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Freedom and Speech: Oratory and Democracy in Ancient Rome

INTRODUCTION

A sense of decline in public discourse must be a common if not a universal phenomenon; in America it is easy to contrast the Gettysburg Address or other great moments in oratory with the rapidly sinking level of discourse in our present government. Archaism can be mistaken for loftiness -- as true of "four score and seven years ago" as of Cato the Elder, whose rustic simplicity Cicero praises almost to the point of absurdity in the *Brutus* (293) – and as history progresses, the political circumstances and petty polemics of a speech fade more and more from memory, leaving basic human truths and noble sentiments to stand out more prominently for later readers. As the Roman Republic foundered, finally collapsed, and evolved into the principate, most of our ancient sources agree that the art of oratory declined and was ultimately lost or abandoned. This however, was not merely a deterioration of discourse: the transformation of Rome's government from a democratic republic into a monarchic empire had, according to these authors, resulted in a loss of the freedom of speech for Rome's leading citizens. One result of the transition from republic to empire was a qualitative change in the genre of oratory: traditional narratives tell us that private intrigues and decisions made behind the closed doors of the emperor's palace had replaced the transparency of debates in the open air of the Forum, and while politicians continued to deliver speeches, those speeches no longer made any difference.

In my dissertation, I argue that this account is misleading and obscures important elements of continuity in oratory from Republic to principate. Today, I will focus on the two most influential accounts of oratory's decline, Cicero's *Brutus* and Tacitus' *Dialogue on Orators*, and the ways in which these two authors treat the connection between democracy and oratory in the classical world. The two works are separated by more than a century: Cicero lived and died (106-43 BCE) in the Roman Republic, while Tacitus (ca. 55-117 CE) belongs to the Imperial period and had lived under the rule of the emperors for his entire life. Their perspectives are necessarily different; in Tacitus' hands, Cicero's nostalgia for an idealized republic often seems naïve at best, a romanticization of what was in fact a violently agonistic and corrupt system. In this paper, I argue that beneath the surface, these two authors have more in common in their perspectives on oratory than meets the eye. Each author's understanding of the ideal state, and of oratory's place in it, conditions the way he responds to the present, but each uses the form of a dialogue to cast doubt on the notion that this conditioned response is the best or the only possible way to look at oratory. I will begin with a survey of the relevant periods of Roman history, including some methodological problems faced by modern historians in their attempts to classify or characterize the regimes involved, in order to contextualize my discussion of Cicero and Tacitus. I will then survey the relevant passages in Cicero's *Brutus* before finally moving to Tacitus' adaptation and appropriation of Cicero's narrative in his *Dialogus*.

HISTORICAL BACKGROUND

First, I want to provide a brief survey of the historical developments involved here, and some relevant background information on Roman government. Roman historians tended to divide their city's history into three categories: the monarchy, the republic, and the empire. When Romulus founded the city of Rome in 753 BCE

(according to Roman legend), he founded a monarchy; six kings followed, concluding with Tarquinius Superbus, aka Tarquin the Proud. His tyrannical regime drove Lucius Junius Brutus and other aristocrats¹ to expel the kings once and for all, supposedly in 509 BCE. They set up a republican government, a mixed constitution, with one-year elective magistracies. We modern historians know very little about the early Republic, but for my purposes today, I am less concerned with how the Republic developed and more with how it eventually collapsed. Again, I'll present the Roman historians' version of events. Three men set the fall of the republic in motion, by their account: the first two were the brothers Tiberius and Gaius Gracchus, both demagogues promoting popular measures such as land redistribution and the grain dole. Although the Gracchi were aristocrats themselves, their cultivation of popular support antagonized Rome's governing class, who assassinated the two brothers publicly in 133 and 122 BCE respectively. The third catalyst for the republic's downfall was Lucius Cornelius Sulla, who ousted his political rivals from power by marching an army on the city of Rome itself and having himself installed as a dictator in 80 BCE (a formal office in Rome, which essentially established martial law in times of emergency). The Gracchi set precedents for politically motivated violence, and for increasing tensions between populist and oligarchist politicians; Sulla set a precedent for a different kind of violence, and for one-man rule.

Cicero, Rome's greatest and perhaps last orator, was a young man when Sulla made himself dictator; he grew up as the Republic decayed, and thought that he had witnessed its collapse when Julius Caesar marched on Rome in 49 BCE. Caesar

¹ Some historians and classicists prefer not to use the term "aristocrats" to describe Roman individuals, on the grounds that it evokes misleading associations with other historical periods and contexts; it seems to me that these individuals were distinguished by high social class (they may be nominally patrician or plebeian, but they are high-ranking either way), so that it is appropriate. They are also distinguished by a tradition of elected officials in their families, so that they constitute a quasi-hereditary political class of "the best" men, so the etymological origins of the word seem appropriate as well.

emulated both the Gracchi and Sulla: he also cultivated the common people of Rome as a power base, and rather than give up his command he used his army to seize power in Rome and initiated a civil war. He was eventually named dictator for life, a radical departure from the normal use of the office in short states of emergency. The aristocrats who had survived the civil war formed a conspiracy – incidentally, Cicero was not included in their plans – and assassinated Caesar on the Ides of March in 44 BCE. The republic seemed to have been restored, but Cicero and his contemporaries were soon disappointed; two decades of intermittent civil war ensued, and when the dust cleared, Octavian, the adopted son of Julius Caesar, was the most powerful man in Rome and was to become Rome’s first emperor, named “Augustus” by the senate. To date this transition from republic to empire to a precise moment or year would be misleading; it is difficult to tell when contemporary observers might have realized that a definitive, irrevocable change had taken place, but a series of incremental developments over the course of Augustus’ long life, which ended in 14 CE, eventually amounted to a historical milestone.

