III THE PRACTISING ORATOR

We have already seen how public speaking was central, during the Republican period, to the operation of the Roman state; and how, despite radical political change between Republic and Empire, oratory retained its position as a key skill for the politically active elite. The importance of oratory made it, in turn, both the vehicle of and the focus for sustained critiques of the behaviour and values of Rome in general and the elite in particular. In this chapter I turn to the figure of the orator and consider how the expectations concerning his behaviour are set up. Technical works on rhetoric, anecdotes about individual orators and surviving oratorical texts can supplement surviving texts of speeches in the task of establishing what the Romans thought their speakers should do and be and how they criticised those who failed to meet these criteria.[1]

The importance of oratory among the tasks which an elite Roman male was expected to be able to undertake can be demonstrated some time before the development of rhetorical theory at Rome. An account survives of part of the funeral speech for L. Caecilius Metellus, delivered by his son Quintus in 221 B.C.:

> Quintus Metellus says that . . . he achieved the ten greatest and best things, which wise men spend their lives pursuing: for he wanted to be the foremost warrior, the best speaker, the bravest general, to achieve great things under his own command, to obtain the highest offices, to display outstanding wisdom, to be considered the leading senator, to get great wealth respectably, to leave many children and to be the most distinguished member of his community; and these fell to his lot, as to no other since the foundation of Rome.[2]

Lucius Metellus' outstanding qualities are drawn from warfare, political life and private household affairs: oratory is not at the head of the list, but it is the first civilian skill to be listed. The three-fold division of war, peace and one's family covers everything which a Roman male might pride himself on in these circumstances, though Metellus' specific ten are not canonical. The elder Cato, according to the elder

[1] See Burnand (2000); Habinek (2005: 16–37).

[2] Pliny the elder, *Natural History* 7.139, *Q. Metellus …decem maximas res optimasque, in quibus quaerendis sapientes aetatem exigerent, consummasse eum: uoluisse enim primarium bellatorem esse, optimum oratorem, fortissimum imperatorem, auspicio suo maximas res geri, maximo honore uti, summa sapientia esse, summum senatorem haberi, pecuniam magnam bono modo inuenire, multos liberos relinquere et clarissimum in ciuitate esse. haec contigisse ei nec ulli alii post Romam conditam.*

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Pliny in the same section of the *Natural History*, 'is reckoned to have been the first in the Porcian family to have secured the three outstanding human achievements: being the best orator, the best general and the best senator'.[3] P. Licinius Crassus Mucianus, the consul of 131 B.C., was celebrated by historians under five headings: great wealth, great family, outstanding eloquence, unrivalled knowledge of the law, and holding the office of *pontifex maximus*.[4] In the highly competitive world of the mid- and late Republic, such career summaries were carefully constructed to reflect the pinnacles of the honorand's achievements and his distinctive strengths. But eloquence, it seems, was always worth claiming if the claim could in any way be substantiated.

There is an extended argument for the pre-eminence of oratory among civilian skills in a speech which Cicero delivered in 63 B.C. in defence of one of the consuls-elect for 62 B.C., L. Licinius Murena. The election campaign during the summer of 63 for the consulship of the following year had been unusually tense, with four serious contenders in the field, including Catilina.[5] Bribery was taking place so extensively during the campaign that Cicero, as consul, proposed, successfully, a law which substantially increased the penalties for this activity and it was under this law that Murena was charged.[6] Ser. Sulpicius, one of the unsuccessful candidates, and the younger Cato were among the prosecutors.[7] Much of Cicero's defence is concerned with an appeal to the safety of the state at a time of crisis, which requires that there be two consuls in office at the beginning of 62 B.C., and with a defence of himself in the face, it seems, of prosecution attacks on his influence.[8] Insofar as he does offer a defence on the bribery charge he does so by arguing that Murena had no need to use bribery, as he was a much more attractive candidate than Sulpicius and therefore would have been elected without such aid. This attractiveness lay in the fact that Murena was primarily a soldier, whereas

[3] Pliny, *Natural History* 7.100, *Cato primus Porciae gentis tres summas in homine res praestitisse existimatur, ut esset optimus orator, optimus imperator, optimus senator*…Cf. Nepos, *Cato* 3.1.

[4] Aulus Gellius 1.13.10, *Is Crassus a Sempronio Asellione et plerisque aliis historiae Romanae scriptoribus traditur habuisse quinque rerum bonorum maxima et paecipua: quod esset ditissimus, quod nobilissimus, quod eloquentissimus, quod iuris consultissimus, quod pontifex maximus.* This is the Crassus whose skills as a speaker of numerous dialects of Greek also impressed his contemporaries; see Chapter 1.

[5] In addition to Catilina, Ser. Sulpicius Rufus, D. Iunius Silanus and L. Licinius Murena were all plausible candidates.

[6] On the *lex Tullia de ambitu*, see Lintott (1990); Yakobson (1999: 26–43).

[7] On the *Murena*, see Leeman (1982); Classen (1985: 120–179); Riggsby (1999: 21–49).

[8] See Paterson (2004: 89–91).

