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A SEEMINGLY ARTLESS CONVERSATION:
CICERO'S *DE LEGIBUS* (1.1–5)

Ars latet arte sua. Scholars, with few exceptions, agree that the opening scene of Cicero's *De legibus* that eventually leads to defining the topic (*Leg.* 1.1–18) is crafted masterfully,[1] not least because of its artful imitation of a seemingly artless conversation, in which speakers smoothly pass from one topic to the other in an associative fashion.[2] The "*sermo*-Stil" and "spontaneità e freschezza" of this opening dialogue (as well as other similar scenes, especially in *De oratore*) have been noted, often in comparison with Platonic dialogues.[3] Yet, the question of how the Roman orator pro-

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1. Gigon (1975, 59) reads *De legibus* "als eine erste rohe Skizze," and the opening scene accordingly, in which Cicero failed "die beiden Partner Ciceros so darzustellen, dass sie zu Mitträgern einer *kohärenten* und philosophisch ergiebigen Diskussion wurden" (p. 60, my ital.). Gigon's charge of patchwork, the issue of whether Cicero finished his treatise *De legibus* and—related to it—whether it was revised, dominated German scholarship especially. A convenient summary of this question is provided by Dyck 2004, esp. 10–11 and 53, with further literature cited.

2. Cf. Pohlenz's observation (1938, 112) that "sich das Gespräch nicht geradlinig logisch auf dieses Ziel hinbewegte, sondern sich scheinbar . . . von psychologischen Assoziationen treiben ließ." Hentschke (1971, esp. 127) has interpreted "Digression und Verzögerung" as Cicero's imitation of Plato's technique as used especially in the *Laws*. At roughly the same time as Pohlenz, Becker (1938, esp. 25–28 and 50–51) commented on the "besondere Liebe und Sorgfalt" (25) that Cicero lavished on "das reizvolle Einleitungsgespräch" (50); see also Ruch 1958, esp. 251, De Plinval 1959, esp. 63, and Büchner 1961, 82, who goes as far as to say: "Sie [i.e., the books *De legibus*] enthalten Stücke, und nicht nur in dem Proömium zum ersten und zweiten Buche, die zum Schönsten gehören, was Cicero geschrieben hat, und sich nach dem Urteile vieler Kenner an poetischer Kraft mit platonischen Dialogen wohl messen können." For more recent comments, see Gasser 1999, 32, and Dyck 2004, 51.

3. "*Sermo*-Stil" was coined by Zoll (1962, 105) in his excellent study of "*Cicero Platonis aemulus*" to characterize Cicero's writing in his dialogues, especially *De oratore*. Spontaneity, freshness, and, in fact,

duces "l'allure d'une conversation réelle" or—in the parlance of discourse analysts—which discourse rules he applies in order to create the impression of a spontaneous and authentic conversation with its more or less frictionless transitions[4] has not attracted attention (see nn. 3, 4, 5, and 6). Such an appreciation of Cicero's dialogue technique, based on discourse analysis and linguistic theory, is attempted here. This approach seems to be invited by the fact that Cicero himself indicates that the aspect of naturalness was his particular concern, as he is the first to employ the term *dialogus*, which is elsewhere defined as that which reproduces an extemporary utterance (ὁ μὲν γὰρ μιμεῖται αὐτοσχεδιάζοντα, Demetr. *Eloc*. 224), and which he renders now as *sermo*, now as *disputatio*, occasionally as a hendiadys of the two.[5]

It is ultimately because of his recognition of implicit discourse rules that in the course of the initial conversation Cicero can bring about the oft-admired variety of topics, when he has Atticus, Quintus, and Marcus,[6] after the initial stimulation by the sight of an old oak, touch upon Cicero's *Marius*, *fabulae*, the difference between poetic and historical truth(s), historiography and its laws in contrast to poetry, Roman historiography, Marcus' time-consuming engagements, and, finally, the topic of the dialogue proper: law. It will appear that these transitions are facilitated by what could be called linguistic and intertextual anticipations (or "foreshadowing"): a metaphor, a cluster of words, an "intertext" evoke a topic soon to be addressed within the discussion. Proceeding almost line by line, I will look at how else Cicero achieves this "vivacité amicale de leurs propos"[7] by having his interlocutors integrate the physical context of the conversation, exploit semantic and syntactic ambiguities, "use" implicature, proposition, and inference, and draw on their cultural background knowledge, which allows for literary allusions (especially to *De oratore*). While conversational features and references to the *Phaedrus* are the focus of section 1, the importance of Cicero's rhetorical masterpiece as part of the interlocutors' shared background knowledge will be discussed in section 2. This analysis will reveal that in the opening of *De legibus* (as has been said of *De oratore*) "[e]very detail . . . indicates some kind

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naturalness are mentioned by Riposati (1982, 257 and 259), who, however, is also mostly concerned with Cicero's rhetorical *chef-d'oeuvre*. There are many discussions of Cicero's indebtedness to Plato: I will limit myself to mentioning Zoll's, as it is the most comprehensive account, and Görler's (1988), as he particularly carefully compares the *Phaedrus*, *De oratore*, and *De legibus*; see also nn. 13 and 37 below.

4. "On s'accorde en général pour réserver *conversation* à un échange oral spontané et *dialogue* à une construction littéraire où des personnages échangent des propos soigneusement composés": Laroche-Bouvy 1992, 89; cf., e.g., Becker (1938, 5), who speaks of Cicero's dialogues in general as an attempt at μίμησις τοῦ βίου, and Ruch (1958, 251), who speaks of the imitation of "l'allure d'une conversation réelle." While Cicero's dialogue imitates a conversation insofar as it is characteristic of the latter that it "s'élabore à mesure que se déroule l'échange" (Laroche-Bouvy, 1992, 92), he seems to fall short of other characteristic moments, as a comparison between dialogue and conversation reveals (89–93). For a discussion of the dialogue as an ancient genre, see Ruch 1958, esp. 23–30.

5. "Da es [das Wort 'dialogus'] erstmalig und am Anfang nur bei Cicero belegt ist, kann man mit Sicherheit folgern, daß er das Wort eingeführt hat. Meist benutzt er es für seine eigenen Dialoge. Er zeigt also damit an, daß sie etwas Neues in Rom darstellen": Zoll 1962, 48. For the various Latin translations, see ibid., 49. *Sermo* conveys "eine bestimmte Art des Gesprächs, das Natürliche, Ungezwungene, Gelockerte, gleichsam Absichtslose, allgemein Menschliche": ibid., 51, and further, 49–52. An obvious comparison to Cicero's introduction of the term *dialogus* to characterize his dialogues can be found in Horace's reference to his satires as *sermones*: see Anderson 1982, 23.

6. Here and in what follows it will be essential to differentiate between Marcus' conversation with Quintus and Atticus on the one hand, and Cicero's (the author's) communication with his readers on the other.

