Tatum, W.Jeffrey. "Cicero, *On the Republic*." *Democratic Moments: Reading Democratic Texts*. . London: Bloomsbury Academic, 2018. 33–40. *Bloomsbury Collections*. Web. 26 Apr. 2023. <<http://dx.doi.org/10.5040/9781350006195.ch-005>>.

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CHAPTER FOUR

Cicero, *On the Republic*

W. Jeffrey Tatum

In no other state than that in which supreme power belongs to the people can liberty find any place to dwell – and surely nothing can ever be sweeter than liberty. But liberty, if it is not equal, is not actually liberty. But how can it be said to be equal in states in which men are only nominally free? I am not talking about autocracy, in which servitude is neither disguised nor even ambiguous. I mean states in which men vote, invest leaders with military commands and magistracies, are canvassed by office seekers, and have bills submitted to them for legislative approval – but under circumstances in which they must grant what is sought, whether they want to or not, and in which they are asked to give to others what they do not possess themselves. Such men have no share in magisterial power, in public deliberations, in the panels of men who are chosen to be jurors in court, for all these privileges are granted on the basis of birth or wealth.¹

Cicero, usually a rapid writer, took three years (54 BC–51 BC) in completing the six books of the *Republic*, which now survives only in extended fragments. Plato is the work's obvious model, though by no means its only influence. The *Republic* represents a fictitious conversation among several distinguished senators that took place in 129 BC, at the estate of Scipio Africanus Aemilianus, twice consul and the conqueror of Carthage and Numidia – and the principal interlocutor of the dialogue.

This setting is by no means merely decorative. Instead, it orients the reader's interpretation of the work as a whole. Four years before the conversation depicted in the *Republic* takes place, Scipio's cousin, Tiberius Gracchus, enacted legislation that redistributed state-owned land to poor citizens. He was soon accused by his enemies of demagoguery and of aiming at autocracy. In the end, he was lynched by a gang of senators who claimed to be champions of a free state. Nevertheless, Tiberius's law subsisted and a commission, endowed with extensive judicial powers, was established to oversee Tiberius's redistribution. But its operations aroused profound discontents, and in 129 BC Scipio took up the cause of rolling back its authority. When Scipio perished in the night, not long after the dramatic date of the *Republic*, it was widely believed that he had been murdered by demagogic forces.² By way of its literary setting, then, the demands of social harmony and the dangers of demagoguery are each of them underscored for the reader from the very start: these issues animate Cicero's idea of what is good – and what is bad – about democracy.

Although Rome never embraced the idea of radical democracy, Romans nonetheless appreciated how important it was for any state's success that it enjoy the robust participation of a free citizenry, an observation that had not eluded Greek political scientists. There existed three kinds of constitution according to the theoretical analysis that was standard in ancient political thought: government by the one, the few or the many, and each kind existed in two species. Monarchy, aristocracy and democracy were viewed as positive forms of government, each of which was liable to degenerate into tyranny, oligarchy or ochlocracy. The ideal constitution, by general consent, combined the best features of the positive forms of government. This so-called mixed constitution was supple enough to avoid the pitfalls of mob rule, oligarchy or tyranny, and it supplied stability and justice because it was predicated, if not on social cooperation, then at least on a balance of powers.³

When the Greek historian Polybius, a personal friend of the Scipio who leads the dialogue in the *Republic*, sought an explanation for the Romans' spectacular success as an international power, he found his answer in their constitution, which he described as a consummate specimen of a mixed constitution. In Rome, he argued, the monarchical powers of the consuls rendered them effective executives whose brief tenure in office prevented their seizing permanent dominion. In the senate Polybius found the aristocratic element in the Roman state; composed of men of superior merit, this body dispensed wise counsel to magistrates and public alike. As for the people, owing to its participation in Rome's assemblies, the only bodies in Rome which could make laws or elect magistrates, they were furnished with an essential agency in the fundamental operations of the republic. Competition between the three elements of Rome's constitution, in Polybius's view, was tempered by necessity: each required the cooperation of the other and consequently Rome's constitution was not monarchic, aristocratic or democratic: it was a mixed constitution.

