Classical Quarterly **49.1** 167–183 (1999) *Printed in Great Britain*

PLATO, CARNEADES, AND CICERO'S PHILUS (CICERO, *REP.* 3.8–31)

In memory of Paul L. MacKendrick

The centrepiece of Cicero's *De re publica* is a discussion of justice (Book 3).[1] This discussion, which evokes the theme of the Platonic dialogue after which it was named, consists of a set of three speeches. It begins with a speech opposing justice, placed in the mouth of L. Furius Philus and alleged by him to be modelled on the second of a pair of speeches for and against justice delivered in Rome in 155 B.C. by the Greek Academic philosopher Carneades (*Rep.* 3.8–31 [8–29 B]).[2] Philus' speech lays the dialectical foundation for the two subsequent speeches, a defence of justice as the prerequisite for government by C. Laelius (*Rep.* 3.32–41 [30–41 B]), and an explanation of its role in various forms of government by Scipio Aemilianus (*Rep.* 3.42–8).

The book survives only in fragmentary form in a palimpsest. Of the third book more than four-fifths has been lost. Yet a significant portion of Philus' introductory speech (20 pages, about 165 lines) has survived.[3] The loss of the remainder of this speech is partially offset by Lactantius, who gives a detailed rebuttal of Philus' argument (*Inst.* 5.14–18, 6.9; *Epit.* 50–2), in which he presents what he calls a 'summary of the disputation' (*summa disputationis*) along with quotations and paraphrases of some of Philus' proofs (*Inst.* 5.16.3–13 = *Rep.* 3.21, 29–31 [12, 25–7 B]; cf. *Epit.* 51.2–5).[4] Numerous attempts to reconstruct the speech and assess its role in the

[1] The latest text is E. Bréguet, *Cicéron: La république* (Paris, 1980), with English translations by C. W. Keyes, *Cicero XVI: De re publica, De legibus*, Loeb Classical Library (Cambridge, MA, 1928), and G. H. Sabine and S. B. Smith, *Marcus Tullius Cicero: On the Commonwealth* (Columbus, Ohio, 1929; repr. Indianapolis, 1960). K. Ziegler's text (*M. Tulli Ciceronis De re publica* [Leipzig, 1960]) is still useful for indirect testimony. Where Bréguet diverges from Ziegler's numbering, I have added Bréguet's number in parentheses. Texts found only in Ziegler are indicated with the letter Z. For all aspects of the work, including earlier bibliography, K. Büchner's commentary (*M. Tullius Cicero. De re publica: Kommentar* [Heidelberg, 1984]) is indispensable; cf. also Bréguet, pp. 1.56–71. For a brief survey of the dialogue and of Cicero's philosophical work in general, see P. L. MacKendrick, *The Philosophical Books of Cicero* (London/New York, 1989).

[2] Philus' claim has been convincingly challenged by J.-L.Ferrary, 'Le discours de Philus (Cicéron, *De re publica*, III, 8–31) et la philosophie de Carnéade', *REL* 55 (1977), 128–56 and *Philhellenisme et impérialisme: Aspects idéologiques de la conquête romaine du monde hellénistique, de la seconde guerre de Macédoine à la guerre contre Mithridate*, Bibliothèque des Écoles Françaises d'Athènes et de Rome 271 (Rome, 1988), pp. 351–63, who conjectures that Cicero derived the argument from a treatise by Carneades' student Clitomachus, not from any record of Carneades' Roman speeches. For the difficulty historians have had devising a plausible scenario consistent with the evidence, see e.g. E. S. Gruen, *The Hellenistic World and the Coming of Rome* (Berkeley, 1984), 1, pp. 341–2; K. E. Wilkerson, 'Carneades at Rome: a problem of sceptical rhetoric', *Philosophy and Rhetoric* 21 (1988), 131–44.

[3] This is no more than 40%, and more likely less than 30%. On the reconstitution of the text see Ziegler (n. 1), pp. v–xv; E. Heck, *Die Bezeugung von Ciceros Schrift De re publica*, Spudasmata 4 (Hildesheim, 1966), pp. 1–10; Büchner (n. 1), pp. 62–6; Ferrary (n. 2, 1977), pp. 129–34.

[4] Lactantius' rebuttal occurs both in his major apologetic work, *The Divine Institutes*, and in his later treatment known as *The Epitome of the Divine Institutes*, a briefer, more focused reconsideration of the same subjects, with additional material, alternative paraphrases of sources,

dialogue have not yet reached a consensus regarding either the structure and argument of the speech or its rhetorical or philosophical function.[5] In this paper I wish to reconsider the evidence for Philus' argument and to put forth a new reconstruction that reveals an ironic debt to Plato and suggests a new interpretation of the role of the speech in the dialogue and its relation to Carneades and the sceptical tradition.

THE PROLOGUE

The surviving conclusion of the prologue (*Rep.* 3.12–13) shows that Philus began by asserting that his case for injustice rested solely on the weakness of the argument of the defenders of justice, principally Plato and Aristotle.[6] He makes this assertion immediately after identifying three claims inherent in their defence:

illorum fuit heroum, eam virtutem, quae est una, si modo est, maxime munifica et liberalis, et quae omnis magis quam sepse diligit, aliis nata potius quam sibi, excitare iacentem et in illo divino solio non longe a sapientia conlocare.

It was the achievement of those heroes to raise up that fallen virtue, (1) which, if it exists, is one, exceptionally generous and liberal, and (2) which loves everyone more than itself, born for others rather than for itself; and (3) to seat it on that divine throne not far from wisdom. (3.12)

When he goes on to assert that the case itself defeated its defenders' good intentions and abilities, we can expect that his refutation will incorporate attacks on these three elements of their case on behalf of justice. These claims may thus illuminate the argumentative and rhetorical structure of the fragmentary speech.

The three claims, which I shall call **J1**, **J2**, and **J3**, identify three characteristics of justice. The first two, presented in the two relative clauses, seem to characterize justice in the same way, i.e. as altruistic; but the verbs in each rhetorically spotlight different aspects of its altruistic nature: **J1** its unique uniformity (*est una . . .*) and **J2** its self-sacrificing activity (*omnis . . . diligit*).[7] Moreover, the first (**J1**) refers to a qualitative character (denoted by adjectives, *una* and *munifica et liberalis*), whereas the second (**J2**) refers to actions (expressed by a verb, *diligit*) that flow from an innate nature (*aliis nata*).[8] The third (**J3**), expressed in highly metaphorical language, is a close connection between justice and wisdom and elevation to divine status. Philus'

and sometimes new interpretations; cf. M. Perrin (ed. and trans.), *Lactance: Épitomé des institutiones divines*, Sources chrétiennes 335 (Paris, 1987), pp. 7–36; E. Heck and A. Wlosok (edd.), *L. Caeli Firmiani Lactanti: Epitome divinarum institutionum* (Stuttgart, 1994), pp. viii, xvii–xxiv. Most (but not all) of the relevant passages may be found in Ziegler (n. 1) and Bréguet (n. 1), interspersed among the pages of the palimpsest and numbered in sequence. For analysis of Lactantius' argument, see P. Monat, (ed.), *Lactance: Institutiones Divines, Livre V*, 2 vols, Sources chrétiennes 204–205 (Paris, 1973), 2, pp. 121–50.

[5] The most useful analyses are Büchner (n. 1), Bréguet (n. 1), and Ferrary (n. 2, 1977), all with citations of earlier literature. The fundamental assessment of the indirect evidence is Heck (n. 3). The crux for reconstruction has been the role of Lactantius' *summa* and examples (*Inst.* 5.16.3–13), which some, e.g. Büchner (n. 1), pp. 283–9, go so far as to use as a comprehensive, objective summary of the argument or even an outline of the speech. Such use is rightly rejected by Ferrary (n. 2, 1977).