It is also difficult to discern precise moments of change in the occasions and traditions of oratory at Rome. Under the Republic, “free speech” was a fairly restricted concept; in the classical Athenian democracy, for example, a herald began assemblies by asking “Who wishes to speak?” and allowed anyone to step forward. In Rome, however, only the highest magistrates in the government – two consuls, eight praetors,² and ten tribunes, normally – could summon an assembly, a *contio*. This was not a legislative or voting assembly, but an audience of whatever non-magistrates might be present in the city—a political rally of sorts. Once the official had summoned this

² In Cicero’s day – originally there had been only one, but the number was increased from time to time. Sulla increased the number to eight; Caesar would later increase it to 10 and, temporarily, 14 and 16.

audience, he could nominate anyone else to speak. The demagogues of the late republic, the *populares*, gained access to the people at *contiones* only when a sympathetic tribune allowed them to speak. The right to speak was also somewhat limited in the Senate, the assembly of former magistrates who, although they had no legislative power, determined the content of laws and generally influenced the course of government merely by the force of their collective authority.³ One of the two consuls presided over the senate; he would propose a measure for debate and conduct the *interrogatio*, the process of asking the top-ranking senators to give their opinions on the measure. The senators were asked for their opinions in strict hierarchical order, beginning with whichever man was the *princeps senatus*, the man treated as the most senior or most influential senator, and the consuls; newly elected magistrates were asked before acting and former magistrates. The consul might call on a particular man out of order to promote or demote him, depending on circumstances and often on the consul's family ties to the men involved. All of this is to say that public speaking at Rome was a privilege restricted to the few by the normative force of tradition as well as legal rights of access.

This has led many modern historians of the Roman republic to declare that the republic was, in all but name, an oligarchy. Roman society was structured around patron-client networks: wealthy political elites provided services and support to their clients and, some would argue, thus controlled their clients' votes.⁴ These relationships ran in families, and aspiring politicians without former consuls or at least former praetors in their families faced incredibly long odds; Cicero was one such self-made man, a *novus homo* (new man), and his success was exceptional. Thus, there was some

³ They also controlled foreign policy for the most part, which is not relevant here.

⁴ See Richard Saller's classic work, *Personal Patronage Under the Early Empire* (Cambridge University Press, 1982).

hereditary element even in an elective government, and the governing class tended to close ranks against newcomers and populists alike. However, in the last few decades Fergus Millar has challenged this long-standing perception and argued that in fact, the democratic element of Rome's mixed constitution, its voting and legislative assemblies (*comitia*), actually had considerable power over the course of events.⁵ Millar's reassessment was inspired by an ancient Greek historian of the second century BCE, Polybius, who described Rome's government as an ideally balanced mixed constitution with a monarchic side (magistrates), an aristocratic side (senate), and a democratic side (*comitia*).⁶ To some extent, this must remain a matter of speculation and individual scholarly opinion: tangible or quantitative proof of the aristocrats' influence over the assemblies' voting, for instance, obviously does not survive.

It is also difficult to discern definitive changes in Rome's institutions with the coming of the empire in Augustus' principate.⁷ The most obvious change is the death of most politicians of Cicero's generation, and of most of Octavian's enemies: the civil wars account for many deaths, but Octavian, when he first gained power as one-third of a triumvirate in 43 BCE, also proscribed his political opponents.⁸ The senate, by some accounts, was soon composed solely of Octavian's supporters and a few remaining republicans too frightened or apathetic to resist his accumulation of power.

Octavian/ Augustus himself, in his autobiographical account of his achievements which

⁵ Fergus Millar, "Politics, Persuasion and the People Before the Social War (150-90 B.C.)," *Journal of Roman Studies* 76 (1986): 1-11; Fergus Millar, *The Crowd in Rome* (University of Michigan Press, 2002).

⁶ Polybius, *Histories* 6.11-9.

⁷ Augustus' reign, and sometimes that of his stepson and successor, Tiberius, are known by this term ("principate") on the grounds that they are not exactly "emperors" yet; a *princeps* during the republic merely designates a leading citizen, and so provides some sense of one-man domination of the political arena without notions of monarchy, reign, etc.

⁸ A process in which a list was posted of political opponents whose property was officially confiscated and sold at auction; the profits went to the state. A bounty was placed on each man's life as well, allowing him to be legally assassinated. Sulla was the first Roman to proscribe his fellow citizens, and Caesar was revered for his *clementia*, his mercy, because he did not make use of this strategy.

was engraved on monuments across the empire (his *Res Gestae*), proclaimed himself first among equals, “possessing no more power than his colleagues in office but surpassing them all in influence.”⁹ Instead of “Augustus,” he had contemplated the title “Romulus,” evoking Rome’s first king; he decided, however, that he did not want to be associated with monarchy at all, and so settled on a title, and a kind of power, which was entirely his own.¹⁰ All of his powers were legally conferred by senate and assembly, and he was as famous for declining unprecedented honors and titles as for accepting them. Before World War II, Ronald Syme saw analogues for the rise of Augustus in the rise of Hitler or Mussolini;¹¹ the meteoric rise of Augustus, like that of Caesar or Sulla before him, was attributed to personal genius, ambition, and vision for a new order at Rome, while conquered rivals like Mark Antony, Pompey, and Marius were dismissed as backward-thinking, ordinary creatures. However, in the last few decades, scholars have moved away from this pattern and have become more willing to take the republicanism of Augustus’ regime and his disavowals of monarchic power seriously, if not at face value.¹²

Roman politicians under Augustus’ principate continued to use oratory, delivering their opinions in the senate and participating as advocates in the courts, although *contiones* had been eliminated. The great show trials of the Republican period had been replaced by less spectacular affairs; as early as 52 BCE the time allotted to advocates and the number of advocates allowed had been restricted, but forensic oratory still provided a venue to aspiring politicians to earn some public acclaim and advance their careers, and even in those restricted circumstances Cicero had managed

⁹ *Res Gestae* 34.

