Rhetoric in Cicero's *Pro Balbo*

An Interpretation

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Acknowledgments

Introduction

As Cicero's first extant forensic speech after Luca, the *Pro Balbo* was delivered during a momentous historical period in Rome.[1] The defendant was a highly influential political adviser of Caesar, who during the civil war was to become one of his right-hand men, and eventually the first non-Italian consul.[2] The rhetorical issues raised by the particular legal context of the *Pro Balbo* are significant, as it is one of only two extant speeches in which Cicero defends a person charged under the *lex Papia* for an illegal grant of citizenship. The *Pro Archia*, dealing with similar legal issues, has received more attention from scholars largely because of its encomium of the arts. The *Pro Balbo* also invites study because it is from a period noted for Cicero's richness and maturity of style.[3]

Despite these factors scant scholarly attention has been directed towards the speech. In the last quarter of the 19th century and the early 20th century, only four important works were devoted to the *Pro Balbo*. Jullien's dissertation (1886) focuses on the life of Balbus and examines the circumstances surrounding the speech, although it does not tackle the speech itself. Gasquy (1886) addresses the historical and biographical circumstances surrounding the speech, and certain issues regarding citizenship and treaties. But his historical discussion of the speech itself is descriptive rather than analytical.

Kaden (1912) deals primarily with the life of Cornelius Balbus and the question of citizenship, saving a rhetorical and stylistic discussion of the speech for the last twelve pages. Here he breaks up the speech into its divisions according to traditional rules, justifies his divisions, since in some cases they differ from those of his predecessors, and outlines the contents of each part. He then adds a brief stylistic discussion of some tropes and figures contained in the speech. There is no attempt to examine each part for what it contributes to the whole or to analyze how the individual sections fit together, or in the stylistic portion,

how style functions in relation to the rhetoric. Hoche's (1882) work deals mostly with Balbus' life, but also divides the speech into its rhetorical parts, giving a synopsis of each. This study, like Kaden's, does not provide much rhetorical analysis. There are also two commentaries, but these are only slightly more helpful: one by J. S. Reid (1890), the other by Cousin (1962). Both provide useful biographical and historical background to the speech, and grammatical notes. Cousin's also has a thorough discussion of the term *populus fundus*. But again stylistics is short-changed.

Historians tend to use the speech as a treasure trove of information on the citizenship issue while ignoring other aspects. For example, E. G. Hardy (1917) employs one particular section to prove that Italian communities, when franchised, became *fundi* to Roman law. Some scholars have turned to the speech to discuss specific laws mentioned by Cicero.[4] Others have searched for information on Rome's relations with and power over her colonies.[5] Brunt (1982) presents a more thorough examination of the legal issues as a whole in the speech. Both Goodfellow (1935) and Sherwin-White (1973) rely heavily upon the *Pro Balbo* for information regarding Roman colonial relationships and the granting of citizenship. The scope of scholarship directed towards this speech, therefore, has been very narrow, with focus on legal and historical issues. The lack of any substantial rhetorical or stylistic study is evident, yet surprising, since the *Pro Balbo* is certainly worthy of such study.

In the interval since the last studies of the *Pro Balbo* appeared, several useful approaches have developed in Ciceronian scholarship. The first is largely due to the work of Kennedy and May, who concentrate on the role of ethos in persuasion.[6] May examines the orator's artistic manipulation of ethos in a study of individual speeches from four periods of Cicero's life. By analyzing the different techniques Cicero employs in portraying ethos, and demonstrating how these techniques affect the overall argumentation of the speeches, May documents the important role of ethos as a persuasive tool. He also follows the development and changes in the portrayal of ethos, particularly in Cicero's portrayal of his own ethos, in response to changes in the circumstances of his own life.[7]

Another approach is that of Craig (1979). He examines the use of enthymemes in five Ciceronian speeches. His methodology is to analyze four aspects of rational argumentation: the premises which the hearer is meant to accept, the logical development of the argument, the effects of thematic resonance, and the arrangement of the arguments on the hearer's readiness to accept any given premise. On this basis, Craig analyzes each *argumentatio* on three levels: on the first, he examines the general structure of the *argumentatio* as a whole; on the second, the interrelation and arrangement of arguments for a given contention; and on the third, the premises, supporting points, and conclusions.

