

## Handling of Facts in Cicero's Speech in Defence of Quintus Ligarius

**Abstract.** After the battle of Thapsus that took place on 6 April 46 Caesar kept delaying his return to Rome for a long while, until 25 July—he stopped to stay on Sardinia—and this cannot be attributed fully to implementing measures and actions necessary in Africa since they could have been carried out by his new proconsul, C. Sallustius Crispus too. The triumph held owing to the victory in Africa—in which they carried around representations of the death of M. Petreius, M. Porcius Cato and Q. Caecilius Metellus Pius Scipio Nasica—must have further grated on the nerves of the aristocracy of Rome, because it was meant to symbolise Caesar's victory both over Iuba and the senate. It was after that that Cicero broke his silence and delivered *Pro Marcello* in the senate, which was both *oratio suasoria* and *gratiarum actio* for the pardon granted to Marcellus, by which Caesar wanted to assure the senate of his benevolence and wanted to show off his power by his autocratic gesture. *Pro Ligario* delivered in 46 has been considered a classical example of *deprecatio* by both the antique and modern literature, and in historical terms it is not a less noteworthy work since from the period following the civil war *Pro Marcello*, having been delivered in early autumn of 46 in the senate, is Cicero's first oration made on the Forum, that is, before the general public, in which praising Caesar's *clementia* he seemingly legitimised dictatorship. First, we describe the historical background of the *oratio* and the process of the proceedings (I.); then, we examine the issue if the proceedings against Ligarius can be considered a real criminal trial. (II.) After the analysis of the genre of the speech, *deprecatio* (III.) we analyse the appearance of Caesar's *clementia* in *Pro Ligario*. (IV.) Finally, we focus on the means of style of irony, and highlight an interesting element of the Caesar—Cicero relation and how the orator voices his conviction that he considers the dictator's power and *clementia* illegitimate. (V.)

**Keywords:** Marcus Tullius Cicero, Iulius Caesar, *Pro Ligario*, *deprecatio*, *clementia Caesaris*

### I

Quintus Ligarius—who was born as the offspring of an insignificant Sabine *gens*, his brother, Titus fulfilled the office of quaestor urbanus around 54, his other brother, Quintus obtained quaestorship sometimes in the 50's<sup>1</sup>—filled the office of legate in 50 beside Considius Longus propraetor in the Africa province.<sup>2</sup> After Considius went to Rome at the end of 50 to run as candidate for consul, the administration of the province was left to Ligarius, who—as Cicero asserts—was not pleased to undertake it.<sup>3</sup> Immediately before the outbreak of the civil war, in 49 the senate appointed Q. Aelius Tubero, Cicero's remote relative, propraetor of Africa, who waited before taking over the province—we do not know whether his illness prevented him from travelling or he wanted to wait and see what direction high politics would take. In Africa Ligarius also took a wait-and-see attitude. That is how it happened that not long after the outbreak of the civil war—after the defeat by Caesar at Auximum—before the propraetor designated by the senate, P. Attius Varus, Pompey's adherent, Africa's one-time governor arrived in Utica,<sup>4</sup> who arbitrarily took over the governance of the province on behalf of the republican side and ordered to set up two legions.<sup>5</sup> Ligarius was compelled to

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<sup>1</sup> Broughton, T. R. S.: *The Magistrates of the Roman Republic, I–III*. New York, 1951–1960. II. 223. 581; III. 35.

<sup>2</sup> Cicero, *Pro Ligario* 2.

<sup>3</sup> *Ibid.* 2.

<sup>4</sup> *Ibid.* 3; Caesar, *De bello civili* 1, 31, 2.

<sup>5</sup> Caesar, *De bello civili* 1, 31, 2.

subordinate himself to Varus's supremacy;<sup>6</sup> however, both Cicero and Caesar disputed its validity as Varus's procedure lacked lawful grounds.<sup>7</sup>

Soon, in the spring of 49—the exact date is not known, it might have taken place after Cato's withdrawal from Sicily, i.e., 23 April—Africa's legitimate governor, Q. Aelius Tubero, together with his son appeared at Utica.<sup>8</sup> Tubero was prohibited by Varus and Ligarius, exercising administration along the coast of Africa, to land and take over the province assigned to him by the senate as well as to take water and get his ill son to enter the province.<sup>9</sup> In the plea of defence Cicero shifted the responsibility for the above onto Varus.<sup>10</sup> Regarding these events Caesar did not mention Ligarius's name either, only Varus's.<sup>11</sup> The exact cause of the hostile conduct engaged by Varus and Ligarius are not known, their distrust was most probably due to the fact that Tubero kept delaying his journey to Africa and they suspected him of belonging to Caesar's adherents. After that, Tubero joined Pompey in Greece, and took part in the battle at Pharsalus on his side; then, he was granted pardon by Caesar.<sup>12</sup>

In the meantime, Caesar's commander, Curio commanded troops to Africa in August 49, and after the victories over Varus and Ligarius he died in the battle against the ruler of Numidia, Iuba. Only a few of Curio's army, including Asinius Pollio, were able to escape to Sicily. Iuba considered himself absolute winner and had a part of the Roman soldiers who surrendered to Varus executed. Although Varus did not approve this step, he was not in the situation to oppose it.<sup>13</sup> As Iuba appeared to be the republican forces' most significant support in Africa, the Pompeian senate awarded him the title of king and hospitality, while the Caesarian senate declared him enemy (*hostis populi Romani*). After the battle at Pharsalus Pompey's adherents gathered in Africa to continue the fight against Caesar; the office of the commander-in-chief was given on the grounds of Cato's decision to Pompey's father-in-law, the consul of the year 52, Q. Metellus Scipio. Attius Varus, Labienus and Cato submitted themselves to Metellus Scipio, however, internal hostility mostly worn out the force of opposition and, to a considerable extent, facilitated Caesar's victory in Africa in 46. Cato proudly took his own life and deprived Caesar from the opportunity of exercising power—punishment or pardon—over him, Attius Varus and Labienus moved to Hispania, and continued the fight there up to 45.<sup>14</sup>

After the battle at Thapsus Ligarius was taken as captive in Hadrimentum, however, Caesar gave him pardon just as to Considius's son.<sup>15</sup> From the fact of captivity in Hadrimentum it is possible to draw the conclusion that Ligarius stayed there during the entire term of the war in Africa and did not assume any part in war actions; yet, he could not have been a really significant person since the author of *Bellum Africanum* does not mention him by name. Caesar's pardon was not rare at all as the dictator gave amnesty to everybody who surrendered without fight in the war in Africa; only a few even of the chiefs were killed, e.g. Afranius and Faustus Sulla captivated during fight—whether it was done on the direct orders of Caesar<sup>16</sup> or without his knowledge is disputed.<sup>17</sup> This is fully supported by Cicero's

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<sup>6</sup> Walser, G.: Der Prozess gegen Q. Ligarius im Jahre 46 v. Chr. *Historia* 8. 1959. 90–96., 90.

<sup>7</sup> Cicero, *Pro Ligario* 3; Caesar, *De bello civili* 1, 31, 2.

<sup>8</sup> Cicero, *Pro Ligario* 27.

<sup>9</sup> Pomponius, *Digesta Iustiniani* 1, 2, 2, 46.

<sup>10</sup> Cicero, *Pro Ligario* 22.

<sup>11</sup> Caesar, *De bello civili* 1, 31, 3.

<sup>12</sup> Walser: *op. cit.* 91; McDermott, W. C.: In Ligarianam. *Transactions of the American Philological Association* 101. 1970. 317–347., 321.

<sup>13</sup> Caesar, *De bello civili* 2, 44.

<sup>14</sup> Walser: *op. cit.* 91; McDermott: *op. cit.* 321. f.

<sup>15</sup> *Bellum Africanum* 89.

<sup>16</sup> Cassius Dio, *Historia Romana* 43, 12, 3.

<sup>17</sup> *Bellum Africanum* 95.

statement when he speaks about a victory where only armed persons were killed.<sup>18</sup> However, a granted pardon did not give permit to return to Italy.