In the first two books of the *Republic*, which recount the first day's conversation at Scipio's estate, the speakers rehearse various constitutional theories, ultimately and unsurprisingly agreeing on the superiority of the mixed constitution. In making their way to this conclusion, they examine the merits and the failings of democracy, first by way of praise for its merits, then of blame for its defects. Scipio expands himself on the virtues of democracy (*Rep.* 1.47–50), and our passage is excerpted from what remains of his speech. Here emphasis is placed on equality, inclusion and independence in every aspect of civic life, and Scipio's view reflects a tradition of democratic justification that reaches back to fifth century Greece. Democracy, in Scipio's account, requires a form of *libertas* (liberty) that is *aequa* (equal), a reprise of the Greek democratic formula *eleutheria kai isonomia*, freedom and equality under the law. And this form of government, Scipio goes on to maintain, is rightly deemed a commonwealth (*res publica*) because under a democracy the commonwealth is truly 'the property of the people' (*res populi*) (*Rep.* 1.48). Indeed, when later in the work Scipio compares democracy with monarchy and aristocracy, he concedes that its singular attraction lies in its undiminished *libertas* (*Rep.* 1.55). But Scipio's commentary is made complicated for any reader by his later criticisms of democracy and his confession that, of the three positive forms of government, he regards monarchy as the best – and democracy as the worst (*Rep.* 1.54; 3.46–7). In the *Republic*, it is Cicero's view that 'the common good' cannot be preserved by deferring to the wishes of a simple majority of the people's membership: for good government, Cicero insists, it is vital that 'the greatest number not have the greatest power' (*Rep.* 2.39). Hence the attraction of a mixed constitution, which, for Scipio, is better even than monarchy (*Rep.* 1.54).

Greek criticisms of democracy tended to concentrate on the perils of entrusting civic affairs to a public who were ignorant and capricious.⁴ Lacking wisdom and freed from any real responsibility for its decisions, the people, it was claimed, too often proved unreliable in practice, and democracy was always liable to descend into mob rule. Plato, in his *Republic*, was troubled by the excesses of freedom in a democracy, whereas Aristotle, in the *Politics*, objected to the democratic notion that equality obliged a state to follow the decisions of the majority simply because they were the majority and not because they were in any degree prudent or sound. Another danger of democracy, and one following from the *ras̃*ness attributed to the masses, lay in its potential for giving rise to demagogues, who might subsequently become tyrants.

Cicero takes up Plato's depiction of democracy's collapse into tyranny owing to the baleful influence of demagogues (Plato, *Republic* 562c–566e). He puts Plato's account, however, to a significantly different purpose. Scipio is discussing the transformation of one constitution into another: kings become tyrants, he observes, and tyrants are expelled. But, he points out, the moral calculus of constitutional change is not a simple

one. Righteous kings and sound aristocracies are also overthrown by the people when, its passion for liberty excited by demagogy, it erupts into an arrogant mob (*Rep.* 1.65). In order to lend vividness to such a catastrophe, Scipio offers his companions his own extended translation of Plato's depiction of the freedom-loving masses when they throw off any restraint. In Plato's *Republic*, however, it is not a monarchy or aristocracy which falls. Instead, it is a democracy which is corrupted by demagogues, whom Plato describes as 'wicked wine stewards' intoxicating the people with heavy draughts of liberty (*Republic* 562c). Soon the people recklessly regards any leaders who refuse to truckle as traitors and oligarchs, and public perturbation leads to the installation of tyranny. Although he alters the context, Scipio preserves many colourful instantiations of the outrages associated by Plato with unbridled democracy, including the breakdown of any traditional social order: 'slaves conduct themselves with undue liberty, wives possess the same rights as their husbands, and owing to these enormities of liberty, dogs, horses and asses race here and there – free! – and men are obliged to get out of their way'. In the end, government and law are dissolved into anarchy (*Rep.* 1.66–67). A close comparison of Scipio's translation with its original reveals how much more strongly than Plato Cicero emphasizes the unacceptability of the democratic ideal of equality.⁵ In a democracy, Scipio concludes, *libertas* (liberty) too easily becomes *licentia* (licence). In his *Republic*, then, Cicero renders democracy not merely a danger to itself but also a levelling impulse which remains vulnerable to the manipulations of demagogy and therefore a potential threat to any constitutional form.