[6] Identified by Lactantius, *Inst.* 5.14.5 = *Rep.* 3.9 [cf. 5.17.4]; *Epit.* 50.5 = *Rep.* 3.10.

[7] *Una* is usually taken either as 'unique', presumably in its altruistic spirit (e.g. Sabine and Smith [n. 1], p. 203), or as intensifying *maxime*, i.e. superlatively altruistic (Keyes [n. 1], p. 193, Büchner [n. 1], p. 290; Bréguet [n. 1], 2, p. 57); but the fact that Philus sets out to refute the defenders of justice by attacking the uniformity of right practices suggests that Philus himself assumed that the defence of justice included a claim of uniformity.

subsequent argument, I shall argue, may be read as refuting each of these claims in order.

ARGUMENT I

Philus begins his refutation with the announcement of the thesis of his first argument, i.e. that justice or right (*ius*) is not natural, but conventional (*civile*): 'For if it were [natural], then like hot, cold, bitter, and sweet, just and unjust practices (*iusta et iniusta*) would be the same for all' (*Rep.* 3.13). His proof consists of a series of examples, demonstrating that right practices differ from one country to another and from one time to another (3.14–17). If what is right and just is not the same for everyone at all times, Philus claims there is no *natural* right (*ius*), but only *conventional* right practices (*iusta*). He adopts a typical sceptical strategy, an argument from disagreement, refuting the existence of any knowable, objective reality or any universally valid, natural standard of behaviour directly from differences in belief or practice.[9]

Philus' argument may at first seem to have no direct connection with the targeted conception of justice in that the natural basis of right actions was not stipulated in Philus' formulation. Yet the first characteristic (**J1**) was described as some type of 'oneness' (*est una, si modo est*), and Philus' first argument decisively refutes at least the uniformity of right actions. In addition, it refutes the generosity and liberality that was supposed to characterize right practices by citing numerous customs that embody aggression, violence, and exploitation (3.15–16). The upshot of the first argument, then, is that justice is not necessarily non-existent, but that it is of an entirely different nature from what its defenders had claimed.

The argument is interrupted by a brief lacuna of about 16 lines (between 3.17 and 3.18), before closing with a conclusion that lays the foundation for the next argument. Shifting focus from just actions (*iusta*) to the agent, the virtuous and just man (*vir bonus et iustus*), Philus contends that the diversity of laws and right practices precludes, not only natural justice as their source, but also the possibility of a naturally or intrinsically just man. If justice requires obeying just laws, conflict among them makes it impossible for anyone to keep all of them, so prevents anyone from being completely just. He concludes that there is nothing natural about justice and even just men are not just by nature (3.18).

ARGUMENT II

Philus' first argument is easy to follow: the introduction, seven pages (more than three-quarters of the text), and the closing lines are preserved. Of the rest of the speech, however, only nine pages have survived in the palimpsest (about 75 lines or

[8] In presenting the actual position of Plato and Aristotle in the lost lines of the introduction Philus had presumably described justice as the virtue 'that assigns to each his own and that preserves equity for all' and 'which is oriented not only toward itself (*sibi . . . conciliata*), but reaches completely out of doors and is inclined (*pronus*) to do good so as to benefit as many as possible' (Lact. *Epit.* 50.5 = *Rep.* 3.10). The quotations of Non. 373.30; 299.30 (= *Rep.* 3.11 [2.69 B]) derive from Book 2 (cf. Heck [n. 3], p. 185; Bréguet [n. 1], 2, p. 154, n. 2 to p. 47); but Philus may have described justice in similar language in Book 3.

[9] See e.g. D.L. 9.61, 78–9, 83–4, 101 (cf. 88); Sext. Emp. *Pyr.* 1.79–90, 145–63; 3.179–82, 198–235. Cf. J. Annas and J. Barnes, *The Modes of Scepticism: Ancient Texts and Modern Interpretations* (Cambridge, 1985), esp. pp. 54–65, 151–71.

less than one-third).[10] If we are to understand it, we have to rely on subtle clues and on the hostile report of Lactantius.

The palimpsest does, at least, give us a place to start. Philus proceeds by acknowledging that there may still be a way to defend justice as natural, i.e. by construing the choice of which conventional laws to obey as a decision based on a single, higher-order principle. In that case the individual laws that vary from place to place and from time to time can be construed as what is believed to be just (*quae putetur*). The just and good man will not try to follow all of these, but will follow what really is just (*quae sit*), namely assigning to each whatever is appropriate (*tribuere id cuique quod sit quoque dignum*, *Rep.* 3.18).[11]

Philus begins to rebut this new contention by asking what we will assign to 'dumb beasts' (3.19). He calls to witness some 'outstanding learned men', Pythagoras and Empedocles, who have asserted that 'a single bond of justice (*condicionem iuris*) embraces all living creatures', with the result that 'it is a crime to injure a beast, and one who wishes to avoid crime' . . . Here after a mere six lines of rebuttal the manuscript breaks off in mid-sentence. It may have concluded by stipulating something specific that is precluded, e.g. eating meat, offering animal sacrifices, or defending oneself against attacks by a wild animal, or else by spelling out the dire consequences for human existence; but what precisely it was or how the argument then proceeded can only be conjectured.[12]

At first sight it seems tempting to construe the renewed defence and Philus' rebuttal as another argument from disagreement. It would not have been hard to counter Pythagoras' and Empedocles' contention with claims of equally respected philosophers that animals exist for man's benefit, e.g. as a source of food.[13] By doing so we could make Philus' second argument a continuation of the first, a supplementary rebuttal of natural right (**J1**) and further confirmation that justice is conventional.

Before doing that, however, we have to consider the significance of the defender's new tack in the second argument, defending justice as a property of human *action*, rather than as a characteristic of the *social practices* that had already been shown to be conventional. This shift mirrors the difference between **J1** and **J2**. **J1** stipulated a qualitative characteristic appropriate to social practices, namely uniformity, generosity, and liberality; **J2** stipulated an action arising from an innate propensity, self-sacrificing benevolence. Moreover, the proposed principle of just action in *Rep.* 3.18, assigning to each what is appropriate, is close to the principle that Lactantius saw at the heart of justice in the view of Plato and Aristotle, i.e. assigning to each his own (*suum cuique tribuat*), and thus the ultimate basis in their view for the altruistic action of benefiting as many people as possible (*Epit.* 50.5 = *Rep.* 3.10). Lactantius

[10] About 35 more lines are quoted *verbatim* by Lactantius. Even so, we have no more than 40% of the remainder of the speech, and less if a whole quaternion is lost. Since Book 3 consisted of at least 16 quaternions for the three major speeches and leaves of only three quaternions of Philus' speech have survived, it is not unreasonable to speculate that at least one additional quaternion of his speech has been lost. See Ferrary (n. 2, 1977), pp. 129–30, 133–4, who postulates a quaternion lost between *Rep.* 3.19 and 23 and another between 3.24 and 26. See below, n. 15.

[11] On the philosophical nuances and historical reference see Ferrary (n. 2, 1977), pp. 137–8; R. Sorabji, *Animal Minds and Human Morals: The Origins of the Western Debate*, Cornell Studies in Classical Philology 54 (Ithaca, 1993), pp. 142–3.

