

APPRECIATING APER: THE DEFENCE OF MODERNITY IN TACITUS' *DIALOGUS DE ORATORIBUS**

Nearly a century ago, Friedrich Leo argued with his characteristic acumen that the neo-Ciceronian style of Tacitus' *Dialogus de oratoribus* was as much a function of its genre as its subject. 'The genre', he observed, 'demands its style. One who deals with different genres must write in different styles.'¹ Alfred Gudeman, the target of Leo's review, had therefore missed a key step in the argument for Tacitean authorship when he invoked 'the influence of subject-matter' without considering the demands of genre. In hindsight, the point seems almost obvious, and the sophistication of recent work on the date and style of the *Dialogus* has left Gudeman's discussion far behind. The advance in method—if not necessarily in results—has been profound.² Leo's success in linking genre and style, however, has also had a second, less happy result: it has encouraged belief in a corresponding link between genre and content, as if Tacitus necessarily embraced Ciceronian values along with his Ciceronian forms. The *Dialogus* is often thought to accept Cicero's aesthetic agenda and to examine why the orators of succeeding generations failed to maintain its ideals and standards. Perhaps inevitably, its analysis is then read as a rather depressing tale of oratory's literary, social, and moral decline. This view demands reconsideration. To explore, as the *Dialogus* certainly does, the collapse of Ciceronian values is not necessarily to regret that collapse. We have, I think, too often read our own prejudices into the *Dialogus* by presuming a post-Augustan decline in oratorical standards and, in the process, reducing our sensitivity to important variations in and departures from the generic conventions that Tacitus so deliberately recalls. The result is a significant distortion of the *Dialogus*' view of oratory under the empire.

The first sign of this distortion involves the statement of its subject. The title promises, and the text delivers, a discussion of Roman orators, but there is little basis for the frequent claim that in it, 'Tacitus clearly asserted the decline, even the death, of oratory.'³ The work makes only one unqualified statement of oratory's decline. It appears in the very first sentence: *Saepe ex me requiris, Iuste Fabi, cur, cum priora*

* This essay owes much to audiences in California and Colorado, to CQ's editor and referees, to Charles Murgia, ever a keen but fair-minded critic of my views, and to Charles McNelis, who first pointed me toward the *Dialogus*.

¹ F. Leo, *Ausgewählte kleine Schriften*, 2 (Rome, 1960), p. 285: 'Die Gattung erfordert ihren Stil, wer verschiedene Gattungen behandelt, muss in verschiedenen Stilen schreiben.' Gudeman's revised and expanded edition of the *Dialogus* (Berlin, 1914), pp. 21–3 still missed the point of this observation. For the context of Leo's contribution to the study of the *Dialogus*, see D. Bo, *Le principali problematiche del Dialogus de oratoribus* (Zurich, 1993), pp. 250–63.

² In particular, R. Güngerich, *CP* 46 (1951), 159–64; C. E. Murgia, *HSCP* 84 (1980), 99–125 and *HSCP* 89 (1985), 171–206; C. O. Brink, *CQ* 39 (1989), 472–503. See now the summary and critique in Brink, *HSCP* 96 (1994), 251–80 at 253–75.

³ G. Williams, *Change and Decline* (Berkeley, 1978), p. 49. Cf. T. Barnes, *HSCP* 90 (1986), 225–44 at 232: 'The *Dialogus* does not discuss the decline of oratory: it assumes it.' Similar statements by, *inter alios*, T. J. Luce, 'Reading and response in the *Dialogus*', in T. J. Luce and A. J. Woodman (edd.), *Tacitus and the Tacitean Tradition* (Princeton, 1993), p. 19; Brink (n. 2, 1989), p. 490; K. Heldmann, *Antike Theorien über Entwicklung und Verfall der Redekunst* (Munich, 1982), p. 163.

saecula tot eminentium oratorum ingeniis gloriaque floruerint, nostra potissimum aetas deserta et laude eloquentiae orbata vix nomen ipsum oratoris retineat. The statement is as clear as the theme is familiar, but a conventional opening does not necessitate a conventional thought. In this case, we need to consider who is speaking and to what purpose.

The feigned reluctance of an author to respond to the repeated requests of a friend or patron is a pose with a long history in Roman letters. To announce a subject in this elegant and economical way while simultaneously making a dedication became a favourite device of poets and prose writers alike. The injunction to which they purport to yield often takes the form of a reported command. Both the Republican *Rhetorica ad Herennium* and Quintilian's *Institutio oratoria* employ this conceit:

Rhet. ad Her. 1: . . . tamen tua nos, Gai Herenni, voluntas commovit ut de ratione dicendi conscriberemus, ne aut tua causa noluisse aut fugisse nos laborem putares.

Quint. Inst. Or. (Ep. ad Tryphonem): efflagitasti cotidiano convicio ut libros quos ad Marcellum meum de institutione oratoria scripseram iam emittere inciperem.

The pose, though adroit, could be risky in public. The *quondam* elegist Passenus Paulus, for example, once opened a recitation with the words *Prisce, iubes* and found himself unable to continue when his friend Iavolenus Priscus was heard to remark, *ego vero non iubeo*.⁴ Most poets were therefore more subtle in using the convention, as Vergil was at *Eclogue* 8.11–12: *accipe iussis carmina coepta tuis*. Another variant substitutes an indirect question for the clause of command. Cicero does this at the beginning of *Orator*.

Utrum difficilius aut maius esset negare tibi saepius idem roganti an efficere id quod rogares diu multumque, Brute, dubitavi. . . . Quod quoniam me saepius rogas, aggrediar non tam perficiendi spe quam experiendi voluntate. . . . Quaeris igitur idque iam saepius quod eloquentiae genus probem maxime et quale mihi videatur illud, quo nihil addi possit, quod ego summum et perfectissimum iudicem. (*Orator* 1–3)

The similarity of his *me saepius rogas* to Tacitus' *saepe ex me requiris* led Janson to conclude as a matter of course that 'Tacitus is quite simply employing a formula, a generally self-deprecatory form of expression that had been used so often that its real content had become diluted'.⁵

Janson is certainly right about the *Orator*: its preface is strikingly thin in content. The request it reports is a characteristically vague and open-ended wish for an opinion without the offering of one.⁶ This is where Tacitus departs from his predecessors. Only here, in the preface to the *Dialogus*, do we find an expository question that itself advances a proposition of substance—the decline of contemporary oratory—and only in the *Dialogus* is the author reluctant not only to reply (that reluctance is traditional) but to endorse the thesis being advanced: *cui percontationi tuae respondere, et tam magnae quaestionis pondus excipere* . . . *vix hercule auderem si mihi mea sententia proferenda* (1.2). The decline of oratory becomes a question which Tacitus never

⁴ Plin. *Ep.* 6.15. On Priscus' interruption, see O. Hiltbrunner, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 96 (1979), 31–42. *Iubere* is a very weak imperative (cf. P. White, *Promised Verse* [Cambridge, MA, 1993], p. 266–8), which doubtless facilitated the lexical and syntactic variants so common within this convention.

