NATURAL LAW AND POETIC JUSTICE: A CARNEADEAN DEBATE IN CICERO AND VIRGIL

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IN BOOK 6 OF THE *Aeneid,* in one of the best known and most frequently quoted passages of Virgil, Anchises reminds Aeneas that the Romans may not be renowned for intellectual or artistic attainment, but they are uniquely suited to imperial power (6.851–53):

> Tu regere imperio populos, Romane, memento.
> hae tibi erunt artes: pacique imponere morem,
> parcere subiectis et debellare superbos.

The Roman people are to be the custodians of *mos,* the nation responsible for ruling over others less capable of ruling themselves. The same imposition of order and morality is said by Jupiter in Books 1 and 4 to be Aeneas' task with respect to the warring tribes of Italy (1.263–64; 4.229–31). It is, more clearly, the task of Augustus himself in the three great prophecies in which his rule is foretold, above all in the shield of Aeneas at the end of Book 8, where Italian courage and virtue triumph over decadence, barbarism, the East, Antony and Cleopatra. Greeks, we all know, are, from the point of view of the Romans, natural slaves. Romans are natural rulers, and their rule is both right and proper.[1]

Aristotle and most Greeks, of course, might have differed with this assessment of the merits of the Greeks, whatever they might have thought of the Romans. And the Romans themselves, in early times, do not seem to have been troubled by questions of the morality of conquest and rule. The early epics of Naevius and Ennius, so far as one can tell from the fragments, seem perfectly cheerful about Rome's conquests and the expansion of Roman power, and while there may have been some concern that military action should not be pure aggression, I know of no early argument about the

1. This article is a slightly revised version of the seventh George Walsh Memorial Lecture delivered at the University of Chicago in November 1995; according to Peter White's instructions, it does not have "an elaborate carapace of annotation." I am grateful to my hosts, Robert Kaster and Peter White, not only for that instruction and their comments but also for their generous hospitality. Parts of this paper are similar to a portion of my essay "Rome and its Traditions" to appear shortly in *The Cambridge Companion to Virgil;* fuller versions of the Ciceronian or Virgilian sections of it were presented as lectures or seminars at Princeton University, the University of Wisconsin at Madison, the University of California at Berkeley, and the City University of New York. I am grateful to several of those present for their suggestions, particularly Denis Feeney, Jeffrey Wills, and Tony Long; I am also grateful to Michael Putnam and Susanna Zetzel for their comments on written versions.

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purpose of imperial rule or its benefits and drawbacks to the subjects.[2] Roman *imperium* was in Rome's interest, a part of the natural order of things, and that was not a source of anxiety or embarrassment. As you might expect, however, it was a Greek that brought an end to Roman lack of reflection on such matters. In the year 155 B.C.E., the Athenians, involved in a land dispute with Oropus, appealed to the Senate to overturn the mediator's decision against them. Either to impress the ignorant Romans with their intellectual skills, or because the philosophers were in fact the best orators that they had, the Athenians sent as ambassadors to plead their case in Rome the heads of three philosophical schools: Diogenes the Stoic, Critolaus the Peripatetic, and Carneades the Academic.[3]

We know little of the formal presentations made to the Senate by the three philosophers, and the actual occasion of the embassy is in fact unimportant. What does matter is that, while waiting for an answer from the Senate, Carneades gave a public display of Academic rhetorical skill. He gave a much admired speech in praise of justice—admired, that is, until the next day, when he gave an equally convincing speech showing that government was not possible without injustice.[4] The Roman audience—which included among its members the elder Cato, Scipio Aemilianus, and his close friends Laelius and Furius Philus—was outraged, and the embassy's business was rushed through, to get Carneades out of Rome as fast as possible. But although the speakers left, the speeches lingered on in the minds of the hearers; Carneades' eloquent attack on justice was not believed, but it could not be forgotten. And in the third book of his dialogue *De Republica,* Cicero undertook to rewrite Carneades' debate with himself, to reverse the outcome, to justify justice and, above all, political activity in the service of justice. In the *Dream of Scipio* that ended *De Republica,* statesmanship is rewarded with eternal life and elevated to the stars: Rome and the universe are in harmonious compliance with the same divine and natural law, which is, he later attempted to prove in the incomplete treatise *De Legibus,* essentially the same as Roman law.[5] To the best of my knowledge, Cicero's is the first extant philosophical justification of Roman empire, and he was certainly the first person to equate Roman justice with the order of the universe;[6] and, as far as I know, Virgil, in the prophecies of Augustus' rule, was

2. That is not to say that the nature and value both of particular wars and conquests and of Roman expansion in general were not discussed in the second century B.C.E.: Cato's Rhodian oration is certainly one instance, and the debate between Cato and Scipio Nasica on the destruction of Carthage is another. On the latter, cf. Strasburger 1965, 41–42; on the general issue, cf. Walbank 1965. It seems very likely, however, that the issue was framed in terms of expedience and practical considerations rather than as a moral issue.

3. On the embassy of 155, cf. Gruen 1990, 174–76 with reference to earlier discussions.

4. I am grateful to A. A. Long for reminding me that, according to the normal rules of Academic argument, the two speeches must have been meant to be equally convincing in order to leave the audience in the desired state of ἐποχή. Nevertheless, it seems clear that the second speech (if only by virtue of coming last) left a more lasting impression on the audience.

5. Girardet 1983 argues that the law code of *De Legibus* actually *is* the natural law, and his argument is apparently accepted by Ferrary 1995, 68–70. See, however, the just reservations of Rawson 1985.

6. Capelle 1932 following Schmekel believed that Panaetius was the source of the argument given by Laelius at *Rep.* 3.36 that Rome's empire was justified on the basis of moral superiority; against this, cf. Strasburger 1965, 44–46. It is certainly the case that Cicero in his speeches frequently argues for (or assumes) both divine sanction for Rome's rule and the equation of the *imperium* with the *orbis terrarum,* but it is

the second. Whether or not Virgil's endorsement of Roman empire was completely enthusiastic has often been questioned; and I hope to show both that those questions are justified and that the same doubts may be raised about Cicero's understanding of Rome. My intention in this paper is to play Carneades on a large scale: I will argue first in favor of Roman justice, and then I will argue against it. Much of my argument involves a detailed analysis of Cicero's version of Carneades' debate: both to try to disentangle Cicero from Carneades and to show how the argument in favor of justice fits into Cicero's construction of the universe and of natural law. There are two very large problems in trying to do this: one is that Carneades' speeches were never written down; the other is that most of what Cicero wrote in this part of *De Republica* is lost. My argument, therefore, is (to use a polite word) speculative. I want first to suggest that it was Cicero who extended the Carneadean debate to deal with the problem of empire; then to draw some parallels between the Ciceronian argument for justice and the Virgilian portrayal of the Augustan empire; and finally to suggest that each author, after having established a link between justice and empire, manages subtly to dissolve that link.

De Republica is a very fragmentary text, of which perhaps one third survives.[7] Aside from the *Somnium,* which has its own transmission, the Vatican palimpsest preserves much of the first two books, but becomes progressively more fragmentary; only a single leaf of the last half of the work survives. The debate on justice in Book 3 is in a borderline condition: we have some continuous pieces of the manuscript, but not enough: of Laelius' speech in defense of justice the manuscript preserves only the very last paragraph. More of the speech attacking justice survives, but even so, any reconstruction of the arguments involves arranging the quotations—and there are quite a few—in a fashion that fits the reconstruction that one wants to make. A degree of circularity, therefore, is inevitable.[8]

The context of the debate on justice is given by St. Augustine, in *City of God* 2.2. He quotes Scipio's comparison at the end of Book 2 of *De Republica* between musical harmony and concord in a state, with the conclusion that such *concordia* cannot exist without justice. Augustine then summarizes the concluding discussion of Book 2 and its connection to the debate in Book 3:[9]

> Ac deinde cum aliquanto latius et uberius disseruisset, quantum prodesset iustitia ciuitati, quantumque obesset si afuisset, suscepit deinde Philus, unus eorum qui disputationi aderant, et poposcit ut haec ipsa quaestio diligentius tractaretur ac de iustitia plura dicerentur propter illud quod iam uulgo ferebatur, rem publicam regi sine iniuria non posse. hanc proinde quaestionem discutiendam et enodandam esse adsensus est Scipio,

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generally hyperbolic and never based on the kind of argument used in *De Republica.* For discussion of Cicero's views, cf. Brunt 1978; for the manifestation of these ideas in late republican and Augustan texts and iconography, cf. Nicolet 1991, 29–47.