[12] On rejection of animal sacrifice and eating meat, see Sorabji (n. 11), pp. 172–5; for potential consequences see Büchner (n. 1), p. 298; Ferrary (n. 2, 1977), pp. 139–40.

[13] E.g. Arist. *Eth. Nic.* 8.11.1161b1–3; *Pol.* 1.8.1256b7–26; Chrysippus *apud* Cic. *Fin.* 3.67; cf. *Leg* 1.25. See also Ferrary (n. 2, 1977), pp. 138–9.

apparently regarded it as a component of **J2**, 'loving everyone more than oneself'. Thus we have to consider the possibility that in *Rep.* 3.19 Philus is moving on to a new stage in his argument, one that demonstrates the deficiencies inherent in **J2**, that justice is an innate tendency to altruism.[14]

If *Rep.* 3.19 does indeed begin a second argument, the rest of it has been lost, for the next two surviving leaves contain evidence that they come from a third argument. By 3.24 (22 B) Philus has certainly moved on to his climactic final argument, a rebuttal of **J3**, that justice is closely allied to wisdom. The one leaf prior to this (3.23 [20 B]) is less clear, but contains a clue that Philus has by this point concluded two arguments: 'The fact is that neither nature *nor choice* (*voluntas*), but weakness is the mother of justice.'[15] The addition of the word 'choice' is revealing. Philus' first argument, rebutting the uniformity of justice (**J1**), had demonstrated that the origin of justice was not nature, but rather human convention. Now in 3.23 (20 B) the manuscript tells us that not only has nature been ruled out, but also free choice, and a third potential source is under consideration. We may infer that this paragraph followed an argument that ruled out free choice as a source of justice.[16]

A further indication that the issue of free choice versus compulsion was involved in the argument that began at 3.19 is the fact that it was anticipated in the conclusion to the first argument: 'Laws gain acceptance because of their penalty (*poena*), not because of our [intrinsic] justice. Right (*ius*) therefore, has nothing natural about it, from which it follows that not even just men are so by nature' (3.18). Here at the end of the first argument Philus seems to assume that if natural justice were discredited in favour of conventional justice, voluntary compliance would be discredited in favour of compulsion.[17]

Philus' assumption of the involuntary nature of conventional just practices has up to this point not been given any justification, but the would-be defenders' new approach in 3.18 opened the door to a discussion of the motivation for conforming to the social practices that society holds to be just. It explicitly located the normative force of nature, not in social practices as such, but in the individual's choice of action, alleged to be based on an innate altruistic disposition and rational knowledge of what is appropriate for each person. If justice arises from an innate tendency to care more for others than for oneself, just altruistic actions will be voluntary and not undertaken under compulsion or fear of punishment.

Thus the surviving pages surrounding the lacuna between 3.19 and 3.23 (20 B) contain a number of clues suggesting that an entire argument, one addressed to **J2**, has been lost. They also give us a glimpse of what that argument must have accomplished. In essence, Philus must have shown that there is no such thing as innate

[14] Cf. Ferrary (n. 2, 1977), pp. 138–42, who takes this as the second major argument, a rebuttal of a second alleged criterion of justice, namely rendering to each as he deserves. His reconstruction, however, developed by analogy with other sceptical arguments and later discussions of the treatment of animals, differs significantly from my own. He is followed by Sorabji (n. 11), pp. 127–8.

[15] The gap between 3.19 and 3.23 (20 B) must be at least 16 lines, but more likely 144, if an entire quaternion has been lost, as Ferrary (n. 2, 1977), pp. 138–9 has conjectured. Sixteen lines are hardly enough to accommodate the requisite argument.

[16] It might be objected that free will was not mentioned in the targeted conception of justice (*Rep.* 3.12); but neither was nature, the source refuted in Argument I. The wording of **J2** (*Rep.* 3.12; cf. Lact. *Epit.* 50.5 = *Rep.* 3.10) supports free choice as a source or at least presupposes it as a necessary condition.

[17] The close connection between intrinsic justice and voluntary compliance is made also in 3.26 (24 B) and later by Laelius (3.41). Cf. also *Rep.* 1.1, 1.3; Büchner (n. 1), p. 304.

voluntary altruism, such as might manifest itself in giving to each what is appropriate according to some equitable natural order.

Armed with this information, we may turn to Lactantius' *Divine Institutes*, where we find that his *summa* of the speech begins with the required assertion:

Summa A: Men establish laws (*iura*) for themselves on the basis of self-interest (*utilitas*), different ones, of course, in accord with local customs, and among the same people changed frequently over time. There is, in fact (*autem*), no natural law; everyone, both human beings and other living creatures, are led to their own self-interests (*utilitates*) under nature's guidance.
(*Inst.* 5.16.3a = *Rep.* 3.21 [12 B])

Lactantius does not make a connection between this allegation of universal self-interest and the refutation of voluntary altruistic justice; he is more interested in spelling out a further consequence, the rebuttal of **J3**:

Summa B: So then (*proinde*) either there is no justice, or, if there is any, it is the greatest foolishness, since it harms itself by considering the advantage of others.
(*Inst.* 5.16.3b = *Rep.* 3.21 [12 B])

It is the first half (Summa A) that potentially holds the key to Argument II. The first sentence appears merely to summarize Argument I; but, strictly speaking, it does not. Argument I used an argument from disagreement to prove that law or right (*ius*) is not natural, rebutting its natural origin directly from differences or changes in social practices. Summa A, though it alludes briefly to local customs and changes in the law, makes no mention of the logical relation between the differences in practice and the non-existence of natural right. It is interested exclusively in the *explanation* for these differences, namely self-interest (*utilitas*), a concept mentioned only once in the 48 surviving lines of Argument I, and that incidentally (*Rep.* 3.17). Lactantius' first sentence in Summa A is not incompatible with Argument I, but it summarizes the evidence used in it in such a way as to make the new point that differences among laws and customs can be accounted for by social advantage. Moreover, this same sentence echoes the conclusion to Argument I and reformulates it too to make a new point. Whereas Philus had concluded with the words, 'If *nature* had sanctioned laws *for us*' (*si natura sanxisset iura nobis, Rep.* 3.18), Lactantius' summary says, '*Human beings* sanction laws *for themselves* on the basis of self-interest' (*iura sibi homines pro utilitate sanxisse*, *Inst.* 5.16.3 = *Rep.* 3.21 [12 B]).[18]

The formulation of the argument in Summa A suggests that it comes from a context in which Philus has moved on from nature as a source of social practices and right actions (presumably already ruled out on the grounds that these differ) to the human beings who make the diverse laws, and, more importantly, to the basis for their diversity, i.e. self-interest. It invokes the evidence of Argument I to claim refutation of the second characteristic of justice, its self-sacrificing altruism (**J2**): If nature lies behind the diverse conventional laws only in that it directs all living creatures, including human beings, to pursue their own interests, justice cannot be an innate tendency to love everyone more than oneself. Lactantius' Summa A thus seems to embody the conclusion of Argument II, thereby filling part of the gap in the palimpsest between *Rep.* 3.19 and 3.23 (20 B).