⁵ T. Janson, *Latin Prose Prefaces. Studies in Literary Conventions* (Stockholm, 1964), p. 62.

⁶ Especially clear at *Or.* 3: similar effects at Cic. *Top.* 4–5; Col. 2.1; Sen. *Ep.* 7.1, 22.1. The form recalls the neutrality of Roman comedy's expository questions, where one character simply calls upon another to explain his behaviour or his condition (e.g. Pl. *Cur.* 1–2).

answers in his own voice, and his reluctance to do so is not the result of false modesty. He instead is putting distance between what has become Fabius' statement of the theme and what might be his own opinion on the subject. Indeed, the last we actually hear from Tacitus *in propria persona* is a reminder to Fabius that an opposing view is also possible: *neque enim defuit qui diversam quoque partem susciperet ac multum vexata et inrisa vetustate nostrorum temporum eloquentiam antiquorum ingeniis anteferebat* (1.4). The proemium thus introduces without endorsing the thesis of oratorical decline.⁷ The conventional opening does not commit itself to the conventional value.

What it offers instead is the report of a conversation which Tacitus sets back to the early 70s. Leading orators of the time have gathered at the house of Curiatius Maternus to urge him to abandon the writing of tragedies and return to his career as a legal advocate. Such an invocation of past luminaries was itself a conventional device of literary dialogue, but the convention Cicero used to lend authority to the argument he advances becomes another distancing device for Tacitus. He conjures up a previous generation of speakers in order to avoid responsibility for what they say.⁸ The result is a dialogue of shifting values and perspectives that 'pursues no thesis, single or composite, nor does it answer a particular question, not even very fully the question posed at the outset'.⁹ Rather, the discussion moves through three interconnected phases: the relevant virtues of poetry and oratory, the relevant virtues of oratory's ancient and modern practitioners, and the best training and environment for nurturing their skills. All the speakers will agree that oratory has changed with time. Whether that change constitutes a decline, i.e. whether the change has been for the worse and if so, in what respects, is among the issues they debate. And debate it is, for key aspects of the question raised in the preface remain open to the end.

The openness of the question should not be a surprise. Discussions of oratory in the early empire did not universally assume decline from some earlier age of greatness. There were indeed Romans—the elder Seneca was one—who thought that eloquence had peaked with Cicero,¹⁰ but glorifying the past beyond its deserts was also a critical topos of some standing (Lucr. 3.956, Prop. 3.1.23, Vell. Pat. 2.92.5, Sen. Ep. 16.9, Tac. Dial. 18.3). Velleius Paterculus found distinguished predecessors an intimidating bar to progress (1.17.7), which is perhaps one reason why Quintilian made a point of

⁷ Charles Murgia points out to me that this distancing would also insulate Tacitus from the political implications of the arguments advanced, a particularly valuable protection if, as Murgia has argued [*HSCP* 84 (1980) 99–125, endorsed with further arguments by Barnes, *HSCP* 90 (1986), 229–3], the *Dialogus* dates from the time of Nerva, when the promise of a restored *libertas* might easily have outstripped the reality. I find the argument of Brink (n. 2, 1994), pp. 251–80 for an early Trajanic date, i.e. c. 99–101, much less compelling.

⁸ So, rightly, U. Haß-von Reitzenstein, *Beiträge zur gattungsgeschichtlichen Interpretation des Dialogus de oratoribus* (Cologne, 1970), pp. 12–17. Contrast Cicero's straightforward declaration at *Sen. 3: omnem autem sermonem tribuimus . . . Marco Catoni seni, quo maiorem auctoritatem haberet oratio*. (Cf. *de Or.* 1.23, *Rep.* 1.12.) The historicity of Tacitus' speakers is widely assumed, though Aper and Maternus are known only from this work. They were probably real people, but S. Bartsch, *Actors in the Audience. Theatricality and Doublespeak from Nero to Hadrian* (Cambridge, MA, 1994), p. 260, n. 68 is right to raise the possibility that Maternus may be a fictional composite.

⁹ Brink (n. 2, 1994), pp. 276–7.

¹⁰ *Con.* 1 Prf. 6–7: *quidquid Romana facundia habet . . . circa Ciceronem effluit; omnia ingenia, quae lucem studiis nostris attulerunt, tunc nata sunt. in deterius deinde cotidie data est . . .* Similar views in *Sen. Ep.* 114.1–2; *Petron.* 1ff., 88; *Plin. N.H.* 14.1.3–7. See H. Caplan, *Of Eloquence* (Ithaca, 1970), pp. 176–89; G. Kennedy, *The Art of Rhetoric in the Roman World* (Princeton, 1972), pp. 446–64; Heldman (n. 3), pp. 131–98. The very commonplace, however, might itself tell against Tacitus' interest in it. See Bo (n. 1), pp. 342–5.

praising his contemporaries (10.1.122) and their achievements (12.11.28) while predicating his entire educational programme upon the undiminished prestige of the orator's calling.¹¹ Tacitus, of course, was himself one of those distinguished imperial orators, and the record of his career, however murky and incomplete, provides no external reason to attribute an argument for decline to him here. What seems to fuel a modern tendency to do so is something rather different, a widespread distaste for his champion of modernity.

This champion is the orator M. Aper, who has two substantial speeches. The first argues forcefully and unashamedly for the utility, pleasure, and power that oratory confers on its practitioners (5.3–10). Orators, by which he means courtroom pleaders, are men of status and influence, and Curiatius Maternus is therefore foolish to sacrifice that prestige on the altar of poetry. Aper's second speech argues that eloquence is a relative concept (16.4–23). Speakers should be judged only by their effectiveness in their own time, and modern times present special challenges. What can be expected of an orator when everyone knows the same rhetorical tricks, and when courts have become places of business, not public attractions? Arguments like these have not won the admiration of classicizing readers, who adopt two strategies for dismissing Aper's message. One, focusing on the first speech, assaults his character. The second assaults his seriousness. Let us take these in turn.