7. For a brief summary of the textual transmission, cf. Zetzel 1995, 33–34.

8. The reconstruction given here is based on Ferrary 1974 and 1977, followed largely in E. Bréguet's 1980 Budé edition.

9. The text is divided in Ziegler's edition between 2.69 and the summary printed at the beginning of Book 3. All translations given here are my own unless otherwise noted.

responditque nihil esse quod adhuc de re publica dictum putaret, quo possent longius progredi, nisi esset confirmatum non modo falsum esse illud, sine iniuria non posse, sed hoc uerissimum esse, sine summa iustitia rem publicam geri non posse.

Cuius quaestionis explicatio cum in diem consequentem dilata esset, in tertio libro magna conflictione res acta est. suscepit enim Philus ipse disputationem eorum qui sentirent sine iustitia geri non posse rem publicam, purgans praecipue ne hoc ipse sentire crederetur, egitque sedulo pro iniustitia contra iustitiam, ut hanc esse utilem rei publicae, illam uero inutilem ueri similibus rationibus et exemplis uelut conaretur ostendere, tum Laelius rogantibus omnibus iustitiam defendere adgressus est, adseruitque quantum potuit nihil tam inimicum quam iniustitiam ciuitati nec omnino nisi magna iustitia geri aut stare posse rem publicam.

And when Scipio had spoken more broadly and fully on this topic, the value of justice for the state and the damage caused by its absence, Philus (one of the participants in the discussion) took up the subject and demanded that it be treated more carefully and that more should be said about justice because of the general belief that a commonwealth cannot be ruled without injustice. Scipio agreed that this topic needed to be examined and clarified; he answered that he believed that nothing that had so far been said about the commonwealth could be taken any further unless it were proven not only that the general belief was false, namely, that a commonwealth could not exist without injustice, but that in fact it was the greatest truth that no commonwealth could be governed without the highest degree of justice.

The discussion of this topic was put off to the next day, when it was the subject of a heated debate in Book 3. Philus himself undertook to give the argument of those who believe that the conduct of public affairs is impossible without injustice, while making a strong plea not to be taken to believe this himself. He gave a thorough statement of the case of injustice against justice: he tried to show by plausible arguments and examples that the former is useful to the state, while the latter is useless. Then Laelius at the request of everyone took up the defense of justice, and asserted as strongly as possible that there is nothing so harmful to a state as injustice, and that in fact a state cannot survive or exist without great justice.

As will be clear shortly, Augustine's summary is misleading in one important respect—or at least it is tailored to suit his own argument—in that he describes the debate as concerning only the *internal* justice of a state, not its external relations. That is demonstrably false from the fragments, but it is, in all probability, a fairly accurate summary of the Carneadean debate that underlies *De Republica* 3, and in fact is what one would have expected from the introduction of the subject at the end of Book 2. The basic history of the debate about justice is clear. It begins (at least for my purposes—it has a distinguished earlier history in Thucydides and sophistic argument) in Plato, where Glaucon argues in *Republic* 2 that injustice is more successful than justice, and the next two books are devoted to Socrates' refutation of that position.[10] Carneades reversed the order of speeches, giving justice the first place and then permitting injustice to triumph in the second speech; as Lactantius says, based on Cicero, "Carneades autem ut Aristotelen refelleret ac Platonem iustitiae patronos, prima illa disputatione collegit

10. Thrasymachus' argument in *Republic* 1 is also clearly part of the background. For the sophistic origin and context of the debate on justice, cf. Capelle 1932, 88–89, 106–7.

ea omnia quae pro iustitia dicebantur, ut posset illam, sicut fecit, euertere" (*Inst.* 5.14.5 = 3.9Z). In Cicero, the arguments are reversed once more, to permit justice to triumph, as in Plato.[11]

Although it is an academic question, in more than one sense of the word, to try to reconstruct Carneades' antilogy, a few things are clear. Philus' speech for injustice has been thought to be a close copy of Carneades II (as I will call the second speech), but Laelius' reply must have been quite different from Carneades I, and is either (depending on your view of Hellenistic philosophy) strongly Platonic or heavily Stoic. In any case, for Laelius' speech to triumph, it cannot have been the same as Carneades I, since it refuted the arguments of Carneades II. But there is a problem about the equation of Philus with Carneades II: Carneades never wrote anything down. The reports of his views and arguments were known to posterity through the summaries of his beliefs made by his pupil Clitomachus, and Clitomachus did not claim, so far as we know, to reproduce any one particular speech of Carneades, just the method and direction of his ideas. So if the basic method of Philus' speech is Carneadean, that does not mean that the details of his argument are.[12]

Scipio's comparison of musical *harmonia* and political *concordia* at 2.69 explains the context in which justice, at least initially, is being considered: it is—as indeed it is in Plato too—an internal quality of a state, concerning the behavior of individuals and of classes. The definition of the just state that is developed in the first two books of *De Republica* is one in which each social order has its due place, and each provides what is its defining characteristic: power in the monarchic element, advice and wisdom in the aristocratic element, liberty in the popular element. It is, in fact, a manifestation of the harmony that Cicero uses as a metaphor for the just society.[13] The justice of individuals is the starting point for Philus' speech, but it rapidly expands beyond that. Lactantius (*Inst.* 5.16.2–3 = 3.21Z) summarizes the opening of the speech: Men adopt laws on the basis of utility, and laws and customs vary according to place and time. There is no such thing as natural law, but it is natural to follow utility. Either there is no justice, or it is stupidity to harm oneself in looking after someone else's interest—the ἀλλότριον ἀγαθόν of Thrasymachus in *Republic* 1 and the *Nicomachean Ethics.*[14] Philus' argument—and much of the palimpsest survives to make the order clear—falls into three parts, refuting three different ways of understanding the concept of justice. In the first place, he says, the idea of justice as obedience to the laws does not work, because of the variation of laws and customs according to place and time. He adduces among others the instance of Rome's prohibition of viticulture and olive growing in France: we

11. For Lactantius' error in describing Carneades' procedure, see n. 4 above; he is correct insofar as Cicero is concerned.

12. See Ferrary 1977, 152–56. In separating the argument concerning imperialism from the argument concerning individual morality, I am following Ferrary, but extending his argument somewhat.

13. On the argument and structure of *De Republica,* cf. Zetzel 1995, 13–29; on the metaphor of harmony, cf. Ferrary 1995, 64–65.

14. *Resp.* 1.343C; *Eth. Nic.* 5.1130a3, 1134b6; cf. Ferrary 1977, 135.

do this prudently, not justly *ut intellegatis discrepare ab aequitate sapientiam* (3.16). In Rome there has also been variation over time: he uses the example of the Voconian law of 169/8 that limited inheritance by women. Not only has the law changed, but the new law is also inequitable, as it is unfair to women (3.17). He therefore concludes that justice is not natural, and hence that no person is naturally just: *nihil habet igitur naturale ius; ex quo illud efficitur, ne iustos quidem esse natura* (3.18). If there is no one universal, and hence natural, standard of law, there is no universal standard of justice; and if there is no universal standard of justice, then the adjective "just" has no universal application.

