theoretical examination of the foundations of good government.

What is true for the dialogue, then, is equally true for the treatise in which it is embedded. A discussion of politics on a theoretical level is meant to effect the civic improvement of the reader, but also to function as a response to a political crisis within the state. That the *de Republica* is intended for just such a purpose is suggested by the importance of the *rector rei publicae*, whose evident function is both to salvage the state when its survival is menaced and to correct the systemic problems which have brought it to the point of crisis, restoring its pristine virtue. The point is made yet more clear however by a fragment of the third and final prologue written in Cicero's own voice, which prefaces books five and six, in which the character of the *rector* is developed. In it he writes that the Roman state has reached the point that it no longer deserves the name *respublica* at all, so far has it fallen from the virtues that once won it an empire, and argues that its salvation can only come from the civic improvement of its citizens.⁴⁵⁷ That there is an intentional symmetry between the dramatic scene of the *de Republica*, in which Rome has been shaken by the events of 133, and the Roman world at the time of the work's composition is not a new observation by any means, but foregoing observations give that parallel an added significance. Just as Laelius urges his

⁴⁵⁷ *Rep.* 6.2 = Augustine *de Civitate Dei* 2.21.

companions to undertake a discussion of the best kind of state as an attempt to confront the political crisis of his day, so too we as readers are invited to view the composition of the *de Republica* itself as a political act, an effort on Cicero's part to engage his readers in a discussion relevant to the problems of the times, in the hope of coming to a solution based on the edification of those who are involved in that discourse. This new, more ambitious conception of the function of literature is one at which Cicero arrived only slowly, through a process that spanned the most eventful decade of his own political career, and it is hardly surprising that the many ups and downs, hopes and disappointments of that turbulent period profoundly shaped the trajectory of his thinking on the issue, and ultimately led him to embark upon a bold literary experiment.

CONCLUSION

The purpose of this study has been, broadly speaking, to understand the *de Republica* as a product of its times, and in particular as a product of its author's experience of those times. While some recent scholarship has initiated a move in this direction by suggesting that there may be contemporary political resonances in a work which was long regarded as participating primarily in a dialogue with Greek philosophers, none had yet considered in detail what those resonances might be. The foregoing has attempted to address that deficiency by reading the *de Republica* within its historical context, with an emphasis on the perspective from which the author himself viewed that scene. In the process, a portrait of Cicero has emerged which represents a departure from the commonly accepted image of a politically static reactionary figure. In its place, this study suggests we look for a more dynamic figure, whose outlook on a system undergoing epoch-making transformations was profoundly shaped by the dramatic turns in his own fortune as much as by the rapidly and radically changing world around him.

That the work is meant to be read as primarily political, rather than philosophical, is signaled in what is left of the preface to the work, in which Cicero elevates the statesman over the philosopher, arguing that the former has access to the same realms of theoretical knowledge that that latter does (i.e. ethical and political forms). Indeed, he goes beyond this, making the case that the man of practical action surpasses the theoretician, quibbling among a few associates in his little nook, in that he puts his theory into practice, and in particular crafts laws and institutions that make the people over whom he rules virtuous as well. Accepting the doctrine that virtue consists of right action, rather than merely of right knowledge, Cicero makes the case that the statesman excels the philosopher insofar as he alone is in a position to engage in public action, and is thus the only kind of person able to live a politically virtuous life. Having established the relative superiority of the statesman, he takes pains to firmly identify both his main speaker, Scipio, and himself as representative Roman statesmen, with all of the advantages thus conferred for engaging in a discourse about the state. Given that Cicero goes to such lengths to mark himself and his primary mouthpiece in the dialogue as statesman, and that the statesman is differentiated from the philosopher by his capacity to act politically, it is difficult to avoid the conclusion that the work itself is meant to be read as a form of political action with immediate contemporary relevancy. This then serves as the point of departure for the remainder of the study.

Understanding the nature of that relevancy, and with it Cicero's evolving understanding of the Roman political scene and his own place within it, requires going back to the year 63 B.C., a decade or so before the composition of the *de Republica*, the climax of his career as a statesman and, coincidentally, the moment when our evidence for his views becomes much fuller than it had been. That year however is chiefly

important as the moment when Cicero begins to develop a narrative about Roman politics inspired by the insurrection of Catiline. That event had at once seemed to open up new vistas of *gloria* for the man who had suppressed it, but had also thrown up a host of problems to which he, as a lifelong advocate, predictably responded by developing an interpretation of the revolt and its aftermath that placed his own actions in the best possible light. That narrative, adapted to meet new circumstances over the following years, exerted a powerful influence over the understanding of Roman politics that informs the *de Republica*.

