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Potentes and *Potentia* in Tacitus's *Dialogus de oratoribus*[*]

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SUMMARY: The relationship between the setting of the *Dialogus de oratoribus* and its content bears closer scrutiny. The claim that a play by Maternus, entitled *Cato*, has given offense to "the powerful" (*potentes*) is reexamined in light of the role that concepts of power play in the ensuing discussion of eloquence and oratory. This analysis suggests that the *potentes* targeted by Maternus's drama can be identified as the same powerful advocates whose misdeeds justify his decision to exchange a demanding career in oratory for the quiet life of a poet. The implications of this reading for our understanding of the dynamics of free speech and its repression under the Principate are briefly considered.

INTRODUCTION

THE CONVERSATION RECOUNTED IN TACITUS'S *DIALOGUS DE ORATORIBUS* takes place at what seems to have been an important moment in the life of its host and most important interlocutor, Curiatius Maternus.[1] The author describes the situation as follows (2.1):[2]

* This article grew out of a chapter in my 2003 University of Pennsylvania doctoral dissertation. Its current form has been improved by the comments and advice of Brent Shaw, Cynthia Damon, and the anonymous reviewers of *TAPA*. The translations are my own, as are any remaining mistakes.

[1] All signs point to the conclusion that Maternus is the central character of the *Dialogus*: he is the host (3.1), sets the topic for debate (4), moderates the direction of the discussion (16.3,27), has the final speech (36–41), and delivers the final line of dialogue (42.2). See the discussion of Barnes 1986: 238. Williams 1978: 45 and Brink 1993: 338 raise doubts about the view of Syme 1958: 109 that Maternus's statements reflect Tacitus's "final verdict" on contemporary oratory, however.

[2] When not otherwise indicated, references are to the *Dialogus*. For the text of this work, I have relied on the Oxford edition of Winterbottom (1975).

> Nam postero die quam Curiatius Maternus Catonem recitaverat, cum offendisse potentium animos diceretur, tamquam in eo tragoediae argumento sui oblitus tantum Catonem cogitasset, eaque de re per urbem frequens sermo haberetur, venerunt ad eum M. Aper et Iulius Secundus . . .
>
> On the day after Curiatius Maternus had presented his *Cato*, since it was going around that he had offended the sensibilities of the powerful (*potentium animi*), just as if he had forgotten himself in the plot of the tragedy and thought of Cato alone, and a constant discussion was being held throughout the city about the affair, M. Aper and Iulius Secundus paid him a visit.

The interpretation of this passage, and of the phrase *cum offendisse potentium animos diceretur* in particular, is critical to our understanding of the work. The participants in this discussion were all real people who would have been recognizable not only to Tacitus but also, presumably, to other Romans of his generation.[3] While it is unlikely that the conversation recounted in Tacitus's text ever actually took place, we can assume that the historian relies on his audience's familiarity with the biographies of these well-known personalities to provide a broader context within which their statements should be evaluated and understood.[4] His reference to Maternus's play and the reaction it provoked are thus important biographical details that may contribute to a better understanding of the meaning of the text as a whole.

The reason for our interest in this passage in particular is that Maternus seems to have put himself in jeopardy by offending the unnamed "powerful" persons with his play. The first visitor to speak, Iulius Secundus, expresses

[3] Two of the four speakers in the *Dialogus* are definitely attested in other sources, while a third may be. See Quint. *Inst.* 10.1.120–21 on Secundus and Tac. *Hist.* 3.9.3, 4.42.1–2 on Vipstanus Messala, who joins the discussion later on. For an interpretation of the *cursus* inscription of M. Cornelius Nigrinus Curiatius Maternus (*CIL* II² 14, 124) as referring to the Maternus of the *Dialogus*, see Barnes 1986: 240–43. He is at the very least a relative of the character in Tacitus's work, perhaps an adoptive son, as Alföldy & Halfmann 1973: 345–47 suggest. I do not favor an identification with the sophist mentioned in Dio (Xiph.) 67.12.5, endorsed by Matthiessen 1970 and by Barnes 1981, 1986: 241–44. See Syme 1958: 799 for the arguments against. As for Aper, Tacitus refers to him (along with Secundus) as one of the leading lights of the Forum (*celeberrima tum ingenia fori nostri*, 2.1). Syme 1968: 140 suggests that the consular M. Flavius Aper mentioned by Pliny (*Ep.* 5.13.5) may be his son (cf. Sherwin-White 1966: 340).

[4] Tacitus explains that each man provided a unique perspective on the chosen topic, "while each one also demonstrated the cast of both his character and talents" (*dum formam sui quisque et animi et ingenii redderent*, 1.3). Brink 1993: 337–38, Mayer 2001: 44, and Winterbottom 2001: 138 all stress the importance of *ethopoeia* to the interpretation of this work.

concern about the situation created by the recitation of the *Cato*.[5] Finding Maternus still at work on the text of this tragedy, he proposes what would seem to be the most cautious course of action (3.2):

> nihilne te . . . Materne, fabulae malignorum terrent quo minus offensas Catonis tui ames? an ideo librum istum adprehendisti ut diligentius retractares et, sublatis si qua pravae interpretationi materiam dederunt, emitteres Catonem non quidem meliorem sed tamen securiorem?
>
> Don't these vicious rumors frighten you enough, Maternus, that you might love the offenses of your *Cato* less? Or have you taken up that book to rework it more carefully and, after removing anything that might have provided a basis for twisted interpretation, publish perhaps not a better *Cato*, but at least a safer one?

With this flattering piece of advice, Secundus introduces a theme that will recur later in the *Dialogus*: the idea that there is an inevitable tradeoff between security and free expression. An expurgated *Cato* might be safer, even if it would not be "better" (i.e., what Maternus originally intended). The playwright could allay any fears he may have, not to mention the fears of those close to him, if only he would be willing to alter his text.

Secundus's appeal falls on deaf ears. The offense, it seems, was deliberate, and Maternus does not intend to back down from what he had said at the reading in order to spare himself from danger.[6] According to the rumors circulating in Rome at the time (2.1), it was as if Maternus had "forgotten himself in the plot of his tragedy and thought of Cato alone," which may be a reference to the apparent similarity between Maternus's behavior and his protagonist's final act of principled self-destruction. On the basis of a possible parallel with the figure of Scipio in Cicero's *De Republica* and the tendencies of some other ancient dialogues, Cameron (1967) has suggested that certain passages (11.4, 14.6) foreshadow an untimely death that looms for Maternus soon after the dramatic date of the *Dialogus*.[7] If this interpretation is cor-

[5] Aper concurs that the offense of the *Cato* should be regarded as dangerous (10.6). I am unconvinced by the argument of Gowing 2005: 113 that Secundus and Aper are simply misguided in their concern for Maternus's safety.

[6] 3.3: "leges . . . quid Maternus sibi debuerit, et agnosces quae audisti" (you will read what Maternus owes himself, and you will recognize what you heard). See Bartsch 1994: 102–3. *Contra*, Levene 2004: 168–69 would like to separate the offense Maternus has caused from any deliberate political intent on the poet's part.

[7] Cameron's idea is picked up by Luce 1993: 24, Bartsch 1994: 105–6, and Rutledge 2000: 346–49. This suggestion also appeals to Barnes 1986: 240 and Mattheissen 1970: 172–73, though they would significantly modify the timeframe.

rect, it is reasonable to conclude that Maternus's death was connected to the dangerous offense of the *Cato*.

The purpose of this article is to examine the possible nature of this offense and to assess its relevance to the discussion of literature and rhetoric presented in the *Dialogus*. I would like to suggest that the powerful figures who were offended by Maternus's *Cato* reappear elsewhere in the text, and that the opinions Tacitus ascribes to Maternus's persona might serve to elucidate the provocative content of his tragedy. In light of the care that Tacitus shows in his selection of words, a philological approach will be employed.[8] I argue that the opening reference to "the sensibilities of the powerful" (*potentium animos*, 2.1) serves to connect the reception of Maternus's play with one of the major themes of the *Dialogus* as a whole, namely, the relationship between power and the practice of oratory at Rome.[9] If this phrase is properly understood—that is, if it is seen in the context of the people who are described as *potentes* or as wielding *potentia* elsewhere in the *Dialogus*—it is possible to uncover an implicit set of assumptions about the interaction between eloquence and the exercise of power in Roman society. This relationship, I suggest, provides a key to understanding the predicament that faces Maternus at the beginning of this work.

As Gudeman (1914: 191) recognized, the use of the term *potentes* in this passage suggests that it was not the emperor himself but rather a small cadre of influential men who took offense at Maternus's dissident literary activity.[10] Whenever there is an unambiguous reference to the emperor in this text, his position of authority is signaled through the use of other verbiage. The interlocutors regularly refer to their ruler with the title *princeps* (5.6, 7.1, 8.3, 9.5, 38.2), and his *principatus* is once mentioned (17.3). At one point the emperor is identified implicitly as the *moderator* of the state (36.2). Three participles are used to describe the emperor—*imperans* (13.4), *regens* (41.3), and *cognoscens* when he plays the role of judge (41.4)—but *potens* seems to be reserved for others. His *amicitia* (8.3), *liberalitas*, *indulgentia* (9.5), *disciplina* (38.2), and *clementia* (41.4) are discussed in various contexts, but never his *potentia*. In contrast, the terms *potens* and *potentia* are used throughout the *Dialogus* to refer to individuals whose exercise of power is problematic in

[8] On word choice in Tacitus, see Syme 1958: 724–27.

[9] In the discussion that follows, I start from the principle (established, e.g., by Scott 1990: 29–32 and Bourdieu 1991: 107–16) that the nature of verbal expression (here *eloquentia*) is conditioned by the relationships of power that prevail in a given historical circumstance.

[10] See also Mayer 2001: 93. *Contra*, Güngerich 1980: 10, Luce 1993: 24n42, Bartsch 1994: 102.

some way, and in this context there is no indication that this group includes the emperor.

Nor do we need to take the *Dialogus* in isolation. Consultation of Tacitus's other works confirms the presumption that the terms in question are more likely to refer to powerful individuals other than the emperor. An examination of the usage of *potentia* in the *Annales* and *Historiae* by Cogitore (1991) turns up only six instances in which this term might be taken as referring to the power of an emperor.[11] It is significant, however, that one of these cases (*Hist.* 1.13.1) refers to the division of Galba's power (*potentia principatus*) between the consul T. Vinius and the praetorian prefect Cornelius Laco, while three others (*Hist.* 1.1.1, *Ann.* 1.8.6, 3.28.1) involve Augustus, whose consolidation of power Tacitus seems to have regarded as lying outside the established boundaries of the Principate. In all, Cogitore's analysis shows that *potentia* is used more than seven times as frequently in Tacitus's main historical works to indicate, usually with negative connotations, the power of prominent men and women in the emperor's orbit than that of the emperor himself.