The argument about the treatment of women under the Voconian law moves the argument to a second stage, directed against the idea that justice consists not in obedience to specific laws, but in giving to each person his or her due, *tribuere id cuique quod sit quoque dignum* (3.18).[15] In other words, he moves from a definition of justice as a universal standard for particular behaviors to justice as a sort of universal algorithm that can be applied to particular circumstances in order to determine particular kinds of just behavior. From Rome's treatment of women, Philus moves to the relationship between men and animals, whom some philosophers have endowed with a portion of soul, rejecting carnivorousness. In all likelihood he took this argument to the next logical stage: if plants have a portion of soul, then we should not eat them either.[16] To be just, therefore, is to starve. And (although the end of this part is missing) he must have concluded with the idea that it is utility rather than altruism that governs human behavior. When the text comes back, Philus extends the argument from individuals to states (3.23): "sunt enim omnes, qui in populum uitae necisque potestatem habent, tyranni, sed se Iouis optimi nomine malunt reges uocari. cum autem certi propter diuitias aut genus aut aliquas opes rem publicam tenent, est factio, sed uocantur illi optimates. si uero populus plurimum potest, omniaque eius arbitrio geruntur, dicitur illa libertas, est uero licentia." The argument is a reductionist version of Scipio's account of constitutions in Book 1 (a clear sign that this is Cicero, not Carneades), and Philus goes on to explain the mixed constitution—the best, according to the discussion of Books 1 and 2—with similar cynicism (3.23):

> sed cum alius alium timet, et homo hominem et ordo ordinem, tum quia sibi nemo confidit, quasi pactio fit inter populum et potentis; ex quo existit id, quod Scipio laudabat, coniunctum ciuitatis genus; etenim iustitiae non natura nec uoluntas sed inbecillitas mater est. nam cum de tribus unum est optandum, aut facere iniuriam nec accipere, aut et facere et accipere, aut neutrum, optumum est facere impune si possis, secundum nec facere nec pati, miserrimum digladiari semper tum faciendis tum accipiendis iniuriis.
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> When everyone is afraid of someone else, both individuals and classes, then because no one is sure of himself, there is a kind of treaty between the people and the powerful; and the result is the compound type of state that Scipio praised. The parent of justice

15. On the Greek philosophical background to this formula, cf. Ferrary 1977, 137–38.

16. On this argument, cf. Ferrary 1977, 138–40. The (relatively) continuous portion of the palimpsest breaks off in the middle of the argument about carnivorousness at 3.19.

> is not nature or will, but weakness. Given the choice among doing injury without being hurt, or doing and suffering injury, or neither injuring nor suffering, the best is to do what you like with impunity if you can, the second is neither to do nor receive injury, and far the worst is always to be fighting in the arena, both giving and receiving injuries.

The language of the defensive social contract comes from Plato;[17] but the context—relative to forms of constitution, not to individual behavior—marks Cicero's alteration. And the second half of the argument against justice-as-algorithm moves even further away from the individualist concerns of Plato and Carneades.

Thus, after showing that the mixed constitution is based on utility rather than justice, he turns to the particular example of Rome. If justice were the basis of society, he says, the Romans would have to give up all the territory and subjects that they had conquered, and return to living in huts on the Palatine. Empire is based on the desire for power and on self-interest; it involves the enslavement of others, and is essentially unjust. That is illustrated by the story of Alexander and the pirate: when the pirate was asked what crime had driven him to ravage the ocean with his ship, he replied, "The same one that led you to do it to the whole world."[18] In true Carneadean fashion, Philus takes the conflict of justice and power to the limit: if the Romans were really just, they would not be able to keep even their huts on the Palatine, since they stole the land from other people. Only the Arcadians and the Athenians understand this correctly: they claim to be autochthonous, but that is a lie in order to avoid just this argument (3.25). There are no original possessors, and all property is theft.

The third and final part of Philus' case deals with the Epicurean view that men act in accordance with the laws because they are always aware of the possibility of being caught and punished. For the Academic argument, this position is closest to the truth, but, according to Philus, it is still wrong (3.26). He gives examples again: suppose you have a bad slave that you want to sell, and you alone know his problems. Will you reveal the problems to a buyer? If you do, you are just, but dumb; if you don't, you are smart, but unjust. So too in a shipwreck: if you are strong enough to save yourself by pushing another survivor off the raft, you will be either unjust or dead.[19] From this follows the instance used by Glaucon in *Republic* 2.359B–362D, the contrast of the just man who is thought wicked and the wicked man who is thought just. The latter will be successful, the former wretched; and who in his right mind would prefer to be wretched and just (3.27)? That much may be Carneadean, but what follows (3.28)—the final stage of the speech—is clearly not:

> Quod in singulis, idem est in populis: nulla est tam stulta ciuitas, quae non iniuste imperare malit quam seruire iuste. nec uero longius abibo: consul ego quaesiui, cum uos mihi essetis in consilio, de Numantino foedere. quis ignorabat Q. Pompeium fecisse

17. Cf. *Resp.* 2.358E–359B.

18. Lactantius, *Inst.* 5.16.4 (3.21Z), Nonius 125.12 (3.24Z); for the location of the fragment, cf. Ferrary 1977, p. 144, n. 3.

19. Lactantius, *Inst.* 5.16.5–12 (3.29–31Z); cf. also Cic. *Fin.* 2.59 (3.38Z).

> foedus, eadem in causa esse Mancinum? alter uir optimus etiam suasit rogationem me ex senatus consulto ferente, alter acerrime se defendit. si pudor quaeritur, si probitas, si fides, Mancinus haec attulit; si ratio, consilium, prudentia, Pompeius antistat. utrum *
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> What applies to individuals applies to nations as well: there is no state so dumb that it would prefer to be enslaved and just rather than to rule and be unjust. I will use an example close to home: as consul, I was in charge of the investigation of the Numantine treaty, and you were in my council. Everyone knew that both Pompeius and Mancinus had made similar treaties, but one of them nobly spoke in favor of the bill when I proposed it on the basis of a senatorial vote, while the other defended himself fiercely.[20] If you are looking for decency, honor, and trustworthiness, Mancinus had them; but if you want calculation, planning, and prudence, Pompeius stands out.

And here the manuscript breaks off.

What is clear about this argument, however, is that it is like the first two: it ends with Rome, and in fact with an example too recent for Carneades possibly to have used it. In each of the three arguments (against the concept of justice as law, and as natural law; against the idea that justice is rendering to each person his due; and against the idea that justice is the result of the fear of punishment) Philus starts from standard Academic arguments, derived from Plato via Carneades and Clitomachus. All these arguments concern individual behavior, but in all of them, Philus moves from individual action to state action and from Greece to Rome. The three sections end with the Voconian law and its injustice to women (and also with Rome's injustice to the Gauls in prohibiting vines and olive trees), with the injustice of Roman expansionism as a whole, and with the breach of faith to subjects and allies involved in the crisis over the treaty of Mancinus. And within this structure, he incorporates an argument against all the forms of government that Scipio had discussed in the first two books, showing that they are based on utility and injustice, not on justice. But what is most important is that Philus' speech is, taken as a whole, a strong attack on Rome's conduct toward other peoples: that the rule of Rome is completely unjust. Carneades' speech may have involved some discussion of injustice in imperial relationships, but as Ferrary has pointed out, the tenor of the tradition derived from Plato placed far greater weight on questions of individual morality.[21] There can be little doubt that, whatever Carneades or Clitomachus may have said, it was Cicero who chose to emphasize imperial morality in general and the morality of Rome in particular.[22]

Laelius' speech is far harder to reconstruct than Philus': only a single small part of the speech survives in the palimpsest, and that is the very last

20. Philus' narrative conflates two treaties made with the Numantines and subsequently repudiated by the Senate, one made by Pompeius in 139, the other by Hostilius Mancinus in 137. Philus' investigation in 136 was of the latter, and Mancinus was surrendered to the Numantines. The legal issues of *postliminium* that arose were of great interest to Cicero himself, who refers to the case several times in *De Oratore*.

