Chapter 5

De Oratore and the Development of Controversia

"Since a wise man can be mistaken, and a hundred men, and many nations, yes, and human nature according to us is mistaken for many centuries about this or that, what assurance have we that sometimes it stops being mistaken, and that in this century it is not making a mistake?"

Montaigne, “Apology for Raymond Sebond”

"As for Cicero himself... [he] was without obligation to any party, following what seemed probable to him now in one sect, now in another, keeping himself always in Academic doubt."

Montaigne, “Apology for Raymond Sebond”

When teaching Cicero’s De Oratore, I begin by asking my students to cite a favorite passage in the dialogue. There are usually some standard choices: the outline of the three duties or offices of rhetoric (2.29.128-30), Antonius’ method of invention by impersonation (2.24.102-3), and invariably Crassus’ denunciation of “the absurd and unprofitable and reprehensible severance between the tongue and the brain, leading to our having one set of professors to teach us to think, and another to teach us to speak” (3.16.61). These are all weighty moments, and they usually lead to engaging class discussion. When my turn comes to cite a favorite passage, however, my choice routinely meets with stares and silence. For I choose an inconspicuous moment at the outset of the dialogue when Scaevola, a relatively minor character, contradicts the impassioned opening statement of Licinius Crassus, the man whom Cicero calls the most illustrious orator of his day (Brutus 38.143).
The circumstance is this: Crassus has just delivered a stirring epideictic on the power of discourse to gather scattered humanity into one place and "to lead it out of its brutish existence in the wilderness up to our present condition of civilization" (1.8.33). Crassus here is the voice of emergent humanism, the Isocratie patriot at the head of an evolutionary ascent from ignorance to eloquence, the mouthpiece of Cicero himself. Nonetheless, as soon as Crassus has finished his encomium on eloquence, Scaevola responds with a courteous but serious challenge to each claim in Crassus' high-minded thesis. For all your eloquence, says Scaevola, you carry your argument too far. My own response to this fleeting moment is that it is not only a stunning peripeteia, or reversal of expectation, but that it is also a dramatic announcement at the outset of the dialogue that—in the realm of rhetoric and for the practice of argument—no position is sacrosanct, everything must be argued, for there are always two sides, or more, to every question and we should always be prepared in utramque partem, to examine all sides of the case.

In response to this initial peripeteia (or peritrope), Crassus himself proceeds to turn the tables on Scaevola, only to have his own eloquent arguments, in turn, repeatedly questioned and routinely rebutted by others throughout the dialogue. Such reversals are an engaging part of the drama of De Oratore; they are also, as readers of Part I will recognize, standard elements in the arsenal of antilogic. But like so many other parts of the Greek paideia, antilogic has now changed names. In Rome, argument by contraries is called controversia; and in the three centuries from Antiphon to Crassus, a variety of modifications in its theory and practice have naturally taken place. This is the Hellenistic period, traditionally set from the death of Alexander in 323 BCE to the defeat of Anthony by Octavian and the advent of the Roman Empire in 31 BCE. Beyond the momentous political events of the age, this is also an active time for philosophy, with the development of Stoicism, Epicureanism, and scepticism and a dominant role for philosophy in advanced education. Despite changing times and practices, however, argument in the De Oratore is clearly consistent with the antilogical principles and patterns outlined in Part I; i.e., we can readily identify the invocation of the dissoi logoi (divided or opposing claims); the incorporation of multivocality, oppositionality, and dynamism; the dialogical patterns of give-and-take; the suspension of judgment; the concern for practical ethics and pragmatic results; and, above all, the framework of probable knowledge and prudential judgment that structures the entire process. Indeed antilogical techne and praxis are in play not only in the De Oratore but throughout Cicero's mature philosophical corpus. In these works (especially the main group of 44-43 BCE), Ciceronian inquiry invariably proceeds in what we
can call the “controversial” manner; i.e., by critical juxtaposition, often in
dialogue, of the multiple views that fill out the landscape of opinion on the
topic at hand.3

Kenneth Burke writes that his own primary purpose in The Grammar of
Motives is to “express an attitude toward language embodied in a method”
(1969, 441). In Cicero, the “attitude” toward language and argument that we
studied in Part I is intact, but its methods are refined. Heretofore, we have
dealt only with excerpts of argumentative practice, limited illustrations of
this or that antilological strategy. With the De Oratore, we are presented with
a full-dress performance by one of history’s great rhetors. Consequently, we
have an unparalleled opportunity to take stock of our subject in detail. In
this chapter, then, we move not only from Greece to Rome but also from
general overviews to focused critical scrutiny, to an account of ancient
controversia that I hope captures the subtlety of the art as practiced by a
master. In particular, we will concentrate on Book I of the De Oratore
because that is the site of the most consistent dialogical interaction among
characters. There are additional, interesting developments of controversia in
Book III that we will also examine, though in Books II and III the major
speakers (Antonius and Crassus, respectively) hold forth in more-or-less
uninterrupted fashion (see 2.4.16). But in Book I, with its regular shifts
between speakers and reversals of position, we can focus on the discursive
relations among characters, on patterns of assertion and response, defense
and revision, on the accommodation of one speech (or logos) by another, and
on the praxis of controversia in concrete detail. In sum, it is in the episodes
of argumentative exchange, when rhetors must not only “render” their own
logos but also “receive” and respond to that of their interlocutors, that the
Ciceronian attitude and method are most notably on display.