Contemporary writers reflect a similar tendency.[12] Among the poets, Statius once describes Domitian as a *potens dominus* (*Silv.* 3.4.19) and elsewhere refers to his *genius potens* (5.1.187)—two occurrences out of eighteen in the *Silvae.*[13] Otherwise, Martial uses *potens* and its cognates a total of eleven times, and Juvenal five, but neither writer applies these terms to an emperor.[14] Among prose authors, there are twenty total occurrences in the works of Suetonius, but only Julius Caesar is identified as *potens* (*Jul.* 72); only he (*Jul.* 86.2) and Augustus (*Aug.* 94.4) are described as possessing *potentia.*[15] In the letters of Pliny the Younger, these terms appear five times, but never in Book 10, and never in reference to an emperor.[16] In the *Panegyricus*, on the other hand,

[11] The passages are: *Hist.* 1.1.1, 1.13.1, *Ann.* 1.8.6, 3.28.1, 3.69.4, 6.20.2. See also Gerber & Greef 1962: 1141–42, 1151–52.

[12] A complete analysis is not possible here. See further, *TLL* X, 2, fasc. 2, 291–98 (Kuhlmann). See also Berrino 2006: 124–58 on the transgressive force implied when *potens* is used by Latin authors to describe a woman.

[13] Stat. *Silv.* 1.2.77, 1.2.158, 1.4.40, 2.3.66, 2.7.56, 2.7.109, 3.2.20 (*armipotens*), 3.4.19, 3.4.96, 3.5.41, 4.1.28, 4.3.135, 4.4.64, 5.1.52, 5.1.61, 5.2.29, 5.2.56.

[14] Mart. 5.20.5, 7.12.9, 7.39.2, 7.45.1, 7.72.5, 7.76.1, 9.79.7, 9.86.2, 12.3.4, 12.18.4, 12.92.2. Juv. 1.69, 7.200, 10.56, 10.303, 14.39.

[15] Suet. *Jul.* 13, 28.1, 50.1, 72, 86.8, *Aug.* 14, 56.2, 66.3, 69.1, 94.2, *Tib.* 1.1, 2.4, 50.2, 55, *Calig.* 56.1, *Nero* 6.4, *Otho* 2.2, *Vit.* 7.1, *Vesp.* 4.2, *Vita Luc.*

[16] *Ep.* 1.18.3, 3.7.4, 3.9.9, 4.4.1, 9.5.2. A typical usage here is when Pliny describes a legal case from his early career in which he came up "against the most powerful men in the state, who also were friends of Caesar" (*contra potentissimos civitatis atque etiam Caesaris amicos, Ep.* 1.18.3).

Trajan is explicitly described as *potissimus* (20.3), and his *potentia* is also mentioned (83.6). From this limited (and admittedly arbitrary) sampling, uses of the terms *potens* and *potentia* to refer to the power of a Caesar are outnumbered by all other occurrences by a factor of almost eight to one. It is therefore reasonable to suggest that the *potentium animi* Maternus is said to have offended at the opening of the *Dialogus* belong to persons other than the emperor.

The analysis presented here seeks to do more than make a narrow philological point about the ambiguity of the phrase *potentium animos offendere*, however. The identity of the unnamed *potentes* who were upset by Maternus's tragedy merits close attention, because power itself is central to the message of the *Dialogus* as a whole. I will argue that the interpretation of this work is best served by a reading in which the offended parties are identified as successful *delatores* (prosecutors), who constituted an important subset within the broader category of Imperial *potentes*. The *Dialogus* has much to say about individuals whose power derived from their rhetorical ability. In fact, Tacitus represents Maternus as particularly hostile to the *delatores*. This character claims to have used a play to undermine the *potentia* of at least one *delator* previously, so it is conceivable that he would have attempted to do the same in his most recent tragedy. If so, this would mean that Tacitus has fixed the historical setting for the *Dialogus* on the day after the recitation of the *Cato* in order to highlight a connection between the uproar that this work had caused and the views on the relationship between rhetoric and power that he attributes to its author. Understanding the danger that looms over Maternus in this way allows for a new perspective on what he has to say about poetry and oratory when he welcomes Aper and Secundus at his home. Maternus's low opinion of the *potentia* offered by oratory not only justifies his decision to turn from the law courts to the recitation hall for an outlet for his eloquence, it also informs the content of his dramatic poetry.

POTENTIA IN THE DEBATE BETWEEN APER AND MATERNUS

Following the refusal to revise his text as Secundus suggests, Maternus's other visitor, M. Aper, rebukes him for spending too much of his time writing dramatic poetry (3.4).[17] Aper insists that Maternus return to his role as an advocate, but Maternus rejects this suggestion as well. A disagreement over the legitimacy of poetry versus oratory as an aristocratic pursuit stands at the heart of a long-running argument between the two men (4.1), which Mater-

[17] For consideration of Aper's views on poetry within a wider social context, see Champion 1994: 155 and Goldberg 1999: 230.

nus suggests they settle once and for all by asking Secundus to adjudicate in a debate between them (4.2).

Before accepting the role of *iudex*, however, Secundus must disclose a personal interest. He worries that his close friendship with the poet Saleius Bassus might make it difficult for Aper to convince him that poetry is an inferior sort of undertaking (5.1–2). In response, Aper explains that his criticism of Maternus's turn to poetry does not reflect a generalized bias against all poets. He has no quarrel with someone like Bassus, who pursues poetry "because he does not have the ability to undertake legal cases" (*cum causas agere non possit*, 5.3); he insists that his complaint is with Maternus alone, who was "born for manly eloquence and oratory" (*natus ad eloquentiam virilem et oratoriam*, 5.4) and therefore is better suited for a career as an advocate. Poetry is an unworthy venue for Maternus's talents, it seems, because his personal qualities enable him to achieve things that Bassus cannot accomplish. The contrast is one of power, which Aper links to an ideal of Roman manliness.

This *eloquentia virilis* is further defined through an analogy with military prowess. Aper describes the usefulness of rhetorical ability in terms of the security it provides (5.5):

> 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?
>
> What is safer than to train in this art, with which one is always armed as a defense for friends, as a resource for strangers, as security for those in danger, and with which he also strikes fear and terror into the hearts of his enemies and those who resent him, while he himself is safe and protected by virtually continuous power (*potentia*) and authority (*potestas*)?

Here and elsewhere, Aper makes it clear that oratory is a deadly serious business and that public debate could have a real impact on people's lives. The implication of Aper's final phrase deserves special highlighting: he suggests that oratory provides its practitioners with something approaching limitless power. The words he uses to express this view, *potentia* and *potestas*, have some overlap in meaning, but are not synonyms. *Potentia* is simply the quality that makes an individual *potens*. The term is most commonly used to refer to acquired or innate capacities, such as physical strength or force of will, through which one person exercises power or control over another.[18] In

[18] Cicero defines it as a component of *utilitas*: "potentia est ad sua conservanda et alterius adtenuanda idonearum rerum facultas" (power is a supply of things suitable for

contrast, *potestas* is an attributed status that must formally be bestowed on its possessor. Whether exercised in private life (e.g., *patria potestas*) or in an official role (e.g., *tribunicia potestas*), this form of power is typically sanctioned by external legal authority and can only be granted to someone in an officially recognized position of power.[19] Comparison with 19.5, where the juxtaposition is reformulated as "vi et potestate," suggests that Aper recognizes a distinction between unofficial, personal *potentia* on the one hand and legally formalized *potestas* on the other. In the *Dialogus*, the emphasis will be on the first, more visceral formulation of individual power.

While Aper claims that the person who practices the art of oratory possesses a broad array of powers, closer examination of his views suggests that a specific form of *potentia* is what he really has in mind. According to Aper, advocates are like warriors. Eloquence is "a defense as well as a weapon with which you have the ability to protect and intervene equally, whether in court or in the senate or before the *princeps*" (*praesidium simul ac telum quo propugnare pariter et incessere sive in iudicio sive in senatu sive apud principem possis*, 5.6). The continued use of military idioms (*praesidium*, *telum*) transforms the typical venues for the practice of oratory into fields of combat in which speakers attack one another, employing their rhetorical *potentia* as a physical attribute.[20]

While the advocate's virile eloquence is not necessarily the only kind of *potentia* available in the present, Aper suggests that it remains the most valuable form of power for members of the Roman elite to cultivate. He points to the many clients that an advocate can acquire and remarks upon how pleasurable it is "to know . . . that, indeed, the childless, the rich, and the powerful (*potentes*) often visit a poor young man to entrust him either with their own crises or with those of friends" (*scire . . . ipsos quin immo orbos et*

protecting one's own and weakening others', *Inv.* 2.169). See *TLL* X, 2, fasc. 2, 291–98 (Kuhlmann). See also Berrino 2006: 115–24 and the cursory *Begriffsgeshichte* of Drexler 1959.

[19] *TLL* X, 2, 300–321 (von Kamptz), esp. def. I A 1, see also Bleicken 1981: 278–87. Maternus, for example, defines the *privatus* as someone who lacks *potestas* when he discusses the status of orators under the Republic (*hi ne privati quidem sine potestate erant*, 36.5).

[20] Cf. 10.5. The metaphor of a soldier going into battle is also used by Messala to stress the importance of an orator's training (32.2) and colors his stylistic assessment of Cassius Severus, whom he describes as "ipsis etiam quibus utitur armis incompositus et studio feriendi plerumque deiectus, non pugnat sed rixatur" (poorly outfitted with those arms he does employ and often knocked down by an eagerness to strike, he does not fight but rather scuffles, 26.4).

locupletes et potentes venire plerumque ad iuvenem et pauperem ut aut sua aut amicorum discrimina commendent, 6.2). In these situations, the importance of eloquence reverses normal social expectations (Champion 1994: 157). Whenever there is danger, the successful advocate stands above even the richest and most powerful members of society. Those who are seen as having the most to offer still need the assistance of someone who has only rhetorical skill to recommend himself.

Aper goes on to pose a rhetorical question (6.3):

> ullane tanta ingentium opum ac magnae potentiae voluptas quam spectare homines veteres et senes et totius orbis gratia subnixos in summa rerum omnium abundantia confitentes id quod optimum sit se non habere?
>
> Is there any pleasure in enormous wealth and great power (*magna potentia*) so great as that of watching venerable old men, sustained by the esteem of the whole world, admitting that, even in all their vast resources, they do not have the thing that is best?

The logic of both these passages rests on the conventional assumption that wealth and power should be regarded as the ultimate source of happiness.[21] These things are linked in Aper's mind with oratory, since all other sources of social distinction ultimately must yield to eloquence.

