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Cicero on Factions, Statesmen, and the Mixed Regime

Kevin M. Cherry
University of Richmond[*]

Recently, political theorists have sought guidance from ancient Rome about how republics ought to deal with economic and political inequality. They have, however, generally looked to Niccolò Machiavelli, finding in his works a "ferocious populism" that empowers the people to check and, quite literally, cut down to size powerful elites.[1] This interpretation is contrasted with the "aristocratic" republican tradition that shaped "modern representative government" as developed by, for instance, James Madison.[2] Many scholars have placed Marcus Tullius Cicero at the forefront of this rival tradition, and at first glance, such an opposition makes good sense. One cannot read Machiavelli's indictment of "imagined republics" in *The Prince* without reflecting on Cicero as well as Plato, and his infamous advice to princes that it is safer, if not better, to be feared than loved reverses Cicero's counsel.[3] Indeed, according to Maurizio Viroli, the vast majority of passages that lead us to think of Machiavelli as the first "Machiavellian" were directed at Cicero's beliefs about statesmanship.[4]

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To be sure, Cicero prefers a mixed regime in which the aristocratic element takes precedence. It would, however, be a mistake to think that Cicero shares the Machiavellian framework that depicts republican politics as primarily a struggle between the "two humors" of the great and the many and simply prefers the great to the many. As Walter Nicgorski summarized it in the pages of this journal more than forty years ago, "Cicero . . . lived and suffered through most of the century of factional strife and violence preceding the death of the Roman republic."[5] However, Cicero was less concerned about the "struggle of the orders" between the patricians and plebeians that characterized much of Rome's history than he was about the conflict among patricians seeking political power. His preference for an aristocratic mixed regime is therefore puzzling: Why give power to those who may misuse it?

The answer, I believe, can be found in his *De Republica*, which is, in the words of Jonathan Zarecki, "the summative account of Cicero's political philosophy."[6] Written between 54 and 51 BC—after his return from exile and amidst the increasing power of the First Triumvirate—the *De Republica* presents a conversation among leading Roman statesmen that took place over three days in 129 BC.[7] Some of Cicero's contemporaries urged him to set the dialogue in the present and make himself a participant in the conversation, which he later did with the *De Legibus*. But as he did in the *De Oratore*, written just before the *De Republica*, Cicero instead set the dialogue in the past and selected respected figures from Roman history to as participants. At least one reason why he did so, he told his brother Quintus, was "to avoid giving offense" amidst the turmoil of the times.[8] And presumably, like his literary predecessor Plato, he also hoped that the dialogue form would provoke his readers into philosophizing themselves.[9]

Cicero's use of the dialogue form complicates any interpretation of the *De Republica*. Moreover, we have only about one-third of the work, and as James Zetzel observed, for the purposes of understanding Cicero's unique views, it may well be the wrong third.[10] Drawing on what survives, in this article I explore the reasons for and problems with the aristocratic mixed regime Cicero

favors. I begin by showing how the conversation focuses not on the conflict between the patricians and plebeians but on that among the patricians—what Cicero refers to as *factio*. The dialogue recommends a mixed regime as a way of avoiding the corruption of any simple regime as well as ensuring the various goods contributed by the different parts. The aristocratic element provides the deliberative ability, or *consilium*, necessary for any republic and so should take precedence in a mixture. One of the principal lessons of the *De Republica* is that political life is never wholly rational. Whereas some identify the irrationality as popular resistance to the deliberations of the wise, I show that Cicero emphasizes the shortcomings of the deliberative element. The aristocratic element in the mixed regime is therefore both necessary and dangerous to the republic. The dialogue offers two responses to this problem: politically, it justifies checks on the aristocratic element through the popular element of the mixed regime and, pedagogically, it attempts to encourage ambitious individuals to pursue a higher form of glory that conduces to the common good rather than one's own.

Factions and the Res Publica

Consciously modeled on Plato's *Republic*, which takes place during the Peloponnesian war and the attendant conflict within Athens, Cicero's *De Republica* is set in 129 BC, amidst the "unrest" [*motus*] occasioned by Tiberius and Gaius Gracchus, two tribunes who sought to ameliorate the poverty of Rome's lower classes by seizing the property of the wealthy (I.14).[11] Although the conversation begins with a discussion of reported twin suns, the eminently practical Gaius Laelius insists that they focus on "greater things" [*maiora*], namely, the fact that there are now "two senates and almost two peoples in one republic" (I.30–31). The assembled group calls on Scipio Aemilianus—a famous Roman general who is the main speaker and often taken to be Cicero's representative in the dialogue—to discuss what kind of regime would be best so that Rome can again have "one senate and people" [*senatum vero et populum ut unum habeamus*] (I.31–32). The dramatic setting of

the dialogue thus suggests that the inquiry into the best form of government is undertaken to solve the problem of faction, not as a purely theoretical inquiry. By situating the dialogue so that Scipio teaches the next generation what he himself had learned from his ancestors, Cicero attempts to transmit a better understanding of politics to the generations that would read his dialogue.[12]

It is important to note the contours of the conflict to which Laelius points. Rome is famous for its mixed constitution that divided power between the patricians and the plebeians, which resulted from "the struggle of the orders," as the rich sought to defend their prerogatives against the attempts of the poor to gain political power. The division to which Laelius points, however, is chiefly among the patricians, the leaders of the republic who sit in the senate. To be sure, this division threatens to affect even the plebs—"*almost* two peoples," as he observes—but it has its origins in conflict among the elites.[13]

This is how faction [*factio*] was generally understood in the Roman republic and how it is presented in the *De Republica*.[14] In discussing the various kinds of regimes, Scipio refers to a *factio* as a part of the city that seeks to rule over the whole. More specifically, however, it refers to the corruption of aristocracy—exemplified by the Thirty Tyrants of Athens—in which a few seek to rule for their own benefit "most unjustly" and in a tyrannical fashion (I.44–45, III.35; Z:44).[15] The principal division is among the senators, but as becomes clear, it is not an equal division. Senators who work for the *res publica* are not a *factio*, only those senators who seek their own good, rather than the common.[16]

A faction is the aristocratic equivalent of the degeneration from king to tyrant, and it can come about in two different ways. Sometimes, Scipio warns, a tyrant is overthrown not by good men [*boni*] but by ambitious men [*audaces*] who form "that faction that is another type of tyranny." Even if the overthrow of a single tyrant results in the establishment of the "splendid aristocratic form"—as it did in Rome after the expulsion of the Tarquins—such a regime is jeopardized by popular opposition and "depravity" among those leading men who seek greater power, that is, a faction (I.68).

More important, the mixed regime that Scipio endorses for its greater stability seems to have but one source of decay. It is only when there are "great vices" among the leading men [*principes*] that the "moderately mixed constitution" is corrupted (I.69).[17] The character, and so the education, of the leading men of the republic prone to form factions is thus of crucial importance. In his preface to Book V, Cicero laments that the leading men of his own time lacked the appropriate character; although we lack much of his discussion of the necessary education, it is clear that the *De Republica* had a pedagogical purpose.

Republics and the Mixed Regime

According to Scipio, factions, like tyrants, destroy republics (III.35; Z:43–44). Why, then, does he recommend a mixed regime in which the very elites who threaten a republic hold the greatest share of power? Some have argued that Cicero's argument is effectively ideological, that he is merely reflecting the prejudices of the wealthy elites of Rome.[18] What I show in this section is that Cicero's preference for a mixed regime in which the aristocratic element takes precedence is based on the fact that it is the element that contributes the *consilium*, or deliberative ability, necessary to republics.