At the same time it recapitulates the conclusion of the first argument and thus in combination with Summa B presents the three conclusions that are required to refute the three claims of the defenders of justice. These three conclusions with their logical

[18] The lost subject of the sentence in *Rep.* 3.18 is presumably 'nature' (cf. Büchner [n. 1], p. 296; Bréguet [n. 1], 2, p. 159, n. 6); it certainly cannot be 'human beings'.

interconnections are presented with maximum clarity in Lactantius' more concise version in his *Epitome*: 'There is no natural right; and so (*itaque*) all living things, under the guidance of nature itself, defend their own interests; and therefore (*ideo*) justice, if it looks out for the interests of others and neglects its own, ought to be called foolishness' (51.2). Here Lactantius summarizes Philus' speech in the form of three propositions, each presented as a logical inference of the former. The *Epitome* tells us nothing we did not already know from the summa in the *Institutes*, but it isolates the skeleton of a three-step argument that confronts, in order, each of the three claims of the defenders of justice.[19] Thus Lactantius confirms a tripartite structure for the speech and reveals the nature and crucial logical function of the second argument.

Lactantius also supplies clues to the lost proofs. Summa A concludes by claiming that human beings and other animals (*animantes*) are by nature alike in pursuing self-interest. This assimilation of human and animal is suggestive in the light of the palimpsest's discussion of the Empedoclean and Pythagorean incorporation of men and animals into the same system of justice. It gains even greater significance from the fact that Lactantius revisits both the Pythagoreans and the assimilation of human and animal in his own subsequent refutation of Philus' claims (*Inst.* 5.17–18).

After summarizing Philus' conclusions and proofs Lactantius complains that Laelius' response failed to defend the altruism of natural justice (5.16.13 = *Rep.* 3.31 Z). In the next chapter (5.17) Lactantius undertakes to remedy this deficiency by refuting the capstone of Philus' argument, his rebuttal of **J3** with its claim that justice is incompatible with wisdom (Argument III). Lactantius does this by attacking what he takes to be Philus' most persuasive evidence, hypothetical situations in which presumably everyone would take unfair advantage of another, namely when life itself is at stake and there is no risk of being caught.[20] Lactantius argues that under such circumstances a truly just man would prefer to die rather than commit an injustice resulting in someone else's death (5.17.14–19). He substantiates his claim first by affirming that those who know God's promises have an incentive for justice that pagans lack, namely the knowledge that God rewards innocence, either immediately here in this life or otherwise certainly in the hereafter. Then he turns to philosophical arguments that do not depend on his theological assumptions, but are directed against what he takes to be the crucial premise underlying Philus' third argument, i.e. that wisdom consists in advancing one's own interests.

He argues that while Philus may have marshalled examples of people who subordinate everything to their own interests, there are also examples of highly regarded people who have been willing to sacrifice even their lives for others. He cites a popular story of two Pythagorean friends, each of whom offered himself to save the other from death at the hands of a tyrant, with the ironic result that the tyrant, impressed by their friendship, spared them both (5.17.20–4). Lactantius concludes that the esteem in which these Pythagorean friends are held and the king's reaction prove that sacrificing one's life for the sake of friendship cannot be deemed self-evidently foolish. Hence Philus' presumption that wisdom consists exclusively in pursuing self-interest cannot be universally true.

[19] The *summa* (A and B) of *Inst.* 5.16.3 differs primarily in prefixing a sentence that apparently sums up the positive conclusion to be drawn from Philus' first two arguments. It may reflect a bit of the context in which Lactantius found a convenient formulation of the theses of Arguments I and II to serve in his *summa*.

[20] He cites a soldier retreating from defeat in battle who steals a horse from a wounded man and a shipwrecked sailor who pushes a weaker man off a plank to save his own life (5.17.10, 20; quoted in full at 5.16.10–11 = *Rep.* 3.30 [26 B]).

Lactantius' argument, manifestly directed against Philus' third argument, is couched in an apostrophe directed at Philus and his presumed source, Carneades. In it he expresses astonishment that these philosophers could universalize human selfishness when they themselves praised the Pythagoreans, whose willingness to die for friendship was well known (5.17.22–4). The allusion to the praise of the Pythagoreans must refer to the beginning of Argument II, where Philus' appealed to 'the outstanding learned men', Pythagoras and Empedocles, for their claim that a common bond of justice joins humans and animals (*Rep.* 3.19).[21]

This appeal to Philus' high regard for Pythagoreans has a special resonance in the light of Lactantius' criticism in his definitive, final refutation (5.17.25–34).[22] There he argues that Philus failed to acknowledge the essential difference between human beings and animals. Formally, his rebuttal is that Philus' assumption that wisdom consists in pursuing self-interest is invalid because it rests on semantic confusion. The name for the capacity to advance one's own interest is 'cleverness' (*calliditas*, *astutia*). 'Wisdom' (*sapientia*) is the name for a knowledge of the difference between good and evil; it is moral rather than practical knowledge (5.17.28–9).[23] Lactantius' semantic argument, however, is predicated on his conception of the difference between animals and humans. Animals, he contends, are led by nature to conduct their lives exclusively in pursuit of self-interest to the point of deceiving, harming, attacking, or even eating other animals (5.17.30–4). Humans, though they too may pursue self-interest, are capable of restraining themselves from harming others because their nature is social and benevolent (*socialis . . . ac benefica*) and they have a knowledge of good and evil. Humans possess not only the cleverness that facilitates pursuit of self-interest, but also wisdom, which enables them to know when not to pursue self-interest. Lactantius implies that Philus was misled by generalizing on the basis of animals to conclude that humans are also led by nature to pursue only their own interests and that as a result he confused wisdom with cleverness.

Although Lactantius' argument is formally directed against Philus' conclusion that wisdom and justice are incompatible (Argument III), he refutes it by calling into question its crucial premise that human beings are by nature oriented only to self-interest. This is the claim that was articulated in Summa A and in the second proposition of the *summa* in the *Epitome*. In other words, Lactantius' most conclusive rebuttal of Philus' third argument, the one he claims to be demonstrated by reason and truth itself (5.17.25, 29), is effected by attacking the conclusion to Argument II. In so doing Lactantius may give us a glimpse into Philus' proof for that conclusion.

The fact that Lactantius aims all his ammunition at distinguishing human nature from animal nature suggests that assimilation of human and animal nature undergirded Philus' second argument.[24] Exactly how it was introduced cannot be deduced from Lactantius' rebuttal, but the palimpsest's truncated question of what we ought to assign to animals, a section that Lactantius recalled only a few pages earlier, offers a plausible setting. Pythagoras and Empedocles were cited for having assimilated

[21] The anecdote itself, though well known to Cicero (cf. *Off.* 3.45, *Tusc.* 5.63), was apparently not quoted in Philus' speech or Lactantius would have pointed out the contradiction between it and his own unmitigated utilitarianism. See Monat (n. 4), 2, pp. 141–2 for later occurrences of this popular *topos*.

[22] It is the only argument from this chapter that he thought worth including in his *Epitome* (52.1–5).

[23] Cic. *Off.* 1.63 expresses a similar view, citing Plato, *Menex.* 246E–47A.

[24] Confirmed by the similar phraseology used in his description of animals (5.17.30) and in his version of **J2** (*Epit.* 50.5 = *Rep.* 3.10).

human and animal nature and having claimed that the common bond of justice between men and animals entails treating animals justly. Presumably Philus then presented a counterexample. This need not have been an alternative *theory*; it could have been, and really had to be, empirical evidence contradicting the theory.

In *Rep.* 3.18 Philus' opponents had raised the stakes from appearances to reality and had invited an appeal to rational knowledge of the principles of natural justice. Citing conflict among specialists in such knowledge at this point might have refuted the possibility of such knowledge and left Philus' own claim that justice is conventional (Argument I) intact, but it would not have advanced his argument toward its ultimate conclusion that justice is incompatible with wisdom (Argument III). For that Philus had to establish that at least some knowledge of nature is possible and that nature can be seen to direct people toward injustice, rather than toward justice. What Philus needed at this point was an argument that would trump the contentions of philosophers who claimed to know the principles of justice. If Philus could show that nature herself countermands equity and altruism, he not only had a counterargument against the Pythagoreans, who wanted to prohibit the injury of animals, but he also had a basis for his subsequent claim that justice is incompatible with wisdom.