Aper uses the *exempla* of two contemporary advocates, Eprius Marcellus and Vibius Crispus, to demonstrate a more direct link between virile eloquence and personal power (8.1–3). The choice is remarkable, since these men had infamous reputations as *delatores*.[22] Despite the odium they had incurred for their prosecutorial activities under Nero, both weathered the political upheaval in the long year of civil wars and continued to hold onto positions of importance under Vespasian, at least until the dramatic date of the *Dialogus*, sometime in Vespasian's reign.[23] Aper describes their circumstance as follows (8.3):

[21] Wealth (*opes*) is, of course, simply another form of *potentia*: see Drexler 1959: 55–58.

[22] For their careers, see *PIR*² E 84, *PIR*¹ V 379, Syme 1991: 524–31, Rutledge 2001: 225–28, 278–82. We are informed in Tacitus's other works that Marcellus assisted in the prosecution of Thrasea Paetus (*Ann.* 16.26–29), while Crispus played a prominent role in the downfall of the Scribonii (*Hist.* 4.41.3).

[23] The dramatic date of the *Dialogus* is indicated, confusingly, at 17.2–3. Aper says that their discussion takes place "120 years after the death of Cicero" (17.3 [= 77 C.E.]), but the arithmetic with which he supports this claim seems to suggest a date of 74 or 75 C.E. (actually the 117th year after Cicero's demise). Following Gudeman (1914: 56–62), most commentators construe the phrase "sextam . . . principatus stationem" as referring to the

> sine commendatione natalium, sine substantia facultatum, neuter moribus egregius, alter habitu quoque corporis contemptus, per multos iam annos potentissimi sunt civitatis ac, donec libuit, principes fori, nunc principes in Caesaris amicitia agunt feruntque cuncta . . .
>
> Without the recommendation of birth, without the advantages of property, neither one remarkable in his conduct, the one even despicable for the appearance of his body, they have been for many years the most powerful men (*potentissimi*) in the state and, as far as is permissible, the chief men (*principes*) of the Forum, and now as the chief men in Caesar's friendship, they propose and deal with everything.

Three interrelated points stand out in this description. First, Aper places great emphasis on the power enjoyed by Marcellus and Crispus, which he views as the essential benefit of their chosen profession, along with their considerable wealth.[24] He argues that they have become *potentissimi* through the exercise of eloquence alone—indeed, they have no other good qualities. Second, their importance is such that they can be regarded as *principes* in their own right, at least within their particular zone of expertise. Finally, they do not act alone but are able to control everything (*agunt feruntque cuncta*) because of their prominence in Caesar's circle of friends.[25] Not only is the power wielded by these eloquent men analogous to that of the *princeps*, but Aper also regards it as an integral and inescapable part of the working of the Imperial system.

Aper's enthusiastic praise for the accomplishments of these *delatores* is consistent with what Tacitus reveals about his personality, since his career seems to have followed a similar trajectory to those of the exemplars he cites. As a new man himself, he finds merit in gaining position by means of rhetorical ability.[26] This background influences Aper's perspective on the whole system

sixth year of Vespasian's reign, and thus assign the discussion to the earlier date (but cf. Koenen 1975: 232–34, note also Letta 1985, who finds an additional year on either end by placing the discussion on the anniversary of Cicero's death, Dec. 7, 76 C.E.). Serious objections have been brought against this interpretation of the term *statio* by Köstermann 1932, however. Beck 2001 and van den Berg 2006: 210–36 now argue (on slightly different grounds) for the precision of the 120-year figure and the later date.

[24] At 8.2, Aper makes explicit reference to the fortunes of Marcellus and Crispus, which amounted to two hundred million and three hundred million HS, respectively.

[25] As Winterbottom 2001: 140 notes, the use of martial language persists even here.

[26] Aper mentions his status as a *homo novus* at 7.1, where he also reveals that he was born in an out-of-the-way town, while Marcellus and Crispus were born in Capua and Vercellae (8.1). Aper has risen as far as the praetorship, and perhaps still hopes for more. Time may be running out on his career, however; the claim that he met a Briton who remembered Julius Caesar (17.4) probably places him on that island with Claudius in 43 C.E., which means that he is already in his mid-fifties when the *Dialogus* takes place: see Gudeman 1914: 68–69, Syme 1958: 104.

of legal advocacy. In his discussion of the similarities between eloquence and military equipment, Aper lists three possible venues for debate: the senate, the law courts, and an audience with the emperor (5.6). Two of these were traditional arenas for rhetorical conflict, but the third, *apud principem*, reflects the new reality of the Roman Principate, wherein the emperor's judgment could stand in for a trial in other courts, particularly in cases involving important defendants and/or plaintiffs.[27] Even in front of the most powerful person in the state, whose deeds and pronouncements had the force of law, Aper insists that a command of persuasive eloquence gave advocates the opportunity to exercise a form of autonomous power on behalf of their clients.[28]

This assessment is noteworthy, because Aper himself has had the chance "to safeguard and defend before the emperor his very own freedmen and procurators" (*apud principem ipsos illos libertos et procuratores principum tueri et defendere*, 7.1).[29] This glimpse at Aper's client list suggests that he has good reason to identify with the eloquent but poor young man to whom the *potentes* turn whenever there is trouble (6.2–3). Evidently, he has risen to his current position of importance by representing the interest of powerful and well-connected agents of the emperor in proceedings that have been brought against them for malfeasance in the performance of their duties.[30] Successful handling of such cases has given Aper a boost on his way up the ladder of Imperial society, but he does not feel that this sort of favoritism contradicts his view that the current system represents a meritocracy. When he considers the transformation of rhetorical style that has taken place since Cicero's day, Aper attributes this change to the increased sophistication of the audiences that one must persuade (19.2–4), but he does not acknowledge any meaningful changes in the role of the advocate or of his position within Roman society.

[27] See Millar 1977: 516–32. The emperor could serve as the judge of first instance in criminal cases and was asked to rule on all manner of civil disputes as well. According to Garnsey 1970: 66–90, the Imperial tribunal, which only became institutionally significant under the Flavians, was available almost exclusively to those with wealth and status. Trials in the senate were also an innovation of the Principate (as Jones 1972: 91–92 points out) but this body at least previously was known as a venue for other forms of debate. See Garnsey 1970: 17–34 on the importance of the status of the accused.

[28] The ability of the *princeps* to make law at the time of the *Dialogus* derived from powers laid out in the so-called *lex de imperio Vespasiani* (*ILS* 244, ll. 17–21), on which, see Brunt 1977: 110–16.

[29] Trial before the emperor was probably the usual procedure for such officials, as per Tac. *Ann.* 13.33.1. Cf. Millar 1977: 524–26.

[30] The most likely context for Imperial procurators to be tried before the emperor would be in actions *de repetundis*. See Jones 1972: 94–96.

Aper alludes to his own success in the centumviral courts as well (7.1), and it is worth noting that Vibius Crispus was also said to excel in this kind of pleading (Quint. 10.1.119). We should not overlook the gravity that civil trials might hold for the financial interests of the powerful. Nevertheless, as Crook points out, "the profession itself regarded civil litigation as smaller beer" (1995: 132). Despite its importance, few pleaders considered this area of law their highest calling. Maternus notes that trials before the *centumviri* have come to represent the main business of the advocates (38.2), but protests that they provide dull material for a speech. In fact, the narrow confines of these proceedings are among the things that Maternus dislikes most about his toilsome career as an advocate; they represent what he hopes to escape by becoming a poet (4.2, 39.1).

In light of the public career that he is considering abandoning, one can see that Maternus's perspective on the world of legal advocacy differs substantially from Aper's. The cases that Maternus has been involved in appear less likely to help him rise through the Roman power structure. According to the description given by Aper, Maternus typically argues on behalf of "friends" and urban communities with which he has traditional ties of *clientela* (3.4). The *amici* Aper mentions are no doubt primarily clients, i.e., people of lower social status who rely on Maternus for legal protection but offer little besides gratitude in return.[31] The *coloniae* and *municipiae* might have been more remunerative in their thanks, but their interests were likely to bring them into conflict with the same Imperial administrators whom Aper has benefited by defending.[32] Thus, Maternus approaches the role of advocate as one who is already secure in his high status; his legal career does not have the same orientation towards *potentia* as that of Aper.

Aper's admiration for powerful advocates like Marcellus and Crispus therefore does little to sway Maternus in the present debate. The prevailing view was hostile to *delatores*, and Maternus has a different perspective on the accomplishments of these self-made men.[33] Not only is he unimpressed by their

[31] Saller 1989 discusses the use of *amicus* as a polite synonym for *cliens*. Cf. Crook 1995: 122 on the significance of the patronage system to the sociology of Roman legal advocacy.

[32] Cf. Plin. *Ep*. 5.4, 9, 13. On the range of legal actions in which cities might be involved, see Crook 1995: 48–52; Millar 1977: 435–45. It is possible that Aper overstates the significance of *colonia* and *municipia* in Maternus's *clientela*. The crowds produced by the close attention of "clientelae quoque ac tribus et municipiorum etiam legationes ac pars Italiae" (clients, tribes, delegations from municipia, and a substantial segment of Italy, 39.4) are something that Maternus associates with the oratory of the Republican past.

[33] With the possible exception of Quintilian, Roman sources are almost universally hostile to *delatores*. Rutledge 2001: 11–15 and *passim* discusses the reasons for this.

current position of wealth and power, he also is highly suspicious of the way in which they have come to be regarded as *potentissimi* within Roman state. When taken together with Aper's own acknowledgement of Marcellus's and Crispus's moral deficiencies, the argument that oratory is worthwhile because it provides access to power loses much of its appeal (Barnes 1986: 237).[34]

In his response to Aper's speech, Maternus embraces the connection that his opponent draws between oratorical *potentia* and armed conflict. He radically alters the interpretation of this martial metaphor, however, when he concurs, "indeed the application of this profit-seeking and bloody eloquence is a recent thing, born from declining values and, as you say, Aper, adopted in the place of a weapon" (*nam lucrosae huius et sanguinantis eloquentiae usus recens et ex malis moribus natus atque, ut tu dicebas, Aper, in locum teli repertus*, 12.2). Maternus does not valorize the advocate's exploits as a kind of heroic combat in the way that Aper does, but rather he despises them as he would the activity of a gladiator or marauding barbarian (cf. Quint. *Inst.* 12.1.1, Cic. *de Or.* 3.55). He feels that their eloquence is morally contaminated because they misuse it in malicious prosecutions undertaken for the sake of monetary gain (Williams 1978: 28; Winterbottom 2001: 143–44).[35]

In addition to raising this moral objection to the *delatores*' connection with *lucrosa et sanguinans eloquentia*, Maternus asks a sequence of pointed rhetorical questions intended to undermine the view that their position of power is in fact desirable (13.4):

> nam Crispus iste et Marcellus, ad quorum exempla me vocas, quid habent in hac sua fortuna concupiscendum: quod timent, an quod timentur? quod, cum cotidie aliquid rogentur, ii quibus praestant indignantur? quod alligati cum adulatione nec imperantibus umquam satis servi videntur nec nobis satis liberi? quae haec summa eorum potentia est? tantum posse liberti solent.
>
> In the case of that Crispus and Marcellus, to whose examples you direct me, what do they have in this fortune of theirs that one should wish for: that they fear, or that they are feared? Is it that, even as they face constant requests, those whom they help resent it? Is it that, being bound through flattery, they seem neither servile enough to those in charge nor free enough to us? Are these things the height of their *potentia*? It is common for freedmen to have such power.