THE ASSAULT ON CHARACTER

Aper's first speech, says Williams, reveals his 'brashness and pragmatism and his vulgar sense of values'.¹² By brashness and vulgarity Williams presumably means Aper's self-evident pride at his own rise from obscure origins in Gaul to high position at Rome (7.1, 10.2). The man is thus a shameless parvenu. As for pragmatism, clearly a negative trait in this context, 'he betrays himself completely', writes Barnes, 'when he names his oratorical heroes: they are Epius Marcellus and Vibius Crispus (8.1–4), who stand for the class of *delatores* . . .'.¹³ All the odious connotations of that group, as infamous for the 'strong, savage, and unbridled' viciousness of their oratory as for the immorality of their prosecutions, are thus imputed to their fellow-traveller, M. Aper.¹⁴ Dismissing him in this way, however, conflates issues of style and morals that are better kept separate.¹⁵

The self-serving accusers (*delatores*) of the first century are widely reviled by ancient and modern authorities alike for the immorality of their prosecutions, while their manner of speaking has been condemned for its lack of discipline. M. Aquilius Regulus' famous contrast between his own oratory and Pliny's is often cited in this context: *tu omnia quae sunt in causas putas exsequenda; ego iugulum statim video, hunc premo* (Plin. *Ep.* 1.20.14). 'There, uniquely and memorably', comments Winterbottom,

¹¹ Cf. Heldmann (n. 3), p. 170.

¹² Williams (n. 3), p. 28.

¹³ Barnes (n. 3), p. 237.

¹⁴ This characterization, which makes the delators' style of speaking as unsavoury as their motives for doing so, was constructed by R. Syme, *Tacitus*, 2 (Oxford, 1958), pp. 331–3 and is adopted by *inter alios* M. Winterbottom, *JRS* 54 (1964), 90–4 and Kennedy (n. 10), pp. 440–2. The more balanced view of delation in A. N. Sherwin-White, *The Letters of Pliny* (Oxford, 1966), pp. 93–5 deserves wider attention. Aper's biography must be deduced from the *Dialogus* itself. See Gudeman (n. 1), pp. 68–70 and Syme, pp. 799–800.

¹⁵ So Luce (n. 3), p. 34, n. 74 of Williams, Barnes, *et al.* (n. 3): 'The values by and large are those of the twentieth century, not first-century Rome.' Aper's anti-classical sensibility is a frequent source of discomfort. For the range of opinion, see Bo (n. 1), pp. 222–7.

'speaks the violent oratory of the *delatores*.'¹⁶ The imagery is undoubtedly violent, but the chronology should give us pause. Regulus prosecuted three consulars under Nero and grew rich in the process, but his career as a *delator* ended in 70, when Pliny was still a boy. After Nero's death, Regulus spoke only for the defence in criminal cases and devoted most of his effort to the civil law. By the 90s he had become the leading advocate of the Centumviral court.¹⁷ His prosecutorial career was thus long over by the time Pliny shared a court with him. The context of Regulus' remark—the letter dates from the late 90s—must be the Centumviral court, where speeches were normally limited to an hour or two. Its meaning is plain: 'You beat around the bush. I get straight to the point.' This is not necessarily a vice. Pliny, who once spoke in court for a full seven-hour sitting (*Ep.* 4.16.2–3), might demur, but that is precisely the issue. On what basis should we champion Pliny's rhetorical values? When he faults Regulus for having *nihil denique praeter ingenium insanum* (*Ep.* 4.7.4), he is writing not of an orator without skills (Regulus' formidable success at the bar proves the contrary) but of an orator who does not value *his* skills. That too is not the same thing and not necessarily a bad thing, as modern readers of the *Panegyricus* ought to know.¹⁸ If given a choice between hearing Regulus plead a case and hearing Pliny, anyone about to sit on a courtroom bench might well think twice before choosing the latter. Much of what is said about Regulus' oratory is doubtless true, but it does not necessarily amount to bad oratory, nor is it inexorably bound to the immorality of delation.

Aper's two oratorical ideals, Eprius Marcellus and Vibius Crispus, are even more difficult to characterize simply. Or to blend into one. Marcellus first achieved oratorical prominence as one of the prosecutors of Thrasea Paetus in 66, when he displayed that ferocity in attack which Syme would make central to his stereotype of the delators. On that occasion, says Tacitus, *ut erat torvus ac minax, voce vultu oculis ardesceret* (*Ann.* 16.29, cf. 22.10). Upon Paetus' condemnation, Marcellus received five million sesterces. He then remade himself under Vespasian, however, becoming proconsul of Asia (70–73) and suffect consul for a second time (May 74). He held three priesthoods and was a trusted advisor to the emperor throughout the 70s. Vibius Crispus had an even more distinguished career: suffect consul three times, *curator aquarum*, proconsul, and imperial legate. As an orator, he was not an attacker by nature and made his reputation in civil cases. Both Quintilian and Juvenal call him *iucundus*, to which Quintilian adds *elegans* and *delectationi natus* (Quint. 5.13.48, 10.1.119; Juv. 4.81–3). His wit, gentle rather than biting, was famous (Quint. 8.15.3; Suet. *Dom.* 3; D.C. 64.2.3). Tacitus, as is his wont, comments darkly on Crispus' prosecution of the Neronian *delator* Annius Faustus, who had destroyed his brother (*Hist.* 2.10), but it is at least clear from the ancient testimony that Crispus and Marcellus had quite different personalities and styles of speaking.¹⁹ What they shared was success and the pragmatism that made success possible. 'I may regard with

¹⁶ Winterbottom (n. 14), p. 94.

¹⁷ Tac. *Hist.* 4.42; Plin. *Ep.* 4.7.3–5, 6.2; Mart. 6.38. Cf. Syme (n. 14), pp. 101–2 (recasting Pliny's personal opinion as historical fact) and (more circumspectly) L. Duret, *ANRW* II 32.5 (1986), 3268–70.

¹⁸ The published *Panegyricus* was in fact an expansion of the speech delivered in September 100. The captive audience on that occasion restrained Pliny's natural exuberance: *animadverti enim severissima quaque vel maxime satisfacere* (Pl. *Ep.* 3.18.8–9 and Sherwin-White [n. 14]). For a taste of Regulus' aggressive style, in court and out, see Plin. *Ep.* 1.5, itself a deft exercise in character assassination.

¹⁹ Pace Winterbottom (n. 14), who, like Syme, makes Tacitus' bias against them his own. The great difficulty in assessing such figures lies in distinguishing matters of fact in the record from

admiration an earlier period', Tacitus has Marcellus say, 'but I acquiesce in the present, and, while I pray for good emperors, I endure whatever comes our way' (*Hist.* 4.8.2). Who in this period could claim more? Even Vipstanus Messala, the somewhat complacent *laudator temporis acti* of the *Dialogus*, saved his half-brother Regulus in 70 when Vespasian shifted the ground under the informers' feet (*Hist.* 4.42). Vespasian himself was a man who Tacitus thought changed for the better when circumstances allowed (*Hist.* 1.50), and Tacitus' own public career soared highest under Titus and Domitian (*Hist.* 1.1.3). Pragmatism of the kind Aper would admire is not in itself sufficient grounds for moral condemnation.