The presuppositions targeted by Lactantius in his rebuttal of Philus' third argument fit the requirements for the second argument perfectly. Contrary to the Pythagorean and Empedoclean theoretical assimilation of human and animal with its avowed requirement of treating animals like humans, i.e. justly and even benevolently, Lactantius' opponent presupposes an assimilation that makes humans act naturally like animals in pursuit of self-interest, injuring and wronging others in the process. The evidence for this is the observable natural phenomenon that animals attack, kill, and eat each other, and sometimes even human beings. Exactly how Philus used the law of the jungle in his refutation of the defenders' of justice we cannot tell. The most we can say is that Lactantius saw it underlying Philus' second argument and that Philus could profitably have appealed to it to establish a natural basis either for rejecting Pythagorean benevolence toward animals or for claiming that mutual exploitation characterizes humans beings as well as animals.

We can get a little closer to Philus' proof by tracking down its continuation. Philus had introduced the question of what we are to assign to animals as the first of a series (*primum, Rep.* 3.19). This indicates he went on to another problematic case. It seems likely that Lactantius has preserved part of it among the proofs he recorded in support of the *summa* of Philus' argument (*Inst.* 5.16.4–11 = *Rep.* 3.21, 29–30 [12, 25–26 B]). These proofs consisted in examples of human behaviour, either actual historical events, or scenarios of what Philus took to be typical human behaviour. In citing these proofs Lactantius does not tell us which examples go with which theses of the *summa*; but later in Book 6, in explaining why unbelievers take laws and social institutions as true right (*verum ius*), even though they are really based on self-interest, Lactantius echoes the argument of Summa A and illustrates it with an example:

> For why are different and varied laws established among all people, unless each nation has sanctioned for itself what it considered useful for its own affairs? In fact, the Roman people themselves show how far utility departs from justice. **Example A_1:** By declaring war through their Fetiales and legally doing injustices and by always taking and seizing the property of others they have gained possession of the entire world for themselves.
>
> (*Inst.* 6.9.3–4 = *Rep.* 3.20 Z).[25]

[25] Cf. Heck (n. 3), pp. 90–1. Heck's relegation of the passage to the status of an echo rather

The same historical example, Roman confiscation of property in pursuit of empire, is cited by Lactantius as the first example after his *summa* in 5.16:

Example A_2: If those who rule an empire and the Romans too, who rule the whole world, should wish to be just, that is, if they should restore what belongs to others, they would have to return to their huts and lie there in poverty and misery. (*Inst.* 5.16.4 = *Rep.* 3.21 [12 B])[26]

The two allusions to Rome's legalized, but unjust, confiscation of the property of her subjects (Examples A_1 and A_2) seem to be complementary halves of a single example.[27] They make Rome a stellar example of the fact that human beings do not naturally treat each other justly and fairly, but are inclined to exploit other human beings for their own advantage, as much as animals exploit other animals.[28] This historical example, perhaps along with others, could be cited as incontrovertible evidence, not only to refute the claim that human beings are naturally altruistic (**J2**), but also to establish the positive claim that there is no substantial difference between humans and other animals in their treatment of each other.[29]

One can easily imagine Philus proceeding from the problem of the appropriate treatment of animals to the equally controversial problem of the appropriate treatment of subject peoples. As in the case of beasts, philosophical theory and experience might be claimed to disagree. Philosophers like Aristotle might argue that subjection is good for some subjects, when it is administered in their interests (*Pol.* 1.5.1254a17–55a2, 7.14.1333b38–34a2).[30] The Romans, however, though they may claim they treat their subjects kindly and fairly (e.g. Cic. *Off.* 1.35), can hardly deny that they control territory that once belonged to others and that their administration is frequently not in the interests of their subjects. There is no concrete evidence for

than a report led Ferrary (n. 2, 1977), 130 and n. 3, and Bréguet to disregard it completely, though Heck acknowledged that it sheds light on *Inst.* 5.16.4. Heck, however, underestimated its value, thinking it added nothing to what we hear in 5.16.4. In fact, it adds a detail on the declaration of war by the Fetiales; and it is rhetorically distinct enough to suggest that each was derived from different words of Cicero's text.

[26] The placement of this example after Summa B and Lactantius' tendency to conflate Philus' Arguments II and III have led interpreters to assume that it was presented as an example of the foolishness of justice, the thesis of Summa B. Ferrary (n. 2, 1977), pp. 144–5 and Bréguet (n. 1), 2, p. 160, n. 1 (to p. 62) place it after 3.24 (22 B). However, it says nothing of wisdom or foolishness and presupposes only the incompatibility of justice and self-interest, just as Example A_1 does. In *Epit.* 51.3 Lactantius paraphrases it differently, perhaps closer to Cicero's original (cf. Heck and Wlosok [n. 4], 2, p. 133). There he links it to the second argument of rendering to each what is appropriate (cf. *suum cuique restituere*). We may conjecture that *Inst.* 5.16 was intended, not as a condensation of the speech, but as a set of excerpts, arranged to segregate philosophical theses from examples.

[27] This is confirmed by the fact that in *Epit.* 51.3, formally the concise version of *Inst.* 5.16.4 (Example A_2), Lactantius incorporates a detail found only in *Inst.* 6.9.4 (Example A_1), seizing the property of others by armed force.

[28] Non. 498.18 = *Rep.* 3.35b (3.37, fr. 3 B), which closely parallels Example A_1, may belong in this context. Though usually attributed to Laelius as an altruistic justification for imperialism (e.g. Heck [n. 3], pp. 205–6), Büchner (n. 1), pp. 282, 285–6, 307, has suggested it may be ironic and thus from Philus' speech.

[29] Another example that might have been cited here is the story of Alexander the Great (Non. 125.12, 318.18, 534.15 = *Rep.* 3.24 [21 B]; August. *De civ. D.* 4.4.8–14). Although usually taken as an example of the foolishness of justice (e.g. Ziegler [n. 1], p. 92; Heck [n. 3], p. 126; Bréguet [n. 1], 2, p. 61), it lacks the comparative element of the other such examples and illustrates the same self-interested imperialist exploitation. The observation of the next surviving page (*Rep.* 3.23 [20 B]) suggests that examples of other forms of oppressive rule may also have been cited.

[30] A similar view is often attributed to Panaetius, but the evidence is weak; cf. Ferrary (n. 2, 1988), pp. 370–8, 395–424.

Philus' citation of a philosophical theory of justified imperialism; but if he did, he would have had a second case in which empirical evidence contradicts philosophical theory.

Taken together, the use of animals and the exploitation of peoples, could plausibly justify the conclusion needed for Argument II, namely that human beings make laws and act, not in conformity with any kind of natural justice, but for their own advantage, just as other animals do. Either there is no justice or we may conclude that it is not the innate, self-sacrificing virtue that its heroic defenders had claimed (**J2**). If so, it also follows that self-sacrifice, and hence justice, is not voluntary. The animals who benefit humans and the subjects who benefit their rulers do so, not by free choice (*voluntas*), but by fear of penalty, as Philus already intimated at the end of Argument I. By the end of Argument II Philus can claim warrant for ruling out both nature and free will as sources of justice.