[34] Goldberg 1999: 227–29 warns that Aper's arguments should not be ignored on account of his favorable judgment of these *delatores*. In a similar vein, Champion 1994: 162 stresses the "ambiguity" of Aper's character, though he does not discuss this passage in particular.

[35] Syme 1958: 100, 331–33 centers the issue on a question of rhetorical style, but Rutledge 1999: 562–63 persuasively argues that the characterization of the *delatores* as violent and aggressive (e.g., by Eprius Marcellus at 5.7) has more to do with the practical aims than the aesthetic qualities of their oratory.

Here is the full range of the experience of a politically prominent advocate, presented as a series of catch-22s. They must either make their enemies afraid by hauling them into court, or fear being attacked themselves. The first option is morally reprehensible; the other is potentially self-destructive. Similarly when dealing with friends, it would be dishonorable to refuse a plea for assistance, but the ingratitude of clients makes bestowing benefits an unrewarding proposition as well. It is the third dilemma, however, that constitutes the most significant rejoinder to Aper's praise of oratory and the power it provides. According to Maternus, men like Marcellus and Crispus face an impossible choice between acting like slaves in order to please the emperors or preserving their dignity as free men, at the risk of their position.

When discussing the unique position that Marcellus and Crispus enjoy under Vespasian, Aper makes it clear that he regards eloquence as the only source of their influence (8.3). Power, he argues, derives from talent alone. Against these claims about the self-reliance of the powerful advocate, Maternus suggests that everything depends upon maintaining the goodwill of the emperor. Though the influence that powerful advocates exercise in the courtroom is real enough, its value is undermined by their dependence on Imperial patronage. A thin line separates the fearsome advocate from a fearful one.[36] Ancient readers of the *Dialogus* will have known that Eprius Marcellus eventually fell from favor, found himself on trial in the senate, and ended by taking his own life (Dio 66.16.3–4).[37] Because the *delatores*' position was dependent upon keeping the emperor's favor, Maternus concludes that *potentia* was not a worthwhile goal for a self-respecting Roman aristocrat.

To make this point clearer, Maternus interjects the morally charged language of freedom and slavery into the discussion. Within this framework, the *potentia* of even the greatest advocates is revealed to be an illusion. According to Maternus, highly placed *delatores* like Marcellus and Crispus reside in a limbo state, similar to that of the freedman, whose continuing obligations of *obsequium* to a patron contradict any real claim to unfettered *libertas*.[38] This comparison is particularly apt, since the freedmen of the Imperial household

[36] Cf. Plin. *Pan.* 35.3, on the banishment of *delatores* under Trajan: "timeantque quantum timebantur" (let them fear as much as they were feared).

[37] Crook 1951 links the change in Marcellus's fortunes to the death of Mucianus, who had been his savior in the events of 70 C.E., but this view must be reassessed in light of the criticisms of Rogers 1980. Syme 1958: 101 notes the pointed contrast between Marcellus's fate and that of Crispus, who lived long into Domitian's reign.

[38] On *obsequium*, see Treggiari 1969: 68–81. This moral/cultural dimension of the *libertus*'s status was bolstered by the legal right of a *patronus* to impose certain *operae* on his manumitted slaves.

were also able to rise to positions of great wealth and influence. Given the historical context in which Tacitus sets the *Dialogus*, Maternus is not speaking in purely abstract terms. Like the *delatores*, powerful freedmen maintained their ascendancy as the Imperial office passed from Nero to Vespasian.[39] This class of functionaries was regarded with contempt by senators and other freeborn elites, who resented their influence over the *princeps*.[40] Despite the considerable power that these *liberti* enjoyed, no member of the freeborn nobility would ever willingly admit to admiring their position in the state.[41] Maternus's comparison suggests that the most powerful *delatores* were no more admirable than Imperial freedmen. Their power was not really achieved through merit, as Aper claims, but instead reflected an accident of fate.

This brief review of the opening debate between Aper and Maternus suggests that their disagreement about the relative merits of oratory and poetry hinges on a question of the nature and desirability of the power that was available to contemporary advocates. Both speakers acknowledge that there was an important subset of the Roman ruling class that can be described as *potentes* or as exercising *potentia*. This group was not entirely coterminous with the clique of successful advocates, but Maternus and Aper agree that *delatores* like Eprius Marcellus and Vibius Crispus occupied a place of honor within the ranks of the powerful. For his part, Aper presents these men as models of successful oratory. He describes them as *potentissimi* (8.3) and lauds the advocate's eloquence as a form of *potentia* in itself (5.5). The special prestige of the advocate's position is further underscored by the fact that other *potentes* must seek him out when they are in trouble (6.2). In contrast, Maternus rejects oratorical eloquence as violent and morally damaging (12.2), and dismisses the *summa potentia* (13.4) of the *delator* as no different from that of an Imperial freedman.

[39] For high-ranking *liberti* under Vespasian, see Duff 1928: 178–80, Weaver 1972: 284–92. Some *delatores* even came from the ranks of the freedmen, as Rutledge 2001: 30–33 notes.

[40] Cf. the paradoxical status of eunuch chamberlains in the Byzantine court, discussed by Hopkins 1978: 172–96.

[41] Pliny 8.8; MacMullen 1974: 103–6. Seneca's flattery of the *a studiis* Polybius (*Cons. Polyb.* 2.2–7 and *passim*) is the sort of exception that proves this rule, since it can be attributed to duress and the author's desire to be recalled from exile: see Griffin 1976: 415–16. More significant for understanding Roman attitudes towards Imperial freedmen is the fact that Seneca was reproached for this behavior (Dio 61.10.2).

REPUBLICAN *POTENTES*

Maternus's critique of the *potentia* available to advocates like Crispus and Marcellus carries over into the final speech of the *Dialogus*. Inspired by a turn in the conversation to the reasons for the qualitative decline in Roman oratory since the end of the Republic, Maternus takes the long view of the relationship between rhetoric and power. He picks up on Aper's argument that the nature of rhetoric reflects the needs of the times (18.2), and redeploys it to suggest a connection between political instability and oratorical skill (Williams 1978: 35). "Great eloquence, like a flame, is nourished by material, roused through disturbances, and shines by burning" (*magna eloquentia, sicut flamma, materia alitur et motibus excitatur et urendo clarescit*, 36.1), he argues. In other words, a society that allows oratory to thrive is playing with fire. Reflecting on the crises of the Roman Republic that produced great oratory, Maternus concludes that "neither was the eloquence of the Gracchi so valuable for the government that it should have suffered their laws, nor did Cicero properly balance his reputation for eloquence against such a demise" (*sed nec tanti rei publicae Gracchorum eloquentia fuit ut pateretur et leges, nec bene famam eloquentiae Cicero tali exitu pensavit*, 40.4). If great speeches are understood as the products of their historical context, Maternus feels that this sort of eloquence is not worth the price.

The orators of the Republic had more reason to develop their talents, but only because the topics of their speeches included things like bribery, extortion, and the slaughter of civilians (37.4). This unflattering assessment of oratory and the political conditions that favor its development allows Maternus to expand his discussion of the relationship between eloquence and the distribution of power in Roman society. If oratory is to be regarded as a source of injurious *potentia* under the Principate, it was even more essential in the political free-for-all and faction of the Republic. Maternus notes how recently published documents reveal the way in which the political arrangement of the past fostered rhetorical talent (37.3):

> ex his intellegi potest Cn. Pompeium et M. Crassum non viribus modo et armis sed ingenio quoque et oratione valuisse, Lentulos et Metellos et Lucullos et Curiones et ceteram procerum manum multum in his studiis operae curaeque posuisse, nec quemquam illis temporibus magnam potentiam sine aliqua eloquentia consecutum.
>
> From these books it is possible to comprehend that Cn. Pompey and M. Crassus were not only strong in force and arms, but in talent and oratory as well; the Lentuli, Metelli, Luculli, Curiones, and other nobles expended much effort and care in these pursuits, and in those days no one achieved great *potentia* without some eloquence.

By locating the connection between eloquence and *potentia* in the era of civil wars, when men like Pompey and Crassus also had real weapons to back up their claims to power, Maternus raises questions about the ethics of oratory and the political influence that it provides. Taking into account Maternus's views on the violence and instability of the Republic, this analysis further underscores his opposition to the way that eloquence is used by contemporary power-seeking advocates.

Already unhappy about the blood-stained rhetoric of his own day, Maternus has no illusions about the nature of Republican political debate, which he sees as persistently hostile and uncivil. Even as the great generals and members of noble families sought to secure their power through the use of rhetoric, this tool could be deployed against them as well. Attacks on the powerful were common: "here there were accusations of powerful defendants (*potentes rei*) and hatreds assigned even to whole households" (*hinc accusationes potentium reorum et adsignatae etiam domibus inimicitiae*, 36.3). The *potentes* of the past apparently faced the same choice as their present-day counterparts, either to fear or be feared (13.4). Despite the changes that had taken place since the creation of the Principate, certain principles remain constant. In both eras, the pursuit of power represents a dangerous ambition that leaves one vulnerable to attack.

On balance, Maternus favors the relative security of the present to the turmoil that had fueled the great rhetoric of the past. Returning to the issue of the contemporary state of oratory, Maternus acknowledges that there is less scope for rhetorical achievement under the Principate (39.1–3), but he presents this as a sign of progress: "if the orators of these times have attained what can justly be granted in a composed, peaceful, and blessed government, nevertheless in that commotion and license they seemed to accomplish more for themselves" (*nam etsi horum quoque temporum oratores ea consecuti sunt quae composita et quieta et beata re publica tribui fas erat, tamen illa perturbatione ac licentia plura sibi adsequi videbantur*, 36.2). If the drive for *potentia* was a destabilizing force in Republican society, so too was the oratory that enabled it. Peace could only be accomplished, it seems, by curtailing both activities.