7. De Plinval 1959, 62.

of 'background,' be it a literary, philosophical, or historical one. It suggests something 'between the lines.' "[8] With the help of these semantic layers, Cicero opens an associative latitude that allows for the various shifts in general, along with one transition in particular that has surprised scholarly readers. For after Marcus (*Leg.* 1.5) has defined the aim of historiography as to give a true account (*veritas*) in contrast to poetry, which is meant to give pleasure (*delectatio*), Atticus in response refers to the literary deficiency of Roman historiography and urges his friend to take on the task of writing sophisticated history that would satisfy those *qui litteris delectantur* (*Leg.* 1.5).[9] Atticus' friends do not seem to be surprised by his comment, and I will try to show (in section 3) why we should not be either.

1. IMPLICATURE, INFERENCE, AND OTHER ASPECTS OF NATURAL CONVERSATIONS

Conversations have contexts. In the opening of *De legibus*, the physical environment, with the stimulating sight of *lucus quidem ille et haec Arpinatium quercus* (*Leg.* 1.1), provides the three interlocutors with their first topic, as it triggers Atticus' recollection of Marcus' literary treatment thereof in his poem *Marius*. Comparable is the beginning of Cicero's *De finibus* 5.1, where *sermone vario* the group walks to the Academy, the sight of which prompts Piso to recall the worthy men (Cic. *Fin.* 5.2) who then become the first topic in the dialogue. Another noticeable instance of the inclusion of the situational context can be found in *De oratore* 1.28, where Scaevola suggests following in Socrates' footsteps, after the sight of *haec tua* [i.e., *Crassi*] *platanus* reminded him of the one in Plato's *Phaedrus*. Pointing out the *platanus*, he gives the conversation a new topic.[10] In all of these scenes, Cicero has his speakers refer to their physical environments, and their utterances derive their sense from their situational contexts, just as in a natural conversation; this is particularly palpable in Atticus' statement, where the deictic pronouns firmly situate the discussion in the "here and now."[11] That the reader is taken *medias in res* enhances the impression of naturalness and vividness: we are listening in on an ongoing conversation, following along for a few hours.

More importantly for the subsequent development, in his statement Atticus presupposes that the oak in the poem had been inspired by a real one; presuppositions are an important element of any conversation, and can be defined as an implicit set of assumptions that the speaker considers to be uncontroversial.[12] So here Atticus' wonder whether that famous oak (*illa*) still exists presupposes the existence of a physical tree as the source of inspiration for the fictional one. If so, he continues, it certainly would have to be this particular old oak (*haec*): *si enim manet illa quercus,*

8. This is Görler's (1988, 235) conclusion in his analysis of (mostly) *De oratore*.

9. See, e.g. (more recently), Benardete 1987, 299: "Atticus faults the Roman historians not for their failure to observe the sole law of history but for what Cicero had told him was especially the task of the rhetorician (5). This is perhaps the most surprising turn in *De Legibus*." See, furthermore, Gigon 1975, as quoted in n. 1 above, and Dyck 2004 ad *Leg.* 1.5a, who understands *Leg.* 1.5 to emphasize the "importance of veracity, *even though* the rest of the passage focuses on the literary quality . . ." (my ital.).

10. Cf. also Cic. *Nat. D.* 1.15, *Rep.* 1.19.

11. For the function of the indexical pronouns within conversations, see Yule 2003, 9–16; for the pronouns in *De legibus*, see Dyck 2004, ad loc.

12. Cf. Brown and Yule 1983, 29–31.

haec est profecto; etenim est sane vetus ("if that famous oak still exists, it is certainly this one, as it is truly old," *Leg.* 1.1).[13]

Cicero presents Atticus as an intimate connoisseur of his works (*saepe a me lectus*)[14] who because of this familiarity can be reminded of *illa quercus*. It is worth keeping in mind that in this opening the author firmly establishes his literary work as part of the interlocutors' background knowledge;[15] it comes as no surprise and will indeed be confirmed later that Quintus is equally familiar with his brother's work, which is why he can take it upon himself to respond to Atticus instead of Marcus, the *poeta ipse*.[16] The interlocutors' familiarity with each other, their shared background knowledge, is particularly relevant (and perhaps, therefore, underlined at the beginning of the dialogue), as it will guarantee the coherence of the exchange where a reader who does not share the same pool of information will fail to see it.[17] Any real conversation is situational and fraught with unspoken information, which will occasionally make it hard for the bystander to follow; one could say that Cicero's challenge in imitating a natural conversation lies in striking the right balance between the partial incomprehensibility any real conversation must have for an outsider (in this case, the reader) and the clarity the dialogue must have for the reader.

That Quintus intervenes instead of Marcus adds another touch of authenticity to the conversation. The coherence of this first exchange between Atticus and Quintus is upheld (and for the reader clearly marked) through the repetition of the main word (*manere*) by the latter. The repetition of words or phrases is an oft-used device to construct coherence, in natural conversations as well as imitations thereof (see, e.g., *Tusc.* 1.111–12: *longior*, *Acad. Pr.* 2: *ecquid . . . novi*, or later in *Leg.* 1.8–9: *tempus vacuum* and 1.12: *experiendum*). More interesting than these "ordinary" reiterations, however, are those instances where the partner in the dialogue pretends simply to continue the conversation by adopting the other's word (or phrase), while substituting a different meaning. One particularly interesting instance of an "intentional misunderstanding" can be found in *Academicae quaestiones* 2.148: *tum ille* [Hortensius] *ridens: "tollendum!" "teneo te," inquam, "nam ista Academiae est propria sententia"* (" 'Away with it!' he replied with a laugh. 'I get you,' said I, 'for that is the true Academic verdict' "). Hortensius' comment, as he himself indicates with his laughter, is

13. Benardete (1987, 298) notes a subtle parallel in Plato's *Phaedrus*: "Phaedrus' inference from the charming . . . waters of the Ilissus, that, since they would afford a suitable spot for girls to play near, it could be the place, recalls Atticus' own inference *etenim est sane vetus*, that led him to ask whether *illa quercus* was *haec quercus*." Ruch (1958, 248) compares the function of the oak with the plane tree in *De or.* 1.28, in that they both tentatively prepare the ground for the discussion's topic; see also Görler 1988, esp. 218 and n. 11. This and subsequent translations are based on Keyes' translation (1977).

14. See also *Leg.* 1.5: *ut . . . ex te persaepe audio*, and *Leg.* 1.8: *. . . saepe de isto conlocuti sumus*. This presentation of Atticus as a *dramatis persona* is to be distinguished from the historical Atticus who "was a keen student of Cicero's works," as Dyck (2004, ad loc.) notes.

15. At the beginning of his treatise *De legibus*, Cicero has the interlocutors refer to two further works in *Leg.* 1.5 (*De oratore*, discussed below, pp. 100–104) and *Leg.* 1.15: *quoniam scriptum est a te de optimo rei publicae statu*. This is not the only occasion where Cicero has an interlocutor refer to another work of his, see, e.g., *Tusc.* 5.32 (with a reference to Book 4 of *De finibus*).

16. For the brothers' familiarity with each other's works and opinions: e.g., *Leg.* 1.2, 1.21, 3.33. On Quintus' "jostle" see Dyck 2004, 21: "a bit awkward," and 54–55, and Pohlenz 1938, 104, who writes: "wie in der Tragödie ergreift der Protagonist erst das Wort, nachdem wir durch die Nebenpersonen auf ihn vorbereitet sind."

