

A HIGHER LAW

Excerpt from *The Triumph of Liberty*, by Jim Powell

Marcus Tullius Cicero expressed principles that became the bedrock of liberty in the modern world. He insisted the law is legitimate only when it is consistent with standards of liberty and justice, based on what he called natural law. He declared that government is morally obliged to protect human life and private property, and he honored daring individuals who helped overthrow tyrants. Intellectual historian Murray N. Rothbard praised Cicero as “the great transmitter of Stoic ideas from Greece to Rome. . . . Stoic natural law doctrines heavily influenced the Roman jurist of the second and third centuries A.D., and thus helped shape the great structures of Roman law which became pervasive in Western civilization.”

Cicero was renowned as well for transforming Latin from a utilitarian language, serving generals, merchants, and lawyers, to a poetic language. The first century A.D. Roman writer Quintilian remarked that Cicero was “the name not of a man, but of eloquence itself.” Thomas Jefferson called Cicero “the first master of the world.” Historian Edward Gibbon, who elegantly chronicled Rome’s decline, recalled that when reading Cicero, “I tasted the beauties of language, I breathed the spirit of freedom, and I imbibed from his precepts and examples the public and private sense of a man.”

As Rome’s most famous orator, Cicero prosecuted crooked politicians and defended citizens against rapacious officials. Scholar H. Grose Hodge observed that Cicero at his best offered “a sustained interest, a constant variety, a consummate blend of humour and pathos, of narrative and argument, of description and declamation; while every part is subordinated to the purpose of the whole, and combines, despite its intricacy of detail, to form a dramatic and coherent unit.”

Cicero, (born in 106 B.C.) amidst a violent age, was a man of peace. He didn’t build a personal army like other leading Roman politicians, and he spoke out against violence. “It is a hard thing to say,” he declared, “but we Romans are loathed abroad because of the damage our generals and officials have done. . . . There is now a shortage of prosperous cities for us to declare war on so that we can loot them afterwards. . . . Do you know of a single state that we have subdued that is still rich?” As well, he defended civilized pursuits like reading. “No other pleasure,” he wrote, “suits every occasion, every age, or every place. But the study of letters is the food of youth, the delight of old age, the ornament of prosperity, the refuge and comfort of adversity, a delight at home and no burden abroad; it stays with us at night, and goes with us on our travels, near and far.”

Cicero never challenged Roman slavery, which was among the most brutal in history, yet he preferred to have his farms worked by tenants rather than by slaves. And on one occasion, he remarked, “I am more upset that I ought to be at the death of a slave.” He made his secretary Tiro a freedman, which brought this reply from his brother: “I am so grateful to you for feeling that he did not deserve his station in life and for preferring that he should be a friend to us rather than a slave.” More is known about Cicero than any other ancient personality, because he wrote *Brutus* (46 B.C.), one of the earliest pieces of intellectual autobiography, and because hundreds of his letters were dispatched by courier throughout the Mediterranean, and many of them survive. Cicero comes across, by turns, as vain, indecisive,

affectionate, charming, and generous. "It is probable that Cicero is the great of all letter-writers," observed classical scholar J.A.K. Thomson. "The importance of his matter, the range of his public and private interests, the variety of his moods, his facility in expressing every shade of sense and feeling, the aptness of his quotations, above all his spontaneity, have never in combination been excelled or equaled." Although he lived during an era of great sculpture only one bust is marked as his and it has been the basis for identifying others. These sculptures tend to portray Cicero as having a high forehead, large nose, small mouth, and worried expression, as if he were agonizing over the fate of the Roman Republic.

Greek philosophers had conceived of society and government as virtually the same, coming together in the polis (city-state). Cicero declared that government is like a trustee, morally obliged to serve society, which means that society is something larger than government and separate from it. An appreciation for the myriad wonders of civil society, where private individuals develop languages, markets, legal customs, and other institutions, did not come until the eighteenth century, but it was Cicero who began to see the light.

Cicero was the first to say that government was justified primarily as a means of protecting private property. Both Plato and Aristotle had imagined that government could improve morals, but neither had conceived of private property—an absolute claim to something over everyone else. Cicero wrote in *De Officiis* (On Duties, 44 B.C.) "The chief purpose in the establishment of states and constitutional orders was that individual property rights might be secured. . . . It is the peculiar function of state and city to guarantee to every man the free and undisturbed control of his own property."

Cicero displayed the courage of his convictions. He opposed Julius Caesar's schemes for one-man rule, and after Caesar's assassination, denounced Mark Antony's bid to become dictator. For that, Cicero was beheaded. (In 43 B.C.)

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