The third approach is that of Neumeister, Stroh, Classen, and Gotoff.[8] Their method of interpretation is prompted by a reaction to 19th-century Ciceronian scholarship, which they view as simplistic and unanalytical in its approach to rhetoric. The above scholars examine the compositional strategies of the orator in the light of persuasion, which they see as the prime function of forensic oratory.[9] Everything else in a forensic speech is subordinated to persuasion, including aesthetics. For example, an orator can use intentionally unbalanced proportioning of the speech parts or inelegant, rough diction, if it is useful to his goal of persuasion. Although they recognize the importance of ancient rhetorical theory in interpreting speeches, they rightly stress that theory is meant as a guide to the beginner, that is, as a sort of pedagogical convenience, not as a set of rigid rules for the accomplished orator.[10]

According to Neumeister, the orator proceeds from a few general principles, and these the interpreter must also adopt.[11] First, the orator must accommodate his speech to the audience (*inventio*),[12] then he must persuade his listeners step-by-step (*dispositio*).[13] Each part of the speech is built upon the preceding one, providing logical and psychological preparation for the following (*dispositio*).[14] The third principle is the deliberate concealment of this structure from the audience, since the orator does not want the audience to know that, let alone how, it is being manipulated (again *dispositio*).[15] The fourth principle is style, which greatly assists persuasion (*elocutio*).[16] It is used to explain thoughts clearly and also has suggestive forcefulness. The interpreter must examine the speech in the light of these four principles, and in particular discover the hidden structure, the techniques used gradually to persuade the audience.

In analyzing Ciceronian speeches, these scholars seek to clarify whether the arguments selected actually belong to the circumstances of the individual case or whether they are brought in for their particular effect and without regard for the actual legal aspects of the case. They analyze the order of arguments and discuss how the style, the structure of the sentences, and the diction support the attempt to persuade the audience.

Whereas Neumeister is interested in how the orator adapts his speech to the audience, Nisbet explores the other side of the issue: the response of the audience to the speech. This is particularly relevant to judicial speeches, where the correct audience response is vital. Nisbet combines a reader response approach with an emphasis on detailed reading and analysis of the text, regarding which, he rightly states: "Talk of literature too often loses sight of the words on the page."[17]

Although each of these methods focuses on one particular area of interpretation, they all offer a valuable means of analysis. In this study of the *Pro Balbo*, a speech which none of the above scholars discusses, I combine these modes of interpretation for a more integrated approach. In addition, I will emphasize the

function of pathos more than they do. By pathos I mean the type of argument whose purpose is to arouse an emotional reaction in the audience. Aristotle had already shown the importance of pathos as one of the three types of *pisteis*, and both Cicero and Quintilian believed that pathos was the most important of the three types of *inventio*.[18] Hence it deserves special scrutiny. In synthesizing the different but complementary methods of Kennedy/May, Craig, Neumeister/Stroh/Classen/Gotoff, and Nisbet, and focusing them on one speech, I aim to achieve a broader and more thorough understanding of the *Pro Balbo*.

I will examine the speech in respect to the kinds of arguments employed (*inventio*: ethos, pathos, and logos), the arrangement of the arguments (*dispositio*), and the style (*elocutio*). This follows the ancient divisions of rhetoric and provides the best methodology for tackling the rhetoric. Neumeister (1964), Classen (1985), and Kirby (1990) have employed this approach to interpretation: Neumeister subdividing these divisions into his four principles, Classen using different speeches to illustrate *inventio, dispositio,* and *elocutio,* and Kirby analyzing one speech.

