

Chapter 5

De Oratore* and the Development of *Controversia

“Since a wise man can be mistaken, and a hundred men, and many nations, yes, and human nature according to us is mistaken for many centuries about this or that, what assurance have we that sometimes it stops being mistaken, and that in this century it is not making a mistake?”

Montaigne, “Apology for Raymond Sebond”

“As for Cicero himself . . . [he] was without obligation to any party, following what seemed probable to him now in one sect, now in another, keeping himself always in Academic doubt.”

Montaigne, “Apology for Raymond Sebond”

When teaching Cicero’s *De Oratore*, I begin by asking my students to cite a favorite passage in the dialogue. There are usually some standard choices: the outline of the three duties or offices of rhetoric (2.29.128-30), Antonius’ method of invention by impersonation (2.24.102-3), and invariably Crassus’ denunciation of “the absurd and unprofitable and reprehensible severance between the tongue and the brain, leading to our having one set of professors to teach us to think, and another to teach us to speak” (3.16.61).¹ These are all weighty moments, and they usually lead to engaging class discussion.² When my turn comes to cite a favorite passage, however, my choice routinely meets with stares and silence. For I choose an inconspicuous moment at the outset of the dialogue when Scaevola, a relatively minor character, contradicts the impassioned opening statement of Licinius Crassus, the man whom Cicero calls the most illustrious orator of his day (*Brutus* 38.143).

The circumstance is this: Crassus has just delivered a stirring epideictic on the power of discourse to gather scattered humanity into one place and “to lead it out of its brutish existence in the wilderness up to our present condition of civilization” (1.8.33). Crassus here is the voice of emergent humanism, the Isocratic patriot at the head of an evolutionary ascent from ignorance to eloquence, the mouthpiece of Cicero himself. Nonetheless, as soon as Crassus has finished his encomium on eloquence, Scaevola responds with a courteous but serious challenge to each claim in Crassus’ high-minded thesis. For all your eloquence, says Scaevola, you carry your argument too far. My own response to this fleeting moment is that it is not only a stunning *peripeteia*, or reversal of expectation, but that it is also a dramatic announcement at the outset of the dialogue that—in the realm of rhetoric and for the practice of argument—no position is sacrosanct, everything must be argued, for there are always two sides, or more, to every question and we should always be prepared *in utramque partem*, to examine all sides of the case.

In response to this initial *peripeteia* (or peritrope), Crassus himself proceeds to turn the tables on Scaevola, only to have his own eloquent arguments, in turn, repeatedly questioned and routinely rebutted by others throughout the dialogue. Such reversals are an engaging part of the drama of *De Oratore*; they are also, as readers of Part I will recognize, standard elements in the arsenal of antilogic. But like so many other parts of the Greek *paideia*, antilogic has now changed names. In Rome, argument by contraries is called *controversia*; and in the three centuries from Antiphon to Crassus, a variety of modifications in its theory and practice have naturally taken place. This is the Hellenistic period, traditionally set from the death of Alexander in 323 BCE to the defeat of Anthony by Octavian and the advent of the Roman Empire in 31 BCE. Beyond the momentous political events of the age, this is also an active time for philosophy, with the development of Stoicism, Epicureanism, and scepticism and a dominant role for philosophy in advanced education. Despite changing times and practices, however, argument in the *De Oratore* is clearly consistent with the antilogical principles and patterns outlined in Part I; i.e., we can readily identify the invocation of the *dissoi logoi* (divided or opposing claims); the incorporation of multivocality, oppositionality, and dynamism; the dialogical patterns of give-and-take; the suspension of judgment; the concern for practical ethics and pragmatic results; and, above all, the framework of probable knowledge and prudential judgment that structures the entire process. Indeed antilogical *techne* and *praxis* are in play not only in the *De Oratore* but throughout Cicero’s mature philosophical corpus. In these works (especially the main group of 44-43 BCE), Ciceronian inquiry invariably proceeds in what we

can call the “controversial” manner; i.e., by critical juxtaposition, often in dialogue, of the multiple views that fill out the landscape of opinion on the topic at hand.³

Kenneth Burke writes that his own primary purpose in *The Grammar of Motives* is to “express an *attitude* toward language embodied in a *method*” (1969, 441). In Cicero, the “attitude” toward language and argument that we studied in Part I is intact, but its methods are refined. Heretofore, we have dealt only with excerpts of argumentative practice, limited illustrations of this or that antilogical strategy. With the *De Oratore*, we are presented with a full-dress performance by one of history’s great rhetors. Consequently, we have an unparalleled opportunity to take stock of our subject in detail. In this chapter, then, we move not only from Greece to Rome but also from general overviews to focused critical scrutiny, to an account of ancient *controversia* that I hope captures the subtlety of the art as practiced by a master. In particular, we will concentrate on Book I of the *De Oratore* because that is the site of the most consistent dialogical interaction among characters. There are additional, interesting developments of *controversia* in Book III that we will also examine, though in Books II and III the major speakers (Antonius and Crassus, respectively) hold forth in more-or-less uninterrupted fashion (see 2.4.16). But in Book I, with its regular shifts between speakers and reversals of position, we can focus on the discursive relations among characters, on patterns of assertion and response, defense and revision, on the accommodation of one speech (or *logos*) by another, and on the *praxis* of *controversia* in concrete detail. In sum, it is in the episodes of argumentative exchange, when rhetors must not only “render” their own *logos* but also “receive” and respond to that of their interlocutors, that the Ciceronian attitude and method are most notably on display.

