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THE POLITICAL CONTEXT OF CICERO'S ORATION *DE DOMO SUA*

1. *Introduction*

Cicero was exultant over his speech *De domo sua*, but most modern readers have not been so impressed¹. The speech is unusually long, and is filled with vigorous invective and vitriolic ranting, but it has less of the wit, urbanity, and conspicuous artistry which make other Ciceronian invectives so entertaining. It does not correspond especially well to normal conventions of rhetoric in its organization, and in fact, at least the first third of the speech seems to be entirely irrelevant to the case at hand². In introducing his translation of the speech, the Loeb translator chooses to offer an outline, explaining: «it will be advisable for the reader to have a summary to guide him through this diffuse and disordered speech»³. A few scholars even thought the speech to be an unworthy forgery⁴. Why, then, was Cicero so pleased? In short, because he did not write it for us. *De domo sua* resulted in a verdict in Cicero's favor, but it is also an exemplar of oratory as immediate political intervention, perhaps not timeless but certainly timely: its unusual organization and tone address the political exigencies of the occasion on which it was delivered. The speech is composed and structured to address potential disadvantageous prejudices among the audience, and then to evoke new, advantageous ones. As such, I argue, the oration was indeed a success.

De domo sua was delivered in September of 57 BCE, after Cicero had returned triumphantly from exile (literally, by his own account in *Att.* 4,

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¹ Nisbet 1939, xxviii-xxxiv; Stroh 2004, 15; Scheidegger-Lämmle 2017.

² MacKendrick writes of *De domo sua* «it must be conceded that Cicero uses rhetorical exuberance (a) to conceal the fact that two-thirds of the speech is off the point, and (b) to overwhelm the auditory into granting him what he asks» (MacKendrick 1995, 176).

³ Watts 1935, 132-133.

⁴ Nisbet 1939, xxx-xxxii.

1, 4-5). Clodius had driven him out of the city in 58 BCE under the threat of capital punishment, on the grounds that Cicero had acted illegally and tyrannically as consul in 63 BCE, in presiding over the execution of the Catilinarian conspirators without trial. Clodius thus framed Cicero's departure as an admission of guilt, a toppled tyrant's flight into exile. To commemorate the liberation of the city from Cicero's alleged tyranny, Clodius seized Cicero's house on the Palatine, destroyed it, and dedicated the site as a temple to *Libertas*. When Cicero returned, he was naturally eager not only to reclaim his property but to counter this propagandistic use of the site. He had to appeal to the *pontifices*, an elite college of priests who were mostly his colleagues in the senate as well⁵, to deconsecrate what was now a temple. He succeeded in convincing the *pontifices* to restore his property to him, and wrote to Atticus: «I gave a speech to the *pontifices* the day before the Kalends of October. The case was made incisively by us, and if we ever amounted to anything in oratory, or even if we never did before, the magnitude of our distress in that moment still certainly gave us some force in speaking» (*Att.* 4, 2, 2). Thus, pleased with his oration and its success, he asked Atticus to circulate a written version of the speech immediately to «our young followers» (*iuventuti nostrae, ibid.*).

In persuading the *pontifices* to restore his property, Cicero faced two main obstacles. The first was the new religious sanctity of the site, and Cicero's strategies in addressing that obstacle have been documented in existing secondary literature⁶. The second obstacle was political, and more complicated, having to do with the sympathies of the *pontifices*. Cicero's relationship with Pompey the Great, as I will explain, threatened to alienate him from the senatorial elite, who regarded the great man with suspicion⁷. Cicero's solution was to construe the case *De domo sua* as the latest battle in a war between pro-senate *optimates* and anti-senate *populares*, and thus to align himself with the *pontifices* against a common enemy: the *popularis* Clodius. «On this day you must decide whether you prefer henceforth to strip insane and ruined magistrates of the support of dishonest and criminal citizens, or to go so far as to arm them with the sanction of the immortal gods» (*dom.* 2), he declares from

⁵ Nisbet 1939, 65; cf. Taylor 1942.

⁶ Bergemann 1992, 3-85; Berg 1997; Lisdorf 2005; Lennon 2010; Gildenhard 2011, 299-326; Bergemann 2015; Neel 2015; Kenty 2016, 446-449.

⁷ Stockton 1962, 482.

the outset of his oration, displacing focus entirely from himself to Clodius. Cicero's invectives against *populares* in this and other speeches allow him to put on a show of rhetorical force, and to give a particular case broader importance. While individual *populares* were real historical actors, the idea that they formed any sort of political party has been rejected by most modern historians⁸, and Clodius-as-*popularis* in this speech is better understood as an instantiation of a rhetorical trope. Cicero uses all the tools at his disposal to convince the *pontifices* that he, Cicero, is a safe, traditional, conservative servant of the senate's authority, while siding with Clodius would validate all that is problematic about Roman politics in this period. I focus on three distinct sections of the speech: what I will call the *exordium* of the speech, which I take to be the first third of the oration; the distinction introduced between a "true" and a "false" *populus*, aligned with Cicero and Clodius respectively; and Cicero's final argument about the symbolic import of his house.