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Sulpicius was a legal expert: 'who can doubt that a reputation acquired through military activity brings much more weight to a consular campaign than that obtained in civil law?'.[9] But Cicero does not simply pit military against legal skill. He also introduces oratory – as the only fitting civilian counterpart to the soldier. Military skill remains at the apex of citizen achievement, but second place is held by skill in speaking rather than skill in the law: oratory can direct affairs of state, and enables the orator to secure friendship and support. It thus fulfils the two criteria necessary to make a skill attractive to the Roman people: it is prestigious, and it is useful.[10] 'There is none of these in that knack of yours, Sulpicius'.[11]

Cicero had no need to bring oratory into this part of the argument at all: a straight comparison between military and legal activity would have sufficed to show that Murena was a more attractive candidate than Sulpicius. His inclusion of oratory relates rather to his own prominence within this speech, and the consul who can 'put down tribunician madness, divert an excited crowd, and stand up to state handouts' is to be seen as exemplified by Cicero himself.[12] The argument overall can hardly be taken as an indication of the unassailable pre-eminence of oratory in the minds of Romans generally. And Cicero could undoubtedly have produced a highly convincing argument in support of the thesis that legal experts were pre-eminent, had ever a case demanded this of him, or indeed that oratory was pernicious. The significance of the argument in *On Behalf of Murena* lies rather in the kinds of attractiveness which Cicero posits as belonging to the orator. Oratory, whilst subordinate to military skill, is nonetheless comparable to it in terms of its importance within the civilian sphere, and the orator's sound deployment of his skills lies at the heart of the well-run state.[13] The collaboration of orator and soldier for the good of the state is a concept which Cicero returned to soon after this speech, as he prepared for the return of Pompeius from the East.[14]

[9] *On Behalf of Murena* 22, *qui potest dubitari quin ad consulatum adipiscendum multo plus adferat dignitatis rei militaris quam iuris ciuilis gloria?* On 'legal expert' – *iurisconsultus* – see Frier (1985).

[10] *On Behalf of Murena* 24.

[11] *On Behalf of Murena* 24, *quorum in isto uestro artificio, Sulpici, nihil est.*

[12] *On Behalf of Murena* 24, *consul qui dicendo non numquam comprimat tribunicios furores, qui concitatum populum flecta, qui largitioni resistat.*

[13] *On Behalf of Murena* 30 puts the two in clear parallel: 'There are two skills which can place men at the top of the political ladder: one of them, that of the general, and the other that of the good orator. The latter maintains the benefits of peace and the former repels the dangers of war.' (*duae sunt artes quae possint locare homines in amplissimo gradu dignitatis, una imperatoris, altera oratoris boni. ab hoc enim pacis ornamenta retinentur, ab illo belli pericula repelluntur.*)

[14] Steel (2005: 49–63).

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The changing role of oratory in the imperial period seems to have had relatively little impact on the importance of the skill to individual members of the elite: it retained a great deal of prestige. Indeed, it seems that oratory may have become a more important skill for members of the Senate as a whole: as discussed in Chapter 1, during the first century A.D. their role increasingly involved forensic activity and was becoming, albeit with many exceptions, more civilian and less military in its scope. Consequently, a situation developed in which oratory in front of large audiences as a whole had clearly lost a great deal of its importance as a tool in influencing political outcomes; but it remained a skill which was of great importance for individual members of the elite to possess, and be seen to possess.

The younger Pliny's concern in his letters is one example of the contribution which oratory could make to one senator's reputation during this period. Another nice example is that of Rutilius Gallicus, a distinguished public figure in the latter part of the first century A.D. who is excessively well-known to posterity because a lengthy inscription recording the earlier part of his career and a poem by Statius celebrating his recovery from illness both survive.[15] Rutilius' career was largely military and involved lengthy service outside Rome: he served in Pannonia and Galatia and was governor of Asia, though his final office was as prefect of the city. And his military achievements are prominent among the qualities Statius praises. But he also describes Rutilius as 'immense and distinguished in eloquence',[16] and brings in his capacity as a speaker in the passage where he appeals to Rutilius himself to be the source of Statius' poetic inspiration.[17]

It is this importance of public speaking as an aristocratic skill which, in part, explains the intense scrutiny on orators and oratory within Roman culture. But in the Republican period there is another compelling reason why oratory draws such attention: the act of public speaking is one of the occasions at which members of the elite were visible. Roman politics during the Republic was a public business, and politicians needed to demonstrate their activity through regular performance. Tribunes of the people had, of course, to be accessible at all hours. Others in public life were supposed to be available, when in Rome, at the early morning *salutatio*; and if they subsequently went down into the Forum they could expect to be approached for aid and

[15] Statius, *Siluae* 1.4; ILS 9499; Henderson (1998).
[16] Statius, *Siluae* 1.4.71–2, *clarus et ingens/eloquio.*
[17] Statius, *Siluae* 1.4.19–36.

