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## Study Notes on Cicero and Natural Law

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6. Reading. Introduction: Marcus Tullius Cicero (Walter B. Gunnison, Walter S. Harley, *Marcus Tullius Cicero: Seven Orations*, Boston, 1912, pp. xvii–xl (annotated).

## Prolegomena to the Study of Cicero

### Why Cicero Today?

The study of Cicero is more relevant today than ever. To form any just appreciation of the man and his work, one needs to understand his times. As this topic is neglected in modern universities, a brief summary is supplied here. Those wishing to know more about Roman and Greek history might, in addition to reading, wish to consult some of the excellent ancient history courses offered by The Teaching Company (see [my recommendations](#)).

### Life and Times of Cicero

Cicero lived from 106 BC to 43 BC. He reached maturity and the height of his ability at just the time the mighty Roman Republic imploded. The Roman Republic was a marvel of efficient and just (for its time), government. In addition to several lesser institutions, the Senate made laws, and two consuls, elected yearly, performed executive duties. As the Republic grew strong, it conquered rivals, and expanded its territory. A social and economic gulf between the landed equestrian order, to which Cicero's family belonged, and a lower class existed. The latter increasingly located to the city of Rome where, easily manipulated by demagogues, they demanded more favorable re-distribution of money and land.

Cicero's youth had seen several bloody coups and shakeups of the Roman government. A series of civil and social wars occurred, of which the famous events involving Julius Caesar, Marc Antony, and Augustus were only the end results. While patriotic and virtuous as a rule, the equestrian order and its political manifestation, the Senate, either could not or would not take adequate steps to satisfy the masses. Some suggest that the Republic had simply grown too large to continue.

A major change seemed inevitable in any case. If Roman culture excelled at one thing, it was the production of a class of talented and supremely ambitious men — of just the sort who would vie with each other to seize the initiative under unstable conditions. The motif of a disgruntled general marching into Rome and declaring himself dictator became almost prosaic.

In 60 BC the First Triumvirate was formed — an alliance between Julius Caesar, the immensely wealthy Crassus, and the great general Pompey. (Cicero was been asked to be a fourth member but declined.) The First Triumvirate, of course, was short-lived, and eventually came to bitter conflict, in which Caesar prevailed. The Roman Republic, patched up, staggered on a few years more.

By 44 BC, following ceaseless political and social conflict, Caesar dissolved the Republic, and declared himself dictator. To say this broke the heart of Cicero, the fierce lover of everything traditionally Roman, is an understatement. For reasons unknown, Cicero did not join his close friends Brutus and Cato, and other members of the Senate in assassinating Caesar on 15 March 44.

With the Roman government now in complete shambles, Cicero assumed moral leadership, but not for long; Marc Antony was determined to step into Caesar's role. Against this Cicero launched his famous *Philippics*, a series of public speeches that denounced Marc Antony in the most acrimonious of terms, and so-named after the comparable speeches in which the famous Greek orator Demosthenes had denounced Philip of Macedonia three centuries earlier.

## Prolegomena to the Study of Cicero

Meanwhile Cicero worked with Octavius (Julius Caesar's nephew, later named Augustus), to restore traditional government. But to no avail. Octavius joined Marc Antony and Lepidus to form the Second Triumvirate in 43 BC. Each member supplied a list of political rivals to execute. High on Antony's list was his nemesis, Cicero; Octavius, under the terms of their agreement, did not prevent Cicero's killing.

Not long afterward Octavius defeated Marc Antony and declared himself sole Emperor of Rome. A brief renaissance was enjoyed during the reign of Octavius; the *Pax Romana* had commenced. Yet many historians concede that it was the formation of the Roman Empire from the original Republic that marked the beginning of Rome's decline.

### **Cicero's Relevance Today**

Understanding Cicero's historical context helps us see several features of his modern relevance.

1. Cicero is poised at the crossroads between the ancient and modern worlds. Greece had already fallen, but Greek scholars flocked to Rome and brought their learning with them. Cicero, who studied under Greek teachers, acquired this learning. He transmits to us the philosophical treasures of antiquity. Many Greek philosophers and their doctrines are known to us only from Cicero's works.
2. Cicero was witness to the political convulsions that marked the end of the Roman Republic. Moreover, he both held high political offices himself, and was on intimate terms with virtually all the leading figures. Hence he is an invaluable source of information on affairs which arguably parallel in several respects the situation of the US today.
3. Cicero was not only a lawyer, statesman, and writer, but one of the greatest orators the ancient world knew — an equal of the great Demosthenes. Further, he was not only a good writer, but an unsurpassed prose stylist, an artistic genius of the written word who mixed every manner of rhetorical, poetic, and literary device to produce works that are as fresh, enjoyable, and illuminating today as they were 2000 years ago.
4. A distinct advantage of studying Cicero is the extent and relative completeness of his extant works. A complete collection would cover 20 volumes, and include letters, legal and political speeches, works on rhetoric, and his philosophical writings.
5. It cannot be emphasized too strongly the deep imprint Cicero has made on Western civilization. Among secular figures, only Plato has exerted comparable influence. In truth, we have no way of quantifying Cicero's influence. It is so ubiquitous that it is like the air we breathe. It is in our institutions, our culture, our government, our modes of thought. It is sometimes said that St. Augustine invented the modern mind, but this claim, arguably, could more properly be said of Cicero (and, lest we forget, Cicero himself was a towering influence on Augustine).
6. Then why is Cicero so little studied today? One can, by comparison, find dozens of books written in the last 50 years about Plato and Plato's ethical philosophy. The same period has seen but one creditable book on Cicero's social ethics (Neal Wood, *Cicero's Social and Political Thought*, 1988). The superficial explanation is that this is because classics in general have been banished from the university since around 1900. But for those who are willing to probe more deeply, almost the reverse hypothesis

## Prolegomena to the Study of Cicero

suggests itself: that classics were eliminated in part so that people would not read Cicero and his like; for if they did they would become enlightened, and able to cast of their chains.

It is perhaps ironic to see Cicero, the champion of tradition and aristocratic Republicanism, as being vitally relevant to the struggle of "the 99%" today. But that is even further testimony to the genius and character of the man — who wrote, especially at the end, from a pure and elevated consciousness, always concerned with truth and virtue for their own sake, always placing clear-sighted regard for *honestum* (honesty and dignity) and *humanitas* above any particular belief, theory, or doctrine.

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## A Chronology of Cicero's Life (106-43 B.C.)

Chronology of writing and publication of some of Cicero's works is uncertain.

- 106 M. Tullius Cicero born at Arpinum (Jan. 3).  
Capture of Jugurtha by Sulla.  
Cimbric Wars (113-101)  
Consulships of Marius (107, 105-100)
- 104 Brother Quintus born.
- 90 Cicero's military service in the Social War under Gn. Pompeius Strabo.  
Social War (revolt of Italian allies) (91-88).  
First Mithridatic War (88-85).  
Civil wars of Marius and Sulla (88-82).
- 81 *Pro P. Quinctio*.  
Dictatorship of Sulla - Senate restored to power.
- 80 *Pro Sex. Roscio Amerino*.  
Sulla abdicates power.
- 79-77 Cicero studies rhetoric in Athens and Rhodes (returns in 77).
- 77 Cicero marries Terentia (?).  
*Pro Q. Roscio Comoedo* (?).
- 75 Cicero serves as quaestor in western Sicily (Lilybaeum).  
Third Mithridatic War (74-63)
- 70 *Divinatio in Q. Caecilius*  
*In Verrem*  
First consulship of Pompey and Crassus.
- 69 Cicero aedile  
*Pro A. Caecina, Pro M. Fonteio, Pro M. Tullio*
- 67 Lex Gabinia gives Pompey extraordinary command against pirates.
- 66 Cicero praetor  
*Pro Cluentio, Pro Lege Manilia*  
Lex Manilia gives Pompey command against Mithridates.
- 65 Son Marcus born
- 63 Cicero's consulship. Conspiracy of Catiline  
*In Catilinam, Pro Murena, Pro C. Rabirio, Contra Rullum*  
Pompey defeats Mithridates and organizes the East.
- 62 Cicero testifies against Clodius in the Bona Dea trial.  
*Pro Archia, Pro Sulla*
- 60 1st Triumvirate formed (Pompey, Crassus, Caesar) - Cicero refuses to join.
- 59 *Pro Flacco*  
First consulship of Caesar.