Yet Marcellus and Crispus were hardly moral innocents. Though we may soften our opinion of them by appeal to their subsequent careers, the *Dialogus* is deliberately set in the 70s, when memories of Neronian delation were still fresh and its emerging variant under the Flavians a source of anxiety. Not long before its dramatic date, Marcellus was attacked in the senate by Helvidius Priscus: he walked out in company with Crispus, the one with a scowl and the other with a smirk.²⁰ Not until the next session did the extent of their imperial protection become clear to all. Aper deliberately and favourably recalls this very scene just before citing Marcellus and Crispus as positive examples of self-made men (5.7). Their great wealth, he continues, is the reward of their oratory (*ad has ipsas opes possunt videri eloquentiae beneficio venisse*, 8.2), and they have gained it without the concomitant gifts of birth, talent, or character (*sine commendatione natalium, substantia facultatum, neuter moribus egregius*, 8.3). Maternus promptly shows the ambiguity of such praise by disavowing *lucrosae huius et sanguinantis eloquentiae usus recens et ex malis moribus natus* (12.2). The *eloquentia* to which he refers is clearly that of the *delatores*. Is he not then also repudiating the men Aper admires and thus the values he represents?

It would be easier to accept Maternus' remark as a sweeping repudiation of the delators' *lucrosa eloquentia* and to join him in that condemnation if he were distinguishing between their oratory and some other, better kind of oratory. His distinction, however, is simply between oratory and poetry, as if all oratory that is *recens* is necessarily *ex malis moribus natus*. He speaks as if his choice lies between becoming a poet and becoming a delator. This is a false division, dismissing at a stroke both the pleasure Aper takes in the orator's power and that power itself. Maternus prefers the poet's life. Where Aper delights in the clamour of litigants, he seeks only quiet and seclusion and looks to a Golden Age which *et oratorum et criminum inops, poetis et vatibus abundabat* (12.3). His language at this point is highly wrought—Maternus' poetic temperament perhaps gets the better of him²¹—but we should not follow his lead, for the position he advocates is as morally difficult as Aper's.

Aper had made his case for the utility of oratory in broad social terms. A man like Maternus, he says, is born to the orator's life and responsibilities, *natus ad eloquentiam virilem et oratoriam, qua parere simul et tueri amicitias, adsciscere necessitudines*,

matters of taste. As Duret (n. 17), p. 3270 observes of Tacitus and Pliny, 'En fait, l'unité de ce "style de la délation" risque d'avoir existé surtout dans l'esprit des auteurs classicisants.'

²⁰ *Hist.* 4.43.2: *ambo infensi, voltu diverso, Marcellus minacibus oculis, Crispus renidens* . . . The description is a masterpiece of innuendo but also true to their separate natures as Tacitus records them. Winterbottom (n. 14), p. 93 accepts the narrative at face value.

²¹ Note the invidious balance of *inops* . . . *abundabat* and the clichéd redundancy of *poetis et vatibus*. *Sanguinans* in 12.2 is a very unusual word. Even *sanguineus* would be unexpected: the normal word in prose is *cruentus*, e.g. Cic. *Har.* 3, *imperio cruento illo*; Phil. 1.17, *pecunia cruenta illa*. Cf. Sal. *Cat.* 58.21, *cruentam ac luctuosam victoriam*. Maternus' cretic rhythm is also striking.

complecti provincias possit (5.4). These were the obligations immortalized by Cicero, which is why Aper sketches the orator's power in deliberately Ciceronian terms.

quid est tutius quam eam exercere artem qua semper armatus praesidium amicis, opem alienis, salutem periclitantibus, invidis vero et inimicis metum et terrorem ultro ferat, ipse securus et velut quadam perpetua potentia ac potestate munitus? (*Dial.* 5.5)

quid tam porro regium, tam liberale, tam munificum, quam opem ferre supplicibus, excitare adflictos, dare salutem, liberare periculis, retinere homines in civitate? quid autem tam necessarium, quam tenere semper arma, quibus vel tectus ipse esse possis vel provocare integer vel te ulcisci lacessitus? (*de Or.* 1.32)

Even the sinister enthusiasm of Aper's *metum et terrorem ferat* finds an equivalent in Cicero's *tenere semper arma*. This correspondence is entirely apposite since the social functions of the orator as Cicero describes them were hardly out of date under the emperors. Precisely this kind of obligation to clients and friends led Pliny and Tacitus not only to prosecute Marius Priscus for corruption and extortion when he was proconsul of Africa, but to refuse mere restitution to his victims, instead pressing remorselessly for a sentence of exile. It was, or so Pliny would claim, an action in the old Republican style.²² Even the whiff of vainglory and corruption in Aper's declaration of oratory's rewards (*quid enim dulcius . . . quam videre plenam semper et frequentem domum suam concursu splendidissimorum hominum*, 6.2) recalls a pleasure known and valued under Republic and empire alike. When, for example, Pliny reminds Tacitus of the *copia studiosorum, quae ad te ex admiratione ingenii tui convenit*, he hardly intends to arouse an unpleasant memory in his consular friend (*Ep.* 4.13.10, cf. *Ep.* 7.20). For Maternus to repudiate the oratorical enterprise itself, which is what he does in preferring silence to the clamour of litigants at his door (12.1), is therefore to turn his back not just on vanity and avarice but on the very obligations of his class to his society.²³ How high a moral position is that? The rash of senatorial prosecutions that we associate with the delators may well have been distasteful to a man like Maternus, but such distaste does not justify abandoning the legitimate needs of clients and friends. He is admittedly no coward—his plays are themselves acts of courage (3.3) and he maintains his readiness to defend any senatorial colleague in need (11.4)—but the strength of Aper's argument lies not with such extraordinary demands as these but in the ordinary press of business that marks, and even justifies, the aristocrat's place in the society that supports him. Maternus' withdrawal from such traditional civic duties when he still has much to accomplish (5.4) is thus fraught with moral ambiguities.²⁴

After all, it remained well within an aristocrat's power to fulfil these obligations, even the obligation to prosecute, without becoming a *delator*. The administration of justice at Rome depended on the expertise of what, in modern terms, were always private advocates. Claiming the right to legal redress (*postulatio*), filing an indictment

²² Plin. *Pan.* 76.1–2. The prosecution was complex and probably extended from a first indictment in 98 to final judgment in 100. See Syme (n. 14), pp. 70–1; Sherwin-White (n. 14), pp. 56–8; Brink (n. 2, 1994), pp. 277–8.