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advice. Carelessness or inattentiveness in fulfilling these expectations, particularly at election time, made an exceedingly bad impression on the Roman people, and famous instances of such behaviours became exemplary.[18] Roman politicians had to be exceedingly careful about what they said in public as well as what they did.

The intense public scrutiny of politicians during the Republic when they were at Rome nonetheless left some opportunities for privacy. Not all were welcome. Cicero laments the lack of attention that is paid to achievements outside Rome in his speech *On Behalf of Plancius*, in a passage of autobiography in which he explains that he was so disappointed that his quaestorship in Lilybaeum made no impression on anybody at Rome that he thereafter determined to centre his career at Rome.[19] But at Rome, too, some areas were private. Morstein-Marx has recently argued that all politicians who attempted to persuade the people did so by appealing to a set of shared attitudes to popular power.[20] The contest at the *contio*, on this view, was not between fundamentally opposed views of what the people could and could not do: it was between different individual politicians each claiming to uphold the popular will more truly and effectively than his opponent. Modern readers are in a privileged position in relation to Cicero's original contional audience: we know, from his letters and philosophical works along with his speeches, that his overall stance was firmly optimate. But the picture which emerges from his speeches to the people is of a politician firmly committed to the dignity and standing of the Roman people. The 'man in the street' would have no access to Cicero's private views on the Roman people. Morstein-Marx calls this gap between contional and overall *persona* the 'invisible optimate'; and he is surely correct to draw attention to the possibility in the Republic of such fissured self-presentations. The good orator could indeed be all things to all men; the problem for Cicero arose when he had to take decisive action.

In Cicero's case, the gap between his *popularis* rhetoric and his actions opened up abruptly when he forced Catilina into open revolt and then pursued him and his followers to the death. Many public figures, however, would never find themselves in such revealing

[18] Valerius Maximus includes an entire chapter (7.5) in his *Memorable Deeds and Sayings* on electoral defeats, many of which arise from *faux pas* in dealing with citizens. So, for example, Scipio Nasica (cos. 138) is alleged to have failed in his first attempt to be elected as curule aedile because he asked a voter, whose (calloused) hand he was shaking, whether he walked on his hands (7.5.2).

[19] Cicero, *On Behalf of Plancius* 64–6.

[20] Morstein-Marx (2004: 204–240).

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circumstances, and in the absence of political difference, other clues were looked for in order to judge a man. Late Republican oratory is bristling with invective: not only are there substantial passages of invective in many of Cicero's speeches, but invective is also one aspect of oratory where we have access to some of his contemporaries' works.[21] Bold and scabrous criticism of political figures is prominent also in some of Catullus' poems. Recent work on invective has highlighted the links between the themes of invective and wider social norms.[22] Corbeill has argued that humorous invective in the late Republic relies on established and widespread beliefs about the relationship between appearance and character, for example, which underpin the concentration on appearance in Cicero's invective: people who look unattractive are also morally unworthy.[23]

Another approach to the function of invective is to relate it to the problem of individual identity. It is now not a matter for dispute that there were no political parties in the late Republic.[24] This absence of lasting organisational structures for political activity must be central to any understanding of Roman politics; and is crucially important in shaping the function of oratory. Without parties to command votes and distribute favours, aspirant politicians had to rely on other means to communicate a distinctive identity to their voters. Bribery was one of these, and complex networks developed to facilitate it.[25] The demonstrable importance of family was another: Romans voted for names they recognised, one might surmise, not only because of a conviction that ability was hereditary but simply because they did recognise the name. And opportunities to speak to the citizen body were potentially very important, and were consequently seized – by those who had confidence in their speaking abilities – when they arose. We have already observed the phenomenon of prosecutions being undertaken by very young men, as their first public appearance. Funeral speeches, too, offered the possibility of giving a speech outside the normal range of occasions, with their concomitant limits on who could speak; this, alongside the opportunity to retell one's

[21] Cicero's main invective targets are Verres (*Verrines*), Catilina (*Catilinarians*), Clodius (*On Behalf of Sestius*, *On Behalf of Milo*), Piso (*On the Consular Provinces*, *Against Piso*), Gabinius (*On the Consular Provinces*) and Antonius (*Philippics*). Paragraphs of invective also survive by other orators: most striking are those of Helvius Mancia (Valerius Maximus 6.2.8) and Marcus Caelius (Quintilian, *Education of the Orator* 4.2.123).

[22] Richlin (1992); Corbeill (1996); Krostenko (2001).

[23] Corbeill (1996: 14–56).

[24] Taylor (1949) remains a valuable study of the late Republic, despite its title; see further Brunt (1988: 443–502).

[25] Yakobson (1999: 26–43).

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family history, made them attractive to the young politician. Caesar innovated by commemorating a female relative. The future emperor Tiberius delivered a funeral oration for his father at the age of nine; nothing is known of the content of the speech, though it is intriguing to speculate whether his recently acquired step-father Octavian – who was at precisely this time attempting to secure his position with the Roman aristocracy as he prepared for war with Antonius – had any hand in what he said.[26]

Invective can be seen as the converse of this straining for impact. A politician could supplement his positive self-portrayal with a demonstration that his rivals were not what they claimed to be. Oratory was one of the most effective ways of communicating the failings of others to the audiences which mattered: whether by the direct attack on another in the Senate or in front of the people, or more obliquely via the courts. And the traits which are attacked underscore the importance of appearance as well as behaviour in the creation of individual politicians' identities: Roman audiences were likely to be convinced by appeal to what they themselves had seen.