- 58 Cicero exiled (goes to northern Greece).  
Caesar conquers Gaul (58-50)
- 57 Cicero recalled from exile.  
*De Domo Sua, Post Reditum ad Quirites, Post Reditum ad Senatum*
- 56 *Pro Balbo, Pro Caelio, Pro Sestio, In Vatinius, De Haruspicum Responsis, Provinciis Consularibus*  
Conference of Luca - First Triumvirate reaffirmed.
- 55 *De Oratore, In Pisonem*  
Second Consulship of Pompey and Crassus.
- 54 *Pro Plancio, Pro Rabirio Postumo*  
Rioting in Rome between gangs of Milo and Clodius (54-52).
- 52 *Pro Milone*  
Clodius murdered by Milo  
Pompey appointed "sole consul".
- 51 Cicero proconsul of Cilicia (until middle of following year).  
*De Republica, De Legibus*
- 50 Cicero returns to Rome amid rumors of civil war.  
Dispute grows over Caesar's command in Gaul.
- 49 Civil War between Caesar and Pompey - Cicero reluctantly follows Pompey to Greece.
- 48 Caesar defeats Pompey at Pharsalus, Cicero returns to Italy.
- 47 Cicero divorces Terentia.  
Caesar pardons Cicero. Cicero withdraws from politics.  
Final campaigns of Civil War in Asia, Africa and Spain (47-45).
- 46 Cicero marries and divorces Publilia  
*Brutus, De Optimo Genere Oratorum, Orator, Paradoxa Stoicorum, Pro Ligario, Pro Marcello*
- 45 Tullia dies  
*Academica, De Finibus, Disputationes Tusculanae, Pro Rege Deiotaro*
- 44 Cicero rallies Senate after assassination of Caesar, opposes Antony.  
*Topica, De Senectute, De Amicitia, De Divinatione, De Officiis*
- 43 Civil Wars break out again. Cicero's delivers *Philippics* against Antony.  
Octavian occupies Rome, joins with Antony and Lepidus to form Second Triumvirate. Cicero proscribed and killed (December 7, 43).

### Cicero's Philosophical Writings

English Name	Latin Name	Date	Subject
<i>On the Republic</i>	<i>De Republica</i>	c. 52 BC	Principles of a well-governed political state; modeled after Plato's <i>Republic</i>
<i>On Laws</i>	<i>De Legibus</i>	c. 51 BC	Principles of law; modeled after Plato's <i>Laws</i>
<i>Stoic Paradoxes</i>	<i>Paradoxa Stoicorum</i>	48 BC	On certain paradoxes posed by Stoic philosophers
<i>Consolation</i>	<i>Consolatio</i>	45 BC	Lost work; consolation on death of a loved one; written to cope with tragic death of his daughter; very popular in antiquity
<i>Hortensius</i>	<i>Hortensius</i>	45 BC	Lost work
<i>Academic Questions</i>	<i>Academica</i>	45 BC	On the Platonic (Academic) school of philosophy
<i>On Ends</i>	<i>De Finibus</i>	45 BC	On moral ends; i.e., what is the greatest good ( <i>summum bonum</i> ) on which basis we may choose ethical actions?
<i>Tusculan Disputations</i>	<i>Tusculanae Disputationes</i>	45 BC	On Stoic psychology, with particular concern for emotions
<i>On the Nature of the Gods</i>	<i>De Natura Deorum</i>	45 BC	Are the gods real?
<i>On Divination</i>	<i>De Divinatione</i>	44 BC	Is oracular divination (e.g., reading entrails) real?
<i>On Fate</i>	<i>De Fato</i>	44 BC	What is Fate?
<i>On Old Age</i>	<i>De Senectute</i>	44 BC	The advantages of old age
<i>On Friendship</i>	<i>De Amicitia</i>	44 BC	Friendship
<i>On Glory</i>	<i>De Gloria</i>	43 BC	Lost work; on fame and glory
<i>On Moral Duties</i>	<i>De Officiis</i>	43 BC	Overall advice on how to live a moral and happy life; written for his son

*On Oratory* (*De Oratore*; c. 45 BC), a work on oratory and rhetoric, also contains significant philosophical material.

From Wood, Neal. *Cicero's Social and Political Thought*. UC Press, 1988; pp. 55–56 (comments in [blue](#) mine):

"The beginning of Caesar's ascent to power in 60, and correspondingly Cicero's descent, meant that with more leisure from politics, he increasingly turned to literary pursuits. Prior to his proconsulship in Cilicia in 51, he had completed and published the *Republic* and commenced work on the *Laws*. In the nearly two years of enforced political retirement under Caesar from late 46 or early 45 to the end of 44, he wrote his major philosophic works at a furious pace, probably starting with the *Paradoxes of the Stoics*. It was an erudite friend, Gaius Matius, ironically a loyal partisan and admirer of Caesar, who, Cicero confessed, 'urged me to write these philosophical treatises.'<sup>1</sup> In *On Divination*, published just after the dictator's [\[Caesar's\]](#) assassination, Cicero tells us that although now politically inactive, he hopes to continue serving

## Cicero's Philosophical Writings

the state and contributing to the public good by instructing his fellow citizens, especially the youths, in the most noble learning.<sup>2</sup> We know that for Cicero, the politician par excellence, philosophy was an important substitute, but only a substitute, for the life of action, a means of solace in his isolation and exclusion from the public forum. The works he lists in *On Divination* are *Hortensius*, *Academics*, *On Good and Evil Ends* [*De Finibus*], *Tusculan Disputations*, *On the Nature of the Gods*, *On Fate*, *On Consolation*, *On Old Age*, *Cato*, *On Oratory*, *Brutus*, and *Orator*. Of the *Hortensius*, *On Consolation*, and *Cato* have been lost. Another perished work, *On Glory*, was written in the summer of 44, when he also began his last philosophic tome, *On Duties*, completed in the autumn and judged by many to be his masterpiece. His last writing, finished before the end of the year, *On Friendship*, was dedicated to Atticus."

<sup>1</sup> *Letters to Friends*, 11.27.5.

<sup>2</sup> *On Divination*, 2.1–2.

## Natural Law

The works most relevant to Natural Law are (in rank order) *De Legibus*, *De Republica*, *De Officiis*, *De Finibus*, and *De Natura Deorum*. (This is a tentative list and subject to revision.)

## Links

- Links to various editions (most in public domain) of [Cicero's philosophical works](#)
- Clayton, Edward. "Cicero," *The Internet Encyclopedia of Philosophy*, <http://www.iep.utm.edu/cicero/>, 8 July 2014.

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## Dimensions of Natural Law in Cicero's Thought

As already noted, the scarcity of modern literature on Cicero's philosophical views is such as to make one suspect intentional neglect. The sole exception to this rule has been the legal literature. Here, however, we have, potentially, too much written — or, at least, too little attention to consistency and integration of literature; that is, any legal writer, perhaps armed with a little Latin, can string together isolated quotes from Cicero and 'prove' just about anything. In any case, the sheer volume of Cicero's writings makes it difficult to formulate a comprehensive view of his beliefs on this or any topic.

Natural Law, generally and with specific reference to Cicero, has many different and sometimes conflicting meanings. Wilkin (1949; see enclosed article) argued that we might separate out what he called Natural Moral Law as a distinct topic. This is a good suggestion, but doesn't go far enough. I would suggest that there are at least five distinct topics subsumed under the general heading of Natural Law in Cicero's works. While distinct, they are also interpenetrating, and in order to thoroughly appreciate any one it is helpful to know at least a nominal amount about the others. We may provisionally label these five dimensions: (1) legal and judicial; (2) ethical; (3) epistemological; (4) political; and (5) theological and metaphysical. Some leading issues of each are outlined below.

### 1. Legal and Judicial

- a. What is Law?
- b. What is metaphysically real about Law?
- c. What is Justice?
- d. What are the implications of the above points for human laws?
- e. For our legal and judicial institutions?

### 2. Ethics

- a. What leads to human happiness? (Answer: a life that accords with Nature.)
- b. How can society promote individual happiness?
- c. What is the nature and role of human virtue?

### 3. Epistemology

- a. What is conscience?
- b. How does one know what is right and wrong?
- c. Is this knowledge universal or variable? Objective or subjective?

### 4. Political and Social Theory

- a. What are one's moral duties to others?
- b. What are one's civil duties?
- c. Duties to all humanity (cosmopolitanism)
- d. What is a just society?

### 5. Theology and Metaphysics

- a. A benevolent Supreme Being created and governs all.
- b. The name for this governance is Providence.
- c. "All things work together for good."
- d. When one's moral life is properly ordered (virtue-oriented), one lives in harmony with Nature.

## Natural Law and Stoicism

A certain amount of confusion exists concerning Cicero's philosophical orientation. His writings make very clear that he identified himself as a Platonist. Plato's Academy was founded around 387 BC in Athens and still existed in Cicero's time. When Cicero spent several months in Athens, he studied under the head of the Academy, Antiochus of Ascalon. He had also been taught by the previous head, Philo of Larissa, when the latter visited Rome. The hallmark of this phase of Platonism (the New Academy) was skepticism. Following the lead of Socrates, Academic skeptics claimed to have certain knowledge about virtually nothing. However, unlike the more radical Pyrrhonian skeptics (named for the Greek philosopher, Pyrrho), they allowed that one can still act decisively, based on assessing probabilities of truth or falseness of a proposition.

Cicero's philosophical studies were not confined to Platonism. Indeed, overall, he spent more time studying under Stoics than Platonists. Moreover, the philosophical schools at this time were strongly eclectic, with a lot of borrowing amongst them going on. Finally, while Stoicism and Platonism are considered two different schools, a good argument could be made that, at least in terms of ethics, Stoicism was something of a branch of Platonism. In any case, the distinctions between the Platonists, Peripatetics (Aristotle's school), and Stoics were somewhat blurred at this time.