This was a sentiment that reflected Roman sensibilities, and not only at elite levels of society, because all Romans, so far as we can tell, accepted the necessity of social distinctions. Indeed, hierarchy is inherent even in the very word *libertas*, which fundamentally indicates the status of a person who is free over against one who is a slave. This is made clear, for instance, by the pervasive employment in Rome of the *pilleus* as a symbol of freedom: a *pilleus* was a cap awarded to a slave on the occasion of his manumission, when he was translated from the condition of property into a freedman (*libertus*) – and a Roman citizen. Liberty, for the Romans, then, did not intrinsically entrain absolute equality, which is why Scipio, in another passage of the *Republic*, elects to criticize democracy by asserting that 'whenever all public affairs are conducted by the people, however just and moderate its administration, such equality is none the less inequitable because it does not recognize distinctions in social standing' (*Rep.* 1.43). *Aequa libertas*, equal liberty, was, for the Romans, not equality in every sense of the word but rather equality before the law. The equality that is praised by Scipio in our passage, however, is a comprehensive equality. This all-encompassing notion of equality was regarded by Cicero and his Roman audience as a distinctive feature of democracy. It was also regarded,

in important respects, as profoundly unfair, since not all men were equal in their contribution to the commonwealth (*Rep.* 1.43; 1.51–53).⁶ Indeed, Scipio's formulation of democratic liberty in our passage could only have been provocative.⁷

Still, as Scipio suggests, there is something unjust in an aristocratic or oligarchic government that, although it allows the people to participate in the pageantry of government, affords it no real power. Such a government, in Scipio's exposition, is not merely as undemocratic as an autocracy that reduces its subjects to the condition of slavery, it is insidious in its disguise – and the reader cannot help but find the two constitutions equally distasteful. This was certainly Cicero's expectation. Even those Romans whose temperament was most fiercely aristocratic were obliged to concede the majesty of the Roman people and recognize its legitimate right to select magistrates and to carry or reject laws. As Cicero puts it elsewhere, in a public oration addressed to a noble who failed to win election to office, 'the people judged poorly you say? Nevertheless, the people passed its judgement. It ought not to have judged as it did? Nevertheless, it had the power to judge as it did' (*In Defence of Gnaeus Plancus* 7).

This state of affairs was not, as Ronald Syme has described it, 'a screen and a sham'.⁸ Although most Roman citizens could not in practice stand for office or serve in a jury, or even address the Roman people during debates over legislation, it was nevertheless the case that the citizenry played a vital and independent part in Roman government. Scipio asserts that a democratic constitution is rightly denominated *res populi* in no small part because in its operations the public are masters (*domini*) of the law and the courts, decide matters of peace and war, and hold the ultimate authority in capital cases (*Rep.* 1.48): so, too, did the Roman people, if not in the unrestricted style of a radical democracy. Cicero expected his Roman readers to appreciate how their constitution, their mixed constitution in the world of the *Republic*, was something very different from the shell-game state Scipio describes in our passage. In a mixed constitution, Scipio observes, true equity (*aequibalitas*) requires that the masses (*multitudo*) play a very real role in the exercise of government (*Rep.* 1.69).

Although the *Republic* views the commonwealth as *res populi*, the Roman people, in matters of government, was not identical with the citizenry as a whole. The people operated in defined assemblies, which were further articulated by way of civic units like tribes and centuries. It was only when configured as assemblies that the Roman people could execute its vast power – and assemblies could only be called into existence by magistrates, a dynamic that invested the individual aristocrats who held office with significant authority over the public and its actions. For this reason, even in a mixed constitution like Rome's, because the power of the people was very real, and because the Roman public were by definition every bit as rash as the peoples populating the democracies

criticized by Cicero, demagoguery remained a constant anxiety throughout the republic. In Rome's mixed constitution, however, unlike a democracy, the responsibility for sound government resided not with the people but with their leadership: a stable order demanded good magistrates and a wise senate.

Here Cicero's Scipio diverges from Polybius. For Polybius, the genesis, development and decline of constitutions were inevitable, unrelenting and determined by the essential structure of each constitution. Notwithstanding differences in particulars, the pattern remained the same: monarchy declines into tyranny, which is subsequently overthrown by aristocracy; aristocracy descends into oligarchy, doomed to be swept aside by a democracy; democracy collapses into mob rule, a catastrophe the only cure for which is monarchy. This cycle could not be broken. It could, however, be retarded in the case of a mixed constitution, which, in Polybius's view, was held together more strongly than other constitutions because the self-interest of its elements in combination with the limitations constitutionally imposed on each compelled their cooperation. Cicero rejects this mechanical view of government.