A good example of an invective encounter is the confrontation between Cicero and L. Calpurnius Piso during the 50s B.C. Cicero bore a deep grudge against him from the time of his being sent into exile during Piso's consulship in 58 B.C.: earlier, relations between the two men had been good and so Cicero regarded Piso's failure to stop Clodius as a personal betrayal.[27] On his return to Rome in 57 B.C. he pursued his enmity with Piso in a variety of speeches.[28] Initially these were delivered in Piso's absence, as the latter was proconsul in Macedonia after his consulship, and include Cicero's contribution to the senatorial debate in the early summer of 56 B.C. on choosing the consular provinces for the consuls who were about to be elected. Cicero argued in favour of designating Syria and Macedonia: this would inevitably mean the recall of both Piso and Gabinius. On Piso's return in 55 the two men clashed during a meeting of the Senate; Cicero wrote up his remarks as *Against Piso* and Piso responded with

[26] Suetonius, *Life of Tiberius* 6. Augustus himself had delivered the funeral oration for his grandmother at the age of twelve: Quintilian, *Education of the Orator* 12.6.1.; Suetonius, *Life of Augustus* 8.

[27] Cicero also expressed deep hostility towards Piso's consular colleague Gabinius; but he had not been close friends with Gabinius before his exile, and consequently the betrayal seems to have been less bitter.

[28] Cicero, *To the Senate after his Recall from Exile*, *To the Citizens after his Recall from Exile*, *On the Consular Provinces*, *Against Piso*.

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his own written pamphlet.[29] Cicero's pursuit of Piso is an aspect of his attempt to re-establish himself after being exiled, and Piso's response, similarly, arises from the need to preserve face and refute the gross charges that Cicero laid against him.

Cicero's invective against Piso covers a huge range of topics, military as well as civilian. He has consistently failed to behave in a manner appropriate to a magistrate of the Roman people, and this includes not only his failures as a provincial governor but also a range of private behaviours: he drinks excessively, his hospitality is crude, he pretends to intellectual accomplishments but in practice is completely unable to understand the philosophical teaching of his friend Philodemus. And alongside serious charges about Piso's conduct is a deep concern with his appearance. Early in *Against Piso* Cicero says, 'It was not that servile complexion of yours, not your hairy cheeks, not your rotten teeth which deceived us: your eyes, your eyebrows, your forehead, your whole face – which is a kind of silent commentary on the mind – these drove men into error, these deceived those to whom you were not known and tricked and misled them.'[30] This passage is particularly revealing because it shows us Cicero both using the conventions of appearance-based invective and attempting to transcend them.[31] The problem which Piso poses for Cicero is that he does not look the part: Cicero is constantly accusing him of being a bad Roman and a bad magistrate, but Piso looks like an austere, upright Roman. Cicero therefore argues that there is a gap, in this case, between appearance and reality: the normal signs do not work. However, rather than allowing this to cast doubt on the entire system of drawing moral conclusions from men's appearances, Cicero instead uses this instance as further evidence of Piso's unreliability: he goes around projecting a deceptive appearance. And Cicero is also willing to draw attention to those unattractive aspects of Piso's appearances which do confirm his invective.

Oratory was a medium for attack; it could also itself be the subject of criticism. This is hardly surprising: given the importance of speaking among the things which politicians did, it provides an attractive focus for criticism. The performance and reception of oratory were matters for adult male citizens; speakers who did not securely

[29] Asconius 2C; Cicero, *Letters to his Brother Quintus* 3.1.11; Nisbet (1961: 199–202).

[30] *Against Piso* 1, *non enim nos color iste seruilis, non pilosae genae, non dentes putridi deceperunt: oculi supercilia frons uultus denique totus, qui sermo quidam tacitus mentis est, hic in fraudem homines impulit, hic eos quibus eras ignotus decepit fefellit induxit.*

[31] Corbeill (1996: 169–173).

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demonstrate that they belonged to this group provided rich scope for hostile comment. Some areas which provoked anxiety can be traced in actual criticism of orators and oratory; the advice and warnings to be found in rhetorical handbooks and treatises gives further clues concerning behaviours which could leave the orator vulnerable.

The orator, according to the canons of rhetoric, had to be competent in five areas: finding arguments (*inuentio*), putting them in order (*dispositio*), memorising them (*memoria*), expressing them in the appropriate language (*elocutio*) and delivering them (*actio*). Of these five, delivery and style afforded the greatest scope for mistakes and for moral censure. Finding and arranging arguments were areas where greater or lesser competence could be displayed, and the handbooks are naturally concerned to convey good practice. Failures of memory were noted and skill admired.[32] But the richest scope for policing the orator lay in assessing how he used his voice and body when speaking and what language he used to express himself.