Therefore it is unsurprising that many of Cicero's most important views on Natural Law are largely Stoic. To characterize the Stoic view fairly simply, it is that (a) a benevolent and wise Supreme Being governs all Nature; (b) human happiness and the aim of ethics is a 'life in accord with Nature'; (c) for this to happen, one must recognize and follow one's instinctive interest in and attraction to virtue; (d) all human beings constitute a single family, and hence naturally deserve our interest, compassion, help, etc.

Cicero's expressed views on Natural Law can be seen as to some extent a conscious reaction to the ethical theories of the Epicureans, as for example found in the then popular work, *De Rerum Natura* by Lucretius. Epicureanism was atheistic and materialistic; for them, any semblance of order or purpose in the universe was the result of random collisions of atoms.

As the preceding (and following) discussion makes clear, for Cicero, Natural Law theory derives in large part from an integral connection between theology (or at least metaphysics) and human ethics. This raises the question of whether classical Natural Law today can be expressed in a way that would not elicit a large outcry from atheist moral and legal philosophers. I believe that this is of less concern than one might suppose, first, because radical atheists are much less numerous than the volume of their literature might suggest. Second, I believe that everything or virtually everything in classical Natural Law can be alternatively derived from the premises of Kantian *Transcendentalism*; in short, the argument would be that human beings are evidently so designed that they simply cannot perceive or understand reality in any other terms save those principles which form the basis of religious and traditional morality. Hence, even if there is no God, there could still be moral law that is universal, and objective, at least in the sense that it is not arbitrary or subjective.

## Definition of Natural Law

Cicero by no means presents his ideas on Natural Law systematically or in a single place. However he gives an important and often-cited definition of Natural Law in *De Republica*:

## Dimensions of Natural Law in Cicero's Thought

True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will be one master and ruler, that is, God, over us all, for he is the author of this law, its promulgator, and its enforcing judge. Whoever is disobedient is fleeing from himself and denying his human nature, and by reason of this very fact he will suffer the worst penalties, even if he escapes what is commonly considered punishment.  
(*De Republica*, 3.33; Loeb edition?)

What Cicero is ultimately saying here and elsewhere is that there is the *law of nature*, and there is *human nature*. These are of necessity harmonious with each other (and, ultimately, the same thing), because both reflect the will of a benevolent Supreme Being who creates and governs the universe. To act in accord with *human nature*, human beings must exercise right reason (*recta ratio*). The purpose of philosophy is to assist people to achieve right reason — a real and distinct level of cognitive function where emotional and egoistic thinking gives way to virtue, morality, piety (or sense of the sacred), and intellectual and social humility.

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DIONYSUS sailing majestically after his routing of the pirates who attempted to enslave him. The wind has filled the white sail, while above the mast rises a huge vine loaded with grapes, Dionysus' great gift to mankind. A school of dolphins plays around the boat symbolizing not only the sea but also the joyful and playful spirit with which the god fills the human heart. The composition, painted in the black-figured style by Exekias ca. 535 B.C., is from the interior of a drinking cylix now in Munich. (Furtwaengler and Reichhold, *Griechische Vasenmalerei*, Plate 42. This and other representations of classical compositions shown on the front covers of our earlier issues are the work of Charles Holt, a graduate student in the School of Architecture of Washington University.)

At this time of transition  
from narrow nationalism to some form of world order,  
Natural Law should again take on renewed significance.

## Cicero: Oracle of Natural Law

Robert N. Wilkin

IN THE CONVERSATION between Marcus Tullius and Quintus Cicero,<sup>1</sup> Walter Savage Landor has the younger brother observe that

“Marius is an example that a liberal education is peculiarly necessary where power is almost unlimited.”

The cruel excesses of Marius were still painfully vivid in the memory of the Ciceros. It was natural for men of their culture to think of education as a restraint upon abuse of power. And that was also a natural feeling for Landor.

One of the advantages to be derived from the reading of Landor's *Conversations*—in addition to his delightful style—is that they afford a double perspective of ancient men and

events. We see great persons and problems as they appeared in their own day and we see them also as they appeared at Landor's time. But the thing to be noted about the statement attributed to Quintus is that the world at the time of Cicero, and at the time of Landor, had not dreamed of such power as exists today. If Marius the younger had possessed the atomic bomb he would not merely have abandoned Rome after murdering many of its worthy citizens; he would have obliterated it.<sup>2</sup>

If the need of liberal education as a restraint upon power increases as power increases, then the urgency of our need today must be apparent. Furthermore it must be apparent that the need of education expands as power is distributed. In this day of popular government, education must be not only liberal but general, if the majority is to be “inculcated with an abstinence from wrong and spoliation.”

The difficulty of our situation today arises from the fact that popular government has so far outrun general liberal education. The agents of the people are entrusted with destructive power before they are prepared for such responsibility. Not only has popular sovereignty expanded faster than popular education, but the tendency of education has been to emphasize technocracy rather than

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©Robert N. Wilkin is known to readers of THE CLASSICAL JOURNAL as the author of *Eternal Lawyer—A Legal Biography of Cicero* (New York, Macmillan, 1947). An earlier work is *The Spirit of the Legal Profession* (New Haven, Yale University Press, 1938). Judge Wilkin is U. S. District Judge for the Northern District of Ohio, well known in the “Western Reserve” and in the legal profession for his interest in education and the great tradition of jurisprudence.

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the humanities, and science rather than philosophy. It is due to this very fact that the people now find their agents entrusted with potentially disastrous forces before they have been disciplined in that "quiet, social, philosophical intercourse (which) can alone restrict that tendency to arrogance which war encourages."

There is not time now for the indirect and slow processes of general education. The results, the essence of liberal education, must at once be distilled and brought home to the men in positions of power. While general culture proceeds on a broad popular base, the practical effects of liberal education must be anticipated and applied to our present critical political needs.

The means to this end is Natural Law. There must be a renaissance of Natural Law and an implementation of its precepts and philosophy. In the principles and doctrines of Natural Law the Hebrew scriptures, Greek philosophy, the Roman humanities, and Christian ethic all meet. They have all contributed to its development. It is the essence of Western civilization on the political level.

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By NATURAL LAW we mean those principles which are inherent in man's nature as a rational, moral and social being, and which cannot be ignored or violated with impunity. The phrase is confusing to the uninformed because it suggests the laws of physical nature, such as the laws of chemistry, physics, or aerodynamics. But Natural Law refers not to physical but to human nature. We mean by such a term not law which has been enacted, but the law which has been discovered by man's reason and experience. A more accurate phrase would be Natural Moral Law.

*Natural Law* has been used so long, however, and so great a body of teaching has been accumulated under it, that it would be difficult to make a change at this time. The phrase has two general aspects, and it is well to keep them both in mind when considering the subject. It sometimes refers to the fundamental principles of universal law and sometimes to a type or school of legal philosophy which rec-

ognizes those principles. The former meaning was most clearly expressed by Cicero. He said:

"There is in fact a true law, right reason in accordance with nature; it applies to all men and is eternal. It summons men to the performance of their duties, it restrains them from doing wrong. . . . To invalidate this law by human legislation is never morally right, nor is it permissible ever to restrict its operation, and to annul it wholly is impossible. Neither the senate nor the people can absolve us from our obligation to obey this law. . . . It will not lay down one rule at Rome, and another at Athens. . . . But there will be one law . . . binding at all times upon all peoples. . . . The man who will not obey it will abandon his better self, and, in denying the true nature of man, will thereby suffer the severest of penalties, though he has escaped all the other consequences which men call punishments."<sup>3</sup>

The other meaning has been expressed by Dean Pound as follows:

"Philosophical jurisprudence has studied the philosophical basis of legal institutions, legal doctrines and legal precepts and sought to reach fundamental *principles of universal law* through philosophy. Applied to particular systems of law it has sought to organize and formulate their ideal element, that is, the ideas of the end of law, of the ideal social and legal order, and of what legal precepts should be in the light of those ideas, which have been traditionally received and have become no less authoritative than the traditional precepts and technique. Thus philosophical jurisprudence has sought to give us a critique of the positive law, a starting point of juristic development, doctrinal writing, and judicial finding of law, and a guide to lawmaking."<sup>4</sup>

At the great transitions of history, such as the passing of the city-state, of the Roman Republic, and of feudalism, men have been forced to consider the fundamental law of their nature. Consideration of Natural Law has therefore again and again revived. It is not surprising, then, that at this time of transition from narrow nationalism to some form of world order, Natural Law should again take on renewed significance and importance. It is an encouraging fact, and should serve to dispel our confusion, that there is a great body of highly respected experience and teaching

which may be relied on in our efforts to establish peace at home and security in the world.

For an understanding of Natural Law one should at the very outset acquire a familiarity with what Cicero said of it. Indeed, no study of Natural Law can progress very far without taking into consideration his pronouncements. Natural Law concepts existed prior to Cicero's time. They are found in Greek literature and philosophy. They never became a definite part of a legal system, however, until the foundations of jurisprudence were established during the Roman Republic. With the exception of Cicero, the Roman authorities on Natural Law are the great jurisconsults of the Empire. While Cicero has not been considered a jurisconsult, he was, however, a lawyer and a philosopher, and his supreme mastery of the Latin language enabled him to give most adequate and beautiful expression to Natural Law concepts at the formative period of that system of law which was to become the model for the world.