17. On coherence, familiarity, and shared knowledge, see Yule 2003, 84–86.

intentionally ambiguous, as in its immediate context it means "to weigh anchor" (*OLD*, s.v. 1c), and fully appropriate, "since not only the sailor signals but even the west wind itself whispers that it is time for us to be cruising" (*Acad.* 2.147). But at the same time it not only allows, but invites Cicero's "misunderstanding" that Hortensius would have to contradict, that the argument would have "to be done away with" (*OLD*, s.v. 14d), which Cicero understands to express Hortensius' wish of having the issue discussed *in utramque partem*.[18]

Quintus engages in a similar reinterpretation, as with his interjection he changes the sense of *manere* elegantly from a physical to a poetical one (*Leg.* 1.1): *manet vero, Attice noster, et semper manebit; sata est enim ingenio* ("that oak lives indeed, my dear Atticus, and will live for ever; for it was planted by the imagination"). While *manet* might be understood in a physical sense and thus as a straightforward answer to Atticus' question (which is also suggested by *vero*),[19] *semper manebit* shows Quintus, using *manere* metaphorically, to refer to a poetical instead of a physical existence.[20]

As will become clear by the continuation of the conversation, this change of meaning significantly alters the topic frame. Quintus—most palpably in his explanation of the oak's longevity (*sata . . . ingenio*)—provokes Atticus to question his presupposition that there had been a real oak upon which the poetic one was modeled. The discussion takes a somewhat unexpected, though not inexplicable turn. Repeatedly, the direction of the conversation is not given by what was explicitly said, but by what was either implied (by the speaker) or inferred (by one of the listeners).

The shift from the physical to the poetical sense also can be observed in the playful use of *sata . . . ingenio*, where *serere* in its literal meaning refers back to Atticus' concern with a real oak, whereas *ingenio* qualifies its meaning as being metaphorical. This antithesis of the physical and the metaphorical (i.e., poetical) existence is forcefully brought together in the next sentence (where Quintus uses the synonym *seminare*) in form of a zeugma: *nullius autem* <u>*agricolae cultu*</u> *stirps tam diuturna quam* <u>*poetae versu seminari*</u> *potest* ("no tree nourished by a farmer's care can be so long-lived as one planted by a poet's verses"). This fusion of the literal and metaphorical sense of *serere* and *seminare* in general and the zeugma in particular is facilitated by the established Roman analogy of *agri cultura* and *animi cultura* (cf.

18. "Absichtlich vieldeutig": Gigon 1962, 235, whose interpretation I follow. See also the jocular *istam causam* (*Leg.* 1.11, with Kenter 1972, ad loc.). Another interesting episode is the playful exchange between Philus and Laelius (Cic. *Rep.* 1.19). Laelius remarked: *ain vero Phile? iam explorata nobis sunt ea quae ad domos nostras quaeque ad rem publicam pertinent? siquidem quid agatur in caelo quaerimus?* ("Do you really think then, Philus, that we have already acquired a perfect knowledge of those matters that relate to our own homes and to the State, since we are now seeking to learn what is going on in the heavens?"). Philus' defense of their discussion *de solibus istis duobus* attempts to reinterpret *domus*: *an tu ad domos nostras non censes pertinere scire quid agatur et quid fiat domi? quae non ea est quam parietes nostri cingunt, sed mundus hic totus, quod domicilium quamque patriam di nobis communem secum dederunt?* ("Do you not think it important for our homes that we should know what is happening and being done in that home, which is not the one that is shut in by the walls we build, but is the whole universe, the home and the fatherland that the gods have given us the privilege of sharing with them?"). This repetition of a word (or its synomym) in a different meaning is not uncommon in Plato either (see, e.g., *Resp.* 551c3–6); rhetoricians refer to it as *reflexio* (see Lausberg 1990, 663–64).

19. See Kühner-Stegmann 1914, 2.2: 531, §236.

20. The elegance of Quintus' reply is further underlined by the *cyclos*. Benardete's suggestion (1987, 296) that Quintus might have misunderstood Atticus does not strike me as plausible (see also Dyck 2004, ad loc.).

Tusc. 2.13).[21] It is an instance where the coherence of the conversation is reinforced by a specifically Roman cultural background. Or, to put it differently, without this Roman association of culture and agriculture Quintus' statement would make little (or, at least, less) sense.

In response to this challenge, Atticus adopts Quintus' metaphor, but asks him to further specify the poem's content (*quale est istuc quod poetae serunt?*), as the longevity of a poetical existence does not reveal whether it had a real origin (and therefore hardly answered Atticus' original question). This again leads Cicero's brother to expand on the topic of the commemorative power of poetry: *dum Latinae loquentur litterae, quercus huic loco non deerit quae Mariana dicatur* ("as long as Latin literature shall speak, there will not fail to be an oak tree on this spot, called the 'Marian Oak'"). In order to make his point, he draws on two Greek mythical stories and shows his *urbanitas* by choosing a *fabula*, which is situated in a place—Athens—to which Atticus has a personal relation.[22] He then concludes (*Leg.* 1.2): *Quare "glandifera" illa "quercus," ex qua olim evolavit nuntia fulva Iovis miranda visa figura, nunc sit haec* ("Therefore let us assume that this tree is that 'acorn-laden' oak, from which once flew Jove's golden messenger of wondrous form"). This is a playful provocation and the inversion of Atticus' original argument, presented, however, in a syntactical analogy:[23] while Atticus had mused whether the oak as described in the poem (*illa*) was this particular old oak (*haec*), presupposing that a real oak had inspired the poetic one,[24] Quintus superimposes the poetic oak (*illa*) on this or rather *any* real one (*nunc sit haec*). As regards the Greek trees as well as this Roman one Quintus' point is: "Ils n'existent que *dans* et *par* le mythe."[25]

This, however, was not Atticus' question (*non dubito id quidem*), and so—slightly disgruntled by Quintus' jostle (*sed hac iam non ex te, Quinte, quaero*)—he finally addresses the *poeta ipse* (*Leg.* 1.3), elegantly continuing the metaphor, when he asks: *tuine versus hanc quercum severit, an ita factum de Mario, ut scribis, acceperis?* ("Was it really your verses that planted this oak tree, or were you following a tradition that this incident happened to Marius as you describe it?") While Atticus' reference to Marcus' *versus* clearly indicates that it is still the latter's *Marius* and therefore poetry that is at stake, the second of the two alternatives he offers in order to qualify its content uses terminology that an educated Roman could easily associate with the historiographical discourse because of his linguistic background knowledge:[26] to record (*scribere*) the obtained information (*accepta*) about what has happened (*facta*) is after all the historian's task—*ita factum accepimus*, Livy will write later.[27]

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21. On this metaphor and its tradition, see Novara 1986.

22. See Kenter 1972, ad loc., and Dyck 2004, ad loc.

23. See Kenter 1972, ad loc.

24. In the opening scene of Book 2 Atticus will confess (*Leg.* 2.2): *nihil enim his in locis nisi saxa et montis cogitabam, itaque ut facerem et orationibus inducebar tuis et versibus* ("for I had the idea that there was nothing in this vicinity except rocks and mountains, and both your speeches and your poems encouraged me in that opinion"). Once more Atticus assumes that the poetic world as presented in the *Marius* is based on the real one.

