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Cicero's *On the Commonwealth* and *On the Laws* were his first and most substantial attempt to adapt Greek theories of political life to the circumstances of the Roman Republic. They represent Cicero's vision of an ideal society and remain his most important works of political philosophy. *On the Commonwealth* survives only in part, and *On the Laws* was never completed. The present volume offers a new scholarly reconstruction of the fragments of *On the Commonwealth* and a masterly translation of both dialogues. The texts are supported by a helpful, concise introduction, notes, synopsis, biographical notes, and bibliography; students in politics, philosophy, ancient history, law, and classics will gain new understanding of one of the great philosophers and political figures of antiquity thanks to this volume.

JAMES E. G. ZETZEL is Professor of Classics and James R. Barker Professor of Contemporary Civilization at Columbia University in the City of New York. He has lectured and published widely on Latin literature and the transmission of texts, including a commentary on the Latin text of *On the Commonwealth* (Cambridge, 1995) and an essay, "Rome and Its Traditions," in *The Cambridge Companion to Virgil* (1997).

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*On the  
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On the Laws*

EDITED BY

JAMES E. G. ZETZEL

*Columbia University in the City of New York*



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## Editor's note

Raymond Geuss originally encouraged me to undertake this translation; I owe him and Quentin Skinner thanks for publishing it in this series, and I am also grateful to Richard Fisher, Elizabeth Howard, Caroline Drake, and Jane Van Tassel of Cambridge University Press for their expert advice and assistance.

A preliminary draft of the translation of Book 1 of *On the Laws* was used by students in Contemporary Civilization C1101 in the core curriculum of Columbia College; I am grateful to David Johnston, the director of the course, for including it in the course reader, and to the students in my own section who offered useful corrections and suggestions. Susanna Zetzel has offered advice on numerous passages and has improved the introduction immeasurably. Robert Kaster and Gareth Williams generously read a draft of the entire book and have offered many corrections of my Latin, English, and logic. The remaining faults are my own.

This translation was begun during a sabbatical leave in 1993 and completed during a research leave in 1997–98 aided by a Fellowship from the John Simon Guggenheim Memorial Foundation. I am grateful both to Columbia University and to the Guggenheim Foundation for their support. I received practical assistance of other kinds from my good friends Douglas Kilburn, Robert Phinney, and Scott Decker, who supplied water, heat, and light, without which the revision of this book would have taken far longer to complete.

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## Introduction

### Cicero's Career

Early in December 63 BCE, the consul Marcus Tullius Cicero, having unmasked the conspiracy of Catiline and supervised the execution of several of the leading conspirators, was hailed as Father of his Country and escorted home by a crowd of grateful Romans from all ranks of society; a public thanksgiving was decreed in his honor, the first such award ever made for nonmilitary service to the state. That moment was the summit of a remarkable career: not only had Cicero's consulship been distinguished by signal success and acclaim, but the very fact that he had achieved that office – the chief magistracy in republican Rome – and had done so at the earliest legal age of 42 was itself unusual. Cicero was born in 106 BCE to one of the leading families of the town of Arpinum, some 115 kilometers southeast of Rome; and although the town had had Roman citizenship since 188, no one in Cicero's family had ever held public office at Rome. Ties of friendship between Cicero's family and some of the leading aristocrats of Rome had permitted him to learn the ways of Roman politics and law under the tutelage of the leading orator (Lucius Licinius Crassus) and jurists (Quintus Mucius Scaevola the Augur and his cousin Quintus Mucius Scaevola the Pontifex) of the 90s and 80s; but in the first half of the first century BCE it was rare for a “new man” – the first in his family to achieve high office – to become consul. Recruitment to the ranks of the Roman aristocracy in Cicero's day was real, but it usually took several generations to reach the highest offices; more rapid elevation was generally the result of military rather than oratorical talent. Cicero rose to eminence as a public speaker and as a

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supporter of moderate reform within the traditional social order based on landed wealth and hierarchical deference; his early speeches attack corruption and abuse of power within the system rather than the system itself. His success was based in part on his rhetorical and political skills, in part on his reassuring conservatism at a time of extraordinary military and social upheaval. Elected as a safe alternative to Catiline, the bankrupt and unsavory aristocrat whose electoral failure drove him to conspiracy and revolution, he managed very briefly to unite the discordant elements of Roman society in the face of the genuine danger posed by Catiline: the honors and acclaim that he received were well earned.

The actions that deserved honor, however, were the source of a downfall even more rapid than his rise. Legitimate fear of armed insurrection led Cicero to execute citizens in 63 on the basis of a resolution of the senate, without a formal trial. In the violent factional politics of the late 60s and early 50s, his actions in 63 left Cicero vulnerable to his enemies; the coalition which he had created against Catiline dissolved in the face of mob violence and rampant corruption; and he was sent into exile in 58 at the instigation of the tribune Publius Clodius Pulcher – only to be recalled eighteen months later when political circumstances changed. Cicero relied on his own abilities at a time when the possession of money and armed troops had far more political effect than eloquence, decency, or parliamentary skill; although honored for his eloquence and expertise, he remained without real influence through the turbulence that preceded the civil war between Pompey and Caesar; and having half-heartedly chosen to support Pompey, he had virtually no place in public life under Caesar's dictatorship in the 40s. Only at the end of his life, after the assassination of Caesar on 15 March 44, did Cicero regain some measure of power, leading the senate in its support of Brutus and Cassius against Antonius. But in the bewildering military and political circumstances of 44–43, Cicero's mistaken judgment that he could control and use the young heir of Caesar (then Gaius Iulius Caesar Octavianus, eventually to become Augustus) had fatal consequences: at the formation of the Second Triumvirate (Antonius, the young Caesar, and Marcus Lepidus) in November 43, he was proscribed. After he was killed on 7 December, his head and hands were cut off and placed on the Rostrum in Rome, a sign of the ruthlessness of the triumvirs and a symbol of the end of traditional republican politics.