The connection which could be made between the language an individual uses and his putative moral character is made absolutely explicit in a letter of the younger Seneca.[33] He is responding to a query from Lucilius about the causes of corrupt style, and his answer is that style matches way of life, and so a corrupt way of life will be reflected in a corrupt style.[34] To illustrate his answer he takes Maecenas as an example: Maecenas' morals were corrupt and so was his style of speech. His clothes are too flowing; when he appeared in public he covered his head but left his ears showing; he frequently went through the marriage ceremony with his wife. And this 'softness' and eccentricity is reflected in the way he spoke: 'Was not his speech just as untrammelled as he himself was self-indulgent? Were his words not just as peculiar as his appearance, retinue, house and wife? . . . And so you'll see the tortuous, rambling, unrestrained style of a drunk.' [35] Underlying much of Seneca's stylistic advice in this letter is anxiety about the correct display of masculinity. He concludes the

[32] The elder Curio (cos. 76) had a particularly bad memory, according to Cicero (*Brutus* 217): 'So lacking was he in ability to remember that often when he had put forward three headings he would either add a fourth or forget the third' (*memoria autem ita fuit nulla, ut aliquotiens, tria cum proposuisset, aut quartum adderet aut tertium quaereret*; Hortensius, by contrast, was remarkable for his prowess in the skill (*Brutus* 310; a particular feat of his memory became exemplary: Seneca, *Controuersiae* 1 pr. 19; Quintilian, *Education of the Orator* 11.2.24).

[33] Seneca, *Letters* 114.

[34] Seneca, *Letters* 114.1, *talis hominibus fuit oratio qualis uita*.

[35] Seneca, *Letters* 114.4, *non oratio eius aeque soluta est quam ipse discinctus? non tam insignita illius uerba sunt quam cultus, quam comitatus, quam domus, quam uxor?... uidebis itaque eloquentiam ebrii hominis inuolutam et errantem et licentiae plenam*.

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section on how best to speak by explaining to Lucilius that, providing his spirit is sound, his speech will be 'vigorous, strong and masculine'.[36] The fear about failing to project the correct masculine identity is pervasive in Roman discussions of how to speak in public, and has been the focus of a great deal of recent critical interest.[37] The details which were seized upon by Roman commentators and orators as potential betrayers of their masculine selves are interestingly revealing of the way in which masculinity was constructed; in general, one can note the extent to which oratory is a focus for the debate. Oratory was a place where the Roman elite was visible, and it was a place where its members articulated to one another and to the Roman state more widely what identity they did and should have.

Status was another area where inappropriate oratory could leave the speaker vulnerable to attack. One specific area of concern was the boundary between oratory and acting. There were significant points of similarity between the two activities: the effective use of gesture and voice was essential to both actor and orator, and both performed in front of large, unpredictable audiences.[38] Cicero draws an analogy with acting when he describes what a court looks and feels like when it is receiving a great oratorical performance, with the result that 'anyone who sees it from a distance – even if he doesn't know what case is being heard – nonetheless understands that the speaker is a success and that a Roscius is on the stage'.[39] Roscius, unquestionably the greatest actor of the late Republic, was a friend of Cicero and Hortensius; he also wrote a book in which he compared oratory and acting.[40] Cicero claims to have studied Roscius' delivery, as well as that of Aesopus, who specialised in tragic roles; but, according to Valerius Maximus, Roscius and Aesopus in turn studied Hortensius' gesture to improve their own acting.[41] There was a productive dialogue going on between practitioners at the highest levels of both activities.[42] Cicero draws on dramatic themes and characters in a number of his speeches and two in particular – *On Behalf of Quintus*

[36] Seneca, *Letters* 114.22, *robusta, fortis, uirilis*.

[37] See in particular Edwards (1993: 63–97); Gleason (1995); Gunderson (2000); Dugan (2005).

[38] Graf (1991).

[39] Cicero, *Brutus* 290, *qui haec procul uideat, etiam si quid agatur nesciat, at placere tamen et in scaena esse Roscium intellegat.*

[40] Macrobius, *Saturnalia* 3.14.12.

[41] Valerius Maximus 8.10.2.

[42] Quintilian (*Education of the Orator* 12.5.5) praises his contemporary Trachalus as 'better than any tragic actor that I ever heard' (*super omnis quos ego quidem audierim tragoedos*).

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Roscius the Actor and *On Behalf of Marcus Caelius Rufus* – are very largely structured around dramatic motifs.[43] In *On the Orator*, Cicero draws on acting for a wide range of comparative material as he assesses the orator's role. But the references to acting in this work also indicate that the connection was a potential problem, at least for orators, inasmuch as he includes cautions about the importance of retaining a distinction between what actors and orators do. So, for example, in the discussion of humour in book 2, the aspiring orator is warned against provoking laughter in a manner which recalls mime-actors too closely.[44] In book 3, Crassus opens the section on gesture by saying:

> Gesture should accompany all these emotions: not the kind of gesture used on the stage, which illustrates individual words, but one which indicates content and arguments as a whole, not through description but by implication. This type of gesture requires a strong masculine turn of the body which comes from handling weapons and even from the exercise-pitch rather than actors and the stage.[45]

The social status of actors was low, and their craft frivolous.[46] Orators needed to exercise care, not because there was any danger that they could literally be confused with actors but because inappropriate use of gestures and language which seemed too actorly could compromise their dignity and thus their effectiveness.