25. Ruch 1958, 248.

26. For "background knowledge" see Searle 1992, 25–29.

27. Livy 1.24.4. For a discussion of the ancient historian's methods, see Marincola 1997, 63–127, esp. 63–86. According to one tradition of literary criticism, Atticus applies a criterion to the poem that serves as the *differentia specifica* of historiography in contrast to poetry, as can be found in Aristotle's *Poetics*: a historian differs from a poet in that τὸν μὲν τὰ γενόμενα λέγειν, τὸν δὲ οἶα ἂν γένοιτο (Arist. *Poet.* 1451b4–5; that λέγειν is not the same as *scribere* does not matter in this context); this opposition and its

Thus, within his antithesis—for his two partners in the dialogue as well as the intended Roman reader[28]—Atticus has clearly hinted at another literary genre, which does not seem to be at stake for the moment, but will be very soon. This is one notable instance where a later topic is linguistically anticipated.

By his introduction of a terminology that provokes associations with historiography and will in due course be reattributed to *historia* (*Leg.* 1.5), he also provides the catchword for Marcus' defense: *accipere*. For the latter, instead of answering the above-quoted question directly, beats about the bush and poses (in a Socratic manner: see below)[29] a counterquestion that effectively undermines Atticus' implicit claim of veracity for the tradition—the inference from *accepta* to *facta*. He does so by directing his friend's attention to the mythical story of Romulus' conversation with Proculus and Aquilo's abduction of Orithyia, asking him about their truth (*verumne sit*), in which Atticus must believe because of their traditional status: *sic enim est traditum*.[30] It is obviously not apparent how this episode relates to Atticus' question: Marcus implies more than he says, trusting that Atticus might infer his meaning. Both "implicature," that is, an utterance's unuttered additional sense, and "inference," "the listener's use of additional knowledge to make sense of what is not explicit in an utterance," are essential processes in "natural" conversations, which Cicero imitates here and elsewhere (see below: *intellego*).[31]

Atticus, however, does not see where his friend's reasoning is leading or why this should answer his original question: *Quorsum tandem ista quaeris?* ("What is your purpose or reason for asking such questions?") Uncertainty about the significance of the other's statement and an ensuing question are part of natural conversations, and frequently used within Cicero's (e.g., *Tusc.* 1.76) and (of course) Plato's dia-

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criteria have been discussed repeatedly: see Gomme 1954, esp. 1–6, 73–114; Gastaldi 1973; Ostwald 2002. On this passage as "die explizite Aufhebung eben jener Tradition" that took *Dichtung* for *Wahrheit*, see Rösler 1980, 310. While it is true that (not only Roman) generic boundaries were rather blurred (*loci classici* are Cic. *Inv. rhet.* 1.27, where he quotes a line from Ennius' *Annales* in the context of his discussion of *historia*, and Cic. *Div.* 2.116.3: *aut Herodotum cur veraciorem ducam Ennio?*), it is also true that later in the dialogue *De legibus, veritas* will be (re)attributed to *historia* in contrast to *poemata*. Therefore one could hold that Atticus not only uses language that provokes historiographical associations, but outright applies the generic criterion of historiography to poetry.

28. For the concept of the "intended reader" as the author's *Leseridee im Geiste*, which he envisions during the time of writing, see Wolf 1971. This concept seems the more appropriate in the case of Cicero, as thanks to his letters we know that he formed a rather distinct image of his readers; see *Att.* 12.4.2 (where Cicero worries about his *De Catone*, which he fears will not agree with his intended readers' political leanings; cf. the discussion of Murphy 1998, 501). Because of the form of the "publication" and dissemination of Cicero's works (Murphy 1998, 499–501, with earlier literature conveniently presented at 492 n. 1) and his persistent focus on a particular group, it seems safe to assume that Cicero expected his readers of *De legibus* to be familiar with his earlier work. On this question, see also the (problematic) discussion of Ruch 1958, 421–23.

29. Kenter (1972, ad loc.) speaks of a "Socratic-ironical flavour"; on Socratic traits in Marcus' posture in general, see Ruch 1958, 248–49.

30. *Leg.* 1.3: *respondebo tibi equidem, sed non antequam mihi tu ipse responderis, Attice: certene non longe a tuis aedibus, inambulans post excessum suum, Romulus Proculo Iulio dixerit se deum esse et Quirinum vocari, templumque sibi dedicari in eo loco iusserit, et verumne sit ⟨ut⟩ Athenis non longe item a tua illa antiqua domo Orithyiam Aquilo sustulerit? sic enim est traditum* ("I will answer you, Atticus, but not until you have yourself answered a question. It is a fact, is it not, that Romulus, after his death, while wandering about near the place where your house now stands, met Proculus Julius, told him that he was a god, and was called Quirinus, and ordered that a temple be dedicated to him on that spot? And is it true that at Athens, likewise not far from your old home, Aquilo carried off Orithyia? For that is what tradition tells us").

31. For "implicature" see Cruse 2004, 363–97; the definition of "inference" is taken from Yule 2003, 131.

logues.[32] Therefore Marcus himself has to spell out the implicature: *nihil sane, nisi ne nimis diligenter inquiras in ea quae isto modo memoriae sint prodita* ("Nothing truly, except to keep you from inquiring too critically into traditions that are handed down to memory in that way"). Again, Marcus chooses a rather indirect way to address Atticus' question (and Cicero thereby avoids the impression of a rigorous questioning): he suggests that these two stories would not withstand skeptical scrutiny, although they are part of the tradition—as required by Atticus (*isto modo memoriae prodita*);[33] in other words, he suggests that λέγειν τὰ λεγόμενα (Hdt. 7.152.11) does not necessarily mean τὰ γενόμενα λέγειν (Arist. *Poet.* 1451b4–5). It seems noteworthy that Cicero at this point does not make Marcus simply reject Atticus' application of the principle as misguided by, for example, referring to the well-known distinction between poetry and history (which Quintus will bring up in a moment), but question the simple inference "from tradition to truth."

For Quintus and Atticus the *fabulae*/μῦθοι to which Marcus refers not only exemplify the immediate argument, but also variously prepare the ground for subsequent developments in the discussion (the second is a clear instance of "intertextual anticipation"). The Roman example seems to have been part of the two literary traditions, which were already hinted at by Atticus, as the encounter between Proculus and Romulus appears to have been told by Ennius, and also by a Roman historian—most likely Valerius Antias, both of whom influenced Livy's account.[34] Thus, via Rome's *mythical history*, Cicero for Roman readers and Marcus for his partners again hints at historiography. This association is strengthened by the phrase *memoriae prodi*, which has strong historiographical connotations. One could go further and note that *diligenter* is the Latin equivalent of ἀκριβῶς which as well as its substantive ἀκρίβεια is an important methodological term in Greek historiography.[35]

The second tale is even more significant: Marcus shows his familiarity with Atticus' interests when he refers to the story of Orithyia, which for his friend, a confessed connoisseur of Plato, is not just another traditional tale of doubtful veracity.[36] He is supposed to recall Plato's *Phaedrus*, just as the reader will in due course receive hints that Cicero wants him or her to read his scenery with Plato's in mind.[37] There,

32. Dyck (2004, ad loc.) notes that in this dialogue Atticus takes it upon himself to give directions; see also Benardete 1987, 298.