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## Cicero the philosopher

By the 90s, when Cicero came to Rome as a teenager, young men of wealth and standing were beginning to be educated in more than the traditional elements of law and public speaking. In the dialogue *On the Orator* written in 55 BCE (with a dramatic date of 91), Cicero documents the growing acquaintance of Roman senators with Greek philosophy and rhetoric: by 100, it was not unusual for magistrates on their way to govern eastern provinces to stop in Athens to listen to philosophers explain the simpler dialogues of Plato; Cicero himself, when he found it politically prudent to leave Rome in the early 70s, went to Rhodes to study philosophy and rhetoric. That encounter with Greek learning had a lasting effect. More than many of his generation, he studied those subjects seriously. He listened to the lectures of Philo, the head of the skeptical Academy, and to his successor Antiochus of Ascalon, who turned the Academy away from skepticism towards an interest in ethics closer to that of Plato and his immediate successors. For many years, he provided a home for the blind Stoic philosopher Diodotus, and although his own philosophical allegiance remained with the skeptical Academy, he read and studied widely in Greek philosophy at large. He was equally adept in the rhetoric and poetry of Hellenistic Greece, writing while still in his twenties a treatise on the first of the traditional elements of rhetoric, *inventio* (selection of arguments), and translating at about the same time the *Phaenomena* of Aratus, a third-century poem on astronomy the immense popularity of which in antiquity remains something of a puzzle to modern readers. His speeches reveal, while in traditional Roman fashion disclaiming, a deep and extensive knowledge of Greek philosophy, poetry, history, and art; and although his philosophical works often proclaim distrust of Greek learning for its own sake, he consistently attempted to shape it to the needs and values of Roman society.

By the time he returned from exile in 57 to his frustratingly powerless position in Rome, therefore, it is not altogether surprising that he turned from political action to writing. The 50s were a time of extraordinarily broad and complex engagement with Greek ideas in Rome: Pompey's vast conquests in the Greek east in the 60s encouraged what Sulla's brutal siege of Athens in 88 had begun, an exodus of leading Greek intellectuals to Rome. Some came willingly to the new financial, military, and now cultural capital of the Mediterranean; others, like Virgil's Greek

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teacher Parthenius, came as enslaved prisoners of war. The Epicurean Philodemus of Gadara, many of whose copious writings have been unearthed in the excavations of Herculaneum, was the house Greek of Cicero's enemy Piso (one of Caesar's fathers-in-law) and was well known to Cicero, who also defended in 62 the Roman citizenship of the elderly Greek poet Archias from Syrian Antioch. The invasion of Greek intellectuals had a powerful effect on Roman letters beginning in the 50s: both Catullus, writing learned poetry in the manner of the Alexandrians, and Lucretius, expounding Epicureanism in Latin verse, were the beneficiaries of Greek learning and exercised an immense influence on Latin poetry in the next generations.

In this cultural climate, and with his extensive knowledge of Greek rhetoric and philosophy, Cicero was similarly moved to adapt the learning of Greece to the traditional culture of Rome. In the period between 55 and his reluctant departure to govern the province of Cilicia in the spring of 51, Cicero wrote three dialogues (the first works of the kind written in Latin) in imitation of Plato: *On the Orator* adapted and replied to the *Gorgias* and *Phaedrus*; *On the Commonwealth* (*De re publica*) is his version of the *Republic*; and *On the Laws* (*De legibus*) – which was left incomplete – is modeled on Plato's *Laws*. After the Civil War, his literary production increased in speed and diminished in elegance: two more works on rhetoric and a long series of studies, which Cicero himself claimed (falsely) were simply transcripts of Greek works, on epistemology, ethics, and religion. While in these dialogues Cicero adapted his models through the use of Roman examples and issues, it was only after the death of Caesar, at the same time that he wrote the *Philippics* attacking Antony, that he returned to writing about the immediate concerns of Roman public life: the treatise *On Duties* written at the end of 44 was for centuries his most widely read and influential work.

## A Roman Plato

Although in all his philosophical works Cicero made extensive use of the writings of Hellenistic philosophers, above all the Stoics and Peripatetics (the school of Aristotle), and in the dialogues written after the Civil War he generally employed the form of Aristotelian dialogue – set speeches expounding different philosophical points of view rather than Socratic

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conversation – it was Plato to whom he was first attracted as a literary and stylistic model, even though (or perhaps because) he found Plato’s views on rhetoric and government both wrong and unrealistic. The use of strongly characterized speakers of divergent views in a fully realized dramatic setting – particularly true of the Platonic dialogues Cicero most extensively employed, *Gorgias*, *Phaedrus*, *Republic*, and *Laws* – was eminently suitable for Cicero’s project in the 50s, an attempt to transpose Greek ideas about public life into a Roman context and to provide a more rigorous philosophical model for Roman public behavior and institutions than had previously existed. *On the Orator* was placed in the dramatic setting of 91 BCE, just before the outbreak of the war between the Romans and the Italians (the Social War), using as speakers figures whom Cicero had known as a young man. In the dialogue, he combined a technical discussion of rhetoric with a broader exposition of the civic and practical value of the true orator, arguing (against Plato and others) not only that rhetoric was itself an *ars* (Greek *technê*: a discipline with rational rules capable of being taught and transmitted) but also that it was the master art to which philosophy, at least ethics, should be subordinated; furthermore, he transposed the notion of *ars* itself from the schoolroom to the forum: the consummate orator becomes a figure capable of transmitting to society the ethical and social values learned through both study and practical experience.

In *On the Orator* there are clear indications of Cicero’s larger concerns with the political context of ethical values and with the importance of the orator as the true statesman; above all, it displays Cicero’s belief that it is through the character and political wisdom of particular individuals – in *On the Orator* seen as an element of rhetoric itself – that the larger goals of society can best be fostered and maintained. In *On the Commonwealth*, which he began to write less than six months after the earlier work, he attempted to give a fuller account of the values and nature of public life. Cicero’s correspondence gives some indications of the process of composition and of his ideas about its contents: he first describes it as *politika* (Greek: concerning public life), then as “about the best commonwealth and the best citizen” before settling on the title *On the Commonwealth*. The original plan was for a nine-book work set in 129 BCE at the home of Scipio Aemilianus; when a friend criticized this as limiting the opportunities for comment on current affairs and appearing too improbable (the conversation takes place twenty-three years before Cicero’s birth), he considered turning it into a dialogue with himself as the main speaker,

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but rapidly thought better of that and returned to the original setting, but in six books.

