

CICERO'S *PRO MILONE* AND THE 'DEMOSTHENIC' STYLE: *DE OPTIMO GENERE ORATORUM* 10

In a passage from the late rhetorical treatise generally known as *De optimo genere oratorum*, Cicero defends his past forensic competence in the face of Atticist critique by praising his *Pro Milone* as an example of grand style (9–10):

quod qui ita faciet, ut, si cupiat uberius esse, non possit, habeatur sane orator, sed de minoribus; magno autem oratori etiam illo modo saepe dicendum est in tali genere causarum. (10) ita fit ut Demosthenes certe possit summissè dicere, elate Lysias fortasse non possit. sed si eodem modo putant, exercitu in foro et in omnibus templis, quae circum forum sunt, conlocato, dici pro Milone decuisse, ut si de re privata ad unum iudicem diceremus, vim eloquentiae sua facultate, non rei natura metiuntur.

If anyone speaks in this manner without being able to use a fuller style if he wishes, he should be regarded as an orator, but a minor one. The great orator must often speak in that way in dealing with cases of such a kind. (10) In other words, Demosthenes could certainly speak calmly, but Lysias perhaps not with passion. But if they think that at the trial of Milo, when the army was stationed in the Forum and in all the temples round about, it was fitting to defend him in the same style that we would use in pleading a private case before a single judge, they measure the power of eloquence by their own limited ability, not by the nature of the art.¹

In consideration of the *rei natura* ('nature of the art'), the good orator must both know the appropriate style for the specific occasion and also be able to change registers of style, when necessary. Unlike Lysias, who was unable to speak *elate* ('with passion') on occasion, Demosthenes regularly displayed a full range of style and tones, even adapting his voice to the quiet atmosphere of private pleadings. In emulation of his Greek model, Cicero mastered all oratorical registers, raising his stylistic level in the speech in defence of Milo and adjusting his

¹ Latin text and English translation of *De optimo genere oratorum* from H. M. Hubbell, *Cicero. De inventione. De optimo genere oratorum. Topica* (Cambridge, MA, 1969).

performance to the unusual conditions of the trial, when Pompey's army encircled the Forum.

The passage raises a key question: why did Cicero depict himself as a versatile speaker by calling to mind an inglorious past and presenting as a model of grand style a speech that was universally believed to be his most significant defeat? It is widely known that Cicero's speech on behalf of Milo, charged *de vi* ('with violence') under the *lex Pompeia* in early April 52 BC, resulted in a miserable outcome.² According to the ancient evidence, unfavourable circumstances inhibited Cicero from delivering a speech that met his usual high standard.³ Milo was convicted. Arguably, Cicero's inability to put up a good defence was a decisive – negative – factor in the jury's final verdict.

The text delivered was still extant in a short-hand version in Asconius' and Quintilian's times.⁴ Whether and at what extent it was revised and 'rewritten' later on, circulating in a substantially altered form, is a matter of debate. As remarked by Steel, the propagation of the first Milonian speech 'memorialized an unsatisfactory record of Cicero's skills'.⁵ It is reasonable to suppose that Cicero was compelled to promote and disseminate a new, more favourable text, passed off as the speech actually delivered in the trial,⁶ by an urgent desire to

² For the chronology of the speech, see A. C. Clark (ed.) *M. Tulli Ciceronis. Pro T. Annio Milone ad Iudices Oratio* (Oxford, 1895), 127–9; J. Ruebel, 'The Trial of Milo in 52 B.C.: A Chronological Study', *TAPhA* 109 (1979), 231–49. On Cicero's strategy in the trial, see A. M. Riggsby, *Crime and Community in Ciceronian Rome* (Austin, TX, 1999), 105–12.

³ Asconius Pedianus informs us (41.24–42.2C) that *Cicero cum inciperet dicere, exceptus est acclamatione Clodianorum, qui se continere ne metu quidem circumstantium militum potuerunt. itaque non ea qua solitus erat constantia dixit* ('When Cicero began to speak, he was greeted by barracking from the Clodians, who could not contain themselves despite their fear of the surrounding soldiery. And so Cicero spoke with less than his usual steadiness'; English translation of Asconius from R. G. Lewis, *Asconius. Commentaries on Speeches of Cicero*, rev. J. Harries, J. Richardson, C. Smith, and C. Steel [Oxford, 2006]). In contrast, Plutarch (*Vit. Cic.* 35) claims that Cicero was frightened by the view of the Forum cordoned off by Pompey's troops.

