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Jonathan Powell, Jeremy Paterson, *Cicero the Advocate*. Oxford: Oxford University Press, 2004. Pp. xi, 448. ISBN 0-19-815280-9. \$150.00.

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'Cicero the Advocate -- he's back, he's bad, and he's taking names!'

Or so the voice-over for the trailer would growl, if this surprisingly feisty volume were a summer blockbuster coming to a movie screen near you, not the scholarly product of a sedate and distinguished academic press. Not quite a decade after his collection *Cicero the Philosopher* helped make 1995 a watershed in the re-evaluation of that portion of the oeuvre, Jonathan Powell has joined with Jeremy Paterson (still his colleague at Newcastle when the volume was conceived) to produce a worthy successor. The standard maintained is uniformly high, and excellence is not uncommon. We can hope that Oxford will provide a paperback version sooner rather than later, at a price teachers and even their students can actually afford.

Cicero the advocate has never been ignored in quite the same way as Cicero the philosopher; accordingly, the editors (hereafter P. and P.) and their contributors write to file a different brief -- not to demonstrate that the texts are worthy of attention, but to encourage us to give them the right kind of attention. P. and P.'s long and often polemical introduction (1-57), which does much to raise the volume's feistiness-quotient (as well as to increase its length), is especially insistent on this point: any discussion of a forensic speech must at least start from the premise that it is an exercise in 'practical advocacy' (thus P. and P.'s 'manifesto', 9) through which Cicero aims to persuade one or more judges who are concerned -- in principle and commonly in practice -- to find for or against a defendant according to the facts and the law. Any other aspect of the speech -- its status as an artfully wrought verbal construct, as a move in a larger political game, as a pose struck to claim a certain social status or gender role -- must be understood with reference to the immediate, practical goal the speaker aims to achieve for the person he represents. In general terms, it is difficult to disagree: to take a speech with which I have lately been much occupied, the *pro Sestio*, it is perfectly clear to me that the speech has been seriously misunderstood, in several different ways, both because its relation to the charge it addresses has been misunderstood (though here the work of Andrew Riggsby, especially, has helped enormously) and because scholars became accustomed to treating its best-known segment -- the so-called excursus on *populares* and *optimates* -- as a freestanding 'political program' or 'manifesto' (a hollow and pitiable thing it would be, if it were simply that!), without reference to the strategy that guides Cicero's thoroughly practical advocacy in the speech. But, perhaps because P. and P.'s premise seems so clearly right-headed to me, I find myself wondering whether there really are enough wrong-headed others 'out there' to require the heat and force that P. and P. generate in their otherwise-substantively-helpful introduction.

Be that as it may, the editors' focus on advocacy, beyond placing the stress where it most belongs, has two further benefits. First, by being thus specific the focus differentiates this

collection from another recent, very useful collection with which it might at first sight seem to compete or overlap, *Brill's Companion to Cicero: Oratory and Rhetoric* (Leiden 2002), edited by James May. Because the latter embraces all forms of Ciceronian oratory, and the *rhetorica* too, and because its treatment of the oratory is organized chronologically (on the organization of the present volume, see just below), there is in fact remarkably little overlap (only two scholars -- Christopher Craig and Andrew Riggsby -- contributed to both, writing on different topics in each). Second, the stress on advocacy provides the contributors with a clear target on which to concentrate their fire, and overall they rise admirably to the occasion.