However, my purpose in this chapter is not simply to analyze a distinguished rhetorical model. My interest is also and fundamentally pedagogical: I will argue that Cicero’s pedagogical stance, as represented by the dialogue’s leading figures, is uniquely compatible with his rhetorical theory and particularly instructive for contemporary teachers of argument. This argument (along with that of the next chapter on Quintilian) marks a definite shift toward the pedagogy of our subject. The Protagorean program is clearly informed by pedagogical concerns (see Ch. 2, sec. 1), while the dissemination of the Greek *paideia* is, in large part, a pedagogical event, with Greek teachers of rhetoric and philosophy transporting the new learning throughout the Mediterranean. But in Rome, pedagogy becomes increasingly formal, and rhetoric itself increasingly identified with its pedagogical manifestations (for reasons I will note). This growing attention to pedagogy, its historical significance, and the role of *controversia* in the

process will become a central theme of Part II. At present, however, we must prepare for a change in the protagonist of *Many Sides*, for antilogic is about to re-enter with a new name and costume. And, as is characteristic of intellectual drama, the set is arranged and the prologue best spoken by history itself. So, before we explore the attitudes, methods, and pedagogy of *controversia* as these are developed in the *De Oratore*, it will help to look briefly at the developing history of the controversial method. For behind the practice of argumentation at work in the *De Oratore* stands Protagoras and the Sophistic tradition of arguing both sides, and between Sophism and Cicero comes the complex history of Hellenistic philosophy. Taken together, these influences provide a backdrop for the rhetorical restoration enacted by Cicero.

1. FROM ANTILOGIC TO *CONTROVERSIA*

According to M. R. Wright, the young Cicero translated Plato's eponymous dialogue on Protagoras, though there is little sustained discussion of the great Sophist in Cicero's mature canon (1991, 1).⁴ Nonetheless, the line of continuity is there, both in terms of the theory of knowledge that underwrites speculation about discourse and the discourse method that follows from this theory. The Protagorean influence is, of course, mediated by almost four centuries of intellectual history and muted by the absence of Protagorean texts, even in the age of Cicero. So, before we survey the relevant events of these Hellenistic centuries, it may help to remind ourselves of the main tenets of Protagoreanism so that we can trace the often obscured lines of its influence through various post- Sophistic permutations.

Diogenes Laertius lists some fourteen books by Protagoras (ca. 490-420) on subjects ranging from philosophy to government, theology to mathematics (*DK* 80 A1).⁵ None of these works has survived, though Protagoras himself remained well-known as the originator of the *homo mensura* doctrine, the anti-foundational theory that concentrates on the relation of individual perception to the nature of knowledge (*DK* 80 B1; see Guthrie 1969, 3.187). In the absence of *ipsissima verba* (Protagoras' own words), I have interpreted the human-measure doctrine to mean that knowledge is relative to the source or perspective from which it is derived and that different perspectives on the same experience will yield different (re)constructions of that experience. And, according to the Protagoras of Plato's dialogues, this variability in our perceptions does not imply the naïve belief that all views are equal. Rather, while human perceptions of the real and true are always contingent and while one perspective may not be "truer"

than others by universal, invariant standards, one *logos* can, nevertheless, be distinguished from among the alternatives as more useful or advantageous given particular circumstantial conditions (*Protagoras* 334b, *Theaetetus* 167b). When the epistemological pragmatism of this doctrine is translated into discursive practice, the result is an approach to argument based on the recognition that if knowledge is local and partial, knowing subjects will naturally produce opposing claims (*antilogoi*) and that some of these oppositions can be equally well defended. As Diogenes Laertius puts it, Protagoras was “the first to say that on every issue there are two arguments opposed to each other” (*DK* 80 A1). The practice that follows from this famous maxim is a form of argument in which comparative reasoning determines the greater or lesser efficacy of competing claims, arguments, perspectives, *logoi* by examining them in relation to one another. Moreover, antilogical practice maintains that by purposefully placing opposing claims in juxtaposition rhetors can not only minimize the unfair advantage of a conventionally stronger position but also generate a consensually supported proposition that both adjudicates conflict and leads to prudent action.

Between the ages of the first Sophists and Cicero (106-43 BCE), argumentative practice is routinely adapted to changing perspectives and conditions (see Buckley 1951; Hankinson 1995; Long 1955, 1974; McKeon 1950). And while the historical record is thin, there is enough evidence from Cicero and others to argue that antilogic, along with dialectic (its methodological “counterpart”) are the original models for emerging forms of disputation that develop in concert with the philosophical controversies of the Hellenistic age. The range of these controversies extends to virtually every field of knowledge (ethics, nature, politics, religion, epistemology, etc.), and competing voices include numerous, minor schools of thought, along with the Stoics, Epicureans, and Academics. The theoretical complexities that issued from these debates required sophisticated procedures of reasoning in order to weigh the lines of thought and locate the position that elicited the greatest confidence. In Cicero’s mature view, such reasoning was best governed by “considerations of probability and practical significance” (McKeon 1950, 55).⁶ This emphasis on probable reasoning and practical standards echoes the Protagorean perspective, but only indirectly because (as noted) the works of Protagoras are no longer available in the first century BCE. For direct support in his theoretical and discursive practices, Cicero turns most consistently to what Michael Buckley calls the “operational procedures” of the Hellenistic Academy, whose dominant figures following Plato and Aristotle are Arcesilaus in the third-century BCE and Carneades in the second (1971, 148).⁷

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Mendelson, M.

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