

THE STRUCTURAL PEDIGREE OF CICERO'S SPEECHES
PRO ARCHIA, *PRO MILONE*, AND *PRO QUINCTIO*

This note is an attempt to define the boundaries of tradition and originality in Cicero's use of one argumentative form. Cicero structures the *argumentationes* of three speeches, *Pro Archia*, *Pro Milone*, and *Pro Quinctio*, around the argument that (a) his client's case satisfies the strict legal requirements for judgment in his favor, and that (b) even if his client's case failed to satisfy these requirements, judgment should still be in his favor. *Pro Archia*, defending Archias' claim to Roman citizenship, is built around the argument (stated in section 4) that Archias is a citizen (4–11, including the *narratio*), and that, even if he were not a citizen, he should be made one (12–30). In *Pro Milone*, Cicero argues that Milo did not perpetrate the murder of Clodius (30–66), then argues that, even if he had murdered Clodius, he should be acquitted (72–91). In *Pro Quinctio*, Cicero's earliest published speech, we find his only experiment with a three-part form of the argument (36). He must show that Quinctius has never had his property given into the custody of another as surety for his debts, and thus has not suffered any loss of civil rights. The propositions are, in effect, (1) that there was no reason for Naevius to ask the praetor for custody of Quinctius' property (37–59), (2) that, even if there had been such a reason, Naevius could not legally take custody of Quinctius' property under the circumstances (60–85 to the lacuna), and (3) that, even if Naevius had been able legally to take custody of Quinctius' property, he did not obtain that custody (on 85, Severianus in *RL* 363. 20).¹

This device is only treated by the rhetorical theorists in its bipartite form, and is nowhere mentioned before Quintilian's remarks on the *Miloniana* (*Inst.* 4. 5. 13–17). On the other hand, a search for antecedents leads one to the fifth-century treatise on nature by Gorgias (Diels-Kranz 82B1–5). Dated by Olympiodorus to the eighty-fourth Olympiad, or 444–441 B.C. (D.-K. 82B2), this famous self-advertisement for the arch-teacher of persuasion is said by Sextus Empiricus (D.-K. 82B3) to have had the following curious argumentative structure: (1) nothing exists, (2) even if it did, it could not be perceived, (3) even if it could be perceived, that perception could not be communicated. This is the same tripartite form of the device which will recur, *mutatis mutandis*, in the *Pro Quinctio*. Several examples of the bipartite form are provided by the Attic orators, although they do not use the device as the organizing principle of any speech. There are two examples in the orations of Antiphon, another in the

1. Thus A. Michel, *Rhétorique et philosophie chez Cicéron* (Paris, 1960), pp. 158–70. See also T. E. Kinsey's commentary, *M. Tulli Ciceronis "Pro Quinctio Oratio"* (Sydney, 1971), pp. 3–6, 108–96. Michel argues that the device is the oratorical manifestation of the Aristotelian dialectical method of weighing probabilities by making the strongest case on both sides of a question. He points to the importance attributed to the Aristotelian method by Crassus in *De or.* 3. 21. 80 ("sin aliquis exstiterit aliquando, qui Aristotelio more de omnibus rebus in utramque partem possit dicere . . ."), and decides that the device is simply an example of this method in an oratorical context: thus he christens it "argumentum in utramque partem." But while "in utramque partem dicere" certainly means to argue either side of a question, it does not mean to argue either side in the course of the same speech. Michel can adduce no direct evidence that the Aristotelian dialectical method, or Cicero's own rhetorical theory, anywhere prescribes the orator's tactic of pleading that his opponent's claim is invalid, then arguing that, even if it were valid, it would not affect the issue.