We can, perhaps, best understand the argument by beginning, as Scipio does, with the proper definition of a republic. Scipio famously defines a republic as "a thing of the people" [*res publica . . . res populi*] (I.38–39).[19] Although he leaves obscure what the "thing" of the people is, he explains that by a "people" he means not "every assemblage of human beings" but only one that is "united in agreement about right [*iuris consensu*] and in the sharing of advantage." This definition, though it seems to preclude simple majoritarian democracy, also means that law cannot be imposed on an unwilling populace.[20] Much like Aristotle, Scipio holds that people assemble from a "natural" tendency to come together for justice and the common advantage, and republics ought to be organized accordingly (I.39). In a fragment at the beginning of Book IV, an unknown speaker claims that human

beings come together to live "happily and honorably" [*beate et honeste*] (IV.1; Z:3).

For political communities to achieve these goals, Scipio insists, authority must be grounded in deliberation [*consilium*] (I.41). That deliberative authority can be found in three simple, unmixed forms of rule: in a monarch, a few select men, or the whole people. Each kind, according to Scipio, may be called a republic as long as it achieves those purposes; if it does so, each would, he says, be tolerable though imperfect [*non perfectum*]. These simple regimes are imperfect because they are likely to become corrupt. If the rulers are unchecked, there is nothing to prevent them from using their authority unjustly and the regime will deteriorate into its opposite form: kingship into tyranny, aristocracy into oligarchy (or *factio*), and a popular form into mob rule, respectively (I.42). There is, Scipio says, "a steep, slippery path" from a correct form into a "bad" [*malum*] one (I.44).

For this reason, the "loveable" kingship of Cyrus is mirrored by the cruelty of Phalaris, and the rule of the leading men in Rome's ally Massilia by the oligarchic Thirty Tyrants of Athens. Although the people of Athens sometimes acted moderately and justly, at other times they were angry and licentious (I.44). This Greek example anticipates Scipio's later adoption of Socrates's argument about how the excessive freedom characteristic of democracy leads to tyranny in Plato's *Republic*. However, Scipio also warns that excess is dangerous for any regime; aristocracy is often destroyed by the "excessive power of leading men" (I.68). Just as the power of the multitude must be limited, the popular check on leading men is therefore essential to the stability of the mixed regime. The first argument for the mixed regime is that any simple regime is likely to become oppressive.

However, Scipio also argues that the mixed regime compensates for the fact that each of the simple regimes has a deficiency that contributes to its instability. A kingdom, for instance, excludes too many people from "justice and deliberation" [*ius et consilium*]. In an aristocracy, the multitude is similarly excluded from deliberation and power and so has no freedom [*libertas*]. And granting

authority to even a "just and moderate" [*iustus atque moderatus*] people would be unjust [*iniquus*] insofar as it would ignore "degrees of rank" [*gradus dignitatis*] among the citizens (I.43). Although Scipio acknowledges a preference for kingship among the simple regimes, he insists on the superiority of the mixed regime because it minimizes the defects of the simple regimes while providing each of their advantages. Again like Aristotle, Scipio claims that political life includes a variety of goods but that these goods, if taken too far (as in the simple regimes), can become dangerous.

Scipio begins by examining the arguments made for democracy, which its defenders argue is the most stable regime: insofar as it treats people equally, it provides a basis for justice and facilitates concord among citizens. Both concord and justice will be essential parts of the well-mixed regime, according to Scipio (II.69–70), and a popular dimension to the regime is therefore essential. However, it is untrue that freedom is found only when the people rule, for democracy may become oppressive. Moreover, if freedom becomes excessive, there can be no agreement on what is right, and so there can be no "people" and hence no *res publica* (III.35; Z:45, cf. I.49).

Advocates for the rule of the best men [*optimates*] criticize democracy because it chooses rulers by lot and so must lack the judgment [*consilium*] necessary for the city's well-being [*civitatium salus*]. Even when the people elect leaders, they often do so on the basis of wealth or ancestry, because they do not know what virtue is; they then reject aristocracy because the leading men are unworthy of the power they have been given. When the rulers are truly superior, virtuous and prudent, however, aristocracy reflects the order of nature, as the higher command and the weaker obey (I.51). Aristocracy, its defenders claim, thus represents a middle, moderate ground between the "feeble" rule of one and the "rashness" of the many. It respects, as democracy does not, the difference in rank among people, elevating the "best men" to positions of power without neglecting the interests of the people (I.52-53). Scipio, though, observes that the aristocratic emphasis on the inequality of human beings ignores what human beings have in

common—in particular, that all men are prone to vice and that the corruption of the leading men can undermine a republic.[21]

Scipio admits that among the simple regimes, he prefers monarchy for the "paternal" care kings have for their subjects and the efforts of the "best and highest man" in seeking the good of the community. However, Scipio acknowledges that the other regimes can legitimately claim to provide goods: aristocrats may surpass kings in judgment [*consilii*], while the people insists that freedom is found only in democracies. Each of the simple forms provides some benefit to the city and so should be included in the mixed regime. Whereas kings "captivate" us by affection [*caritas*], aristocrats do so by their judgment [*consilium*], and popular regimes through the promise of freedom [*libertas*] (I.54-55). No simple regime can provide all the goods political life requires, and the goods are, in fact, connected: the affection for a king is diminished if the citizens are enslaved to him, for instance, just as liberty is diminished if the rulers of a city lack the capacity for sound judgment.

Challenged by Laelius, Scipio defends his (qualified) preference for monarchy by observing that it better provides for the exercise of authority (I.56, I.61). Laelius's suspicion of monarchy is, Scipio suggests, rooted in the Roman hatred of kings that began with the tyranny of Tarquinius Superbus. Yet for all their dislike of kingship, Scipio says, Romans remained willing to obey a single magistrate, the dictator, in times of crisis, just as they will turn to a doctor when seriously ill. The respect for the ancient kings of Rome—like Romulus—shows that people are willing to accept a noble king (I.62–64). The traditional disdain for kingship reveals that the "most certain change" among the simple regimes is the degeneration of kingship into tyranny, which requires nothing more than "the injustice [*iniustitia*] of one man." If a king acts unjustly, or if a good king is succeeded by a bad one, the kingly republic "perishes on the spot" (I.64–65). A mixed regime offers the benefits of kingship while decreasing the risk of tyranny.

Because of the imperfections of the three simple regimes, Scipio proposes "a moderation [*moderatum*] and mixing [*permixtum*] together" of them (I.45). This fourth regime represents an

"equilibrium" among the simple regimes, incorporating "something pre-eminent and regal," the "authority of the leading men" [*principes*], and "certain things" for the "judgment [*judicio*] and will" of the people. It provides the equality so desirable for free men, offering the liberty that democrats valued and perhaps even advancing the concord and justice its advocates had promised. Yet it also provides a "firmness" that avoids the tendency of the simple regimes to change forms insofar as it prevents each part from excess (I.69). In short, it moderates the excessive power of rulers that leads to their degeneration and mixes the distinct goods each provides.