2. Cicero's *exordium* and the grain crisis

In arguing his case for recovering his house and property on the Palatine, Cicero began not by speaking about the house at all, but with a digression to discuss violent food riots which had taken place weeks before. Cicero's *exordia* typically last a few paragraphs, and are designed to catch his audience's attention, to establish a rapport between them and the orator, and to introduce the subject and circumstances of the oration in a favorable manner (see e.g. Cic. *inv.* 1, 17; *de orat.* 2, 80; 2, 315-325; *part.* 28-30). They provide an explanation as to why Cicero is speaking for a particular client, or advocating a particular course of action. In *De domo sua*, by my reckoning, this part of Cicero's scheme lasts not for a few paragraphs, but until section 31 of the speech⁹. Cicero announces explicitly that he is going to deviate from the case and his oration to address Clodius' criticisms (3), and when he has done so, he marks the shift back to the topic at hand by apologizing for his digression (32, translated below). Nisbet notes that «the modern reader is surprised that Cicero

⁸ Meier 1966, 116-150. Useful summaries of the debate can be found in Morstein-Marx 2004, 204-205; Hölkeskamp 2010, 7-9; Robb 2010, 11-33; Mouritsen 2017, 115; Steel-Gray-Blom 2018, 3-4.

⁹ Nisbet 1939, 69 prefers to see this section as taking the role of the *narratio* rather than the *exordium*.

should begin at such a distance from his subject», but that this gives the speech an air of spontaneity and “artlessness” from the outset to modern readers¹⁰. The entire passage also lays crucial groundwork for the rest of the oration, in the context of the political events in the days and weeks leading up to the speech.

Shortly after his return from exile, Cicero had proposed that Pompey be granted an extraordinary command over the grain supply, in order to resolve a growing food crisis. Clodius took issue with this proposed extraordinary command and argued that Cicero’s new “friendship” with Pompey would drive a wedge between him and the senatorial elite (*dom.* 4)¹¹. The senatorial elite had long viewed Pompey, and his prodigious series of extraordinary commands, with suspicion¹². Cicero denies that any such alienation has taken place, but he also goes a step further to deflect suspicion from himself. He argues that Clodius’ pretended concern for the senate and legal precedent is a false argument made in bad faith, for it was none other than Clodius himself who had instigated the food riots and almost prevented Cicero from leaving home to make his proposal in the senate: «it was clear that your slaves, prepared for the slaughter of good men by you long before, had gone to the Capitoline with that gang of criminals and ruined men of yours, with you. When I was told this, know that I stayed at home and did not give you and your gladiators the opportunity to begin the slaughter» (*dom.* 5-6). His designation of Clodius’ supporters as a gang (*manus*) of slaves likens this riot to a slave revolt, a terror constantly looming over Rome, as does labeling them gladiators, which identifies them as mercenary soldiers capable of murder for the right price¹³. The implication is that Clodius poses a greater danger to the senate than does Pompey.

¹⁰ Nisbet 1939, xxvi.

¹¹ Tatum 2014, 185-192. Stroh, who reconstructs Clodius’ speech *de domo Ciceronis*, suggests that Clodius was parodying Cicero’s own *post reditum* speeches as he «contrasted the (oh! so hot) yearning of the Optimates for their Cicero with the latter’s despicable change of attitude» (Stroh 2004, 333); cf. Nippel 1988, 124-125. On the politics of the command, see Lintott 1967.

¹² «Late Republican politics did not fall neatly into two hostile camps. The dynamics of the process is best seen through the nobiles’ initial cooperation and then growing disenchantment with Pompey» (Gruen 1969, 73). See also p. 294: «The unity exhibited in effecting Cicero’s return did not, of course, endure. The demonstration had served its purpose – the chastening of Clodius. But Pompey’s relations with the *nobilitas* continued to deteriorate». Cf. Kurczyk 2006, 222 on this speech. See also *Att.* 4, 1, 7. On Cicero’s proposal and the prelude to *De domo sua*, see Nisbet 1939, xxii; Mitchell 1969, 312-315.

¹³ Cf. Gruen 1974, 436; 440-441; 444-447; Favory 1976, especially the study of Cicero’s language in describing Clodius’ partisans at 129-138; and on the reality behind Cicero’s rhetoric, Flambard 1977; Tatum 2014, 179-85; Russell 2016.