33. Atticus asked whether Marcus' poetical account was based on *accepta* (*an ita factum de Mario, ut scribis, acceperis?*); Marcus in response mentions two episodes, which he finds implausible, although they are *tradita* (*sic enim est traditum*). Asked to elaborate his point, Marcus claims that at least some *memoriae prodita* would not stand critical scrutiny. Thus the issue, while presented in lexical variation, is rather clearly presented as the golden thread; one should also note that these three renderings of "tradition" are, in each case, placed at the end of the statements.

34. Livy's version of Proculus' speech (1.16.6–7) is "highly poetic in tone" (Ogilvie 1965, ad loc.), the inspiration for which he is assumed to have drawn from Ennius; for Valerius Antias as a source of Livy's account, see again Ogilvie 1965.

35. *Memoria(e) prodi*: see *TLL*, s.v. I B 2 b; *diligenter*: see *TLL*, s.v. *diligenter*, 1; ἀκρίβεια: see, e.g., Thuc. 1.22.2, 1.97.2, 6.54.1.

36. For Atticus' familiarity with Plato, see *Leg.* 1.15, 2.6 (*quod in Phaedro Platonis facit Socrates*), for Quintus, see *Leg.* 2.17.

37. Cicero's explicit references (e.g., 1.15, 2.16, 2.69, 3.1) and many allusions to Plato (especially the *Laws* and the *Phaedrus*: a convenient enumeration of allusive passages is given by De Plinval [1959, 62 n. 1]) have been repeatedly noted: Pohlenz 1938, esp. 107–8 and 119; more concerned with differences than parallels is Hirzel (1895, esp. 475); see also Benardete 1987, esp. 297–99, Eigler 1996, 140–42, and Dyck 2004, 627–28, s.v. "Plato." From Rutherford's study of (not only) the *Phaedrus*, one can learn how

in an environment that prefigures Cicero's, Phaedrus asks (*Phdr.* 229b–c): "Tell me, Socrates, is not this the place, here by the Ilissos, whence Boreas is supposed to have taken away Orithyia?" Socrates replies in the affirmative that this, indeed, is the tradition (λέγεται γάρ), but he corrects the location by mentioning an altar that lies further down the stream. This leads Phaedrus to ask: σὺ τοῦτο τὸ μυθολόγημα πείθῃ ἀληθὲς εἶναι; Foreshadowing Marcus' elusiveness, Socrates, instead of giving a straightforward response, explains how he would rationalize this myth; but if one rationalized this one, others would have to be addressed as well. He concludes that he does not have the time for that (ἐμοὶ . . . οὐδαμῶς ἐστι σχολή, *Phdr.* 229e). It will be noted that Socrates no more than Marcus answers the question about the truth of the story.

Alluding to Plato's discussion of the myth of Orithyia, Marcus provides Atticus with a reference to a discussion in which the same question is touched upon. But he not only reemphasizes his point about the fallibility of traditional beliefs with the help of the Socratic parallel; he also makes Phaedrus' explicit characterization of the tale as μυθολόγημα foreshadow his later mentioning of *fabulae* (*Leg.* 1.5), and makes Socrates' busyness anticipate his own reason for not embarking on writing Roman history (*Leg.* 1.8): *quem* [sc. *laborem historiae conscribendae*] *non recusarem, si mihi ullum tribueretur* <u>vacuum</u> *tempus et* <u>liberum</u> ("which I should not refuse to undertake, if I were granted any unoccupied or leisure time").

Atticus' response to Marcus' teasing advice (*ne nimis diligenter . . .*) shows that he has understood the argument: he mentions readers who wondered whether details in Cicero's poem were true or fictitious (*fictane an vera sint*) and who would go as far as to demand *veritas* from him, *quod in recenti memoria et in Arpinati homine versere* ("since you are dealing with recent events and a native of Arpinum").[38] With this emphasis on temporal and geographical proximity he removes or at least reduces the risk of misinformation, and thus justifies the claim for *veritas*. This is also reflected in his playful change in meaning of the term *memoria*: Marcus—Atticus asserts—did not deal with *res memoriae proditae*, but with *res in recenti memoria gestae*. Like Quintus before him (*manere*), Atticus takes up the other's word and gives it a different meaning.[39]

2. An Allusive Discussion of Poetry and History: *De Oratore* as Shared Background Knowledge

In response to this different challenge, Marcus assures Atticus that he would not want to be considered a liar (*me cupio non mendacem putari*), which might be understood as a concession; he then, however, adds that those critics act rather foolishly (*imperite*), *qui in isto periculo non ut a poeta, sed ut a teste veritatem exigant* ("who in

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"[a] great many motifs and phrases recur in the course of the dialogue, sometimes literally and sometimes metaphorically" (1995, 262–63; for examples, see 263–64; for the first speech "as a springboard for a number of more important themes," see 243–44). Undoubtedly, this literary technique helps fabricate a dialogue's coherence (but whether it suffices is a more intricate question, see 264–65); and Cicero's use of these techniques, which as a *homo Platonicus* he could have studied in one of his favorite Platonic dialogues, i.e., the *Phaedrus*, is looked at in this paper.

38. Temporal and geographical proximity of the subject make it easier to acquire accurate information and thereby to give a "truthful" account; cf. Dionysius of Halicarnassus' discussion of Thucydides' method in *Thuc.* 6 (ἐξ ἐμπειρίας). Kenter (1972, ad loc.) notes that "[i]n the discussion this remark serves as a *transition* to historiography" (my ital.).

39. Cf. Cic. *Fin.* 3.8–9, where *memoria* is reiterated by the respondent without any change in meaning.

such a critical matter demand the kind of truthfulness expected of a witness in court rather than of a poet"). *Mendacium* being the antonym of *veritas*, Marcus' riposte appears natural and congruous enough within the conversation's immediate context. Yet, it is not just an antonym Marcus musters, but rather the scheme of a trial, a *schema* being a "pre-existing knowledge structure . . . typically involving the normal expected patterns of things," which is manifested in the lexical field (defined as a set of lexemes that have a reciprocated sense relation).[40] This does not come out of the blue, as Atticus' concluding phrase (*veritas a te postulatur*) easily allows for the association of a trial.[41] This is particularly interesting, as this lexical field has been taken to suggest that *periculum* must in this context mean something like "legal procedures."[42] It should also be remembered that Cicero elsewhere acknowledges that his rhetorical and legal training unavoidably informs his philosophical discussions.[43] Most importantly, by linguistically evoking the scenery of a trial, Cicero for his readers subtly prepares the ground for the topic proper of the dialogue: law. The topics of historiography (see above) and law are linguistically anticipated: the language itself makes the reader expect the topic.