Ligarius's relatives turned to Cicero as early as in the summer of 46 asking him to use his influence with Caesar to allow Ligarius to return to Italy, and in letters with highly official tone dated in August and September 46 respectively—which does not certify that they maintained any friendly relation<sup>19</sup>—the orator assured Ligarius of his help.<sup>20</sup> It is not known what kind of relationship Cicero maintained with the otherwise not too significant Ligarii known only for their hostile emotions towards Caesar and what role Cicero's ceaseless financial difficulties played in undertaking the case. It is possible that it was Brutus's mediation that made Cicero undertake the case.<sup>21</sup> On the other hand, for a long while Cicero did not have any direct contact with the dictator, only with his environment, e.g., with Pansa, Hirtius and Postumus.<sup>22</sup> In Ligarius's matter, together with Ligarius's brothers he made efforts to get close to Caesar through mediators and disclose the matter to him.<sup>23</sup> This was not an easy task because, among others, Caesar took a dislike to those who were involved in the war in Africa and wanted to keep them in uncertainty by delaying their return;<sup>24</sup> Cicero encouraged Ligarius by asserting that his troubles would be soon solved for Caesar's anger lessened from day to day.<sup>25</sup> His next letter more resolutely voiced the hope in the opportunity of returning home soon<sup>26</sup> as having undertaken the somewhat humiliating situation to ask for audience as a *senator consularis* from Caesar four years younger than him, not being above him at all in the hierarchy of the Republic,<sup>27</sup> Cicero was granted personal hearing by Caesar where he appeared together with Ligarius's brothers, who threw themselves to the ground at the dictator's feet, and Cicero delivered a speech.<sup>28</sup> To all that Caesar responded generously, which made giving amnesty unquestionable in Cicero's eyes, however, it could not be considered a completed fact.<sup>29</sup>

So, Ligarius's case was in a fair way to get solved to satisfy everybody when in the last days of September 46 the son of Lucius Tubero, the former governor, Q. Aelius Tubero<sup>30</sup> brought a charge against Ligarius, which he wanted to support primarily by asserting that Ligarius—and Varus—had not let him land in Africa, in the province assigned to them by the senate. Perhaps the charges included the relation maintained with Iuba as enemy and high treason implemented thereby. At the same time, it should be mentioned at the outset that in *Pro Ligario* delivered in October on the Forum Cicero did not touch on the legally relevant charges, however, by his speech—his speech made before the general public for the first time in the period following the civil war—he seemingly legitimised Caesar's dictatorship.<sup>31</sup>

The defence was provided by C. Vibius Pansa, one of Caesar's closest men—governor of Bithynia and Pontus in 47 and 46, governor of Gallia Cisalpina in 45, then, on Caesar's proposal, *consul designatus* of the year 43, together with A. Hirtius—and by Cicero. Regarding the progress of the case it is worth mentioning Plutarch's account.<sup>32</sup> Thus, Plutarch

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<sup>18</sup> Cicero, *Pro Ligario* 19.

<sup>19</sup> McDermott: *op. cit.* 322.

<sup>20</sup> Cicero, *Epistulae ad familiares* 6, 13, 1; 6, 14, 1.

<sup>21</sup> McDermott: *op. cit.* 323.

<sup>22</sup> Cicero, *Epistulae ad familiares* 7, 7, 6; 6, 12, 2.

<sup>23</sup> *Ibid.* 6, 13, 2.

<sup>24</sup> *Ibid.* 6, 13, 3.

<sup>25</sup> *Ibid.* 6, 13, 4.

<sup>26</sup> *Ibid.* 6, 14.

<sup>27</sup> McDermott: *op. cit.* 323.

<sup>28</sup> *Cic. fam.* 6, 14, 2.

<sup>29</sup> Walser: *op. cit.* 92.

<sup>30</sup> Kunkel, W.: *Herkunft und soziale Stellung der römischen Juristen*. Graz–Wien–Köln, 1967. 37.

<sup>31</sup> Walser: *op. cit.* 90.

<sup>32</sup> Plutarchus, *Cicero* 39, 5–6.

presumed that the outcome of the proceedings had been determined right from the outset, namely, it was a decided fact for Caesar that Ligarius was guilty and would be convicted and it was only the power of Cicero's eloquence that turned the flow of events. Caesar's pardon produced its effect: in March 44 Ligarius was one of Caesar's assassins,<sup>33</sup> then he and his family became the victim of the *proscriptiones* ordered by Antonius and Octavianus.<sup>34</sup>

It is a fact that Caesar pardoned Ligarius and let him return to Italy, however, the following doubts arise with regard to Plutarch's version.<sup>35</sup> If Caesar—as Cicero's letter asserts—did not entertain hostile emotions against Ligarius, why did he allow the proceedings to take place? There might have been two reasons for that: he either wanted to inflict punishment on Tubero or wanted to provide powerful propaganda for his own *clementia* by forgiveness. The intention to convict Ligarius is highly improbable since Cicero did not put forward any new charges that would not have been known to him at the time of writing his letter dated late November, describing Caesar's intentions.<sup>36</sup> Furthermore, Pansa, being the dictator's confidant, would not have undertaken the defence of Ligarius, if it had been decided from the outset that he was guilty, and Caesar would not have assigned defence to Pansa, if he had not wanted to give pardon to Ligarius.<sup>37</sup> Caesar was very much aware that Ligarius did not have great influence among Pompey's adherents and that the events in Africa were controlled by Varus, Cato, Matellus and Labieus. By that Caesar wanted to send a message to Attius Varus and Labienus fighting in Hispania: they had not lost all of their chances for settling the conflict with as little blood sacrifice as possible.<sup>38</sup>

It seems to be more probable that Caesar decided to acquit Ligarius in order to prove his by then proverbial generosity again. Yet, it was just the appearance of this intention that had to be avoided by all means: as Caesar had no other purpose by the proceedings than have his *clementia* celebrated through acquitting Ligarius, for this reason, he put on the mask of the angry judge having been already convinced of Ligarius's depravity who could be moved by Cicero's eloquence only.<sup>39</sup> Caesar as a master of political propaganda must have gladly grasped the opportunity offered for playing the role that his *clementia* was brought to the surface and shaped Ligarius's fate favourably owing to the efficient oration of the counsel for the defence only.<sup>40</sup> It cannot be ruled out that for Caesar—using Cicero's role taking for his own goals<sup>41</sup>—the Ligarius case might have also served to enable him to convince those of his adherents who considered the scope of pardon granted by him excessive that both his more moderate and forgiving adherents and his defeated opponents agreed with the main line of his politics.<sup>42</sup>

Regarding this view Wilhelm Drumann does not qualify Cicero's role specifically, yet, knowing his damning judgement on the orator-statesman he could not have formed a positive

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<sup>33</sup> Plutarchus, *Brutus* 11.

<sup>34</sup> Walser: *op. cit.* 93.

<sup>35</sup> *Ibid.* 94; Kumaniecki, K.: Der Prozess gegen Q. Ligarius. *Hermes* 95. 1967. 434–457., 440. ff.; Loutsch, C.: Ironie et Liberté de Parole: Remarques sur l'exorde ad Principem du Pro Ligario de Cicéron. *Revue des Etudes Latines* 62. 1984. 98–110; Craig, C. P.: The Central Argument of Cicero's Speech for Ligarius. *Classical Journal* 79. 1984. 193–199.

<sup>36</sup> *Cic. fam.* 6, 14.

<sup>37</sup> Rochlitz, S.: *Das Bild Caesars in Ciceros 'Orationes Caesarianae'. Untersuchungen zur 'clementia' und 'sapientia Caesaris'*. Studien zur klassischen Philologie 78. Frankfurt am Main–Berlin–Bern–New York–Paris–Wien, 1993. 118.

<sup>38</sup> Walser: *op. cit.* 95.

<sup>39</sup> Kumaniecki: *op. cit.* 442.

<sup>40</sup> *Ibid.* 439.

<sup>41</sup> McDermott: *op. cit.* 327.