There was also considerable concern about professionalism, at least in relation to forensic oratory. On the one hand, there was a powerful and long-standing consensus among the elite that forensic oratory should not be one's full-time activity. Payment in cash to defence advocates in criminal cases, and those on both sides in civil cases was banned by the *lex Cincia* of 204 B.C., though the emperor Claudius relaxed the rule.[47] And this amateurism was underpinned by the myth that forensic advocacy was one of a number of protections which patrons provided for clients in return for their clients' services.[48] The reality was, naturally, rather different. The complexity of the orator's task meant that specialists were at an enormous advantage. In *On the Orator*, Crassus is made to criticise very sharply men who engaged in

[43] Geffcken (1973); Axer (1979).
[44] Cicero, *On the Orator* 2.239, 2.242, 2.275.
[45] Cicero, *On the Orator* 3.220, *omnis autem hos motus subsequi debet gestus, non hic uerba exprimens scaenicus sed uniuersam rem et sententiam non demonstratione, sed significatione declarans, laterum inflexione hac forti ac uirili, non ab scaena et histrionibus, sed ab armis aut etiam a palaestra.*
[46] Roscius, who achieved equestrian status and financial success, was a notable exception.
[47] Crook (1995: 129–131).
[48] On the responsibilities of the *patronus*, see David (1992: 49–211).

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forensic advocacy without an adequate knowledge of civil law.[49] And it is absolutely obvious from Cicero's own forensic career, as well as his *Brutus*, that there were men who specialised in forensic oratory.[50] Moreover, even though direct payment was not permitted, being defended brought with it a set of obligations and there were a variety of ways in which those obligations could be discharged.[51]

Defence advocacy, even if undertaken regularly and in defence of persons whose links with their advocate came about only as a result of their trial, could therefore be rendered acceptable within aristocratic society relatively easily. Prosecution, however, was much more troubling. Given that prosecutions were a matter of private enterprise, the man bringing the charge could not hide behind an anonymised state. It is true that the praetor had to accept the charge in order for the case to proceed to trial; but it would nonetheless be apparent to all that, in most cases, the very existence of a charge depended upon the action of a particular individual. Prosecutors were thus very liable to the accusation of cruelty and, given the rewards which followed successful prosecution, greed and profiteering.[52] When Cicero prosecuted Verres he took a great deal of care to present his action as a defence of the Sicilians from the predations of their former governor.[53] When he considered the ethics of prosecution much later in *On Duties* he argued that a single prosecution could be regarded as legitimate, especially given the benefit that could follow for the state, but habitual prosecution was not acceptable.[54] Savage penalties were laid down for those who undertook mischievous prosecutions.[55] And yet there clearly were men who made their living by undertaking prosecutions. Examples can be found in Cicero's opponents in some of his early speeches: Erucius in *On Behalf of Sextus Roscius* appears to be in this category. But in the Republican period this is a shadowy group: the object of ridicule and hostility in Cicero's oratory, whose bias obscures their identity and activities. In the Empire, prosecutors emerge with greater clarity and with an expanded role which arises

[49] Cicero, *On the Orator* 1.166–197.
[50] Burnand (2004).
[51] So, for example, Quintus Cicero regards Cicero's oratory, particularly his forensic oratory, as absolutely central to his bid for the consulship (Quintus Cicero, *Handbook of Electioneering* 2–6).
[52] Epstein (1987).
[53] Vasaly (1993: 205–217).
[54] Cicero, *On Duties* 2.49–51.
[55] In theory, at least, a prosecutor found guilty of *calumnia* lost his civil rights and was branded on the forehead with a K: see David (1992: 101–115).

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from the emperor's concerns about treason; and, in elite writings, become a symbol of the faults of the political system as a whole.[56]

At a more fundamental level, oratorical performance could expose vulnerabilities in Roman identity. The development of oratory as a discipline and skill at Rome was marked by initial ambivalence towards its Greek origins and a shaky grasp of a distinct Roman identity was a weakness liable to criticism.[57] Cicero, who was not from Rome but Arpinum, was described by Catilina – according to Sallust – as a 'squatter in the city of Rome' and by Torquatus, his opponent in a forensic case held in 62 B.C., as a 'foreign tyrant'.[58] But oratory also provided opportunities to exploit Roman history. Torquatus, in the passage just discussed, apparently referred to the kings Numa and Tarquinius in order to set Cicero up as another absolute ruler from outside Rome. Cicero himself used examples drawn from Roman history with great frequency in his speeches,[59] including references which are grounded in the physical setting of his oratory.[60] So, for example, in his speech *On Behalf of Scaurus* from 54 B.C., he draws his audience's attention to the monuments which they can see around the Roman Forum which are connected with Scaurus' distinguished ancestors and relatives.[61] Through the use of shared history, articulated through familiar stories, Roman orators can appeal to their audience by constructing them as a privileged and exclusive group.[62]

Many of the concerns examined in this chapter came together in a vigorous set of exchanges about oratorical style from the 50s and 40s B.C. which set 'Atticism' against 'Asianism'.[63] Cicero was accused by some younger orators of Asianism, which seems to have meant an

[56] Rutledge (1999); Rivière (2002); and compare the importance of informers in Tacitus' *Annals*.