ARGUMENT III

In the next surviving page of the palimpsest we find Philus making precisely that point. If laws are made by exploitative rulers and forced on people, the laws that constitute what people call justice originate neither from nature, nor from the choice of those who live by them, but from weakness. When one person or class fears another, the people make an agreement with the ruler. This social compact is presumably the basis of every constitution, but Philus is most concerned to affirm its importance in the mixed form of government that the day before had been identified as the form of the Roman constitution (*Rep.* 1.38–69, esp. 54 and 69). Such an agreement, he claims, is one that no one would voluntarily choose; it is the second best option for those who are too weak to prevent stronger people from taking advantage of them. People, he suggests, are always faced with three options. The best is to do injustice without suffering it. The second best is neither to do injustice nor to suffer it. The worst is to live in a constant struggle of doing wrong and suffering wrong at the hands of others (*Rep.* 3.23 [20 B]).

The passage breaks off here, but one can easily spot the model for it in Glaucon's speech in Plato's *Republic* 2.[31] Glaucon there continued with the contention that one would be mad (μαίνεσθαι) to make a compact and settle for the second best option, neither to wrong nor be wronged, if one were strong enough to achieve the advantage of doing wrong without being forced to pay a penalty for it (Plato, *Rep.* 2.358e–59b). It is not unlikely that Philus' adaptation of it here was carried to the same conclusion to rebut **J3**, that justice is divine and close to wisdom. As such it would launch Philus' third and final argument. Exactly how it proceeded we cannot say, since the next 64 lines are lost; but we can see that Philus elaborated it substantially and was still expounding it when the text resumes in *Rep.* 3.24 (20 B). Here he enumerates the dictates of wisdom: to acquire ever more wealth and property, to rule as wide an empire as possible, to enjoy pleasures—in short, to play the tyrant. Justice, in contrast, dictates clemency, concern for the whole human race, rendering to each his own, and not touching what belongs to the gods, the public, or even other ordinary people.

Glaucon's argument that served as Philus' model was the first of three designed to articulate with philosophical precision the position originally staked out by Thrasymachus in *Republic* 1, namely that justice disadvantages its possessors (Plato,

[31] The parallel has often been noted, e.g. Sabine and Smith (n. 1), p. 210, n. 53; Büchner (n. 1), pp. 304–5; Ferrary (n. 2, 1977), pp. 143–4.

Rep. 1.343b–44c) and is hence naive (εὐήθεια, 348c, cf. 343c–d). There is evidence that Philus used all three of Glaucon's arguments in developing his own and that he supported each with illustrations drawn from history or from what he took to be typical human behaviour. In the first (*Rep.* 3.23–4 [20–1 B]), the one that we have just reviewed (Argument IIIA), he began with an illustration drawn from Rome's self-interested, imperialist policy, the same activity he used to illustrate Argument II; but he here used it as an example of a wise, but unjust policy (3.24 [20 B]).[32] More examples no doubt followed in the subsequent 32 line lacuna and probably ranged over various cities and nations besides Rome, concluding with the Arcadians and Athenians (3.25 [23 B]).

In the next paragraph (3.26 [24 B]) Philus advances to Glaucon's second argument. He introduces it as the response to an objection coming from the Epicureans. They are introduced anonymously as disputants who have followed Philus to the extent of recognizing that people are not good from any intrinsic goodness and justice or even voluntarily (*sua sponte*), but from a strategic calculation of the best way to achieve the primary human goal of tranquillity. They contend that a wise man will practice justice to avoid the fear of punishment and a virtually permanent state of anxiety due to the possibility of future detection.

Philus' response to this (and perhaps also another, now lost, attempt to salvage the wisdom of justice) seems to have been a series of hypothetical examples of opportunities for gain purchased at the price of an injustice that can never be discovered (Lact. *Inst.* 5.16.5–11 = *Rep.* 3.29–30 [25–6 B]).[33] Philus assumes that in all such cases it would be considered absurd, even by good and just men, not to take advantage of another when the potential gain is great (in some cases survival itself) and the chance of discovery and punishment virtually nil.[34] Philus' hypothetical examples serve the same function as Glaucon's hypothetical just man with the power of making himself invisible (Plato, *Rep.* 2.359b–60d).[35] Both rely on an intuitive sense of human psychology that holds self-interest and personal aggrandizement to be the natural inclination of all people.

Glaucon's third argument was to pose a hypothetical choice between two ways of living, that of a perfectly unjust man with even a false reputation for justice, and that of a perfectly just man without any of justice's benefits, not even the good reputation. Since the unjust man would get the advantage of both his crimes and his reputation for justice, whereas the just man would suffer at the hands of the unjust and then suffer punishment on the basis of his reputation, no one would willingly chose the life of justice (Plato, *Rep.* 2.360e–2c; cf. 358b–c). In the final surviving pages of the palimpsest Philus too lays out contrasting portraits of the just man with a reputation

[32] Ferrary (n. 2, 1977), pp. 144–5, following Büchner (n. 1), p. 271, assumes Philus discussed Roman imperialism in only one place in the speech, which leads him (p. 134) to postulate a whole quaternion lost between 3.24 and 28. This is unnecessary if imperialism entered into other arguments (cf. 3.16 in Argument I and 3.28 in Argument IIIC).

[33] The Epicurean objection is introduced with the word *primum* and breaks off in mid-sentence. Ferrary (n. 2, 1977), pp. 146–7 conjectures that a Stoic objection followed. The lacuna of about 56 lines (between *Rep.* 3.26 [24 B] and 3.27 [28 B]) is nearly half filled by the examples preserved by Lact. *Inst.* 5.16.5–11 = *Rep.* 3.29–30 (25–6 B). Cf. Heck (n. 3), pp. 83–4; Ferrary (n. 2, 1977), pp. 132–3; Bréguet (n. 1), 2, pp. 63–5.

[34] The hypothetical examples deal with the behaviour of a good man (*bonus vir*), when no one else is aware of his injustice (*quae . . . solus sciat*, 5.16.5) or a just man (*iustus*) when there is no witness (*cum sit nullus . . . testis*, 5.16.10).

[35] Cf. Ferrary (n. 2, 1977), p.147.

for injustice and the wicked man with a reputation for virtue (Argument IIIC).[36] After spelling out the consequences for each, just as Glaucon did, he asks who could be so insane (*demens*) as to prefer the life of the just man (*Rep.* 3.27 [28 B]). He adds that the argument applies to nations as well as to individuals and begins citing examples of states that have preferred unjust imperialism to just slavery. The first of these, contrasting an act of justice taken by the senate during his own consulship with a similar situation five years earlier in which self-interest prevailed, once again brings up Rome's self-serving conduct in relation to other peoples.[37] This will be the third time Philus has used Rome as an example of egregiously self-serving behaviour.

With this example our information on the speech comes to an end.[38] In the three arguments we have identified Philus has accomplished all that he promised: he has revealed the weakness of the three claims of the defenders of justice by demonstrating that justice is entirely conventional, the pursuit of self-interest is natural, and injustice committed in its pursuit is more reasonable than the fairness or the concern for others that goes under the name of justice and virtue.

THE PLATONIC MODEL

When Philus finished his speech, he had refuted what he originally presented as the distilled essence of the views of Plato and Aristotle, and presumably all who followed them in defending justice (*Rep.* 3.12); but even the scanty remains show that he owed a special debt to Plato.[39] In his third argument this debt is unmistakable. The structure of the argument has been modelled on Glaucon's three arguments in *Republic* 2. Philus has reworked and elaborated the rhetoric and has added supporting examples. He has even refashioned Glaucon's three serial arguments into a continuous dialectical encounter, in which some, certainly the second (Argument IIIB), and perhaps all three, were presented as responses to an opponent's contention, a procedure that gave Philus an opportunity to incorporate a wide range of philosophical opponents.[40] The basic argumentation, nevertheless, follows Glaucon's formulation of Thrasymachus' contention that injustice is better and wiser than justice. Philus

[36] Noted by Sabine and Smith (n. 1), p. 212, n. 59; Büchner (n. 1), p. 300; Ferrary (n. 2, 1977), p. 147.