Cicero's claim to have avoided the forum until the rioting was over shows his eagerness to separate himself from the mob and from Pompey, while his fearmongering polemic against Clodius' tactics distracts his audience from the question of his relationship with Pompey altogether. Stroh proposes that in reality, this angry crowd would have been friendly and not antagonistic to Cicero: grain prices had fallen when Cicero returned from exile (*p. red. ad Quir.* 18), and his proposal to have Pompey take over the grain supply was a popular one, so that Cicero effectively represented «the hero of the rabble» and «had nothing to fear» in this scene of violence¹⁴. This depiction of Clodius as an instigator of political violence is also consistent with Cicero's characterization of him and of Catiline in earlier speeches, and indeed with his characterization of other *populares* of the first century¹⁵. He claims that they stir up violence for its own sake, merely for the love of sedition and the selfish hope that chaos will create opportunities for them¹⁶. He routinely calls certain *populares* tumors, pests, and furies to deny their political legitimacy¹⁷. Treating Clodius as a «lucky Catiline» (*dom.* 72) evokes Cicero's political triumph in 63, and undercuts Clodius' attempt to portray himself as looking out for the *pontifices'* interests. Blaming Clodius for the food riot is thus an attempt to alienate Clodius from the *pontifices*, and to restore Cicero to their good graces despite his new connection to Pompey. In addition, by patterning his portrayal of Clodius on this *popularis* type, an established rhetorical trope, Cicero depicts Clodius not as an individual actor but as part of a larger pattern, and one which threatens the republic itself.

As Cicero goes on to describe the riots themselves, he continues to try to lay blame squarely on Clodius. The food riot may really have been spontaneous and unplanned; even Cicero admits that the grain shortage was responsible for causing general unrest (12). However, he claims that men acting as Clodius' proxies were not just in the right place at the right time, but must have been waiting for their chance to initiate and

¹⁴ Stroh 2004, 333.

¹⁵ Hellegouarc'h 1963 vol. 1, pp. 506-565; Mitchell 1969, p. 310; Tracy 2008-2009; Robb 2010, 35-94.

¹⁶ Seager 1972; Bennett 1995, 195-119; Robb 2010, 146-150; Seager 2014 on Clodius in particular; Tiersch 2018.

¹⁷ «Tumor» (*inguen*) *dom.* 12; (*struma*) *Sest.* 135; «pest» (*pestis*) *p. red. in sen.* 16-17; *dom.* 5; 26; 72; 99; *har. resp.* 46; *Sest.* 33; 43; 146; «furies» *dom.* 99; 102; *har. resp.* 11; 39; *Sest.* 33; 39; 109. Cf. Lennon 2010, 431-432.

direct a riot for their own seditious purposes. He narrates a riot in which a consul, Metellus, was hit by flying stones, a riot perhaps started by Clodius' friends on Clodius' orders, or so Cicero implies. Two men were identified by Metellus as the perpetrators, both known associates of Clodius and known for endorsing violent acts in the past. Cicero thus demands (*dom.* 13):

cum tu in annonae caritate in consules, in senatum, in bona fortunasque locupletium per causam inopum atque imperitorum repentinos impetus comparares, [...] cum desperatis ducibus decuriatos ac descriptos haberes exercitus perditorum, nonne providendum senatui fuit ne in hanc tantam materiem seditionis ista funesta fax adhaeresceret?

When you prepared sudden attacks in the middle of a grain shortage on the consuls, the senate, the goods and property of the rich, under the pretext of helping the poor and ignorant, [...] when you had mustered and marshalled armies of ruined men commanded by desperate leaders, don't you think the senate had to ensure that that toxic torch should not light up such a wealth of fuel for sedition?

Cicero thus unequivocally renders a potentially leaderless mob as a Clodian army. In reality, Metellus may have been merely caught in the crossfire of a spontaneous riot, but Cicero produces an elaborate conspiracy theory in which Clodius had managed (and indeed paid for) the entire spectacle. This gives Cicero a chance to bewail the state of politics with an emotional, alliterative tricolon. Haranguing Clodius thus enables Cicero to escalate the intensity of his oration with grandiose metaphors and vivid, stirring language, what Wooten calls his disjunctive rhetoric of crisis¹⁸.

