

De Legibus: Cicero as Scipio and the Problem of the Excluded Philosophic Statesman

Interpretations of Cicero's *de Legibus* have frequently focused on Cicero the character's initial *recusatio* of a variety of genres in which he might potentially write (Benardete 1987, Nicolai 2000, Dolganov 2008). Since Cicero the character ultimately settles on a political topic, legislation for the state described in *de Republica* (*Leg.* 1.20), scholars such as Rudd & Wiedemann (1987) and Dolganov (2008) confidently conclude that the purpose of Cicero's self-representation in this dialogue is to project an image of himself as a knowledgeable statesman in order to regain his former political prominence.

While I do not dispute their claim that Cicero was eager to take part again in public affairs (cf. *Fam.* 9.2.5), I deny that Cicero believed writing this dialogue would have the effect of restoring him to power. In fact, Cicero means to show the reader of *de Legibus* just the opposite, that his political rehabilitation is extremely unlikely. I arrive at this conclusion by comparing Cicero's image of himself in *de Legibus* to his portrait of Scipio Aemilianus in *de Republica*, and then by comparing the historical circumstances prevailing at the time of the dramatic date of each dialogue.

First, I show that Cicero deliberately presents himself as sharing many of the qualities he attributes to Scipio in the earlier dialogue. The chief similarity of the two men lies in the distinguishing mark of experienced senior statesman (cf. *Rep.* 1.31; *Leg.* 1.5) capable of combining his practical knowledge with that gained from philosophic speculation and conversation (*Rep.* 1.36; *Leg.* 3.14). In both dialogues, the philosophic side of their character is established not only through their own words, but also by way of their dramatic interaction with interlocutors of contrasting character. As to their own words, Scipio prefers the "common law of nature" to a merely "civil bond" (*Rep.* 1.27); Cicero states his preference for the subject of

“universal right and law” rather than being limited to “the one we call civil” (*Leg.* 1.17). Again, Scipio wishes to apply his Greek philosophic education to the consideration of the Roman constitution (*Rep.* 1.36), while Cicero insists that if he is to speak of law, he must do so from a broader and more philosophic perspective (*Leg.* 1.14). As for the dramatic action of the dialogues, Scipio is obliged by Laelius, a good friend and Roman politician deeply troubled by the current crisis, to abandon the speculative topic of discussion raised by Tubero, i.e. the consideration of the two suns, for a more practical consideration of the question of the best constitution (*Rep.* 1.31-33). In a similar way, Cicero is obliged by his brother Quintus, a practically-minded partisan of the optimate cause, to abandon his speculative digression with Atticus on the question of the highest good and to return to the topic of the promulgation of his laws (*Leg.* 1.56-57).

I conclude that Cicero’s deliberate self-fashioning as a sort of second Scipio, along with the dramatic setting of *de Republica* just a few days before Scipio’s death and the subsequent eruption of the crisis of the Gracchan land commission, indicates Cicero’s conviction that, like Scipio, he will not be called on to intervene and save the state from the crisis of the late 50s despite his unique qualifications. We are left with the paradox that the statesman’s fidelity to the constitution, as seen in his refusal to resort to force in order to gain power, leads to the exclusion of that one man who could save the state from its subsequent demise and descent into violence. Like *de Republica*, Cicero’s *de Legibus* proves to be, not mere political propaganda, but a complex work of political philosophy (cf. Zetzel 1995).

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