[57] I return to the origins of Roman rhetoric in the final chapter; on the links between Roman identity and language, see Hall (1998); Farrell (2001).

[58] Sallust, *Cat.* 31.7, *inquilinus ciuis urbis Romae*; Cicero, *On Behalf of Sulla* 22, *me tertium peregrinum regem esse dixisti*; Berry (1996: 182).

[59] Fleck (1993).

[60] Vasaly (1993).

[61] Vasaly (1993: 37–38).

[62] Gaius Fannius (cos. 122) made what was apparently an extraordinarily effective use of the appeal to an exclusive Roman identity in a speech he delivered in the year of his consulship in opposition to Gaius Gracchus' attempt to extend full citizenship to the Latins: 'I believe you think, if you give citizenship to the Latins, that you will continue to have room, as you do now, at public meetings and be able to participate in games and holidays. Surely you realise that they will take up all the spaces?' (Julius Victor 6.4 [Halm p. 402], *si Latinis ciuitatem dederitis, credo existimatis uos ita ut nunc constitistis in contione habituros locum aut ludis et festis diebus interfuturos. nonne illos omnia occupaturos putatis?*) On the extent of historical knowledge among Roman citizens generally, see Morstein-Marx (2004: 68–118).

[63] Wisse (1995).

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excessively florid and bombastic style of speaking. His opponents, most prominently C. Licinius Calvus, claimed to display the virtues of Atticism, as manifested primarily in the orator Lysias: lucidity, simplicity and restraint. One of the major difficulties in assessing what exactly was at stake here is that the earliest surviving evidence comes only from Cicero's own *Brutus* and *Orator*, from 46 B.C., by which time Calvus himself was dead.[64] Cicero's approach to the problem is primarily to concentrate on the definition of Atticism and argue that, properly understood, this term includes a much wider range of style than the Roman Atticists allow. Demosthenes, and the grand style, are as integral to the Athenian achievement as Lysias: and once this is established, then Cicero's own range and power can themselves be seen as Attic.[65] In *Brutus*, indeed, Asianism is something which Cicero's great rival Hortensius displayed and not a label that Cicero applies to himself; Hortensius, too, was dead at the time of writing.[66] It is difficult not to think that Cicero is taking advantage of the demise of his rivals to close off this particular debate on style in a way which secures his lasting reputation. In particular, the surviving material on Calvus' oratory does not seem entirely to fit with Cicero's view of Atticism: neither the surviving fragments nor anecdotes about his performance suggest notable meagreness. Indeed, the elder Seneca remarks on Calvus as an orator with notably vehement delivery, so much so that during his prosecution of Vatinius, Vatinius was moved to say the jurors, 'Am I to be condemned, gentlemen of the jury, just because he is eloquent?'.[67] But however murky the details, some general observations can be made about the episode. It shows the extent to which stylistic discussion of oratory at Rome depended on an interpretative framework derived from Greece, a theme to which I return in the final chapter. There is a suggestion that morality is at stake in stylistic choices: in particular, 'Attic' oratory displays healthfulness, *sanitas*, and Asianism brings with it a suggestion of effeminacy.[68] And perhaps most striking is the relentless competitiveness between orators and their striving to gain advantage.

[64] There was a correspondence on stylistic matters between Cicero, Calvus and Brutus (Tacitus, *Dialogus* 18.5) but it does not survive.

[65] On Cicero's relationship more generally with the figure of Demosthenes as an oratorical model, see Wooten (1983)

[66] *Brutus* 325–327.

[67] Seneca, *Controuersiae* 7.4.6: *rogo uos, iudices, num, si iste disertus est, ideo me damnari oportet?*

[68] *Brutus* 278; compare Quintilian *I.O.* 12.10.15, where he records the accusation against Cicero, in the context of his alleged Asianism, that he was 'almost softer than a man should be' (*paene … uiro molliorem*) in how he put words together.

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The Roman orator had a difficult job. The value of his task was not in question. But relying on technical aids to improve his skills could always be met by the spectre of the elder Cato with his suggestion that the true Roman speaker was brief and simple, or – as Cicero found – the charge of Asianism, with its suggestion of excess and effeminacy.[69] The elite orator needed always to avoid charges of professionalism and of profiteering. And for those practising in the imperial period there was the constant fear that oratory was now condemned to futility and irrelevance; the art had received its highest expression in Cicero's achievements and political change made it impossible for anyone to surpass him.