The zeugma, as expressed in the relative clause, has been interpreted as evidence that Marcus argues for a distinct poetical truth.[44] Undoubtedly, he now rejects (at least a certain form of) *veritas* as a poetological criterion; but in doing so, he sensibly, but also somewhat surprisingly contrasts the poet with the *testis*. In a way, Atticus' recent point that what is described in the *Marius* had happened here and only recently, can easily be interpreted as saying that the poem's author was (almost) a *testis*—someone with firsthand knowledge (*OLD*, s.v. 5). Marcus, when mentioning the *testis*, might thus appear only to sharpen Atticus' argument. Marcus' counterargument, though, is that the only *testis* of whom the truth can be demanded (*exigere*) is the "witness who testifies in court" (*OLD*, s.v. 2). His new and powerful point is that even if a *poeta* happens to be a *testis*, i.e., someone with firsthand knowledge, he is not obliged to tell the truth—*ut testis*, as he is simply not a witness in

40. Yule 2003, 134; more generally on *schemata*, see Brown and Yule 1983, 247–50; on "lexical fields," see Cruse 1986, 112–33, with 134 n. 1.

41. There is, of course, an additional biographical significance in the fact that Marcus Tullius Cicero by the time of the fictional dialogue could look back on roughly forty years of legal practice; cf. n. 43.

42. Dyck (2004, ad loc.; there is a most unfortunate misspelling in the comment), following Kenter (1972, ad loc.), suggests that *istud periculum* might mean "that trial of yours" (ibid., with reference to *TLL*—where, however, there is a query), which, as he points out, is supported by *ut a teste*. While *periculum* within the context of a *iudicium* is often used to express the risks and dangers involved (*TLL*, q.v.), its virtual synonymy with *iudicium* seems extremely rare. One might, however, compare Sall. *Iug.* 40.2 (*pericula metuentes*, with Koestermann 1971, ad loc., who casually comments: "Unter *pericula* sind "Prozesse" zu verstehen [so *in re iudiciaria* auch bei Cicero und Tacitus]").

43. Cic. *Tusc.* 1.7: *ut enim ante declamitabam causas, quod nemo me diutius fecit, sic haec* [the *Tusculana disputatio*] *mihi nunc senilis est declamatio* ("for just as in my youth I used to be constantly declaiming speeches for the courts—and no one ever did so longer—so this is now a declamation of my old age"). See also Velleius' comment (*Nat. D.* 2.1) on Cotta's presentation of his argument: *neque enim flumine conturbor inanium verborum, nec subtilitate sententiarum si orationis est siccitas. tu autem, Cotta, utraque re valuisti: corona tibi et iudices defuerunt* ("for I am not disconcerted by a mere stream of empty verbiage, nor yet by subtlety of thought if expressed in a jejune style. You however, Cotta, were strong in both points: you only lacked a public audience and a jury to listen to you").

44. "Cicero is at pains to create space for a different type of poetic truth": Dyck 2004, ad loc. I find this interpretation of Marcus' statement as a reformulation of Aristotle's concept of poetic truth (see Rösler 1980, esp. 310) implausible; I would argue that he rejects entirely the relevance of this criterion to the poet.

court. These are different frameworks. This in turn sheds a very different light on his wish not to be considered a liar: if the critics accuse him of being a liar, they do so because they do not understand the "rules of the game"—they are *imperiti*.[45]

However, Marcus' use of the linguistic field of the trial expresses a "misinterpretation" of Atticus' mediated request for truth, just as Quintus misunderstood *manere* and Atticus *memoria* (see above). And taking Quintus' immediate follow-up into account, it becomes clear that there must be yet another dimension in Marcus' statement: *intellego te, frater, alias in historia leges observandas putare alias in poemate* ("As I understand it, then, my dear brother, you believe that different principles are to be followed in history and in poetry"). Quintus seems uncertain, and infers (*intellegere*) from what was said that different laws guide the poet than the historian. In so doing, he artistically continues his brother's legalistic language, now metaphorically (*testis—leges*);[46] this alone, however, falls short of explaining why at this particular moment of the conversation he states what would seem to have been much more appropriate after Atticus' original question about the nature of the poem's content, as discussed above. At least *prima facie* there seems to be no particular reason for Quintus' comment.

Historia has "been in the air" ever since Atticus' question about the realistic basis of Cicero's poem, which is why, in a certain sense, an explicit reference to it would not appear to be out of place anywhere in this discussion. Furthermore, Marcus had not ended his defense with the contrast of poet and witness, but had added (*Leg.* 1.4): . . . *nec dubito quin idem et cum Egeria conlocutum Numam et ab aquila Tarquinio apicem impositum putent* ("no doubt these same people believe that Numa talked with Egeria, and that the crown was placed on Tarquinius' head by the eagle!"). As before, Marcus chooses Roman *fabulae*, which his critics uncritically believe on the mere grounds of tradition, although they would not stand skeptical scrutiny. In his case, on the other hand, they demand verification. He thus charges the critics behind Atticus with double standards. At the same time, these two *fabulae* had been treated in poetry as well as in historiography—they were part of Rome's mythical history.[47] And this latest reference to Roman history might be another stimulus for Quintus' statement.

Yet, for Quintus and Atticus, who are thoroughly familiar with Cicero's work in general, and his *De oratore* in particular (see below), Marcus' retort contains allusions to the historiographical discourse in Cicero's *chef d'oeuvre*. Catulus there denigrates Roman historians as being dismissive of any stylistic concerns: *satis est non esse mendacem* (*De or.* 2.51); Marcus asserts that he would not want to be considered a liar (*non mendacem putari*). Earlier *historia* had been eloquently characterized (*De or.* 2.36): *historia vero testis temporum, lux veritatis, vita memoriae, magistra vitae, nuntia vetustatis, qua voce alia nisi oratoris immortalitati commendatur?* ("As for history, which bears witness to the passing of the ages, sheds light upon reality, gives life to recollection and guidance to human existence, and brings tidings of ancient days, whose voice but the orator's can entrust her to immortality?"). Marcus' jux-

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45. On *imperite*, see Dyck 2004, ad loc.

46. This is also, as noted by Dyck (2004, ad loc.), the first mention of the theme of the dialogue; see, however, my remarks on the lexical field of the trial.

47. See Dyck 2004, ad loc.

taposition of *teste veritatem* and the preceding theme of *memoria* must lead Quintus to associate the quoted *sententia*.

Quintus' inference would thus not only be based on his brother's latest comment within the framework of this discussion, but would express his own familiarity with his brother's work (*intellego te, frater*, . . .). It has been shown that the character representing Cicero is addressed in two dialogues only, the *Partitiones oratoriae* (by his son) and here, in *De legibus* (by his brother), and that in the case of the latter Quintus never addresses his brother other than by *frater*.[48] It is therefore (1) per se noteworthy that there is an address in this context, and (2) plausible that Cicero inserted this address to emphasize Quintus' acquaintance with his brother's works and opinions. It is because of this familiarity, of the intimate acquaintance with *De oratore*, that his remark is congruous for his two fellow speakers. And thus, what first appeared to be an accomplished continuation of Marcus' legalistic language (*testis . . . leges*), would also reveal itself to be another expression of Quintus' intimate knowledge of *De oratore* (*De or.* 2.62): *nam quis nescit primam esse historiae legem, ne quid falsi dicere audeat? deinde ne quid veri non audeat?* ("For who does not know history's first law is that an author must not dare to tell any falsehood? Next, that an author must not fail to dare to tell the whole truth?").