The collection's two parts -- 'Themes' and 'Case Studies' -- are well conceived, and complaining that neither has all that one might hope ('if "Themes" embraces perorations, why not exordia too?') would be foolish. In the first section the authors range widely over the corpus of forensic speeches in pursuit of their chosen themes. Andrew Lintott, on 'Legal Procedure in Cicero's Time' (61-78), Jill Harries, on 'Cicero and the Law' (147-63), Michael Winterbottom, on 'Perorations' (215-30), have all written crisp, accessible, and wonderfully lucid treatments -- the latter two with more than a touch of panache -- and have each of them given grateful teachers resources to which they can direct students who need a brief and reliable orientation on these subjects. Three other chapters are related by virtue of the fact that they share a concern with character. In 'Self-Reference in Cicero's Forensic Speeches' (79-96) Jeremy Paterson addresses one of the most salient features of Cicero's advocacy -- the fact that Cicero's favorite subject so often seems to be Cicero himself -- and argues, cogently overall, that this habit of self-reference, for all that it departs from modern canons of advocacy 'was a response to the nature of advocacy at Rome and its origin in patronage, where the influence of the patron was the heart of the system' (94). In 'Audience Expectations, Invective, and Proof' (187-213), Christopher Craig takes up a subject that has received much attention and gives it a new twist, ably arguing that whereas Cicero selected the garish hues of his invective from a largely conventional palette, he did not apply them slapdash in his forensic advocacy but chose them 'in a highly selective and disciplined way that subordinates the invective goal of humiliating an enemy [appropriate to deliberative oratory or to non-forensic forms of adversarial speech, e.g., the *altercatio*] to the need to make arguments of probative value in a judicial context' (212). Andrew Riggsby, for his part, gives a characteristically rich treatment of 'The Rhetoric of Character in the Roman Courts' (165-85), asking first whether the Romans mostly believed that adult human character is a fixed entity, then applying the answer (yes) to the use of character as an element of argument in forensic oratory, before concluding by briefly considering the influence of this dominant belief on the reception of the Aristotelian conception of rhetorical ethos. In another contribution in this section Kathryn Lomas helpfully draws together much information relevant to the sociology of Cicero's advocacy by surveying 'Cicero and his Italian Clients in the Forensic Speeches' (97-116).[1](#)

In the collection's second main section, by contrast, each author has chosen a single speech on which to concentrate, and each approaches the chosen text from an angle that throws different light on Cicero's advocacy. Catherine Steel, in 'Being Economical with the Truth: What Really Happened at Lampsacus' (233-52), uses *Verr. 2. 1. 63-67* to show very nicely how the set of facts Cicero narrates to implicate Verres in judicial murder could -- with no straining or twisting at all -- be made to yield a narrative that shows Verres behaving as a responsible Roman abroad. Lynn Fotheringham, in 'Repetition and Unity in a Civil Law Speech: The *Pro Caecina*' (252-72),

shows how Cicero uses verbal repetition to insinuate the structure of a speech, and how grasping the structure helps the audience to grasp the speech's strategy. Christopher Burnand's 'The Advocate as a Professional: The Role of the *Patronus* in Cicero's *Pro Cluentio*' (277-90) takes the speech to present 'an important window onto [the] semi-professional world' that advocacy had come to constitute by the late Republic. D. H. Berry's 'Literature and Persuasion in Cicero's *pro Archia*' (291-311) convincingly argues that the famous 'defense of literature', which comes to dominate the speech in a way that seems irrelevant to the matter at hand, in fact very cannily gauges its audience, the better to support the second contention that Cicero must defend (viz., that even if Archias' claim to citizenship could not be shown to be sound according to the letter of the law, he would deserve to be received as a citizen nonetheless). Wilfried Stroh -- than whom *nemo est qui melius de Cicerone patrono hisce triginta annis meruerit* -- contributes a long essay on '*De Domo Sua: Legal Problem and Structure*' (313-70) that is illuminating and exasperating in almost equal measure (in my case, the balance tipped toward exasperation: see below). And Jeffrey Johnson (full disclosure: a former student of mine), in 'The Dilemma of Cicero's Speech for Ligarius' (371-99), shows how in this difficult speech, delivered before Caesar as single judge, Cicero frames his defense as a double argument (in effect: my client is not guilty, and even if he is, he deserves to benefit from Caesar's noted *clementia*) intended to achieve a good outcome no matter which way Caesar inclines.

Though each of these essays is quite distinct, there is one recurrent theme that runs through them, and indeed through the first section's chapters too: the degree to which Cicero will be 'economical with the truth' in pursuit of his goal as advocate. More than a few readers of this review will also have noticed this trait in Cicero, of course, and it is no more than we should expect, given the character of ancient rhetorical education, and especially the character of declamation, which Cicero practiced far into his adulthood. As is well known, it is one of the rules of the declamatory game that the 'facts' posited in a given theme cannot be altered for the sake of one's argument: if a *controversia*, say, proceeds from the demise of X, it is not open to a speaker arguing one side or the other to 'reveal' that X is actually alive and well and living in Volaterrae. On the other hand, the speaker is certainly permitted, in fact encouraged, to bend, pare, twist, and spin the facts so that the 'back story' they form reveals that X, by God, deserved to die. The spin given the facts in a way useful to one's side is called a *color*, a label that derives -- according to one charming etymology (Quint. 4. 2. 88) -- from the blush that such spinning threatens to bring to the speaker's cheeks. Though so much of his oratory depends on such 'colors' -- on being 'economical with the truth', on vigorous *suggestio falsi* joined with energetic *suppressio veri* -- it is safe to say that blushing before the judges was not among Cicero's afflictions. Given that this is so prominent a feature of his advocacy, I would have welcomed more direct engagement with it in P. and P.'s introduction; in any case, it is a bit surprising to see them warmly endorse (27) a statement by John Crook -- 'the fact is that in no instance do we know for certain that Cicero . . . was alleging fact . . . that he knew to be false'² -- which can itself be regarded as true only if we construe 'for certain', 'alleging', and 'fact' as finely as Bill Clinton construed the verb 'is'.