As noted earlier, the danger to mixed regimes is the existence of "great vices" [*magnum vitium*] among leading men (I.69).[22] We are now in a better position to see why: the aristocratic element of the mixed regime provides the deliberation [*consilium*] essential to any regime. Deliberation, we saw, is necessary for any city, and on Scipio's account, it is the contribution of the aristocratic part of the city—in the case of Rome, its senate.[23] To be sure, Scipio envisions an aristocracy based on merit, not wealth or ancestry, but even such an aristocracy may degenerate into a faction, making a mixed regime in which the deliberative element's authority is checked superior to a simple aristocracy.[24]

Rome and the Importance of Political Prudence

The Roman history provided by Scipio in Book II emphasizes "political prudence" [*civilis prudentia*] (II.45). Accepting Cato's claim that Rome surpasses other cities because it represents the excellence of many men rather than one, Scipio proceeds not by creating a republic in speech, as Socrates did, but by considering those men who made Rome what it was (II.1–3).[25] He presents as fact much we would consider myth and, as his own interlocutors note, ascribes the various deeds of Rome's founders to prudence rather than necessity or chance. The speech is therefore less a history than an argument about the importance of prudence and good judgment, traits emphasized in each of the kings Scipio discusses.

This emphasis is perhaps most evident in Scipio's account of the founder and first king of Rome, Romulus. Scipio contends that

Romulus's first act—his choice of location for the city—was marked by "excellent foresight" [*excellenti providentia*] (II.5–11). Although he attacked the nearby Sabines, he did so to establish peace, even instituting a dual monarchy with the Sabine king and forming a council composed of the "leading men." After the Sabine king died, Romulus ruled according to their "authority [*auctoritas*] and deliberation [*consilium*]" (II.12–14).

Scipio claims that Romulus believed that cities are better ruled "if the authority [*auctoritas*] of each excellent man [*optimus*]" supports the king. Romulus therefore used "this council [*consilium*] and quasi senate" to wage war successfully, sharing the booty with his citizens (II.15). After instituting the auguries, Romulus disappeared and is believed to have become a god: having lived among "cultivated" men unlikely to believe fabulous stories, such a claim confirms his "talent and virtue," most importantly his judgment [*consilium*] (II.17–21).

After the death of Romulus, the aristocrats [*optimates*] of the senate—having been called "fathers" [*patres*] by Romulus on account of their affection [*caritas*], their sons became patricians—sought to rule Rome themselves, but the people demanded a king. The leading men "prudently" delayed selecting a new king so that he would be chosen by the people for "virtue and wisdom" rather than lineage (II.23-24).[26] They eventually chose a foreigner, Numa Pompilius, who was "superior" in those traits (II.25). By expanding the role of religion, Numa cultivated in the warlike Romans "a love of leisure and peace," which facilitate the growth of "justice and trust." He thus secured "the two most splendid things" for republican stability, "religion and mildness" [*religione atque clementia*], and brought about "peace and concord" [*in pace concordiaque*] (II.26–27). Scipio argues that Rome's successful development was attributable not to chance but to "deliberation [*consilium*] and training" (II.30).

Similar insight was displayed by subsequent kings who limited the power of the monarchy: Tullus Hostilius "wisely" [*sapienter*] recognized that "certain things should be granted to the people" (II.31), and Lucius Tarquinius Priscus, who was made "a partner in

all deliberations" [*consilium*] of Ancius Marcius because "of his humanity and learning," increased the number of patricians and equestrians (II.36). According to Laelius, Servius Tullius, whose *auctoritas* came not from election but from his justice and kindness, saw "farthest of all" in ordering the republic. He expanded the role of the people by creating the *comitia centuriata*, a popular assembly in which the wealthy had more influence than the lower classes.[27] Tullius recognized that "the greatest number should not be the strongest" in a republic, argues Scipio; although it would be "haughty" to exclude the multitude, it would be "dangerous" for the multitude to be too strong (II.37–39). Those who are more concerned that the city have the best regime [*in optimo statu civitatem*] should have more influence over the city's actions (II.40). Although Servius's reforms made clear that Rome sought to be a republic that respected the interests of the people, it remained a monarchical rather than a mixed republic. Even with a senate and certain rights for the people, the city depended on "the perpetual power, justice, and entire wisdom of one man," to whom "the citizens' safety, equality, and leisure" were subject. It thus lacked true "freedom," which became clear when the kingship degenerated into tyranny (II.42–43).

The degeneration occurred under the successor (and son-in-law) of Servius, Tarquinius Superbus, who took power by killing his father-in-law. Fearing retaliation, he ruled through force and fear and, unsurprisingly, failed to raise his children well. His son's infamous rape of Lucretia outraged the Roman people, who, under Lucius Junius Brutus, overthrew the king. Although Brutus had the "talent and virtue" characteristic of a king, he instead abolished the monarchy in order to secure freedom (II.45-50). The tyranny of the Tarquins demonstrates the limits of monarchy, in which the safety and freedom of the people depend entirely on whether a particular king is virtuous; Tarquinius, after all, assumed no new power but merely used the existing kingly power "unjustly" (II.51). Moreover, insofar as the tyrant lacks the traits common to human beings—the ability to share in justice and fellowship with other citizens and, more broadly, "the entire human race" (II.48)—the

popular element of a mixed regime is more than a concession to necessity. It acknowledges there is something common among people that transcends class divisions.

In Plato's *Republic*, Socrates contrasts the tyrant with the philosopher; in Cicero's, Scipio contrasts him with a man who is "good and wise" [*bonus et sapiens*] as well as "knowledgeable about the interests and reputation of the state" (II.51). Rome's own history, Scipio contends, shows that such men exist and how republics depend on them. However, Scipio also suggests that Plato's *Republic* presents an "image of a city" [*imagine civitatis*] that is "more to be desired than hoped for" only in order to examine "the meaning [*ratio*] of political things" [*rerum civiliam*]. Although Scipio speaks about a city that has existed, he insists that he has employed "the same reasoning" [*rationibus eisdem*] as Plato's Socrates to explain the good, and bad, things that have occurred in Rome (II.52). In other words, Cicero recognizes both the importance of reason in political life and the fact that it is not always effective, as our deliberations are often constrained by fortune and irrational demands. A statesman must possess *consilium* but errs if he expects it to be always effective—perhaps becoming too much like Cato the Younger, who, Cicero quipped, "speaks his opinion as if in the *Republic* of Plato, not as if among the dregs of Romulus."[28]

Whereas the first half of Book II focuses on the political prudence of the ancient kings of Rome, much of the second half explores the lack of prudence after the monarchy was overthrown. Scipio's example of how "the nature of republics itself often overcomes reason" [*vincit ipsa rerum publicarum natura saepe rationem*] is the creation of the tribunes, magistrates chosen by the people to protect them from the patricians. According to Scipio, "reason [*ratio*] was perhaps lacking" in their creation, but it is not clear that he blames the people for the irrationality (II.57–58).

Scipio is fully aware a corrupt populace may overthrow a just aristocracy. As Jed Atkins notes, Scipio even applies the description of the eroticized tyrant from Plato's *Republic* to an unjust multitude that seizes power.[29] However, despite what many commentators

have suggested, the irrationality emphasized here is not the popular demand for tribunes but the senate's failure to resolve the debt crisis.[30] This reading of Scipio's argument is more consistent with the dramatic setting of the dialogue, which focuses on *factio*, but it is also, I think, reflective of Scipio's preference for a mixed regime.

After the overthrow of the kings, Scipio is clear that Rome was an aristocratic, rather than a monarchical or mixed, republic. One of the earliest consuls, Publius Valerius Publicola, the "cultivator of the people" who so impressed Alexander Hamilton, effaced symbols of authority and championed protections for the people against the magistrates. However, the "moderate freedom" [*modica libertate*] that resulted from this did not change the character of the aristocratic republic; Scipio insists that "the leading men" still possessed "the highest authority," for only those popular resolutions approved by the patricians were valid (II.54–56). Rome before the tribunes was not a mixed regime.