⁴ *manet autem illa quoque excepta eius oratio* ('What he actually said was taken down and also survives'; Asc. 42.2C). For the delivery of the 'first' *Pro Milone*, see also Quint. 4.2.25; Plut. *Vit. Cic.* 35; Cass. Dio 40.54.1–4; *Schol. Bob.* 111.24–112.17 St.; a fragment from the first speech is preserved in Quint. 9.2.54 and *Schol. Bob.* 173 St. On the 'taken down' version of the speech, see B. A. Marshall, 'Excepta Oratio, the Other *Pro Milone* and the Question of Shorthand', *Latomus* 46 (1987), 730–6; A. R. Dyck, 'The Other *Pro Milone* Reconsidered', *Philologus* 146 (2002), 182–5. J. N. Settle, 'The Trial of Milo and the other *Pro Milone*', *TAPhA* 94 (1963), 268–80, is sceptical about the diffusion of court stenography in the late Republic, and claims that the first *Pro Milone* was a forgery or rather a later rhetorical exercise.

⁵ C. E. W. Steel, *Reading Cicero. Genre and Performance in Late Republican Rome* (London, 2005), 118.

⁶ *Ibid.*, 120–1.

supersede the pirated version,⁷ without diverging too far from the line of defence adopted in the real trial.⁸

The speech handed down to us commanded much admiration in antiquity⁹ and continues to impress modern readers with its formal perfection.¹⁰ Milo's famous (anecdotal) comment, preserved in Dio 40.54.3–4, on the effectiveness of the revised defence indicates that Cicero had achieved, in writing, something extraordinary.¹¹ Cicero himself was acutely aware of the literary and rhetorical qualities of what we might call the 'second *Pro Milone*', as demonstrated by the fact that the only other direct reference to the speech occurs at *Orator* 165, where the orator offers the contrast between *lex non scripta* ('unwritten law') and *nata lex* ('natural law'), discussed at *Mil.* 10, as a brilliant example of *concinmitas* ('symmetry').¹² Cicero's high sense of satisfaction for the published oration might account for the reference to the *Pro Milone* as an instance of solemn style in *De optimo*. However, his rejection of the Atticists' specious arguments by remembering the exceptional setting – and external conditions – of Milo's trial not only aimed to celebrate his speech as a model of magniloquent, passionate style; it also implied refreshing memory of an ignominious failure, an oratorical and political debacle, which Cicero must have had an interest to paper over. In this note, I would like to advance an explanation of this passage from *De optimo* by interpreting the citation of *Pro Milone* as Cicero's extreme attempt to recover his

⁷ J. W. Crawford, *M. Tullius Cicero. The Lost and Unpublished Orations, Hypomnemata* 80 (Göttingen, 1984), 212, observes that by writing up a separate speech for publication Cicero 'wished to make clear his position and erase any doubts about his loyal support of Milo'. For a brief survey of scholarly arguments about the differences or similarities between the spoken and published versions of *Pro Milone*, see 211, n. 6.

⁸ For scepticism about an extensive 'reworking' of the delivered text, see J. Wisse, 'The Riddle of the *Pro Milone*: The Rhetoric of Rational Argument', in J. Powell (ed.), *Logos. Rational Argument in Classical Rhetoric, BICS Supplement* 96 (London, 2007), 66–7; L. Fotheringham, 'Having your Cake and Eating It: How Cicero Combines Arguments', in *ibid.* 69 f. A more balanced view can be found in J. Powell and J. Paterson (eds.), *Cicero. The Advocate* (Oxford, 2004), 55, who claim that Cicero's own version of Milo's case may have functioned as a 'corrective' of the circulating unauthorized transcript of the speech: this would have not implied a diversion from the line of defence adopted at the trial itself, as Cicero followed the line of argument he used in court but he rewrote his speech (in good part, I presume) in order to delete memory of an inglorious stylistic-political failure.