<sup>42</sup> Drumann, W.–Groebe, W. K. A.: *Geschichte Roms: in seinem Übergange von der republikanischen zur monarchischen Verfassung, oder Pompeius, Caesar, Cicero und ihre Zeitgenossen; nach Geschlechtern und mit genealogischen Tabellen, I–VI.* Königsberg, 1899–1929. III. 636. ff.; VI. 232. ff.; Rochlitz: *op. cit.* 119.

picture of it since elsewhere—very much in bad faith—he presents Cicero as an extremely vain figure who overestimates himself, is heated by the desire to be in the public eye, lacks clear political vision, and overtly humbles to *potentes*.<sup>43</sup> The question can be estimated with greater subtlety from the works of Matthias Gelzer and Justinus Klass if we presume that Cicero, using Caesar’s propaganda, tried to realise his own program: the more supporters of Pompey were granted pardon, the more chances he could see for strengthening the situation of the *optimates*, which in the long run could make (could have made) it possible to restore the order of the state of the Republic. To this end, it was indispensable to force Caesar somehow to implement his announced fundamental principles.<sup>44</sup> Handling the situation required great sense of tactics, seeming subordination, internal resoluteness and external flexibility from Cicero. Caesar’s later acts, the battle at Munda and Ides of March 44 proved that both Cicero and Caesar had wrongly surveyed the efforts of the other party and the political party.<sup>45</sup> *Clementia* showed towards Ligarius was addressed not only to Pompey’s adherents fighting against Caesar in Africa but also to those preparing for another war in Hispania, and Cicero’s participation in the proceedings provided sufficient publicity for the case as well as the appearance of objectivity manifested by Caesar.<sup>46</sup> At the same time, *Pro Ligario* made it possible for Cicero—although it might have seemed to be shameless flattery in the eye of the adherents of the Republic<sup>47</sup>—to enforce his own political goals, i.e., to try to make the dictator committed to follow his conciliatory policy, and to find as many causes for exculpation for the supporters of Pompey as possible.<sup>48</sup> Cicero, however, presumably—contrary to Gerold Walser’s view, who interprets the Ligarius case as demonstration of Cicero’s vanity and overestimation of his own role<sup>49</sup>—took part in the play directed by Caesar not because he was driven by political blindness and *hybris*, as it were believing that by his orator’s ingenuity he could deceit and enchant the dictator’s clear political vision. Much rather his concerns formulated in the letter written to Servius Sulpicius Rufus were realised:<sup>50</sup> again he was compelled to take a position and as it were became extortable—if we take his promises made to his friends who lost favour, e.g., Ligarius seriously.<sup>51</sup> On the other hand, if he did not want to get again into open hostility with Caesar, he could not refuse to legitimise his peace policy by taking position, which policy most probably had some attraction for Cicero too since it was the only thing that could bring some kind of remedy for the empire having been exhausted in the civil war.<sup>52</sup> Cicero was also as much of a political realist to size up that it was impossible to avoid public life turning into sheer anarchy without some kind of compromise between the parties. Yet, he did not let Caesar use his talent as unprincipled tool: in *Pro Ligario* he ceaselessly makes an effort to certify excusable errors of Pompey’s adherents and does not omit to criticise the dictator’s status and the general conditions of Rome.<sup>53</sup> Regarding the procedure followed by Caesar, there are certain similarities with his conduct engaged when granting pardon to Marcellus. Caesar himself was also interested in calling Marcellus back from exile; on the one hand, he wanted to demonstrate his generosity again; and, on the other hand, he wanted to advance legitimisation of dictatorship by the fact that a

<sup>43</sup> Drumann–Groebe: *op. cit.* III. 63.

<sup>44</sup> Klass, J.: *Cicero und Caesar. Ein Beitrag zur Aufhellung ihrer gegenseitigen Beziehungen*. Berlin, 1939. 188. f.

<sup>45</sup> Walser: *op. cit.* 96.

<sup>46</sup> McDermott: *op. cit.* 325.

<sup>47</sup> Cicero, *Epistulae ad Atticum* 13, 20, 4.

<sup>48</sup> Kumaniecki: *op. cit.* 453; Fuhrmann, M.: *Cicero und die römische Republik*. München, 1991. 34.

<sup>49</sup> Walser: *op. cit.* 96.

<sup>50</sup> Cicero, *Epistulae ad familiares* 4, 4, 4.

<sup>51</sup> Cf. *Ibid.* 6, 13. 14; Cicero, *Epistulae ad Atticum* 13, 20, 4; Rochlitz: *op. cit.* 119.

<sup>52</sup> Drumann–Groebe: *op. cit.* III. 637; Kumaniecki: *op. cit.* 457.

<sup>53</sup> Rochlitz: *op. cit.* 120.

firm adherent of the republic such as Marcellus also returned home and acquiesced in the changes in political conditions, and by accepting the pardon granted to him as it were acknowledged it. In spite of the fact that Marcellus's homecoming was a previously resolved fact, the dictator's propaganda was meant to create the impression that Caesar bowed to the senate's request only when he called the republican Marcellus back from exile. Caesar's father-in-law, Piso mentioned Marcellus's name seemingly accidentally in his speech delivered in the senate,<sup>54</sup> upon which Marcellus's cousin with identical name<sup>55</sup> threw himself on the ground at Caesar's feet to beg for pardon for his kin, then the senators also rose from their seat and asked Caesar to exercise mercy. The dictator, after having complained at length about Marcellus's faults, seemingly utterly unexpectedly declared that he would not be averse to the wish of the senate. This was followed by noisy applause of the senate and Cicero's speech, in which Cicero praised his human eminence. Presumably, a similar choreography can be observed in Ligarius's case too. If Caesar had let Ligarius return home without special proceedings, he would have missed an important occasion to propagate his policy advocating conciliation. As a matter of fact, it is not possible to give an answer to the question whether Tubero had acted against Ligarius upon Caesar's instruction or the dictator merely made use of the occasion being offered.

## II

*Pro Ligario* raises several questions that can be answered with difficulties. Why did Cicero not use the obvious argument in his statement of the defence that Ligarius's independent power of decision was highly restricted in Africa since governance was in the hands of Varus and Cato, so it was not Ligarius on whom the alliance entered into with Iuba turned? Why did Cicero did not strive to refute the charges made by Tubero? Why did Cicero undertake the case although he otherwise maintained good relations with the Tuberos and almost none with the Ligarii?<sup>56</sup> Regarding the Ligarius case further questions arises: does the case under review constitute actual court proceedings, consequently, a real speech in court; did Caesar pass a judgment on Ligarius as a judge or not? Giving answer to these questions can possibly make further questions unimportant or no longer have a cause.

The *communis opinio* gives the answer *yes*; and there are actually certain arguments to support these presumptions. Cicero calls Tubero prosecutor and Ligarius the accused, and in both cases he uses the proper technical term: specifically that Ligarius is an accused who admits his guilt, that is, an accused that each prosecutor would want,<sup>57</sup> and that Tubero accuses a man who makes a confession or a man whose case—i.e. political record—is better than or at least the same as his.<sup>58</sup> The charge is determined by Bauman as *maiestas imminuta* or as *crimen maiestatis imminutae*. The facts of the case that can be deduced from the described historical situation would have later belonged under *lex Iulia maiestatis*,<sup>59</sup> and as this statute of Augustus repeats the elements of earlier legislation,<sup>60</sup> it can be made probable that we can qualify Ligarius's act treason. On the other hand, it is important to add that the

<sup>54</sup> Cicero, *Epistulae ad familiares* 4, 4, 3

<sup>55</sup> Marcellus was the husband of Caesar's granddaughter, Octavia.

<sup>56</sup> Walsler: *op. cit.* 93; McDermott: *op. cit.* 322.

<sup>57</sup> Cicero, *Pro Ligario* 2. *Habes igitur, Tubero, quod est accusatori maxime optandum, confitentem reum...*

<sup>58</sup> *Ibid.* 10. *...arguis fatentem. Non est satis: accusas eum, qui causam habet aut, ut ego dico, meliorem quam tu, aut, ut vis, parem.*

<sup>59</sup> Baumann, R. A.: *The Crimen Maiestatis in the Roman Republic and Augustan Principate*. Johannesburg, 1967. 142. ff.