All Latin courses that use Ciceronian texts—even those in secondary schools—should give the historic background and setting that prompted Cicero's orations, letters, and essays. A revival of the political scene of Cicero's day would reveal the true meaning of what he said about the law. If the parallels between conditions in Cicero's time and our own time were developed, the applicability of Cicero's philosophy of law and government would become apparent to students even of high-school age and would condition them for citizenship in the republic which has been influenced so much by the history of the Roman Republic and Cicero's theories. Moreover, all law schools should give courses in the history of jurisprudence, and of course no study of jurisprudence could neglect the teaching of the Scholastic philosophers, the leaders of the Renaissance, such English jurists and statesmen as Bracton, Coke, Blackstone, Milton, Locke and Burke, the constitutional debates, *The Federalist*, and other writings of the formative period of our nation, and through it all will appear a strand of Ciceronian quotations.

Cicero, Cato, Sulpicius and others gave practical effect to Natural Law theories in

their pro-consular administration of Roman provinces, and with excellent effect. The greatest jurists and legal philosophers, Aquinas, Suarez and Grotius, based their principles of international law firmly upon Natural Law concepts, and writers of our day who seek a basis for world order, and the protagonists of the Nuremberg trials, are forced to rely upon Natural Law principles. And Barbara Ward, in her recent portrayal of today's crisis, *The West at Bay*, points out in her concluding chapter that the first foundation of Western civilization was, and the hope of peace is, a belief "that an eternal law, a natural law, exists beyond society and is the source, within society, of justice and of right and hence of freedom."<sup>4</sup>

Professor Charles H. McIlwain has said that the words of Cicero quoted above are "among the most memorable in political literature." Dr. Heinrich A. Rommen, in his recent work on *The Natural Law*, recognizes that "it came to its full flowering in Rome in the Imperial Age," and that "Stoicism prepared the way for the Christian natural law." He then adds: "Cicero, however, was its great popularizer, and the wealth of Stoic thought was handed down to the medieval world mainly in his writings." And Tenney Frank, in *Social Behavior*, says that Cicero's statement of the principle of Natural Law has "wrought greater progress in jurisprudence for nearly two thousand years than any other written statement of the same length."<sup>5</sup>

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\* In a recent allocution of Pope Pius XII to the Consistory of February 14 he quoted from "the greatest Roman orator," and the Encyclical letter of Pope Pius XI, "Ubi arcano," December 23, 1922, employed the following language: "It was a quite general desire that both our laws and our governments should exist without recognizing God or Jesus Christ, on the theory that all authority comes from men, not from God. Because of such an assumption, these theorists fell short of being able to bestow upon law not only those sanctions which it must possess but also that secure basis for the supreme criterion of justice which even a pagan philosopher like Cicero saw clearly could not be derived except from the Eternal Law."



We have so long considered Cicero as the great orator, as the model for letter-writing, as the inventor of our philosophic terminology, and as the master of rhetoric, that we have lost sight of his contribution to the law and the majesty of his pronouncements regarding the foundation of human rights—*jus naturale*. It is time now that we read again his orations, his *de Officiis* and his *de Republica*, and consider what is said instead of how it is said. His writings carry a very practical contribution to our most urgent need.<sup>6</sup>

Of all periods of history, we of this day should be able to read Cicero with profound understanding and poignant sympathy. He saw the Roman Republic come to the position of greatest power in the world, and then saw it disintegrate. The editor and annotator of the *Imaginary Conversations* said of Cicero (p. 76):

"In our dialogue he is represented as on the verge of a political world, of which he has been the mover and protector, while elements of it announced to him that it is bursting under his feet."

We of this day have seen the American Republic attain the position of greatest power and influence in the world. But many signs of disintegration are patent. If the American Republic can be spared the fate of the Roman Republic, it will have to accept the counsel which Rome spurned.

## NOTES

<sup>1</sup> *Imaginary Conversations*, London, J. M. Dent & Co., 1901, Vol. II, p. 29.

In a note Charles G. Crump says: "In this Conversation Landor introduces Cicero and his brother Quintus—not Quinctus as he spells the name—talking together not long before the date at which they were both put to death."

<sup>2</sup> *Cambridge Ancient History*, IX, 276.

<sup>3</sup> *Cicero on the Commonwealth*, Sabine and Smith, The Ohio State University Press, Columbus, 1929.

<sup>4</sup> "The Revival of Natural Law," XVII, *Notre Dame Lawyer*, No. 4 (June 1942).

<sup>5</sup> See also George H. Sabine, *History of Political Theory*, New York, Henry Holt & Co., 1938, p. 163.

<sup>6</sup> For a brief summary of Cicero's philosophy of life, government, and law, see the last chapter of *Eternal Lawyer—A Legal Biography of Cicero*, New York, Macmillan, 1947.

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—Liber Animalium

## URSUS

DE URSIS EST una res singularis, quod nusquam gignuntur nisi in hemisphaerio septentrionali. Hanc quidem partem mundi ita malle videntur ut etiam in caelo septentrionali duae ursae inveniuntur, quae ursae maior et ursae minor appellantur. Circum polum caelestem lente circumvolvuntur haud aliter atque ursae circumambulat circum palum ad quem catena religata est. Ultra lineam equatoriam ursae verus non gignitur.

Quot genera ursorum sunt? Multa. Sunt enim colore nigro, fulvo, flavo, albo et albo nigroque. Sunt etiam ursi Teddiani, qui nunquam mordent, infantium delectamentum. Omnium maximus et ferocissimus est ursus horribilis nostrorum Montium Saxosorum. Turpissimus est ursus Syrius. Scriptura sacra nos certiores facit adolescentem Davidum unam ex iis interfecisse; beneficium fuit bestiam tam turpem miseramque occidere.

Quo cibo vescuntur? Omnes, urso albo excepto, mel malunt, cuius causa, ira apium sprete, arbores altas ascendere solent. Fama est etiam—crede vel noli—deceptos murmure florum telegraphicorum longuios interdum eos ascendere mel sperantes. Sunt qui formicas edant. Plures alia insecta libenter devorant quorum causa saxa evertunt. Ursi nigri baccae libentissime carpunt erecti sicut homines.

Tandem pingues extremo autumno facti secedunt in latebras ubi totum hiemem dormiant. Adipem suum lente consumunt. Fama est etiam eos sugare suos digitos. Ibi catulos usque ad tres pariunt, qui mire parvuli sunt, caeci glabrique. Vere primo egrediuntur, macrae sed beatae, copiam immensam sperantes insectorum, baccarum mellisque. Curriculum vitae ursinae de integro initur.

ANON.

# MARCUS TULLIUS CICERO

## SEVEN ORATIONS

WITH SELECTIONS FROM THE LETTERS, DE  
SENECTUTE, AND SALLUST'S BELLUM  
CATILINAE

EDITED

WITH INTRODUCTION, NOTES, GRAMMATICAL  
APPENDIX, AND PROSE COMPOSITION

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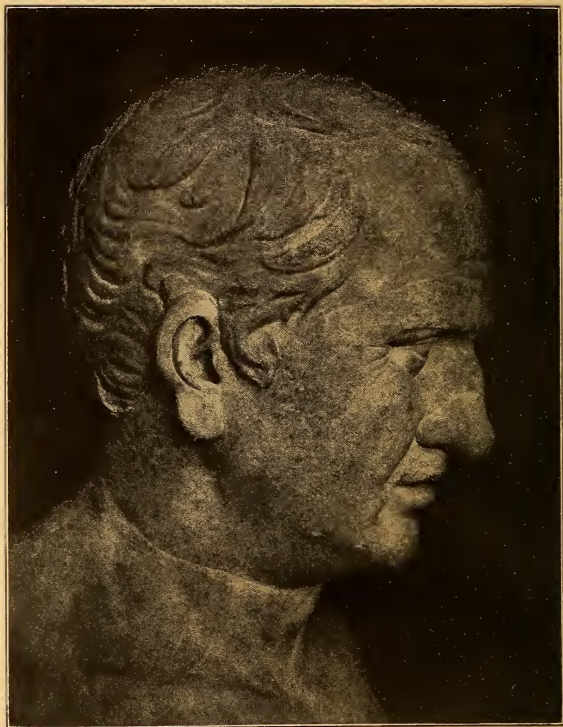
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MARCUS TULLIUS CICERO  
*From the bust in the Vatican*

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SCENES FROM THE LIFE OF A FAMOUS ROMAN<sup>1</sup>

## INTRODUCTION

### MARCUS TULLIUS CICERO

1. **Early Life.** — Marcus Tullius Cicero, the foremost Roman orator and writer, was born Jan. 3, 106 B.C. His birthplace was Arpinum, a small country town about seventy miles southeast of Rome, famous also as the birthplace of Marius. His father, a member of the equestrian order, was descended from a family of old standing. Quintus, a younger brother of Marcus, became a praetor at Rome, and afterwards won distinction as one of Caesar's lieutenants in Gaul. The two brothers were early taken to Rome and placed under the care of the best instructors. One of these was Archias, the Greek poet, whose citizenship the orator defended in later years before Quintus, when the latter was presiding judge.