After several years, though, the people asserted "a somewhat greater measure of right," or justice, and the use of the term *ius* suggests their claims were legitimate. Prompted by mounting debts, the people withdrew from the city until they were granted tribunes to protect them from oppression. It is easy to charge the people with irrationality; however, Scipio highlights the failure of the leading men to resolve the debt crisis, in contrast to what Solon did in Athens and what the Romans themselves would later do. Scipio argues that alleviating the suffering of the plebeians contributes to "the health of all" [*salutis omnium*], a phrase reminiscent of the traditional Ciceronian emphasis on the *salus populi*.[31] Indeed, earlier in the dialogue, Scipio notes that aristocrats charged democracy with lacking the necessary *consilium* for the city's well-being [*civitatium salus*]; the necessity of the tribunes reveals that aristocracy is not immune to this shortcoming. The senate's failure to solve the crisis resulted in the diminution of its own "power and authority" (II.58–59).[32] The tribunes may have diminished the senate's power, but the diminution of its authority reflects its failure to deliberate adequately.[33]

The creation of the tribunes thus responded to a real need and improved the balance of the Roman republic. The senate may contribute deliberation to the republic, but it may fail to do so, as it did in the debt crisis. Elites who fail to act for the common good become a *factio*, and by creating the tribunes, the people of Rome—as James Zetzel observes, Cicero's Scipio ascribes their establishment to the *populus* as a whole rather than only the *plebs*[34]—recognized the need for protecting the liberty of the people when the senate failed to act prudently. But by doing so through institutional reform, rather than revolution, they sought to achieve the moderate, equitable freedom appropriate to a mixed regime, in which "the highest authority" remained with the senate, whose members were noble, unconcerned with wealth and pleasure, and who used their resources—including their deliberation [*consilium*]—to help their fellow citizens (II.59–61).

Scipio's second example of failed deliberation is the is the *decemvirate*, ten men given the power to write new laws for Rome, whom he later associates with the Thirty Tyrants, the original example of a *factio* (III.35; Z:44-45, I.44). The senate failed in its deliberations by not seeing the dangers of granting unlimited power to a small body of men. Although the first decemvirate did its work "with utmost fairness and prudence" [*aequitate prudentiaque*], its successors refused to step down and concentrated all power in themselves. Their rule lacked equality [*aequabilis*], for there were no tribunes, no other magistrates, and no recourse for the people. The "injustice" [*iniustitia*] of these men resulted in a variety of "unfair" [*iniquus*] laws and ultimately led to "a very great disturbance and a change of the entire republic."[35] The people withdrew from the city a second time and refused to return until the tribunate was restored (II.61–63). The story of the two decemvirates echoes the story of the Roman kings, as a virtuous aristocracy is simply and easily replaced by a vicious one. No one man can safely be entrusted with kingly power, nor should power be entirely in the hands of a few leading citizens lest they form a *factio* (II.62).

In the wake of the decemvirate, Rome finally became a fully mixed republic, Scipio argues, and acquired the form their

ancestors "approved most fully and retained most wisely" (II.63). The people elected new tribunes who worked with the senate to restore the older offices, culminating in the laws of Valerius and Horatius [*leges Valeriae Horatiae*] that codified the role of the tribunes and granted the people the right to accuse magistrates of abuse. Scipio praises them for their wisdom in making concessions to the people in order to achieve concord (II.54).[36] That, of course, is different from making concessions to the people in order to achieve greater power for oneself, a hallmark of the ambition that threatens republics (I.68).[37]

Prudence and Moderation

The creation of the tribunes may serve to restrain elites whose deliberations fall short. It does not, however, ensure that there are rulers capable of providing the *consilium* necessary for a republic to flourish. In the second part of the *De Republica*, Cicero describes the kind of statesman necessary for a republic as well as how such statesmanship can be taught. The discussion focuses on the figure Scipio adumbrated earlier, the *rector rei publicae* (II.51). Having noted the importance of *consilium* in Scipio's history, Laelius guesses that Scipio has in mind "a prudent man" [*prudens*], noting several such men are present, chief among them Scipio himself (II.67). Scipio compares the prudent statesman to the rider of "a monstrous, immense beast"—presumably an elephant—who can control and rule it through "a gentle word of command or touch" (II.67). Yet the power of reason, Scipio says, is capable of doing more than taming a beast; it can even overcome the various passions to which all human beings are prey and that undermine the mixed republic (II.68).[38] In defending kingship, Scipio observes that the various passions of human beings oppose reason, causing "sedition" in the mind. It is judgment [*consilium*]—the highest part of the mind [*animus*]—that overcomes these passions and directs human beings toward their proper ends (I.60). Rulers must therefore have *consilium* in order to guide the republic toward the common good rather than their own.

However, Scipio acknowledges that even the prudent man is himself sometimes susceptible to passion. The prudent man deserves the name not only for his ability to control and rule over others but also his ability to control his own passions and rule himself. He must therefore continually contemplate himself so that he may always exercise judgment in the face of his passions.[39] Rather than persuading his fellow citizens through lectures about ethics, the statesman is called to be a mirror for them, displaying the virtues necessary for a political community (II.69).

That the statesman shares the passions of his fellow citizens justifies the popular aspects of the mixed regime in two ways. First, insofar as it is possible for the statesman to err or fall prey to passions, a check like that offered through the mixed regime is important. Second, the passage highlights the difference between the rule of the mind, or soul, over the desires—which Laelius likens to the rule of a master over slaves—and the rule of a statesman over fellow citizens, which reflects how the mind rules the body (III.22; Z:37). However prudent the statesman may be, he cannot expect the citizens to obey him without question. An element of popular consent, as provided in the mixed regime, is required. As Jed Atkins argues, the strict rule of reason, monarchical in its power, is inappropriate for rule over human beings.[40]

Our text does not have Scipio's discussion of a popular republic. Although he argues that the rule of the people is the "least desirable" of the simple forms (I.42) and borrows liberally from Socrates's criticism of democracy in the *Republic* (I.68), he never denies the necessity of a popular element in a well-mixed regime insofar as it reflects both the need for stability and the fundamental equality among human beings. In fact, he chastises one of the other participants in the conversation for his "habitual disdain" of the people and agrees to praise [*laudo*] the "popular republic" [*popularis rei publicae*] of Rhodes, which balanced power between the senate and the people (III.36; Z:47–48). The popular element may lack the fullness of judgment, but it stabilizes the mixed regime by preventing the abuse of power by the rulers and perhaps even identifying those whose interest is truly the common good.

According to Scipio, Roman history suggests that the people—when just and moderate—have looked for rulers who have the prudence necessary to guide the republic.

In a mixed regime, the manifold desires that human beings have, the many opinions and beliefs they hold, mean that political life will inevitably be full of "distinct sounds" and "very dissimilar voices." It is therefore the task of the prudent man to create a "harmony" by blending them, that is, by moderating "the highest, lowest, and middle orders" in order to achieve *consensus* among them. This "civic concord" is the best way to preserve a republic, but it depends on justice [*iustitia*] (II.69). The conclusion of Book II therefore recalls the original definition of a *res publica* as a *res populi*, in which the people are "united [*consensus*] in agreement about right" (I.39). Yet what this passage suggests is that such agreement does not come about by chance, nor by the institutions developed through Roman history, but rather by a statesman who fosters concord among the various groups in the republic.