In the chapter on ethos I examine the tactics Cicero employs in character portrayal and how they function to make character persuasive. The interrelation of the characters is also discussed, especially in terms of association and polarization. One of the major challenges facing Cicero in the *Pro Balbo* is to present Balbus' ethos in such a way that the *invidia* directed at him is diminished. One of the ways in which the orator achieves his goal is to focus the speech on Pompey by substituting him as defendant. Balbus is then associated as closely as possible with the general, while the prosecutor is presented as the antithesis to Pompey. Cicero dwells on Pompey's *auctoritas* and great military and (alleged) legal experience, which he contrasts with the ignorance and inexperience of the prosecutor. Cicero also avoids regenerating ill will against the defendant by universalizing and generalizing his praise of brave men who help Rome, rather than specifically praising Balbus too often. The Gaditans are also lauded as longstanding loyal allies of Rome, and again Balbus is closely associated with them. To rebut arguments that he is caving in to the "triumvirate," Cicero employs his own ethos to present an example of how the wise Roman, who wants to place the state before his own personal interests, should behave towards Caesar and Pompey. The remaining characters are minor ones: Crassus disappears after a brief laudation in the *exordium* since he is a peripheral player, the Gaditans are *exempla* of loyal allies, and Caesar is used to add prestige to Balbus through their friendship, and to arouse pity in the audience in the *peroratio*. The interrelation between ethos and pathos in this speech provides a greater understanding of the function of each. Often pathos is aroused through the use of character, as in the *digressiones* on Pompey and Marius.[19] Here intense feelings of admiration, and

in the Marius' case, longing, are stirred in the audience and mingled with strong feelings of patriotism. The mention of Caesar in the *peroratio* is meant to stir strong feelings of pity. In other instances Cicero works on emotions that are not related to ethos, as when he plays on the audience's fears of Rome's inability to find allies in times of grave national danger. The chapter on logos examines the structure of the syllogisms presented in the speech, with particular attention to premises and conclusions, especially unstated ones. Types of arguments are examined, as are techniques, such as universalization and association, both of which Cicero also employs in his "ethical" argumentation. Of special interest is the extent to which Cicero manipulates syllogisms to give the appearance of rational arguments.

The chapter on *dispositio* studies the placement of arguments and the manner in which the interrelations among ethos, pathos, and logos affect persuasion in the speech. Attention is directed towards the effect the position of arguments has upon the audience's acceptance of the premises and how the arrangement induces the audience to accept weak arguments.

The chapter on *elocutio* investigates the relation between style and rhetoric. Particularly important here is how the diction, sentence structure, and transitions help focus (and sometimes purposely to misfocus) and strengthen the arguments. The linkage between "ethical," "pathetic," and rational argumentation and style is examined, and also the use of style in the different parts of the speech. The final chapter contains my conclusions.

Since understanding of the rhetoric of the *Pro Balbo* will be enhanced by understanding of the background to the speech, I shall provide a brief explication of the situation, including the relationship between Pompey and Cicero, and Balbus' background. The trial took place in late summer or early fall of 56 B.C. Because Cicero refers to the *De Provinciis Consularibus* in the *Pro Balbo* (61), Balbus' trial obviously took place after that speech. No mention, however, is made of Pompey's and Crassus' consulships of 55 B.C., and Cicero doubtless would have mentioned such a fact as this, which would enhance Pompey's *auctoritas* with the audience.

Cicero's relationship with Pompey was long-standing, but not without its vicissitudes. It is likely that they first met each other in the early 90s B.C. in Rome, where their families lived in the same neighborhood,[20] and they likely served together in the *consilium* of Cn. Pompeius Strabo, Pompey's father, in 89 B.C.[21] There is evidence that they had personal contact with each other through mutual friends among the Terentii, the Pompeii, and Q. Mucius Scaevola, the Pontifex, and the Metelli.[22] It is also likely that Pompey and Cicero co-operated in 73 B.C. during the trial of Verres, in which several of Pompey's clients provided evidence for the prosecution.[23] Cicero and Pompey also possibly worked

together in favor of the praetor L. Aurelius Cotta's bill of 70 B.C. to divide the juries equally among the Senate, the Equites, and the Tribuni Aerarii.[24]