The choice of characters and the dramatic moment of the conversation were important for Cicero. Publius Cornelius Scipio Aemilianus Africanus, twice consul and censor, adoptive grandson of the elder Scipio Africanus (the conqueror of Hannibal) and himself the destroyer of Carthage in the Third Punic War in 146 BCE and of Numantia in Spain in 133, was a man whom Cicero greatly admired as not only a great general and orator but as someone renowned for his intellectual accomplishments as much as his success in public life. A friend of the Greek historian Polybius (whose account of the Roman constitution Cicero used extensively in the first two books of *On the Commonwealth*) and the Stoic philosopher Panaetius as well as of the Roman poets Terence and Lucilius, Scipio emerges in Cicero's presentation as an ideal example of the successful fusion of public action and educated thought, someone who could well be imagined to have offered an explanation, as he is made to do in the dialogue, of the philosophical underpinnings of Roman government. The conversation is imagined to have taken place early in 129, during a political crisis: Scipio was leading the conservative attempt to eviscerate the law for agrarian reform passed by his cousin Tiberius Gracchus as tribune of the plebs four years earlier. That legislation and the concomitant violence and upheaval had resulted in the murder of Gracchus by a mob led by another of Scipio's relatives, Scipio Nasica Serapio; and the tribunate of Gracchus was regarded by Cicero and his contemporaries as the beginning of social upheavals which lasted into their own time. The dialogue envisages Scipio as the one person whose stature and abilities could halt such developments; but it takes place only a few days before the real Scipio died suddenly and mysteriously. His death may have been natural, but Cicero believed that he had been murdered by supporters of the Gracchan laws. As in *On the Orator*, which takes place a few days before the sudden death (of a stroke or heart attack) of the protagonist Crassus and the outbreak of the Social War, *On the Commonwealth* represents a very precise moment, during a political crisis the deleterious effects of which could have been halted by the protagonist had it not been for his sudden death. In that respect, both Scipio and Crassus represent Roman equivalents for the Socrates of the *Phaedo*, speaking inspired words at the very end of their lives.

The other participants in the conversation are also carefully selected. Scipio's principal interlocutor (at least in the surviving text) was his

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closest friend in real life, Gaius Laelius, a man of considerable learning in his own right; he is portrayed as an ironic and practical man, who repeatedly returns the conversation from the higher philosophical flights of Scipio to the real world of Roman life. He is accompanied by his two sons-in-law, Quintus Mucius Scaevola (the Augur) and Gaius Fannius; the former (one of Cicero's teachers) appears in Book 1 of *On the Orator* as an elder statesman and expert on law. Another figure of the younger generation is Publius Rutilius Rufus, who is said by Cicero to have been his source for the conversation: a man of Stoic beliefs and rectitude, he was exiled unjustly in the 90s for extortion and spent the rest of his life at Smyrna, in the province of Asia which he was convicted of having mistreated. Quintus Aelius Tubero, Scipio's nephew, was also a Stoic and a man of serious scholarly attainments; his career was cut short because he refused to compromise his philosophical beliefs in order to win election. Three other figures fill out the cast: Spurius Mummius, whose brother Lucius destroyed Corinth in the same year that Scipio destroyed Carthage, is presented as a hardened defender of aristocratic privilege; Lucius Furius Philus, one of Scipio's closest friends, was a public figure of great integrity and learning, who is made unwillingly to argue the case for injustice against justice; and Manius Manilius, one of the leading legal experts of the second century, was considerably older than any of the other participants and had been Scipio's commanding officer in Africa in 149 at the beginning of the Third Punic War. Taken as a group, the participants in the dialogue represent what Cicero felt to be the highest levels of intellectual and civic accomplishment in the second century, and also represent three generations of Roman eminence: one of the central concerns of *On the Commonwealth* is the way in which knowledge of morality and tradition can be passed on and kept alive; in viewing the conversation, the reader witnesses a living example of the values and social behavior that Cicero most admired.

The dramatic structure and setting of *On the Commonwealth* are deeply influenced by Plato's *Republic*: there too there is more than one generation (the old man Cephalus; Socrates and Thrasymachus as mature men; Cephalus' son Polemarchus and Plato's brothers Glaucon and Adeimantus of the next generation); there too the conversation takes place on a festival; and there too the topic of justice is dealt with both as an internal quality of individual morality and as an element of social order. In Cicero's sequel to *On the Commonwealth*, the unfinished *On the Laws*, a Platonic model is equally evident. In Plato's *Laws*, the main

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speaker is the Athenian Stranger, generally identified in antiquity – and by Cicero – with Plato himself; it is set on a long summer day with a contemporary date. Cicero's equivalent presents himself as the main speaker, with his brother Quintus and his close friend Atticus as interlocutors; the conversation takes place at Cicero's ancestral home in Arpinum, at an unidentifiable date in the late 50s. The primary difference between the two is that Plato's *Laws* proposes laws not for the ideal commonwealth of the *Republic*, but for a second-best society, while *On the Laws* proposes the laws for the state which is defined as best in *On the Commonwealth*, namely the ideal constitution of Rome of the mid Republic, after the laws of the Twelve Tables of the mid fifth century. If one ignores that difference (as Cicero himself does), then the two pairs of dialogues are precisely parallel: one in the historical past, one in the present; the second a deliberate sequel to the first. In Cicero's view, the combination was meant to provide first a framework for establishing and maintaining an ideal government (which he identifies with Rome) and second the particular legal code and customs that would correspond to that government. It is often suggested, with some plausibility, that the nine-book version of *On the Commonwealth* that Cicero abandoned in October 54 would have included much of the material (if not the precise format of a legal code) now found in *On the Laws*. In revising his plan, he determined to compose two parallel dialogues in imitation of his Platonic model. That model, however, is more formal than substantive: although he quotes Plato frequently, the philosophical and political systems of Cicero's pair of dialogues owe far more to Aristotle and the Stoics than they do to Plato.

