

This paper develops a proposition I once put to Shackleton Bailey, who regarded it as (“quite frankly”) far-fetched. Briefly, the proposition is that Cicero’s father, in sending him during the mid-90s B.C. to apprentice with several leading Roman statesmen, may well have intended his son for a career as a jurisconsult rather than as an orator. Although Cicero diverged from this plan, and indeed may have done so rather quickly, his decision remained with him as formative event that he had at least occasional cause to reflect on throughout the remainder of his life.

A large part of the reason for supposing this internal conflict has to do with Cicero’s first fully realized treatise, the *de Oratore*, which (as Elaine Fantham has recently stressed), was written in the immediate aftermath of Cicero’s “forced retirement” after the First Triumvirate’s re-formation in 55 B.C. The *de Oratore*, to the extent that it has a realistic background, transports readers back to the world of Cicero’s youth, the tumultuous period just prior to the Social War. The principal speakers in the dialogue are Cicero’s main teachers, several of whom (but especially P. Licinius Crassus, at whose villa the dialogue takes place) are commonly counted both advocates and jurists. This era, as Cicero observes (esp. *de Or.* 3.133-135; *Off.* 2.65), saw the gradual decline of the upper-class “patronal” jurisprudence that had flourished during the second century, and its replacement by a more systematic legal science under the influence of, especially, Q. Mucius Scaevola (Cos. 95) – with a concomitant decline in the prestige of law and in the social class from which the jurists were drawn. The discussants at Crassus’ villa, as Cicero envisages them, appropriately spend much of their first day (*de Or.* 1.165-200, 234-250) discussing the interrelationship between forensic rhetoric and the developing science of private law: how much (or how little) does a practicing advocate really need to know about the law?

To some extent, Cicero remained concerned with this problem throughout his life. Although he published no private orations after 69 B.C., he continued occasionally representing clients in civil cases. Perhaps for this reason, Cicero clearly remained familiar with legal writings, and in one instance was even able to boast of knowing them better than contemporary jurists (*ad Fam.* 7.22). In line with general rhetorical principles, Cicero within his on-going private practice may well have resisted acknowledging the authoritative nature of juristic *responsa*, for reasons that he gives in the *pro Murena* of 63 and also again in Antonius’ speech in the *de Oratore*. Nonetheless, there is ample evidence that toward the end of his life Cicero had come to terms with the growing influence of the jurists; and particularly in works such as the *Topica* he argues for a degree of comity between the two disciplines, albeit largely on rhetoric’s terms.