¹⁰ Suetonius, *Life of the Divine Augustus* 7.

¹¹ Ronald Syme, *The Roman Revolution*, Revised (Oxford University Press, USA, 1939), especially the introduction.

¹² e.g. Kurt A. Raaflaub and Mark Toher, eds., *Between Republic and Empire: Interpretations of Augustus and His Principate* (Berkeley, CA: University of California Press, 1990).

to produce impressive speeches until the end of his life in 43 BCE. In the senate, the change was more subtle: again, the degree of control exerted by Augustus on the governing class is a matter of speculation, for the most part. Historians of the Roman empire, looking back on Augustus' reign, naturally saw him as an emperor, a monarch with total control over Rome's government, but only with the benefit of hindsight. Augustus was granted the right to sit between the presiding consuls in the senate, when he chose to attend; he was also given the power to address the people or the senate whenever he chose, and from 22 BCE had the right to introduce the first topic of discussion in any senate meeting. Whatever effect this had on his fellow senators, debate and discussion continued to be lively, and when trials of senators were transferred to the senate itself, some spectacles unfolded which were worthy of Ciceronian trials. Public oratory was hardly a lost art, even if conditions had changed.

With this historical background in mind, and especially in view of these interpretive problems, I turn to the primary sources.

CICERO

Cicero's *Brutus* is a history of oratory in the form of a dialogue: Cicero's friends, Atticus and Brutus, come to visit him at his home in 46 BCE. Normally they would talk about politics, but that topic has become too depressing, so Cicero's friends ask him to talk about oratory instead. He begins in Greece and lists great orators, then goes back and marks two moments as foundational moments in the history of oratory. The first is the career of Pericles in 5th-century Athens:

Sed tum fere Pericles Xanthippi filius, de quo ante dixi, primus adhibuit doctrinam; quae quamquam tum nulla erat dicendi, tamen ab Anaxagora physico eruditus exercitationem mentis a reconditis abstrusisque rebus ad causas

forensis popularisque facile traduxerat. huius suavitate maxime hilaratae Athenae sunt, huius ubertatem et copiam admiratae eiusdem vim dicendi terroremque timuerunt. haec igitur aetas prima Athenis oratorem prope perfectum tulit.

This (the mid-5th c. BCE) was the time of Pericles, son of Xanthippus, who I mentioned earlier. He was the first orator to show the signs of education – education in rhetoric did not exist yet, but he was trained by the natural philosopher Anaxagoras and easily transferred his mental fitness from esoteric and abstract topics to the courts and assemblies. Athens was especially delighted by the pleasure of listening to him, marveling at the richness and sophistication of his speech, and they also feared the force and power of his oratory. This first age of oratory at Athens, then, saw a nearly perfect orator. (*Brutus* 44)

Oratory, Cicero suggests, is much more than mere public speaking – or, more precisely, as we will see, the true orator is more than a person speaking in public. Pericles is the first *trained* orator, although his training was not in rhetoric *per se*; he was also an entertaining and effective speaker, insofar as his speech was both aesthetically appealing and capable of producing an intended action or opinion in his audience. In a treatise written soon after the *Brutus*, Cicero defined the eloquent man as someone who “speaks in the forum and for civil causes in order to prove, to delight, and to direct in a given direction” (*Or.* 69). It is the combination of information, entertainment or enjoyment, and persuasion which defines the Republican orator; any one of these abilities alone is insufficient.

Cicero goes on to identify a second foundational moment, the composition of the first rhetorical handbook or guide to techniques in oratory, by two Sicilians:

nec enim in constituentibus rem publicam nec in bella gerentibus nec in impeditis ac regum dominatione devinctis nasci cupiditas dicendi solet. *pacis est comes otique socia et iam bene constitutae civitatis quasi alumna quaedam eloquentia.* itaque, ait Aristoteles, cum sublatis in Sicilia tyrannis res privatae longo intervallo iudiciis repeterentur, tum primum, quod esset acuta illa gens et controversiae nata, artem et praecepta Siculos Coracem et Tisiam conscripsisse—nam antea neminem solitum via nec arte, sed accurate tamen et descripte plerosque dicere...

Neither among peoples still establishing a state nor among those waging wars nor among those hobbled and bound by the tyranny of kings does a desire for

public speaking usually arise. *Eloquence is a companion of peace, an ally of domestic quiet, the daughter, so to speak, of a well-established state.* Therefore, Aristotle says,¹³ when the tyrants had been expelled from Sicily and private property was reclaimed in the courts after a long period, it was then for the first time, because the Sicilians are a sharp-minded people born for debate, that the Sicilians Corax and Tisias codified the technique and rules of oratory – for before that, no one spoke in accordance with a certain method or technique, although many people spoke in a precise and well-organized way. (*Brutus* 45-6)

While Pericles provided an archetype for the orator in practice, Corax and Tisias invented the theory of oratory. Before the “art” had been invented, individual orators had certainly spoken effectively, but no science existed to analyze and systematize their techniques, or to enable aspiring orators to achieve the same effects through prescribed training. Corax and Tisias are particularly useful for Cicero because they allow him to make an explicit connection between democracy and oratory: Pericles was a great orator in a democratic state, but now Cicero can prove that this was not a coincidence.