After a general training in grammar, rhetoric, and the Greek language, Marcus began the study of law under Mucius Scaevola, the greatest lawyer of his time. This study he supplemented by attending the courts and the Forum, listening to such advocates as Crassus and Antonius. Then at the age of eighteen a short military campaign under Pompeius Strabo, uncle of Pompey the

<sup>1</sup> The group at the left represents the great man's triumph. Note the horses, and Victory with the palm. The central group shows him sacrificing; and the third represents his marriage. Notice that the principal figure is made carefully the same in all three groups; that in the two first, however, he is represented in the tunic, and in the third, as wearing the toga.



“CICERO'S TOWER” AT ARPINUM

Great, gave Cicero all the experience he desired as a soldier. Gladly he resumed his studies, — rhetoric, logic, philosophy, and oratory, — pursuing them for two years, at Athens, in Asia Minor, and at Rhodes. At Athens he met Pomponius Atticus, who became his intimate friend and correspondent. At Rhodes, he was instructed by the celebrated rhetorician, Apollonius Molo, who also taught Caesar. It was this instructor who said, after listening to the young orator, “You have my praise and admiration, Cicero, and Greece my pity and commiseration, since those arts and that eloquence, which are the only glories that remain to her, will now be transferred to Rome.”

**2. Cicero as an Advocate.** — Cicero's first appearance as an advocate was in 81 B.C., in a civil suit in defense of Publius Quinctius, with the brilliant Hortensius as the opposing counsel. The following year he appeared in a criminal suit defending Sextus Roscius against a plaintiff who was a favorite of Sulla. His success in winning the case was therefore a special triumph. In

77, after his return from foreign study, he resumed the practice of law, in which he was destined soon to take the leadership.

**3. Cicero's Early Political Career.** —It is significant of Cicero's qualifications that being a *novus homo*, *i.e.*, one whose ancestors had never held office, he himself was elected to the four offices of the *cursus honorum* at the earliest legal age: quaestor at thirty, curule aedile at thirty-six, praetor at thirty-nine, and consul at forty-two. The quaestorship in 75 B.C. was spent in the province of Sicily, where his justice and impartiality endeared him to the people, while he greatly increased his popularity at home by sending grain from the province at a time of great scarcity. The holding of this office entitled Cicero to a seat in the Senate for life. Five years later the Sicilians appealed to Cicero to prosecute their Roman governor Verres, for tyranny and extortion. He conducted the impeachment with such skill that Hortensius, the defendant's counsel, gave up the case and Verres voluntarily went into exile.

In 69, as curule aedile, Cicero pleased the people by the public games which he furnished in good taste, though not with the lavish expenditure of his wealthier predecessors. His praetorship in 67 was made memorable by the passing of the Manilian Law, conferring upon Pompey supreme command in the war with Mithridates. Cicero's speech in behalf of the bill was the first he delivered to the people from the Rostra, an oration noted for its perfect form (see p. 243). By means of it he won the favor of Pompey, who was seen to become an important political factor, and, while incurring the opposition of the senatorial party, he secured the support of the populace. It paved the way to the consulship.

**4. Cicero's Consulship.** —Declining the governorship of a province at the close of his term as praetor, Cicero devoted his attention to securing the highest prize, the consulship. His name was presented in 64 B.C., with five other candidates, including Antonius and Catiline. Cicero owed his election to his clean record, which secured for him the solid support of the *equites*, his own order, and of many patricians of the better sort. He was the first *novus homo* to be elected since Marius, his fellow



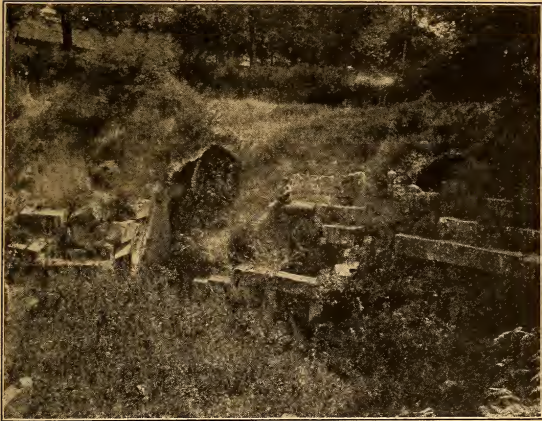
Arpinate. Antonius, second in the contest, became his colleague.

During his term he opposed the agrarian law of Servilius Rullus, defended Rabirius, an aged senator falsely accused of murder, and also the consul-elect, Murena, charged with bribery. But the main event of his consulship, and indeed of his life, was the suppression of the conspiracy of Catiline (see p. 181). This task was the more difficult because his colleague was in sympathy with the conspirators, and Caesar and Crassus had supported Catiline in his candidacy. Furthermore, there was no strong garrison in Rome at the time, for the legions were with Pompey in the East, and the nearest troops were in Cisalpine Gaul. It was the consul's prompt action that made him *pater patriae*, and honored him with a *supplicatio*, the first given to a civilian.

5. **Cicero in Exile.** — Having passed the goal of his political ambition, Cicero spent the next four years as an active member of the Senate. In 62 B.C. he delivered his oration for the poet



ANTIUM



SO-CALLED RUINS OF CICERO'S VILLA AT TUSCULUM

Archias, his former teacher (see p. 269). He also defended P. Cornelius Sulla, who was charged with complicity in the conspiracy of Catiline. In private life there was much that added to the enjoyment of the honors he had earned. His house was on the Palatine Hill, the best residential section of Rome. He had villas or country seats at Antium, Cumae, Formiae, Pompeii, and Tusculum, with their libraries and works of art.

But a cloud hung over his pleasures. On the last day of his consulship, as he ascended the Rostra to give an account of his administration, Metellus, the tribune, had tried to prevent him by declaring that a magistrate who had put Roman citizens to death without trial, should not himself speak. The gathering storm of opposition burst in the tribuneship of Clodius, 58 B.C. This profligate patrician had become the personal enemy of the orator because the latter had testified against his character. As the agent of the triumvirs whom Cicero had offended, he proposed a bill that whoever had put to death a Roman citizen with-

out trial should be outlawed. It was evident against whom it was aimed. Failing to receive assistance from Pompey and the consuls, Cicero went into voluntary exile. Immediately another bill of Clodius was passed, declaring Cicero a public enemy, confiscating his property, and prohibiting him from fire and water within four hundred miles of the city. Cicero fled to Southern Italy, thence to Greece and Thessalonica. This was about the time of Caesar's battle with the Helvetians. The rest of the year he remained crushed in spirit and hopeless, notwithstanding the consolation and kindness extended to him by the provincials.

But in Rome opposition was turning to favor. Clodius had lost his hold. Pompey and the new consuls and tribunes of 57 urged the return of the exile. A month after the bill recalling him was passed in the assembly of the people, he reached Rome. His homeward journey was marked with demonstrations of affection. His entry into the city was like a triumphal procession. Later his house on the Palatine and his villas were rebuilt at the public expense.

6. **Cicero as Ex-consul.** — Cicero resumed his place in the Senate and in the courts, but his life was one of weakened influence. His friendship was sought by Caesar, and finally won, so that he wrote to Atticus, "The delightful friendship with Caesar is the one plank saved from my shipwreck which gives me real pleasure." It was after his return from exile that Cicero began to write upon rhetorical and philosophical subjects (see sec. 10). In 53 B.C., he was honored with an appointment to the college of augurs. In 52, while attempting to speak in behalf of Milo, who was clearly guilty of the murder of Clodius, he was humiliated by failure, breaking down "in the presence of the drawn swords of the soldiers, and of the intense excitement of the bystanders." The oration, which was delivered only in part, was afterwards written out, and is one of his best. The following year Cicero was made governor of Cilicia, a province that had been grossly misruled by his predecessor. The new governor won the hearty gratitude of his subjects by his reforms in many ways, and by subduing their enemies with his legions. He was

proclaimed *imperator*, and on his return to Rome would probably have been awarded a triumph, had the citizens not been distracted by Caesar's crossing of the Rubicon.

7. **Cicero and the Civil War.** — Cicero's position between Caesar and Pompey was indeed difficult. Both leaders had claims upon his friendship. Failing as a peacemaker, he finally took the side of Pompey, following him to Greece. After Caesar's victory at Pharsalus, he returned to Brundisium, awaiting for months the will of the conqueror, until the message came with a generous offer of pardon. This was in 47 B.C. With but little interest in politics, Cicero sought comfort in writing. Three busy years followed, in which he produced four works on rhetoric and oratory, three on ethics, two on philosophy, besides essays on other subjects. Domestic sorrows came. His wife Terentia was estranged, and finally divorced. This was followed by the death of his only daughter Tullia, to whom he was devotedly attached.