21. Cf. Ferrary 1977, 149.

22. Capelle 1932, 87–89 believed that Carneades himself had expanded the sophistic argument about the expediency of empire to deal with Roman imperialism, but the evidence is derived from Lactantius and Cicero, and does not take us back to Carneades himself. Walbank 1965, 12–13 assumes that Carneades' two lectures were "on Justice and its application to international affairs," but admits that the only evidence for that is *De Republica* itself.

paragraph.[23] A few things about it, however, are clear. One is that Laelius does not seem to have followed Philus' division of the subject. A second is that he did not deal with the argument about constitutions, since Scipio himself dealt with that in the last part of the book. And the third—perhaps more speculative—is that the famous fragment on the doctrine of natural law could not have been (as it is in most editions) the starting point of Laelius' speech, but rather one of the conclusions that he drew from an earlier argument. The general tenor of the speech is given in a letter to Atticus (10.4.4 = 3.38Z): "et si, ut nos a te admonemur, recte in illis libris diximus nihil esse bonum nisi quod honestum, nihil malum quod turpe sit . . . "; in other words, an assertion of the nobility of human nature and of virtue itself. The first major argument seems to have been a reply to Philus' last section, the assertion that the Epicureans came closest to the truth, but that in fact no one behaves in accordance with "justice" unless there is a real chance of punishment: obedience to the laws is a matter of utility rather than of transcendental or metaphysical truth. Laelius of course rejects this, and says that justice and the other virtues exist, and are natural rather than social: "It is clear," says Cicero at *De Finibus* 2.59, "that if equity, faith, and justice do not derive from nature, and if all these things are measured by utility, then it is impossible to find any good man. Laelius said quite enough on this score in *De Republica.*"

It appears (although I cannot prove it) that Laelius begins by taking as self-evident that there is such a thing as a good man, because there are such things as natural affections and attitudes, and to deny this runs counter to common sense and to humanity at large.[24] That argument in turn implies that there are naturally right ways to behave, that those who do so are good people, and that therefore there is such a thing as goodness. From this assumption, and from the criticism of the Epicurean/Carneadean position, Laelius goes on to reply to the argument that human nature is no different from that of animals or plants. The example that he used—at least the one of which we have fragments—is the epitaph of Sardanapalus:[25]

> Haec habeo, quae edi, quaeque exsaturata libido
> hausit; at illa iacent multa et praeclara relicta.

When he quotes these verses at *Tusc.* 5.101, Cicero goes on to quote Aristotle (from whom he knew the epitaph) to the effect that these words belong on the tomb of a bull, not of a man. Another fragment of Laelius' speech says much the same thing, *se non putare idem esse arietis et Publii Africani bonum.*[26] In other words, animals and people are not of the same kind. The

23. On the reconstruction of the speech, I am greatly indebted to Ferrary 1974.

24. Cf. *Att.* 7.2.4 (3.39Z).

25. Cf. Ferrary 1974, 752–54. The epitaph is not directly attested as a fragment of *Rep.*, and the version quoted here is that given at *Tusc.* 5.101. A fragment of *Rep.* at Arusianus 7.487.16 (referred to in Ziegler's apparatus at 3 fr. inc. 4, but not quoted; cf. Heck 1966, 222), *ea incidi iussit in busto,* matches the introduction to the epitaph at *Tusc.* 5.101, *qui incidi iussit in busto.*

26. Augustine, *C. Iulianum* 4.12.59, placed by Ziegler at the opening of Book 4. For the location and the argument here, see Ferrary 1974, 754.

argument then probably included a discussion of the deification of Romulus and Hercules: it was not their bodies that were carried up to heaven, since what comes from the earth must remain there.[27] The point is that the self is not the body, but the *animus;* hence, men and animals are different, and mere animal desires cannot be used to justify human behavior or to argue that the rule of man over animal is unjust. From here, he seems to have moved to the rejection of wealth as a suitable reward for human behavior, since it is corporeal, and to the approval of honor as the only worthwhile earthly reward, but one that is inferior to the true reward of virtue, which is virtue itself:[28]

> Vult paene uirtus honorem, nec est uirtutis ulla alia merces. quam tamen illa accipit facile, exigit non acerbe. sed si aut ingrati uniuersi aut inuidi multi aut inimici potentes suis uirtutem praemiis spoliant, ne illa se multis solaciis oblectat, maximeque suo decore se ipsa sustentat.
>
> Virtue desires honor, and there is no other reward for virtue. But virtue accepts this reward easily, and does not demand it peremptorily. If either the whole people is ungrateful, or the multitude are hateful, or powerful enemies despoil virtue of its rewards, then it takes pleasure in many consolations, and sustains itself above all by its own dignity.

This is, it appears, the conclusion of Laelius' refutation of Carneades/Philus. He has established the distinction of mind and body, the difference between earthly and heavenly goals, between material and metaphysical rewards; and hence, clearly, he has moved the question of "justice" away from either personal or political issues to a transcendent realm that has no immediate relevance to the concerns of the *res publica.* Or so it would appear. But this is where the famous statement about natural law must enter, because it restores the connection between justice and people and (like Socrates with philosophy) brings it back down from the sky—with a big difference (Lactantius, *Inst.* 6.8.6–9 = 3.33Z):

> Est quidem uera lex recta ratio, naturae congruens, diffusa in omnis, constans, sempiterna, quae uocet ad officium iubendo, uetando a fraude deterreat, quae tamen neque probos frustra iubet aut uetat, nec improbos iubendo aut uetando mouet. huic legi nec obrogari fas est, neque derogari aliquid ex hac licet, neque tota abrogari potest, nec uero aut per senatum aut per populum solui hac lege possumus, neque est quaerendus explanator aut interpres Sextus Aelius, nec erit alia lex Romae, alia Athenis, alia nunc, alia posthac, sed et omnes gentes et omni tempore una lex et sempiterna et immutabilis continebit, unusque erit communis quasi magister et imperator omnium deus: ille legis huius inuentor, disceptator, lator; cui qui non parebit, ipse se fugiet, ac naturam hominis aspernatus hoc ipso luet maximas poenas, etiamsi cetera supplicia quae putantur effugerit.
>
> True law is right reason, consonant with nature, spread through all people. It is constant and eternal; it summons to duty by its orders, it deters from deceit by its prohibitions. Its orders or prohibitions to good people are never given in vain; but it does not move

27. Augustine, *De civ. D.* 22.4 (3.40Z). Ferrary 1974, 756 places this fragment slightly later (after the discussion of earthly rewards), but it seems to me to fit better here.

28. The fragment is assembled from four quotations of parts of it by Lactantius, *Inst.* 5.18.4, 6–8 (3.40Z); for discussion, cf. Ferrary 1974, p. 754, n. 3.

> the wicked by these orders or commands. It is wrong to pass laws obviating this law; it is not permitted to abrogate any of it; it cannot be totally repealed. We cannot be released from this law by senate or people, and it needs no exegete or interpreter like Sextus Aelius. There will not be one law at Rome and another in Athens, one now and another later; but all nations at all times will be bound by this one eternal and unchangeable law, and the god will be the one common master and general (so to speak) of all people. He is the author, expounder, and mover of this law; and the person who does not obey it will be in exile from himself; insofar as he scorns his nature as a human being, by this very fact he will pay the greatest penalty, even if he escapes all the other generally recognized punishments.

This is a noble statement, which deserves frequent reading. One feature of it that I will return to later is the change of tenses in the middle: from the general statement of the doctrine in the present tense, Laelius turns to a future in which this law will be universally recognized on earth.[29] As it is now, the law has no effect on those who disobey it, because knowledge of it is obedience to it; the punishment for disobedience that Laelius envisages is the counterpart of virtue's self-reward: disobedience to natural law is a violation of one's humanity, and by disobeying it one ceases to be fully human—thus returning to the epitaph of Sardanapalus that he had cited earlier. The fragment on natural law was almost certainly followed by another fragment preserved in Lactantius (*Inst.* 5.11.2):[30]

> etenim si nemo est quin emori malit quam conuerti in aliquam figuram bestiae, quamuis hominis mentem sit habiturus, quanto est miserius in hominis figura animo esse efferato! mihi quidem tanto uidetur quanto praestabilior est animus corpore.
>
> There is no one who would not rather die than be transformed into the shape of an animal while still having a human mind; all the more miserable is it to have a beast's mind in a human body. That seems to me so much worse as the mind is more noble than the body.