Syracuse had been ruled by tyrants (in the neutral, literal sense of the word to describe a single ruler), and it was only when the city transitioned to a democratic government that the art of rhetoric was born, both because property disputes in court placed a higher demand on advocates, and because democracy unleashed the Sicilians’ natural proclivity for debate. Both Athens and Syracuse enjoyed peace, both externally and internally or domestically; both Athens and Syracuse were ruled by well-organized, stable institutions and laws; and both Athens and Syracuse were democratic. These, Cicero argues, are the necessary conditions for oratory’s birth – the “parents” of eloquence.

With this pattern established, Cicero turns to Roman history. However, while the Roman Republic was supposed to have been established in the 6th century BCE, Rome had to wait for the end of the third century to find an orator worthy of the name,

¹³ In the *de Sophisticis Elenchis* and probably in the lost work *Synagoge Technon*, an anthology of rhetorical handbooks and theories.

Marcus Cornelius Cethegus. It is Cethegus whom Cicero marks as Pericles' Roman counterpart, for like Pericles, Cethegus was known particularly for the "sweetness" of his oratory and was celebrated by contemporary poets as the favorite of the goddess Persuasion (57-9). Several centuries of democratic government had thus gone by before Roman oratory developed, but Cicero creates an earlier, admittedly tendentious link between democracy and speech in the figure of Lucius Brutus, who expelled Rome's last king:

veniamus ad nostros, de quibus difficile est plus intellegere quam quantum ex monumentis suspicari licet. quis enim putet aut celeritatem ingeni L. Bruto illi nobilitatis vestrae principi defuisse? qui de matre savianda ex oraculo Apollinis tam acute arguteque coniecerit; qui summam prudentiam simulatione stultitiae texerit; qui potentissimum regem clarissimi regis filium expulerit civitatemque perpetuo dominatu liberatam magistratibus annuis legibus iudiciisque devinxerit; qui collegae suo imperium abrogaverit, ut e civitate regalis nominis memoriam tolleret: quod certe effici non potuisset, nisi esset oratione persuasum.

(to his dedicatee, Marcus Brutus:) Let us turn to our own countrymen; there, it is difficult to know any more than can be inferred from monuments. Who could think that Lucius Brutus, the founder of your noble family, lacked mental quickness? After all, when he heard Apollo's oracle about kissing one's mother, he was clever and sharp enough to throw himself down upon the earth; he covered up the greatest wisdom with the pretense of stupidity; he expelled a powerful king, the son of a celebrated king, and bound the city, liberated from perpetual tyranny, with annual magistracies, laws, and courts; he terminated the command of his own colleague, Tarquinius Collatinus, to remove even the memory of a royal name from the city. He certainly could not have done this if he had not been able to persuade through oratory. (*Brutus* 53)

Based on Brutus' accomplishments, and anecdotes which attribute great wisdom and cleverness to him, Cicero argues that he must have been an effective speaker, if not an orator. Freedom and speech go together, he implies, but more specifically, speech was the original catalyst for freedom at Rome. The axiom that political influence depends on effective oratory and persuasion is questionable; Cicero suppresses the persuasive effect of factors like social class, patronage, and the use of military force in order to map Rome's tradition of public speaking onto the Greek model.

The real question, the elephant in the room throughout Cicero's dialogue, is a possible corollary: that the end of democracy will bring an end to oratory as well. In the dialogue, Cicero tries to steer clear of current events but occasionally erupts in outbursts of lamentation that "eloquence has become mute" (22), that his own voice has been silenced by the death of the republic (328), and that his protégé Brutus now lacked an arena for his own promising career in oratory (331-2). Closely related to this anxiety is Cicero's grief at the loss of his fellow orators who have either died in the recent civil war or been exiled for their part in it. The dialogue begins and ends with Hortensius, who had been acclaimed Rome's greatest orator before Cicero dethroned him: in 70 BCE the young Cicero prosecuted Verres, whom Hortensius defended, and won his case. In later cases, the two became friends and even collaborated in several trials; Hortensius and another advocate would speak first and present the details of the case, and Cicero would deliver a rousing, emotionally stirring concluding speech. Cicero reminisces that "it was more glorious to have competed against such a man than to have no rival at all" (3) and gives thanks to fortune that Hortensius died before the war broke out and so did not witness the fall of the republic (1-9, 328). Rivalry, for Cicero, was a positive aspect of republican oratory: he, Hortensius, and their fellow orators pushed each other to excel through healthy competition. That competition, the spirit of rivalry and debate, embodied the pluralism of a republican government, which was now displaced and oppressed by the one-man rule of Caesar. The loss of these orators weighs heavily on Cicero, not only because of his relationships with those individuals, but also because no new leaders have risen to take their place, and so discourse no longer plays a role in the governing of the city. In that respect, Cicero does not see Caesar as the real problem for oratory: it was the outbreak of the war itself, the triumph of violence over diplomacy, that resulted in the enervation and muteness of public speech.