However, my purpose in this chapter is not simply to analyze a
distinguished rhetorical model. My interest is also and fundamentally
pedagogical: I will argue that Cicero’s pedagogical stance, as represented by
the dialogue’s leading figures, is uniquely compatible with his rhetorical
theory and particularly instructive for contemporary teachers of argument.
This argument (along with that of the next chapter on Quintilian) marks a
definite shift toward the pedagogy of our subject. The Protagorean program
is clearly informed by pedagogical concerns (see Ch. 2, sec. 1), while the
dissemination of the Greek paideia is, in large part, a pedagogical event,
with Greek teachers of rhetoric and philosophy transporting the new learning
throughout the Mediterranean. But in Rome, pedagogy becomes
increasingly formal, and rhetoric itself increasingly identified with its
pedagogical manifestations (for reasons I will note). This growing attention
to pedagogy, its historical significance, and the role of controversia in the
process will become a central theme of Part II. At present, however, we
must prepare for a change in the protagonist of Many Sides, for antilogic is
about to re-enter with a new name and costume. And, as is characteristic of
intellectual drama, the set is arranged and the prologue best spoken by
history itself. So, before we explore the attitudes, methods, and pedagogy of
controversia as these are developed in the De Oratore, it will help to look
briefly at the developing history of the controversial method. For behind the
practice of argumentation at work in the De Oratore stands Protagoras and
the Sophistic tradition of arguing both sides, and between Sophism and
Cicero comes the complex history of Hellenistic philosophy. Taken
together, these influences provide a backdrop for the rhetorical restoration
enacted by Cicero.

1. FROM ANTILOGIC TO CONTROVERSIA

According to M. R. Wright, the young Cicero translated Plato’s eponymous
dialogue on Protagoras, though there is little sustained discussion of the
great Sophist in Cicero’s mature canon (1991, 1). Nonetheless, the line of
continuity is there, both in terms of the theory of knowledge that underwrites
speculation about discourse and the discourse method that follows from this
theory. The Protagorean influence is, of course, mediated by almost four
centuries of intellectual history and muted by the absence of Protagorean
texts, even in the age of Cicero. So, before we survey the relevant events of
these Hellenistic centuries, it may help to remind ourselves of the main
tenets of Protagoreanism so that we can trace the often obscured lines of its
influence through various post-Sophistic permutations.

Diogenes Laertius lists some fourteen books by Protagoras (ca. 490-420)
on subjects ranging from philosophy to government, theology to
mathematics (DK 80 A1). None of these works has survived, though
Protagoras himself remained well-known as the originator of the homo
mensura doctrine, the anti-foundational theory that concentrates on the
relation of individual perception to the nature of knowledge (DK 80 B1; see
Guthrie 1969, 3.187). In the absence of ipsissima verba (Protagoras’ own
words), I have interpreted the human-measure doctrine to mean that
knowledge is relative to the source or perspective from which it is derived
and that different perspectives on the same experience will yield different
(re)constructions of that experience. And, according to the Protagoras of
Plato’s dialogues, this variability in our perceptions does not imply the naïve
belief that all views are equal. Rather, while human perceptions of the real
and true are always contingent and while one perspective may not be “truer”
than others by universal, invariant standards, one logos can, nevertheless, be
distinguished from among the alternatives as more useful or advantageous
given particular circumstantial conditions (*Protagoras* 334b, *Theaetetus*
167b). When the epistemological pragmatism of this doctrine is translated
into discursive practice, the result is an approach to argument based on the
recognition that if knowledge is local and partial, knowing subjects will
naturally produce opposing claims (antilogoι) and that some of these
oppositions can be equally well defended. As Diogenes Laertius puts it,
Protagoras was “the first to say that on every issue there are two arguments
opposed to each other” (*DK* 80 A1). The practice that follows from this
famous maxim is a form of argument in which comparative reasoning
determines the greater or lesser efficacy of competing claims, arguments,
perspectives, logoi by examining them in relation to one another. Moreover,
antilogical practice maintains that by purposefully placing opposing claims
in juxtaposition rhetors can not only minimize the unfair advantage of a
conventionally stronger position but also generate a consensually supported
proposition that both adjudicates conflict and leads to prudent action.

Between the ages of the first Sophists and Cicero (106-43 BCE),
argumentative practice is routinely adapted to changing perspectives and
conditions (see Buckley 1951; Hankinson 1995; Long 1955, 1974; McKeon
1950). And while the historical record is thin, there is enough evidence from
Cicero and others to argue that antilogic, along with dialectic (its
methodological “counterpart”) are the original models for emerging forms of
disputation that develop in concert with the philosophical controversies of
the Hellenistic age. The range of these controversies extends to virtually
every field of knowledge (ethics, nature, politics, religion, epistemology,
etc.), and competing voices include numerous, minor schools of thought,
along with the Stoics, Epicureans, and Academics. The theoretical
complexities that issued from these debates required sophisticated
procedures of reasoning in order to weigh the lines of thought and locate the
position that elicited the greatest confidence. In Cicero’s mature view, such
reasoning was best governed by “considerations of probability and practical
significance” (McKeon 1950, 55). 6 This emphasis on probable reasoning
and practical standards echoes the Protagorean perspective, but only
indirectly because (as noted) the works of Protagoras are no longer available
in the first century BCE. For direct support in his theoretical and discursive
practices, Cicero turns most consistently to what Michael Buckley calls the
“operational procedures” of the Hellenistic Academy, whose dominant
figures following Plato and Aristotle are Arcesilaus in the third-century BCE
and Carneades in the second (1971, 148). 7
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