Cicero himself can be seen as one of the originators of this view, in his pessimistic account of contemporary oratory in *Brutus*. And I shall conclude this chapter by considering his extraordinary reprieve as an orator, after the composition of *Brutus*, in the year following Caesar's assassination. In the *Philippics*, the figure of the orator is one of the subjects which Cicero uses to attack Antonius and defend his own actions; and in Cicero's posthumous reputation this set of speeches becomes emblematic both of Cicero's personal brilliance and of the place of oratory in Roman life, as well as marking a decisive point at which the speaking orator is overtaken by the written text.[70] In these speeches, Antonius is portrayed – with the partial exception only of the first – as an enemy of the Roman state in the broadest possible terms. Within this characterisation, his lack of ability as an orator is prominent, particularly in the second speech. The *Second Philippic* falls into two parts: in the first (3–41) Cicero defends himself against the charges which Antonius had brought against him at the meeting of the Senate on 19 September, which Cicero did not attend. The second part (44–114) contains the attack by Cicero on Antonius. Judging by Cicero's response, Antonius' attack covered Cicero's public life from the time of the Catilinarian conspiracy onwards and Cicero starts from Antonius' childhood.[71] His description of Antonius as an orator comes between the two sections of the speech and enables him to round off his refutation of the substance of Antonius' attack with criticism of his skill in delivering the attack in a speech.

[69] A separate argument – not to be attempted here – could link fear of oratorical excess with wider fears about luxury and consumption.

[70] Butler (2002).

[71] Cicero, *Second Philippic* 2.44, 'Do you want me to consider you from childhood? I think you do; let's begin at the beginning' (*Visne igitur te inspiciamus a puero? Sic opinor; a principio ordiamur*)

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'Was it to collect this material, you fool, that you spent so many days declaiming in a borrowed villa? But then, as your friends keep saying, you declaim in order to get wine out of your system rather than to sharpen your wits.'[72] Cicero then compares the results of Antonius' futile practice with his drunken colleagues with the achievement as an orator of his grandfather, another Marcus Antonius and one of the greatest orators of his generation.[73] The context of the speech can explain, in part, Cicero's decision to make oratory one aspect of the struggle between himself and Antonius, given that he had just been the objective of a very sustained and public attack from Antonius. Cicero was already at a very considerable disadvantage in this contest because he did not dare respond orally to Antonius' attack but was compelled instead to write it. The extraordinary success of this ploy in the subsequent history of Cicero's works can obscure the frustration which Cicero must have felt in not having the opportunity to speak to the Senate in his own defence. So demonstrating that Antonius was an incompetent orator who relied on other people's words was rather important if Cicero were to maintain authority in the developing struggle. However, a further valuable consequence of this tactical decision is to emphasise that oratory is at the heart of what divides Cicero from Antonius. On this presentation, oratory is one of the aspects of the *res publica* which Antonius seeks to destroy through his ignorance and incompetence. One sign of Cicero's success in his attack on Antonius' oratory is that Antonius himself is seldom regarded as a competent orator, despite the fact that he spoke with success on a number of well-documented occasions, including as one of the prosecutors of Milo in 52 B.C., and produced written versions of some of his speeches.[74]

Butler has shown how Cicero's use of writing, and of written evidence, affected profoundly his posthumous reputation and reception. It was through the *Philippics*, above all, that Cicero came to be one of the symbolic defenders of Republican freedom.[75] His legacy was debated in the historiography of the Augustan period but the positive interpretation became a staple of declamation and exemplary

[72] Cicero, *Second Philippic* 2.42, *haec ut conligeres, homo amentissime, tot dies in aliena uilla declamasti? quamquam tu quidem, ut tui familiarissimi dictitant, uini exhalandi, non ingeni acuendi causa declamas.*

[73] This M. Antonius (cos. 99 B.C.) was one of the two main speakers in Cicero's *On the Orator*; the other was L. Crassus (cos. 95 B.C.); see Fantham (2004: 26–48).

[74] For details of Antonius' oratory, see Malcovati (1976: no. 159); David (1992: 854–855).

[75] Richlin (1999).

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literature.[76] But writing matters in Cicero's case because it offers a simulacrum of oral performance. His actions continued to resonate with his imperial readers because his writings allowed them to play out, over and over again, the orator standing up and speaking in defence of the Republic. The *Philippics* offer a defence of freedom and a promise of self-sacrifice whose emotional resonance is compelling. But they exercise a profound effect in part because we, as readers, can follow the story over time, from September 44 to April 43, filling in as we go everything which Cicero could not yet know and which contributed to his assassination. His fate is set up and charted over thirteen identifiable occasions on which he addressed Senate or people with words which are still available.[77] And, through the combination of his skill, the circumstances of his death, and the political transformation which was going on at that time, Cicero became the exemplary orator of Rome.

I have considered in this chapter a range of pressure points in oratorical identity, and the ways in which acute orators exploited them to attack their rivals and to protect themselves. In the final chapter I approach the question of the orator's identity from a different angle: the methods by which young men were turned into orators.

[76] Pierini (2003: 3–54).
[77] Steel (2005: 140–146).

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