The end of the *Brutus* does leave some room for hope that oratory will be revived, and in fact, Cicero himself was the one to revive it: only months after composing the dialogue he delivered a new series of speeches, known as his Caesarian orations, and after Caesar's assassination he delivered his famous *Philippics*, fourteen speeches denouncing the would-be tyrant Mark Antony and proclaiming the liberation of the Roman Republic. Still, the connection between democracy and speech, and perhaps even more so the link between tyranny and silence, resonates with our modern conceptions of the freedom of speech, at least in the West. Now, as then, not everyone could make their voice heard or command an audience; but for those who could, the right to use speech to influence collective decision-making and political action was the hallmark of a free, functioning democratic society.

TACITUS

Over a century later – the exact date of composition is unknown, but must have been after the date at which the dialogue was set, in 75 CE – Tacitus composed his *Dialogue on Orators*, modeled on Cicero's *Brutus* and on his dialogue *On the Ideal Orator*. Before the dialogue begins, Tacitus provides an introductory prologue in his own voice, a response to an addressee's imagined question:

Saepe ex me requiris, Iuste Fabi, cur, cum priora saecula tot eminentium oratorum ingeniis gloriaque floruerint, nostra potissimum aetas deserta et laude eloquentiae orbata vix nomen ipsum oratoris retineat; neque enim ita appellamus nisi antiquos, horum autem temporum disertis causidici et advocati et patroni et quidvis potius quam oratores vocantur.

"You often ask me, Justus Fabius, why it is that while previous generations flourished with such talent and glory among eminent orators, our generation in particular is deserted and bereft of any reputation for eloquence, and scarcely even retains the name "orator." For we do not call anyone that except the

ancients; these days articulate men are called “lawyers, “advocates,” “courtroom patrons,” or whatever else rather than “orators.” (*Dial.* 1)

From the beginning, then, Tacitus announces that the art of oratory has been, at least in part, lost in the imperial period: no modern speaker has earned the label of “orator,” with its connotations of artistic achievement and persuasive efficacy. He then introduces the circumstances of the dialogue, a conversation he witnessed among Rome’s leading speakers. Tacitus’ work has three main interlocutors: Marcus Aper, an advocate of the modern (i.e. imperial) style of oratory; Vipstanus Messalla, a proponent of Cicero and the classics; and Curiatus Maternus, a poet and tragedian who also criticizes modern oratory. Aper speaks first, and makes it clear that oratory is still an honorable profession and is still very much in use among Rome’s political elites. He praises the nobility of an art which allows its adherents to defend their friends, fight back against their enemies, and lift up the downtrodden. Moreover, while he acknowledges that tastes in imperial oratory are vastly different from Ciceronian or even older styles, he believes that the new style is superior; orators are less long-winded and more entertaining, because their audiences are more sophisticated and know more about rhetoric themselves.

Aper’s speech, however, never has much of a chance to persuade us; he represents a kind of devil’s advocate, doomed to failure by the pessimistic view of decline established in Tacitus’ prologue. When he urges Maternus to give up poetry and return to the higher calling of oratory, Maternus declines:

ego autem sicut in causis agendis efficere aliquid et eniti fortasse possum, ita recitatione tragoediarum et ingredi famam auspicatus sum, cum quidem tñ Nerone inprobam et studiorum quoque sacra profanantem Vatiniū potentiam fregi... Nemora vero et luci et secretum ipsum, quod Aper increpabat, tantam mihi adferunt voluptatem, ut inter praecipuos carminum fructus numerem, quod non in strepitu nec sedente ante ostium litigatore nec inter sordes ac lacrimas reorum componuntur, sed secedit animus in loca pura atque innocentia fruiturque sedibus sacris. haec eloquentiae primordia, haec penetralia; hoc

primum habitu cultuque commoda mortalibus in illa casta et nullis contacta vitiis pectora influxit: sic oracula loquebantur. nam lucrosae huius et sanguinantis eloquentiae usus recens et ex malis moribus natus, atque, ut tu dicebas, Aper, in locum teli repertus.

For my part, perhaps I can achieve something pleading cases and struggling, but I first achieved fame by reciting tragedies, when I broke the sinful tyranny of Vatinius in my *Nero* when he profaned the rites. ... Those groves and glens [of poetry], the hiding place which Aper criticized, brought me so much pleasure that among the greatest benefits of poetry, I count the fact that poems are not composed amid shouting, or with some litigant sitting before my door, or among the pitiful mourning clothes and tears of defendants; my soul withdraws into pure, innocent spaces, and delights in its sacred abode. This is the original home of eloquence, its shrine; in this guise and form it first flowed into honest hearts untouched by any vices, a pleasure to mortals; thus the oracles spoke. The more recent practice of eloquence for money and blood was born from evil characters and, as you said, Aper, is used in place of a weapon. (*Dial.* 11.2-12.2)

Poetry brings greater fame, greater pleasure, greater power in demolishing one's political enemies, and greater virtue; modern oratory deviates from its ancient roots, *lucrosa* and *sanguinans*, profit-seeking and bloodthirsty. The second adjective recalls Tacitus' account of orators known as *delatores*, whom he describes in his *Histories* and *Annals*: these *delatores*, "informers," were usually social climbers who made careers for themselves by accusing senators of treason against the emperor, hence Maternus' accusation that modern speakers used eloquence "in place of a weapon." Although informers existed under the Republic as well, Tacitus casts them as a symptom of the growing tensions between emperor and senate in the imperial period, and so a sign of decline in the normal functioning of government. While the great men of the republic used oratory to defend their fellow citizens and see justice done, these ambitious imperial orators used their degraded version of oratory to bring down honorable, high-status individuals, overturning the proper order of things.

