

CATO'S STOICISM AND THE UNDERSTANDING OF CICERO'S SPEECH FOR MURENA

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Cicero's speech in defense of L. Murena on a charge of *ambitus* late in 63 B.C. is rightly considered a masterpiece, and thus has been the object of much careful analysis.¹ The rhetorical challenge is generally understood to be that of keeping up appearances, of allowing the jury decorously to acquit Murena, despite his guilt, so that there will be two consuls ready to face the Catilinarian danger on the Kalends of January (*Mur.* 4 and 79). The most difficult aspect of that challenge is certainly the handling of Cato. In view of the lavish bribery in the consular elections, he had promised that he would prosecute the briber, whoever he might be.² Although he declined to prosecute his brother-in-law, Silanus, Cato became the "fundamentum ac robur totius accusationis" (58) in the prosecution of Murena. As a *subscriptor* speaking last for the prosecution, Cato brought the full moral weight of his Stoic beliefs and his ancestral tradition to bear against Murena. He even cited Cato the Censor as his inspiration (66). None of this could secure Murena's conviction, however, since Cato's best efforts to minimize the apparent

¹ The most thorough and useful analysis of the speech is A. D. Leeman, "The Technique of Persuasion in Cicero's Pro Murena," in W. Ludwig ed., *Eloquence et rhétorique chez Cicéron*, Entretiens sur l'Antiquité Classique 28 (Vandoeuvres and Geneva 1982) 193–228, with discussion, 229–36. See also K. Kumaniecki, "Ciceros Rede 'Pro Murena'," *Acta Conventus XI "Eirene," Diebus xxi–xxv mensis Octobris Anni MCMLXVIII Habiti* (Wrocławiae, Varsaviae, Cracoviae, Gedani 1971) 161–79; D. M. Ayers, "Cato's Speech Against Murena," *CJ* 49 (1954) 245–53 (this article summarizes the work on the speech in Ayers's 1950 Princeton dissertation). Also, see the fine introduction to Boulanger's Budé edition, *Cicéron: discours* 11 (Paris 1946) 9–28 and the discussion in George Kennedy, *Art of Rhetoric in the Roman World* (Princeton 1972) 182–87. Among the many commentaries, I have found the most useful to be those of A. W. Zumpt (Berlin 1859), G. Tischer (Berlin 1861), W. E. Heitland (Cambridge 1874), and J. H. Freese (London 1898). Hereafter, the works mentioned above will be referenced by the authors' last names. I have been unable to obtain the commentary of Halm (Berlin 1850 and subsequent editions).

² So Cicero's quotation of Cato at section 62, "Dixi in senatu me nomen consularis candidati delaturum," and Plut., *Cato Minor* 21.2: "... ἐπώμοσε (sc. Cato) τοῦ δόντος ἀργύριον, ὅστις ἂν ᾗ, κατηγορήσειν, ἕνα Σιλανὸν ὑπεξελόμενος δι' οἰκειότητα."

Catilinarian danger failed to convince the jury. In the end, the *iudices* felt that Murena's guilt or innocence was not the primary concern; a guilty verdict would endanger the state.³ Thus the proceeding was fundamentally a deliberative one, concerned with the expediency of future action, masquerading as a judicial proceeding concerned with the justice of past acts.⁴ Exactly because of this awkward disjunction, Cato might still do considerable damage. He could make clear to the jury that an acquittal would bring upon them the stigma of having disregarded justice and of holding in contempt the traditional Roman values for which he spoke. Cicero, speaking last for the defense (48), has the special task of neutralizing this strong moral censure. His duty is complicated by the need to avoid offending Cato, who is a valuable political ally at this critical time. Cicero's solution to this problem is the well-known lampooning of Cato's Stoicism (60–66). Cato's action is taken to be the result of his training in an unrealistic philosophy. As Quintilian (11.1.70) notes with admiration, Cato cannot be offended at this; the philosophy, not the man, is held to be at fault. Modern scholars, in turn, admire, but find little need to analyze, the humor with which Cicero shows Cato to be unrealistic.

