INTRODUCTION

> On the fragments of Cicero's book *Of the Republic*, I said: "We owe many of these fragments to Nonius, who, in giving us the words, has preserved the things." I am naturally curious about all fragments from the works of ancient authors, just as one likes to find the debris from shipwrecks that the sea has left on the beach. Cicero, in my view, is one of the great minds that has ever existed: a soul always beautiful when it was not weak.
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> Montesquieu[1]

> The loss of his [Cicero's] book upon republics is much to be regretted … As all the ages of the world have not produced a greater statesman and philosopher united in the same character, his authority should have great weight.
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> John Adams[2]

> The Romans have their Cicero, who alone is perhaps worth all the philosophers of Greece.
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> Voltaire[3]

Books dealing with Cicero's philosophical dialogues customarily begin with a rehearsal of the copious evidence for his longstanding exile from the company of first-rate philosophers and a defense of why Cicero is worthy of study. I have chosen to begin mine with high praise. The fact that I have had to go back to the eighteenth century to find it should sufficiently testify to Cicero's fortunes in recent centuries. As for the defense, it will be found in the pages to follow, which examine Cicero's two central dialogues on the topic of political philosophy – the *Republic* (*De republica*) and *Laws* (*De legibus*). I argue that these dialogues together probe

[1] Montesquieu, *My Thoughts*, *Pensée* 733 (trans. Clark).
[2] Adams, *A Defence of the Constitutions of Government of the United States of America*, 1:xix–xx, xxi.
[3] Voltaire, *Dictionnaire philosophique, portatif*, 304.

the limits of reason in political affairs and explore the resources available to the statesman given these limitations. In pursuing this line of enquiry, Cicero deftly appropriates, transforms, and, at times, transcends Greek philosophy. As a result, these dialogues represent a substantial contribution to ancient political philosophy with important implications for our understanding of the history of political thought. Indeed, on more than one occasion their contents challenge the dominant historical paradigm regarding the origin or early development of a key concept in political thought. One of the goals of this book is to show where and how they do so.

Perhaps no other combination of texts offers to the modern student of classical political thought more promise of both great reward and frustration than Cicero's *Republic* and *Laws*. A glance at the basic topics treated in these works reveals something of their potential to repay careful study. Natural law; the mixed constitution; regime change; the qualities and characteristics of good statesmen; justice, liberty, and equality within a good and stable political order; and an account of political society that brings to the fore questions of citizens' rights and legitimate rule – all bear on matters of considerable debate and lasting importance in the history of political thought. What is more, the discussion of one of these concepts – natural law – represents the most detailed treatment of the topic surviving from antiquity. And Cicero's treatment of the mixed constitution represents the only theoretical account by a Roman of a concept widely regarded as one of the ancient world's most important contributions to political thought.

Intriguing further still are the unique qualifications of the author of these dialogues to write on their subject matter. Unlike almost all other influential political philosophers – Plato and Aristotle included – Cicero achieved distinction as a politician. Not only does he stand beside Varro, Seneca, and St. Augustine as Rome's most prolific philosophers, but he also ranks among Caesar, Pompey, and the Emperor Augustus as one of her best-known politicians. No ivory-tower intellectual, he held the highest political office in a large republic confronted with a complex range of administrative challenges arising from its expanding empire. If there is some truth to Aristotle's view that political knowledge is acquired by experience, then Cicero may still appear, as John

Adams supposed, to be a rather promising guide for understanding political affairs.

Yet Cicero's *Republic* and *Laws* also challenge and frustrate readers. Much of the trouble involves their coherence. The source of the first and most obvious difficulty is the condition of the surviving manuscripts: neither dialogue has survived intact. Modern readers have access to far more of *De republica* than such eighteenth-century readers as Montesquieu and Adams, thanks to Angelo Mai's discovery and publication of a palimpsest in 1819 and 1822, respectively; still, this only accounts for roughly a third of the original work.[4] As for *De legibus*, while a reference by Macrobius indicates that Cicero had written at least five books, not even three full books survive.[5] It is likely, then, that between the two works, more of the text has been lost than survives.

But problems of coherence are raised by what survives as well as by what is lost. Both dialogues puzzle readers with the apparent lack of unity underlying their various components. Most of what survives from the first three books of the *Republic*, which in fact represents most of what remains of the dialogue, seems unrelated to the work's conclusion. Whereas most of the work appears to defend a life devoted to politics and to uphold Roman ideology, the dialogue concludes with a vision of the cosmos that, if anything, seems to challenge what the earlier books affirmed. In the *Laws* the situation is virtually reversed: the first book presents a series of philosophical arguments for a standard for law that the Roman laws discussed in the remaining two books do not appear to be able to meet.