Cicero is also describing this scene in order to (implicitly) justify his own endorsement of Pompey and his proposal that Pompey should receive an extraordinary command over the grain supply, to resolve the emergency. In proposing Pompey take command, Cicero was not flattering the dynast but putting out a political fire on the senate's behalf, before Clodius' *funesta fax* could cause further damage. Cicero quotes Clodius as arguing against extraordinary commands in principle, because they concentrate power and resources in the hands of a single in-

¹⁸ Wooten 1983; cf. Duplá Ansuategui 2017.

dividual and cause an imbalance in republican politics (18-19)¹⁹. On its face, this would be a sensible political argument. Coming from Clodius, however, Cicero argues that it is mere sophistry and hypocrisy, and that Clodius would have distributed extraordinary commands at will if it served his project of fomenting violence and anarchy (*dom.* 24):

si quae tum in illis rei publicae tenebris caecisque nubibus et procellis, cum senatum a gubernaculis deiecisses, populum e navi exturbasses, ipse archipirata cum grege praedonum impurissimo plenissimis velis navigares – si quae tum promulgasti constituisti promisisti vendidisti perferre potuisses, ecqui locus orbi terrarum vacuus extraordinariis fascibus atque imperio Clodiano fuisset?

If you had done something at that time, in that time of darkness and blinding clouds and hurricanes, when you had ejected the senate from the helm, thrown the populus out of the ship, and were proceeding under full sails like a pirate king with a foul band of raiders – if you had been able to effect what you proposed, established, promised, sold at that time, would any place in the world have been free of extraordinary fascis and Clodian rule?

Cicero's strategy in rebuttal is to accuse Clodius of doing (or trying to do) exactly what Clodius had already accused him of doing, of imposing «extraordinary *fascis*» on every part of the world. In arguing against extraordinary commands, Clodius had claimed to be upholding traditional republican principles, as (for example) Catulus and Hortensius had against the *Lex Manilia* a decade earlier (*Manil.* 51-52; 59-60); Cicero responds by reminding his audience of Clodius' record of violence and sedition, of overpowering the rightful helmsmen and «sailors» on the ship of state. His sensationalist amplification of Clodius' tribunate and depiction of Clodius as a «pirate king» in that year adds rhetorical force to this rather weak rebuttal, as does the accusatory asyndeton, and it cannot be a coincidence that Pompey had famously defeated the pirates of the Mediterranean also. The implication is that Clodius will be the next target to fall before Pompey's power, when his attempt to establish a «Clodian empire» (*imperio Clodiano*) fails.

Only after having conducted his counterattack on Clodius does Cicero then acknowledge and even celebrate his friendship with Pompey as a

¹⁹ On the controversy over extraordinary commands, see Gruen 1974, 434-443; Arena 2012, 179-199.

positive force²⁰. Had he done this before addressing Clodius' claims, he might only have added to the *pontifices'* ill will, already stoked by Clodius. Even after laying some defensive groundwork, he is cautious, and begins in a way that suggests his independence from Pompey: «I'm going to tell you, while [Pompey] is in the audience, what I felt then and feel now, no matter how he'll react to what he hears» (*quoquo animo auditurus est*, 25). He explains that he and Pompey had been estranged from each other at the time of Clodius' tribunate, by Clodius' own design, and that this contributed to Clodius' success in driving Cicero into exile, but that he and Pompey have happily reconciled (25-31)²¹. After all these apologetics, he concludes: «I understand, *pontifices*, that I have said more in a digression from the case than expectation or my own inclination allowed, but I was eager to be exculpated in your eyes, and in addition, your kindness in listening attentively to me also sustained my speech» (32).

Cicero's reaffirmation of his own political principles and of his sympathy with the senatorial *pontifices* is a necessary prelude to the case itself. An orator must establish a good rapport with his audience in his *exordium* if the rest of his speech is to have any effect whatsoever; in essence, this entire digression on Pompey – a fifth of this very long speech – has done the work of that *exordium*, attempting to generate the “kindness” which Cicero claims as a fact here. The *pontifices* may have hoped to restore the senate's authority by recalling Cicero, but some may have been disappointed that the orator then detracted from that authority himself, in their view, by proposing a command for Pompey (as implied at *dom.* 4). This would have made them reluctant to restore Cicero's house when the case began, lest that be interpreted as a sign of favor for Cicero's friend Pompey as well. Clodius did his best to frame the case in these terms, and to stir up feelings of resentment and hostility among the *pontifices* toward Cicero. However, Cicero provides an alternative frame: restoring Cicero's house is not a vote for Pompey, he argues, but a strike against the *populares*, a rejection of their immorality and violence, to reaffirm Roman values. In order to counteract any damage to his own reputation caused by Clodius' insinuations about Cicero's closeness with Pompey, Cicero attacks Clodius' own character and sincerity as a speaker. Clodius, he argues, is not trying to warn the jury about a legitimate threat to political stability, but trying to create a scan-

²⁰ Cf. Hodgson 2017, 154-158.