²³ Thus, in defending Aper, C. Champion, *Phoenix* 48 (1994), 155 stresses the social context of his first argument: 'Aper's concern with the public recognition of status lay at the core of the Roman aristocratic mentality.'

²⁴ Neither Thrasea Paetus' withdrawal under pressure from public affairs in 65 nor Tacitus' own apparent retirement after the prosecution of Marius Priscus is quite comparable. Cf. Luce (n. 3), p. 17, n. 20: 'Maternus' decision to abandon public life seems particularly at odds with Tacitus' praise for those who serve the state well, despite the dangers and difficulties: *Agr.* 42.4, *Ann.* 4.20.2.'

(*delatio nominis*), and speaking as *accusator* in family matters were traditionally domestic responsibilities. The prosecution by individuals of offences alleged in the public domain also had a long history, though the distinction between prosecution as a political weapon and as an exercise in civic responsibility was sometimes difficult to see.²⁵ Cicero struck a particularly high-minded pose when asserting his right to prosecute Verres (*Div. Caec.* 27–47), though his motives were not entirely unselfish. Nearly two centuries later, Quintilian was still reminding readers that rooting out corruption through legal action remained a patriot's duty (*Inst.* 12.7.1–5). The evil that arose under Tiberius was not an increase in prosecutions *per se* but something much more specific, the use of prosecution for private gain, which did not really cease until the time of Trajan. Delation was no simple phenomenon to be roused or abolished at will.²⁶ The legal waters could be murky, but not murky enough to justify Maternus for staying aloof or to justify the condemnation of Aper for plunging in.

THE ASSAULT ON SERIOUSNESS

The second assault on Aper's credibility takes two forms. The first trivializes his argument. In his second speech, Aper objects to applying the term *antiqui* to Cicero and his contemporaries. Only 120 years, the span of a single generation's memory, separates him from Cicero. Old men he had heard in his youth could have heard Cicero in *their* youth: 'You can't split up time like this, and go on using "ancient" and "old-timers" of men whom the same hearers could have recognized and thus joined to us in a single life-span' (17.6). His opponent Messala dismisses this line of argument as a quibble—'I am not fighting about a word', says he (25.2)—and some moderns share his view, but the point at issue is not simply a matter of labels. Aper's defence of modernism is also an attack on the retrospective admiration of past performances that encourages the creation of a canon of orators. Because good oratory is simply effective oratory, resistance to the formation of a canon is central to the pragmatist's case. Eloquence, he will say, does not have a single face (*non esse unum eloquentiae vultum*, 18.3). Not even the 'ancients' Cicero, Brutus, and Calvus agreed among themselves on such matters (18.5–6). All we can do is judge speeches on their own merits and understand them within the context of their own time and situation. Where Aper will concede a turning point in the history of oratory therefore does not come with Cicero, however high he raised the standards of Roman *eloquentia*. This is why, though acknowledging Cicero's greatness, Aper treats him outside the basically chronological order of his survey and emphasizes the faults of Cicero's early speeches (*lentus est in principiis, longus in narrationibus, otiosus circa excessus*, 22.3) over the brilliance of his eventual achievement. When viewed from the

²⁵ Cf. E. S. Gruen, *Roman Politics and the Criminal Courts, 149–78 B.C.* (Cambridge, MA, 1968), p. 6: 'The criminal prosecution as a political weapon . . . occurs with such frequency and regularity that it may legitimately be regarded almost as an institution. To a surprisingly, perhaps alarmingly, large extent, the business of politics was carried out not in the *comitia* or in the *curia*, but in the courts.' Politically motivated trials of course remained familiar to later generations as well.

²⁶ So, rightly, Luce (n. 3), p. 23, n. 40. This was probably why Quintilian had to point out that prosecution in the expectation of gain was a kind of larceny: *itaque ut accusatoriam vitam vivere et ad deferendos reos praemio duci proximum latrocinio est, ita pestem intestinam propulsare cum propugnatoribus patriae comparandam* (*Inst.* 12.7.3). Cf. Plin. *Pan.* 34 on the *delatorum agmen* . . . *quasi grassatorum quasi latronum* rooted out by Trajan. Yet as Sherwin-White (n. 14), p. 95 observes: ' . . . the professional delator could not be eliminated, because the Roman state had no other means of enforcing its laws'.

perspective of the later first century A.D., Cicero's world was still essentially the world of Licinius Crassus, the Gracchi, and the elder Cato, a world that gave extraordinary licence to the orator. For Aper, the significant change came a generation later with Cassius Severus (d. c. A.D. 34), because he was the first orator to face judges and juries lacking the patience for rhetorical display.

Cicero and his contemporaries treated persuasion as a function more of emotion than of fact, but the Centumviral court of Cassius' day had become a place of business. Judges who know the law create neither the need nor the opportunity for technical proofs or complex (and potentially tendentious) legal explications. The one passage in the *Dialogus* that deals with the orator's *ars* is thus a telling attack on rhetorical technique as Aper ridicules the arid precepts to be found in the manuals of Hermagoras and Apollodorus. His criticism of them is not misplaced, nor is his impatience with the self-serving convolutions of a speech like Cicero's *Pro Caecina*.²⁷ Aper here is championing the legal rationality that in fact brought about a marked improvement in the administration of justice at Rome. From the standpoint of purely legal history, the 'decline' of oratory was a very good thing, a final tipping of the balance between advocates and jurists in the latter's favour.²⁸

Messala in turn will grant Cassius the title *orator*, at least in contrast to his successors, but will also criticize him as crude and unsophisticated: his vehemence is unrefined (*plus bilis habeat quam sanguinis*) and he lacks technique (*non pugnat sed rixatur*). This stylistic judgement also appears in Quintilian, but it is not entirely fair to Cassius.²⁹ We know him best from the elder Seneca, who devoted the preface of *Controversiae* 3 to discussing why Cassius was a better advocate than declaimer. Seneca describes a dignified and powerful court speaker, straightforward in both argument and language (cf. Quint. *Inst.* 8.2.2). His speeches contained nothing extraneous (*nihil in quo auditor sine damno aliud ageret*, 2) and were short enough that he could plead two private cases in a single day.³⁰ His greatness as an orator, however, did not rest solely on his words. It was inseparable from his impressive physique, his noble bearing, and the resonance and range of his voice. He was also a great improviser, playing to the needs of the moment and always with an eye on the judge (7). None of these gifts translates well to a published text, which is why, says Seneca, 'It is impossible to judge him from his publications . . . he was far greater heard than

²⁷ *Dial.* 19.3–20.4 with Gudeman's comments (n. 1), pp. 323–34. Contrast such passages as Cic. *de Or.* 2.178: *ipse [qui audiet] sic moveatur, ut impetu quodam animi et perurbatione magis quam iudicio aut consilio regatur* and *de Rep.* 59: *apud me, ut apud bonum iudicem, argumenta plus quam testes valent*. This was the style of presentation that could lead a jurist like G. Aquilius Gallus to remark (with some impatience?), *nihil hoc ad ius; ad Ciceronem* (*Top.* 51). The dilemma presented at *Quinct.* 78–83, a case heard by Aquilius as *iudex*, is a nice example of a proof that Aper would doubtless find both *longus* and *otiosus*.