**On the Commonwealth**

Although *On the Commonwealth* seems to have been a canonical text in antiquity and was widely known until the fifth century CE, it cannot be shown to have existed entire after that, and it survives only in fragmentary form. The principal source for it – and the only manuscript copy of most of it – consists of 151 leaves of a palimpsest, a manuscript written in the fourth century but erased and reused for a text of Augustine's *Commentary on the Psalms* at the monastery of Bobbio near Milan in the seventh century. Luckily, it was not erased very carefully, and the lower text is almost entirely legible; it was discovered in 1819 in the Vatican library by Angelo Mai and published for the first time in 1822, making it

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the last major Ciceronian text to be printed. The surviving portion represents roughly a quarter of the complete text; it contains most of the first two books (except for the opening of Book 1 and the conclusion of Book 2), a small part of Book 3, and a few pages of Books 4 and 5. The reconstruction of the remains of Books 1 and 2 is virtually certain, but it becomes increasingly tentative thereafter. Other sources, however, supplement the palimpsest: not only are there a great many quotations in lexicographic and grammatical handbooks, but *On the Commonwealth* was used extensively by Lactantius in the *Divine Institutes* early in the fourth century and by Augustine in *City of God* in the fifth. At roughly the same date the Neoplatonist Macrobius used the *Dream of Scipio* (the conclusion of *On the Commonwealth*) as the basis for a commentary which expounds the basic tenets of Neoplatonism; his work, to which was attached a text of the *Dream* itself, was widely read in the Middle Ages and is preserved in a great many copies.

The various sources make reconstruction of the argument of *On the Commonwealth* reasonably certain, if not always in great detail. The dialogue was divided into six books; each pair of books was equipped with a preface in Cicero's own voice and represented one day of conversation. The first two books deal with constitutional theory: Book 1 presents a traditional analysis (parts of which appear as early as Herodotus and which is fully realized in Plato's *Statesman* and Aristotle's *Politics*) of constitutions into three types (monarchy, aristocracy, democracy) together with their degenerate counterparts, and argues that the best form of government is in fact the so-called mixed constitution, incorporating elements of the three good simple forms. The second book applies this theory to Rome: Scipio describes the gradual development of the constitution from the time of Romulus to the restoration of republican government after the fall of the Decemvirate in 450/449, arguing that the form of government in place thereafter (perhaps until nearly Scipio's own time) was in fact the best example of the best (mixed) type of constitution.

Up to this point, the argument closely resembles that put forward in Book 6 of Polybius' *Histories*, a work that Cicero knew well by a man whom Scipio himself also knew well. The constitutional theory of both Cicero and Polybius draws on the work of Aristotle's school, notably Dicaearchus and Theophrastus, while the historical material of Book 2 draws on Polybius and, in all probability, on the lost historical work of the elder Cato, the *Origines*. Near the end of Book 2, however, the

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argument (and philosophical sources) changed at just the point where the manuscript becomes very fragmentary. Two things clearly take place in the dialogue: there is a move from historical arguments about constitutional form to arguments from nature (2.66); and there is similarly a move from considering “good” government in terms of its practical effectiveness and stability to examining it in terms of its moral values (2.69–70).

These topics occupy the second day of the conversation. Book 3 contains what was undoubtedly the most famous section of the dialogue in antiquity, a reformulation of the pair of speeches delivered by the Academic Carneades in Rome in 155 BCE in which he had argued on successive days that justice is essential to civic life and, conversely, that injustice is essential. Cicero presented the arguments in reverse order: first Philus presents the case for injustice in Carneadean terms, and then Laelius advances a very different argument in favor of justice. This speech is unfortunately very fragmentary: but it is clear that Laelius argued in Stoic terms from the existence of natural affection to the existence of natural and permanent moral values, and thus to natural law, defined as right reason and explained as a fundamental feature of the structure of the cosmos itself. From that conclusion Scipio took the next step, applying the idea of natural law to constitutional forms, demonstrating not only that the degenerate forms of government (tyranny, oligarchy, mob rule) are not properly called commonwealths at all, but that only a constitution which embodies a just distribution of rights and authority is legitimately so named, and hence that the Roman constitution itself, as described in Book 2, is the only proper, rather than the best, form of government. In Book 4 the argument becomes too fragmentary for convincing reconstruction; what is clear is that Stoic ideas are again applied, this time as a solution to the problem of maintaining a just government. Scipio apparently argues from the presence of natural morality in humans (as a part of the moral Stoic cosmos) to an equation between the traditional institutions of Rome and the natural moral code, showing that such institutions are shaped and maintained by individuals of exceptional ability who transmit these values to the people at large and foster institutional morality through their example and actions. The final day of conversation (Books 5 and 6) is almost completely lost except for the *Dream of Scipio* with which it ended. It is clear from Cicero’s own references to it and from a few fragments that these books were entirely concerned with the training and function of the individual statesman; the



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last book dealt with the role of the statesman in a crisis (in part, probably, based on Theophrastus' treatise on that subject), thus bringing the conversation back to the initial occasion for the dialogue, the crisis in Rome in 129. The *Dream* at the end provides a vision of the genuine and posthumous rewards that await the true statesman, placing moral government and civic responsibility in a cosmic framework that corresponds to the Myth of Er at the end of Plato's *Republic* but – as Cicero does throughout *On the Commonwealth* – making individual morality contingent on the values of civic life and public service.

When the palimpsest of the first two books of *On the Commonwealth* was discovered in 1819, Cicero's work was criticized for its lack of originality and for its irrelevance as a political theory. Both criticisms have some validity, both because the portion of the text that was discovered is not – and does not claim to be – particularly original (although it is in fact one of the fullest accounts of the theory of the mixed constitution and the earliest extant history of early Rome in Latin) and because by the early nineteenth century the type of political argument that Cicero made in those books had long been out of fashion. Not only had traditional constitutional theory been replaced by arguments from *raison d'état*, but the links that Cicero makes between moral government and individual virtue (less clear because of the condition of the text) were equally out of favor. Had the text been known two or three centuries earlier, it would have taken an honorable place with Cicero's other works of moral politics, particularly the treatise *On Duties*, in Renaissance discussions of civic humanism and republican virtue. As it is, the description of the statesman in the *Dream* and various fragments preserved by Augustine (such as the analogy of musical harmony and social concord at 2.69a) were widely known and cited long before the discovery of the palimpsest.