Finally, there is the matter of coherence between the two works. *De legibus* repeatedly refers back to *De republica* and presents itself as the complement to the project begun in the earlier dialogue. The participants in the conversation depicted in Cicero's *Laws* prove to be aware of particular arguments in his *Republic*; and in fact, the later dialogue presupposes some of its predecessor's conclusions. Just as Cicero took Plato's *Laws* to complement and complete his *Republic*, so *De legibus* is to provide laws for the

[4] For a discussion of the text with bibliography, see Zetzel (1995) 33–4.
[5] See Macrob. *Sat*. 6.4.8.

best regime identified in *De republica*.[6] Although there is occasional dissent,[7] most scholars seem to agree that Cicero intended the two works to be complementary; the current orthodoxy holding that they were composed around the same time only strengthens this view.[8]

If these dialogues are related, what then unites them? What line of argument begun in the *Republic* does the *Laws* sustain, complement, and complete? The key to answering this question lies in a careful reconsideration of precisely those literary features of the dialogues that are most puzzling. Scholars usually attribute the perplexing characteristics of these works to Cicero's failure as a philosopher and writer. Instead, I argue that such puzzling features as the other-worldly Dream of Scipio in the *Republic* and the obscure relationship between natural law and the ideal law code in the *Laws* help illuminate the limits of reason in political affairs and in turn point the way to the dialogues' central concern. In these works, Cicero explores the possible grounds for a good and lasting political society given the limitations placed on perfectly just and rational rule by chance, necessity, historical contingency, and human nature. This is the thread that both unifies the different parts of each dialogue and cements together these works into a single philosophical project. When the dialogues are read in light of this important unifying concern, much of their supposed literary and philosophical incoherence dissolves.

Talk of reason and its limits requires some explanation. When we think of reason, we usually think of the *ability* to reason, that is, the formal ability to draw inferences or make deductions given a set of data. Reason is neutral insofar as it entails no substantive positions or values. It is the instrument by which we determine what to conclude given certain assumptions or what to choose given certain preferences, but reason itself is silent about the validity of these assumptions or preferences. In contrast to this

[6] Cicero's complementarian reading of Plato's *Republic* and *Laws* is complex. I touch on the matter briefly at points in Chapters 2 and 3. For a more direct and extended treatment of this question, see J. W. Atkins (2013).
[7] See Zetzel (1995) 28.
[8] For questions of dating, see Schmidt (1969) along with the discussion of the matter in Rawson (1973).

common modern conception of reason, Plato, Aristotle, and the Stoics held that reason is substantive and prescriptive.[9] Reason prescribes what is good, how we should live, and how we should treat one another as social animals. To follow the rule and guidance of reason means that one must commit oneself to embracing certain goods and following a particular way of life. This notion of reason has important consequences for politics: the possession of reason unites human beings in political society and prescribes the form that this society should assume. It is this substantive and prescriptive notion of reason and its political implications that Cicero is especially concerned with in these dialogues.

On Cicero's account, reason in its pure form is divine; it regulates the forces of nature and the patterns of the cosmos, along with the lives of human beings. However, human beings characteristically respond to the promptings of both reason and a complex array of passions and desires. As a result, they follow nature's directives imperfectly. Somewhat paradoxically, human nature, understood as the characteristics and qualities common to human beings, differs from the perfectly rational nature of the cosmos of which human beings are a constitutive part. This insight into human nature is essential for understanding political affairs, the realm in which human beings act, and political history, the record of these actions. Roman history shows that political affairs do not proceed rationally but are subject to chance, necessity, and contingency. Reason makes claims on human beings that they cannot strictly meet; it prescribes a rule whose realization is doubtful. This is an important concern for politics and it is the central problem of these dialogues.

It may be helpful to situate briefly Cicero's philosophical undertaking more broadly within the context of – first – the history of political thought and – second – intellectual developments in late Republican Rome. The *Republic* and *Laws* are shaped by attention to the following two sets of contrary concepts: the rational, natural, divine, eternal, and ideally best on one hand, and the human, customary, contingent, historical, particular, and practicable on the other. How do these different concepts relate to one

[9] See M. Frede (1996).

another? One possible stance – and one that is relatively common in the history of political thought – would be to emphasize one of these sets to the exclusion of the other. For example, the utopian cities of Plato's and Zeno's *Republics* (as they are commonly construed)[10] exclude the second set, while the republicanism of the Roman historians Sallust, Livy, and Tacitus excludes the first.[11] And in contemporary political philosophy, ideal theorists of various stripes focus on just and rational ideals rather than feasible societies, while their realist critics dismiss this "utopianism" as misguided.[12]