I agree with the *communis opinio* that Cicero succeeds, in sections 60–66, in deflating Cato's power of censure by making the young Stoic's behavior seem ridiculously unrealistic. I also agree with Leeman's astute observation in his discussion of Cicero's treatment of the charges in sections 67–77 that "... Cicero could only venture on such an almost ludicrous defense, because he had established a kind of understanding with the jury."⁵ That understanding is that the charges will be treated *pro*

³ So *Flacc.* 98, "Defendi item L. Murenam, consulem designatum. Nemo illorum iudicum clarissimis viris accusantibus audiendum sibi de ambitu putavit, cum bellum iam gerente Catilina omnes me auctore duos consules Kalendis Ianuariis scirent esse oportere." Cf. Quintilian 6.1.35.

Cato's argument that Cicero exaggerated the Catilinarian danger is inferred from section 79, "Quaeris a me equid Catilinam metuam." The question of how correct Cato was in advancing this argument has led to interesting speculation. Ayers 245–46 and Kennedy 182–85 seem to accept completely Cicero's portrait of Cato as a man more concerned with morality than with expediency in this time of real danger for the state. Kumaniecki 166 seems to agree with Cato that Cicero exaggerated the danger as part of his persuasive strategy. Leeman 196 believes that Cicero certainly used the supposed danger as a lever, but that he was so overwrought by the events of his consulship that he himself believed that the Catilinarian threat was substantial. The views of these latter two scholars are more attractive: Cato would not have argued that the danger from Catiline should be discounted unless there were some good grounds for this view. The tribune-lect was a man of principle, not an utter pachyderm.

⁴ Aristotle, *Rhet.* A 3.1358a36–b29; Leeman 196, 224–25.

⁵ Leeman 223. Cicero's creation, through affective means, of a feeling of community with the jury so that he may reach such an understanding is an essential characteristic of his oratory. See esp. Antonius' remarks at *de Or.* 2.178–216.

forma, since it would not do to omit a defense against the charges in a criminal trial. When this has been done, in however desultory a fashion, appearances will be sufficiently preserved, and the *iudices* will proceed to render the acquittal which the political situation demands. In what follows, I hope to demonstrate that the humorous treatment of Cato's Stoicism does more than simply puncture Cato's moral authority. Cicero also wins from his opponent the immense advantage which comes from the appearance of a proper alignment with the *mos maiorum*. Cicero wins this advantage through the coherent argumentative structure, heretofore unnoticed, which he uses to deflate Cato's ethos. This argumentative structure, by generating and sustaining Cicero's obvious, if implicit, contention that he, not Cato, is in accord with the *mos maiorum*, provides the affective basis for Cicero's understanding with the jury.

The principal attack upon Cato's moral authority (58–83) is outlined in section 54, where Cicero announces that he will answer Cato “de ipsius accusatione, de senatus consulto, de re publica” (treated in sections 58–67 ... *criminibus ipsis*; 67 *Quid accusas* ... –77; 78–83 ... *negotium sustinendum*, respectively). The key to Cicero's handling of Cato, and to the orator's understanding with the jury, is contained in the first of these sections.

Cicero begins, in 58–59, with the argument which could be expected of one faced with the problem of Cato's moral authority. In these sections the orator is concerned to cite the way of the ancestors, the response of the *populus Romanus* to the attempt of a prosecutor of high repute to bring his influence to bear against a defendant. Cato is given all due honor. He is compared to Scipio Aemilianus in his prosecution of L. Aurelius Cotta, and to Cato Censorius himself in his prosecution of Ser. Sulpicius Galba. In both of these cases, Cicero cites the precedent of the acquittal of the accused, and takes this as a statement of the resistance of the *maiores* to a prosecutor's use of his great *auctoritas* to harm any defendant.⁶ This argument is straightforward and unsurprising. It is, in tactical terms, an acceptable minimum.

Having done what the audience expects, Cicero is free to introduce his humorous misrepresentation of Cato's Stoicism. This pattern is exactly the same as that in the humorous treatment of Sulpicius' *iuris prudentia* (22–30), which is introduced only after a conventional

⁶ One may also note that Murena is implicitly compared with Servius Sulpicius Galba (*RE* 58, Münzer) and L. Aurelius Cotta (*RE* 98, Klebs). As the commentators have observed, both of these men seem to have been obviously guilty, but were acquitted nonetheless; and both attained the consulship in 144 B.C. For those aware of their history, there is a strong message here. The careful choice of historical examples whose lives may hold deeper parallels with Cicero's client has been seen already in the treatment of Servius Sulpicius Rufus' greater family *dignitas*. See John D'Arms, “Pro Murena 16 and Cicero's Use of Historical Example,” *Phoenix* 26 (1972) 82–84.

