

A Consul Popularis?: Finding Legitimacy between Senatus and Populus
in Cicero's Consular Orations

Malcolm Schofield has recently argued that Cicero was the first political philosopher in the Western tradition to clearly articulate the concept of political legitimacy in his famous definition from the *De Re Publica*: “*est igitur... res publica res populi. populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatus*”¹ (*De Re Publica* 1.39). Unlike Ancient Athens, where the *demos* generally held ultimate authority, the Republican form of government was characterized by a variety of complex (and competing) political institutions with potentially overlapping spheres of authority. The Romans of Cicero's day, accordingly, were forced to answer repeatedly questions such as whose authority was legitimate and which institution should have the final say. This conflict largely focused on the conflicting prerogatives of two groups: the famous advisory *Senatus* and the technically sovereign *Populus Romanus*. In Cicero's day this was the central political question, the crisis of legitimation which had already exploded into the earth-shattering conflicts of the early first century between Sulla, Marius, and Cinna. These conflicts were about more than simply which magistrate or army would win the day, for right along with them came public arguments over legitimacy, that is, of which institution would possess the right to rule in the future.

This was the polarized atmosphere that Cicero found himself in during his consulship, one of continual public contestation for legitimacy and authority. His speeches from this period reflect this common cultural concern, and are deeply engaged in the project of legitimizing Cicero as *novus homo*, as consul, his political positions, and also his own ideological

¹ “A ‘Republic’ is, accordingly, the common business of a *populus*. Not every gathering of people, however, gathered together in any manner at all, constitutes a *populus*, but a *populus* is the gathering of a multitude joined together by their consent to law and shared purpose.”

commitments. Thus this paper will look at Cicero's self-fashioning and self-presentation as a means of legitimation within the surviving Consular Orations, particularly the Speeches on the Agrarian Law and the *Pro Rabirio*, but with reference to the speeches against Catiline. Within those speeches, I will be particularly concerned with the following questions. Why does Cicero choose to present himself as *consul popularis*? On what grounds does this presentation legitimize his positions and political ideology? Similarly, how does it function to de-legitimize those of his opponents? And finally, what can this tell us about Rome and its political system in the first century BCE?

Thus this paper will look at Cicero's consular orations as attempts to obtain not only a concrete objective, such as driving out Catiline or acquitting Rabirius, but also as attempts to self-consciously promote a unique brand of ideas about how Rome is, as well as how it *ought*, to be governed. Cicero self-interestedly promotes a politics that is neither optimate nor popularis, but instead offers his readers a normative idea of the *res publica*, based upon its ability to look out for the true interests of the 'real' *Populus Romanus*. By doing so, I will demonstrate the importance of the political speeches as sources for Cicero's political thought, how large a role legitimacy played in Roman political debates, and how Cicero's framing of legitimacy helped him to create a rhetorical middle ground between optimate and popularis .

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