⁹ Asc. 42.3–4C; Quint. 4.2.25; Plin. *Ep.* 1.20.4; see also *Schol. Bob.* 112.12–13 St.

¹⁰ On the magnificent narrative of the extant version of the speech, see J. M. May, *The Trials of Character. The Eloquence of Ciceronian Ethos* (Chapel Hill, NC, 1988), 129–40.

¹¹ J. M. May, 'The *Ethica Digressio* and Cicero's *Pro Milone*: A Progression of Intensity from *Logos* to *Ethos* to *Pathos*', *CJ* 74 (1979), 240; Steel (n. 5), 130. See also Crawford (n. 7), 211, n. 5.

¹² An indirect allusion to *Mil.* 40, in particular to Clodius' escape from Antony's attack, is found in *Phil.* 2.21. See also J. H. Molyneux, 'Clodius in Hiding?', *CQ* 11 (1961), 250–1.

established oratorical reputation, severely damaged by the humiliation at Milo's trial.

A few words are in order on Cicero's treatise and its subject. Written as the preface to the translation of Aeschines' *In Ctesiphontem* and Demosthenes' *De corona* (both lost), the short piece 'on the best kind of orators' belongs to the last phase of Cicero's literary activity, composed in the same years as *Brutus* and *Orator*.¹³ Doubts about the authenticity of the treatise have proved to be unsubstantiated.¹⁴ It is quite possible that the work was left by Cicero in a rough state, abandoned for a more challenging project (the composition of *Orator*), and published after his death.¹⁵ Despite its brevity (only twenty-three paragraphs) and undistinguished style, its meditation on – and search for – the greatest orators clarifies Cicero's position on the Atticist/Asianist controversy.¹⁶

Resuming many arguments about Atticism advanced in more polished writings,¹⁷ Cicero takes a stance on the debate by privileging Demosthenes' virtuosity over the simplicity and purism of Lysias and Hyperides. Most notably, through the translation of Demosthenes' *De corona*, a collection of figures of thought widely employed in the composition of his last speeches, in particular the

¹³ G. L. Hendrickson, 'Cicero *De optimo genere oratorum*', *AJPh* 47 (1926), 109–23; G. A. Kennedy, *The Art of Rhetoric in the Roman World, 300 B.C.–A.D. 300* (Princeton, NJ, 1972), 258; D. Ochs, 'Cicero's Rhetorical Theory: With Synopses of Cicero's Seven Rhetorical Works', in J. J. Murphy and R. A. Katula (eds.), *A Synoptic History of Classical Rhetoric* (Davis, CA, 1995) 154, 179 f.

¹⁴ The question of the authenticity of *De optimo* was raised by A. Dihle, 'Ein Spurious unter der rhetorischen Werken Ciceros', *Hermes* 83 (1955), 303–14, who viewed Asconius' expression *libro... qui Ciceronis nomine inscribitur 'de optimo genere oratorum'* ('in the work attributed to Cicero entitled "On the best kinds of orators"'); 30.5–6C) as proof of the fact that the rhetorical treatise, felt to be a forgery by the commentator himself, circulated under Cicero's name in the first century CE; the absence of citations from the work in Quintilian and the roughness of style further validated the theory of the spuriousness of the work. See also K. Bringmann, *Untersuchungen zum späten Cicero, Hypomnemata* 29 (Göttingen, 1971), 256–61. For a survey of the scholarly debate on the genuineness of *De optimo* see D. H. Berry, 'The Value of Prose Rhythm in Questions of Authenticity: The Case of the *De Optimo Genere Oratorum* Attributed to Cicero', *Papers of the Leeds International Latin Seminar* 9 (1996), 62–3, who has successfully demonstrated how the use of prose rhythm in the treatise, matching that in *Brutus* and *Orator*, might be a strong argument in favour of its authenticity.