refutation of Sulpicius' contention that his vocation has *maior dignitas* (19–21).⁷ As with the treatment of *iuris prudentia*, the audience is first given an appropriate argument, then signalled to expect an interlude of relaxation, a time for amusement in the midst of this serious case. It is through this carefully announced interlude, which does not pretend to be substantial argument, that Cicero in fact reinforces the most important point he has. That point, which cannot properly be made explicit in a court of law, is that it flies in the face of common sense to be concerned about Murena's guilt or innocence in this time of danger for the state. It is for this reason that Cicero and the jury both want Murena acquitted for the good of the state, even though they know that he is not innocent. Still, in this criminal trial, the orator is supposed to persuade the jury of his client's innocence, even as Cato had tried to persuade them of his guilt. Cicero's response to this ludicrous situation is to invite his audience, in a humorous vein, to be persuaded by an argumentation which will be quite coherent, as befits a criminal trial, and quite ridiculous, as befits this unique situation. This argumentation will in turn serve to structure an antithesis between Cato's Hellenized idealism and the *mos maiorum*, and thus will allow Cicero not only to ridicule, but finally to vitiate, the sources of Cato's moral appeal.

Cicero uses three arguments for his purpose. These arguments form a coherent ensemble, yet it is clear they have nothing to do with the prosecution's specific charges: 1) First, the orator will assert that the Stoicism which led Cato to prosecute is an unrealistic and inflexible philosophy (60 *ego tuum consilium* . . . –65 *aetas mitigabit*). 2) Next, he will concede that the Stoics are in fact reasonable men, but will maintain that Cato has misunderstood his teachers (65 *etenim ipsi* . . . –66; also 62, *ad init.*). This is a key move since it effectively sets Cato in opposition to the philosophy which was one source of his *auctoritas*. 3) Finally, the orator opposes Cato's misguided, unstoical brand of Stoicism to the behavior of *maiores* (66). This argument, although apparently offered in jest, succeeds in cutting Cato off from the *mos maiorum*, the other principal source of his moral authority.

Section 60 gives an unmistakable signal that what follows is to be enjoyed, rather than to be weighed carefully. Granting as he does all of Cato's virtues (60 *ego tuum consilium* . . . *videare*), the orator introduces a sophisticated and humorous tone by quoting a well-known play to evoke the image of himself playing Phoenix, or perhaps Chiron, to Cato's Achilles.⁸ The show of avuncular concern of the 43-year-old

⁷ On sections 19–30, see A. Buerge, *Die Iuristenkomik in Ciceros Rede Pro Murena* (Zurich 1974).

⁸ See O. Ribbeck, *Scaenicae Romanorum Poesis Fragmenta* 1 (Leipzig 1897³) 279, "Phoenix." We do not know the original context of the quotation or the drama from which it

consul for the 35-year-old tribune-elect becomes an exercise in smiling condescension. The orator will happily concede all the prosecutor's virtues, but young Cato's *doctrina* has led him into excessive severity.

It is important to try to gauge the range of the jurors' awareness of that *doctrina* and their attitudes towards it. On the whole, the jury are *imperiti*, as Cicero will later admit.⁹ Yet the study of Stoicism was certainly a pursuit of Rome's wealthiest and most prestigious class. The jurors may be virtually ignorant of Cato's philosophy, but may not be eager to advertise that fact. Thus the beginning of section 61 is essential:¹⁰

Et quoniam non est nobis haec oratio habita aut in imperita
multitudine aut in aliquo conventu agrestium, audacius paulo de
studiis humanitatis quae et mihi et vobis nota et iucunda sunt
disputabo.

Obviously this declaration flatters the *iudices* and thus makes them more receptive to a discussion of philosophical doctrines. It also applies social pressure to the jurors. If they wish to maintain the image of well-educated men which Cicero has just granted them, they should show their understanding by smiling at the orator's jokes.