Then came the assassination of Caesar in 44 B.C., which in the course of events, Cicero was more than ready to approve. Once again, at the age of 63, he threw his energy into the struggle for the freedom of the republic. He became the life and soul of the senatorial party, aiding the young Octavianus in his claims against Antony. His last oratorical efforts were called forth in the fourteen "Philippics," hurled against Antony, in which he declared the tyrant to be a public enemy, and called upon the Romans to maintain their liberty. But the voice of her greatest orator could not save the state.

8. **Cicero's Assassination.** — The formation of the second triumvirate blasted all hopes of the patriots. Once more the proscription lists were made, and to satisfy Antony, the young Octavianus consented to sacrifice Cicero. His brother Quintus was also proscribed. Marcus might have made his escape, but was overtaken by the assassins near his villa at Formiae, December 7, 43 B.C. His faithful slaves would have fought to the end, but he permitted no resistance. It is recorded that his head and hands were taken to Rome and in mockery nailed to the Rostra by order of Antony.

9. **Cicero as an Orator.** — “It happened many years after,” writes Plutarch, “that Augustus once found one of his grandsons with a work of Cicero’s in his hands. The boy was frightened and hid the book under his gown; but the emperor took it from him, and standing there motionless, read through a great part of the book; then he gave it back to the boy and said: ‘This was a great orator, my child; a great orator, and a man who loved his country well.’”

Rome was a nation of orators. Not only did Cicero hold the first place among them, but his influence has been recognized by all men of eloquence since his day. To natural ability, a commanding voice and a pleasing personality, were added long and careful discipline and experience. It is true that he argued chiefly as an advocate, often exaggerating or evading facts in order to emphasize. He was criticised for being verbose, but this defect he partly corrected. With his incisive wit, his keen sense of humor, his wonderful mastery of words, he swayed the people and the Senate at his will. Of one hundred and seven orations attributed to Cicero, over fifty have been preserved entire, with fragments of twenty others. Most of these were revised for publication after being delivered.

10. **Cicero as a Writer.** — The name of Cicero is the greatest in Roman literature. Mackail says, “Cicero’s imperishable glory is that he created a language which remained for sixteen centuries that of the civilized world, and used that language to create a style which nineteen centuries have not replaced, and in some respects have scarcely altered. He stands in prose, like Virgil in poetry, as the bridge between the ancient and the modern world.” One can hardly understand how a busy man could find time to write so much upon so many subjects. His writings, as they have come down to us, fill ten volumes, about five thousand pages. Besides his orations and letters we have his works on rhetoric and philosophy. With his broad experience no one could write with more authority than he upon rhetoric and oratory. In his *De Oratore*, *Brutus*, and *Orator*, he treats of the ideal orator, his education and training, and the history of oratory down to his own time.

The treatises in philosophy were written in the last years of his life. In 46-44 B.C. he produced fifteen works, including *De Republica*, *De Legibus*, *De Officiis*, *De Amicitia*, *De Senectute*, *De Finibus De Natura Deorum*, and the *Tusculan Disputations*. He had studied Greek philosophy from his youth. But very little had been written in Latin on this subject. To reproduce the thoughts of the Greeks without aiming to be original, to teach the lessons of philosophy to his countrymen in their own tongue, this was his task. Of the *Tusculan Disputations* it was Erasmus who said: "I cannot doubt that the mind from which such teachings flowed was in some sense inspired by divinity. I always feel a better man for reading Cicero."

11. *Cicero's Letters*. — To the modern world most interesting are the letters of Cicero. Of these we have over eight hundred, written to his family and friends (*Ad Familiares*), to his intimate friend and publisher, T. Pomponius Atticus (*Ad Atticum*), to his brother Quintus (*Ad Q. Fratrem*), and to Marcus Brutus (*Ad M. Brutum*). They cover a period of twenty-five years, 68 to 43 B.C., and are a priceless source of information of the times of Cicero, the last days of the republic. And yet as we read these charming and natural expressions of the great Roman, we are impressed with their modern tone and our common civilization.

12. *The Character of Cicero*. — Historians vary greatly in their estimate of Cicero. Perhaps it is nearest the truth to say that he had many weaknesses but much strength. He was emotional, vain, sensitive. As a statesman he made many mistakes. He failed to grasp the supreme problems of his time. **He lacked force, will, and aim.** He was vacillating in the civil war, but his choice of affiliation had to be made between two evils. That he was a patriot there can be no doubt. His greatest desire was to save and free the republic. That he was honest and incorruptible is shown in his provincial administration. He was a man of peace and honor, pure in life and purpose, and sympathetic with the oppressed. A biographer well says: "His fidelity to his prudent friend Atticus, his affection to his loyal freedman Tiro, his unflinching courtesy toward his wife Terentia, the love he lav-



RAPHAEL'S IDEA OF CICERO

(From his sketch book)

ished upon his daughter Tullia, his unworthy son Marcus, and his sturdy brother Quintus, stand forth in striking contrast to the coldness of the typical Roman of his day."

### ROMAN ORATORY

13. In the time of Cicero there were two styles of oratory, the Asiatic and the Attic. The former style called for ornamentation, and attention to lan-

guage and delivery rather than to thought; the latter was direct, simple, natural. Hortensius represented the Asiatic; Cicero, the Attic, though being a pupil of the Rhodian School, he was inclined to strike a mean between the two extremes.

14. Orations were judicial, deliberative, or demonstrative. (1) Judicial orations, of which the *Pro Archia* is an example, were delivered in a court of justice. (2) Deliberative orations were delivered to the Senate or the popular assembly in the discussion of some public question. The oration for the Manilian Law and those against Catiline were of this kind. (3) Demonstrative orations were designed to praise or censure some one. These are illustrated by the oration *Pro Marcello*, by the portions of the Manilian Law eulogizing Pompey, and portions of the Catiline orations denouncing the conspirator.

15. The formal outline of an oration included six parts: (1) the *exordium*, or introduction; (2) the *narratio*, or statement of the

case, including the *propositio*, or statement of the main theme; (3) the *partitio*, or division of the argument. (4) the *confirmatio*, or affirmative argument from the speaker's side; (5) the *refutatio*, or rebuttal of the opponent's argument; (6) the *peroratio*, or conclusion.

### ROMAN CITIZENS

16. The old distinction between patricians and plebeians was wiped out as early as 300 B.C., when both classes alike were entitled to hold any office, civil or religious. But another distinction arose, dividing the people into three classes, the senatorial order, the knights, and the commons.

17. **The Senatorial Order, or Optimates.** — This order included all who were descended from a curule magistrate (31) or who had themselves held office. They therefore constituted an hereditary nobility. They practically held a monopoly of the offices, for while any freeborn citizen might be a candidate, the power of the senatorial party was against all except the nobles. Senators were excluded by law from trade and banking. Their distinctive dress was the tunic with a broad purple stripe.

18. **The Equites, or Knights.** — This term, originally applied to the cavalry of the state, came to be used of the men who had the property qualification of 400,000 sesterces, about 20,000 dollars (*ordo equester*). They formed, therefore, an aristocracy of wealth, controlling capital and farming the public revenues. They had no constitutional privileges until the time of Gaius Gracchus, when they were given the exclusive right to sit on juries. The *equites* then lost their military connection and became influential in politics, often as rivals of the senators. The insignia of the order was a gold ring and two purple stripes on the tunic.

19. **The Commons.** — In Cicero's time the older families had all become senators or knights. The great body of the people constituted the *populus*, *plebs*, or *populares*. By amassing sufficient wealth one of the inferior class could rise to the *equites*; by holding the offices, he became a senator. Such a man ennobled his family, and being the first to hold office, was a *novus homo* (a man without ancestry). "The condition of the commons was



pitiable. The combinations of capital shut them out of commerce and manufacture, while the competition of slave labor almost closed agriculture and trade against them. Some found employment in the colonies and provinces, some eked out a scanty living on their farms, some made war their trade; but the idle and degraded flocked into the capital to live on the cheap corn provided by the treasury, and to sell their votes to the highest bidder." (Johnston.)

20. Freed slaves (*liberti*) and their descendants (*libertini*) were citizens and had the right to vote, but not to hold office until the taint of slavery was removed by two or more generations.

21. *Municipia*, or municipal towns, were conquered communities subject to taxation and military service, but without suffrage. *Civitates foederatae* were communities whose privileges depended on special treaty with Rome. Colonies sent from the city (*coloniae*), as a rule, enjoyed full citizenship. A *praefectura* was a town in which justice was administered by a prefect sent from Rome. Individual foreigners were often honored with citizenship by special gift, sometimes conferred by a commander.

### THE POPULAR ASSEMBLIES

There were three assemblies based on three different divisions of the citizens.

22. **The Comitia Curiata.** — This was the old assembly of thirty *curiae* or wards. Originally its function was to confer *imperium* on the king and to decide on peace and war. In the time of the republic its only duty was the conferring of authority on the consuls and praetors as a matter of form, each *curia* being represented by a single delegate.