²⁸ Cf. B. Frier, *The Rise of the Roman Jurists* (Princeton, 1985), p. 266, and for the deliberate obscurity of legal issues in a Ciceronian speech, P. A. Brunt, *CQ* 32 (1982), 136–47. Given these advances in the judicial system, it is difficult to know what Pliny meant in professing his *cum Cicerone aemulatio* (*Ep.* 1.5.12) or how Cicero would have been a good model for advocates before the Centumviral Court of the mid-90s.

²⁹ *Dial.* 26.4; Quint. 10.1.116–17, 12.10.11. Brink (n. 2, 1989), pp. 484–94 detects in Messala's speech strong echoes of Quintilian's lost *De causis corruptae eloquentiae*. For Cassius, see H. Bornecque, *Les déclamations et les déclamateurs d'après Sénèque le Père* (Lille, 1902), pp. 157–9; Winterbottom (n. 14), pp. 90–2; Heldmann (n. 3), pp. 163–98.

³⁰ 3 Pr. 5. Cassius almost invariably prosecuted, though not often successfully. Cf. his revenge on Cestius, the Cloaca Maxima of declamation, as reported at 3 Pr. 17 and the story in Macr. *S.* 2.4.9.

read.³¹ Aper aside, Seneca is our one great admirer of Cassius precisely because he is the only one of our sources to have heard him speak. The key point about Cassius Severus, then, is that with him oratory continued to be oratorical, but it ceased to be literary.³²

The second prong of the assault on Aper's seriousness questions the sincerity of his argument: his position is easier to dismiss if he does not believe it himself. So Maternus seeks to soften the vehemence of Aper's speech (*quo torrente, quo impetu saeculum nostrum defendit!* 24.1) by suggesting that he speaks less for himself than for the sake of the argument. Such posturing was one way Cicero represented argument *in utramque partem*, and Maternus imputes this role to Aper in language calculated to recall the Ciceronian precedent.³³

Quae cum Aper dixisset, 'agnoscitisne,' inquit Maternus 'vim et ardorem Apri nostri? . . . ac ne ipse quidem ita sentit, sed more veteri et a nostris philosophis saepe celebrato sumpsit sibi contra dicendi partes.' (*Dial.* 24.1–2)

cf. 15.2 [Messala speaking]: . . . neque aut Secundum aut Maternum aut te ipsum, Aper, quamquam interdum in contrarium disputes, aliter sentire credo.

Haec cum Antonius dixisset . . . Tum Crassus 'operarium nobis quendam, Antoni, oratorem facis atque haud scio an aliter sentias et utare tua illa mirifica ad refellendam consuetudine, qua tibi nemo umquam praestitit; cuius quidem ipsius facultatis exercitatio oratorum propria est, sed iam in philosophorum consuetudine versatur maximeque eorum, qui de omni re proposita in utramque partem solent copiosissime dicere . . . ' (*de Or.* 1.263)

Why does Tacitus create this deliberate echo? It is not sufficient to claim on structural grounds that Tacitus associates Antonius and Aper in order to repudiate Aper's position. As we have seen in the proemium, similar form does not guarantee similar content. It may help to put the question a slightly different way: why does Tacitus direct attention to this particular passage at the end of the first book of *de Oratore*?

Antonius there has just finished arguing against Crassus' famous notion that the true orator is one who can speak effectively on any subject: *quaecumque res inciderit, quae sit dictione explicanda, prudenter et composite et ornate et memoriter dicet* . . . (1.64). That demand for universal knowledge, countered Antonius, requires of the orator unnecessary and unrealistic skills. An orator is simply an effective speaker: he needs broad but not particularly deep knowledge (213–18). This refutation is often dismissed because Cicero in his own voice seems to endorse Crassus' position early in the next book (*de Or.* 2.5). Critics who treat Crassus as Cicero's spokesman therefore discount Antonius' reply and point to his own more accommodating stance later in the dialogue (cf. *de Or.* 2.40ff.). There are two reasons, however, not to ignore Antonius' initial argument. First, he is probably right in what he says. Take knowledge of the law, so central to modern ideas of courtroom pleading but so oddly peripheral to Republican Roman practice. Antonius' cavalier attitude toward civil law throughout the dialogue (1.234–55, cf. 2.142–5) belittles Crassus' recommendation that the orator

³¹ 3 Pr. 3. Cf. 4: *deinde ipsa quae dicebat meliora erant quam quae scribebat*.

³² This is itself no mere quibble over 'the literary' since the point at issue between Aper and Maternus is less the quality of modern oratory than whether to be an orator at all under modern conditions.

³³ The formal debt to *de Oratore* is very well analysed by Haß-von Reitzenstein (n. 8), pp. 131–43. W. Deuse, *GB* 3 (1975), 51–68 rightly wonders how readers are meant to respond to Aper, but his answer to that question is unconvincing. See Luce (n. 3), pp. 19–20. Similar claims for Aper as devil's advocate are made at 16.3 by Maternus and at 15.2 and 28.1 by Messala, but as Williams (n. 3), p. 43 observes, 'Aper never gives the slightest hint that the views he expresses are not his own.'

make an extensive study of Greek and Roman law (1.57–9, 165–200). He does so not as devil's advocate but as spokesman for his time and place: *Crassus'* view is the exceptional one.