The *animus* is what distinguishes men from beasts, and failure of virtue—failure to observe the natural law—turns men into beasts.

Although Cicero has established the links between the mind/body relationship and the relationship of heaven and earth, there is still a need to bring law back to earth, and to Rome in particular. The order of the remaining fragments is very uncertain, but I suspect that, like Philus, Laelius argued first about justice among humans, and from that to justice among peoples—which is where the speech ends. The idea that crime is automatically punished by the loss of humanity leads to the argument that there is a natural hierarchy of better and worse; that in turn suggests that slavery, as the rule of better men over worse, is just, and is justified by its

29. I should note here that I am not convinced by Ferrary's recent argument (1995)—based on Girardet's interpretation (1983) of *De Legibus*—that the primary locus of the *ius naturae* is in the mind of the *prudens* rather than being embedded in the universe as a whole. He is certainly right to emphasize the role of the *prudens* (in Cicero's argument, the true statesman) in bringing the natural law to bear on human society, but the quotation makes it very clear that it has an existence independent of the *ratio* of any individual human: it is *diffusa in omnis*, and its author is the *deus*. The role of the *prudens* is to recognize and acknowledge the law that the divine legislator has placed in him—as it has been placed in every human being.

30. Given by Ziegler at 4.1; on the location cf. Ferrary 1974, 759–60.

correspondence with the natural order of things. It is unjust when people who are capable of independence are enslaved—a problem that Aristotle had difficulty with in the *Politics*—but the natural order that places mind over body and reason over the other parts of the soul also places men over slaves and leaders over peoples. Whatever the details of Laelius' argument, it serves again to move from individual to state, and from the problem of slavery or mastery to the problem of the subjection of peoples. Laelius argues in favor of the concept of the just war; he almost certainly discussed the fetial law (the rules governing the declaration and conduct of war) in some detail; and he argued in particular that Rome gained control over the world by defending its allies. No war, he says, can be undertaken by a good state except because of *fides* or *salus*.[31]

I want to set aside for the present the very end of Laelius' speech, which involves an argument about the immortality of Rome's empire and the specific circumstances of Tiberius Gracchus' tribunate that belongs to a later stage of my own argument. The conclusion of the speech does not change the basic structure of the debate, however, in which the presumed Carneadean discussion (following Plato) of personal morality has been transformed into a debate on political and imperial morality. The speeches of Philus and Laelius both end with the application of the concept of justice to the Roman *imperium*: Philus with the cynicism of the debate over the treaty of Mancinus, Laelius with an argument about the justice of Rome's rise to domination as a naturally superior, and more just, power. Philus begins by denying the universality, and hence the naturalness, of law and justice, and moves from the strongest definition of justice to progressively weaker ones: justice as a contingent relationship governed by a general rule, and then justice as a form of behavior motivated by the fear of punishment. He refutes all these definitions, ending with a radical choice between justice and self-interest in favor of the latter. Laelius reverses that direction, first refuting utilitarian definitions, and gradually moving up to a universal (quite literally) definition of justice and of reason. The two, as one might expect, define "natural" and "justice" very differently. Philus assumes that any natural standard of justice must reflect the actual behavior of all beings; Laelius argues from the abstract existence of metaphysical universals to an absolute standard embedded in the universe itself, whether or not terrestrial beings in fact abide by that standard. Carneades looks for an absolute standard of justice and, finding it lacking in this world, concludes that there is no justice; Laelius, accepting the absence of absolute justice within this world, can only invoke a higher standard in order to promote an ideal of just behavior. And, what is most important for me, they agree on one thing only: that the concept of justice is as relevant to the foreign policy of Rome as it is to the behavior of individual human beings.

31. Augustine, *De civ. D.* 22.6 (3.34Z); Isidore 18.1.2–3 (3.35Z); Nonius 498.16 (3.35Z). Capelle 1932, 105–11, followed by Walbank 1965, 12–16, discusses the transformation of Aristotle's racial argument about natural slavery into a moral argument in favor of Rome's rule. In his view, the transformation was made by Panaetius; Strasburger 1965, p. 45, n. 50 more probably suggests that the Aristotelian turn was in fact taken by Carneades, or by Cicero himself.

It is this sense of the justice of Roman power—the natural domination of Roman political and military skills over other peoples and the justification of Roman rule, which not only was achieved honorably but is also for the benefit of subject peoples—that animates Anchises' famous injunction with which I began. In the *Aeneid,* Rome's victories over other nations are just retribution: over Greece as retaliation for the defeat of the Trojans, over Carthage as self-defense against the curse that Dido utters at the end of Book 4. The poem also provides paradigmatic mythic exemplars for Roman military exploits: in the first place, the defeat of the Latins, which is the conclusion of the poem, justified by the violation of oaths and Latin deceit (never mind that all this is divinely caused); in the second place, Evander's narrative of the killing of Cacus by Hercules, a response to the initial theft of cattle by the evil monster. What is made clear by the prophecies of Rome's history in the *Aeneid,* moreover, is that Roman power is not only justified on the mortal plane as a response to aggression and the defense of *fides* and *salus* (to use Laelius' terms), but is divinely ordained and in harmony with the plans of fate. Three times in the *Aeneid* we are given extended prophecies of Rome's destiny: by Jupiter in Book 1, by Anchises in Book 6, and by Vulcan (via the shield) at the end of Book 8.[32] In each of these, the reign of Augustus is foretold; in each of them, the theme of the end of external war and internal discord is linked with the coming of peace and universal rule. In Book 1, Jupiter announces *imperium sine fine dedi,* "I have given them empire without bound." In Book 6, the new Golden Age of Augustus extends the bounds of Roman power to the furthest Indies, and indeed beyond the limits of the physical world: *iacet extra sidera tellus* (6.795).[33]

But the fullest depiction of Roman power and its righteousness appears on the shield of Aeneas, and I want to concentrate on that. Virgil's description of it contains six scenes around the edge of the shield, surrounding a central depiction of Augustus' victory at Actium and the celebration of his subsequent triple triumph in August, 29 B.C.E.[34] That victory—of West over East, of order over disorder, of civilization over barbarism—is, above all, a cosmic victory, with Apollo taking the side of Augustus in order to insure the triumph of the right. The victory of Actium, in this depiction, is the final unification of a world that has been divided into two polarized camps: it is not only foretold in the prophetic shield, it is divinely ordained, a restoration of the golden age of peace and harmony throughout the universe.[35] The course of history and of cosmic order is reflected also in the scenes that surround the depiction of Actium. On the sides of the shield are four vignettes: Romulus, Remus, and the wolf; the abduction of the Sabines and the subsequent treaty between Romulus and Titus Tatius; the punishment of Mettus Fufetius by Tullus Hostilius for breach of faith in the war against

32. On the three prophecies, see particularly O'Hara 1990 with reference to earlier discussions; see also Zetzel (forthcoming).