<sup>60</sup> Kunkel, W.: *Quaestio*. In: *Kleine Schriften*. Weimar, 1974. 94. f.

term *maiestas* does not occur at all in the entire *Pro Ligario*, and Cicero does not determine the legal nature of the charges either.<sup>61</sup>

Also, it is against the concept of regular criminal action that the proceedings were conducted in the absence of the accused, i.e., Ligarius. Although Roman legal practice did not exclude conviction *in absentia*, however, the accused had to be called to appear before the law before commencement of the lawsuit.<sup>62</sup> Ligarius did not get such summons, what is more, it is a cardinal point of his case that Caesar prohibited him to enter the territory of Italy. Furthermore, the lawsuit conducted due to *maiestas imminuta* would have belonged before the *quaestio perpetua de maiestate* set up by Sulla since Sulla's court of justice reforms were not abrogated by Caesar, he changed only the lists that formed the basis of the scope of jurors and the scope of identity of jurors;<sup>63</sup> this measure presumably constituted part of the reforms of the year 46. The proceedings, however, were conducted not before the *quaestio de maiestate* as it could be expected but before Caesar personally as judicial forum, in whose hands Ligarius's fate was placed.<sup>64</sup>

Similarly, it is against the validity of *crimen maiestatis* as a charge that the alliance entered into with Iuba, King of Numidia against Caesar would have been its implementation in practice.<sup>65</sup> However, the fact of the alliance with Iuba was known to Caesar already at the time of granting pardon to Ligarius, after the battle at Thapsus, so a charge based thereon would not have brought anything new to the knowledge of the dictator.<sup>66</sup>

The interpretation provided by Theodor Mommsen offers a possible solution for these difficulties; he asserts that the imperium of magistrates contains the right of the judge to pass a judgement in criminal proceedings too.<sup>67</sup> Although the power of administration of justice of the magistrate was restricted by the legal institution of *provocatio ad populum*, this did not apply to extraordinary *imperia*, that is, the decemvirate of the 5<sup>th</sup> century, the second triumvirate and the *dictatura rei publicae constituendae* (he ranks both Sulla's and Caesar's dictatorship under the latter).<sup>68</sup> This view is fundamentally shaken by Jochen Bleicken<sup>69</sup> and Wolfgang Kunkel<sup>70</sup> by stating that *provocatio* protected the Roman citizen from the unlawful *coercitio* (disciplinary power) of the magistrate, however, produced no influence at all on *iudicatio* (administration of criminal justice) activity. Caesar's dictatorship does not mean extraordinary imperium in the sense interpreted by Theodor Mommsen since he never took the title *dictator rei publicae constituendae (legibus scribundis)*.<sup>71</sup>

Even Theodor Mommsen refers to a single example of the application of this extraordinary punitive power only: Ligarius's case.<sup>72</sup> He supports his statement by the lines of *Pro Ligario* which assert that the purpose of the prosecution is not to convict but to execute Q. Ligarius,<sup>73</sup> and that this could not have been carried out by anybody in this form even under Sulla, who

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<sup>61</sup> Bringmann, K.: Der Diktator Caesar als Richter? Zu Ciceros Reden 'Pro Ligario' und 'Pro rege Deiotaro'. *Hermes* 114. 1986. 72–88., 73.

<sup>62</sup> Mommsen, Th.: *Römisches Strafrecht*. Leipzig, 1899. 332. ff.

<sup>63</sup> Cicero, *Philippicae in Marcum Antonium* 2, 3; Cassius Dio, *Historia Romana* 43, 25, 1.

<sup>64</sup> Bringmann: *op. cit.* 75.

<sup>65</sup> Quintilianus, *Institutio oratoria* 11, 1, 80. Cf. Neumeister, Chr.: *Grundsätze der forensischen Rhetorik*. München, 1964. 47; Kumaniecki: *op. cit.* 439.

<sup>66</sup> Rochlitz: *op. cit.* 117.

<sup>67</sup> Mommsen: *Römisches Strafrecht. op. cit.* 35. ff.; Mommsen, Th.: *Römisches Staatsrecht, I–III*. Berlin, 1887–1888. I. 126; II. 735.

<sup>68</sup> Mommsen: *Römisches Strafrecht. op. cit.* 35.

<sup>69</sup> Bleicken, J.: *Die Verfassung der römischen Republik*. Paderborn, 1975. 324. f.

<sup>70</sup> Kunkel, W.: *Untersuchungen zur Entwicklung des römischen Kriminalverfahrens in vorsullanischer Zeit*. München, 1962. 25. ff.

<sup>71</sup> See Bringmann: *op. cit.* 75.

<sup>72</sup> Mommsen: *Römisches Staatsrecht. op. cit.* II. 735.

<sup>73</sup> Cicero, *Pro Ligario* 11.

sentenced to death everybody whom he hated: since there the dictator himself gave orders to kill the person without anybody demanding it.<sup>74</sup> To this Theodor Mommsen ties the following interpretation: the *locus* clearly proves that as a dictator Caesar passed a judgement over Ligarius as a judge and his competence was identical with that of Sulla.<sup>75</sup> It is just the *punctum saliens*, however, that the *locus* does not make clear, i.e., that in a criminal case Caesar exercised administration of justice as a magistrate; as Cicero's reference applies to the *proscriptiones* carried out by Sulla and does not mean to state that Sulla would have had his enemies executed after lawful investigation and declaring their guilt. It is public knowledge that Sulla was empowered by *lex Valeria* to have Roman citizens executed arbitrarily, without lawful sentence.<sup>76</sup> So, if Caesar's powers, by which he decided the fate of Ligarius, was identical with that of Sulla, then we must draw the conclusion that he obtained unlimited power over the losers of civil war—this seems to be supported also by the comment made by Cassius Dio.<sup>77</sup>

Let us again examine the sentence of *Pro Ligario* considered to be of key importance by Theodor Mommsen, by which he wants to prove that the Ligarius case was actually court proceedings, specifically that the purpose of the prosecution was not to convict but to execute Q. Ligarius.<sup>78</sup> It is a fact that the purpose of each formal accusation is to convict the accused, in the present case, however, the opponent does not claim this, much rather to kill, execute Ligarius without any sentence. So, just as Sulla, Caesar can proceed against his enemies as he pleases, he is, however, characterised not by cruelty but by *clementia*, and it is just exercising this that Tubero wants to prevent him from. The outcome of the case was probably determined on the grounds of a scenario worked out in advance by Caesar, showing some similarities with the Marcellus case, specifically—in spite of the description provided by Plutarch—in favour of Ligarius. Regarding Plutarch's description it is worth quoting William C. McDermott's witty formulation word for word: “*Thus, a sad picture of the orator emerges, no longer king of the courts, but courting a king*”.<sup>79</sup> As it is made clear by the events of the coming years: Cicero must have felt the same and did not forgive. The proceedings learned of from *Pro Ligario* cannot be considered a real criminal action because the decision was not in the hands of the *quaestio de maiestate* but in the hands of the dictator Caesar, who did not have any exceptional imperium that would have entitled him to pass a judgment on criminal cases affecting Roman citizens as a magistrate.

### III

The above is also supported by the form of the speech; *Pro Ligario* is a so-called *deprecatio*,<sup>80</sup> which is a tool of influencing arbitrary decisions of persons exercising power rather than a tool of the defence in court of justice as it is also noted by the author of *Auctor ad Herennium*.<sup>81</sup> So, if Cicero chose a form for his speech that could not be used in court proceedings,<sup>82</sup> then this also makes it probable that in Ligarius's case the dictator adopted decision not as a magistrate acting as a judge. The orator himself declares that he turns to

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<sup>74</sup> *Ibid.* 11–12.

<sup>75</sup> Mommsen: *Römisches Staatsrecht. op. cit.* II. 735.

<sup>76</sup> Cicero, *De legibus* 1, 42; *De lege agraria* 3, 5.

<sup>77</sup> Cassius Dio, *Historia Romana* 42, 10, 1.

<sup>78</sup> Cicero, *Pro Ligario* 11. *Non habet eam vim ista accusatio, ut Q. Ligarius condemnetur, sed necetur...*

<sup>79</sup> McDermott: *op. cit.* 324.