*On the Commonwealth* was the first, and perhaps the only, serious attempt by a Roman to analyze the structure and values of republican government and imperial rule. In adapting Platonic and Aristotelian theories based on the small, self-contained, and relatively homogeneous society of the polis to the conditions of the Roman *imperium*, Cicero made use of Stoic ideas of the *cosmopolis* and of natural law to develop a complex and ambitious argument, linking the traditional values and institutions of republican Rome on the one hand to Aristotelian ideas of civic virtue and on the other to the order of the universe itself. Stoic moral theory made it possible for Cicero to construct an image of society

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ruled not by a Platonic intellectual élite which alone had access to truth through dialectic and the knowledge of the Forms, but by all those whose recognition of their own moral capacities, as a part of a cosmic whole, led them to contribute to the creation and preservation of a society which reflected and incorporated the natural justice of the universe. As the preface to *On the Commonwealth* and the *Dream of Scipio* make clear, Cicero framed the dialogue as an exhortation to public service and an explanation of the goals and rewards of civic life; he rejects Epicurean withdrawal into private life as well as Platonic and Aristotelian ideas of the superiority of contemplation to action. Political institutions, as in Aristotle, serve not only political ends but moral ones; but in Cicero's universe they also provide a necessary link between social order and the natural law. Perhaps the most striking argument in *On the Commonwealth* is Cicero's attempt in Book 4 to explain the traditional institutions of Roman society in terms of Stoic moral theory, giving a philosophical basis to inherited social practices. Similarly, by demonstrating that the traditional Roman constitution was the only moral form of government and grounding it in the ethical structure of the cosmos in Book 3, Cicero offers a philosophical justification for Roman imperialism and claims to universal rule.

In this connection, however, it is important to recognize that Cicero is very far from advancing an argument in favor of Roman nationalism or exceptionalism, any more than the emphasis on the role of the statesman is (as it has sometimes been understood) a call for monarchy. For both national and individual behavior, Cicero's cosmic framework supplies an absolute standard with which to judge the moral worth of actions and, in the case of nations, an indication of whether or not they deserve to survive. Aristotle had argued that good governments are those in which power is exercised in the interest of the governed rather than the rulers; Cicero extends this to include rule over subject peoples as well and gives a moral and political dimension to Aristotle's ideas about natural slavery. It is essential for Cicero that a commonwealth or an empire be above all a moral community; he makes it very clear not only that lapses in moral government will inevitably lead to political collapse, but also that Rome itself, in both its internal government and its conduct of empire, has fallen away from the standard which it once maintained.

Whether or not Cicero actually believed the cosmic and eschatological framework which he constructed in *On the Commonwealth* is unanswerable; his lifelong adherence to Academic skepticism certainly raises

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doubts. What is clear is that he found it a compelling means to stress the moral values which he undoubtedly felt to be a necessary basis for the conduct of government and which he knew – as is clear from his correspondence and other writings – were sorely lacking in the public life of his time, and the absence of which he believed, with some justification, endangered the survival of republican government. The largely Stoic theory which Cicero developed allowed him not only to provide a respectable philosophical justification for Roman traditional behavior but to use it to reveal how far Rome had declined from its previous virtue.

But if Cicero's cosmology is not presented as an unquestioned justification for Rome's universal rule, neither is his vision of early Roman greatness a sign of simple-minded nostalgia. Although Cicero uses Stoic theory to provide a rational explanation of the sources and structure of traditional Roman government and institutions, he is completely aware of the fact that the rationality and Stoicism are his own contribution, not characteristics of the primitive rulers of early Rome. Laelius in an important comment (2.21–22) points out that Cicero's Romulus is a very unlikely fiction. There is also an inherent tension in combining a teleological account of Rome's rise to perfection with the philosophical explanation of the immanent virtue of Roman government. The very concept of world empire, central to the idea of Roman rule as the representative of cosmic order, is called into question by the *Dream*, in which the description of the universe reveals the physical and chronological limits – and indeed questions the worth – of Rome's power and glory. What is more, the mechanism for preserving republican virtue itself against the pressures of corruption and decline inevitably involves the use of extraconstitutional power to maintain the republican system. Elizabeth Rawson rightly pointed out the similarity between Cicero's solution to the problem of decline and that of Machiavelli in the *Discorsi*: the preservation of a virtuous republic necessarily entails violation of republican procedures.

*On the Commonwealth* is the last known Roman literary or philosophical work completed before the outbreak of the civil war between Caesar and Pompey which effectively ended republican government at Rome, and Cicero was well aware that the social and political structure which he idealized in his dialogue had collapsed: indeed, he says as much in the preface to Book 5. What he offers in *On the Commonwealth* is less a practical program for political reform than a philosophical rationale for what had been lost, together with an explanation of why it had failed. It is

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an explanation based not on the economic and social changes in Rome that had in fact placed intolerable stress on the structure of republican government, but on Cicero's belief in the moral obligations of statesmen and of states. It was perhaps an unfashionable (and certainly ineffective) approach to the problems of civic life even when it was written, and the contradictions in Cicero's own account seem to acknowledge that. In the dialogue, Scipio is presented as the sole possible savior of ancestral virtue; his sudden death only days after the dramatic date of *On the Commonwealth* signals Cicero's sense of the impossibility of maintaining the form of government he so admired and his recognition that the ideal presented in the dialogue was, like Plato's *Republic*, an ideal and not reality.