Cicero continued to support Pompey throughout the 60s. As praetor in 66 B.C., Cicero spoke in favor of the *lex Manilia*.[25] After Cicero's consulship in 64 B.C., during which he put down the Catilinarian conspiracy and took credit for saving the Republic, there was a cooling of the relationship between them on the part of Pompey, who was probably resentful and jealous.[26] The formation of the coalition, the so-called "First Triumvirate," in 60 B.C. among Pompey, Caesar, and Crassus further alienated Cicero from Pompey.[27] Caesar attempted to draw Cicero into the coalition, but Cicero remained cool to the idea. Then, in 59 B.C., while defending Antonius at trial, Cicero criticized the violence used by the coalition.[28] Immediately afterwards, with Pompey acting as augur and Caesar as *pontifex maximus*, Cicero's enemy Clodius was adopted into a plebian family.[29] This allowed him to run for the tribunate, which he did successfully in 58 B.C.. He alienated Pompey from Cicero by various machinations, and used his tribunate to exact vengeance on Cicero, by introducing a law that exiled anyone who put to death a Roman citizen without trial. The target of this legislation was Cicero, who had put to death the Catilinarian conspirators. Pompey abandoned Cicero, and Cicero went into exile. His exile lasted only one year; he returned with the assistance of Pompey.[30] In gratitude to Pompey, Cicero spoke in favor of a special command for Pompey over the grain supply.[31] By 56 B.C., it appeared that the coalition was breaking apart. Cicero tried to draw Pompey back into the arms of the Optimates, and proposed in the Senate on 6 April the repeal of the *lex Campana*, legislation which Caesar had introduced.[32] Cicero's plan was unsuccessful: the coalition did not fall apart. Pompey, Caesar, and Crassus renewed their agreement to work together at Luca. As a result of the meeting at Luca, Cicero was restrained by Pompey from further attacks on Caesar's legislation.[33]

Balbus had quite an illustrious career: after being enfranchised by Pompey, Caesar had appointed him *praefectus fabrum*, and later Balbus became Caesar's political adviser. Balbus, working for Caesar, attempted unsuccessfully to bring Cicero into a coalition with Caesar and Pompey in 59 B.C. (*Ad Att.* 2.33). While Caesar was in Gaul, Balbus mostly remained with him, but also made trips to Rome to look after Caesar's affairs there.[34] We know from the amount of time Cicero spends in the *Pro Balbo* on defusing *invidia*, that jealousy ran high against this foreigner, who had risen to the position of political adviser to one of Rome's most powerful political figures. It is possible that the charges against Balbus were proferred before Luca, when it seemed the coalition between Caesar, Pompey, and Crassus was disintegrating. With the collapse of the "first triumvirate," and Caesar far away in Gaul, perhaps enemies of Caesar and Balbus thought the latter would be an easy target. This scenario is tempting, but

since there is no solid evidence that this is in fact what happened, Cousin's suggestion that optimates, angered at Balbus for his suspected role in helping Caesar to draw Pompey away from them, were behind the charges is equally plausible.[35]

Pompey granted Balbus citizenship uder the *lex Cornelia* of 72 B.C., a law which allowed Pompey to confer individual grants of citizenship upon foreigners.[36] The charges were brought forward under the *lex Papia* of 65 B.C., by a Gaditan, who, as we know from a remark Cicero makes in the *Pro Balbo* (32), had lost his Roman citizenship. Under the *lex Papia,* procedures were established to determine the legality of citizenship grants, and foreigners could be expelled from Rome.[37] If the prosecutor won this case against Balbus, he would regain his Roman citizenship.

The legal issues of the case are whether Pompey had authority under the *lex Cornelia* to grant Balbus citizenship, since the *lex Cornelia* did not allow a grantor of citizenship to violate anything sacrosanct.[38] If the treaty between Gades and Rome was sancrosanct, and if the treaty did not allow a grantor to grant citizenship to a Gaditan without the consent of the Gades, then Pompey would have violated a sacrosanct treaty with Gades by conferring citizenship upon Balbus without Gades' sanction.[39] Cicero deals with this issue by arguing that Rome's treaty with Gades was not sacrosanct, since it had not been ratified by the Roman people.[40] Cicero also argues that even if the treaty were sacrosanct, there is nothing in the treaty that stipulates that Gades had to sanction a grant of Roman citizenship upon a Gaditan.[41] Moreover, the treaty did contain a clause which indicates that the treaty was not between equals, but between a superior (Rome) and inferior (Gades) state.[42] A second issue is whether Gades, as a state with a treaty with Rome, had to adopt (*fundus*) the *lex Cornelia* before a Gaditan citizen could obtain citizenship under that law.[43] Cicero handles this issue by arguing that *fundus* had nothing to do with whether a state had a treaty with Rome, since since some states without treaties with Rome had adopted Roman laws.[44] Cicero also argues that a foreigner who became a Roman citizen was no longer subject to the laws of his previous state, and in any case, by making Balbus *hospes,* Gades gave implicit acceptance of Balbus' Roman citizenship.[45]