²¹ Kurczyk 2006, 220-223.

dal where there is none, in order to create ill will among the jury towards Cicero. Cicero, for his part, is also trying to create a scandal where there (probably) is none by blaming Clodius for the food riots, in order to create even greater ill will among the jury towards Clodius. This part of the speech is no timeless manifesto of political ideology, but a nuclear, direct intervention in how contemporary observers understood political cause and effect in this specific situation.

At long last, Cicero then moves on to the case itself, promising to prove three points (outlined at 33; 137): that Clodius' authority was illegitimate, that private property could not be dedicated by the means Clodius used, and that Clodius did not follow the proper ritual process in dedicating the house.

3. *Cicero's exile and return*

Clodius has used the rededication of Cicero's house to cast Cicero as a tyrant and his departure from the city as an ignominious exile, imposed lawfully by a vote of the people. Cicero refutes every part of this narrative: he was not a tyrant, his exile was not ignominious, Clodius' law was not legitimate, and Cicero, not Clodius, was the truly popular politician. In fact, he argues, Clodius' law actually turned out to have a positive impact on Cicero's reputation in the long run, because his recall and return were so spectacular. First, Cicero offers concrete, visible proof of his own popularity. In *De domo sua*, as in several other speeches (*Sest.* 130-132, *Pis.* 51-52, and shorter passages in the *post reditum* speeches), Cicero narrates his return with great drama (*dom.* 75-76):

Nam quid ego illa divina atque immortalia municipiorum et coloniarum et totius Italiae decreta commemorem, quibus tamquam gradibus mihi videor in caelum ascendisse, non solum in patriam revertisse? [...] adventus meus atque introitus in urbem qui fuit? Utrum me patria sic accepit ut lucem salutemque redditam sibi ac restitutam accipere debuit, an ut crudelem tyrannum, quod vos Catilinae gregales de me dicere solebatis? Itaque ille unus dies, quo die me populus Romanus a porta in Capitolium atque inde domum sua celebritate laetitiaque comitatum honestavit, tantae mihi iucunditati fuit ut tua mihi conscelerata illa vis non modo non propulsanda, sed etiam <excitanda>²² fuisse videatur.

²² Halm's emendation, accepted by Nisbet and Peterson, for *emendanda* in most manuscripts; Maslowski's Teubner reads *commendanda*.

For why should I recall those divine and immortal decrees of the municipia, the colonies, and of all Italy, the steps (as it were) on which I seem to have ascended to heaven, and not just returned to my homeland? [...] What kind of approach and entrance into the city did I have? Did my homeland welcome me as she ought to have welcomed light and health returned and restored to her, or like a cruel tyrant, which you Catilinarian followers used to say I was? Therefore, that single day, when the Roman people honored me with their company and their rejoicing from the city gate to the Capitoline and then to my house, brought me so much pleasure that your wicked attack on me did not only seem to me not to be worth resisting, but actually seemed worth provoking.

In this return narrative, as in others (*Att.* 4, 1, 4-6, *Sest.* 130-132, *Pis.* 51), Cicero stresses four aspects of the celebration: the unanimity, diversity, spontaneity, and exuberant joy of the crowds who thronged to meet him in the country and in the city²³. And in each version, he claimed that these crowds were living proof that his actions as consul had been praiseworthy, that most people agreed with him and not with Clodius on the matter. The diversity of the crowds proved, as it were, that he had succeeded in promoting *concordia ordinum*.

Cicero commemorates his return over and over in speeches from 57 to 55. This repetition is fundamentally defensive, in the context of what Leach calls «a serious contest of masculinity» between Cicero and Clodius. As she writes, «interacting with his status as a *novus homo*, exile revealed the vulnerability of [Cicero's] postconsular identity, and his distance from the *boni* whom he had craved to see as counterparts of himself»²⁴. This scene of his return, he argued, erased the effects of his exile on his *dignitas* and actually left him stronger than he had been, because now he had proven conclusively the depth of the *populus'* devotion to him as a leader. This was his best weapon in combating the negative political effects of his exile²⁵. Clodius had succeeded because Cicero's "allies", especially Pompey, had failed to bring their influence to bear on Cicero's behalf, and so his exile was a manifestation of serious political weakness and lack of support among the elite. Mass support could, perhaps, fill that void and dispel the perception of Cicero as vulnerable.

²³ Cf. Claassen 1992, 31-34.

²⁴ Leach 2001, 357.

²⁵ Cf. Dugan 2014.