Because the complete text of *On the Commonwealth* was lost between about 600 and 1819, its direct influence on modern political theory is virtually nonexistent. Nonetheless, portions of it, preserved by other writers, were widely known. The *Dream of Scipio* was known and used by eschatological writers (including Dante) throughout the Middle Ages and (together with Macrobius' commentary on it) was an important source for cosmology and astronomy as well. Lactantius' report of the speeches against and for justice from Book 3 in Books 5 and 6 of the *Divine Institutes* was an important source in the Renaissance for knowledge of the skeptical rhetoric of Carneades as well as for the concept of natural law (more fully discussed in *On the Laws*; see below). Augustine's use in *City of God* of Cicero's definition of the commonwealth at 1.39 as "a concern of the people" (*res populi*) based on "agreement on law" (*iuris consensu*) was cited frequently by medieval writers on politics and is echoed as late as the seventeenth century. The significance of *On the Commonwealth*, however, is far greater than its direct influence. Cicero attempted to place Aristotelian ideas about the ethical importance of civic life within the Stoic framework of universal law, and he was the first person to explore the tensions between the temporal limitations of political achievement and the eternal goals to which such achievements aspire. Augustine in *City of God* used Cicero's framework to explain a different politics and a different eternity; had he been able to read it, Machiavelli too would have recognized what Cicero had achieved.

**On the Laws**

The history of *On the Laws* is in many ways the opposite of that of *On the Commonwealth*. The latter was well known and studied in antiquity but

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disappeared by the seventh century; *On the Laws* was far less widely read in antiquity but had a great influence in the Middle Ages and later. The origin and early condition of the work are mysterious: alone among Cicero's major philosophical works, it is not mentioned a single time in Cicero's correspondence. It is generally assumed that it was conceived and written in conjunction with *On the Commonwealth*, and in it Cicero makes frequent allusions to the relationship between the two. It is not complete: what survives in the manuscripts is the better part of three books, with a large gap in the text of the third. It is clear, from one of the few ancient quotations of *On the Laws*, that there were at least five books, but there is no certainty at all as to how many were written or how many were intended; a reference to midday in the fragment of Book 5 suggests that Cicero may have planned a work in eight books. Since it is almost certain that most, if not all, of what survives was written before Cicero departed from Rome in the spring of 51 BCE, and since he does not mention *On the Laws* in the catalogue of his philosophical works that introduces Book 2 of his dialogue *On Divination* (completed shortly after the assassination of Caesar in March 44), it is evident that *On the Laws* had not been completed by that time. It is possible, as some have argued, that Cicero worked on the dialogue at the very end of his life, in 43, but there is no correspondence surviving from that period and no compelling internal evidence for revision; there is certainly no reference in the work itself to any event after 52, and if it had been written later one would have expected at least a veiled allusion to Caesar. On the whole, it is safest to believe that Cicero left *On the Laws* incomplete in 51 and never returned to it under the changed political circumstances of the 40s. In that case, it will have been made public shortly after his death: Cornelius Nepos, the historian and protégé of Cicero's friend Atticus, clearly alludes to it in a fragment of his treatise *On Latin Historians*, probably written in the late 30s.

In many respects *On the Laws*, though incomplete, is Cicero's most successful attempt at imitating the manner of a Platonic dialogue. Unlike *On the Commonwealth*, it has no preface in Cicero's own voice: the setting – on Cicero's family estate in Arpinum – is allowed to emerge from the conversation, as often happens in Plato. Although much of the dialogue is composed of long speeches by Cicero himself, it is a far more vivid and realistic conversation than those of *On the Orator* and *On the Commonwealth*, and the descriptions of the locale – Cicero's family home and the landscaped woods and rivers on his property – are compelling. Because

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there is no preface, the dramatic date is not specified, and in fact there seems to be no possible date on which the three participants could have met at Arpinum. It consists of a conversation on a long summer day (just as in Plato's *Laws*) between Cicero, his younger brother Quintus, and his close friend and correspondent Titus Pomponius Atticus, a very wealthy member of the equestrian order who advised and assisted Cicero in matters political, financial, and literary.

The subject of law emerges from a conversation about Cicero's proposed activities in retirement, should he ever retire from arguing cases in court. The writing of history is one suggestion – and it is clear that Cicero did in fact consider undertaking a historical project – but the alternative idea, the traditional Roman practice of senior statesmen acting as legal advisers to their clients and friends, leads to the criticism of Roman legal knowledge as insufficiently rational in structure and excessively concerned with minor details. At the request of Quintus and Atticus, therefore, Cicero undertakes to expound on the topic of law, starting from first principles and offering an account of a legal system corresponding to the ideal Roman republic described in *On the Commonwealth*. He takes his starting point where Laelius' argument in *On the Commonwealth* Book 3 leaves off, with the doctrine of natural law. Cicero argues that law itself is part of the cosmos; that it is the same as right reason; that humans and gods both possess reason (and therefore right reason) and are thus fellow citizens of the same community – which is the universe itself. The exposition of the idea and implications of natural law in Book 1 is the fullest exposition of Stoic doctrine on the subject that survives, the idea of the *cosmopolis* or world city. In this account positive human law, if it is to be considered true law, must be in accord with the natural law: that is to say, it must embody the principles of reason as reflected in the order of the world. That is, in effect, precisely the argument that Cicero seems to have made in Books 3 and 4 of *On the Commonwealth*, but here it is expressed in general terms rather than with specific relevance to Roman institutions. That is the function of the rest of the dialogue: in Book 2, after a prologue summarizing the philosophical argument of Book 1, Cicero presents the first part of his code of natural law to correspond with the ideal (Roman) government of the earlier dialogue; quite properly, since the Stoic theory of *On the Laws* assumes a community of gods and men, the code begins with religious laws. In Book 3, he continues with the laws concerning magistracies; and in later books, he almost certainly dealt with (or, if he did not complete the work, would

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have dealt with) further aspects of public law (the capabilities and limits of magisterial power and the administration of justice in particular), laws concerning education (anticipated at 3.29–30) and the family, and the civil law itself, about the organization of which he is so scornful in Book 1. The laws that Cicero presents are written in a style meant to reflect the conservative and archaic language of Roman legislation; some of them are in fact drawn directly from the laws of the Twelve Tables (and are thus a valuable source for early Roman law). They are, however, filled with false archaisms and bogus reconstructions; the peculiarity of the language is one of the reasons why the text of *On the Laws* is extraordinarily corrupt and difficult to understand in many passages.