The importance of moderation was suggested in an early description of the statesman as "some great citizen and almost divine man" who can discern what threatens a republic and act to preserve it, which requires moderating and mixing the various simple regimes (I.45). In Book II, Scipio indicated that Rome's success was attributable to a series of prudent statesmen able to respond to various challenges and developments; it is unsurprising that the city would continue to need such statesmen in the future to preserve a balance. Because republics always require prudent leaders, the dialogue's focus turns, as Walter Nicgorski influentially put it, from the best regime to the model statesman.[41]

Unfortunately, the corruption of the text means that Scipio's discussion of the model statesman—often referred to as the *rector rei publicae*, the guide of the republic—is incomplete. Presented as the opposite of a tyrant, this man is "a guardian [*tutor*] and manager [*procurator*] . . . a guide [*rector*] and helmsman [*gubernator*]" who preserves the city through his "judgment [*consilio*] and effort" (II.51). Laelius perceives that such a man must be prudent (II.67), and Scipio goes even further, claiming he possesses

complete prudence [*totam . . . prudentiam*] (VI.1). In his own voice, Cicero assigns to the rector responsibility for properly shaping the citizens' character.[42] This task requires that the rector himself be wise and virtuous, which is why Scipio emphasizes the ongoing need for self-reflection (II.69).

Scipio's account of Roman history indicates that the task of the *rector rei publicae* is sometimes to strengthen the monarchic, popular, or aristocratic elements, and at others to tame them. *Consilium*, though, is always necessary to discern the appropriate mixture in particular circumstances. The philosophical debate about justice that occurs in Book III is in some ways less important than the challenges to justice that arise in political life. As partisans of the monarchic, aristocratic, and democratic views clamor for a greater share of political power—leaving their rivals with less—it is the task of the statesman to achieve an equitable balance. Whereas Sparta was dependent on preserving the laws of Lycurgus, Rome produced a series of prudent statesmen to guide her growth. The institutions of the Roman republic changed over time, and Rome flourished, according to Scipio, when those changes were guided by prudent men. Cicero feared, though, that the changes in his time were made by men who sought not what was best for Rome but what was best for themselves.[43]

The text of the *De Re Publica* becomes increasingly corrupt after Book II (until the concluding "Dream of Scipio," preserved nearly in its entirety), and we lack Scipio's account of the educational practices that would foster prudence and virtue. The longest surviving passage from Books III–V is the debate about justice that occurs in Book III: Borrowing from the arguments of the Greek skeptic Carneades, Philus argues that justice is neither natural nor beneficial but conventional. Against this, Laelius argues that justice is natural and essential to the republic. We have too little of his argument to judge its validity, but we do possess the response to it. Indeed, as Adam Seagrave notes, Cicero surprisingly interrupts the dialogue in his own voice to describe the reaction to it, reporting that all those present—and, in particular, Scipio—celebrated and praised Laelius's defense of justice.[44]

Scipio thus concludes that a republic cannot exist when one part of it rules unjustly over the others. If a tyrant oppresses the people, it is not the case that a "defective republic" exists but rather no republic at all. The same is true when a *factio* oppresses the people, as in the Thirty Tyrants of Athens or the decemvirate of Rome. Laelius contends that a city ruled by an unjust multitude cannot be a republic, for there is no people in the absence of "agreement about right" [*consensus iuris*]. Such a city, he concludes, is even more monstrous than one ruled by a single tyrant, since its oppression is more easily masked (III.35; Z:43–45).

The necessity of justice, understood as an agreement [*consensus*] about what is right, reminds us of the need for a statesman who can foster such a consensus among the "dissimilar voices" that arise from the various parts of a city. Cicero's preface to Book III similarly emphasized the way in which language brings together "previously disunited human beings" (III.2; Z:3). Yet, as Scipio himself acknowledged, the nature of republics often defies reason: Will the people listen to the deliberations of the wise? And will those charged with deliberating pursue the common good rather than their own? Scipio's history suggests that it is possible, of course, but Cicero saw firsthand that statesmen will often fail and may even be punished for succeeding.

Statesmanship and Its Rewards

Why, then, serve the republic, instead of either withdrawing from public life, as Cicero's Epicurean friend Atticus did, or pursuing one's own good at the expense of the common good? The *De Republica* concludes by describing a reward that transcends the vicissitudes of fortune; in so doing, Cicero hopes to encourage the young to participate in politics albeit with a perspective that transcends politics. Only such people can be trusted to deliberate with a view to the common good of the republic.

In the brief portion we have of Cicero's preface to Book V, he endorses the opinion of the poet Ennius that the Roman republic relied on "ancient customs and men" [*moribus antiquis . . . virisque*] and laments that his generation failed to preserve what it

inherited, much less renew it. With the loss of its ancient customs, the republic has been retained in name [*verbo*] although its substance [*re ipsa vero*] has disappeared (V.1; Z:1–2). Book V seems to focus on the decline among the leading men of Rome and the absence of the ideal "director of the republic" [*moderator rei publicae*].[45] Such men are necessary, as we have seen, to establish and preserve political communities, which is the "greatest and best work" of human beings (V.2; Z:8). But just as Scipio credited deliberation, rather than fortune, for Rome's success, Cicero blames "our own vices" rather than fortune for her decline (V.1; Z:2).

Scipio insists that the rector must understand "justice and laws," not in order to give "legal advice" but rather to administer the republic in light of "the highest law" (V.4; Z:5). Just as the helmsman looks to and is guided by the stars, the statesman must look to and be guided by the highest law in order to secure "the blessedness of the life of his citizens"—prosperous, glorious, and virtuous (V.2; Z:8). The necessity of looking upward anticipates the famous Dream of Scipio, which concludes the dialogue and accounts for almost all we possess of Book VI. The remaining fragments of Book V, though, explicitly ascribe to the rector the task of preserving the mixed regime: the rector's "complete prudence" [*totam . . . prudentiam*] enables him to anticipate things that agitate [*permoveo*] the regime [*statum civitatis*].[46] Foremost among these dangers is the "disagreement [*dissensio*] among citizens . . . called sedition" [*seditio*].[47] The *rector* must avoid sedition by fostering the harmony that was discussed in Book II by means of inculcating the proper opinions (VI.1–4; Z:1–2).

What Cicero's account suggests, however, is that whereas *seditio* represents a disagreement among the parts of the city, which can be overcome by the mixed regime, *factio* represents an opposition of elites to the common good.[48] *Factio* can occur in a simple aristocracy, when a few unjust rulers take power, and it can occur within a mixed regime, when elites contest for power for their own sake rather than the good of the community. Insofar as the mixed regime requires ongoing adjustment to maintain the balance among its parts—avoiding *seditio*—we must be sure rulers are

prudent and virtuous to make the appropriate adjustments while avoiding adjustments that benefit themselves rather than the community. They must, therefore, be properly educated.

Although a description of the education necessary for the *rector* is lost to us, the rewards for successful statesmanship are described by Scipio in an account of a dream he had in Africa many years earlier. Hoping to encourage potential statesmen to serve the republic, Scipio offers something longer-lasting than statues, parades, or political power as the reward for virtue and great deeds (VI.12; Z:8). Scipio claims his adoptive grandfather, Scipio Africanus, came to him in a dream and predicted that he would serve twice as consul. His grandfather added, however, that he will confront plans to disturb [*perturbo*] the city, made by Africanus's other grandson—and Scipio's brother-in-law—Tiberius Gracchus. Scipio must use his "mind, talent, and judgment" [*animi, ingenii, consiliique*] to defend the republic, as the senate, the "respectable men" [*omnes boni*] and indeed "the entire city" [*tota . . . civitas*] will turn to him to preserve the safety of the city [*civitatis salus*] (VI.15-16; Z:11-12).