After this initial exchange between Maternus and Aper, Messalla arrives on the scene; unaware of the preceding conversation, he launches into a tirade against modern oratory, which he says has declined as a result of a decline in morals more generally.

Parents don't educate their children properly, teachers keep their students in the classroom too long in order to extort more tuition money, and their schools prize entertainment and spectacle over real-world practicality and persuasion (*Dial.* 25-35). This has little or nothing to do with government, and Messalla does not attach any particular date to this decline. He follows Aper in defining the classical period of oratory as the age of Cicero, but gives few criteria for distinguishing imperial from republican oratory otherwise. Messalla's argument is a familiar one: iterations of it appear in many imperial texts, including the *Satyricon*, Seneca the Elder's *Controversiae*, and probably in Quintilian's lost treatise *On the causes of the decline of eloquence*, to name a few. This lament for the decline of oratory had become a cliché by the time Tacitus composed his dialogue, and he makes no effort to bring nuance to the argument; Messalla's opinion, too, falls short of persuasion. In fact, Tacitus' own career proves Messalla's error: at the time of the dialogue, he tells us in his prologue, he was apprenticed to two of the orators present. Messalla decries the methods of modern education, claiming that the old method of apprenticeship had been abandoned, while readers know that Tacitus himself had embarked on just such an education and would become a great orator in his own right.¹⁴

Finally, unsatisfied with Messalla's explanations, Maternus gives another speech; sections of the manuscript have been lost at this point, but in what remains, Maternus gives a thoughtful, original variation on the narrative of oratory's decline. Specifically, he correlates the freedom of the republic with the height of oratory, but not for the same reasons as Cicero:

magna eloquentia, sicut flamma, materia alitur et motibus excitatur et urendo
clarescit. eadem ratio in nostra quoque civitate antiquorum eloquentiam
provexit. nam etsi horum quoque temporum oratores ea consecuti sunt, quae

¹⁴ cf. D. S. Levene, "Tacitus' 'Dialogus' as Literary History," *TAPA* 134 1 (2004): 195.

composita et quieta et beata re publica tribui fas erat, tamen illa perturbatione ac licentia plura sibi adsequi videbantur, cum mixtis omnibus et moderatore uno carentibus tantum quisque orator saperet, quantum erranti populo persuaderi poterat. ... quae singula etsi distrahebant rem publicam, exercebant tamen illorum temporum eloquentiam et magnis cumulare praemiis videbantur, quia quanto quisque plus dicendo poterat, tanto facilius honores adsequeretur, tanto magis in ipsis honoribus collegas suos anteibat, tanto plus apud principes gratiae, plus auctoritatis apud patres, plus notitiae ac nominis apud plebem parabat. ...

Great eloquence, like a flame, is nourished by its material, is stirred up in tumult, and grows brighter in burning. This same process also advanced the eloquence of the ancients in our city. For although the orators of today pursue what is possible in a state which is orderly and peaceful and blessed, in that time they seemed to attain more through disturbance and lack of control, and when everyone was in a frenzy and in need of a single moderator each orator knew only as much as he was able to make a straying populace believe. ... Even though each of those things helped to tear the republic apart, they still gave exercise to eloquence in those times and seemed to pile on great rewards, since the more oratorical ability each man had, the more easily he seemed to be able to earn offices, surpass his peers in those offices, and obtain more favor among the leading citizens, more influence among the senators, and more fame among the plebs. (*Dial.* 36.1-4)

In Maternus' vision, eloquence literally burned itself out, consuming the republic along with it; oratory did indeed peak at the end of the republic, not coincidentally but because the republic imposed no limits on the heights politicians could reach through ambition and popularity, or on the means they used to ascend. Echoes of Cicero's theory remain, but in a darker form: eloquent orators earned fame and authority through persuasion, and competition spurred leading orators to excellence; but from Maternus' perspective, these things were not goals in themselves but only the means to acquire more concrete *praemia*, rewards or prizes. *Licentia* is the key word here: it is the dark side of *libertas*, freedom in excess. While *libertas* denotes the status of a non-slave, a non-subject, a citizen free from tyranny or domination of any kind, *licentia* indicates anarchy, a total lack of order or limits, and can include a whole range of private and public behaviors from sexual voracity and excessive drunkenness to a lack of respect for

traditional political institutions.¹⁵ While Cicero mourned the loss of *libertas* which came with Caesar's regime, Maternus suggests that it was *licentia* which had been taken away, and that eloquence was a necessary sacrifice to ensure the stability and peace of the principate.

Maternus spells this out more explicitly at the end of the dialogue, and even quotes Cicero directly to make it clear that his view differs from the great orator's:

Iam vero contiones assiduae et datum ius potentissimum quemque vexandi atque ipsa inimicitarum gloria, cum se plurimi disertorum ne a Publio quidem Scipione aut <L.> Sulla aut Cn. Pompeio abstinerent, et ad incessendos principes viros, ut est natura invidiae, populi quoque tet histriones auribus uterentur, quantum ardorem ingeniis, quas oratoribus faces admovebant. non de otiosa et quieta re loquimur et quae probitate et modestia gaudeat, sed *est magna illa et notabilis eloquentia alumna licentiae, quam stulti libertatem vocitant, comes seditionum*, effrenati populi incitamentum, sine obsequio, sine severitate, contumax, temeraria, adrogans, *quae in bene constitutis civitatibus non oritur*. ...sed nec tanti rei publicae Gracchorum eloquentia fuit, ut pateretur et leges, nec bene famam eloquentiae Cicero tali exitu pensavit.