23. **Comitia Centuriata.** — This assembly began as a military organization in the days of Servius Tullius, when the people were divided into centuries (*centuriae*). The century or division to which a man belonged was determined by the amount of his wealth. About 250 B.C. the assembly was reorganized into three hundred and seventy-three centuries. This comitia elected the consuls, praetors, and censors, and for a long time decided ques-

tions of peace and war. This latter function, however, was transferred to the Senate. Its power of legislation was transferred largely to the *comitia tributa*, and its judicial power to the standing courts. It could be summoned by a consul, praetor, or dictator. Being military in theory, its meetings were usually held in the Campus Martius.

**24. Comitia Tributa.** — This was an assembly of the tribes, thirty-five in number, growing out of the older *concilium plebis*. The assembly convened under either name according to whether the patricians were included (*comitia tributa*), or excluded (*concilium plebis*). Their functions were elective, legislative, and judicial. The *comitia tributa* elected curule aediles, quaestors, and certain lesser magistrates, and was presided over by a consul or praetor. Its enactments were known as *leges*. The *concilium plebis*, whose presiding officer was a tribune, elected the plebeian tribunes and aediles and came to be the chief legislative body of the government. Its laws, known as *plebiscita*, had the same validity as the *leges* of the *comitia tributa*, and did not require the sanction of the Senate. Like the *comitia centuriata*, these tribal assemblies relegated their judicial authority to the standing courts, though as late as 63 B.C., Rabinius was tried before the *tributa* with Cicero as his defender. The sessions of these assemblies were held in the Campus for elections, and in the Forum for law-making.

**25. Methods of Voting. Adjournment.** — The assemblies mentioned above were called for taking action not for deliberation. The voting was done by secret ballot. At legislative meetings each voter received an affirmative and a negative ballot. At meetings to elect magistrates he received a blank *tabella*, on which he wrote the name of the candidate of his choice. In each century or tribe the individual votes determined the vote of the century or tribe which was then cast as a unit, a majority of these divisions deciding the vote of the assembly. So, for example, the favoring vote of eighteen of the thirty-five tribes would pass a bill, though the individuals represented might be less than those who opposed it. If the voting was not completed by sunset, all was void. The session might then be ad-

journed by the presiding officer, by his colleague, or a superior officer, or by the occurrence of lightning or storm. Finally the voting would have to be repeated if the officer failed or refused to announce the result.

**26. Contiones.** — An assembly of citizens to listen to an address or to a discussion was a *contio*. The people came together as individuals. Though called together by magistrates only, the assembly could be addressed by private citizens. It had no powers, and adopted no resolutions. If action was to follow, a *comitia* had to be properly called. The second and third orations against Catiline and the oration for the Manilian Law were delivered before *contiones*.

**27. Political Parties.** — As in all nations, two factions sprang up, the aristocratic and the democratic (*optimates* and *populares*). Cicero defined the former thus: "All those are *optimates* who, no matter to what class of citizens they belong, bravely defend the institutions of our ancestors." They formed the conservative class, including the nobility as the chief element. "Those who wish the things which they do and say to be pleasing to the multitude," said Cicero, "are the *populares*." The intense party strife between these factions which began with the Gracchi lasted till the time of Caesar, who became the successful popular champion.

## THE SENATE

**28. Membership.** — In the earlier days of the republic any citizen of proper age was eligible to the Senate, though the preference was given to ex-magistrates. After Sulla, the Senate became exclusively a body of ex-magistrates, serving *ex-officio* for life. Before admission to membership, a candidate must be declared worthy by the censor, must be thirty-one years old, and must abstain from certain occupations. While there was no property requirement, only men of means would be able to serve, as they did, without pay. The senators in a body were addressed as *patres conscripti*, i.e. *patres et conscripti*, a phrase first used in 509 B.C. to include the original senators (*patres*) and the newly enrolled (*conscripti*) plebeians. The number of senators

was fixed by Sulla at 600, by Caesar at 900, and afterwards reduced to 600.

**29. The Session.** — The regular meeting place of the Senate was the *Curia Hostilia* on the north side of the Comitium, but any temple might be used instead. The first oration against Catiline was delivered in the Temple of Jupiter Stator, the fourth in the Temple of Concord. A session was called generally by a consul, praetor, or tribune, who became the presiding officer. None but members were admitted, but others might listen to the proceedings from the entrance.

**30. Procedure.** — After the senators had been summoned by the herald (*praeco*) or by proclamation, the presiding officer took the auspices. He then proposed the question to be considered (*rem ad senatum referre*), and called upon the members to express their opinions (*rogare sententias*). The privilege of speech was given first to magistrates-elect, then to ex-magistrates ranking as consuls, praetors, aediles, tribunes, quaestors. The presiding officer was entitled to speak at any stage of the debate. The members either spoke at length or simply expressed agreement, or nonagreement with the motion. After the discussion the voting was by division. All voted except magistrates in office. A decision of the Senate which was not vetoed was called a *senatus consultum*; but if vetoed by any magistrate having the right of veto, it was only a *senatus auctoritas*. To be valid, the decision must be reached before sunset. Filibustering was practised, for the opponent of a measure could prevent action on it by talking until sunset.

**31. Functions.** — The Senate was primarily an advisory body, giving advice only when asked, but by reason of the dignity of its members, it gained in power until it controlled all legislation and elections. Among its special powers were the following:

1. In religious matters the Senate ordered the consultation of the soothsayers or the Sibylline books, decreed a thanksgiving (*supplicatio*), games, or holidays, and coöperated with the religious officers in times of peril.

2. In financial matters the Senate controlled taxation, revenues, appropriations, and coinage.

3. The Senate declared war and concluded peace, assigning troops and military commands, awarding the title of *imperator* and granting a triumph or a *supplicatio*.

4. The Senate could enter into an alliance by treaty with a foreign nation, assume the protectorate of a territory, or confer the title of king or friend of the Roman people on a foreign potentate. Embassies from foreign nations were sent to it, and demands addressed to a foreign nation were sent by the Senate.

5. The government of the provinces was under the jurisdiction of the senate, which assigned the proconsuls and the proprætors.

6. The Senate discussed bills which were to be presented to the legislative assemblies.

7. The Senate had the sole right of naming a dictator, or might suspend the ordinary laws by passing a *senatus consultum ultimum*, directing the consuls *videant ne quid res publica detrimenti capiat*.

### THE MAGISTRATES

32. There were six ordinary magistrates in the republican period: consul, censor, prætor, tribune of the plebs, ædile, quaestor. The dictator and *magister equitum* were extraordinary, appointed only in critical times. The consul and prætor (dictator and *magister equitum*) were magistrates with *imperium*, *i.e.* with supreme executive authority, military, civil, and judicial, which had formerly belonged to the kings. The other officials were magistrates with *potestas*. The consul, censor, prætor, curule ædile (dictator and *magister equitum*) were curule magistrates, *i.e.* were entitled to use the *sella curulis*, an ivory chair of peculiar shape, as a symbol of authority. Non-curule magistrates used a *subsellium*, a low wooden bench. By a law in 180 B.C., a *cursus honorum* was established, making it necessary for one to have been quaestor before becoming prætor, and to have been prætor before becoming consul. Furthermore, it was considered desirable to be ædile before being prætor, though not essential. Besides this sequence, a minimum age limit was fixed for the incumbent of each office; for quaestor, thirty-one; ædile, thirty-seven; prætor, forty; consul, forty-three. The

date of the elections was usually set by the Senate for July, but postponements might occur. Quaestors were inaugurated the following December 5; tribunes, December 10; others, January 1. The term of office was one year, except for the censor, who served eighteen months. An interval of two years was necessary between the different offices, and one of ten years before reëlection to the same office. Every magistrate possessed the power of veto over his colleague or an inferior magistrate. There was no salary for public officials, but an ex-magistrate found a source of gain in the province to which he was assigned.

**33. Consuls.** — The two consuls were theoretically of equal power, exercising their authority on alternate months. They were the chief magistrates, checking by veto any other except a tribune. Each consul was limited by the veto power of the other and of the tribune, and was restrained by the fact that he would have to give an account of his administration to the people. In the transaction of foreign affairs, they presided over the Senate, and executed its orders. They conducted the election of the curule magistrates in the popular assemblies. They had the power to levy troops, and were nominally the commanders, but in Cicero's time it was unusual for them to take the field. In times of peril, the consuls were invested by the Senate with the power of a dictator. A consul whose authority was prolonged beyond his term of office became a proconsul and acted as governor of a province. The consular insignia were the *toga praetexta*, *sella consulis*, and twelve lictors, who bore the *fasces*.

**34. Praetors.** — In case of the absence of both consuls from the city, the praetors acted in their place. But their chief duty was to act as judges. As the government developed, their number was increased from one to eight, as it was in Cicero's time. Of these, one was the *praetor urbanus*, in charge of cases between citizens; another was the *praetor inter peregrinos*, in charge of cases between foreigners, or between a foreigner and a citizen; the remaining six presided over the standing courts for special offences. The *praetor urbanus* was the chief judge of Rome. At the close of his year, a praetor became propraetor, in the capacity of provincial governor.

**35. Aediles.** — There were four aediles, two “curule” and two “plebeian.” The former were chosen by the *comitia tributa*, the latter by the *concilium plebis* (24). Their duties were practically the same, the city being divided into four districts, one for each aedile. These duties were the care of the streets and public buildings, the water supply and the grain market, the superintending of the police, and the providing against fire. An important function was to provide for the public games and festivals. For this purpose there was a state appropriation of funds, but the desire to win the favor of the people often led the aedile to excessive expenditure which he expected to pay by means of later income in the provinces.