At the same time, the orator is opening a line of discussion which is sure to excite any anti-Greek prejudice which his jury may harbor. We know from other works of Cicero, both *de Oratore* and orations, how important it was for the Roman orator not to irk his audience by pretending to Greek culture.¹¹ Here he will impute to his opponent those philhellenic pretensions in their most odious form. Simply by claiming that Cato is concerned with larger philosophical questions at this critical

comes, nor do we know with certainty what characters the *fortissimus vir* and *senior magister* were. Thus it is impossible to gain a more precise sense of the effect of this quotation upon the tone of the passage. The reference remains as obscure to us as it was obvious to Quintilian (8.6.30), who cites this passage as an example of *antonomasia* without telling us who the characters are.

⁹ *Fin.* 4.74: "Non ego tecum ita iocabor ut iisdem his de rebus cum L. Murenam te accusante defenderem. Apud imperitos tum illa dicta sunt; aliquid etiam coronae datum; nunc agendum est subtilius."

¹⁰ Cf. Leeman 216.

¹¹ See the famous explanation at *de Or.* 2.4, that Crassus wished his audience to think that he held Greek learning in contempt, while Antonius felt that he would be more persuasive to his hearers if he feigned complete ignorance of such learning. Also see Crassus' contemptuous use of *Graeculus* at *de Or.* 1.47, 102, and especially the remarks of Antonius at 1.221, and of Crassus at 2.18, about the Greek brand of inappropriateness. In the speeches, see, e.g., Cicero's studied inability to remember Polyclitus' name at 2 *Verr.* 4.5 and his criticism of the Greek character at *Flacc.* 9-12. When Cicero must defuse this prejudice against Greek culture, as in the *pro Archia*, he does so by extolling the practicality of that culture in Roman life, and especially its value to inspire generals and orators to seek glory through service to the state (*Arch.* 1, 14-16, 19-30, *passim*).

time for the state, he gives his opponent the very character of the philosophizing *Graeculus ineptus* (cf. *de Or.* 2.18).

As for the few *iudices* who will have had some instruction in Stoicism, they will be struck by the idea that Cato's *doctrina*, as represented by Cicero, goes against both *veritas* and *natura*. Stoic doctrine, after all, is justified through its accordance with nature. These learned jurors, if they adhere to Stoicism, will perhaps excuse Cicero's remark because the orator has made clear that he is only trying to be humorous. If they do not adhere to Stoicism, they will certainly appreciate the joke.

The actual brand of Stoicism which Cicero criticizes for being at odds with the good qualities in Cato's nature is based much more on the letter than on the spirit of Stoic teachings, a distinction which he will explicate in *de Finibus*, *de Natura Deorum*, and the *Paradoxa Stoicorum*. In *Paradoxa Stoicorum* 3, Cicero will note that the formulations of the Stoics barely gain acceptance in the philosophical schools, much less with the general public. Thus he can use actual Stoic formulations to demonstrate to the *imperiti* that Stoicism is unreasonable. Cicero's resource here is the fact that many Stoic teachings were regularly cast as striking statements which might be used to engage a potential convert in conversation so that a Stoic might present the case for his beliefs.¹² These statements are inordinately harsh when deprived of their explanation. Cicero cites the most apparently noxious of these Stoic formulations without giving any context or explanation: "sapientem gratia numquam moveri, numquam cuiusquam delicto ignoscere; neminem misericordem esse nisi stultum et levem; viri non esse neque exorari neque placari . . ." (61). These oddities, which are certainly a part of the tradition of Stoic teaching (cf. *Tusc.* 4.14–19; Diogenes Laertius 7.123), here set the proper tone of rigid Stoic foolishness. These statements are then conjoined with four Stoic paradoxes (cf. *Parad.* III–VI). It is obvious from the fourth book of *de Finibus* (74 and passim) that Cicero considered these paradoxes to be mere playing with words, and that, despite his remarks in section 61 of our speech, the orator realized that it is not equally bad, according to Stoic teaching, to kill a rooster without good reason or to murder one's father.¹³ In our speech, of course, the orator is more than willing to take

¹² At any rate, this seems to be Cicero's view at *Fin.* 4.74. The six statements which Cicero will defend in the *Paradoxa Stoicorum* are: 1) that the honorable is the sole good; 2) that virtue alone is sufficient for happiness; 3) that all bad deeds are equal; 4) that every fool (non-sage) is a madman; 5) that only the sage is free, and that anyone who is not a sage is a slave; and 6) that the sage alone is rich.