<sup>80</sup> Martin, J.: *Antike Rhetorik. Technik und Methode.* München, 1974. 28.

<sup>81</sup> Auctor ad Herennium 1, 14, 24. Cf. Cicero, *De inventione* 2, 104–108; Quintilianus, *Institutio oratoria* 5, 13, 5.

<sup>82</sup> Cicero, *De inventione* 2, 104. ff.

Caesar not as a judge.<sup>83</sup> Right at the beginning of the oration he emphasises that he considers his task is to raise Caesar's compassion rather than refute the charges<sup>84</sup> as most probably Pansa had already dealt with possible forms of refuting the charges.<sup>85</sup> The purpose of *deprecatio* is not *defensio facti*, i.e., the defence of a given act but *ignoscendi postulatio*, i.e., praying for remission of punishment to be imposed due to a committed act or error.<sup>86</sup> At the same time, it should be noted that *Pro Ligario* is not purely *deprecatio* but also a statement of the defence, as Cicero presents several fact-based arguments to defend Ligarius.<sup>87</sup> The usual elements of *deprecatio* are commonplaces (*loci communes*) meant to evoke *misericordia*,<sup>88</sup> so, for example, the audience's sympathy can be aroused by referring to *humanitas*, *fortuna*, *misericordia* and *rerum commutatio*.<sup>89</sup> Accordingly, *deprecatio* is not a genre of the court of justice, its scope of application is the senate and *consilium*—i.e., it must have been clear to the audience of the period that Cicero saw through the play of passing a judgment directed by Caesar and used it for his own benefit.<sup>90</sup>

The logically and psychologically proper arrangement of arguments, as a matter of fact, constitutes a tense structure in *Pro Ligario* too,<sup>91</sup> and, accordingly, the *misericordia*-topoi filled with temper, meant to affect Caesar's *clementia*, were placed in the speech consciously.<sup>92</sup> Already in the *prooemium* the orator makes it clear that he builds on Caesar's *misericordia*,<sup>93</sup> thus, he makes his audience aware of the fact that his purpose regarding Ligarius is not *liberatio culpae* since in his opinion his defendant has not committed crime by joining Pompey<sup>94</sup> but *errati venia*, i.e., obtaining forgiveness for taking erroneous position.<sup>95</sup> In accordance with that, the orator leads the thread of Tubero being a committed adherent of Pompey along the speech in order to reveal the real motivation of the accusation thereby.

The *narratio*, which is emphatically meant to outline the facts without emotions,<sup>96</sup> is followed by the *argumantatio*<sup>97</sup> that—contrary to the orator's promise—nevertheless serves the defence of Ligarius: especially the paragraphs contrasting the *crudelitas* of the Tuberos intending to restrict Caesar in exercising pardon with Ligarius's begging and tears as well as with Caesar's *clementia*, *humanitas*, *misericordia* and *lenitas*.<sup>98</sup> By that he turns Caesar's brightly gleaming *clementia* away from the prosecutors and as it were urges him to side with his defendant,<sup>99</sup> and turns *crudelitas* that the Tuberos reproach Ligarius with around, and lets it fall back on the prosecutors.<sup>100</sup> He deprives Ligarius's case of its individuality, and contrasts the general *miseria* of the civil war with *misericordia* showed by Caesar, general *luctus* with his *lenitas*,

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<sup>83</sup> Cicero, *Pro Ligario* 30. *Causas, Caesar, egi multas equidem tecum, dum in foro tenuit ratio honorum tuorum, certe numquam hoc modo: 'ignoscite, iudices; erravit, lapsus est, non putavit; si umquam posthac', ad parentem sic agi solet ... sed ego ad parentem loquor: erravit, temere fecit, paenitet; ad clementiam tuam confugio, delicti veniam peto, ut ignoscatur, oro*

<sup>84</sup> *Ibid.* 1.

<sup>85</sup> Kumaniecki: *op. cit.* 445.

<sup>86</sup> Auctor ad Herennium 2, 25; Cicero, *De inventione* 1, 104.

<sup>87</sup> Cicero, *Pro Ligario* 2–5. 20–22.

<sup>88</sup> Auctor ad Herennium 2, 50; Cicero, *De inventione* 1, 106–109.

<sup>89</sup> Auctor ad Herennium 2, 26.

<sup>90</sup> Rochlitz: *op. cit.* 121.

<sup>91</sup> Neumeister: *op. cit.* 71. ff.

<sup>92</sup> Rochlitz: *op. cit.* 121.

<sup>93</sup> Cicero, *Pro Ligario* 1.

<sup>94</sup> *Ibid.* 17–19.

<sup>95</sup> *Ibid.* 30.

<sup>96</sup> *Ibid.* 2–5.

<sup>97</sup> *Ibid.* 6–29.

<sup>98</sup> *Ibid.* 11–16.

<sup>99</sup> Neumeister: *op. cit.* 51.

<sup>100</sup> Rochlitz: *op. cit.* 122.

general *crudelitas* with the dictator's *clementia*.<sup>101</sup> The virtue of *humanitas* especially comes to the front for *misericordia* and *clementia* are its most beautiful forms of manifestation—since as Quintilianus expounds, it is just this that *deprecatio* intends to turn the attention of the target audience and the addressee of the speech to.<sup>102</sup> By underlining Caesar's well-known *humanitas* Cicero as it were obliges the dictator to adhere to enforcing this virtue,<sup>103</sup> and reminds the Tuberos of *studia humanitatis*, which was once not alien to them either.<sup>104</sup> By that he again sets Caesar and the wing of his party urging for conciliation against the Tuberos desiring petty-minded revenge.<sup>105</sup>

He makes it as it were obligatory for Caesar to keep to his principles formulated in his own propaganda since *misericordia* and *lenitas* are virtues frequently voiced during the civil war too; his *humanitas* can be certified by his adherents and his *clementia* by the whole empire. By all that Cicero uses the key features of Caesar's self image as a tool for strengthening *deprecatio*.<sup>106</sup> The following passages shed light on the purpose of these paragraphs heavily charged with emotions.<sup>107</sup> Here he tries to clear Ligarius of the *scelus* that even after Pompey's death he continued to fight against Caesar in alliance with the ruler of Numidia, Iuba, who was officially declared enemy by the senate by then having sided with the dictator.<sup>108</sup> It was just this difference, i.e., remaining loyal to Pompey even after his death, that the prosecutors wanted to emphasise and thereby to take the most important argument, i.e., that the Tuberos also fought on the side of Pompey, away from the defence.<sup>109</sup> In other words, the function of this part of the *argumentatio* highly charged with emotions is to win the dictator's sympathy for the benefit of Ligarius and at the same time to help the orator to get over the pitfalls of his argumentation expounded regarding the desperate Pompeian position of the accused, while driving the attention of the audience and Caesar away from its logical pitfalls.<sup>110</sup>

The heightening of emotions and temper reaches its climax in *peroratio*: Caesar can have no other choice than exercise the virtue of *clementia*.<sup>111</sup> He repeats that his speech had no other goal than to produce effect on the dictator's *humanitas*, *clementia* and *misericordia*, however within the frameworks of *praeteritio* he does not omit to mention that he tried to refute the charges against Ligarius by fact-based arguments too.<sup>112</sup> The task of *peroratio* is *commovere*, the effect produced on the decision-maker's emotions,<sup>113</sup> and in the case of *deprecatio* this aspect is reinforced because the orator underlines several elements from Ligarius's personality and deeds that were to move Caesar's emotions. So, for example, he stresses that his deeds were moved not by hatred against Caesar,<sup>114</sup> that he badly tolerates being far away from his brothers,<sup>115</sup> that he stayed in Africa not upon his own resolution but by being prevented by the

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<sup>101</sup> Cicero, *Pro Ligario* 14. f.

<sup>102</sup> Quintilianus, *Institutio oratoria* 5, 13, 7. Cf. Nybakken, O. E.: *Humanitas Romana. Transactions of the American Philological Association* 70. 1939. 396–413., 398.