While he was promoting this view of himself as popular, Cicero also contended necessarily against the impression that his opponents, especially Clodius, were the champions of the *populus* themselves. *Populares* like the Gracchi had claimed to advocate for the interests of the common people and the lower classes in Rome, and were rewarded with the devotion of the masses. Cicero argued that Clodius was only an incompetent, counterfeit version of these *populares*, and was not truly popular (24; 82). He declared that Clodius' apparent throngs of supporters were a trick of political theater, and that the actual composition of Clodius' crowds could not be taken as representative of the *populus*. He differentiated them from the *populus* by labeling them criminals, slaves, debtors, and mercenaries: «when you were on the Aurelian tribunal enrolling not only free men but also slaves, [...] were you not then preparing to incite violence? When you commanded the shops to be closed by your tribunician edicts, were you looking not for the violence of an ignorant mob, but for the modesty and wisdom of virtuous men?» (*dom.* 54)²⁶. This kind of invective from Cicero conveys the sense of urgency with which he sought to establish that he had this kind of popular support, and that his opponent did not. This polemic had the potential to inspire greater confidence and self-righteousness in the upper-class citizens in Cicero's audience, now seeing themselves arrayed against slaves, mercenaries, criminals, and beggars, and it also had the potential to spread doubt and uncertainty among Clodius' supporters, who might lose confidence in their leader and enthusiasm for their cause if they were persuaded that his apparently devoted following was only an illusion.

In general, Morstein-Marx writes, «orators speak to whatever conational audience has assembled before them as if it were identical to the *populus Romanus*, and thus rhetorically transform their continually changing, proportionally negligible, and, as we shall see, self-selected audiences into the citizen body of the Republic»²⁷. In this particular oration, Cicero sought to pressure the *pontifices* to side with him and the "real" *populus*, rather than the false *populus* of Clodius (*dom.* 89-90):

²⁶ On Clodius and "closing the shops" see Russell 2016.

²⁷ Achard 1981, 51, Morstein-Marx 2004, 120-121, see also 128-149 Cf. Favory 1975, 193: «L'«embellissement» moral et politique procède d'une autre démarche qui tient à la réalité diverse et complexe de la catégorie sémantique de *populus* – *populus Romanus* et à sa polysémie. L'idéologie cicéronienne joue de cette polysémie, dont la fonction est multiple».

Quid est qua re quisquam mihi se ipsa populari ratione anteponat? An tu populum Romanum esse illum putas qui constat ex iis qui mercede conducuntur, qui impelluntur ut vim adferant magistratibus, ut obsideant senatum, optent cotidie caedem, incendia, rapinas? [...] O speciem dignitatemque populi Romani, quam reges, quam nationes exterae, quam gentes ultimae pertimescant, multitudinem hominum ex servis, ex conductis, ex facinerosis, ex egentibus congregatam! Illa fuit pulchritudo populi Romani, illa forma quam in campo vidisti tum cum etiam tibi contra senatus totiusque Italiae auctoritatem et studium dicendi potestas fuit. Ille populus est dominus regum, victor atque imperator omnium gentium, quem illo clarissimo die, scelerate, vidisti tum cum omnes principes civitatis, omnes <homines> ordinum atque aetatum omnium suffragium se non de civis sed de civitatis salute ferre censebant, cum denique homines in campum non tabernis sed municipiis clausis venerant.

What reason is there why anyone should think that he is preferred to me because of “popular” politics? Is it that you think the Roman people is the people who are paid to assemble, who are sent to attack the magistrates by force, to besiege the senate, to wish every day for slaughter, arson, plunder? [...] O beauty and pride of the Roman people, feared by kings, foreign nations, and the most distant tribes, great herd of slaves, mercenaries, criminals, and beggars! The beauty of the Roman people, its real form, was what you saw on the Campus Martius when you had the opportunity to speak against the authority and will of the senate and all of Italy [for my recall]. That populus is the master of kings, the conqueror and ruler of all peoples, which you saw on that glorious day, you wicked man, when all the leading men of cities, all the men of all orders and ages declaring that they were voting not on a citizen’s welfare but on the welfare of the city – and those men came to the campus not from closed shops but from closed towns.

Clodius is depicted as fundamentally wrong in his understanding of republican politics, a *popularis* who cannot even identify the *populus* from whom he claims to derive his political authority. He pays fake supporters, while the real *populus* spontaneously assembles to show genuine support for Cicero. Cicero’s supporters are a beautiful sight to behold, orderly and authoritative, in contrast to the low-class rabble Cicero associates with the *tabernae*.