In fact, all those *contiones* and the unlimited right they had to vituperate any powerful man they wanted, and the very glory of feuds – most articulate speakers did not even hold back from Scipio Africanus, or Lucius Sulla, or Gnaeus Pompey, and even stage actors assailed people's ears with attacks on leading men, such is the nature of envy – how much heat these things gave to men of genius, what torches they handed to orators! We are not talking now about a peaceful and quiet state which rejoices in honesty and modesty; *that great and distinguished eloquence is a child of anarchy (which fools call freedom), a companion of revolutionaries*, a spur to an unbridled populace, without respect, without discipline, willful, rash, arrogant, *which does not arise in well-constituted states*. ...But the eloquence of the Gracchi was not worth enough for the republic to follow their laws as well, and Cicero paid an unfair price for his fame in eloquence with such a death. (*Dial.* 40.1-4)

The lines emphasized here are a conscious manipulation of the Ciceronian passage on p. 9 (relevant lines emphasized there as well): eloquence is not a child of “a well-established state” but of *licentia*, and does not arise in well-constituted states. She is a

¹⁵ A joke at Cicero's expense may lurk in the word: in 58 his rival Clodius forced Cicero into exile for executing Roman citizens, the co-conspirators of the seditious Catiline, without trial; Clodius then razed Cicero's house to the ground and erected a temple of *Libertas* on the site to celebrate the departure of the “tyrant.” Cicero, when his allies reasserted their power and allowed him to return in safety, showed his scorn for Clodius' motives by suggesting that Clodius should have been more candid and named the temple for his most prominent quality: *Licentia* (*Dom.* 132).

companion of discord (*comes seditionum*) rather than a companion of peace (*pacis comes*). “Well-constituted,” of course, is a matter of opinion: the emperors’ regimes are not necessarily superior or inferior, or more or less well-established, than the republic. It is significant, I think, that Maternus focuses on *contiones*: for one thing, *contiones* no longer existed under the principate, and so represented a concrete change. More importantly, it was not Cicero but his rivals, the *populares*, who exploited these assemblies and used the demagogue’s methods to create their careers, gaining notoriety rather than glory, in Cicero’s view. This was the context that created Cicero’s eloquence, for he was forced to respond to these demagogues with even more impressive orations, but Maternus argues that this was not an achievement worth dying for. It is not Cicero’s eloquence but that of the *populares* which tore the republic apart; to put the state back together apparently required the death of both. Maternus’ correction of Cicero implies that the republican orator’s view of freedom is naïve, and that the peace and stability of Rome under the emperors has proven a superior form of government. It captures the nature of rhetoric as a double-edged sword: as the effective communication of sincerely held, ethically just beliefs, it is a positive social force, but in its guise as seductive verbal trickery in the service of the orator’s political ambitions, rhetoric promotes entropy rather than order.

But Maternus’ critique of attacks on such great men as Scipio, Sulla, and Pompey the Great seems incompatible with his own earlier speech, in which he reveled in the power of his own poetry to take down a similarly powerful politician, Vatinius. Likewise, it seems impossible for the same man to praise the principate and to write a subversive tragedy, *Cato*, as Maternus says he has done. Cato (Marcus Porcius Cato Uticensis, or Cato the Younger) was a contemporary of Cicero and Caesar who fought against Caesar in the civil war. When his army was defeated in Africa, he committed

suicide rather than live under the rule of a tyrant, and so became a kind of martyr for the republic.¹⁶ Thus, Maternus' choice of a subject for his tragedy implies a spirit of republicanism and criticism of the principate, which his last speech contradicts. Most scholars have therefore read Maternus' speech as ironic, assuming that his "praise can be read only as its own opposite."¹⁷ This may imply that Maternus' speech, through its patent insincerity, draws attention to the dangers of telling the truth about the freedom of speech under the emperors. His audience within the dialogue includes an aspiring *delator* and the brother of a famous *delator*, who could pose real danger to him by reporting treasonous conversation.¹⁸ The external audience, too, represents a potential threat to Tacitus, and so Maternus' choice of political correctness also protects the author.

In her chapter on the *Dialogue on Orators*, Shadi Bartsch has argued that Maternus' final speech should be interpreted as double-speak, open to two viable interpretations at once. If the speech were purely ironic, she suggests, it would have no ring of truth and would be completely subversive; as it is, the speech can be read as sincere praise of the rule of the emperors, and so has two (or more) interpretive possibilities.¹⁹ This makes subversive literature at Rome a matter of plausible deniability: if a work can be interpreted as praise, the emperor will take it to be such. Or, if the emperor perceives the irony, it can be dismissed as a sign of regal paranoia, and the monarch has more to lose by revealing the irony than by collaborating in its concealment. The poet, then, enjoys certain liberties which the orator no longer has; in the character of Maternus, Bartsch (and others) argue, we see an implicit link between

¹⁶ Through a eulogy by Cicero penned shortly after the *Brutus*, and in other works.

¹⁷ Shadi Bartsch, *Actors in the Audience: Theatricality and Doublespeak from Nero to Hadrian* (Harvard University Press, 1994), 115; Levene, "Tacitus' 'Dialogus' as Literary History," 186–7.

¹⁸ Bartsch, *Actors in the Audience*, 115.

¹⁹ *Ibid.*, 111–116.

the republican figure of the orator and the imperial poet: the imperial poet, unlike contemporary orators, has freedom of speech and can challenge the powers that be through literature, as republican orators did.²⁰ The resemblance is only a vague one, however; the poet, after all, achieves dissent through metaphor, metonymy, and implication, while the orator attacks directly, by Maternus' own account.