¹⁵ Berry (n. 14), 62. See also F. Ronconi, 'De optimo genere oratorum: storia di un abbozzo', *Appunti Romani di Filologia* 1 (1998), 43–68.

¹⁶ See J. Wisse, 'Greeks, Romans, and the Rise of Atticism', in J. G. J. Abbenes, S. R. Slings, and I. Sluiter (eds.), *Greek Literary Theory after Aristotle. A Collection of Papers in Honour of D. M. Schenkeveld* (Amsterdam, 1995), 65–82.

¹⁷ Berry (n. 14), 62. See also A. M. Riggsby, 'Self-fashioning in the Public Eye: Pliny on Cicero and Oratory', *AJPh* 116 (1995), 128, n. 8.

Second Philippic,¹⁸ Cicero offers a practical demonstration of how the best Latin oratory – that is, his own new 'Demosthenic' oratory – might emulate the best Attic oratory.¹⁹

Let me turn to section 10 of *De optimo*. The passage belongs to a larger context, beginning in section 8 and extending into section 13, devoted to the dispute over the best Attic orators. Emulation of Lysias' simplicity is recommended in private cases, where a grand level of style is not a desideratum. But when oratorical situations call for a different stylistic level from that appropriate to a case presented before a single arbiter, orators are required to display *grandiorem et plenior vocem* ('a louder and fuller voice'),²⁰ emulating Demosthenes, the master of all kinds of style. This was precisely the case in Milo's trial, which, in the light of its exceptional circumstances, demanded a higher level of style and a passionate delivery. In response to those *qui aut Attici numerantur aut dicunt Attice* ('who are either considered Attic orators or speak in the Attic manner'; 8), who criticized his performance on the grounds that he should have adopted an unemotional fact-based style such as one would use in a private case, Cicero draws attention to the strangeness of the trial, which called for a distinctive style. A restatement of Cicero's uncommon facility at manipulating and varying style in view of *natura rei*, the passage of *De optimo* consecrates its author as a talented advocate and makes *Pro Milone* a perfect exemplar of grand oratory.²¹

But the reference to *Pro Milone* has more to do with Cicero's reputation as orator than the debate over Atticism. We have seen that Cicero, embarrassed by the inglorious defeat suffered in the trial of Milo, attempted to restore his former fame by producing a new, polished piece of rhetoric. Contrary to the orator's expectations, any effort at cancelling the memory of past failure was in vain, as both versions of the speech still circulated in the first century CE. Conceivably, Cicero's feeble performance at Milo's trial kept attracting malignant criticism from his adversaries. The passage of *De optimo* discussed

¹⁸ See G. Manuwald (ed. and comm.), *Cicero. Philippics 3–9* (Berlin, 2007), i.129–38, esp. 135; S. Usher, 'Sententiae in Cicero Orator 137–9 and Demosthenes' *De corona*', *Rhetorica* 26.2 (2008), 99–111.

¹⁹ As Berry (n. 14), 62, opportunely notes, in *De optimo* Cicero draws attention to the misuse of the term Atticism, which 'ought more appropriately to be applied to those who follow Demosthenes' example – by implication Cicero – rather than to Cicero's detractors'.

²⁰ Cf. Cic. *Brut.* 289.

²¹ On the ethical and pathological presentation of logical argumentation in the speech, see May (n. 11).

here might be proof that the so-called Atticists censured Cicero's style by exploiting his memorable 'fiasco'. In such a context, his choice of *Pro Milone* as an example of grand style would not be casual. By reminding his censors of the singular circumstances of the trial, Cicero turned the negative aura surrounding the first, failed speech into a celebration of his multifaceted, 'Demosthenic' style, focusing on his impressive capacity for mastering different registers on different occasions.