However, it is also possible to collapse the two sets. The result: a proto-Hegelianism that identifies the rational with that which has been actualized in history. Scholars have sometimes supposed that Cicero himself endorses such a position by positing that reason finds its most complete expression in traditional Roman institutions and laws.[13] It is certainly possible that this proto-Hegelian line held some appeal for the conservative Cicero. Nevertheless, if it was a temptation, it was one that he resisted. As these dialogues progress, he invites the reader to evaluate critically the proto-Hegelian position along with utopianism and a version of nonperfectionistic republicanism that purports to have no concern for ideals. Cicero's project, though, is not completely aporetic or negative. He shows how history and tradition are able to play both conservative and critical roles while also suggesting why the statesman may find these resources inadequate apart from a philosophical grasp of reason and nature. Thus, he ultimately tries to work out a way to bring the natural, ideal, and rational to bear on the customary, contingent, and practicable without completely collapsing these different categories.

Cicero's philosophical project as represented in these dialogues may also be placed within the context of the intellectual revolution that accompanied the political upheavals during the final decades

[10] Both *Republics* have also been read as *anti*-utopian works. See Bloom (1968) for Plato and Schofield (1999a) 51–68 for Zeno.
[11] For the republicanism of the Roman historians, see now Kapust (2011).
[12] For two recent works criticizing ideal theory and utopianism, see Geuss (2008) and Sen (2009). For a recent defense of utopianism, see Estlund (2008) 258–75. For an overview of the debate between realists and ideal theorists, see Galston (2010).
[13] See Finley (1983) 128; Girardet (1983); and Moatti (1988) esp. 429.

of the Roman Republic. At a time when traditional sources of authority were weakening, Roman intellectuals creatively and dynamically employed critical reasoning through such scientific forms of organizing and disseminating knowledge as rhetoric, grammar, medicine, architecture, law, historiography, geography, ethnography, theology, and philosophy.[14] Through the proliferation of these sciences, the Romans forged a rational, logical, and unified order from chaos and disunity – an achievement that, according to Claudia Moatti, marked an "age of reason."[15] In particular, the potential universal extension of the legal concept of Roman citizenship imposed a general, universalizable rational order on the many different histories and traditions of the peoples within Rome's expanding empire. Moatti correctly situates Cicero's *Laws* – to which I would also add the *Republic* – within this wider intellectual movement to impose order on disorder and to reconcile (universal) reason with (particular) history.[16] However, these dialogues do not simply extend a Roman rationalizing tendency to the realm of political affairs; they also reveal the difficulties attendant upon any such attempt to reconcile history and reason. Far from a straightforward instance of the marshaling of rational and historical enquiry to stabilize Rome's deteriorating political condition, Cicero's *Republic* and *Laws* represent a more nuanced and circumspect approach to the project, illuminating its limitations as well as its possibilities.

After decades of focusing largely on his Greek sources, scholarship on Cicero's philosophical works has begun to pay attention to the Roman's own philosophical views and use of Roman political and legal concepts.[17] This study may be seen as a contribution to this more recent approach to Cicero's philosophical works, but with a couple of important caveats.

First, Cicero consciously places himself within a tradition of doing political philosophy that he traces to Plato, and it is impossible to understand the philosophy of *De republica* and *De legibus*

[14] See Rawson (1985) and Moatti (1997). [15] Moatti (1997) 54.
[16] See Moatti (1997) 293–8, 313.
[17] See e.g., N. Wood (1988); E. M. Atkins (1990); Griffin and Atkins (1991); A. A. Long (1995); the papers in Powell (1995); and Harries (2006).

without also appreciating the Roman's careful appropriation of parts of this tradition (see especially Chapter 5). In particular, this book takes seriously Cicero's invitation to read his dialogues in light of Plato's. Far from using Plato's work merely as a "foil"[18] or "literary model,"[19] Cicero's own exploration of politics given the limits of reason is indebted above all to a careful reading of his predecessor's *Republic* and *Laws*. In Plato he finds a philosopher worthy of thinking with and, at times, against.

My reading of these dialogues, then, seeks to do justice to Cicero's engagement with Plato as well as his appropriation of Roman political and legal concepts, which has more recently been receiving increased attention. The argument of these dialogues demonstrates a critical and careful use of Greek sources, models, and antimodels. Impressively, Cicero is able to integrate Roman ideas smoothly into his analysis. At times he moves well beyond Plato or any other Greek thinker while remaining consistent with his general Platonic concern with the rule of reason and its limitations. Cicero's *Republic* and *Laws* are therefore products of the appropriation, transformation, and transcendence of Greek thought.