The assumption that Quintus thinks of his brother's *sententia* in *De oratore* and then, in turn, alludes to the quoted rhetorical question,[49] and that Cicero—the author—expected his reader to read Quintus' statement in that context, is supported by the well-known fact that immediately afterwards Atticus will (also) refer to that treatise, but then in order to emphasize that it takes an orator to write proper Roman history (*Leg.* 1.5): *potes autem tu profecto satisfacere in ea* [sc. *historia*], *quippe cum sit opus, ut tibi quidem videri solet, unum hoc oratorium maxime* ("But you can certainly fill this gap satisfactorily, since, as you at least have always believed, this branch of literature is closer than any other to oratory"). Commentators agree that Atticus here refers to Antonius' pleading for an orator to take on the task of writing history, which he then substantiates by a survey of the abysmal state of Roman historiography—just as Atticus will hurriedly go over Roman historians.[50] But Atticus' allusion to *De oratore* does, as I hope to have shown, not come out of the blue: it is merely continuing Marcus' and then Quintus' usage of this "subtext."

3. "Truth" Be Told, but Well

Although Quintus' remark is not out of place, it is not quite in place, either, as Marcus' response clearly shows:

> quippe cum in illa [sc. historia] ad veritatem ⟨omnia⟩, Quinte, referantur, in hoc [sc. poemate] ad delectationem pleraque: quamquam et apud Herodotum patrem historiae et apud Theopompum sunt innumerabiles fabulae.

48. See Dickey 1997.
49. To my knowledge, the juxtaposition of *historiae legem* and of *historia leges* occurs only in these two passages and in *Fam*. 5.12.3.
50. Pohlenz (1938, 110) pointed out that this passage might refer to *De or.* 2.51: *age vero, inquit Antonius, qualis oratoris et quanti hominis in dicendo putas esse historiam scribere?* ("'Now further,' proceeded Antonius, 'what class of orator, and how great a master of language is qualified, in your opinion, to write history?'"), and especially to 2.62: *sed illuc redeo: videtisne quantum munus sit oratoris historia?* ("Do you see how great a task an orator has in historical writing?"). This is also held by Leeman et al. (1985, 250), Kenter (1972, ad loc.), and Dyck (2004, ad loc.).

> Certainly, Quintus; for in history the standard by which everything is judged is the truth, while in poetry it is generally the pleasure; however, in the works of Herodotus, the Father of History, and in those of Theopompus, one finds innumerable fabulous tales.

He introduces his riposte—which is in line not only with Aristotle but also with Polybius[51]—with *quippe*, which in replies is usually used to mark a rather obvious answer.[52] This form of reply allows for many nuances; it seems noteworthy, though, that firstly, immediately after having stated "the obvious"—that poetry aims at pleasure, history at truth—he qualifies his assertion in the form of the *quamquam correctivum*. Secondly, Marcus' definitory contrast between poetry and history is *not obvious* on the grounds of anything that has been said within the conversation so far; quite on the contrary, if one remembers Atticus' initial question about the nature of the content of Cicero's *Marius* and Marcus' repeated resorts to Rome's mythical history.

The second observation can be explained when we turn to *De oratore* again and notice the tone of Antonius' disclosure of the *lex historiae* (*De or.* 2.62, quoted above). There he is induced to say what (almost) goes without saying—namely, that *historia* should be about *veritas*: there are no specific rhetorical rules for the writing of history; *sita sunt enim ante oculos*.[53] And immediately afterwards he goes on to mention the *lex historiae*, introducing it with: *nam quis nescit*. . . . Thus Marcus—like Antonius—talks about something that is commonly known: the *quippe* fulfills the same purpose as the *nam quis nescit*.

Marcus' *quippe* seems to have another more specific, perhaps even ironic meaning within the dialogue: before his brother's interjection, Marcus had stressed the difficulty of achieving *veritas* when the antiquarian depends on the tradition; in the course of this argument he had alluded to three Roman *fabulae*, which belong to Roman history, although their content is as doubtful as Orithyia's abduction. At no point during the early stages of the discussion was he concerned with the principle that truth should be obtained (which is then defined as the *lex historiae*), but—at least implicitly—with whether this could be done. Thus, when Quintus asks about the different laws of the genres, he just about misses his brother's point, which is why the latter can dismiss the former's comment with an ironic *quippe*.

Marcus' reply in its entirety is conciliatory: he first concedes the obvious, but then gently reaffirms his true concern: historians—as we all know—should tell the truth, and yet (*quamquam*), even (for the apposition is clearly emphatic) Herodotus, the father of history, and Theopompus get it wrong from time to time, when they insert *fabulae*, untrue stories,[54] into their histories—just as there are *fabulae* in the accounts

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51. For Aristotle, see Dyck 2004, ad loc. Polyb. 2.56.11: τὸ γὰρ τέλος ἱστορίας καὶ τραγῳδίας οὐ ταὐτόν, ἀλλὰ τοὐναντίον (for Cicero as a reader of Polybius, see Fleck 1993, 78–83).

52. Kühner-Stegmann 1912, 2.1: 807, §146.1.

53. I follow Leeman et al. (1985, ad loc.) in their interpretation of this passage.

54. For *fabula* as an antonym of *historia*, see, e.g., Cic. *Inv. rhet.* 1.27 (the context is a presentation of different forms of the *narratio*): *fabula est in qua nec verae nec veri similes res continentur* . . . ; *historia est gesta res, ab aetatis nostrae memoria remota* ("*Fabula* is the term applied to a narrative in which the events are not true and have no verisimilitude . . . ; *historia* is an account of an actual occurrence, remote from the recollection of our own age"). The facts that (1) Marcus had just voiced his wish not to be considered a liar (*mendax*) and that (2) *fabula* can have a connotation of lying (*TLL*, s.v. 2 A 3: "fabula" *strictiore sensu, praevalet levitatis et mendacii notio*, e.g., Cic. *Rep.* 2.4) would allow for the interpretation that Herodotus

of Roman historians. That it is the historian's duty to give a truthful account does not mean that he might not tell *fabulae*, as he is dependent on what he has learnt (*accepta*).[55]

One might wonder (and indeed some have),[56] why after so much emphasis was put on the significance of *veritas*, the ensuing discussion focuses solely on the *ornatus* and thus the pleasure (*delectatio*) to be derived from historiography. Atticus' reply to Marcus' concession that there are *innumerabiles fabulae* in Herodotus and Theopompus runs:

> A.: teneo quam optabam occasionem neque omittam.
> M.: quam tandem, Tite?
> A.: postulatur a te iam diu vel flagitatur potius historia; sic enim putant, te illam tractante effici posse ut in hoc etiam genere Graeciae nihil cedamus.

> A.: I now have the opportunity that I have been wanting, and I shall not let it pass.
> M.: What do you mean, Titus?
> A.: There has long been a desire, or rather a demand, that you should write history. For people think that, if you entered that field, we might rival Greece in this branch of literature also.

If Atticus' exclamation had stopped here, he, whom Cicero in a later dialogue praises as *rerum Romanarum auctor religiosissimus*,[57] would seem to encourage his friend's historical ambitions, because of the latter's awareness of the difficulty involved in obtaining historical truth and his realization of the shortfalls of Greek historians like Herodotus.[58] Atticus would be hoping that Marcus would be the Roman Thucydides, who discards *fabulae* and attempts to limit himself to telling the truth by sticking to what he or others have *witnessed* (cf. Thuc. 1.22.2).