In his study of Cicero’s sociological frameworks, in theorizing Cicero’s attempts to distinguish between a true and a false *populus*, Goldenhard argues that Cicero substitutes political procedures and popular support for Platonic dialectic as a way of finding truth: «experience of

societal approval in Cicero is exactly analogous to insight into the Good in Plato. [...] In essence, then, Cicero here offers a reworking of Plato, which substitutes Roman political procedures for Socratic *paideia*, and links ethics and epistemology (insight into truth and goodness) to social practices, rather than philosophical reflection»²⁸. Popular support can determine moral value, in Cicero's rhetoric, and so he goes to great lengths to prove that the masses – or at least, the masses that count, as we will see – are on his side, not on his enemies'. If Cicero is going to maintain his conceptual framework of good *optimates* against evil, immoral *populares*, he cannot afford to grant the so-called *populares* any share of that legitimizing popular support. Clodius' *populus* (according to his polemics) was disorderly, violent, and only drawn by the promise of bribes rather than real political conviction. By contrast, Cicero argued, he himself enjoyed popularity among an orderly, virtuous, genuine majority, which legitimized and validated his own political career. Perhaps even the *pontifices*, sitting in judgment of a legal case, are expected to shrink from opposing the perceived will of the people.

This long discussion of Cicero's exile and return is also a digression of sorts from the case at hand as well, despite his promise to keep his speech brief and to the point (32). However, once again, it is an essential part of winning over his audience, *before* he makes his main argument. The narrative about Cicero's return helps to cast him as the victim of Clodius' persecution, a martyr for the republic who suffered terribly and has earned the gratitude of his city (see especially 97). After he sets up this long, passionate narrative of his glorious return and popularity, Cicero proclaims ominously that his restoration is now in jeopardy: «this return of mine, *pontifices*, depends on your verdict» (100).

4. Cicero's monument or Clodius' trophy

The crucial third part of the speech, the real argument about Cicero's house and its status, represents the entwining and culmination of all the "digressions" which have come before it. Cicero's concluding argument frames the jury's decision as an adjudication between himself and Clodius, not as litigants but as political leaders and moral *exempla*. He has ar-

²⁸ Goldenhard 2011, 166.

gued that Clodius represents mercenary *operae* rather than real, autonomous citizens, the ugly underbelly of Roman politics. Likewise, he argues, a verdict in Clodius' favor will empower and validate that violent rabble as a political force. By contrast, Cicero associates himself with the genuine majority of Roman citizens and with the welfare of the state as a whole²⁹. By the end of the speech, he has attempted to dispel any lingering suspicions about his relationship with Pompey, and to redirect his audience's attention from this specific political context to something greater and more universal: a fight for the survival of the very republic, symbolized in the physical structure where Cicero's house once stood. The *pontifices* are given the heavy responsibility of affirming republican norms and institutions, and indeed religion itself, with their verdict.

The dedication of Cicero's property to *Libertas* added insult to injury, by design. Livy narrates the destruction of the houses of Spurius Cassius (2, 41, 11), of Spurius Maelius (4, 16, 1), and of Manlius Capitolinus (6, 20, 13), after each was executed for tyranny and treason³⁰. Clodius was therefore using Cicero's house to communicate a political message or interpretation: the execution of the Catilinarian conspirators under Cicero's auspices as consul was tyrannical, and thus Cicero had been expelled, his bid at absolute rule thwarted, and *Libertas* vindicated³¹. Cicero mentions these historical *exempla*, begging the *pontifices* not to let this parallel stand, «so that among our descendants I will seem not to be the extinguisher of conspiracy and crime, but their author and leader» (*dom.* 101). This case, as he describes it at the end of the oration, is a simple choice between Cicero's *populus* and Clodius' *operae*, between eloquence and violence, between republic and anarchy. In fact, he argues, the *pontifices'* deliberation will replicate the vote for his recall (100-101, cf. 145-147):

sin mea domus non modo mihi non redditur, sed etiam monumentum praebet inimico doloris mei, sceleris sui, publicae calamitatis, quis erit qui hunc reditum potius quam poenam sempiternam putet? In conspectu prope totius urbis domus est mea, pontifices; in qua si manet illud non monumentum virtutis, sed sepulcrum inimico nomine inscriptum, demigrandum potius aliquo est quam habitandum in ea urbe in qua tropaea de me et de re publica videam constituta. An ego tantam aut animi duritiam habere aut oculorum impudentiam possim ut, cuius urbis servatorem me esse se-

²⁹ Kurczyk 2006, 227-230; Robb 2010, 63-67.

³⁰ Cf. Roller 2010.

³¹ Tatum 2014, 158-166.

natus omnium adsensu totiens iudicabit, in ea possim intueri domum meam eversam [...]?

But if my house is not only not returned to me but offers an actual monument to my enemy of my distress, of his transgression, and of a public disaster, who will there be who will think that this is a restoration, rather than an eternal punishment? My house is visible to almost the entire city, pontifices; if it remains not as a monument of virtue but as a tomb inscribed with my enemy's name, I'll have to emigrate somewhere else rather than live in a city in which I will see a trophy celebrating my defeat and the republic's. Can I have enough mental toughness or shamelessness in my eyes to be able to look at my house razed to the ground, in a city whose savior the senate, with all in agreement, said I was so many times [...]?