In the dialogue, the outcome is unknown: Africanus warns that Scipio must either serve as dictator to quell the disturbance or be killed by Tiberius's supporters.[49] Both of these predictions shock Scipio's audience, and he quiets them so he can finish recounting the dream. Focusing on the latter possibility—which, of course, was to occur—Africanus encourages Scipio to "protect [*tutor*] the republic," promising an "everlasting life" in the heavens to reward those who serve their fatherland. The god who directs the universe is greatly pleased with true republics that are "united in right" [*ius*], and he rewards the "guides and preservers" [*rectores et conservatores*] of these cities by bringing them to heaven (VI.17; Z:13). Africanus warned Scipio that although those who seem to have died in fact live more "truly" [*vero*] without their bodies, we are obliged to serve the republic until the god liberates us. On earth, people should prepare their souls to return to the heavens by cultivating "justice and piety" [*iustitia . . . et pietas*] toward their families and, more important, their fatherland [*patria*].[50]

Scipio thus turned his gaze upward, away from earthly concerns, which seemed to diminish in size as he looked upon the stars (VI.18–20; Z:14–16).

Scipio heard a "great" and "sweet" sound, the harmony that arose from the "proportional and rational" [*pro rata parte ratione*] movements of the nine heavenly spheres. Most people are unable to hear this harmony, though they seek to imitate it through instruments and songs and through "divine studies" (VI.21–23; Z:17–19). The celestial harmony is the model for the civic harmony to be sought by the *rector*; the difference is that the movement of the spheres "rational," whereas the nature of republics sometimes overcomes reason.

Although impressed by the heavens, Scipio repeatedly returned his gaze to earth, and Africanus reminded him that no glory achieved on earth can endure. Whatever fame one acquires is limited to a small part of the earth and will, in time, fade. Given its brief duration, "human glory" is worth little, and the "true honor" for virtue is found in the heavens (VI.24–29; Z:20–25). Insofar as Scipio ascribes factional strife to a desire for glory (I.68), a diminution of that earthly glory in favor of a nobler one helps minimize the conflict among elites that leads to faction. Rulers who seek the heavenly rewards will serve better the common good and be less concerned with their own private goods, precisely what is necessary to prevent *factio*.

Scipio promised Africanus that he will be even more dedicated to his fatherland in the future. Perhaps to encourage him, Africanus employed arguments from Plato's *Phaedrus* to show that the soul is immortal and, as the highest part of us, should be employed for the best matters [*optimis in rebus*], that is, caring for "the safety of the fatherland" [*salute patriae*]—precisely what Laelius suggested at the beginning of the dialogue (cf. I.33). However, the reward for doing so is not earthly glory, much less temporal success, but the promise of a swift return to the heavens. Africanus added that political activity on its own is insufficient: one who has drawn away from the body by contemplating "those things that are beyond" will more easily return to heaven, perhaps because such men will more

readily act for the common good than divisive bodily goods. By contrast, those who have lived their lives concerned with "the pleasures of the body" have become its servants; in pursuing these pleasures, they have violated the "laws of gods and human beings" and, after death, are "tormented for many generations" before returning to the heavens. With this warning, the dialogue abruptly ends: "He [Africanus] left; I [Scipio] was released from sleep" (VI.31–33; Z:27–29).

The Dream of Scipio offers to prospective statesmen a reward that is more enduring and more certain than earthly success. Cicero's audience would have known that soon after the conversation recounted in the *De Republica* Scipio died without having resolved the city's unrest—a fate similar to that of the kings in Book II: Servius Tullius was, of course, murdered by the tyrannical Tarquinius Superbus; Tarquinius Priscus was killed by the sons of Ancus Marcius; and Scipio even alludes to the possibility that Romulus was killed by the senators (II.20). Perhaps like Scipio, Brutus, the founder of the republic, was killed by his cousin. We are obliged to serve the republic as best we can, but because the nature of republics often defies reason, that service may not bring us happiness here. The dream insists that there is a higher and more certain reward. It thus fulfills Cicero's purpose, stated in the preface to Book I, of removing people's doubts about participating in public life [*res publicae*] (I.12), but it also encourages the pursuit of a glory compatible with the common good of a republic.

Conclusion

Cicero's understanding of faction, as we have seen, is a small group that uses political power for its own benefit. In several cases, such a small group—much like a king—became corrupt and abused its power. This happened in the case of the decemvirate, for instance, as well as immediately after the death of Romulus, when the senate sought to rule. Although deliberation is crucial for a healthy political community, and although he locates the best source of deliberation in a small group of the best citizens, Cicero is clear that such a small group needs to be checked. The same reasoning that

emphasizes the importance of deliberation reminds us of the limits of reason in politics. Cicero, therefore, accepted the role of the tribunate in serving as a restraint on the potentially oppressive power of the senate in Rome.

To this extent, then, Cicero may well be counted among those who influenced the "aristocratic republican tradition." The defenders of the US Constitution who adopted the name of Publius sought to do something similar: they championed that document insofar as it made the oppression of a factious majority "less likely" and, through a system of checks and balances, sought to prevent the tyrannical accumulation of legislative, executive, and judicial power in the hands of one body. Even so, they also emphasize the importance of popular checks on these officials, in a way reminiscent of Cicero. The extended republic must preserve "the spirit and form of popular government," and the constitutional safeguards are but "auxiliary precautions" to the "primary" safeguard of due dependence on the people.[51]

Although such institutional restraints prevent the worst kinds of oppression, they are but a part of Cicero's argument as we find it in the *De Republica*. Political communities need not merely to restrain bad rulers but also, especially in times of crisis, to be able to call on good ones. The greater danger arises when none of the statesmen in a republic seeks the common good rather than his or her own. Cicero seems doubtful that any institutional arrangement could prevent oppression if the elites were corrupt. As J. G. F. Powell summarizes, for Cicero, "[G]ood government can happen only if there are good governors," and as we have seen, the greatest danger to republics occurs when the leading men are full of vice.[52]

A republic, therefore, must take steps to ensure that there are good governors. Andrew Lintott laments that the only concrete legislation Cicero proposes toward this end is "an increase in the term of office and powers of the censors."[53] Cicero almost certainly included more details in the parts of the *De Republica* that we no longer possess.[54] Moreover, we should not overlook the contribution made by Cicero's philosophical writings that describe the kind of statesman he thinks necessary for republics and, through the

Dream of Scipio, encourage the cultivation of traits necessary to be one. The *De Republica* concludes with an attempt to persuade men of great ability to pursue the common good by highlighting the transience of temporal goods like wealth and power that give rise to the political conflicts that destroy a republic.

Whereas Cicero's political activity met with limited success—although he ascended to Rome's highest office, he failed to preserve the republic—his philosophical activity places him in the company of Plato and Aristotle, those wise men who, though they did not direct republics, nevertheless served republics by their writings that served to illuminate the nature of political life and educate those who did (I.12). When reading the dialogue, it is worth remembering, as J. Jackson Barlow emphasizes, that Cicero's own audience would have known that Scipio failed to reunite the divided Rome mentioned at the beginning of the dialogue. In confronting "an advanced state of the same disease," Cicero chose to sketch a philosophy that would encourage virtuous men to take part in public affairs rather than cede them to the vicious.[55]

Notes

1 John J. McCormick, "Machiavellian Democracy: Controlling Elites with Ferocious Populism," *American Political Science Review* 95, no. 2 (2001): 297–313. The argument is expanded in his *Machiavellian Democracy* (New York: Cambridge University Press, 2011). See also Miguel E. Vatter, *Between Form and Event: Machiavelli's Theory of Political Freedom* (Dordrecht, the Netherlands: Kluwer Academic, 2000); and Yves Winter, *Machiavelli and the Orders of Violence* (New York: Cambridge University Press, 2018), especially chs. 4 and 5.