One of these influences is to be found in Cicero's preference for senatorial domination within the system he lays out for his idealized *res publica*. Understanding this feature of the work is crucial for appreciating one of the ways in which he departs most obviously from other political thinkers, for it leads to a form of mixed constitution that is subtly, but significantly different from the systems championed by Plato, Aristotle and Polybius. That system was based not on the equal sharing of power amongst demographic groups or organs of government, but rather on the combination of attributes which Cicero ascribes to the basic constitutional systems (monarchy, aristocracy and democracy). This innovation in political theory, which is not readily explicable as either a straightforward description of the Roman state past or present, or as the natural predilection of a member of the aristocracy, is best understood as a preference arising out of one of the central issues that shaped Cicero's political career from the end of his consulship onward – his fear that the execution of the Catilinarian conspirators would expose him to *invidia* which would tarnish the heroic image which he had labored to build on the foundation of his achievement in suppressing the conspiracy, and even to legal jeopardy. A key aspect of the rhetorical bulwark which he attempted to erect around himself to fend off these challenges consisted of arguing that, as a matter of constitutional principle, ultimate responsibility for the executions lay with the senate. The challenge to *auctoritas senatus* posed by Clodius in the course of the *Bona Dea* affair made the issue acute, forced Cicero to confront it publicly, and led him to articulate arguments about constitutional matters which had clear echoes several years later in the political theorizing of the *de Republica*. The affair also helps illuminate the fact that Cicero's thinking about even such abstract questions as the nature of the ideal constitution was driven as much by his response to the press of political events as by any inveterate adherence to a set of reactionary views. Cicero's responses to the evolving *Bona Dea* scandal, and in particular to the changing nature of the discourse that it evoked in Rome, were not those of an ideologue, but rather those of a canny politician constantly testing the winds and adapting his public posture, and to some degree his private views, to changing circumstances.

Similarly, the injunction to the active political life that plays so prominent a role in the preface to the *de Republica* calls for an explanation. It would seem superfluous in a society that had one of the most intensely competitive political arenas in recorded history. This study suggests that the explanation is, as with Cicero's concern with *senatus auctoritas*, to be found in the recent past, and in political movements with which

he was himself closely associated. More precisely, the place to look is in the period immediately after the *Bona Dea* affair had blown over, in late 61 and 60. It was a time when he was increasingly conscious of the danger posed by Clodius, now an *inimicus*, and looking to build or maintain coalitions that might offer protection in the event that the dangers menacing him came to a head. In particular he sought to retain the allegiance of members of the equestrian order whose business interests he had long supported, and to cultivate Pompey, Rome's leading political figure, recently returned from the East. His inability to assist either the knights or the general in important political battles will have seriously diminished his political capital, and his frustration brims over in letters to Atticus. The blame for these disasters he lays squarely on the leading figures among the *nobiles*, men whom, for various reasons, he felt ought to have taken his side in the legislative tussles of the late 60s, and whose failure to do so he puts down to their unofficial withdrawal from the political scene. Convinced that their abandonment of what he considered their natural responsibilities was to be put down to the lure of *luxuria*, he railed against them as the *piscinarii*, or "fish fanciers", after the ornamental fishponds that stood as symbols of their slide into decadence and sloth. When, less than two years later, the crisis came and Cicero found himself abandoned by the people he had earlier courted, the events of the late 60s seemed in retrospect to take on greater and more menacing proportions. In light of Cicero's exile, the most traumatic period of his life, and the causal connection he drew between his banishment and what he viewed as the abdication of Rome's leading citizens, it should not be surprising that the *de Republica* opens with an impassioned plea for an unwavering commitment to the life of political engagement.

The following period, dominated by the triumvirate of Pompey, Caesar and Crassus, left its mark as well, although in more subtle ways. Any kind of frank public comment on the political situation at the time of writing was out of the question as Cicero often complained to Atticus; the triumvirs would brook no dissent. But it was precisely Cicero's enforced silence, and his concomitant frustration with conventional modes of political activity, which left important traces in the *de Republica*. When it first became apparent to him in the spring of 59 that the power of the dynasts had sharply limited his options he abandoned Rome for his country estates for several months and seriously contemplated turning his back on public life and devoting himself to purely intellectual activity. His enforced separation from the political world during his exile of 58-7 radically altered his perspective however. Faced with a similar choice of hopeless resistance to the triumvirs, unwilling cooperation with them, or retirement, he now chose cooperation. Yet this new situation simultaneously called for public comment from Cicero, and sharply circumscribed the means available to him to do so. Harkening back to an earlier period of literary experimentation, he turned to an unconventional mode of communication to express himself, for the sake both of explaining his embarrassing servitude the dynasts, and for the sake of creating a new way in which to be political, one which would allow him to remain engaged and relevant even when ordinary kinds of political activity were not available. The *de Republica* served both functions, allowing him to represent his submission as a kind of pragmatic patriotism, and to carve out a

space for himself in the state which was not only accessible in his straightened circumstances, but also ideally suited to his talents – a kind of hybrid statesman-theorist. By redefining what it meant to engage in political action so as to encompass, and indeed the privilege, the intellectual, the *de Republica* attempted to create a new kind of political activity, and simultaneously offered itself as the first example of that new mode of action.

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