The collection is rounded off by an Epilogue, 'Cicero and the Modern Advocate' (401-16), in which John Laws (Lord Justice Laws), a Judge of the Court of Appeal, picks up a theme already strongly represented in P. and P.'s introduction, engagingly and helpfully treating the similarities and differences in the realms of both ethics (see just above) and art. There follows, in an

Appendix, a useful 'Chronological List of Cicero's Known Appearances as an Advocate', and back matter of the usual sort (bibliography, index of passages, general index).

Of course any given reader will have quarrels or, if not quarrels, nits to pick with any given chapter, and if I have avoided doing so, it is only partly for reasons of length: picking on some without picking on all would seem churlish, and as I have already suggested, the overall quality is such that universal picking did not seem called for. If I have one general criticism, it is that the editors could, in some consequential ways, have been more active *qua* editors. A small but significant example: in some of the chapters, quoted extracts (of course there are many) are given in both English and Latin, in some in English only, and in (I believe just) one, in Latin only. On a different level, two of the essays clearly merited, and would have benefited from, more extensive editorial coaxing or cudgeling. If I have not mentioned before now the essay by David Levene included in the first section, it is, alas, because it falls under the heading Most Intelligent Paper With Virtually No Bearing On The Volume's Stated Theme: called 'Reading Cicero's Narratives' (117-46), it is almost wholly concerned with reading -- specifically, the difference between being a reader of a published speech and a hearer of the speech as delivered, and how that difference bears on certain tenets of ancient rhetorical theory -- and has next to nothing to say about Cicero's advocacy as such or about his use of narrative to achieve his practical goals. It would have been a favor to all concerned had P. and P. urged so able a scholar to address more directly a topic that -- given Cicero's adroitly 'spun' narratives -- is not insignificant. It would have been an even greater kindness if a good deal of brisk editing had been visited upon Wilfried Stroh's paper, which -- and I say this with all respect -- falls under the heading Most Intelligent Paper That Is Also Nearly Unreadable. Its treatment of the very difficult legal issues in the case and the way both Clodius and Cicero responded to them is always astute and often cogent.³ But my goodness: the garrulity and self-indulgence on display make it suitable for the young only as a negative example. At fifty-eight pages it is two to three times the length of the other chapters; and if it reads much longer than its fifty-eight pages, that is because -- with many pages bearing many more words in the notes than in the text -- it is in fact much longer (connoisseurs will perhaps be reminded of '[The World's Greatest Law Review Article](#)'). The notes themselves are dense, discursive, and commonly tangential or polemical or both: if anyone from F. A. Wolf on down has made a statement bearing on *De Domo* that Stroh considers incorrect or (a favorite) 'incomprehensible', no matter how inconsequential, it is bound to be registered somewhere in the notes, with the miscreant duly spanked and set straight. Honestly: trying to track the text's complex argument while working through such notes is like using half of one's brain to work an intricate puzzle while using the other half to monitor the behavior of a terrier on speed. A text half as long with one quarter the number of notes would, again, have been a favor to all.

But to end on a positive and forward-looking note: now that we have Cicero the philosopher and Cicero the advocate, what comes next? Cicero the poet seems unpromising, since there probably is not enough there there. But Cicero the correspondent? That would be another book worth waiting for.

Notes:

1. The chapter's full title is 'A Volscian Mafia? Cicero and his Italian Clients in the Forensic Speeches': since most of the Italian clients surveyed (99-110) hail from Etruria and the regions

north of Rome, not southeast Latium, I confess I haven't a clue why that question heads the title (most of the 'Volscian' town names that adorn the map on p. 96 are connected with a single speech, *pro Plancio*).

2. *Legal Advocacy in the Roman Empire* (Ithaca 1995), 140.

3. Unfortunately, it was written without access to W. Jeffrey Tatum's exceptionally able discussion in *The Patrician Tribune: Publius Clodius Pulcher* (Chapel Hill 1999), esp. 156-66, 187-93.