Zumpt ad loc. has the most thorough collection of the passages in Cicero's philosophica and in Diogenes Laertius which reflect and elucidate the Stoic teachings here burlesqued.

¹³ At *Parad.* 24–25, Cicero duly presents the Stoic view that there is a calculus which separates bad deeds from worse deeds; more different wrongs are done in the murder of a father than in the killing of a cock.

this Stoic teaching quite literally. Even the idea that the sage never opines, but always speaks from knowledge (cf. D.L. 7.121), which the Stoics understood to refer to the ideal wise man, is taken by Cicero to represent an unreasonable feeling of infallibility in practicing Stoics.

Once this foundation of distortion has been laid, Cicero simply explains Cato's role in the prosecution as a result of his philosophy. "Hoc homo ingeniosissimus, M. Cato, auctoribus eruditissimis inductus adripuit, neque disputandi causa, ut magna pars, sed ita vivendi" (62). These teachings of the Stoics are really mere goads to debate, but poor Cato has taken them to heart. Thus his behavior in bringing the accusation in the first place becomes a brashness which his extreme commitment both encourages and renders unalterable. The sage never errs. Cato has said he would prosecute. To change his mind would be to admit that he had erred.

If Cicero's sole purpose were to make Cato's determination to prosecute seem unrealistic, he could move on to the treatment of the charges at this point. Instead, he embellishes, and furthers his coherent argumentative strategy. The orator reinforces the theme of the good man as victim of bad *doctrina* by adducing his own experience with the teachings of the Academics and Peripatetics (63).¹⁴ This bit of amplification establishes Cicero's credentials as one knowledgeable about philosophy, and so buttresses his authority to advance his second argument, that Cato has misunderstood Stoicism. The passage has other uses as well. Cicero's enlistment of the *iudices* through insisting that they are men of culture creates certain expectations about the sorts of arguments which he must use. Even in jest, the orator should not construct for these cultured jurors a stark antithesis between a Greek philosophical school and Roman common sense. The tone is much better sustained by meeting Greek learning with Greek learning. At the same time, Cicero must not risk the possibility that his mastery of sophisticated Greek topics may seem to reflect any Greek intellectual arrogance. Accordingly, the orator only claims that he had different teachers. Finally, the contrast of the burlesque of Stoicism with the reasonableness of the Academy provides a vehicle to reassert the argument from expediency. If Cato had gone to different teachers, he would not feel the need to prosecute another elected official and fellow defender of the republic (64 *Non accusares . . .*).

¹⁴ A. Michel, "Cicéron et les Paradoxes Stoïciens," *AAntHung* 16 (1968) 223–32 attempts to reconcile Cicero's opposition of the academy to the Stoa in this passage with his authorship of the *Paradoxa Stoicorum*. Even leaving aside the fact that the *Paradoxa Stoicorum* seems to be a rhetorical exercise, a way of showing how the Stoics should plead their cause (*Parad.* 3), Cicero's statements in the *pro Murena* cannot be used as good evidence for his own philosophical views. As Leeman 235 rightly points out, the orator is here concerned with persuasion rather than exposition.

Throughout this smiling lamentation of Cato's unfortunate choice of teachers, the young Stoic's inherent virtues continue to be given full credit. If Cato had gone to different teachers, "non tu quidem vir melior esses nec fortior nec temperantior nec iustior—neque enim esse potes—sed paulo ad lenitatem propensior" (64). This is a very gentle jibe indeed. It is noteworthy here that the four virtues of *prudentia*, *fortitudo*, *iustitia*, and *temperantia* (or *modestia*, Gr. *sophrosyne*) were part of Stoic teaching, and of the general culture of any educated man. They even held an important place among the topics for deliberative and epideictic oratory (cf. *ad Her.* 3.3–5 and 15). Thus anyone among the *iudices* would notice the absence, in Cicero's generous catalogue of Cato's qualities, of the essential virtue of *prudentia*.