*On the Laws* is a puzzling and not altogether satisfactory work. The precise relationship between the natural law itself and the particular laws proposed in Book 2 and later is never made clear; on more than one occasion (concerning the tribunate and ballot laws) it is made explicit that the proposed law is not meant to be ideal but merely the best under prevailing circumstances. Cicero vacillates between presenting his laws as the best absolutely (and thus embodiments of the natural law) and the best possible; between seeing them as universal and seeing them as specifically related to the particular circumstances of Rome. This uncertainty corresponds to the tensions in the argument of *On the Commonwealth* in describing a state that is simultaneously historical and utopian. In the earlier work, the strains of the argument are themselves one of the strengths of the dialogue, which in fact acknowledges the impossibility of attaining perfection in a real society existing in real time; in *On the Laws*, the difficulties are managed with less success. Similarly, the discussion of particular laws, notably in connection with the continuity of family cult and with burial in Book 2, extends far beyond the necessities of presenting an ideal code. One has the sense that Cicero is quite successful in dealing separately with the philosophical underpinnings of justice and the particularities of legislation but is unable to make the two cohere; in this, of course, Cicero is not unique. There is every reason to believe that *On the Laws* was left incomplete not merely because of the turbulent circumstances of Cicero's life but because it is not nearly so satisfying a work as *On the Commonwealth*.

As a result of the disparity between the first book (with the opening of the second) and the remainder of the dialogue, the two parts of *On the Laws* have been influential in very different ways. The discussion of natural law (together with Lactantius' version of the account of natural

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law in *On the Commonwealth* Book 3) lent itself easily to Christian adaptation, and it plays an important role in Aquinas' analysis of law in the *Summa Theologiae* (First Part of Part II, QQ. 90–97); but although the idea of natural law was of immense importance in later periods, as for Grotius in the seventeenth century, and is still the subject of considerable debate among legal theorists, its basis lies as much in Aquinas' treatment as in Cicero's. In legal writing, on the other hand, the effect of Books 2 and 3 seems to have been considerable. Although Cicero used the Twelve Tables, it is apparent that the order and the structure of his code are far more rational than those of the archaic text; and throughout *On the Laws* his emphasis is on the analysis of legal principles and the establishment of general rules. Prior to Cicero's time, writing on jurisprudence in Rome consisted largely of case law; in *On the Laws* and in some of his speeches, Cicero placed a great deal of emphasis on the principles of law and equity rather than on the casuistic approach dominant in his youth. Cicero was not alone in his day in attempting to rationalize the presentation of law – his eminent contemporary, alluded to but not named in *On the Laws*, Servius Sulpicius Rufus, was similarly inclined – but there can be little doubt that his polemic against the pettiness of the civil lawyers and the simple and relatively clear organization of his model code played a role in the formation of classical Roman law and thus in European legal thinking since his time.



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## Chronology

This table includes both events mentioned by Cicero (legendary as well as historical) and important dates in Cicero's own life. For early periods the chronology assumed is that of Polybius; for regnal dates the reconstruction of F. W. Walbank is employed. It should be noted that the Polybian chronology does not correspond to the standard version, constructed by M. Terentius Varro at about the time Cicero wrote *On the Commonwealth*, according to which Rome was founded in 754/3 rather than 751/0. Some dates are attested only in Olympiads, which do not correspond to Roman calendar years and hence are double, e.g. 751/0. It should be recognized that many of the early dates (and some of the individuals) are fictional. All dates are BCE. For an account of the different chronological systems of early Roman history, see T. J. Cornell in *Cambridge Ancient History* vol. VII.2 (1989), 347–50; fuller chronological tables can be found in *Cambridge Ancient History* vol. VII.2 (1989), 645–72; vol. VIII (1989), 523–41; and vol. IX (1994), 780–98.

914	Latest date for Homer	714/3	Death (or immortality) of Romulus
884	Legislation of Lycurgus at Sparta	712/1	Accession of Numa
815/4	Foundation of Carthage	672/1	Accession of Tullus Hostilius
776	First Olympic Games	639/8	Accession of Ancus Marcius
751/0	Foundation of Rome and accession of Romulus	615/4	Accession of Tarquinius Priscus

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577/6	Assumption of power by Servius Tullius	430	Law of Iulius and Papirius on fines
c.556	Death of Stesichorus and birth of Simonides (Ol. 55)	391	Exile of Camillus for misappropriating plunder from Veii
532/1	Assumption of power by Tarquinius Superbus	387/6	Gallic Sack of Rome; defeat of Gauls by Camillus
529/8	Arrival of Pythagoras in Italy	304	Aedileship of Gnaeus Flavius; first publication of the legal calendar
508/7	Expulsion of Tarquinius; foundation of Republic	280–275	War with Pyrrhus
498?	First dictatorship (of Titus Larcus)	264–241	First Punic War
486	Consulate (and attempted coup) of Spurius Cassius; executed the following year	218–202	Second Punic War
454	Law of Aternius and Tarpeius on fines and sureties	212	Marcellus' capture of Syracuse; death of Archimedes
451–449	Decemvirate; writing of Twelve Tables	168	Defeat of Perseus of Macedon by Lucius Aemilius Paullus at Pydna
449	Consulate of Lucius Valerius Potitus and Marcus Horatius Barbatus; restoration of Republic	155	Carneades in Rome (Philosophers' Embassy)
445	Canuleian plebiscite on intermarriage between patricians and plebeians	149–146	Third Punic War
439	Spurius Maelius killed by Gaius Servilius Ahala for aiming at monarchy	149	Scipio Aemilianus military tribune in Third Punic War; consulate of Manilius
		147	First consulate of Scipio Aemilianus
		146	Sack of Carthage and of Corinth
		140–139	Scipio Aemilianus' eastern embassy
		136	Consulate of Furius Philus; inquiry into Mancinus' treaty