<sup>103</sup> Cicero, *Pro Ligario* 16.

<sup>104</sup> *Ibid.* 12.

<sup>105</sup> *Ibid.* 15.

<sup>106</sup> Rochlitz: *op. cit.* 123.

<sup>107</sup> Cicero, *Pro Ligario* 17–19.

<sup>108</sup> Kumaniecki: *op. cit.* 442. ff.

<sup>109</sup> Bringmann: *op. cit.* 79.

<sup>110</sup> Rochlitz: *op. cit.* 123.

<sup>111</sup> Cicero, *Pro Ligario* 29–38.

<sup>112</sup> *Ibid.* 29. Cf. Neumeister: *op. cit.* 54.

<sup>113</sup> Neumeister: *op. cit.* 76. Cf. Cicero, *Partitiones oratoriae* 15; *Pro Milone* 92; *Pro Sulla* 92. f.; *Pro Cluentio* 202; *Pro Caelio* 79. f.

<sup>114</sup> Cicero, *Pro Ligario* 30.

<sup>115</sup> *Ibid.* 33.

storms of danger-fraught times of the civil war,<sup>116</sup> and that Ligarius's family had obtained several merits with regard to Caesar.<sup>117</sup> He points out that many people from all over Italy appeared in mourning to beg for Ligarius.<sup>118</sup> He refers to the pardon granted earlier by the dictator to others,<sup>119</sup> Caesar's *clementia*,<sup>120</sup> *misericordia*,<sup>121</sup> *humanitas*,<sup>122</sup> *liberalitas*,<sup>123</sup> *bonitas*,<sup>124</sup> and crowns all that by the praise that mortals having mercy on their fellow beings become similar to gods.<sup>125</sup> So, the orator used all the available tools of *deprecatio*, not omitting, beside *ignoscendi postulatio*, *defensio facti* either—thereby, albeit, accepting the choreography set up by Caesar, using his *clementia*- and *misericordia*-propaganda for the benefit of his defendant.<sup>126</sup>

#### IV

In *Pro Ligario* both the term *clementia*<sup>127</sup> and *misericordia*<sup>128</sup> occur six times, and so rise to the most important form of conduct, feature demanded from and attributed in advance to Caesar. Here *clementia* means forgiving for error,<sup>129</sup> which Caesar is required to do in his capacity as father<sup>130</sup>—stressing father's characteristic is perhaps reference to the *parens patriae* title.<sup>131</sup> So, the conduct arising from *clementia* is *ignoscere*,<sup>132</sup> that is, contrary to *Pro Marcello*, here *clementia* is shifted from the concept of *temperantia animi* towards the meaning *mercy*.<sup>133</sup> At the same time, *ignoscere* is suitable for expressing *humanitas*,<sup>134</sup> *misericordia*<sup>135</sup> and *clementia*<sup>136</sup> and thereby the border between these concepts and virtues fades away, and *misericordia* and *clementia* become the form of manifestation of *humanitas Caesaris*.<sup>137</sup> To achieve this goal, i.e., the pardon to be obtained for Ligarius, the orator, acknowledging the dictator's superiority, praises Caesar's *clementia* and in his view he deserves praise primarily because after his victory he did not keep this virtue out of the reach of his enemies either,<sup>138</sup> which is a sufficient cause for his former enemies evaluating and experiencing his victory as benefit too.<sup>139</sup>

By praising Caesar's *clementia* he introduces the part in which he speaks about his own former hostile emotions towards Caesar<sup>140</sup> in order to make capital of it for his defendant:

<sup>116</sup> *Ibid.* 34.

<sup>117</sup> *Ibid.* 35. f.

<sup>118</sup> *Ibid.* 32. f.

<sup>119</sup> *Ibid.* 30.

<sup>120</sup> *Ibid.* 29–30.

<sup>121</sup> *Ibid.* 29. 37.

<sup>122</sup> *Ibid.* 29.

<sup>123</sup> *Ibid.* 31.

<sup>124</sup> *Ibid.* 37.

<sup>125</sup> *Ibid.* 38.

<sup>126</sup> Rochlitz: *op. cit.* 124.

<sup>127</sup> Cicero, *Pro Ligario* 6. 10. 15. 19. 29. 30.

<sup>128</sup> *Ibid.* 1. 14. 15. 16. 29. 37.

<sup>129</sup> *Ibid.* 17–19. 30.

<sup>130</sup> *Ibid.* 30.

<sup>131</sup> Cf. Appianus, *Bella civilia* 2, 106. 144. 442. 602; Cassius Dio, *Historia Romana* 44, 4, 4. Cf. Fuhrmann, M.: Die Alleinherrschaft und das Problem der Gerechtigkeit. *Gymnasium* 70. 1963. 481–514., 508.

<sup>132</sup> Cicero, *Pro Ligario* 13. 14. 15. 16. 29. 30.

<sup>133</sup> Rochlitz: *op. cit.* 125.

<sup>134</sup> Cicero, *Pro Ligario* 13. 14. 16.

<sup>135</sup> *Ibid.* 14. 15.

<sup>136</sup> *Ibid.* 15. 30.

<sup>137</sup> *Ibid.* 30.

<sup>138</sup> *Ibid.* 10.

<sup>139</sup> *Ibid.* 19.

<sup>140</sup> *Ibid.* 6.

Ligarius is more worthy of Caesar's *clementia* than the orator himself because the former has never been hostile to Caesar, his unpleasant situation can be traced back to the unfortunate interplay of circumstances rather than to his own conviction. By that Cicero dresses his own Pompey supporter past in the cloak of praise of Caesar to overcome the dictator's antipathy. At the same time he expresses his conviction that if the leaders of the opposition in Hispania accept the opportunity of peace offered by Caesar, they will not become disloyal to their ideas, instead, they follow the command of common sense—it is, of course, a question whether Cicero's argument, to be more precise, his personality seemed to be authentic in their eyes since they could have possibly considered the orator a traitor.<sup>141</sup>

As a matter of fact, it is undecided how much the praise of Caesar's *clementia* came from Cicero's heart as—in spite of the fact that this time to serve the peace of the community he let himself be used as the tool of Caesar's propaganda—internal reservations and questioning of the superiority of the one-time equal rival could not have vanished without any traces from Cicero's soul. Reference to Caesar as father<sup>142</sup> and denial of the effect his own orator's performance produced on Caesar's decision<sup>143</sup> perhaps did not lack ironic overtones.<sup>144</sup> Cicero was not likely to have acknowledged the legitimacy of the situation deep inside as he did not give up his ideal of the republican state,<sup>145</sup> yet, he did not openly give voice to his bitterness and criticism, he dressed his conviction in an ambiguous form.<sup>146</sup> If Caesar wanted to disguise the trial of Ligarius as official court proceedings, then it can be considered delicate irony masked as flattery on Cicero's side to refer to the dictator as *pater* thereby depriving him of his capacity as judge.<sup>147</sup> He must have chosen *deprecatio* as the genre of his speech for similar reasons, which is obviously not a genre of court of justice, and, accordingly, neither *aequitas*, nor *iustitia* are mentioned in the speech. On the other hand, in spite of slight criticism and irony by which he addresses Caesar's public law position, to obtain *clementia* and *misericordia* he uses the dictator's propagandistic concepts for his own purposes.<sup>148</sup>

The concept of *sapientia* occurs only once in the entire speech and—just as in *Pro Marcello*—is used as the synonym of political consideration and common sense.<sup>149</sup> The concept of *consilium* also occurs only once in *Pro Ligario* and refers both to Caesar and Pompey, and in a negative sense, specifically, with respect to upsetting public order.<sup>150</sup> It is due to the different objectives of the two orations that *sapientia* as the central concept of *Pro Marcello* is thrust into the background. An *oratio* every time serves *utile*: the primary objective of *Pro Marcello* is to outline the future of the public under the rule of Caesar as *primus inter pares*, the function of *Pro Ligario* is to acquit his defendant and to obtain pardon for him. While in *Pro Marcello*—as its theme covers general political issues—*clementia Caesaris* is thrust into the background, *Pro Ligario* deals with the fate of a single person, for this reason the virtue of *clementia* comes to the front.<sup>151</sup> At the same time—as *Pro Ligario* serves to break the opposition in Hispania and to support Caesar's propaganda aimed at conciliation to be made with his enemies fighting there—for this objective the image of *Caesar clemens* is more suitable than the image of *Caesar sapiens*, who is willing to let

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<sup>141</sup> Cf. Plutarchus, *Cicero* 39; *Cato minor* 54; Cicero, *Epistulae as familiares* 7, 3, 6; *Epistulae as Atticum* 11, 7, 3; *Pro Marcello* 18.