**36. Quaestors.** — The quaestors were the public treasurers. Before the third century B.C. they also prepared evidence in public prosecutions (hence the name, from *quaero*). They collected money due the state and paid it out by order of the Senate. They were also custodians of the public documents such as census lists, contracts, and copies of laws. Their number, at first two, was increased by Sulla to twenty. Two of these (*quaestores urbani*), served in the city as general financial officers, while the others were with the army or in the provinces as paymasters. Their year of office began December 5, when they drew lots for assignments as referred to in Cat. IV. 7.

**37. Tribunes.** — The ten tribunes of the plebs were of necessity plebeian, either by birth or adoption (24). The office was first created to protect the people against the arbitrary action of a magistrate. Though they had no positive duties except to preside at certain elections (24) they came to be the most powerful officers in the state, for by their power of veto (*ius intercedi*) they could prevent the act of any curule magistrate, the passage of laws by the assemblies, or the decree of the Senate. The only check upon them was the veto of a colleague. They could also convoke and preside over the Senate (28) and the *comitia tributa*, and initiate legislation. Their activity was confined to the city, from which they were permitted to be absent only a day at a time. As protectors of the people, the houses of the tribunes stood open day and night. Their persons were declared sacred,

*i.e.* death might be inflicted on any man who harmed the tribune in the exercise of his authority.

**38. Censors.** — Two censors were elected every five years. They served for eighteen months and then abdicated, their duties for the remaining time being assigned to the other magistrates. These duties were (1) to take the census, assess property, and arrange for the register of tribes, classes, and centuries; (2) to revise the lists of senators and knights, excluding the unworthy (28), and in general to supervise public morals; (3) to sell the privileges of collecting taxes, and to let contracts for public buildings. A man could be degraded from his rank, remaining so for the current register. On the other hand, a master could free a slave by having him inscribed on the censor's list of citizens. In the last century of the republic the office lost much of its prestige, and from 86 to 70 B.C. no censors were elected (Archias, ch. 5).

**39. Dictator.** — In times of special peril the consuls appointed a dictator by order of the Senate. His authority lasted for six months, or less if regular order was restored. There was no appeal from his decisions. He appointed a military assistant to command the cavalry (*magister equitum*), while he commanded the infantry. There was no regular dictator after 202 B.C., for Sulla and Caesar, who were so called, usurped the office.

**40. Religious Officers.** — The religion of the Romans was a state institution. The priests were men of great influence and had much to do with public life. The most important of the priestly colleges were the pontiffs (*pontifices*) and the augurs (*augures*). The former, 15 in number, supervised all religious observances, chose and guarded the Vestals, regulated the Calendar, fixing the days for legal business and for festivals. They held office for life. The president of the college, the *pontifex maximus*, was not prevented from engaging in secular pursuits. Thus Caesar was elected to this office at the age of thirty-six, and continued his public career. The augurs observed and interpreted the auspices or reputed natural signs. These signs were derived from the heavens, including thunder and lightning, from the flight of birds, from the behavior of sacred chickens, and in



other ways according to traditional rules. Unless the auspices were first taken, no assembly, no meeting of the Senate, no election could be held, neither could war be declared, nor could public business of any kind be transacted. Cicero was made one of the fifteen augurs in 53 B.C.

Haruspices from Etruria foretold the future in detail, rather than simple answers "yes" or "no." They were an unofficial guild, consulted in special cases.

### THE COURTS

41. The Roman courts were in charge of the praetors (34). In cases of minor importance, the praetor either gave the decision himself or referred it to a judge (*iudex*) or jury. For cases of greater importance, standing courts were established by Sulla, the *quaestiones perpetuae*, presided over by the praetors. These courts considered cases concerning misgovernment (extortion), murder, forgery, embezzlement, treason, assault, etc. Juries varied in number of men, and were selected by the presiding judge. After 70 B.C. a law provided that they should be taken equally from the senators, the knights, and the *tribuni aerarii*. Their service was honorary. Trials were first held in the open air at the tribunal of the praetor in the Forum, but after 184 B.C., often in the basilicas around the Forum. From the decisions of the standing courts there was no appeal. By the Valerian law (509 B.C.) citizens condemned to death or excessive fine by any magistrate had the right of appeal to the *comitia centuriata* and *tributa* respectively. But capital punishment and the flogging of citizens were abolished by the Porcian law (198 B.C.). Imprisonment as a penalty was not known in Rome, though one awaiting trial might be kept in the *carcer*. The ordinary penalties were a fine (*multa*), loss of citizenship (*infamia*), or exile. Exile was either voluntary, or practically imposed by the denial of the use of fire and water (*aquae et ignis interdictio*).

### PROVINCES

42. A Roman province was organized under a charter prepared by the conquering general with the sanction of the Senate. Its

government was intrusted to a proconsul when an army was necessary, to a proprætor when the province was quiet. As far as practicable, the freedom of the provincials in local matters was not interfered with. "The tax exacted of a province was a tithe (*decuma*), or a fixed amount in money (*stipendium*). Besides the tithe, the Senate might impose the burden of supplying further produce at a fixed price." (Gow.) During the later years of the republic, especially, the provinces were plundered by the governors as well as by the tax farmers. Although charges could be brought in the special court at Rome against the offender, yet in fact such action brought little permanent relief.

### THE FORUM AND THE PUBLIC BUILDINGS

43. The Forum was the low open space between the Capitoline and Palatine Hills, originally a market place. "It was about two hundred and twenty yards long, sixty yards wide near the Capitoline, narrowing to thirty-five near the Palatine." (Gow.) Adjacent to it on the northwest corner was a small square, the Comitium, used in earlier days as the center of public life. Between the Forum and the Comitium stood the Rostra, the speaker's platform, from which audiences could be addressed on either side. It was from this platform that Cicero's orations to the people were delivered. The Capitoline Hill on the west was famed for its temple of Jupiter. The Palatine Hill on the southeast was the site of many shrines, and of the residences of wealthy citizens. On the north side of the Comitium was the Senate House, the *Curia Hostilia*, whose site is now marked by the Church of St. Adriano. At the western end of the Forum was the Temple of Concord, built to commemorate the final harmony between the patricians and the plebeians. The Temple of Jupiter Stator, in which Cicero delivered his first oration against Catiline probably stood on the slope of the Palatine, a short distance to the east of the Forum. Among the other buildings of interest about the Forum were the Temple of Vesta, with its sacred fire; the *Regia*, formerly the palace of the king, later the residence of the *pontifex maximus*; the *basilicæ*, used for the law courts; and the *tabernæ*, rows of shops. The Forum was therefore the center

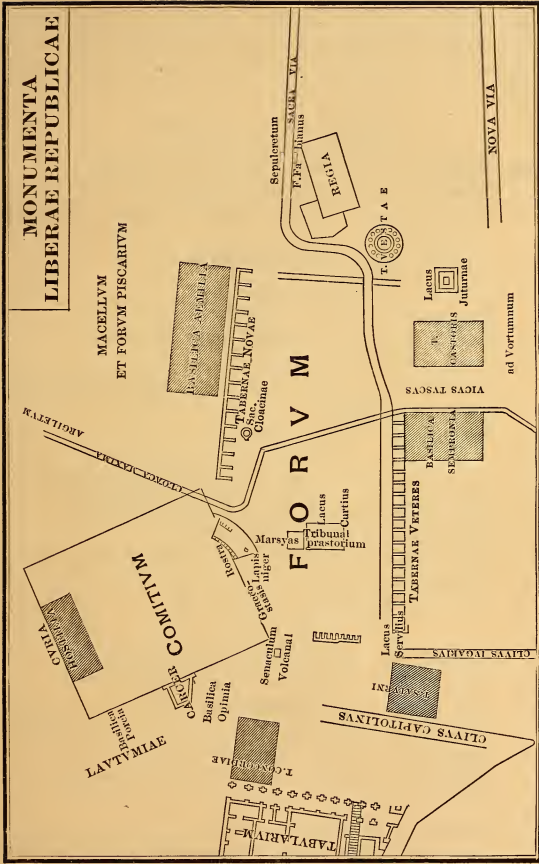
Tabularium  
 Basilica Porcia  
 Curia  
 Basilica Optima  
 Comitium  
 Carcer  
 Senaculum  
 Rostra  
 Tabernae Novae  
 Basilica Aemilia  
 Macellum



T. Saturni  
 Tabernae Veteres  
 Tribunal  
 Privata domus  
 Basilica Sempronii  
 T. Castoris  
 T. Vestae  
 Regia

THE FORUM IN CICERO'S TIME

**MONUMENTA  
LIBERAE REPUBLICAE**



PLAN OF THE FORUM IN CICERO'S TIME

Mons Palatinus

Mons Capitolinus

of the religious, legal, and business interests. On the northwest corner stood the Tullianum or state's prison, which exists to-day, the place of the execution of Catiline's fellow-conspirators (see p. 32).

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