In fact, the continued existence of oratory and the path to power it provides are a mark of the Romans' failure to quell the violence and disorder of their past: "and insofar as †the Forum has outlived the ancient orators,† it provides evidence of a state that is not healed nor as well ordered as we might desire" (*sic quoque quod superest †antiquis oratoribus forum† non emendatae nec usque ad votum compositae civitatis argumentum est*, 41.1).[42] In a perfect

[42] With this and other obelized passages, I present (and attempt to translate) the text as it stands rather than prejudice matters by adopting some uncertain emendation.

state, Maternus suggests that the role of the orator could be eliminated completely (41.3–4):

> quod si inveniretur aliqua civitas in qua nemo peccaret, supervacuus esset inter innocentes orator sicut inter sanos medicus . . . 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? quid voluntariis accusationibus cum tam raro et tam parce peccetur? quid invidiosis et excedentibus modum defensionibus cum clementia cognoscentis obviam periclitantibus eat?
>
> But if some state could be found in which no one sinned, the orator would be as unnecessary among the innocent as a doctor among the healthy. . . . What need is there for long dissertations in the senate, when the best men agree quickly? Or for numerous meetings of the people, when it is not the inexperienced multitude but the one wisest man who determines the course of government? Or for voluntary prosecutions, when transgressions are so rare and so trivial? Or for hateful and excessive defenses, when the clemency of the judge reaches out to those in danger?

As others have pointed out, this description does not fit the current conditions of oratory very well (Williams 1978: 35; Luce 1993: 22; Bartsch 1994: 108). But this is an idealized view, meant to demonstrate the connection between oratory and social evils; Maternus does not pretend to be describing the realities of his contemporary environment. To the extent that this utopian vision does reflect some of the ways in which the practice of oratory has been curtailed under the Principate (i.e., in the *contio* and, to a lesser extent, the senate), Maternus can be read as suggesting possible directions for future progress. Just as the care of the *respublica* is better entrusted to the *unus et sapientissimus* than to the orators who sway the uninformed rabble, Maternus envisions a world in which the punishment of crimes is entrusted to the clemency of a single individual, without the need for quarrelsome advocacy.

Insofar as oratory has anything to do with the acquisition of individual *potentia* in Roman society, Maternus connects this practice with instability and violence. He defines the noteworthy eloquence that made men powerful during the Republic as "the nursling of license, which fools call liberty, a companion of subversion, a prod for the unbridled populace that is without *obsequium* or strictness. It is a disagreeable, rash, and arrogant thing, which in well-established states does not occur" (*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*, 40.2). These words echo—and contradict—a definition of *eloquen-*

tia given in Cicero's *Brutus* (Güngerich 1980: 176).[43] In that earlier work on orators, Cicero explains that Periclean Athens was the first age to witness a nearly complete orator because "eloquence is the companion of peace, the ally of leisure, and to some extent the nursling of an already well-established state" (*pacis est comes otique socia et iam bene constitutae civitatis quasi alumna quaedam eloquentia*, 45). The contradiction is stark, and evidently important to the purposes of the *Dialogus*. Unlike the other speakers in this text (Aper, who pretends that he still lives in the same era as the great orator, and the young Messala, who advocates a return to an imagined golden age of Ciceronian education), Maternus explicitly rejects the outdated Republican ideals of Cicero's oratorical theory.[44] He does not accept that rhetorical eloquence is the companion and result of peace, but rather regards it as an unwanted byproduct of civil disorder.

The difference between Maternus's position in the *Dialogus* and Cicero's in the *Brutus* lies in their conception of what constitutes a "well-established state" (*bene constituta civitas*) and the balance between personal freedom and stability that is attained therein. Maternus feels that abusive *licentia* fosters eloquence and suggests that a misplaced reverence for oratory causes the ignorant to mistake this quality for true *libertas*.[45] In his first speech, Maternus suggests that the *potentia* of the most influential *delator* is no greater than that of an Imperial freedman (13.4). Now, in his description of the *licentia* that fostered Republican oratory, it becomes clear that Maternus's objection is not to *obsequium* per se, but rather to the charade that the power of these advocates exists independent of their relationship with the emperor.[46] In Maternus's view, such *potentia* was not the result of a legitimate exercise of freedom, but rather derives from a lack of appropriate restraint on the greed and ambition of those who have the benefit of the emperor's friendship. Limits were acceptable and necessary, for advocates as much as for the common people.

[43] Mayer 2001: 211–12 lays out the broader context of Tacitus's "subversion" of Cicero's thought in this passage. On the interplay of the two texts generally, see Gowing 2005: 117–20.

[44] Aper's argument about the relative proximity Cicero's age (16.4–18.1) is rejected by Messala explicitly (25.1) and by Maternus implicitly (27.1): see Goldberg 1999: 231. Messala's ideas about education are explicitly linked to the precepts of the *Brutus* (30.3). On these views and their connection to the Ciceronian ideal (by way of Quintilian), see Brink 1989: 484–94, Fantham 2004: 321–23.

[45] Wirszubski 1950: 7–8 discusses the importance of restraint in elite conceptions of *libertas*.

[46] Cf. *Agr.* 42.4—a crucial passage incomparably explicated by Syme 1958: 24–26.

Maternus's final speech suggests that the continuing pursuit of personal power by Roman advocates should be regarded as an obstacle to the peace and stability that had been promised under the Principate. Though he regards the mercenary abuse of their rhetorical powers as a sign of moral decay, Maternus acknowledges that the prosecutorial function of the *delatores* is a vestige of Republican practice.[47] Insofar as such advocates could claim to be continuing the traditions of Republican oratory, he feels that they were out of step with what the times required. As Maternus's analysis of the advocate's martial *potentia* in his earlier speech makes clear, oratory is closely linked with violence and social instability. In his opinion, a career as an advocate cannot be justified by the claim that it brings the practitioner *potentia*, because this ambition only disrupts the necessary concentration of authority in the hands of a single *princeps* that would bring peace to the Roman world.[48] In a better organized state, the role of the orator could be eliminated entirely. With the pretence of public trials removed, influential advocates would no longer be able to arrogate to themselves a source of power that properly should belong to the emperor alone.

POETRY AND *POTENTIA*

Like the character of Socrates in Plato's *Gorgias* (464b–465d, 518e–519c), Maternus rejects the idea that oratory and the access to personal power it provides have any real value, either for the individual or for the community as a whole.[49] Unlike the Platonic Socrates, however, Maternus presents poetry as a form of eloquence that could be compatible with a properly established *civitas*.[50] From the examples Maternus cites to defend the merits of his new career (12.6–13.3), it is clear that poetry, unlike oratory, has been flourishing under the narrower political horizons of the Principate (Levene 2004: 165). Moreover, in contrast to the bloodstained debates of the contemporary courtroom, the poetry that Maternus cherishes is described as "that more sacred and august eloquence" (*sanctiorem illam et augustiorem eloquentiam*, 4.2). His use of the term *augustior* further suggests that poetry is better suited to

[47] A similar case is also made, *mutatis mutandis*, by Eprius Marcellus himself in *Hist.* 4.8.1, as well as by modern scholars like Rutledge 2001: 52–53 and Goldberg 1999: 231.

[48] This idea appears elsewhere in Tacitus's works. Cf. *Hist.* 1.1.1, explaining the decline in historiography that followed the creation of the Principate: "postquam bellatum apud Actium atque omnem potentiam ad unum conferri pacis interfuit, magna illa ingenia cessere" (after the war was decided at Actium and it was in the interest of peace for all *potentia* to be conferred upon one man, those great talents departed).

[49] On the Platonic connections here, see Egermann 1935, esp. 426, also Saxonhouse 1975: 58, Rutledge 2000: 551–52.

[50] Cf. Plat. *Rep.* 377c–398b for Socrates' views on poetry.

a world remade by a ruler who had adopted the title *Augustus*. In particular, Maternus invokes the model of the Augustan poet Vergil, whose "sweet muses" he hopes will allow him to escape to the springs where their sacred rites are performed (13.5).[51] He envisions a bucolic and peaceful environment for himself, one that is very different from the violent, power-mad arena of the advocates.

This retreat from the Forum and the unsatisfying pursuit of personal power that he associates with oratory does not mean that Maternus lacks ambition, however. It turns out that poetry too has a relationship to power, albeit a less direct connection. As Maternus explains, attacks on the powerful were not confined to forensic oratory during the volatile era of the Republic (40.1):

> iam vero contiones adsiduae et datum ius potentissimum quemque vexandi atque ipsa inimicitiarum gloria, cum se plurimi disertorum ne a Publio quidem Scipione aut Sulla aut Cn. Pompeio abstinerent et ad incessendos principes viros, ut est natura invidiae, †populi quoque et histriones auribus uterentur†.
>
> For indeed, there were constant assemblies and the right was given to pester each of the most powerful men (*potentissimus quisque*). There was honor in hostilities, when many of the accomplished speakers did not hold themselves back even from Publius Scipio or Sulla or Gnaeus Pompey. Such is the nature of envy that †even actors attacked the chief men (*principes viri*) when they had the people's ear†.

The apparent textual problem makes firm conclusions impossible, but if the reference to *histriones* can be maintained, it seems that a parallel is being drawn between the political impact of the orator and that of performers of dramatic poetry.[52] Whether in the Forum, before the tribunal, or on the stage, all forms of *eloquentia* are implicated in the economy of power. This condition was not unique to the Republic. In the same way that Maternus regards oratory as a sign of continuing instability in the present, we can assume that he felt that dramatic poetry continued to give the oppressed an opportunity to criticize the powerful. This observation has important implications for our understanding of the circumstances in which the *Dialogus* takes place.

[51] The intertext is with *Georg.* 2.475–6. See Gudeman 1914: 276–77, Levene 2004: 165–66.

[52] Various emendations have been offered: see the apparatus of Winterbottom 1975: 104, along with Gudeman 1914: 495–96 and Mayer 2001: 211 *ad loc.* Bartsch 1994: 257n50 adopts Halm's reading of the daggered text, replacing *et* with *ut* and translating, "the majority of the eloquent . . . just like actors, were using the ears of the public as well to assail the leading men" (116). This interpretation still leaves room for the assumption that actors were regarded as capable of assaulting the powerful.

While Maternus may be critical of the license shown by actors who attacked their social betters out of envy, as an elite playwright he seems to have the opportunity to weigh in on matters of public interest in a more constructive manner. Indeed, he does not "turn his back . . . on the very obligations of his class to his society," but continues to participate in political discourse through his dramatic poetry.[53] While he may have lost interest in oratory and the illusory power it can provide, the offense registered in his *Cato* suggests that Maternus has decided to use his poetry to hold the *potentes* to account. Even Aper, who regards the conventional "groves and glades" of poetic retreat as evidence of the poet's isolation from the real world (*utque ipsi dicunt in nemora et lucos, id est solitudinem, recedendum est*, 9.6), recognizes the impact that Maternus's poetry was having. He acknowledges that the *Cato*, which according to the narrator was currently on the lips of everyone in Rome (2.2), has earned its author considerable notoriety (10.5–7). Aper can tell that Maternus is spoiling for a fight, even if all he writes is poetry. He therefore wants his friend to abandon the posture that he is simply looking for a quiet retreat from the worrying business of the Forum (10.7; See Winterbottom 2001: 141–42). Aper would prefer that Maternus engage his foe in what he regards as the only appropriate arena for such undertakings: the courtroom.