This rather elegant criticism, which is well in keeping with the educated sensibilities which Cicero has his audience striving to manifest, provides a smooth transition to the full development of the second line of argument, that Cato has misunderstood his own philosophy. In section 65, the orator explains, with a friendly condescension which only Cicero could muster, his confidence that Cato will become less extreme as he grows older. "Etenim isti ipsi mihi videntur vestri praeceptores et virtutis magistri finis officiorum paulo longius quam natura vellet protulisse ut, cum ad ultimum animo contendissemus, ibi tamen ubi oportet consisteremus" (65).¹⁵ This characterization of Stoic teaching strategy, already adumbrated at the beginning of section 62, is as convenient as it is unprecedented. It leads to the conclusion that the problem is not with Cato's Stoic teachers, nor with their philosophy, but with their student. Cato has missed the mark because he has misunderstood his teachers' intentions. He has failed to grasp the rhetoric of his own philosophy, and so has been persuaded to a course of action which his teachers would find extreme. Indeed, his behavior is so extreme that it is incompatible with the basic Stoic touchstone of accordance with nature.

Within the coherent system of the joke which Cicero offers to the *iudices*, the separation of Cato from the true intent of the doctrine to which he adheres certainly undermines the *auctoritas* that the *subscriber* derives from his philosophy. Still, the structure of the argumentation allows further development; since moral authority is so essentially involved with the *mos maiorum*, the ancestors are brought in again (66). While Cicero has previously (58–59) compared Cato to two great figures

¹⁵ The commentators, beginning with Zumpt *ad loc.*, properly understand this sentence to mean that the Stoics set goals which they know cannot be reached, and do this so that, by striving to achieve these goals, the student realizes the greatest improvement possible. I do not understand the interpretation of Heitland *ad loc.* that "your very teachers need teaching."

from the past who prosecuted but failed to win a conviction despite their immense *auctoritas*, the orator now contrasts Cato with these same ancestors. In the case of one of them, Scipio Aemilianus, Cicero specifically contrasts the different ways in which Cato and the *maiores* understood and applied Stoic teachings. And there can be no doubt about Scipio's Stoic credentials, since he even had Panaetius living in his home.¹⁶

From *maiores* who were Stoics it is a simple move to ancestors who were not Stoics, and to the treatment of Cato Censorius himself (66 *Quemquamne existimas* . . . , answering 59). Now we find that the younger Cato should be more like his ancestor, than whom no one was more charming or more affable: "Sed si illius comitatem et facilitatem tuae gravitati severitatemque asperseris, non ista quidem erunt meliora, quae nunc sunt optima, sed certe condita iucundius." Through invoking the very ancestor whom the younger Cato had cited for his own moral authority, the orator leaves his opponent in complete isolation, separated both from the real intentions of his Stoic teachers, whom he has misunderstood, and from the *mos maiorum* itself.¹⁷

So we can see that the treatment of Cato's Stoicism does in fact manifest that argumentative strategy outlined on page 232 above. I must stress that every one of the three arguments advanced is proffered in a humorous spirit. Further, the argumentation is patently distorted and false. But that humorous argumentation is just as coherent as it is ridiculous. It is the effect of this argumentation, the isolation of Cato from the bases of his moral authority, which gives the escape which the jurors are seeking from the moral stigma which may attach to their acquittal of a guilty man. Cicero's treatment of the charges in sections 67–77 is nothing more than a continuation of this ridiculous, but internally sensible and self-consistent, argument.

The weakness of Cicero's treatment of the charges has been well elucidated by Leeman.¹⁸ I would add that Cicero's defense against every charge is a continuation of the theme of Cato, as the confused would-be Stoic, opposing himself to the traditions and values of the *maiores*.

¹⁶ Of course Cicero does not point out, as he will at *Fin.* 4.79, how atypically flexible Panaetius was.

¹⁷ While the elder Cato's geniality is occasionally touched upon in the ancient tradition, e.g., Plut., *Cato Maior* 3.3 and 8.9, this trait of his character looms large only in Cicero's later essay *de Senectute*. Still, Cicero's audience would apparently perceive Cato simply as a courageous and wise ancestor, and thus Cicero could impose on him whatever other positive characteristics were useful for the argument. See the treatment of the sources for the elder Cato in A. E. Astin, *Cato the Censor* (Oxford 1978) 295–301, esp. 298–99. For Cicero's own conception of Cato, see also U. Kammer, *Untersuchungen zu Ciceros Bild von Cato Censorius* (Frankfurt 1964); F. Padberg, *Cicero und Cato Censorius* (Bottrop 1933); R. Gnauk, *Die Bedeutung des Marius und Cato Maior für Cicero* (Berlin 1936), 70–104. I am grateful to A. D. Leeman for expert guidance on this point.