[37] The same example is cited at *Off.* 3.109.

[38] The summary at the end of Lactantius' report (*Inst.* 5.16.12 = *Rep.* 3.31 [27 B]), often taken as reference to a peroration, is his own assessment of the speech as a whole, and not a quotation from Philus. Lactantius' Summa B (5.16.3b) would make a better ending, but there is no way to tell from where in the final portion he derived it.

[39] For assessments of Cicero's debt to Plato, see G. Zoll, *Cicero Platonis Aemulus: Untersuchungen über die Form von Cicero's Dialogen besonders De Oratore* (Zurich, 1962), esp. pp. 60–8, 125–56 (for dialogues in general); M. Pohlenz, '*Cicero De re publica als Kunstwerk*', in *Festschrift für R. Reitzenstein* (Leipzig/Berlin, 1931), 70–105, repr. in H. Dörrie (ed.), *Kleine Schriften* (Hildesheim, 1965), 2, pp. 374–409 and V. Pöschl, *Römischer Staat und griechisches Staatsdenken bei Cicero: Untersuchungen zu Ciceros Schrift De re publica*, Neue Deutsche Forschungen, Abteilung Klassische Philologie 5 (Berlin, 1936; repr., Darmstadt, 1983), 108–78 (for *De re publica*); and Ferrary (n. 2, 1977), esp. pp. 143–52 (cf. J.-L. Ferrary, 'Le discours de Laelius dans le troisième livre du *De re publica* de Cicéron', *MEFRA* 86 [1974], 745–71, at 769 and n. 2) and J. E. G. Zetzel (ed.), *Cicero: De re publica, Selections* (Cambridge, 1995), pp. 4–6, 13–5 (for Philus' speech).

[40] Since Argument II was introduced similarly (*Rep.* 3.18), we may suspect that the entire speech was constructed as an extended debate in which Philus took on all comers. For the wide range of opponents, see Ferrary (n. 2, 1977). Cf. also G. Striker, 'Following nature: a study in Stoic ethics', OSAP 9 (1991), 1–73 at 50–8

has thus taken the rhetorical posture of coming to the defence of Socrates' final and most formidable opponent in the first book of Plato's *Republic*.

Once we recognize Philus' strategy in the third argument, we cannot avoid re-examining the first two for Platonic precedents. Philus' first argument (I) contends that justice is not a natural universal law governing all life and social interaction, but rather a wide variety of conventional practices regarding obligations to the gods and other people. The second (II) adds that it is also not an innate tendency to follow a universal principle for determining what is just, namely rendering to everyone what is appropriate. These two arguments bear noticeable similarities to the positions defended by Socrates' first pair of interlocutors, Cephalus and his son Polemarchus (*Rep.* 1.330d–35e). Cephalus had initiated the discourse in the *Republic* by praising the traditional practice of fulfilling obligations to the gods and to men. Polemarchus had defended his father's position by bringing it under the principle of rendering to everyone what is appropriate.

In each case Socrates' dialectical analysis succeeded in refuting their claims. Socrates found Cephalus' stand honourable enough, but wanting as a definition of justice. Polemarchus' attempt to salvage his father's position suffered an equally severe blow, when Socrates first got him to admit that in practice his conception of justice was to do good to friends and harm to enemies, and then silenced him by demonstrating logically that it is never just to do harm to another. Now Philus in Argument I contends that Cephalus was right after all and that Socrates was wrong to seek a universal natural justice. Fulfilling obligations toward gods and men, as Cephalus strove to do, constitutes the only kind of justice there is, the justice of conventional social and religious norms. Philus also comes to Polemarchus' rescue by pointing out that it is routine policy for rulers (such as Rome in Example A_2 [Lact. *Inst.* 5.16.4 = *Rep.* 3.21 (12 B)]) to help themselves and their friends by harming their enemies. The Romans even ensconce such harm in law (Example A_1 [Lact. *Inst.* 6.9.4 = *Rep.* 3.20 Z]).

By the time Philus has finished with his second argument Socrates' altruistic conception of justice has turned out to be only wishful thinking. Polemarchus had correctly intuited the natural inclination of people to help themselves at the expense of others and to implement this principle in their social dealings. Thrasymachus was thus justified in intervening with his cynical proposal that justice is the interest of the stronger, specifically, the rulers who rule in their own interests (Plato, *Rep.* 1.338c-39a). It is Thrasymachus' position, essentially a denigration of altruism, that Philus defends in his third argument, organized in accord with Glaucon's logically articulated formulation. Thus Philus' speech appears to take up in sequence each of the positions refuted by Socrates and to give them new life as the framework of an argument against justice.

PHILUS AND CARNEADES

When Philus does this, he is conscious of the fact that he is playing a dramatic role, reciting arguments of Carneades. He underlines that fact and intimates his reasons for choosing Carneades' arguments in his opening interchange with Laelius (*Rep.* 3.8). Defending injustice is not a role he relishes. It is his assignment for the purpose of this debate to present the case for the currently popular view (*quae . . . dici solent*) that a state cannot be governed without injustice.[41] Reassured by Laelius that

[41] In the extant part of the palimpsest (3.8) these views are described only generically as 'against justice', but August. *De civ. D.* 2.21 (= *Rep.* 3.Pref. [3.7 B]; 19.21 = *Rep.* 3.36 Z), describes

nothing can sully his reputation and reminded that he is committed to the method of arguing both sides to find the truth, Philus accepts the part with a conscious allusion to Plato's *Republic*: 'Very well, I will humour you and consciously get down into the dirt (*me oblinam sciens*). For since those who search for gold think they ought not refuse to do so, we who seek justice, something much more valuable than all the gold in the world, surely ought not avoid any effort, however repulsive.'

The adoption of the metaphor Socrates used for his own dialectical search for justice in *Republic* 1 (336e) casts the coming discussion by the three Romans in the role of a joint search for justice, a search that will initially lead them into the dirt into which justice has fallen. Philus evokes the metaphor of gold buried in dirt again a few lines later. After recounting the contributions of Plato, Aristotle, and Chrysippus, and before embarking on his rebuttal, he refers to the defenders of justice as heroes who 'raised up that fallen virtue (*excitare iacentem*) . . . and seated it on that divine throne not far from wisdom' (*Rep.* 3.12). Obviously something has happened in the meantime that has knocked justice off its throne and back into the dirt so that its value needs to be reasserted. It is only after this highly wrought expression of feigned reluctance that he reveals how justice has come to this sorry state. This he does by ceremoniously identifying the prototype of the view that he is forced to defend: 'Now L. Furius Philus must say the things that Carneades, a Greek . . . ' (3.8).[42] His implication is that Carneades' rebuttal has undone Plato's and Aristotle's rescue and elevation, so that Philus, Laelius, and Scipio are faced with the prospect of having to do it again.