<sup>142</sup> Cicero, *Pro Ligario* 30.

<sup>143</sup> *Ibid.* 31. 38.

<sup>144</sup> Rochlitz: *op. cit.* 126. On the other hand see Walser: *op. cit.* 96.

<sup>145</sup> Bringmann: *op. cit.* 80.

<sup>146</sup> Cf. Cicero, *Pro Ligario* 7. 13. 18. 19. 33. See Loutsch: *op. cit.* 98. ff.

<sup>147</sup> Bringmann: *op. cit.* 80.

<sup>148</sup> Rochlitz: *op. cit.* 126. f.

<sup>149</sup> Cicero, *Pro Ligario* 6.

<sup>150</sup> *Ibid.* 19.

<sup>151</sup> Rochlitz: *op. cit.* 127.

bygones be bygones and forgive. Compared to Marcellus, Ligarius's political weight is rather low—which cannot be necessarily said of Marcellus—so it is not specially humiliating for Cicero to ask for pardon for an enemy who has been much below Caesar from the outset. The oration made in favour of Marcellus was delivered in the senate; consequently, it was also a warning addressed to the senators of the need of reconciliation for the sake of common good—so, *sapientia* was the key concept that connected the audience, i.e., Caesar and the senators. On the contrary, *Pro Ligario* was delivered on the Forum and the audience was the *populus Romanus*—so, Cicero thought it was more expedient to put this key word of people's party politics in the centre.<sup>152</sup> Between the orations the political climate in Rome had significantly changed as a result of Caesar's conduct, which left its mark on Cicero's frame of mind sensitive of delicate vibrations.<sup>153</sup> At the same time, *Pro Ligario* lacks the cautious optimism of *Pro Marcello*—in the meantime Caesar's triumph had taken place—as if Cicero had given up hope that *Caesar sapiens* would restore *res publica*, and trustful tone is replaced by irony.<sup>154</sup>

## V

William C. McDermott—just as Cicero himself—does not consider *Pro Ligario* a first-rate masterpiece of the orator; yet, he points out that in using irony it has an outstanding place in the orator's lifework.<sup>155</sup> It is not by chance that it is quoted by Quintilian, who based his textbook on rhetoric mostly on Cicero whom he enthusiastically respected,<sup>156</sup> and from among Cicero's fifty-two orations quoted by him, he refers most frequently, after *Pro Cluentio* (sixty-seven quotations) and *Pro Milone* (sixty-seven quotations), to *Pro Ligario* (fifty-three quotations), which is highly noteworthy as contrary to the two hundred and two paragraphs of *Pro Cluentio* and one hundred and five paragraphs of *Pro Milone*, *Pro Ligario* consists of merely thirty-eight paragraphs. They are followed in order of reference by *Pro Murena* (twenty-five quotations), *Pro Caelio* (twenty-two quotations), the second *Philippica* (twenty quotations) and the first speech against Catilina (fourteen quotations). In contrast, the fourth speech against Catilina, *Pro rege Deiotaro*, *De imperio Cnaei Pompei*, the ninth *Philippic*, *Pro Sestio* and the first *Verrine oration* are quoted only once in each case by Quintilian, and he does not refer to *Pro Sulla*, *De provinciis consularibus* and the first *Philippica* at all. Regarding *Pro Ligario* Quintilian calls the attention to masterly handling of the facts of the case and exemplary use of irony.<sup>157</sup> Thus, Quintilian considered *Pro Ligario*, unique of its kind, a work of outstanding significance in training rhetoric.<sup>158</sup>

In the *peroratio* of *Pro Ligario*, with huge pathos Cicero enumerates the notables of the order of knighthood who appeared in mourning clothes before Caesar, the people of the house of the Brocchi, L. Marcius, C. Caesetius and L. Corfidius.<sup>159</sup> The latter, for that matter, could not be present when the speech was delivered as by then he was dead<sup>160</sup>—this error also proves that Cicero could not be directly acquainted with Ligarius and his family: most probably he had never seen the person mentioned by him but, as he was unknown, his absence could not

<sup>152</sup> Cicero, *Pro Ligario* 6. 37.

<sup>153</sup> McDermott: *op. cit.* 337.

<sup>154</sup> Gelzer, M.: *Caesar, der Politiker und Staatsmann*. Wiesbaden, 1960. 265.

<sup>155</sup> McDermott: *op. cit.* 327. ff.; Haury, A.: *L'ironie et l'humour chez Cicéron*. Leiden, 1955. 185. f.; Canter, H. V.: Irony in the Orations of Cicero. *American Journal of Philology* 57. 1936. 457–464; Drumann–Groebe: *op. cit.* III. 637.

<sup>156</sup> Cf. Quintilianus, *Institutio oratoria* 10, 1, 112.

<sup>157</sup> *Ibid.* 4, 1, 38–39; 4, 1, 70; 9, 2, 29. 50.

<sup>158</sup> McDermott: *op. cit.* 336.

<sup>159</sup> Cicero, *Pro Ligario* 33.

<sup>160</sup> Cicero, *Epistulae ad Atticum* 13, 44, 3.

be noticed by many people. This pathetic enumeration of the “notables” constitutes powerful contrast with Caesar, L. Tubero and Pansa, and it becomes clear that Ligarius himself was the least important in the lawsuit. The use of pathos in this form, without cause and therefore turning into the opposite must have made Caesar—and deep inside certainly Cicero himself—smile.<sup>161</sup>

Certain sentences of the oration had a clear meaning to the audience, for example, the point where Cicero describes that all of them threw themselves to the ground at Caesar’s feet begging for pardon—including the orator himself.<sup>162</sup> In the account written to Ligarius Cicero depicted that the brothers and relatives of the accused threw themselves to the ground at Caesar’s feet and that he spoke in accordance with the case and Ligarius’s situation.<sup>163</sup> The audience might have taken Cicero’s words literally; the dictator, however, could remember well that Cicero had not thrown himself to the ground at his feet—to what extent Caesar might have taken this phrase as irony cannot be known. Calling the four years younger Caesar *pater* has again certain troublesome overtones.<sup>164</sup> According to Dio Cassius, Caesar was granted the title *parens patriae* in 44,<sup>165</sup> and albeit it took place two years after *Pro Ligario* was delivered, the *intitulatio* must have become public knowledge earlier.<sup>166</sup> To address Caesar *pater* could not be easy for Cicero as it was him who was given the title *pater patriae* in 63 by the senate, on the initiation of Q. Lutatius Catulus, for exposing and suppressing Catilina’s plot; also, it is undecided how much this address sounded authentic or ironic from Cicero’s mouth to the ear of either the audience or Caesar.<sup>167</sup>

Two paragraphs of the oration with clearly demonstrable ironic references and overtones deserve more profound analysis. In the seventh paragraph Cicero relates that after the war had begun and had been mostly fought, he, free from any restraint, upon his own decision, joined the army that took up arms against Caesar. He admits that he is saying all that before the man who, although being aware of this, returned him to the state before they ever met; who sent him a letter from Egypt telling him to stay who he was; who, although being the Roman people’s only imperator in the whole empire, let him be the other one (and news on that was brought by Pansa); who allowed him to keep the bundle of sticks decorated with laurel as long as he wanted; and who believed that he would save the orator indeed if he did all that without depriving him of any of his titles.<sup>168</sup> At first hearing or reading, Cicero’s words seem flattering effusions, which Caesar was not in want of these days; yet, even if nobody else did, the dictator certainly discovered the irony hidden between the lines. It is worth comparing the content exposed here with Cicero’s letters written in the relevant period between November 48 and August 47, primarily to Atticus.