CONCLUSION

Whatever interpretation readers have preferred, the contradiction between Maternus' first and last speeches was certainly intentional, and provides hints of the author's own perspective on oratory. Tacitus, as I have mentioned, was an orator himself; his friend Pliny the Younger praises his achievements as an orator in his letters (*Ep.* 7.20). Yet Tacitus turned away from oratory and began to write his famous historiographical works, suffused with cynicism, anti-imperial sentiment, and bitter resentment of the theft of freedom which the emperors, to him, had perpetrated. Like Maternus, he finds eloquence degraded in the modern era, and forsakes his own talent for it by turning to another genre as a substitute where one can express one's true feelings. In fact, Aper's rebuke of Maternus for giving up oratory recalls Tacitus' work as well: Aper tells Maternus that "your offense cannot be excused on the grounds of the bonds of friendship, the loyalty of an advocate, or the impetuosity of a chance or sudden speech; you seem to have given thought to choosing a noteworthy person who would speak with authority" (10.6).²¹ The "noteworthy person" is Cato, the star of Maternus' tragedy; but this assessment also fits Tacitus' *Dialogue*, for which he consciously chose the leading orators of his early years as the interlocutors. An advocate can claim to be defending his client merely out of compassion or obligation, as

²⁰ *Ibid.*, 118–121.

²¹ "nec excusatur offensa necessitudine officii aut fide advocacionis aut fortuitae et subitae dictionis impetu: meditatus videris [aut] elegisse personam notabilem et cum auctoritate dicturam."

Maternus and Tacitus knew, but poetry and history did not offer the same excuses, and so represented a more perilous but also a more politically effective choice of genre. From this angle, oratory may still be alive as an art, but those with natural talent choose other paths because of its decreased political relevance, and so the art as a whole suffers.

In some respects, Tacitus' career thus bears out the notion that oratory had declined. But at the same time, the *Dialogue* forces readers to question the truth of that narrative of decline and the mythology of republican freedom of speech in the first place. Maternus' account of *licentia*, of *eloquentia* which burned brightly until it consumed itself, is a plausible interpretation of oratory's role in the end of the republic, even if it is not plausible that Maternus would agree with it. Joy Connolly describes the culture of imperial oratory as founded on the belief that politics had once rested on the competition for glory under the republic but no longer did, "a belief whose elements of fantasy do not negate the social effects that rise from it."²² Moreover, at the time of the dialogue, Tacitus is apprenticed to an orator, in training to become one himself, and he put enough effort and talent into the pursuit to win considerable acclaim and reach the consulship. He also composed his *Dialogue* in the style of Cicero, a style very different from that of his histories, and based it on two treatises by the most famous orator of the republican period.

Like Cicero's *Brutus*, then, Tacitus' *Dialogue* is pervaded with anxiety over the end of a genre, but leaves the possibility open that the end has not actually come. In Cicero's work, this was unintentional; later readers knew that he would return to oratory, and so he unwittingly disrupted his own narrative after writing the *Brutus*.

²² Joy Connolly, *The State of Speech: Rhetoric and Political Thought in Ancient Rome* (Princeton, N.J.: Princeton University Press, 2007), 255.

Tacitus, however, knowingly complicates his narrative; his readers know that he is an orator, and that he is reviving Cicero's oeuvre, even as he suggests that oratory is gone. Each of these two authors is writing a history of oratory while still living that history, waiting for his fate as an orator to fully unfold, and ultimately unwilling to pronounce the subject closed. Neither Cicero nor Tacitus witnessed the crucial period in which republic was transformed into principate: Cicero died before Octavian became *princeps*, and Tacitus was not born until the reign of Claudius or Nero, generations after Augustus' death. In that sense, neither could really know how oratory had changed in that period, and their shared admiration for the idealized tradition of outspoken orators at Rome created intense anxiety over whether they could achieve the same excellence in different political circumstances. For both, oratory was not only a literary genre but a way of life and an identity which was threatened by undemocratic regimes, and their sense of loss has less to do with the actual change of the genre and more to do with their nostalgia for an ideal which may never really have existed in the first place.

In conclusion, there are a few take-away points I want to emphasize. The first is that Maternus' last speech on *licentia* is a compelling counterargument against the prevailing view of the freedom of speech in the West, even if it is by no means a straightforward one in the larger context of the dialogue. The speech points to the problem of distinguishing useful or constructive rhetoric from its deceitful, destructive sibling, a much larger conundrum. The second is that these two texts present historical narratives dealing with a literary genre, but they are highly rhetorical, complex, polyphonic narratives which demand that careful readers take a closer look at old, clichéd beliefs about oratory and government. Both Tacitus and Cicero present an idealized view of the past – sometimes through irony or doublespeak, in Tacitus' case – and associate free speech, liberty through oratory, with the Republican past. This

constitutes a kind of myth of origins: the true republic, the original republic, was the birthplace of oratory and the context in which it flourished. The perceived decline from that ideal produces nostalgia along with a dystopian view of the present by comparison. Even while this powerful desire for the past condemns imperial oratory to be seen as inevitably inferior to its republican antecedent, imperial oratory exists, and even thrives in the hands of less self-aware, or perhaps less insecure, contemporaries of Tacitus. To attribute this inconsistency to a lack of objectivity or rigor in each author's methods would be unfair as well as reductive, and would defeat the purpose of structuring each work as a dialogue: we are not meant to perceive any single authoritative version of history, and in the end, that indeterminacy may actually result in a more accurate account of history as it was lived and experienced.

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