Atticus, however, elaborates his opinion very differently:

> non solum mihi videris eorum studiis, qui litteris *delectantur*, sed etiam patriae debere hoc munus, ut ea, quae salva per te est, per te eundem est *ornata*. abest enim historia litteris nostris. . . .

> It seems to me that you owe this duty not merely to the desires of those who take pleasure in literature, but also to your country, in order that what you have saved may also be glorified by you. For history is lacking from our national literature. . . .

Assuming that the opening scene has received Cicero's *ultima manus*, a commentator must answer the question of what in Marcus' or in Quintus' immediately preceding contribution allows Atticus to give their discussion this turn.

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is accused not just of narrating incredible stories (*TLL*, s.v. 2 B 4: "fabulae" *ut incredibiles vel dubiae fidei rebus gestis opponuntur*, where Cic. *Leg.* 1.5 is given as a reference), but of lying (and this would not be the only instance of that incrimination, cf. Evans 1986, esp. p. 14). However, since Marcus has stressed the difficulty of ascertaining the truth, I find it more plausible to understand Marcus as mentioning *fabulae* as a failed attempt at, rather than an intentional deviation from, the truth.

55. For this reading, see, e.g., Kenter 1972, ad loc., Köhnken 1990, 119: "Ausnahmen von der 'Wahrheits'-Regel," and Brunt 1979, esp. 313–14; but see my argument for an ambiguity of *fabula*.

56. See Köhnken 1990, 118–19 and 136–37; cf. Benardete 1987 and Dyck 2004, as in n. 9 above.

57. Cic. *Brut.* 44.

58. Atticus seems to have encouraged Cicero on a number of occasions to take on the task of historiography; see, e.g., *Att.* 14.14.5: *et hortaris me ut historias scribam*? See also *Att.* 2.8.1, 16.13a.2.

If Quintus alluded to his brother's treatise *De oratore*, and since Atticus will refer to the same treatise to underscore his point, this transition could be interpreted simply as Atticus' continuation of Quintus' reference to Antonius' spiel, as Antonius after stating the *lex historiae* talks about the *exaedificatio* that only an orator could accomplish.[59] And just as Antonius had preceded this with a survey of Greek and Roman historiography, during which he referred to Herodotus as *qui princeps genus hoc ornavit* (*De or.* 2.55), so will Atticus survey Roman historiography, after Marcus mentions Herodotus as *pater historiae*. Cicero's speakers do not seem surprised by Atticus' speech, and his intended reader would not have been surprised, either, since they share the relevant passages in *De oratore* as the necessary literary background.

But the most striking observation is perhaps that Marcus' statement allows for Atticus' response also because of the lexical ambiguity of *fabulae*.[60] If the reader takes *fabulae* to mean "untrue stories," Marcus is understood to concede that there are untrue stories in Herodotus' *Histories*, although history should be about *veritas*. If, however, the reader takes *fabulae* to mean "a story for entertainment, instruction, and so forth, a tale,"[61] he or she understands Herodotus and Theopompus to be exceptions from the contrastive opposition between poetry and history, not because they lie, but because they tell *fabulae*, which entertain the reader. The concessive clause is a lucid example of a deeper ambiguity, as neither the listener (in the dialogue) nor the reader knows whether it corrects the first or the second part of the preceding statement; and this ambiguity is possible only because of the lexical ambiguity of its key term.[62] It is easy to see how this reading of Marcus' statement facilitates the transition from the discussion of *veritas* to Atticus' wistful comments on the lack of *delectatio*. For the Roman interlocutors and readers there was no rift in the discussion.

4. The Art of Conversation

By the time Atticus talks about the deficiency of Roman historiography, the conversation has gone a long way, covering a great variety of topics. I have tried to show that in order to appreciate more fully the artfulness of the dialogue, with its many transitions, the reader must pay attention to the discourse techniques that Cicero copied from genuine conversations of his time. Moreover, it appears that the modern theoretical conceptualization of ordinary conversations can be applied to Cicero's text; while some aspects, such as the parallelization of agriculture and culture, are more specifically Roman, that is to say, culturally determined, the discourse rules pointed to in the dialogue have obviously not changed from Cicero's time to our own.[63]

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THE LITERARY MERIT OF THE NEW GALLUS

Nearly a quarter of a century has passed since Duncan F. Kennedy coined the memorable phrase "those wretched lines from Qaṣr Ibrîm" to describe the contents of the New Gallus.[1] His response was not atypical. Even R. G. M. Nisbet in the *editio princeps* could not refrain from commenting on the "austere diction" of the papyrus fragment,[2] and his collaborator P. J. Parsons soon after published his own disparaging comments on the quality of the lines in the *London Review of Books* on February 7, 1980. The question of literary merit evidently dominated the panel discussion on the New Gallus at the annual APA meeting on December 28 of that year, in which papers were presented by Elaine Fantham, Michael Putnam, John Van Sickle, Florence Verducci, and James Zetzel.[3] Critics were woefully disappointed, not only because Gallus had long been assumed to be the first great exponent of Latin love elegy, but also because David Ross had recently written a book reconstructing the marvels of Gallus' elegy and detailing its impact on the early works of Vergil and Propertius.[4] But the papyrus find seemed only to confirm the impression of Zetzel that Gallus was no very remarkable poet, and that the Gallus recovered by Ross was largely the literary creation of Vergil.[5] The metrical solecisms, syntactical awkwardness, archaizing features, and bland contents of the New Gallus even led Franz Brunhölzl to question the authenticity of the papyrus fragment,[6] and while his arguments have been largely dismantled,[7] and the *communis opinio* accepts the attribution of the lines to C. Cornelius Gallus,[8] very few scholars have attempted

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1. D. F. Kennedy, "Gallus and the *Culex*," *CQ* 32 (1982): 371.

2. R. D. Anderson, P. J. Parsons, and R. G. M. Nisbet, "Elegiacs by Gallus from Qasr Ibrim," *JRS* 69 (1979): 149. This is the *editio princeps*, which I will cite throughout (henceforth, APN).

3. As reported by J. Van Sickle, "Style and Imitation in the New Gallus," *QUCC* 38 (1981): 122.

4. D. O. Ross, *Backgrounds to Augustan Poetry: Gallus, Elegy, and Rome* (Cambridge, Mass., 1975).

5. J. E. G. Zetzel, "Gallus, Elegy, and Ross," *CP* 72 (1977): 254–55.

6. F. Brunhölzl, "Der sogenannte Galluspapyrus von Kasr Ibrim," *CodMan* 10 (1984): 33–40.

7. J. Blänsdorf, "Der Gallus-Papyrus: Eine Fälschung?" *ZPE* 57 (1987): 43–50; G. Ballaira, "Per l' autenticità del papiro di C. Cornelio Gallo di Qasr Ibrim," *Paideia* 42 (1987): 47–54.

8. For a notable exception, cf. G. Giangrande, "An Alleged Fragment of Gallus," *QUCC* 34 (1980): 141–53; id., "On the Pseudo-Gallus," *CL* 2 (1982): 83–93.