Second, we must exercise caution when determining Cicero's own philosophical views. Like their Platonic models, these two dialogues are carefully crafted pieces of literature. *De republica* took Cicero three years to complete – roughly the amount of time he spent composing the entire later cycle of a dozen or so works from 46 to 44 BC. And *De legibus* has been judged by one commentator to be "Cicero's most successful attempt at imitating the manner of a Platonic dialogue."[20] My study is shaped by the belief that, like Plato's dialogues, Cicero's *Republic* and *Laws* repay a close reading that gives careful attention to literary features. Form and philosophy are intimately connected.

Commitment to reading a work dialogically requires attention to the literary context in which an argument occurs.[21] Admittedly

[18] Zetzel (1995) 14. [19] Annas (1997) 152.
[20] Zetzel (1999) xxi.
[21] I am here using "dialogical" to refer to a reading that takes seriously the fictional and dramatic nature of the genre of dialogue, and not in the technical sense associated with the work of Mikhail Bakhtin.

this can at times be difficult when reading a fragmentary text like the *Republic*. In particular, little remains of Books 4–6, which presumably focused on "the best citizen" or the best statesman.[22] The analysis of the characteristics, qualities, and education of statesmen and citizens was a crucial element of Cicero's political philosophy and most likely an important part of *De republica*. Had the entire text survived, the topic would probably have warranted far more attention than I have given it. As it is, I have placed little emphasis on the fragments of Books 4 and 5: given the importance of context for interpreting Cicero's dialogues, to place much emphasis on fragments in which the overall structure is lost and the arguments are largely divested of their context could result in wildly misleading interpretations.[23] In addition, I have chosen not to fill in gaps in the text with material from other dialogues. This is partly due to misgivings about transferring views that Cicero expressed in very different contexts to *De republica*, a fictive literary production rather than any straightforward exposition of its author's views. And partly it is because this book is an analysis of the philosophy of two of Cicero's dialogues rather than a survey of his political thought.[24]

So much for the general theme of the book and my basic approach to reading Cicero's *Republic* and *Laws*. How does my argument unfold? Experience suggests that many readers will be relatively unfamiliar with these dialogues and unaccustomed to reading them dialogically. Therefore, Chapter 1 explores the connection between dialogue form and philosophy. I show how Cicero skillfully employs this genre and manipulates his own authority as a writer to perform an action in his readers, namely, to provoke them to engage in a cooperative search for the principles of politics. The formal features of the *Republic* invite the reader to turn his or her attention to the substantive questions concerning the role of reason in politics. The focus of this chapter is mainly on *De republica*, which, for reasons that I will later make clear, presents somewhat more of a challenge to the reader than its companion.

[22] See Cic. *Q. Fr.* 3.5.1. [23] See Beard (1986) 36.
[24] For surveys of Cicero's political thought, see N. Wood (1988); Perelli (1990); and Radford (2002).

Although attention to dialogue form is also important for reading *De legibus*, here I aim to persuade more by example than by argument.

Chapters 2–4 are concerned with Cicero's *Republic*. Chapter 2 accepts Cicero's invitation to search for the principles of political affairs in the dialogue. I explore several central concerns of the *Republic* that most clearly come into focus in light of the contrast between the philosophy of the dialogue's first five books and its conclusion – the other-worldly Dream of Scipio. Given that for Cicero (as for Plato) reason prescribes a certain type of political rule, what are its defining characteristics and the conditions for its realization? Are these conditions likely to obtain? If not, why not? Cicero answers that although civic concord, harmony, and stability characterize the political society whose members are completely unified in their commitment and submission to reason's rule, such a regime is not practicable, for it ignores the fundamental precept that political affairs encompass a degree of irrationality. The dialogue develops a science of politics based on a political psychology complemented by a cosmology. This political science simultaneously prescribes rational rule while questioning the possibility of its realization.

Given the limits of reason in politics and the limitations placed on the implementation of ideal rational rule, the dialogue focuses on the best practicable regime, which employs a mixture of democratic, monarchic, and aristocratic elements and principles. This mixed constitution is the subject of Chapter 3. Cicero's account illuminates the competing foundational views about human nature, chance, and historical contingency that underlie the various theoretical articulations of the concept in Greek and Roman political thought. Cicero's version of the mixed regime assumes that human nature is a complex and variegated force to be accommodated but never mastered or thoroughly understood. As a result, central to his analysis are contingency, unpredictability, hostility to conflict – and the importance of a virtuous leadership and citizenry.

Chapter 4 takes up Cicero's formal definition and analysis of political society. While much of his argument thus far has revealed a debt to Plato, Cicero here draws on Roman law to develop an original account of citizens' rights in which rights make claims on