This assessment of the practical orientation and engaged nature of Maternus's dramatic poetry is confirmed by the playwright himself. Answering Aper's argument that the reputation one derives from poetry is overshadowed by what can be gained through oratory (10.1–2), Maternus points to his own involvement in an earlier *cause célèbre* (11.2):

> ego autem sicut in causis agendis efficere aliquid et eniti fortasse possum, ita recitatione tragoediarum et ingredi famam auspicatus sum, cum quidem †in Nerone† inprobam et studiorum quoque sacra profanantem Vatini potentiam fregi.
>
> Rather, just as I perhaps was able to accomplish something and distinguished myself in pleading cases, I have done similarly through the recitation of my tragedies, and it augured well for me to earn my reputation when †in my *Nero*† I broke the shameful *potentia* of Vatinius, which was even profaning the holy traditions of the arts.

The text of this important passage may be corrupt, but its gist can be ascertained. Either Maternus destroyed Vatinius's *potentia* in a play entitled *Nero*, or he did it while Nero was emperor.[54] Whatever the precise timeframe, it

[53] The phrase is from Goldberg 1999: 230, cf. Champion 1994: 160.

[54] The text presented here is that of Winterbottom 1975, with the punctuation slightly altered (see following note). The reading *in Nerone* has manuscript support, and is ac-

is clear that Maternus's vehicle for opposing the power of Vatinius was the recitation of a tragedy. Any other interpretation would make nonsense of Maternus's point, which is that poetry has provided him with a greater renown than the speeches he has given in the courtroom.[55] Maternus's use of religious terminology (*auspicatus sum*) to introduce this undertaking also recalls his earlier description of poetic eloquence as *sanctior* (4.2) and his reference to its association with the *sacra* of the muses (13.5). As Tacitus presents him in the *Dialogus*, Maternus prefers poetry to oratory and feels that his reputation only really began to take shape when he turned to this higher form of eloquence and used a play to put an end to the evil *potentia* of Vatinius.

In light of the assessment he gives of the *potentissimi viri* Marcellus and Crispus, the news that Maternus had attacked the *improba potentia* of Vatinius in an earlier work should not come as a surprise. To someone of Maternus's status and outlook, Vatinius would have been a powerful "new man" of the very worst type, even though he seems never to have held any public office. Originally a cobbler, Vatinius was taken into Nero's court as an object of ridicule at first but quickly rose in influence by accusing good men, enriching himself through what Tacitus describes as his "destructive strength" (*vis nocendi*, *Ann.* 15.34.2).[56] Vatinius's contempt for his social betters, particularly senators, was proverbial (Dio 63.15.1). That Tacitus has Maternus identify himself as an active opponent of such a figure is in keeping with what has already been noted about the poet's attitude toward the mercenary and blood-stained pursuits of other *delatores*. The significant point, however, is the poetic context of this attack, which suggests that Maternus has found a way to use his tragedies to undermine the position of vicious *potentes*.

I would like to suggest that the aims of Maternus's most recent play should be understood as essentially congruent with those of his earlier work. Since Tacitus represents this poet as having made a name for himself by taking on

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cepted by Winterbottom 1975: 74 (but see Winterbottom 2000: 143), Kragelund 1987, and Bartsch 1994: 200–202. The reading *im<perante> Nerone*, first proposed by L. Müller, is advocated by Stroux 1931: 348, Güngerich 1980: 46, and Mayer 2001: 122. The possibility that Vatinius exercised his power "over Nero" (*in Neronem*, also in some manuscripts), preferred by Gudeman 1914: 262, is now generally ignored.

[55] Stroux 1931: 344–48 would have Maternus attacking Vatinius in a speech, and thus inserts a period after *tragoediarum*, so that *et ingredi famam...* introduces a new topic. This punctuation has been rejected on various grounds by Barwick 1954: 40–42, Kragelund 1987: 197–200, Bartsch 1994: 201–2, and Levene 2004: 169–70. It should be noted that Stroux's argument assumes Maternus's adherence to the convention (expressed in Cic. *Leg.* 1.62, Quint. *Inst.* 12.1.26, etc.) that oratory exists to oppose the crimes of *improbi*. On my reading, Maternus pointedly contradicts this view.

[56] On his career, see *PIR*[1] V 208, Rutledge 2001: 276–77.

the likes of Vatinius, it would not be unexpected if hostility towards similar figures were central to the message of his other works. We are told that Maternus was thought to have targeted unnamed *potentes* (2.1) in the offensive passages that he refused to excise from his *Cato*. If the interpretation of the term suggested at the start of this paper is correct, this means that the play contained an attack on certain influential members of the Imperial court. Furthermore, in light of the particular emphasis given in the *Dialogus* to the connection between rhetoric and *potentia*, it seems probable that the targets of this play were prominent *delatores* like Marcellus and Crispus.

On this reading, it also appears that Maternus's choice of medium is consistent with his message. Hinting at the situation brought about by Maternus's *Cato*, Aper suggests that oratory would provide a better justification for this kind of risky self-expression: "if at some time it should be necessary to offend the ears of those more powerful (*aures potentiorum*) on behalf of an endangered friend, fidelity would justify this act and liberty would excuse it" (*si quando necesse sit pro periclitante amico potentiorum aures offendere et probata sit fides et libertas excusata*, 10.8). Maternus, on the other hand, is adamant in his view that what passes for *libertas* in the courts is really a form of *licentia* (40.2), and refuses to participate in that kind of political combat. Rather than attack the *potentes* in question by lodging an accusation in the senate or the courts, he has decided to expose their malfeasance by writing a play. This decision may have some practical merit, in that Maternus does not have the resources to challenge these *potentiores*, whom Aper also describes as representing a "greater adversary" (*adversarium superiorem*, 10.7), in the venue that provides the mainstay of their power. More importantly, perhaps, the decision to turn to poetry allows Maternus to express his views about the power of such advocates without hypocrisy (cf. Williams 1978: 51). The poet's *sacra* represent a morally superior form of eloquence, with which Maternus can criticize *delatores* without becoming a *delator* himself.

THE DRAMATURGY OF MATERNUS'S OFFENSE

On this interpretation of the *Dialogus*, Maternus's views on the relationship between rhetoric and power and his decision to attack the *potentes* in his plays can be read as a coherent response to the political circumstances of the early Flavian period. Tacitus portrays the playwright as disillusioned with the profession of oratory and uncomfortable with the realities of a power structure in which unworthy *delatores* rise to the top because of their influence with the emperor. While there may be an implied criticism of a ruler who allows such injustices to continue, at no point in the *Dialogus* does Maternus openly express hostility towards Vespasian himself. The focus of his criticism is rather

on the *delatores* themselves and the social evil that their *potentia* represents. Maternus's final speech, in which he advocates for a greater concentration of power in the hands of the *princeps*, not only suggests a solution to what he sees as a persistent social problem, it also provides a justification for the loss of political freedom that had accompanied the transition from the tumultuous but dynamic Republic to the relative calm of the Principate.

This willingness to acquiesce to the control of the *unus et sapientissimus* has caused much consternation in recent scholarship on the *Dialogus*. It is regularly assumed that a playwright who gave voice to offensive political ideas in a *Cato* must be seen as a paragon of old-fashioned Republican *libertas*, inclined towards outspoken opposition to the Principate as an institution. Because the concession to the benefits that can derive from monarchy in Maternus's final speech do not fit with this preconception, the concluding speech of the *Dialogus* is variously described as "obscure" (Klinger 1932: 154), "ironic" (Köhnken 1973: 50), "contradictory" (Luce 1993: 22, cf. Williams 1978: 32–39), "somewhat grudging" (Goar 1987: 61), an "accommodation to reality" (Rudich 1985: 97), and even simply as "a blunder" (Winterbottom 2001: 151). Many readers take for granted that Maternus cannot mean what he is represented as saying in the final speech and conclude that the interpretation of the *Dialogus* must depend upon a realization of this fact. According to the influential formulation of Bartsch (1994: 98–125), Tacitus is employing "doublespeak," putting ambiguously self-contradictory praise in the mouth of an improbable persona in order to present knowing readers with an insight into the impact of autocracy on free expression.[57] In short, if a well-known opponent of the emperors is represented as praising the blessings of monarchy, Tacitus's message must be that all such praise has the potential to be meaningless.[58]

There is much about this line of interpretation that is appealing. It certainly points to a central feature in Tacitus's thought concerning the disconnect between representation and reality in Imperial political discourse.[59] In this

[57] The interpretation of Maternus's final speech as "double-talk" can be found in Murgia 1980: 123, but he does not provide the theoretical elaboration that Bartsch does. Her terminology depends on Scott 1990.

[58] Bartsch 1994: 125: "By showing us the risk Maternus runs and by putting in his mouth words of praise about the emperor which others could reinterpret in a negative light, Tacitus makes of this figure an exemplum of the lost *libertas* of the principate and of its replacement by a different kind of discourse, even as Maternus speaks the flattering words that deny to that *libertas* any nature but that of *licentia*."

[59] This tension is perhaps most fully developed (and thus most profitably explored) in the *Annals*, on which, see O'Gorman 2000.

particular case, however, I do not think that a reading of Maternus's final speech as craftily disingenuous doublespeak can be correct.[60] It seems to me that such an interpretation misses the significance of what Tacitus has to say about the dynamics of power that underlie the situation presented in the *Dialogus*. When these ideas are properly understood, it becomes clear that a rigid binary framework which assumes that a critic of the *potentes* cannot be a supporter of the *princeps* is insufficient. If the *potentes* who were offended by the play were the same *potentes* discussed elsewhere in the text, then Maternus's assertions about the benefits that can accrue from the rule of a single wise individual need not be inconsistent with the outlook of his character. The root of his dissatisfaction with the current political climate has little to do with the emperor's claim to ultimate political authority. He, like Tacitus, has found a way to come to terms with this state of affairs.[61]

Interpretations of the *Dialogus* that stress the incongruity of Maternus's persona rest largely on the titles of his plays. In his response to Secundus at the beginning of the *Dialogus*, Maternus promises a further installment: "then if the *Cato* left anything out, Thyestes will say it in the next reading" (*quod si qua omisit Cato, sequenti recitatione Thyestes dicet*, 3.3). It is clear that Maternus has hit upon a theme that he wants to pursue further in another tragedy, probably entitled *Thyestes*, as soon as he is done getting the text of his *Cato* before the public. While speculation about the contents of lost books has long been a favorite pastime for Classicists, the fact remains that any attempt to reconstruct the meaning of a work on the basis of its title alone is likely to prove tendentious.[62] Williams concludes, "from these titles it is clear that Maternus was using tragic themes to reflect dramatically on tyranny and opposition to it" (1978: 33), but this is not an altogether convincing claim.[63] The political significance of Maternus's drama cannot be ascertained from the evidence provided in the *Dialogus* alone. Attention to the cultural and political contexts within which Maternus would have written these plays makes it difficult to insist upon the view that the intended target of a *Cato* or an as-yet unwritten *Thyestes* must have been Vespasian the tyrant.