Tetralogies, two examples in Lysias, three in Isaeus, and thirteen in the Demosthenic corpus.² Although evident in the oratorical tradition, the device may not have originated there; there is at least one example in Herodotus.³

Cicero adopts this venerable argumentative form with enthusiasm. For reasons which remain uncertain, the simple bipartite form of the device occurs much more frequently in his speeches than in any of the Attic orators.⁴ This difference of quantity becomes a difference of quality in *Pro Archia* and *Pro Milone*. These speeches afford the first examples in extant classical oratory of a single use of this common argumentative form to organize an entire *argumentatio*. This is an innovation for which Cicero deserves full credit.⁵

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2. Antiphon *Herodes* 27, 62–63, cf. *Choreutes* 48; *Tetralogies* 1. 2, 10; Lysias 4, 4–5, 14, 1–2; Isaeus 6, 44, 7, 29–36, 11, 29–30; Dem. *De cor.* 95, 19, 332, 20, 115–16, 21, 169, 21, 189, 23, 128, 31, 14, 33, 33–34, 36, 42, 39, 20, 39, 34–35, 41, 25–26, 53, 27.

3. 2, 120. I am grateful to the Editor for bringing this passage to my attention.

4. The tripartite form does not occur after the *Pro Quinctio*. I count sixty-one occurrences of the bipartite form, in the orations of every period, with no clearcut, significant pattern of use. They are: *Rosc. Am.* 53–54, 62, 73; *Div. Caec.* 5–9, 36, 37–39; *Verr.* 2, 1, 34–37, 70; 2, 2, 95 with 99, 141, 148–49; 2, 3, 83, 151, 166, 193–94, 218–20; 2, 4, 8–10, 11, 19, 114 (to the jury); 2, 5, 151 *bis*; *Font.* 3; *Caecin.* 102; *Clu.* 81, 126, 138–42; *Mur.* 15–16 with 17; *Cat.* 1, 29 (regarding Cicero himself); 2, 19–20; *C. Rab.* 18; *Sull.* 22, 45, 68; *Arch.* 15–16; *Flac.* 25; *Dom.* 34–35 with 43, 119, 122, 117–21 with 139; *Har. resp.* 16–17; *Vat.* 8; *Cael.* 39–43 with 44–47; *Balb.* 32, 33, 37, 38; *Pis.* 40; *Planc.* 31; *Rab. post.* 45; *Mil.* 46–47; *Marcell.* 29–30; *Lig.* 1 with 16; *Deiot.* 24, 28, 30; *Phil.* 2, 5, 6, 9; 5, 13, 29–30; 13, 32.

The form also occurs in Cicero's description of the arguments of L. Aurelius Cotta (*Sest.* 73) and M. Juventius Laterensis (*Planc.* 4). It seems likely that Cicero is here simply reproducing the arguments of these orators, but he may be recasting them in the form of the device.

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CHLOE AND PHYLLIS: HORACE *CARMINA* 1. 23 AND 4. 11

In an earlier article in this journal, C. Fuqua proposed that Horace *Carmina* 1. 23–25 constitute “a carefully structured sequence of odes,” a sequence in which “1. 23 and 1. 25 form a complete cycle of the seasons.”¹ *Carmina* 4. 11–13, published some ten years later, also function as a unit² and contain a seasonal progression, one that moves from the spring setting of 4. 11, 14–16 to the winter associations of 4. 13, 12; again, as in 1. 23–25, the centerpiece of the triptych is a poem to Virgil in which death looms large, although here the death in question is not that of a friend of Virgil, as in 1. 24, but of Virgil himself, for Virgil had died in 19 B.C., six years before the publication of Book 4, and thoughts of his death find expression not only in the black fires of 4. 12, 26 but also in the

1. “Horace *Carm.* 1. 23–25,” *CP* 63 (1968): 44–46.

2. On the links between 4. 12 and 4. 13, see D. H. Porter, “Horace, *Carmina*, IV, 12,” *Latomus* 31 (1972): 76–77; on those between 4. 11 and 4. 12, see J. Perret, *Horace* (Paris, 1959), p. 180, and S. Commager, *The “Odes” of Horace* (New Haven, 1962), pp. 305–6.