In the explanation that associates *Pro Milone's* style with the presence of Pompey's armed troops around the Forum we may also see Cicero's indirect, implicit claim of innocence in the unfavourable outcome of the trial. By pointing up the exceptional setting, he lays the blame for Milo's conviction on external factors, discharging himself of any responsibility and justifying his (unproductive) stylistic choices with reference to the unsustainable pressure from the outside. It is not easy to determine whether Cicero's allusion to Pompey's extraordinary measure has political significance. He evokes the event on two further occasions, in both cases in complimentary terms. In a letter sent to Appius Claudius Pulcher in April 50 BC (*Fam.* 3.10.10 = 73 SB), Cicero thanks Pompey for protecting him at the time of Milo's proceedings. The tone of the letter, a flattering eulogy of Pompey's virtues, is highly congratulatory. Pompey, who has bestowed the highest honours on the orator, is said to have asserted his authority by giving a special guard to Cicero to meet the hostility of an angered, ignorant mob. The second allusion occurs in a letter of early March 49 BC (*Att.* 9.7B = 174B SB). There Balbus recommends that Cicero *imperator* ('commander') request a bodyguard from Caesar, just as he asked Pompey to provide him with a *praesidium* ('bodyguard') at Milo's trial.

The eulogistic mode of the letter to Appius Claudius – a declaration of allegiance to Pompey, 'the first of all men in his esteem'²² – restates Cicero's feelings expressed in the opening lines of the published version of the speech on behalf of Milo (*Mil.* 1). There Pompey's *praesidium* is seen as a *beneficium* ('favour') for which Cicero shows immense gratitude. By focusing on the unfavourable environment, an apparent obstacle to the speaker's inspiration, Cicero praises Pompey's *consilium* ('resolution') as the only relief from fear for him in his discomfort about

²² V. L. Holliday, *Pompey in Cicero's Correspondence and Lucan's Civil War* (The Hague, 1969), 59.

the novelty of the trial.²³ However, Cicero's gratitude for Pompey's precautionary deployment of armed forces around the Forum, as expressed in the introductory section of *Pro Milone* and the letters cited above, does not seem to harmonize with our evidence for the different strategy adopted by the orator and the statesman in handling Milo's case.²⁴ It is widely known that Pompey tried to discredit Clodius' murderer.²⁵ Cicero's unhappiness with Pompey's efforts at getting rid of Milo may be adumbrated in the *extra causam* ('digression') section and the *conclusio* ('conclusion') of the published speech (*Mil.* 72–105). In contrast to the initial praise of Pompey, which shows 'the stance taken by Cicero at Milo's actual trial',²⁶ the final third of the extant *Pro Milone*, presumably a later addition to the delivered speech, contains ironic remarks on Pompey's hypocrisy, a consequence of Cicero's changed sentiments towards Pompey in the time after Milo's condemnation.²⁷

It is hard to establish the different levels of sincerity in the treatment of Pompey in the speech.²⁸ Multiple readings of the text are possible, given Cicero's combination of multiple rhetorical strategies in managing pro-Milo arguments.²⁹ Similarly, we can only speculate on subsequent, anti-Ciceronian readings of the *exordium* ('preface').³⁰ What seems certain is that in the first sentences of the speech Cicero manipulated the fear-theme, connected to the presence of Pompey's soldiers in the Forum, in order to reassure the intimidated jury and to divert attention from the hostile circumstances of the trial.

²³ On the *exordium* (preface) of the speech, permeated with gladiatorial metaphors, see J. Axer, 'Tribunal-Stage-Arena: Modelling of the Communication Situation in M. Tullius Cicero's Judicial Speeches', *Rhetorica* 7.4 (1989), 308–9; S. Tzounakas, 'Stoic Implications in the *Exordium* of Cicero's *Pro Milone*', *Sileno* 35.1–2 (2008), 179–90.

²⁴ B. Rawson, *The Politics of Friendship. Pompey and Cicero* (Sydney, 1981).

²⁵ *Ibid.*, 139–41. See also J. van Ooteghem, *Pompée le Grand. Bâtisseur d'empire* (Bruxelles, 1954), 436–54; P. Greenhalgh, *Pompey. The Republican Prince* (London, 1981), 83–6; R. Seager, *Pompey the Great. A Political Biography* (2nd edn, Oxford, 2002), 133–7, 182–3. On Pompey's support of Milo's rivals, see also A. R. Dyck, 'Narrative Obfuscation, Philosophical *Topoi*, and Tragic Patterning in Cicero's *Pro Milone*', *HSPH* 98 (1998), 239–40 (with further bibliography).