¹⁸ Leeman 223.

Consistently, the orator not only denies any wrongdoing on Murena's part, but at the same time claims that the activities which Cato finds both illegal and disgraceful are part of the very fabric of Roman tradition. Cato had apparently claimed that Murena had bribed people to accompany him into the city on his return from Gaul, else the crowd would not have been so large. Cicero responds by showing, at some length, that such crowds are an ordinary part of Roman custom (68 *multi obviam* . . . -69). Again, Cato had claimed that bribery must have been used to inspire such a large crowd to follow Murena in support of his candidacy. Cicero takes this as an attack on the Roman institution of following a candidate to show support of his candidacy (70-71). The charge that seats at games were given out to the tribes to sway their votes is met by a similar appeal to the Roman way (72-73, esp. 72: "Quod enim tempus fuit aut nostra aut patrum nostrorum memoria quo haec sive ambitio est sive liberalitas non fuerit ut locus et in circo et in foro daretur amicis et tribulibus?").

The source of Cato's supposed confusion, his misunderstanding of Stoicism, is emphasized again, quite opportunely, immediately after Cicero's weakest proof. In section 73, the orator seems to deny that Murena did anything untoward, but still concedes that his client's supporters, in their giving of banquets to the voters, perhaps followed custom more closely than they followed the law.¹⁹ To distract from this admission, Cicero immediately uses one of Cato's own expressions of moral indignation to reinforce the caricature: "At enim mecum agit austere et Stoice Cato, negat verum esse adlici benivolentiam cibo, negat iudicium hominum in magistratibus mandandis corrumpi voluptatibus oportere" (74). The following passage (74-76) then quite explicitly defends Roman practice and feeling against Cato's philosophy. As Scipio Aemilianus had been used to demonstrate to Cato how a proper Roman Stoic should act, now Q. Aelius Tubero is adduced as an object lesson of the fate of a politician who is more Stoic than Roman (75-76 . . . *prae-tura deiectus est*). As a final touch, Cicero even playfully admonishes Cato for using a *nomenclator*, and thus behaving in a way inconsistent with his Stoic principles (77). All of this is a grand distraction from the substance of the accusation, and one which works because it is an amplification of the humorous argument of sections 60-66. It has nothing to do with the charges, and everything to do with the defense.

Cicero's parting shot comes in the elegant transition to his treatment of the danger of Catiline. The third section dealing with Cato's accusation, that "de re publica," thus begins by announcing to Cato, "sed tu imprudentia laberis" (78). Again, the would-be Stoic is missing that basic virtue of *prudencia*. But perhaps he can still be persuaded to

¹⁹ Leeman 221-22 and the discussion, 231-33.

bring his courage, justice, and temperance to bear in this critical time for the state. In any case, Cato has not been treated as roughly as he might have been,²⁰ while his claims on the jury's proper Roman sense of values have been effectively counterbalanced. Cicero, speaking before a jury which can be convinced of the necessity of acquittal of a guilty man, but which does not wish to confront the moral implications of that verdict, has met a unique challenge: Both *patronus* and *iudices* know what they want to hear, and both know that it will not be true, for Murena is not innocent. Since this is so, the orator, rather than pretending before the jury, introduces a mood of humor, and within it, constructs a coherent argument which allows the jury to pretend with him. But this humorous argument does a great deal more. By constantly contrasting Cato in his call for justice with the common sense and the traditions of the *maiores*, it effectively places the full force of ancestral approval in Cicero's camp. Thus Cicero makes the expedient course of acquittal seem proper as well, or at least not completely improper. By doing so, the orator allows the jurors to represent to others, and if necessary to themselves, that they have considered the charges, have been persuaded by Cicero's eloquence, and thus have done their duty not only as patriots but as *iudices*. Appearances have been preserved.²¹

²⁰ Plutarch (*Cato Minor* 21; *Cicero* 50) records Cato's wry remark, ὡς γελοῖον ὕπατον ἔχομεν. On December 5, he was ready to side with Cicero in the successful bid to have the Catilinarians executed. Plutarch's life of Cato also records (ibid.) that Cato gave full support to Murena during the latter's consulship.

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