33. For the extent of the *imperium* in Augustan (and late Republican) ideology, cf. Nicolet 1991, 29–47.

34. For the arrangement of the shield, cf. West [1975–76] 1990.

35. For this positive reading of the shield, cf. Hardie 1986, 97–110, 346–75 and Quint 1993, 21–31.

Fidenae; and the heroic actions of Horatius Cocles and Cloelia in the war with Lars Porsenna, which followed the expulsion of the Tarquins and the foundation of the Republic. These events mark important stages in the successive foundations of Rome and its establishment of dominion over Latium, but far more important are the scenes at the top and the bottom of the shield. At the top is the Capitoline Hill, being defended by Manlius and the goose against the Gallic invasion of the early fourth century. That event, the destruction of the city and its subsequent restoration, was held to mark a new foundation, one that Livy underscores as being halfway between the original foundation and the establishment of the new order of Augustus.[36] Equally important, as Philip Hardie has argued, the defeat of the Gauls is a symbol of cosmic order, recalling the mythic gigantomachy, the defeat of the giants by the gods, and simultaneously echoing (perhaps explicitly) the depiction on the Great Altar of Pergamum of the defeat of the Gauls by the Pergamenes in the third century.[37] And, whether or not the details of Hardie's interpretation are valid, it is clear that the Gauls on the shield are typological precursors of the barbarian east, which is defeated in the central panel of the shield itself, the battle of Actium.

Balancing the depiction of Manlius and the Gauls at the top of the shield is a picture of the underworld that is at its foot; for my purposes, this is perhaps the most important image that Virgil describes. In the first place, the very balancing of Capitoline and underworld elevates the Capitoline to cosmic significance: it represents an earthly Olympus, just as Augustus himself (as in Horace's Roman Odes) is the vicegerent of Jupiter on earth. Second, and more important, is the population of the underworld: the archetypal sinner being punished is Catiline, while the figure presiding over Elysium is no longer Aeacus, but the younger Cato. Roman rule, and Roman ideas of virtue and vice, have taken over not only the human world, but the afterlife itself. Rome *is* the cosmos, just as the shield as a whole—like that of Achilles in the *Iliad*—is, in Hardie's phrase, a cosmic icon, an image of the entire universe. Now, however, it is a Roman universe, and the orderly design and arrangement of the shield are an image of the order that is, in historical terms, created by the victory of Augustus, which it depicts as both the goal of world history and the center of the universe. If the language that I use to describe the implications of the shield is Hegelian, that is not an accident: the shield, as Virgil describes it, portrays the end of history in both senses of the word "end."[38]

But that, of course, is not the end of my story. Before I turn to the elements of the *Aeneid,* and of the shield itself, which complicate the tidy vision of the universal rule of Rome, I want to complete my version of the defense of justice by turning back to *De Republica.* The debate on justice, which establishes the justification for Roman rule, is the centerpiece of the work, in the third of six books, and Laelius' defense of natural law and of

36. That is surely the implication of the *magnus annus* in Camillus' speech at 5.54.5.

37. Hardie 1986, 120–25.

38. For a brief and elegant exposition of the problem of the "end" of history in the *Aeneid,* cf. Feeney 1993. He, Gurval 1995, 209 and others aptly cite Auden's poem "Secondary Epic" in this connection. The question of open and closed narratives in the shield is discussed below, at n. 49.

the place of Rome's empire within it, plays a crucial role in the argument. The first two books of *De Republica* are basically descriptive: first of the theory of constitutions, then of the way in which Roman history fits into the framework of Peripatetic constitutional theory. The end of Book 2 opens up a number of other issues—in particular, the analogy of the elephant to the state (2.67) raises the mind/body issue, and the comparison of constitutional structure to harmony (2.69) opens the way to the *Somnium* in Book 6. The mind/body question is the topic of the surviving portion of Cicero's preface to Book 3; and yet in all these passages, the focus is on practical behavior in this world, in real political life. It is only with Laelius' speech that the idea of metaphysical standards and transcendental truth rears its head. And immediately after Laelius finishes speaking, Scipio returns to the question of true and debased constitutions and settles it with his new metaphysical tool: *iuris consensus,* which, in the definition of the *res publica* in Book 1, meant merely agreement on law, but here it becomes "agreement with the Law," with a capital L, the natural law that is the foundation of the universe itself.[39] In the first speech of Scipio in Book 1, astronomy is purely practical and the contemplation of the heavens merely gives the statesman a proper perspective on the vanity of human politics. Later in Book 1, in the argument in favor of monarchy as the best simple constitution, Scipio proposes a set of analogies: the king compared to the head of a household, to Jupiter among the gods, and to reason in the soul. In Laelius' speech, the two perspectives of Book 1 are fused: the cosmos gains a new importance as the locus of law, governed by a divine *magister et imperator* (3.33). And at the conclusion of the whole work, in the *Somnium,* the cosmos becomes both the reward and the habitation of the souls of statesmen—among them Scipio's grandfather, the conqueror of Hannibal, and his natural father, Lucius Aemilius Paullus, the conqueror of Macedonia. Roman conquest and Roman government are justified and sanctified by the natural law of the universe. That the *Somnium* influenced Virgil's account of the underworld in Book 6 of the *Aeneid* has long been recognized,[40] but *De Republica* has a much larger role in Virgil's thinking, I believe, than that: it offers a way to understand the destiny of Rome and its empire as something inherent in the natural law of the cosmos. For Cicero, Roman institutions and government most closely approach the perfection of the mixed constitution, and most clearly deserve both immortality and eternal world-rule. It is that vision which animates Virgil's vision of Rome's role in the world—although one may wonder whether he thought that the regime of Augustus really corresponded to Cicero's ideal government.

That doubt leads me to the other side of my argument. In keeping with what I said at the outset, I have so far given a version of Carneades' first speech, on the merits and the possibility of justice, and now it is time for the second speech. For, as you will realize, the Virgilian world-order is not

39. For the different meanings of *iuris consensus* at 1.39 and 3.45, cf. Pohlenz 1931, 95 and Zetzel 1995, 21–22 and on 1.39.1. The distinction is ignored in the otherwise excellent discussion of 1.39 by Schofield 1995, 71–73.

40. Cf. Lamacchia 1964; also Zetzel 1989, 283–84.

so one-sided as my brief account of the shield would suggest; even the idea that Rome's victories over Greece and Carthage were justifiable retribution is overly simple and perhaps called into question. All three great prophecies of Rome's future are, in one way or another, equivocal. Jupiter's speech to Venus in Book 1 has been carefully analyzed by James O'Hara, demonstrating the elements of falsity it contains: the ambiguity of the reference to Caesar and above all the peculiar description of an age of eternal peace ruled over by the apparently amicable twins, Romulus/Quirinus and Remus—with no mention of the fact that one of them had murdered the other.[41] The parade of heroes in Book 6 also has equivocal elements: above all, the allusion to the civil war between Caesar and Pompey and the appearance at the end of the soul of Augustus' designated heir Marcellus, destined to die young; and, of course, there is the departure of Aeneas through the gate of false dreams at the end of the book.[42] As before, however, I want to concentrate on the shield, and to consider both its content and its context, particularly the second. In my description of the six scenes around the margins of the shield, I concentrated on the top and the bottom, the Capitol and the underworld. But of the four scenes on the sides of the shield, two do not seem consistent with the idea of Rome's virtuous rule. The abduction of the Sabines may have been treated by Cicero as simply a peculiar approach to foreign policy, but it is certainly not an example of justice in action. And the horrific dismemberment of Mettus Fufetius may have been intended as an example of the importance of *fides,* but it was singled out even by Livy as an example of barbarity that was never to be repeated.[43] The Roman order may have triumphed, but not all the ways in which that triumph was achieved were admirable. Nor, indeed, do the figures of Cato and Catiline have only one interpretation. The archetypal sinner Catiline is a reminder of the discord of the last decades of the Republic, and Cato—who committed suicide rather than outlive the Republic—is surely a reminder that the rule of one man, however divinely justified, had its opponents, among them a man so honorable that he deserved the position of judge in the underworld. And although the *Aeneid* makes Actium the final battle in a foreign war, no one could fail to remember that it was in fact a civil war. It is one of Virgil's most striking accomplishments that he makes even the victory of order and justice appear tainted; however justified, *sub specie Romae,* Aeneas' departure from Carthage may be, it is Dido who appears noble at the end of Book 4; Hercules' rage against Cacus is almost as monstrous as his victim; the arch-villain Mezentius is made to seem almost sympathetic when Aeneas kills him; and Aeneas himself, at the very end of the poem, dispatches Turnus in a fit of rage.[44] Even though all these deaths are, in the context of the poem, necessary and indeed desirable, the dramatic presentation calls them into question.