To begin with, Tacitus makes it clear that it was not the title of the play that had gotten the author into trouble per se, but rather some particular

[60] See also Goldberg 1999: 236–37: "I remain skeptical of any argument that denies to Tacitus the ability to mean what the critic does not want him to mean" (236n40).

[61] For Tacitus's resignation, cf. *Agr.* 43.4, Syme 1970: 132, Winterbottom 2001: 153.

[62] Bardon 1956: 215–16, Frank 1937, and Mattingly 1959 all offer speculative interpretations of Maternus's oeuvre, which included a *Medea*, a *Domitius*, and possibly a *Nero* in addition to the *Cato* and the anticipated *Thyestes*.

[63] The statement is quoted by Bartsch 1994: 102. See also Levene 2004: 168.

aspect of his treatment of the story. This can be deduced from the fact that Secundus urges Maternus to "publish certainly not a better *Cato*, but at least a safer one" (3.2). This would be a new version of the same play, with the potentially offending passages either excised or reworked to avoid sinister interpretation. Secundus does not advise Maternus to burn the manuscript altogether, which he would do if the very title of the work could be regarded as subversive. It is therefore possible to suppose that a tragedy entitled *Cato* could have been written at this time that no one found offensive.

In that case, it was only through the inclusion of certain details and carefully crafted phrases that Maternus could have provoked a controversy. There is an abundance of ancient testimony to suggest that the topicality of a dramatic work need not have been connected to the most superficial interpretation of its plot. An individual passage or phrase could be all it took to register a political message (Bartsch 1994: 71–82). Cicero describes one such case in a letter to Atticus from 59 B.C.E, in which an isolated line from the performance of an unnamed play was interpreted by the audience as an unfavorable reference to Pompey the Great ("*nostra miseria, tu es Magnus*," *Att.* 2.19.3).[64] Similarly under Tiberius, Aemilius Scaurus was accused of inserting derogatory verses about the emperor into the plot of a tragedy.[65] Many years later, it was not even clear what the title of this play had been—Suetonius (*Tib.* 61.3) implies that it was an *Agamemnon*, while Cassius Dio (58.24.4) says it was an *Atreus*.[66] The malicious verses, not the title, were what mattered in the final analysis. When we come to the situation that faces Maternus at the beginning of the *Dialogus*, it is clear that whatever insult the *potentes* detected in his *Cato* must have consisted in something less obvious than his selection of well-worn subject matter.

Given that Cato the Younger was an unrelenting opponent of Julius Caesar, it may be tempting to conclude that a play about Cato must also have been an unrelenting expression of opposition to the tyranny of the current Caesar. But this is obviously not the case. Within the context of the *Dialogus*, it is significant that the conformist Aper lists the dissident Lucan—a poet who has nothing but praise for Brutus and Cato—alongside Horace and Vergil as an author whose *sacrarium* provided a resource that contemporary orators

[64] The interpretation seems to have been encouraged by the gesturing of Diphilus, the actor who spoke these words: cf. Val. Max. 6.2.9.

[65] Tac. *Ann.* 6.29.3: "detuleratque argumentum tragoediae a Scauro scriptae, additis versibus qui in Tiberium flecterentur" (charges were brought over the plot of a tragedy written by Scaurus, in which verses were included that were directed against Tiberius).

[66] It may be possible to reconcile these testimonia by making Agamemnon a character in Scaurus's *Atreus*, but the uncertainty of the evidence is nevertheless suggestive.

regularly consulted (20.5).[67] By the time of Tacitus's writing, a high-ranking equestrian official named Titinius Capito could display *imagines* of the Bruti, Cassii, and Catones in his home without risking any loss of Imperial favor (Plin. *Ep.* 1.17).[68] Those who would equate Cato with political opposition therefore take too narrow a view of the significance of this figure in the literary tradition of the early Principate.[69] Cato was more likely to be revered as an *exemplum* of personal integrity and Stoic resolve than for the intransigence of his political principles. As Brunt 1975 explains, "the admiration a Stoic could express for Cato was not in itself incompatible with the acceptance of the regime for which Caesar's victory had prepared the way" (11; see also George 1991: 238–39; Percival 1980: 122–24).

To be sure, Cato was identified above all else with the cause of *libertas* (Wistrand 1979: 95–96). As we have seen, Tacitus presents Maternus as showing an interest in the proper definition of this term as well. It is important to bear in mind, however, that freedom has many levels of meaning, and that *libertas* was always a fluid concept for the Romans.[70] Because freedom was so central to the Romans' sense of their own identity (particularly among the elite), they sometimes had difficulty recognizing when it was gone. In his role as the "restorer" of the *respublica* after the civil wars, Augustus co-opted the language and symbols of the old Republican liberty and used them to bolster his new position in the state.[71] Vespasian, the emperor at the dramatic date

[67] Certainly the Cato that Lucan described in his poem on the civil war (e.g., 9.19–30) can be read as the heroic embodiment of the Republican *libertas* that all but died after Pharsalus: see Ahl 1976: 56, 254–79, George 1991: 245–46. Other interpretations are possible, of course (like that of Johnson 1987: 35–66). Lucan's views also might be offset by those of his uncle Seneca, who was willing to concede that Cato's commitment to the frayed constitution of the Republic was of doubtful merit (*Ep.* 14.12–13). See now Gowing 2005: 76–79, George 1991: 246–54, also Griffin 1968, 1976: 190–94.

[68] *ILS* 1448 provides the details of Capito's career through 101 C.E. or so. Sherwin-White 1966: 124–25 dates the events described in Pliny's letter to the reign of Nerva, under whom Capito served as *ab epistulis* and *a patrimonio*. This would coincide with the timeframe that Murgia 1980, 1985 proposes for the composition of the *Dialogus*, though I still believe that a later date is more likely. See Mayer 2001: 22–27 and Brink 1994 for an overview of the controversies surrounding the dating of this work.

[69] On this tradition, see Pecchiura 1965: 47–88, Goar 1987: 23–49, Gowing 2005: 76–79.

[70] The point has been made repeatedly, by Wirszubski 1950: 167–71, Brunt 1988: 281–350, Gowing 2005: 5. See also the more general observations of Patterson 1991: 1–5.

[71] Syme 1939: 317: "In his youth Caesar's heir, the revolutionary adventurer, won Pompeian support by guile and coolly betrayed his allies, overthrowing the Republic and proscribing the Republicans: in his mature years the statesman stole their heroes and their vocabulary."

of the *Dialogus*, followed this lead, specifically advertising the restoration of Roman *libertas* at the beginning of his reign.[72] For those who were willing to take such claims at face value, the discussion of tyranny required by a *Cato* or a *Thyestes* was unlikely to be interpreted as an attack on the current emperor. Far from undermining the legitimacy of the Principate, such discussions could be useful demonstrations of the *libertas* provided by the new regime. We should not forget that the disparagement of Nero was a central pillar in the political rhetoric of many of the men who succeeded to his position as emperor (Ramage 1983). The *Octavia*, a generically comparable work most likely written at about the same time as Maternus's tragedies, presents Nero as a tyrant, evidently without any suggestion of a parallel to the tyrannical behavior of the current emperor.[73] There is no reason why the theme of a *Cato* must be regarded as substantially different.

Within the ideological framework of the early Principate, an anti-tyrannical message was not necessarily the same thing as an anti-Imperial one. Compare also the *Thyestes* of Varius, which we might imagine had certain themes in common with the play that Maternus claims to be contemplating.[74] Varius's tragedy was put on at Rome as part of the Actian games.[75] His mythological subject matter clearly has something to do with the moral depravity of tyranny. The play, however, was not objectionable to the man whose ascendancy as the sole master of the Roman world was being celebrated at the moment of its performance. Leigh (1996) has explained this apparent contradiction by connecting Varius's interpretation of his theme to the propaganda that had been deployed against Antony in preceding years. Thus, a *Thyestes* that attacked Antony in the guise of a gluttonous tyrant would bolster Octavian's claim to be the true protector and champion of Rome's liberty. By the same

[72] *RIC* II Vespasian 290, 428–30, 492 (70–71 C.E.). These coins reflect both the antiquarian outlook of the Vespasianic mint officials who chose the types, as Buttrey 1972 suggests, and the moneyers' attention to specific themes their emperor wished to publicize, as Levick 1982 argues.

[73] Kragelund 1982 and Barnes 1982 suggest that the *Octavia* was written under Galba, while Ramage 1983: 210 puts it early in Vespasian's reign. The surmise of Wiseman 2004: 264–65 that it was staged for Galba as part of the *ludi plebeii* in 68 is as appealing as it is clever. Ferri 2003: 9–30 has proposed a date sometime in the 90's and mentions possible parallels for the reign of Domitian (27–28), but his arguments rest on a rigid and unconvincing application of *Quellenforschung* techniques.

[74] Varius's play is also referred to by Maternus (12.6), which suggest that the author could have seen it as a model.

[75] For the historical context, see the discussions of Bardon 1956: 30–31 and Leigh 1996: 171.

token, writing about Cato under a ruler who claimed to have restored the freedom of the Roman people need not have been interpreted as an act of political defiance. Only an emperor willing to admit that his position in the state was incompatible with *libertas* could regard this theme as offensive.

Maternus's play about Cato the Younger therefore should not be regarded as a sign of deeply held opposition to the Flavians. Nevertheless, the subject matter of this tragedy is said to have struck a chord with its contemporary audience. Aper points out that Maternus is courting notoriety with his selection of material: "you seem to have deliberately chosen a famous character and one who would speak with authority" (*meditatus videris* [*aut*] *elegisse personam notabilem et cum auctoritate dicturam*, 10.6). Cato's voice was uniquely appropriate to the message Maternus wanted to send. Again, we cannot know for certain what this message was, but it has been suggested that Maternus was inspired to write about Cato by the recent exile or perhaps the more recent execution of Helvidius Priscus (Syme 1958: 104n4).[76] In such a climate, a tragedy on this topic obviously would have provided an opportunity to reflect on the destruction of another Stoic martyr in the present day. This interpretation of the context is worth considering, if only to demonstrate how Maternus might have written a play about Cato that offended certain *potentes* without directly challenging the legitimacy of the *princeps*.