It is hypothetical to speculate what the prosecutor's speech contained. As Quintilian and Alexander point out,[46] it is impossible to reconstruct a prosecutor's entire speech from a defense speech. However, a defense speech can contain useful information about the case for the prosecution, as Alexander also recognizes.[47] Given this caveat, it is possible that the prosecution's arguments focused on the Gaditans' alleged right to give consent and on Balbus' character.

The ill will against Balbus would have provided the prosecutor with plenty of ammunition, and it would have been foolish for a prosecutor not to take

advantage of this opportunity. Since Cicero rebuts at great length the consent argument, it is possible that this was one of the prosecutor's main arguments. Rebuttals of other arguments are almost non-existent, and if the prosecutor had made other arguments, Cicero probably would have acknowledged them, even if he did not elaborate on them.

It is unlikely that the prosecutor directed most of his speech against Pompey, as Cicero says he does, for several reasons. First, it would be foolish for the prosecutor to ignore Balbus who was a highly unpopular figure, and attack Pompey, who was generally liked. In addition, Pompey was a powerful figure, and as such more dangerous for the prosecutor to attack directly than Balbus. And finally, Cicero tells us (*Pro Balbo* 59) that in his speech, Pompey begged the prosecutor to attack him instead of his friend Balbus. Histrionics aside, if the prosecutor had actually spent his speech attacking Pompey, Pompey's plea for *miseratio* would have been rather ridiculous.

Cicero's speech is a fine example of forensic argumentation. The dominant form of argumentation in the *Pro Balbo* is "ethical" and consists of a defense of Pompey's character. The second major argument is legal and consists of a rebuttal of the proposition that the Gaditans had to give consent for the enfranchisement to be legitimate. These two main arguments are bolstered by other "ethical," "pathetic," and legal arguments, in particular the use of precedents and *exempla*. Cicero won his case and Balbus rose to even greater heights, backing Caesar and then Octavian in the civil wars, and eventually becoming Rome's first non-Italian consul.

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RHETORIC IN CICERO'S
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Chapter One
Inventio: Ethos

ARISTOTLE CONSIDERS ETHOS THE MOST IMPORTANT OF HIS THREE *entechnoi pisteis*.[1] Although primarily interested in the moral character of the speaker, he also discusses the characterization of a third party, and the character of the jury.[2] In order to persuade through character, Aristotle names wisdom, virtue, and goodwill as qualities necessary to make a speaker credible.[3]

In his *De Oratore*, Cicero more or less abandons the schema of analyzing speeches through their rhetorical parts, which he employed in *De Inventione*. Instead he adapts Aristotle's tripartite division of arguments, but replaces the Greek with Latin terms. In so doing he changes the emphasis of the terminology. Ethos becomes *conciliare*, stressing the goal of character portrayal rather than the content of this type of argument.[4] This is not to say, however, that Ciceronian ethos is solely limited to focus on the audience. Wisse convincingly argues that Ciceronian ethos can also focus on the speaker or client, and less frequently, on the material of the speech.[5] Cicero's conception of character as expressed in *De Oratore* is somewhat different from Aristotle's.[6] Whereas Aristotle wanted the speaker to present his character in such a way as to render it credible, Cicero is more interested in using character to sway the audience.[7] Thus in *De Oratore* character depiction appears as a form of (mild) "sympathetic" emotional appeal, calculated to win the goodwill of the audience (2.178; 2.212).[8]

Since character already played such a large role in Roman politics and oratory, Cicero's adoption of the Aristotelian approach to ethos as one of three major argument types found throughout a speech fit in naturally with traditional Roman forensic practice.[9] In a society that so highly respected tradition, important ancestors, and authority, character portrayal was a potent force for persuasion.[10] As May phrases it: "The Roman respect for an individual's rank,