2 McCormick, *Machiavellian Democracy*, 11, 17.

3 Niccolò Machiavelli, *The Prince*, 2nd ed., trans. Harvey C. Mansfield (Chicago: University of Chicago Press, 1998), ch. 15, p. 61, and ch. 17, p. 66. Cicero's view can be found in *De Officiis* II.7.

4 Maurizio Viroli, *Machiavelli: Founders of Modern Political and Social Thought* (New York: Oxford University Press, 1998), 52.

5 Walter Nicgorski, "Cicero and the Rebirth of Political Philosophy," *The Political Science Reviewer* 8 (1978): 63–102, 65.

6 Jonathan Zarecki, *Cicero's Ideal Statesman in Theory and Practice* (New York: Bloomsbury, 2014), 46, 76. Composed about the same time as the

De Republica is the *De Legibus*, which Cicero did not include among his works (*De Devinatione* II.1). I have, therefore, focused on *De Republica*, although I have provided evidence from the *De Legibus* in the footnotes where warranted.

7 Among Laelius's complaints about the contemporary political setting is the "highly seditious [*seditiosissimis*] triumvirs" appointed by Tiberius Gracchus (I.31). A careful reader might think of Caesar, Pompey, and Crassus.

8 On the setting and composition of the dialogue, see James E. G. Zetzel, ed., *Cicero: De Re Publica: Selections* (New York: Cambridge University Press, 1995), 3–13.

9 On the parallels between Plato's *Republic* and Cicero's, see Jed W. Atkins, *Cicero on Politics and the Limits of Reason* (New York: Cambridge University Press, 2013), ch. 1.

10 "Political Philosophy," in *The Cambridge Companion to Cicero*, ed. Catherine Steel, 181–195 (New York: Cambridge University Press, 2013), 184.

11 I have generally relied on the translation of David W. Fott (Marcus Tullius Cicero, *On the Republic and On the Laws* [Ithaca, NY: Cornell University Press, 2014]), which makes use of the new critical edition of J. G. F. Powell (*De Re Publica, De Legibus, Cato Maior, De Senectute, Laelius, De Amicitia* [Oxford: Oxford Classical Texts, 2006]), but have also consulted Niall Rudd, trans., *The Republic and the Laws* (New York: Oxford World's Classics, 1998), and James E. G. Zetzel, trans., *On the Commonwealth and On the Laws* (New York: Cambridge University Press, 1999). I have followed Fott's example by including references to the earlier Ziegler manuscript for Books III–VI. All other Ciceronian sources are from the Loeb editions (loebclassics.com).

12 Zetzel, *De Re Publica*, 6.

13 Several contemporary commentators describe American politics as polarized primarily among elites. See, e.g., Samuel J. Abrams and Morris Fiorina, "Party Sorting: The Foundations of Polarized Politics," in *American Gridlock*, eds. James A. Thurber and Antoine Yoshinaka, 113-29 (New York: Cambridge University Press, 2015).

14 Surveying the writers of Cicero's time, Robin Seager ("*Factio*: Some Observations," *Journal of Roman Studies* 62 [1972]: 53–58) found very few passages "where *factio* means something close to 'dissension,'" and these generally refer to "communities other than Rome." Within Rome, "only one *factio* is said to exist at one time," as the *factio*'s opponents defend the common good and do not warrant an "opprobrious term."

No "republican source" discusses "competing factions of the nobility." Elizabeth Asmis, however, notes that whereas this was true in Scipio's time—his party was "motivated by the common good"— when Cicero wrote the *De Republica*, there was "no group" pursuing "the common good," as both Pompey and Caesar sought preeminence ("A New Kind of Model: Cicero's Roman Constitution in *De Republica*," *American Journal of Philology* 126, no. 3 [2005]: 377–416, 387).

15 Scipio claims that there was "agreement" [*consensus*] among the Thirty Tyrants, raising the question—taken up in Book III—of whether agreement about justice suffices for a republic or whether there must *be* justice. Scipio eventually takes the latter position (III.35; Z:43-44).

16 Cicero himself spoke this way in his speeches against Catiline (*In Cat.* II.1, II.25) and Antony (*Phil.* V.32).

17 Although Cicero was forced into exile by a popularly approved law, it was sponsored by Publius Clodius Pulcher, a patrician who arranged for his own adoption by a plebeian in order to become a tribune. The adoption was approved by both Caesar and Pompey in their official capacities; Cicero would therefore claim it was "violence, arms, armies, generals, and camps," but not the people, that drove him out of the city (*Pro Sestio* 40).

18 See, e.g., Neal Wood, who associates Cicero with the tradition that defends the mixed regime insofar as it provides "protection of the propertied status quo and the maintenance of property differentials," which was to Cicero's own benefit (*Cicero's Social and Political Thought* [Berkeley: University of California Press, 1991], 105, 161). Thomas M. Mitchell similarly claims that Cicero's political beliefs were "founded on the basic precepts of oligarchic ideology" (*Cicero: The Ascending Years* [New Haven, CT: Yale University Press, 1979], 90). So, too, Joy Connolly claims that Cicero "defends the wealthiest classes' domination of politics" (*The Life of Roman Republicanism* [Princeton, NJ: Princeton University Press, 2015], 49); she also suggests there are in Cicero's works "productive internal contradictions" that might bring him close to McCormick's Machiavelli (12n26, 57).

19 Malcolm Schofield has thus suggested that Cicero's unique contribution to political theory is "a criterion of legitimacy of forms of government," namely, whether a government cares for "the affairs and interests of the people," which requires some "rights over its management and use" and therefore "a degree of political liberty" (*Saving the City: Philosopher-Kings and Other Classical Paradigms* [New York: Routledge, 1999], 178–89).

20 As Atkins observes, Scipio's criticism of the numerical equality favored by democrats (I.43) precedes his adoption of the aristocratic persona (*Cicero on Politics*, 111).

21 Walter Nicgorski emphasizes the egalitarian aspects of Cicero's thought that make consent, and therefore rhetoric, important to political life (*Cicero's Skepticism and His Recovery of Political Philosophy* [New York: Palgrave MacMillan, 2016], 173–81). Asmis suggests that Cicero's famous definition of a republic emphasizes the importance of "communality through a succession of *con-* (*co-*) compounds" ("New Kind of Model," 401). Cicero's preference for *consilium* in the *De Republica* rather than *prudentia* may reflect a similar emphasis.

22 In the *De Legibus*, Marcus proposes that members of the senate "must be free of all vice" [*vitium*] (III.28).

23 As Xavier Márquez observes, insofar as the senate contained all those who had held the senior magistracies, it was "the only plausible institutional repository of practical wisdom" in Rome ("Cicero and the Stability of States," *History of Political Thought* 32, no. 3 [2011]: 397–423, 415n38).