We know very little about the events in question, but it emerges from Suetonius's account (*Vesp.* 15) that although Vespasian ultimately was responsible for the exile and death of Helvidius, he took pains to avoid this outcome and protested that he had not wanted the final execution order to be carried out. This suggests that there was an attempt by the emperor to distance himself from an unpopular act of political repression. Furthermore, it is clear that a *delator* must have been involved in the process at some stage. Syme (1958: 212) offers the compelling suggestion that Eprius Marcellus, who had reason to bear a grudge, was the instigator behind Helvidius's downfall. In the *Dialogus*, Aper alludes to a recent public quarrel between the two, pointing out the tactical superiority of Marcellus's *eloquentia* against Helvidius's *sapientia* (5.7). It seems that the public perception of the emperor's culpability could have been reduced by emphasizing the personal feud between the philosopher and his *delator*.[77] Apart from assumptions about the anti-tyrannical content of his plays, there is nothing to suggest that Maternus was not capable of promoting such an interpretation of events.

[76] Williams 1978: 34 and Bartsch 1994: 109–10 also favor this interpretation.

[77] Cf. Dio 66.12.2, where an effort is made to dismiss the allegation that Vespasian bore hostility towards Helvidius "either on his own behalf or on behalf of his friends, whom he abused." Clearly the personal antagonism between Helvidius and the emperor's φίλοι was regarded as instrumental in his fate.

While the historical reality of what transpired at Utica does not allow for a perfect analogy between the fates of the two men, a consideration of the conventions of Roman stagecraft suggests that it would have been possible for Maternus to construct a version of Cato's suicide that allowed for pointed reflection on the role played by certain *potentes* in the destruction of Helvidius. We should not forget that Caesar, like Vespasian, had expressed frustration that his desire to spare Cato had been thwarted (Plut. *Cat. min.* 72.2). Assuming that the dictator was a character in Maternus's drama, the playwright must also have provided an interlocutor with whom he could have discussed this policy of granting clemency to opponents.[78] The potential import of such a character is suggested by the roles of Seneca and the Prefect in the *Octavia*, two collaborators who try in vain to dissuade Nero from acting on his tyrannical impulses (440–592, 851–76). If devised on analogy with the assumed opinions of Eprius Marcellus, the arguments put forward by the friends of Caesar in the *Cato* might have encouraged a less moderate course of action.

As for Cato himself, there are any number of possible situations in which the main character of Maternus's drama might have said something that would reflect negatively on the powerful advocates who had pushed for Helvidius's destruction. One possibility is that Maternus drew a parallel between contemporary *potentes* and the Pompeians who accepted amnesty from Caesar.[79] Lucan (9.253–93) presents Cato as offering a rebuke to the retreating Tarcondimotus for believing that Pompey was more precious than the republic. Along these lines, Maternus's Cato might have been represented as attacking those who accepted amnesty from Caesar as unprincipled opportunists who blithely slipped from one master to the next in order to maintain their *potentia*. Such an accusation would have been particularly relevant to *delatores* like Crispus and Marcellus, who had survived in the year of four emperors by craftily switching allegiances, finally benefiting from the blanket amnesty granted at the start of Vespasian's reign.[80]

The Stoic Cato was also a character who might have made the point that power and position have nothing to do with real freedom.[81] Among the quota-

[78] On the positive associations of Caesar's *clementia*, see the important recent discussion by Konstan 2005.

[79] The target might have been someone like Lucius Caesar, who gave himself up to Caesar soon after Cato's suicide: Caes. *Afr.* 89, cf. Plut. *Cat. min.* 66.1–2.

[80] See Rutledge 2001: 121–26. Syme 1958: 187–88 argues that the riveting account of these events provided by Tacitus, *Hist.* 4.40.3–44.3, derives from the senatorial *acta*.

[81] The doctrine that only the good man is free can be traced back to Zeno's *Politeia*, *ap.* Diog. Laert. 7.33 (= *SVF* I 122). According to Plutarch, *Cat. min.* 67.1, this was one of the paradoxes that Cato discussed on the evening of his suicide. On the problem of freedom in Stoic thought, see Bobzien 1998, Long 1971, also Patterson 1991: 265–90.

tions preserved in Plutarch's biography of Cato is an intriguing rebuke of M. Octavius for his φιλαρχία (*Cat. min.* 65.2). There is also the admonishment to his son to avoid politics, "because one could not perform this role in a manner worthy of Cato, and to do so otherwise would be disgraceful" (66.3). It is interesting that this advice is also relevant to the decision that Maternus is portrayed as contemplating at the beginning of the *Dialogus*.[82] As the discussion presented in Tacitus's work suggests, the claim that one cannot honorably pursue a public career under Caesar necessarily involves a repudiation of those who choose to do so. It would not take much embellishment to extend this Catonian precept into a more trenchant rebuke of the political prominence of certain *potentes*, particularly if they were the same advocates who had ruined the man whom many regarded as an heir to Cato's Stoic principles.

CONCLUSION

According to the author of the *Dialogus*, Maternus has invited danger, and perhaps his own destruction, by expressing his opinion of unnamed *potentes* in his *Cato*. The precise nature of his message cannot be known, but I have tried to show that it is possible to envision a *praetexta* about Cato that contained material the emperor might overlook, which certain highly-placed members of the Imperial establishment still would have found objectionable. I have argued that these are the people Tacitus had in mind when he described the play as offensive to the "sensibilities of the powerful" (*potentium animi*, 2.1). If this interpretation is correct, then the danger that looms over Maternus does not come from "the emperor and his court," but rather from specific members of Vespasian's inner circle (*pace* Bartsch 1994: 116; Güngerich 1980: 10). This is an important distinction, which can tell us a great deal about how Tacitus viewed the political situation in Rome during the early Flavian period. It also has significant implications for our understanding of what this author has to say about the way these arrangements of power worked to limit free expression under the Principate more generally.

Tacitus's decision to call attention to Maternus's confrontation with the *potentes* at the opening of the *Dialogus* suggests that Roman authors in this period were not simply engaged in a binary relationship with a monolithic system of state repression.[83] If taken seriously, the vision of a more perfect form of monarchy that Tacitus ascribes to Maternus in the final speech demonstrates

[82] It had been followed, with disastrous effect, by Thrasea Paetus in the middle of Nero's reign: see Murray 1965: 52–56, Brunt 1975: 27–28.

[83] As Feeney 1998 has pointed out, the tendency of some (e.g., Ahl 1976: 25–35, Rudich 1993, Bartsch 1997: 66–72) to equate the Roman Principate with modern totalitarian societies leads to methodologically dubious (and historically uninteresting) conclusions. See also Rutledge 2001: 178–81.

that one did not have to be committed to the restoration of the Republic to be considered a threat to "those in power." When the government did something that was cruel or repressive (as in the case of Helvidius Priscus), blame did not have to go all the way to the top; it was often possible to exculpate the ruler and condemn his minions instead. This (in our view) "misplaced" resentment might shield the emperor from popular outrage, but it did not necessarily provide a safer course of action. The insight of the *Dialogus* is that the situation facing artists in Imperial Rome was more complex than a choice between flattering or offending Caesar (or even boldly deceiving him with doublespeak). Regardless of an author's attitude towards the emperor himself, he also had to be careful about giving offense to a whole range of powerful personages besides. While Maternus is not deterred by such concerns, others certainly felt compelled to take into account the feelings of the *potentes* as much as they did those of the *princeps* himself.[84]

The danger of offending the *potentes* that Tacitus highlights at the start of the *Dialogus* thus represents an important, if frequently overlooked, obstacle to free speech during the Principate.[85] In this regard, we might revisit Maternus's description of the *potentia* that he claims to have defeated earlier in his career as a dramatist. Vatinius's power was not simply *improba*, but was also "profaning the holy traditions of the arts" (*et studiorum quoque sacra profanantem*, 11.2). This phrase has been taken as an aesthetic judgment on Vatinius's participation in Nero's cultural circle (Levene 2004: 170), but it may have a more direct relevance to the circumstances in which the *Dialogus* is set. Maternus's description might suggest that Vatinius was using his power as a *delator* to silence poets whom he regarded as a threat to his position. At some later point, perhaps after the rebellion of 68, Maternus may have decided to write a play that would expose Vatinius's vices and convince the new emperor to deny him the unchecked power he had enjoyed under Nero.[86] While this early challenge to the power of a *delator* was successful,

[84] It is worth noting that the discussion of *emphasis* in Quintilian's *Institutio Oratoria* contains the observation that when one turns from the hidden criticism of make-believe tyrants in school *controversiae* to real-world cases, "powerful characters stand in the way and it is impossible to win the case without censuring them" (9.2.68). In his important article, Ahl 1984: 194 does not seem to consider the likelihood that the *personae potentes* in such cases would be distinguishable from Caesar.

[85] Similar concerns about offending powerful men can be traced throughout Pliny's correspondence (e.g., *Ep.* 3.9.26, 9.19.5), but this material lies outside the scope of the present article. For the view of the powerful, explaining why they could not brook such insults, see MacMullen 1986, Lendon 1997: 50–73.

[86] This would fit with the MS reading *in Nerone* better than the conjecture of *imp. Nerone* at 11.2. See above, n54.

Maternus's experience with the *Cato* suggests that the *potentes* were still able to exercise a repressive influence over the arts. In light of the ominous hints that Cameron and others have spotted in the *Dialogus*, it seems likely that Maternus would be attacked and possibly even prosecuted for the things he had said in his most recent drama.

The account that Tacitus gives of *potentia* and the *potentes* in the *Dialogus* suggests that the peculiarities of the distribution of power under the early Principate were an important factor in the transformation of eloquence that had taken place at Rome since Cicero's day. The central figure in this discussion, Maternus, has decided to respond to a system in which unsavory *delatores* enjoy an undeserved position of influence by turning away from his own career as an orator in order to write dramatic poetry that will hold these figures to account. Though oratory had lost its credibility as a vehicle for political expression, poetic literature offered Maternus a way to influence public opinion and perhaps alter the current balance of power. Because Maternus targets the *potentia* of men like Vatinius and Marcellus, he might be seen as working to bring about the more peaceful and settled political arrangement that Tacitus represents him as advocating in the final speech of the *Dialogus*. That world, however, was only a distant dream.[87] Though his poetic attacks on the *potentes* did not necessarily involve direct criticism of the *princeps*, expressing himself in this way was still a dangerous thing to do. One wonders how long he was able to keep it up.

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[87] See Williams 1978: 35–36. After the assassination of Domitian, Nerva restored those who had been convicted or were on trial for treason, punished informants, and eliminated some of the more odious charges that *delatores* had employed against their victims (Dio [Xiph.] 68.1). Pliny praises Trajan for restoring peace to the Forum (*pacem foro reddidisti*, *Pan.* 34–5) by banishing the *delatores*. Legal advocacy remained vital throughout this period, however (Crook 1995: 180–87), and *potentia* attained through rhetorical performance continued to play an important role in Imperial society.

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