For Cicero, it is the civic morality of the actors that matters most to the success of any constitution (e.g. *Rep.* 2.30; 2.45; 2.57). The *Republic* opens with a preface in which Cicero, addressing his brother Quintus, emphasizes the importance of personal civic responsibility and stresses the role of individual virtue in public life (*Rep.* 1.1). In the closing sections of Book Two, which draws to a close the *Republic's* first day of conversation, Scipio underscores the primacy of personal moral values in the operation of any constitution (*Rep.* 2.69–70). This assertion prepares the reader for Books Three and Four, a central point of which is the moral superiority of the ideologies and practices that constitute the Roman constitution. But even the Romans' constitution demanded responsible citizens. This point is emphasized in the preface to Book Five, where Cicero quotes with approval a famous line from Ennius's *Annals*:

moribus antiquis res stat Romana virisque
(the Roman commonwealth rests on its traditions and its men)

The ideal but necessary figure is described by Cicero as a man who is morally good, intelligent and experienced in the operations of dignified statecraft: he is, for Cicero, the guide and helmsman of the state (*Rep.* 2.51). This is an attainment beyond the reach of the many, but remains an aspiration that must influence the governing class who supply the senate and magistrates in Rome's mixed constitution. The true statesman achieves a kind of divinity, a version of which is observed in the final book of the *Republic*, the so-called Dream of Scipio, Cicero's reworking of Plato's Myth of Er (*Republic* 10.614–21), in which it is revealed that the reward for the virtuous statesman is immortality. From beginning to end, then, the

Republic, notwithstanding its extensive constitutional analyses, insists that, in the matter of a successful state, individuals matter more than systems. Hence Cicero's description of his *Republic*, in a letter to Quintus, as a work concerned 'with the best constitution and the best citizen' (*Letters to His Brother Quintus* 3.5.1).

Still, in the *Republic*, even a virtuous citizenry cannot redeem democracy. True, in Book Three Scipio adduces Rhodes as a tolerable specimen of radical democracy (*Rep.* 3.47–48). And in his account of democracy in Book One, Scipio points out how its proponents insist that one should not reject democracy on account of the evils associated with mob rule: discord occurs only when there are conflicts of interest, but, in an ideal democracy, there can be none, owing to the equality that defines it (*Rep.* 1.49). But such equality cannot, in Cicero's view, be sustained in the real world: in a democracy, the people honour some of its citizens over others and therefore introduce significant discrepancies in terms of social standing and prestige (*Rep.* 1.53). Even if this were not the case, the equality that marks Scipio's ideal democracy remains contrary to Roman sensibilities, a measure that matters in the *Republic*. Near the end of Book Two, Quintus Aelius Tubero, the most philosophical of the dialogue's interlocutors, draws the reader's attention to this: it is not commonwealths abstractly that constitute the real subject of *Republic*, he observes, but the *Roman* commonwealth (*Rep.* 2.64). And it is by way of this distinctly Roman perspective that Cicero's view of democracy, the most extended Roman discussion of democracy that survives from antiquity, was self-consciously refracted.

Notes

- 1 Cicero, *On the Republic* 1.47. A standard English edition of Cicero's *Republic* (also cited in English as *On the Commonwealth*) is J. E. G. Zetzel, *Cicero: On the Commonwealth and On the Laws* (Cambridge: Cambridge University Press, 1999). In this chapter, all translations are my own.
- 2 On these matters, see C. Steel, *The End of the Roman Republic, 146 to 44 BC: Conquest and Crisis* (Edinburgh: Edinburgh University Press, 2013), 15–20.
- 3 K. von Fritz, *The Theory of the Mixed Constitution in Antiquity* (New York: Columbia University Press, 1954); A. Lintott, *The Constitution of the Roman Republic* (Oxford: Oxford University Press, 1999), 214–32.
- 4 See the evidence assembled by J. Ober, *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton: Princeton University Press, 1998); E. Harris, 'Was All Criticism of Athenian Democracy Anti-democratic', in *Democrazia e antidemocrazia nel mondo Greco*, ed. U. Bultrighini (Alessandria: Edizioni dell'Orso, 2005), 11–24.
- 5 J. Gregory, 'Cicero and Plato on Democracy: A Translation and its Source', *Latomus* 50 (1991): 639–44.

- 6 E. Fantham, 'Aequabilitas in Cicero's Political Theory, and the Greek Tradition of Proportional Justice', *Classical Quarterly* 23 (1973): 285–90; cf. Zetzel, *Cicero: On the Commonwealth and On the Laws*, 140–3.
- 7 For a very different view of Roman concepts of equality, see T. P. Wiseman, *Remembering the Roman People: Essays on Late-Republican Politics and Literature* (Oxford: Oxford University Press, 2009), 81–98, with my review in *Hermathena* 186 (2009): 101–6.
- 8 R. Syme, *The Roman Revolution* (Oxford: Oxford University Press, 1939), 15.