This framing is designed to make the *pontifices* feel as though they must vote in this case as they did on Cicero's recall, in order to preserve consistency with the senate's earlier judgment, which of course went in Cicero's favor (*p. red. ad Quir.* 24-26). Their collective credibility is on the line. This effectively makes it seem as if this case *De domo Ciceronis* has already been decided. By implication, the *populus*, who stood with Cicero and the *pontifices* on that previous occasion, will also turn on the *pontifices* if they betray the people's champion. Cicero even threatens to return to exile if his house is not restored to him. This would be an empty threat coming from an unpopular politician who lacked influence, which is why Cicero waits to make this argument until he has laid an elaborate, forceful foundation of illustrations of his own prestige and popularity.

Cicero then insists that his house can only be a monument to Cicero or a monument to Clodius, either a tangible icon of his prestige or a trophy for Clodius' triumph over the republic. Cicero makes the same distinction, Ciceronian versus Clodian monument, later in the same speech when attacking Clodius' establishment of a shrine of *Libertas* on the site of Cicero's house on the Palatine, which he had destroyed: that was an act of impudence rather than religion, Cicero claimed, and «a monument not to the people's freedom (*publicae libertatis*) but to lawlessness» (*licentiae, dom.* 132, see also 110-112)³². He thus pressures the *pontifices* to choose between these two options, of which only one is defensible, reducing a complex political situation to black and white terms. Once

³² Allen 1944; Berg 1997; Lennon 2010, 235-236; Begemann 2015, 86-94.

again, however, we can note that Cicero's division of the world into two categories, *optimates* and *populares*, is disingenuous, or rather strategic. His insistence on ideological differences between himself and Clodius throughout the oration builds ultimately to this point, and all the forceful momentum of his invectives drive home his final point, that Cicero has essentially already won. When Cicero had first returned, senatorial consensus was with him; when he endorsed Pompey's extraordinary command of the grain supply, he apparently damaged that consensus and divided opinions on whether his return was good for the republic or not, and may have turned public opinion against himself, as Clodius argues he did. By framing the restoration of his house as a contest between two parties, Cicero attempts to rewind the clock to the earlier moment of unity and to simplify the choice faced by the *pontifices*.

5. Conclusion

The vote for Cicero's recall and the outpouring of support for him in the Italian countryside provided powerful recognition and reestablished Cicero's *dignitas*, but not without a caveat, an asterisk. He had suffered expulsion from the city, a fate from which he ought to have been protected, not only by his *dignitas* but by his powerful "friend" Pompey. He had left the city, which could be taken as an admission of guilt or a sign of cowardice. In *De domo sua*, Cicero exploited the political capital of his recall and drew his audience's attention to it in every way possible, while attempting to minimize or distract from the lingering questions his audience might have had about his exile. He chose to take on an invective stance, to deploy all his skills of elaboration and amplification on disparaging Clodius as a political actor, as a moral agent, and as a religious authority, in order to put on a show of force which diverted his audience from questions about Pompey or about Cicero himself.

In reading a Ciceronian oration two thousand years after it was published, we tend to approach the text as a literary document, produced with the intent of preserving the author's legacy for posterity³³. To appreciate *De domo sua* – and to understand why Cicero himself was so

³³ The exception, a speech for which this does seem really appropriate, may be *Pro Milone*, especially as read by May as an example of an "ideal" oration in a literary sense: cf. May 2001.

pleased with it – we must instead view it as an intervention in a specific political scenario, a political act preserved not for posterity but for a contemporary audience who had the knowledge and political awareness to appreciate Cicero's case for the restoration of his house. Cicero's flood of invective against Clodius in *De domo sua* is emotionally charged, tendentious in the extreme, and highly melodramatic, with its colorful metaphors and black-and-white contrasts between the champions of the good and the seditious agents of political evil and violence. None of this, however, should suggest a lack of care on Cicero's part. Rather, his *tour de force* is designed to rouse the emotions of his audience, to obliterate nagging concerns (and his opponent's arguments) about Pompey, about the growing power of the "first triumvirate", and about whose side the "people" are really on. The majority of the speech may seem to digress from the case at hand, but addresses important pre-existing biases in the audience one by one, in a specific order, each one built upon the last. Having developed a rich store of rhetorical devices to describe the *populares* in previous orations, Cicero deploys them all in order to distract his audience from the question of his own relationship with Pompey, and to portray Clodius as no more than a thug with a paid band of mercenaries. By contrast, Cicero portrays himself as truly popular, the champion of the true or real Roman *populus*, occupying the moral high ground and calling upon his audience to join in his righteous struggle. When he asks the *pontifices* to choose between them, he has framed the case in such a way as to make a verdict against him all but impossible.

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