24 Most scholars agree Cicero prefers a mixed regime in which the aristocracy takes precedence. See J. Jackson Barlow, "The Education of Statesmen in Cicero's *De Republica*," *Polity* 19, no. 3 [1987]: 353–74, 366; Jean-Louis Ferrary, "The Statesman and the Law in the Political Philosophy of Cicero," in *Justice and Generosity: Studies in Hellenistic Social and Political Philosophy*, ed. Andre Laks and Malcolm Schofield (New York: Cambridge University Press, 1995), 48–73, 63; Márquez, "Stability," 412; Nicgorski, *Cicero's Skepticism*, 182–83; Schofield, *Saving the City*, 189–90; and Zarecki, *Ideal Statesman*, 47–51. Cf. Asmis, who finds in the *De Legibus* "an aristocratic bias" absent from the *De Republica*, which supports a clearer division of power among "consuls, senate, and people" ("New Kind of Model," 390, 404).

25 As Nicgorski argues, Rome "is never presented as simply the best regime or as the best practicable regime," but only as "the best exemplification among actual political communities of the best practicable regime" (*Cicero's Skepticism*, 165–66).

26 Zetzel notes Cicero highlights the regime's mixed character by including *cives*, *rex, patres*, and *populus* in the first clause of II.25 (*De Re Publica*, 181).

27 The *comitia centuriata* was an assembly of all citizens organized into "centuries" based on wealth. Each century had one vote, and decisions were reached by a majority within each century and then a majority of

centuries. However, the wealthier centuries had fewer members, which granted a greater influence to the rich than to the poor. See Andrew Lintott, *The Constitution of the Roman Republic* (New York: Clarendon Press, 1999), 55–61.

28 See Rex Stem, "Cicero as Orator and Philosopher: The Value of the *Pro Murena* for Ciceronian Political Thought," *Review of Politics* 68, no. 2 (2006): 206–31, 217–25.

29 *Cicero on Politics*, 101–2.

30 For instance, W. W. How holds that Cicero accepts the power of the tribunes only because "popular demand for it [was] irresistible" ("Cicero's Ideal in His *De Republica*," *Journal of Roman Studies* 20 [1930]: 24–42, 31–32). Atkins portrays the defense of the tribunate as an "accommodation" to the people's "natural-but-not-completely-rational desire for democratic freedom" (*Cicero on Politics*, 49, 110–13, 211–13). Márquez likewise highlights "the 'irrationality' of the tribunate" as well as "the irrationality of the people," although he also recognizes that "the elite does not always act rationally" ("Stability," 413, 416).

31 According to Andrew Dyck, the idea of *salus populi* is "virtually Ciceronian property" (*A Commentary on Cicero's "De Legibus"* [Ann Arbor: University of Michigan Press, 2004], 459).

32 In the *De Legibus* Marcus praises Pompey for seeing "not only what was best but also what was necessary" and restoring the tribunate accordingly (III.26). He suggests that the tribunes sometimes moderate the senate as well as the people, as their protection made the people more willing to obey the senate (III.10–12, 23–25, 39). As Zarecki observes, however, Marcus fails "to persuade his fellow interlocutors" about the necessity of the tribunes to the mixed regime (*Ideal Statesman*, 74–75).

33 Thomas Mitchell observed the senate's authority depended on its reputation for *consilium* and justice (*Cicero: The Senior Statesman* [New Haven, CT: Yale University Press, 1991], 24). Cicero himself argued that because of the senate's failure to act justly, some of the "most wise and honorable" patricians supported Pompey's restoring the tribunate after it had been weakened by the dictator Sulla (*In Verrem* I.44–45).

34 Zetzel, *De Re Publica*, 214.

35 Again emphasizing a fundamental equality among citizens, the one law Scipio identifies as unjust is that which forbid marriage between plebeians and patricians, calling it "most inhumane" [*inhumanissima*] (II.63).

36 These laws "constitutionally entrenched" the tribunes for "perhaps the first time" and led to a lengthy time in which there was "no major strife between patricians and plebeians" (Lintott, *Constitution*, 35).

Cicero may well have seen them as representing "the achievement of a constitution that was stable, balanced, and harmonious" (223).

37 In his *De Officiis*, Cicero warns the excessive pursuit of honor often undermines justice: anyone who strives to outdo all others denies the equality central to human communities. This denial has significant political consequences because such ambition is often nursed by those who possess the greatest talent, like Caesar (I.26).

38 I follow the Loeb edition in placing the fragments from Nonius 342.39 and 491.16 in II.68.

39 Nicgorski holds that "the model statesman's very virtue consists partly in his continual Socratic striving for self-understanding and moral improvement" (*Cicero's Skepticism*, 215).

40 *Cicero on Politics, 65 ff.*

41 Walter Nicgorski, "Cicero's Focus: From the Best Regime to the Model Statesman," *Political Theory* 19, no. 2 (1991): 230–51, 242. Zetzel notices the same movement—"his topic becomes ever more precisely focused . . . on the role of the individual statesman"—and adds that "the context in which the qualities of the statesman are seen expands from Rome to the entire cosmos" (*De Re Publica*, 17). Nicgorski, however, contends that the "model statesman" is "the central concept or leading idea of Cicero's political philosophy" as a whole, not merely the *De Republica* (*Cicero's Skepticism*, 6, 117).

42 The fragment, clearly from a preface, is placed differently by Powell (III.3) and Ziegler (V.6).

43 Zarecki similarly argues that Cicero was chiefly concerned about "the perceived moral and ethical failures" of contemporary Roman elites, who pursued "their own best interests" rather than "the greater good of the Republic" and were "responsible for the dissolution of *concordia*" necessary for a mixed regime (*Ideal Statesman*, 47–52, 55–58, 60–62, 76).

44 S. Adam Seagrave, "Cicero, Aquinas, and Contemporary Issues in Natural Law Theory," *Review of Metaphysics* 62, no. 3 (2009): 491–523, 499.

45 Zarecki has pointed out that the *De Republica* possesses a "circular structure," in which Book II's emphasis on the early Roman kings parallels Book V's intended discussion of the *rector rei publicae* (*Ideal Statesman*, 41). Although Cicero sought a "reform of Rome's statesmen," he argues, the "*rector*-ideal" served as a way for Cicero to assess the conduct of his contemporaries, not to educate Rome's elites (91–93).

46 The dialogue began with Laelius complaining about the unrest [*motus*, from *moveo*] of the republic (I.14).

47 Scipio previously described the sedition of the plebs (II.59) as well as the sedition of anger from reason (I.60). An unidentified speaker, likely Scipio, asserts he sided with the good men [*boni*] in their disagreement [*dissensio*] with the people, presumably because the good men were more reasonable (IV.15; Z:8).

48 In Cicero's *De Oratore*, it is observed that Marcus Antonius—a famous orator and grandfather of the infamous Mark Antony—argued that many seditions [*seditiones*] had in fact benefited the republic, as in the expulsion of the kings and creation of the tribunes (II.124). I am grateful to Daniel Kapust for this observation.

49 It was believed by some (including, apparently, Cicero) that Scipio was killed by Tiberius's supporters.

50 Atkins argues that though "perfect harmony" like that of the "heavenly order" cannot be found in political communities, it can exist in individual souls (*Cicero on Politics*, 79).

51 Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers* (New York: Signet Classics, 2003), 75–79, 297–98, 319.

52 J. G. F. Powell, "The *rector rei publicae* in Cicero's *De Re Publica*," *Scripta Classica Israelica* 13 (1994): 19–29, 28.

53 *Constitution*, 232, presumably referring to *Leg.* III.29–30.

54 Atkins observes that Cicero prepares for such a discussion by having Scipio emphasize Numa's educational reforms in Book II (*Cicero on Politics*, 27).

55 "Education of Statesmen," 359–60.