But let me return once more to the shield. In the first place, it is important to observe that the voice describing the shield, the narrator, has a distinct

41. O'Hara 1990, 132–63.
42. Cf. Feeney 1986.
43. On these scenes, see now Gurval 1995, 220–22.
44. Cf. Gotoff 1984.

point of view—something true (although I have no time to argue it here) of all the major ecphrases in the poem. He enters the description of the shield in three places: he addresses Catiline being tortured in Tartarus (668); he appends a righteous *nefas,* "what a disgrace!" to the mention of the unnamed Cleopatra, Antonius' Egyptian spouse (688); and in describing the dismemberment of Mettus Fufetius, he adds the parenthetic apostrophe *at tu dictis, Albane, maneres!* "you, Alban, should have kept your word," thus somehow justifying the horrible torture inflicted on the perfidious monarch (643).[45] Addresses to characters within the poem are not rare in the *Aeneid,* but they normally establish a sympathetic bond between narrator and character (think of Dido, Icarus, and Nisus and Euryalus); here it is very different. However awful Mettus' end may have appeared to others, the narrator makes it clear that he deserved what he got; and he is, I think, an equally sanctimonious patriot in his apostrophe to Catiline and his comment on Cleopatra. He is untroubled by the negative aspects of what he reports; Rome's history and destiny appear to be, for him, as positive and as harmonious with the order of things as the first interpretation of the shield (and indeed of the *Aeneid*) that I gave earlier.

But the narrator of the shield does rather more than cheer on the Augustan side with occasional interjections. The description of the shield is more than the ecphrasis; it begins not with the vignette of Romulus, Remus, and the wolf in line 630, but five lines earlier, when the narrator summarizes the shield's contents: "There the god of fire, with full knowledge of prophecies and of the age to come, had made the history of Italy and the triumphs of the Romans; there (he had made) the entire race of the stock to come from Ascanius, and the wars fought in order." Even though the scenes described are in fact in order (including even the figures in the underworld), it is obvious that the contents of the ecphrasis are no more than a selection from the totality of Roman history suggested by the introductory lines. More significant is the way in which Virgil connects the summary with the first scene of the ecphrasis. The summary begins with *fecerat* as the first word in the line; the ecphrasis itself begins *fecerat et,* "he had *also* made," which is also at the beginning of the line. In other words, Virgil's language implies that the shield depicted not only the many scenes described in the ecphrasis proper, but also the entirety of Roman history, in chronological order. This is, of course, impossible to understand as the description of a realistic artifact, and David West drew the obvious conclusion: "So the diagram [which West had made] is not a drawing of the shield, but only a representation of what Virgil actually says about these imaginary illustrations selected from a huge number of imaginary illustrations on this imaginary shield."[46] But the language of the ecphrasis does not in the least suggest that it is a selection. West, and any other careful reader, can reconstruct a complete shield, classically ordered, from what the narrator says about it: the six scenes fill the circumference, Actium and its aftermath occupy the center. The only trouble is that, when the introductory

45. Cf. Williams 1983, 153; Gurval 1995, 222.
46. West [1975–76] 1990, 290.

lines and *fecerat et* are taken at full value, the ecphrasis is not the shield that Vulcan made, but a description of the shield that the narrator would have preferred, a shaped anthology of suitably chosen moments, demonstrating a clear and compelling interpretation of Roman history. Of course, he more or less tells us that at the outset: for, in addition to my telltale *et,* the end of the line before the introductory summary that I translated a moment ago is *clipei non enarrabile textum.* And indeed, it is truly *non enarrabile.*

What is the difference between Vulcan's shield and the narrator's, and why does Virgil go to the trouble of introducing this discrepancy? An important indication lies in the introductory description: Vulcan's shield, containing in chronological order Roman battles and triumphs, reflects traditional Roman *annales,* a linear chronicle of Roman history that conveys, of course, an interpretation, but does not entail the enclosed and teleological order depicted in the ecphrasis itself. And if P. T. Eden is right to detect in the shield a set of allusions to the *Annales* of Ennius,[47] Virgil's greatest Roman predecessor as a writer of historical epic, the difference between Vulcan's shield and the narrator's becomes quite pointed. Eden sees in the description of the triumph of Actium at the end of the ecphrasis an allusion to the description by Ennius of the triumph of his patron Fulvius Nobilior after the defeat of Ambracia; that triumph marked the end of Book 15 of Ennius' poem, its original conclusion.[48] But Ennius did not stop there: he extended the poem to include three more books; one might say that while his epic had an ending, it had no τέλος. If the final scene of the shield alludes to a temporary stopping place in a continuing narrative, then that can only imply that the triumph after Actium is not, in either a chronological or a teleological sense, the real end either.[49] The narrator of the shield tries to impart to time and to history a shape that, in the real world, they do not and cannot have; he tries to give a purpose and a goal to Roman history. Vulcan's account, like Ennius', was certainly favorable to Rome, but it was necessarily provisional. The narrator wants to show the perfection of Augustus' victory in a closed and perfect shield that reflects a closed and ordered universe. It is, if only because time does not stop, a wish, not a fact, that the age of peace ushered in by the triumph of Augustus and the establishment of a divinely ordered world and cosmos will last forever. One aspect of the three prophecies of Rome's destiny may help to confirm this interpretation. The prophecy of Jupiter—the most blatantly false of the three—ends with the closure of the gates of war in 27 and the establishment of peace; the shield ends with Augustus sitting in front of the closed doors of the temple of Apollo, reviewing the captives marching in his triumph in August of 29. But the parade of heroes in Book 6 ends differently: the last image of the book is (notoriously) the open gate of false dreams through

47. Eden 1975, 164–65.

48. Ibid., 165.

49. Skutsch 1985, 553, 649 states that Book 15 of the *Annales* concluded with the dedication of the temple of *Hercules Musarum,* which would be a suitable parallel to the reference to the temple of Palatine Apollo before which Augustus sits on the shield to review the triumph of 29. On the relationship (or lack of it) of the temple to the battle of Actium, see now Gurval 1995, 111–36.

which Aeneas departs from the underworld; and the last figure in the parade, named reluctantly by Anchises only after being prompted by Aeneas, is the younger Marcellus. There is, to my knowledge, only one event in the entire *Aeneid* that is subsequent to the glorious events of 29 and 27: the death of Marcellus in 23. The "end" of history, the establishment of order and the closing of gates, is proven false—history goes on, and its "end" is followed by an event that involves failed hopes, early death, and the lack of an obvious successor to Augustus. It is no wonder that Aeneas leaves through the gate of false dreams.[50]

One of my reasons for linking *De Republica* and the *Aeneid* is that Virgil is so obviously indebted to Cicero for his depiction of the cosmic order and his promulgation of the idea that Roman rule and Roman governance are according to nature and divinely ordained destiny. But I have also suggested that Virgil himself undercuts these ideas profoundly, implying that such happy images represent over-simple and wishful thinking. It remains to close my circle, and to demonstrate that this too is something Virgil owes to Cicero.