The particular assignment that fell to Philus was not the glamorous rescue, but the humbler preliminary role of portraying the gold buried in the dirt, where Carneades had left it. In reciting Carneades' arguments, Philus begins to re-enact a dialectical encounter that purportedly took place a century earlier between the Greek philosopher Carneades and a Roman audience that included Galba and Cato (Lact. *Inst.* 5.14.3 = *Rep.* 3.6 Z). The historical significance of this encounter and its re-enactment is intimated by Philus' announcement of the means that he will use to advance the quest: 'As I am about to present the speech of others (*oratione . . . aliena*), I wish I could make use of someone else's tongue' (*ore . . . alieno*, *Rep.* 3.8). When Philus says he will use 'the speech of others', he is using charged words. It is not only *others'* speech; it is *alien* speech, originally presented to Romans (as we are about to hear) in an *alien* tongue by an *alien* speaker, a Greek (*Graecus homo*).[43] Philus is not re-enacting a chance incident, but one that he saw as a turning point in Roman history, an event that transplanted the contest for justice from a foreign language and culture into his own Roman language and the civic culture of the Roman Republic. In this transplantation Philus himself is to play the role of interpreter, translating the attack on justice into Latin and presenting it in a format in which Roman defenders can effectively engage it and from which they can rescue it and elevate it in the Roman world.

them more specifically as the claim of those 'who believe that the state cannot be governed without injustice', i.e. precisely as proposed the day before (*Rep.* 2.70). Cf. also Lact. *Inst.* 5.14.5 = *Rep.* 3.9.

[42] This is the first mention of Carneades' name, which Philus juxtaposes with his own, expressed in the third person in its full Roman form; cf. Büchner (n. 1), pp. 278, 281.

[43] Ibid., pp. 277–8.

CICERO AND PLATO

Philus' introductory dialogue also opens up a second perspective on his speech. When Socrates compared his search for justice to a search for something more precious than gold, he was expressing his serious commitment to dialectical discourse with his interlocutors in the face of Thrasymachus' belligerent criticism. When Philus' continues that quest by re-enacting the speech of Carneades, he finds himself defending the position of those very interlocutors, Cephalus, Polemarchus, Thrasymachus, and Glaucon. Philus' speech thus begins to re-enact not only the encounter between Carneades and the Roman defenders of justice, but the encounter between earlier Greek detractors of justice and the original Greek defender, Socrates.[44] Philus' speech, in effect, rhetorically recapitulates a four-century-long contest between the detractors of justice and its heroic defenders. The contest is portrayed as working its way through formal philosophical literature, public discussions, and staged debates, passing through two cycles, one in Greece and one in Rome, and culminating in the centrepiece of Cicero's *Republic*:

	Cycle I (Greece)	**Cycle II** (Rome)
Philosophical Literature		
Detractor	[Sophists]	[Sceptical Academy][45]
Defender	Socrates	Plato, Aristotle,
Public Discussion		
Detractor	Thrasymachus	Carneades
Defender	Socrates	Galba and Cato
Staged Debate		
Detractor	Glaucon	Philus
Defender	Socrates	Laelius and Scipio
Literary Vehicle	Plato's *Republic*	Cicero's *Republic*

If Philus' speech is a telescoped depiction of one pole in the contest for the honour of justice, we may expect to find the speeches of Laelius and Scipio depicting the other pole. The almost total loss of the relevant pages of the manuscript makes it difficult to confirm this, but one surviving page portrays Scipio complimenting Laelius on his speech. He notes that Laelius' speech rivalled even the oratory of Servius Galba, whom Laelius admired above all others (*Rep.* 3.42). If Cicero is inviting us to view Laelius as a rival of Galba, we can hardly avoid seeing Cicero's pair of speakers for justice (Laelius and Scipio) as counterparts of the two Romans presumably singled

[44] The parallel between Philus and Glaucon has often been noted, e.g. Pohlenz (n. 39), p. 94; Pöschl (n. 39), pp. 127–8; Ferrary (n. 39, 1974), p. 769, n. 2 and (n. 2, 1977), p. 150; Bréguet (n. 1), 1, p. 61, n. 2. Pöschl observes that Philus' parallel to Glaucon extends to the personal disavowal of the position being expressed.

[45] The literature or philosophical affiliation of the detractors is not explicitly mentioned in any text, but can be inferred from the positions of the advocates. Thrasymachus and Glaucon articulate views voiced by fifth-century sophists. Carneades expresses the views of the sceptical Academy, most likely known to Cicero and the Romans through the writings of Clitomachus (see above, n. 2).

out by Cicero as auditors of Carneades, i.e. Galba and Cato (Lact. *Inst.* 5.14.3 = *Rep.* 3.6 Z).[46]

Going further, we may wonder how far the speeches of Laelius and Scipio evoked the defence of justice in the first cycle, namely Socrates' discourse in Plato's *Republic* 2–9. It is perhaps not coincidental that Socrates' discussion of justice was divided into two parts. In the first he sought and found justice at the root of civic order and derived a definition of it (*Rep.* 2–4). Then, after an interruption demanded by his interlocutors for developing specific provisions for rule in an ideal state (*Rep.* 5–7), Socrates resumed his original plan by discussing the various types of constitution that result when the just order is abandoned (*Rep.* 8–9). A similar division of subject matter is reflected in the speeches of Laelius and Scipio. Laelius discusses the nature of justice and its essential role in government in general. Then Scipio develops its role in the various types of constitution, including the oppressive, degenerate types that arise in the absence of a shared sense of justice (*consensu iuris*, cf. *Rep.* 3.45).[47]

In Cicero's *Republic*, however, both Laelius' conception of justice and Scipio's analysis of constitutions are built on post-Platonic philosophical developments.[48] In this respect they follow the pattern of Philus' speech, which reshaped the arguments of Thrasymachus and Glaucon in post-Platonic, sceptical Academic terms. In all three speeches Cicero's method appears to have been to fill the Platonic dialectical format for the discussion of justice with the substance of a contemporary debate on the comparative value of self-interest and justice in governmental policy and practice. Thus Cicero's third book portrays the culmination of a lengthy contest between self-interest and the common good, a contest that began in fifth-century Greece, then spilled across the sea to Rome in the second century B.C., when Carneades and his followers gave it sophisticated philosophical articulation.[49] In Rome native orators and statesmen, like Galba, Cato, Laelius, and Scipio, restored justice to its rightful place of honor, as Socrates had done long before in Greece. Cicero himself crowned this victory by recording it for posterity (cf. *Rep.* 1.13), just as Plato had done for the Greek contest three centuries earlier.[50]

Ohio State University

DAVID E. HAHM
hahm.1@osu.edu

[46] The presence of Galba and Cato in Carneades' audience is reported only by Lactantius, but it is a small detail that Lactantius would have known and included only if he found it in Cicero's dialogue.

[47] The subject of ideal ruler, the counterpart of Plato's philosopher-king, is discussed in Cic. *Rep.* 2 and 5–6; cf. Pöschl (n. 39), pp. 119, 162–6. Pohlenz (n. 39), pp. 92–6 notes that the Platonic tripartition is reflected formally in the work as a whole, which introduces a new subject at 2.64, only to interrupt it for a discussion of its foundational topic, the role of justice.

[48] Cf. Ferrary (n. 39, 1974).

[49] The metaphor of spilling across from Greece is Ciceronian. Of the practice of attacking prominent public figures Cicero says: 'born and multiplying' in Greece, it 'overflowed' (*redundasse*) to Rome (*Rep.* 1.5).

[50] This may be why Cicero called himself 'Plato's travelling companion' (*Platonis comes*, Pliny, *N.H.* pref. 22 = *Rep.* 1, fr. 3 B). He identified himself neither as a follower, nor a rival, but one who pursued a similar course of life and achievement (cf. Büchner [n. 1], p. 50).