Advocacy and jurisprudence stood in uneasy alliance throughout the Republican period.³⁴ Advocates of the late Republic were not jurists and had only limited respect for the men who were. Though pleading a case would, as a practical matter, require some knowledge of legal procedure (*Part.* 99–100), there was a common belief that only failed orators actually became jurists (Cic. *Mur.* 29, Quint. 12.3.9, 11). Crassus himself was self-trained in the law and never gave *responsa*.³⁵ Neither did Cicero. When forced to give up oratory in the 40s, he would reflect proudly on his early study with the jurist Scaevola (*Amic.* 1.1) and on the social significance of the jurisconsult (*Off.* 2.65), but as consul in his prime, Cicero's public attitude was quite different. In *Pro Murena*, for example, he played off the traditional Roman distrust of 'experts' by gently mocking the prosecutor Sulpicius, a jurist of note, as a well-meaning but impractical legal theorist lost in the public arena (*Mur.* 19–30). What legal knowledge an advocate needs, Cicero claimed, could be acquired at will: *Itaque si mihi, homini vehementer occupato, stomachum moveritis, triduo me iuris consultum esse profitebor*.³⁶ This is precisely Antonius' point. Like M. Aper after him, he is a practical man and talks sense.

Second, privileging Crassus' argument at the expense of his opponent is not fair to the nature of *de Oratore* and not a good strategy for reading it. Cicero's own voice is not to be heard in any one of its characters to the exclusion of others. Back in 155, the elder Cato may have been genuinely puzzled over the philosopher Carneades' ability to argue opposite sides of a proposition with equal conviction, but by Cicero's day Romans understood both the technique and the point of arguing in *utramque partem*. A didactic handbook like the *Partitiones oratoriae* would employ an authoritative voice, but the exploration of theoretical concerns in the first book of *de Oratore* requires something quite different. It is not an explication but a deliberately contentious, unresolved debate offering not 'a straight-forward argument resulting in a fixed conception, but rather a groping for probabilities, attitudes and points of view'.³⁷ To dismiss Antonius' speech in this theoretical part of the work because he

³⁴ Frier (n. 28), pp. 252–4, and more generally, E. Rawson, *Intellectual Life in the Late Roman Republic* (Baltimore, 1985), pp. 201–14.

³⁵ Cic. *Off.* 2.43; *Brut.* 155. Whether the historical Antonius hid his learning or was in fact comparatively unschooled remains unclear. Cic. *de Or.* 2.4 and 2.153 suggest a pose; *Brut.* 139–42 is deliberately vague on the point. See A. D. Leeman and H. Pinkster, *De Oratore Libri III* (Heidelberg 1985), vol. 2, pp. 187–8 and J. Hall, *Phoenix* 48 (1994), 211–16.

³⁶ *Mur.* 28. For Cicero's strategy, see Kennedy (n. 10), pp. 181–6. Note that, although the *praetor urbanus* was the Republic's chief legal officer, no urban praetor of the late Republic is known to have had more than a layman's knowledge of law (Frier [n. 28], pp. 47–8). At *Mur.* 54–85 Cicero metes out similar treatment to the second prosecutor, Cato, casting him as an impractical philosopher. Cato was not amused ('What a witty consul, we have!', Plut. *Cat. min.* 21.5–6), but the strategy clearly paid off. As E. S. Gruen, *The Hellenistic World and the Coming of Rome* (Berkeley, 1984), p. 247 observes in the diplomatic context, 'Specific credentials were unsought and unneeded. Indeed, they would go against the grain of an aristocratic society whose leaders asserted capacity in every aspect of public life.'

³⁷ A. D. Leeman, 'The Structure of Cicero's *De oratore* I', in A. Michel and R. Verdière (edd.), *Ciceroniana. Hommages à Kazimierz Kumanięcki* (Leiden, 1975), p. 146. For the importance of the Academic style of argument to Cicero, see Hall (n. 35), pp. 222–3. Here too Tacitus follows Ciceronian precedent: 'The real Tacitus is not to be found in any one character's *ipsissima verba*, but must be deduced from them all' (Murgia [n. 7], p. 111, cf. C. O. Brink, *Hermes* 121 (1993), 348 and *Dial.* 1.3). Haß-von Reitzenstein (n. 8), p. 34 is therefore not quite correct to call the *Dialogus*

will concede its limits at the beginning of its technical exposition (2.41) or because Cicero will echo his opponent (2.5) is to seek—wrongly—just such a fixed conception.³⁸ Yet Tacitus is not pointing to *de Oratore* simply to recall Cicero's complexity. He adds a still richer complexity of his own.

Messala follows Aper's second speech with an argument for the virtues of full and old-fashioned education. Modernity, he says, is only an excuse for expedience and lack of discipline. An orator of Cicero's success must have had extensive knowledge of all subjects (*non denique ullius ingenuae artis scientiam ei defuisse*, 30.4), needed that knowledge to argue his cases successfully (*de quibus copiose et varie et ornate nemo dicere potest nisi qui cognovit naturam humanam* . . . , 31.2), and could not simply have acquired it as the need arose (*nec quisquam respondeat sufficere ut ad tempus simplex quiddam et uniforme doceamur*, 32.1). Both the argument and its expression are meant to be familiar. Having sent us back to *de Oratore* by echoing its structural formulae, Tacitus has made it all the easier for readers to recognize Messala's speech for what it is, a somewhat complacent and jejune version of the argument that Crassus had made and Antonius refuted. Tacitus' allusion invites us to hear Messala's speech in the context of their exchange. He has several ways to undercut Messala—the very *mise en scène* of the *Dialogus*, for example, contradicts Messala's claim that the *tirocinium fori* is a dead institution—but none is more effective than this intertextual refutation of Messala's speech by M. Antonius. Tacitus gives Aper a potent ally.

He finds additional support within the *Dialogus* itself, though it comes from an unexpected quarter. The very last speech brings us back to the beliefs of Curiatius Maternus. He had begun the discussion by announcing that he would turn his back on the orators' kind of eloquence: . . . *quod iam pridem opto . . . ut omissis forensium causarum angustiis, in quibus mihi satis superque sudatum est, sanctiorem illam et augustiorem eloquentiam colam* (4.2). Now he returns to the nature of *eloquentia*, this time with an echo and a confirmation of Aper's central points: that legal arguments do not encourage fulsome oratory, and that modern taste does not tolerate histrionics. It is no longer necessary to interpret a praetor's interdict for the benefit of an untrained judge, or to turn a speech into a performance. As courts have become places of business, oratory must yield to argument.

Aper

20.1: quis <de> exceptione et formula per-petietur illa immensa volumina quae pro M. Tullio aut Aulo Caecina legimus?

20.3: nec magis perfert [sc. vulgus] in iudiciis tristem et inplexam antiquitatem quam si quis in scaena Rosci aut Turpionis Ambivi ex-primere gestus velit.

Maternus

37.4: nam multum interest utrumne de furto aut formula et interdicto dicendum habeas an de ambitu comitiorum, de expilatis sociis et civibus trucidatis.