In reconstructing the debate on justice, I deliberately omitted the end of Laelius' speech, and it is time to fill in the gap. The final development of Laelius' argument was to extend the concept of natural justice from individuals to states and to argue that Rome's rise to hegemony was rightful, because all its wars were defensive and therefore just, and that the subordination of some peoples (Aristotle's natural slaves) to others was both natural and just. One stage remains to complete the analogy between justice in individuals and justice in states. Laelius had demonstrated that for individual human beings, disobedience to the natural law incurs its own punishment automatically, in that violation of natural law itself entails a loss of humanity: by not attending to the natural law, a human is turned into a beast in human clothing.[51] The problem is to apply this reasoning to states: if immoral behavior by a human being incurs as punishment the loss of humanity, then what happens when a state behaves unjustly? The analogy between human, state, and cosmos is imperfect: human life is limited, but the soul is immortal; the universe and the god who runs it are likewise immortal. But the state has no soul, no life in the transcendental sense; and it is that problem that Cicero addresses in the final fragment before the conclusion of Laelius' speech (Augustine, *C.D.* 22.6 = 3.34Z):

> Sed his poenis quas etiam stultissimi sentiunt, egestate, uinculis, uerberibus, elabuntur saepe priuati oblata mortis celeritate, ciuitatibus autem mors ipsa poena est, quae uidetur a poena singulos uindicare; debet enim constituta sic esse ciuitas ut aeterna sit. itaque nullus interitus est rei publicae naturalis ut hominis, in quo mors non modo necessaria est, uerum etiam optanda persaepe, ciuitas autem cum tollitur, deletur, extinguitur, simile est quodam modo, ut parua magnis conferamus, ac si omnis hic mundus intereat et concidat.

50. This is by no means the only possible interpretation of the gates, and I suspect that more than one reading is correct. For others, see especially Tarrant 1982; Zetzel 1989, 264, 274–75.

51. Lactantius, *Inst.* 5.11.2, printed by Ziegler at 4.1. For discussion of its location in Book 3, cf. Heck 1966, 78 and Ferrary 1974, p. 759, n. 3.

> But many individuals escape from these punishments which are felt by even the dumbest people—want, exile, chains, and whips—through a speedy death; while for states, death itself is the punishment, death which frees individuals from punishment. For the state ought so to be established as to be eternal, and therefore there is no natural death of a state as there is for a man, for whom death is not only necessary, but at times desirable. When a state is removed, destroyed, extinguished, it is somehow similar (comparing small to great) to the death and collapse of the entire cosmos.

When it behaves justly, the state approaches the immortality of the human soul or of the universe itself. When it fails in goodness, then—like the human being who violates the natural law—it is deprived of its divine nature and falls under the sway of the body and mortality. But this is, in an important sense, unnatural—as justice is in the nature of the state (a topic that Scipio expands on after Laelius finishes speaking), and justice is itself in harmony with the universe, and is eternal. The state that fails in this regard is thus a model for the end of the world, and because Laelius has also argued that all Rome's conquests were just, this approach also serves to justify the imperialist extinction of formerly independent states. Rome, it appears, has acted as the agent of divine justice in administering the death-blow to states that no longer deserve to exist. From this argument, I think, there is only a very small step to the conclusion of the speech, which we have as the manuscript at last returns (3.41):

> * Asia Ti. Gracchus, perseuerauit in ciuibus, sociorum nominisque Latini iura neglexit ac foedera. quae si consuetudo ac licentia manare coeperit latius, imperiumque nostrum ad uim a iure traduxerit, ut qui adhuc uoluntate nobis oboediunt, terrore teneantur, etsi nobis qui id aetatis sumus euigilatum fere est, tamen de posteris nostris et de illa immortalitate rei publicae sollicitor, quae poterat esse perpetua, si patriis uiueretur institutis et moribus.
>
> . . . Tiberius Gracchus, who paid attention to citizens, but neglected the rights and treaties of the allies and the Latins. If that license should become customary and spread more widely, and should transform our power from justice to violence, so that those who are now our willing subjects be held by terror, even if those of us who are getting on in years are finishing our watch, I am still concerned about our descendants and about the immortality of the republic, which could be eternal, if our life remained in accordance with ancestral laws and customs.

Quae poterat esse perpetua, si patriis uiueretur institutis et moribus: the contrary-to-fact condition is telling.[52] Rome has violated justice; it could be, but is no longer, eternal: the failure to maintain the universal standards of *ius* exacts an even greater penalty from states than from men, and Rome's is coming. This is to be taken in connection with something that I mentioned earlier: in the middle of the fragment on natural law, Laelius switches from the present tense to the future: "There *will not be* one law at Rome and another at Athens. . . . " The time of natural law being manifest on earth is not

52. That it is contrary to fact is generally ignored, but the protasis is in the imperfect subjunctive, and the indicative *poterat* in the apodosis is quite normal: cf. Kühner-Stegmann II 402, §215b. For a more positive reading of the conclusion of Laelius' speech, cf. Ferrary 1995, 71.

yet; and perhaps, suggests the conclusion of the speech, it will never come. Although Laelius' audience seems pleased by his speech, its implications are scarcely cheerful. One might ask whether, for Virgil, the new monarchy of Augustus has replaced the ancestral constitution that Cicero so admired, precisely because it had failed to behave with justice.

De Republica tells two stories about Rome. One is about a state whose rule over the nations is justified, whose constitution and laws most nearly approach natural law, whose statesmen are, quite literally, divine in their justice. Rome is *the* good government, the state most clearly designed by the divine architect of the cosmos to be a permanent analogy for and representative of the divine order on earth. If Rome is to fail, Laelius suggests, it will be like the collapse of the universe. On the other hand, *sub specie aeternitatis,* Cicero and his characters know perfectly well that Rome is not, in any significant way, exceptional. The earth may be the center of the universe, but Rome's one small sector of the globe is not its center; other peoples exist in other quarters of the globe, and Rome's earthly glory is severely limited in both space and time.[53] At the dramatic moment of the dialogue, Rome's justice, and therefore Rome's rule, are endangered: both Philus and Laelius end their speeches with reference to disastrous events, the repudiation of Mancinus' treaty and the high-handed treatment of the Latins by Tiberius Gracchus. The participants in the dialogue have gathered at a pause in the crisis; they re-create in their minds the ideal past of Rome, a set of values and institutions that are at once historically contingent and representative of eternal values; and they look forward to the intervention of Scipio himself to restore those values, to put Rome back on its course to eternity.[54] But as with the death of Marcellus in *Aeneid* 6, one event breaks the closed circle of Roman justice: the death of Scipio that occurred, mysteriously, only days after the dramatic date of the dialogue itself. As with the shield, the narrator of *De Republica* is trying to sustain an ideal image that he knows is both eternal and evanescent, an ordered and comprehensible Roman universe beyond time and decay but inevitably subject to both. As Cicero himself says in the preface to Book 5, the *res publica* is like a marvellous picture the colors of which have faded away and of which the very outlines are barely visible (5.2):

> Nostra uero aetas cum rem publicam sicut picturam accepisset egregiam, sed iam euanescentem uetustate, non modo eam coloribus isdem quibus fuerat renouare neglexit, sed ne id quidem curauit ut formam saltem eius et extrema tamquam liniamenta seruaret.

His own dialogue is, in fact, the restoration of a picture the reality of which, if it ever existed, is long gone.

The theme of this paper, like that of *De Republica* itself, is a Platonic one, and I will conclude with Plato, and in particular with the end of Book 9 of the *Republic* (9.592B, tr. Grube): "Perhaps, I said, it is a model laid up

53. So the *Somnium,* 6.21–25.
54. For the dramatic setting, cf. Zetzel 1995, 6–8.

in heaven, for him who wishes to look upon, and as he looks, set up the government of his soul. It makes no difference whether it exists anywhere or will exist." Cicero's and Virgil's visions of the ideal governance of Rome and of the universe, the cosmic order of justice and moral behavior, are like Plato's ideal state in their unreality. They represent not poetic justice in the normal meaning of that term, but poetic visions of justice as a philosophical myth. As I hope to have shown, however, Cicero and Virgil are concerned not simply with ideal states; it is the historical reality of the Roman state that preoccupies them. Natural law may work in the cosmos, and it may serve as an ideal to which humans may aspire; but in Rome it conflicts with a different law: the historical realities of error and ignorance, violence and decline. That natural law, the law of human limitations, is one of which Cicero and Virgil are painfully aware. Both *De Republica* and the *Aeneid* acknowledge—however unwillingly—the resistance of history and of time to Rome's potential for justice and for eternity, the Carneadean debate that can never be settled between the laws of nature and the natural law.

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