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134	Second consulate of Scipio Aemilianus		of Sulla; Cicero's travels to Greece and Rhodes for study
133	Sack of Numantia		
	Tribunate and death of Tiberius Gracchus	75–74	Cicero quaestor in Sicily
129	Dramatic date of <i>On the Commonwealth</i>	70	First consulate of Pompey and Crassus; restoration of full powers of tribunate
	Death of Scipio		
123–122	Tribunate of Gaius Gracchus	69	Cicero aedile
121	Death of Gaius Gracchus	66	Cicero praetor
		63	Cicero consul; conspiracy of Catiline and execution of conspirators
109	Exile of Lucius Opimius for bribery in Jugurthine War		
106	Birth of Cicero		
100	Tribunate and murder of Appuleius; exile of Metellus Numidicus for refusing to swear an oath to support Appuleius' agrarian law	60	Formation of so-called First Triumvirate (Pompey, Crassus, Caesar)
		59	First consulate of Caesar; transfer of Publius Clodius to plebs
99	Tribunate of Titius		
91–89	Murder of Livius Drusus, followed by Social War	58	Tribunate of Publius Clodius; Cicero sent into exile in March
88	Sulla's march on Rome and departure to fight Mithridates; flight of Marius	57	Cicero returns from exile in September
		56	Renewal of First Triumvirate; Cicero warned not to oppose them
87	Marius' march on Rome		
86	Death of Marius	55	Cicero writes <i>On the Orator</i>
83–81	Sulla's return; his dictatorship (82–81) and proscriptions	54–51	Cicero composes <i>On the Commonwealth</i> and <i>On the Laws</i>
79–78	Retirement and death		

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52	Murder of Clodius by Milo; sole consulate of Pompey	46–44	Cicero composes the bulk of his rhetorical and philosophical works ( <i>Brutus, Orator; Consolation</i> [lost], <i>Hortensius</i> [lost], <i>Academica, On the Supreme Good and Evil, Tusculan Disputations, On the Nature of the Gods, On Divination, On Fate, On Old Age, On Friendship</i> )
51–50	Cicero governor of Cilicia (31 July – 30 June); return to Italy 24 November 50		
49	Outbreak of civil war between Caesar and Pompey		
48	Defeat of Pompey at Pharsalus; Cicero returns from Epirus to Brundisium	44	Assassination of Caesar on 15 March; Cicero delivers first Philippic against Antony in September and composes <i>On Duties</i>
47	Cicero permitted by Caesar to return to Rome in July		
46	Defeat of Republicans by Caesar at Thapsus (N. Africa); suicide of Cato	43	Formation of Second Triumvirate (Antony, Octavian, Lepidus) in November; assassination of Cicero on 7 December

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## Bibliography

### Ancient works

#### *Cicero's works*

The Loeb Classical Library includes almost all Cicero's surviving works (in many volumes, with facing Latin and English texts); there are more recent (and better-annotated) translations of many of them. Of those most relevant to *On the Commonwealth* and *On the Laws*, the speeches delivered shortly after Cicero's return from exile may be found in *Cicero: Back from Exile*, translated by D. R. Shackleton Bailey (Atlanta, 1991); the most important of these is *On Behalf of Sestius* delivered in 56. The same translator's version of the *Philippics* (Chapel Hill, 1991) is also excellent. Of Cicero's philosophical and rhetorical works, those most relevant to *On the Commonwealth* and *On the Laws* include *On the Orator*, *On the Ultimate Good and Evil*, *Tusculan Disputations*, *On the Nature of the Gods*, *On Divination*, *On Friendship*, and *On Duties*. There is a Penguin translation of *On the Nature of the Gods* by Horace McGregor and two collections of relevant selections from a number of works in *On the Good Life* and *On Government* (translated by Michael Grant; both Penguin). The Aris and Phillips series contains annotated translations (with facing Latin) of *On Friendship* and the *Dream of Scipio* by J. G. F. Powell, of *Tusculan Disputations* Book 1 and Books 2 and 5 by A. E. Douglas, and of *On Stoic Good and Evil* (*De finibus bonorum et malorum* Book 3 and *Paradoxa Stoicorum*) by M. R. Wright. *On Duties*, translated by M. T. Griffin and E. M. Atkins, is published in this series. The complete translation of Cicero's correspondence by D. R. Shackleton Bailey (*Letters to Atticus* and *Letters to His Friends*) has been allowed to go out of

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print by Penguin in favor of *Selected Letters*; his complete translation of the correspondence with Atticus is available now only in the seven-volume edition (Cambridge 1965–70, with text, translation, and commentary), while *Letters to His Friends* has been reprinted by the American Philological Association (Atlanta, 1988).

*Other ancient works*

Among Cicero's contemporaries, the works of Lucretius (*De rerum natura* [*On the Nature of Things*]) and of Sallust (*Conspiracy of Catiline* and *Jugurthine War*) are available in Penguin translations (and many others); the biography of Cicero's friend Atticus by Cornelius Nepos is translated with commentary by N. Horsfall in the Clarendon Ancient History Series (Oxford, 1989).

For the philosophical background to *On the Commonwealth* and *On the Laws*, the works of Plato and Aristotle are most important; of the former, particularly the *Republic* (translated by G. M. Grube, revised by C. D. Reeve: Hackett, 1992), the *Statesman* (translated by J. Annas and R. Waterfield: Cambridge Texts in the History of Political Thought, 1995), and the *Laws* (tr. T. Saunders: Penguin, 1970). Of Aristotle, most relevant are the *Politics* (tr. S. Everson: Cambridge Texts in the History of Political Thought, 1988) and the *Nicomachean Ethics* (tr. D. Ross: World's Classics, 1980). There is a valuable translation of Hellenistic philosophical texts in A. A. Long and D. Sedley, *The Hellenistic Philosophers* vol. 1 (Cambridge, 1987); the Greek text appears in vol. II. There is a careful and well-annotated translation of Macrobius' *Commentary on the Dream of Scipio* by W. H. Stahl (New York, 1952).

Of great importance for the historical and philosophical background to *On the Commonwealth* is the *Histories* of Polybius, particularly Book 6 (constitutional theory and early Roman history) and Book 31 (his conversations with Scipio Aemilianus); aside from the Loeb edition, there is a good translation by E. S. Shuckburgh (London, 1889; repr. Bloomington, 1962). Other accounts of early Rome, parallel to Cicero's narrative in *On the Commonwealth* Book 2, are those of Livy and Dionysius of Halicarnassus. The relevant portions of Livy are available in *The Early History of Rome*, tr. A. De Selincourt (Penguin); for Dionysius the only available translation is in the Loeb Classical Library.

The legal text most relevant to *On the Laws* is the fragments of the Twelve Tables, now available in a new text with translation and full