39.4: oratori autem clamore plausuque opus est et velut quodam theatro, qualia cotidie antiquis oratoribus contingebant.

What is new this time around is Maternus' emphasis on the cost of the old eloquence, nourished as it was by the social strife of the dying Republic: *magna eloquentia, sicut flamma, materia alitur et motibus excitatur et urendo clarescit* (36.1). Unlike Aper, he tacitly assumes Messala's distinction between 'ancients' and 'moderns' (36.2), but not

the first Roman dialogue to be something more than a textbook in disguise. For the famous Carneades episode, see Plin. *N.H.* 7.112; Plut. *Cat. mai.* 22.2–5; Cic. *Rep.* 3.8–12.

³⁸ For the bipartite structure of *de Oratore*, see Cic. *Att.* 4.16.3.

to canonize the *antiqui*. Maternus accepts Aper's view that the old eloquence is dead as nails, and he does not want it back.

Aper

23.5–6: vos vero, disertissimi <viri>, ut potestis, ut facitis, inlustrate saeculum nostrum pulcherrimo genere dicendi. . . . sic exprimitis adfectus, sic libertatem temperatis, ut etiam si nostra iudicia malignitas et invidia tardaverit, verum de vobis dicturi sint posterī nostri.

Maternus

40.2: non de otiosa et quieta re loquimur et quae probitate et modestia gaudeat, sed est magna illa notabilis eloquentia alumna licentiae, quam stulti libertatem vocant, comes seditionum, effrenati populi incitamentum, sine obsequio, sine severitate, contumax temeraria adrogans, quae in bene constitutis civitatibus non oritur.

Aper's view of eloquence could be pragmatic (*ut potestis, ut facitis*) because he accepts present conditions at face value. Like Quintilian, he is comfortable in his world and not intimidated by its memories (cf. *Inst.* 12.11.28: *verum ut transeundi spes non sit, magna tamen est dignitas subsequendi*). Aper willingly accepts any oratory that has lost neither its utility nor its reward. Maternus accepts the new style for a much bleaker reason: the price of the old one was too high. The eloquence of the Gracchi or of Cicero was too dearly bought (40.4). He therefore repudiates the old *eloquentia* in almost a parody of Cicero's own formulation: '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' (*Brut.* 45). Like Aper, Maternus finds his contemporaries as eloquent as conditions require. And he is glad they have no need for greater eloquence.³⁹ The discussion has made him no more willing to resume his oratorical career but much clearer about his reasons for refusing to do so.

His acceptance of the new condition of oratory often disconcerts and disturbs modern readers. It may be too tinged by vanity (39.3). It is certainly too acceptive of the imperial system: *quid enim opus est longis in senatu sententiis cum optimi cito consentiant? quid multis apud populum contionibus cum de re publica non imperiti et multi deliberent sed sapientissimus et unus?* (41.4). How can the man whose outspokenness provided the very occasion for this discussion now speak so submissively? Surely, Maternus, like Aper, cannot mean what he says. His speech must be either an ironic 'accommodation' to political realities or some kind of 'doublespeak'.⁴⁰ Taken by themselves, Maternus' words may well strike a reader this way, but they should not be isolated from their cultural context. Maternus' sentiments are hardly unique. Quintilian used very similar words, without irony and possibly even with relief, in observing that modern orators no longer required the kind of urgent appeal found in Cicero's *Pro Murena*: *quod genus nostris temporibus totum paene sublatum est, cum omnia curae tutelaeque unius innixa periclitari nullo iudicii exitu possint* (*Inst.* 6.1.35). Pliny was certainly relieved to find in Trajan an emperor *in quo et res publica et nos sumus*.⁴¹ There is no reason for Maternus, early in Vespasian's reign, to be any less

³⁹ *Dial.* 41.5. Maternus thus puts in a favourable light the topos also found in the roughly contemporary *de Sublim.* that great writers flourished with democracy and died with it (44.2–12).

⁴⁰ So, respectively, V. Rudich, *Ancient World* 11 (1985), 95–100 and Bartsch (n. 8). Bartsch (pp. 110–16) is especially good on the tensions within Maternus' last speech, but I remain sceptical of any argument that denies to Tacitus the ability to mean what the critic does not want him to mean.

⁴¹ *Pan.* 72.1. Cf. *Plin. Ep.* 3.20.12 (*sunt quidem cuncta sub unius arbitrio*), leading

sincere in expressing these sentiments than Pliny was early in the reign of Trajan or, for that matter, Tacitus was when writing them for Maternus in the time of Nerva. Ironical readings of Maternus' words are predicated on (and necessitated by) not so much the argument of the *Dialogus* itself as too sweeping a sense of oratory's 'decline'. Accept a more nuanced view of decline, a view that finds a place for Maternus' equation of eloquence with verbosity and liberty with civil strife, and we are free to take his speech, like Aper's, at face value.

This is not a reductive or simplistic reading, but it does suggest a somewhat *different* reading of the *Dialogus*. Restoring Aper's role to seriousness and respectability forces us to recognize in his two speeches a shrewd, progressive, and fundamentally receptive analysis of contemporary literature. Aper brings to the centre of the debate those changed circumstances which both redefined the practice of Roman oratory in the early empire and established the governing aesthetic of the period.⁴² As Williams observes,⁴³ Aper is never refuted, and the fact that Maternus himself, with all the weight of the closing speaker, eventually defines a place for oratory in terms very like Aper's shows the power and, I would say, the fundamental accuracy of his sense of modernity. The real point of the *Dialogus* is thus not to retell an old and presumably sad tale of oratory's decline. The direction oratory should take—what of the old style was worth restoring and what of the new was right to maintain—was a matter of real interest (and uncertainty) after the death of Domitian. By exploring this question in all its complexity, Tacitus suggests a new, not necessarily inferior, definition of Roman *eloquentia*. As a meditation on the dynamics of literary change, the *Dialogus* thus emerges as a key work for recovering not just the literary values of the so-called Silver Age, but the forces at work in generating those values.

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Sherwin-White (n. 14), p. 262 to observe, 'The position must have been generally recognized for Pliny to state it so frankly.' Brink (n. 37), p. 347 stresses the relevance of all these passages to Maternus' speech.

⁴² C. D. N. Costa, 'The *Dialogus*', in T. A. Dorey (ed.), *Tacitus* (New York, 1969), p. 31: 'May we not then see behind those parts of the treatise which defend contemporary oratory a wider defence of Silver Latin prose style, of which Tacitus himself was to become the most notable exponent?' Costa's distinction (pp. 27–31) between the 'ostensible subject' of the *Dialogus* and its wider ramifications deserves more serious consideration.

⁴³ Williams (n. 3), p. 43.