²⁶ D. H. Berry, 'Pompey's Legal Knowledge – Or Lack of It: Cic. *Mil.* 70 and the Date of *Pro Milone*', *Historia* 42.4 (1993), 503.

²⁷ A. M. Stone, 'Pro *Milone*: Cicero's Second Thoughts', *Antichthon* 14 (1980), 88–111; Berry (n. 26).

²⁸ On an ironic reading of the praise of Pompey's virtues, see G. O. Hutchinson, *Cicero's Correspondence. A Literary Study* (Oxford, 1998), 150, n. 18, who assumes that 'the whole published speech is intended to display Cicero's courteous but adroit handling of those in power'.

²⁹ L. Fotheringham, 'Cicero's Fear: Multiple Readings of *Pro Milone* 1–4', *MD* 57 (2006), 82–3.

³⁰ *Ibid.*, 72.

The *post-eventum* revision of *Pro Milone* shows Cicero's ambiguous behaviour towards Pompey.³¹ Conversely, the situation had radically changed by 46 BC, the time of the composition of *De optimo*. The armed support from Pompey, a motif of gratitude in the *exordium* of the published speech and in the correspondence preceding the outbreak of the civil conflict, might well be exploited as an apologetic instrument in the different political conditions after Pompey's death. Did Cicero regard tacitly blaming Pompey for creating the forbidding environment of Milo's trial as a convenient expedient to crush his critics? It is impossible to answer with any degree of certainty. Perhaps in imputing his failure to Caesar's former enemy, Cicero saw a fundamental step towards a complete – social and political – rehabilitation before the new dictator after the civil war. If that was the case, doubtless Caesar would have been gratified to see Pompey, his former political opponent, accused of reducing to silence one of his most influential supporters and clients.

A 'political' reading of the mention of *Pro Milone* in *De optimo* remains a fascinating option, though it is not supported by further evidence. It seems safe, therefore, to interpret Cicero's praise of his speech on behalf of Milo as a significant moment in his strategy of self-aggrandizement in the last years of his life. Pompey's death and Caesar's dictatorship annihilated Cicero's ambitions, forcing him to play a secondary role in Roman politics. The state of involuntary *otium* and idleness compelled the orator to act on behalf of the *res publica* by constructing his oratorical self and providing his cultivated readers with a programme of civic instructions, based on the symbiosis of *eloquentia* ('eloquence') and *prudentia* ('wisdom'). As persuasively demonstrated by recent studies, Cicero devoted himself to reassessing his role of *magister* of the next generation of Roman politicians and orators by establishing his persona of ideal orator and Latin philosopher.³² Evidently, his oratorical reputation was still suffering from the setback in Milo's case more than half a decade after the trial. Any stigma of oratorical incompetence had to be removed by the orator struggling to style himself as the 'Latin Demosthenes'. Thus, Cicero's choice of *Pro Milone* as an exemplar of the grand style seems an attempt to cancel

³¹ For the revision of the speech at the time of publication, in view of Cicero's ambiguous attitude towards Pompey, see Stone (n. 27); Berry (n. 26); M. C. Alexander, *The Case for the Prosecution in the Ciceronian Era* (Ann Arbor, MI, 2002), 20–2.

³² I. Gildenhard, *Paideia Romana. Cicero's Tusculan Disputations* (Cambridge, 2007).

the memory of a feeble performance. It also functions as a self-fashioning instrument, suiting the orator's goal of consecrating himself as a model of perfection in speaking and writing.

As in *Brutus* and *De oratore*, a meditation upon 'the creation of a self, specifically, the fashioning of the ideal orator',³³ Cicero aimed in *De optimo* to sketch out a model of the truly eloquent speaker – in 'Demosthenic' forms – able to manage all the different types of style. Conscious of the canonicity that his speeches had achieved, he could not let stand the stigma conferred by his inability to deliver a good oration in hostile circumstances.

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³³ J. Dugan, *Making a New Man. Ciceronian Self-fashioning in the Rhetorical Works* (Oxford, 2005), 175.