The first sentence of the paragraph seems to be true, however, the five elements following it need to be analysed more profoundly. The statement on pardon granted by Caesar is true as on 17 December 48 Caesar gave instructions to Dolabella to write a letter to Cicero: he may return to Italy. This permit had significance because M. Antonius as *magister equitum* banned Cicero by name from Italy.<sup>169</sup> When in August 47 Cicero received Caesar’s letter, he was unable to decide how much he could rely on what was written in it and how secure returning

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<sup>161</sup> McDermott: *op. cit.* 337.

<sup>162</sup> Cicero, *Pro Ligario* 13.

<sup>163</sup> Cicero, *Epistulae ad familiares* 6, 14, 2.

<sup>164</sup> Cicero, *Pro Ligario* 30.

<sup>165</sup> Cassius Dio, *Historia Romana* 44, 4, 44; 44, 48, 3.

<sup>166</sup> McDermott: *op. cit.* 338.

<sup>167</sup> About this title see Alföldi, A.: Die Geburt der kaiserlichen Bildsymbolik, III. *Parens patriae*. *Museum Helveticum* 10. 1953. 103–124.

<sup>168</sup> Cicero, *Pro Ligario* 7.

<sup>169</sup> Cicero, *Epistulae ad Atticum* 11, 7, 2.

would be.<sup>170</sup> Only the meeting at the end of September 47 convinced Cicero that he could leave Brundisium and return home. In other words, only after the meeting did Caesar give him back to the state. In those days Cicero wrote several letters to Caesar's influential men, so, among others, to Balbus and Oppius<sup>171</sup> and Caesar himself, and in this letter he tried to find excuses for his brother, Quintus for joining Pompey.<sup>172</sup> Although on 12<sup>th</sup> August 47 Cicero received a highly generous letter (*litterae satis liberales*) from Caesar, he gave an account of this to Terentia, yet—as it has been already mentioned—this did not dispel his fears.<sup>173</sup> It is not probable that this writing referred to in a somewhat cold tone is identical with the letter written from Egypt that was mentioned in the letter. Thus, there is a good chance of presuming that the letter from Egypt is mere fiction and Caesar could be very much aware of that too.<sup>174</sup> The bundle of sticks decorated with laurel as badges of power and the person of Pansa are referred to only once but not at the same place in the correspondence from this period,<sup>175</sup> however, without the additional information provided in *Pro Ligario*. Most probably it was Caesar and Pansa who were surprised the most at the news purportedly brought by Pansa—and disclosed by Cicero.<sup>176</sup>

The statement that Caesar offered Cicero imperator's office was probably based on the presumption that even at their meeting in September 47 Caesar made an attempt at winning Cicero over to supporting his politics, Cicero, however, refused to take part actively in public matters.<sup>177</sup> It was always Caesar's more or less confessed yet never actually realised desire to win the support and acknowledgement of older senators in higher ranks—and Cicero had a special place among those whose sympathy he tried to obtain. In 60, by the mediation of Balbus, Caesar offered Cicero the opportunity of joining the first triumvirate,<sup>178</sup> and in July 59 he urged him to accept the office of legate in Gallia offered by him,<sup>179</sup> which Cicero again refused.<sup>180</sup> In March 49 Caesar as imperator sent a letter to Cicero, whom he addressed also by the title of *imperator*, in order to win his support but he did not succeed.<sup>181</sup> All this clearly proves that Caesar judged Cicero's influence in public matters and the moral weight of his political standpoint both more favourably and more realistically than several modern historians.<sup>182</sup>

Taking all the above into consideration, we can presume that Caesar had the meeting with Cicero in Brundisium organised for a definite cause,<sup>183</sup> and for such a cause that he did not want to disclose in a letter. With good sense William C. McDermott makes it probable that he wanted to entrust Cicero as *magister equitum* to administer Italy for the period of time while he was busy with the campaign in Africa; he probably offered him, owing to his activity in Cilicia, the opportunity to retain the triumph that Cicero had longed for,<sup>184</sup> likewise the status of patrician, which he later granted to several people,<sup>185</sup> for example, to Octavianus too,<sup>186</sup>

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<sup>170</sup> Cf. Cicero, *Epistulae ad familiares* 14, 23; *Epistulae ad Atticum* 11, 20–22.

<sup>171</sup> Cicero, *Epistulae ad Atticum* 11, 6, 3.

<sup>172</sup> *Ibid.* 11, 12, 1–2.

<sup>173</sup> Cicero, *Epistulae ad familiares* 14, 23.

<sup>174</sup> McDermott: *op. cit.* 340. f.

<sup>175</sup> Cf. Cicero, *Epistulae ad Atticum* 11, 7, 2; 11, 6, 3.

<sup>176</sup> McDermott: *op. cit.* 341.

<sup>177</sup> Cf. Cicero, *Epistulae ad familiares* 9, 17, 3.

<sup>178</sup> Cicero, *Epistulae ad Atticum* 2, 3, 3. f.

<sup>179</sup> *Ibid.* 2, 19, 5.

<sup>180</sup> Cicero, *De provinciis consularibus* 41.

<sup>181</sup> Cf. Cicero, *Epistulae ad Atticum* 9, 6a, 1.

<sup>182</sup> McDermott: *op. cit.* 342.

<sup>183</sup> Cf. Plutarchus, *Cicero* 39, 3–4.

<sup>184</sup> Cf. Cicero, *Epistulae ad Atticum* 8, 3, 6.

<sup>185</sup> Cassius Dio, *Historia Romana* 43, 47, 4.

<sup>186</sup> *Ibid.* 45, 2, 7.

and, in his absence, the rank of *princeps/primus rogatus* in the senate, which Cicero most probably enjoyed as *senator consularis* in 62 and 60. If Cicero had accepted this invitation, beside the *unus imperator* he would have been *alter imperator* indeed.<sup>187</sup>

Modern historiography has often tried to doubt Cicero's practical skills in public administration/politics, in spite of his successful activity as proquaestor, consul in Sicily and proconsul in Cilicia. That Caesar had much better opinion of Cicero's qualities is proved by his offers repeated several times. In 47 the opportunities offered by Caesar would have raised Cicero again to the forefront of politics, on the one hand, and, would have posed him a worthy challenge that he would have been able to meet properly, on the other—however, he was far from being so uninhibited, opportunist, thirsty of power and glory as his Antique and modern critics would like to present him. Probably listening to his inner conviction, Cicero refused the offered post—which he gave no account of either to Atticus or anybody else—and told his friends no more than Caesar had provided him with the opportunity of returning home.<sup>188</sup> Although in a negative context, Dio Cassius brings up that Cicero had not become *magister equitum*.<sup>189</sup> Also, Dio Cassius puts the statement into Q. Fufius Calenus's mouth that Cicero, after having been granted pardon and patrician's rank by Caesar—the latter statement is obviously not true—he ungratefully assassinated him; not himself but by instigating others to commit the assassination.<sup>190</sup> These two loci clearly supports that Caesar might have made an offer with this kind of content to Cicero in order to win his support, and, nevertheless, news about this must have somehow leaked out from their meeting in Brundisium.<sup>191</sup> Thus, we have to declare that a part of the statements made by Cicero in the seventh paragraph is no more than pure fiction—but the reference to the opportunity that Caesar offered him the office of *alter imperator* can be possibly true.

In summary it is worth paying some attention to the beginning of the *peroratio* of *Pro Ligario*, in which, albeit in hidden form, Cicero throws light upon the illegitimateness of Caesar's power and *clementia*.<sup>192</sup> In the thirty-third paragraph Cicero relates that Caesar declared: the opposing party—that is, Pompey's adherents—considered everybody who was not with them enemy, however, he considers everybody who is not against him his own adherent.<sup>193</sup> This clearly reveals the contrast between the characters of Caesar and Pompey of which Cicero already spoke about in *Pro Marcello* too, specifically that in case of Pompey's victory even his own adherents were afraid of the blood bath that Pompey had announced in advance.<sup>194</sup> Caesar (just because of his often praised *clementia*) wanted to implement quite the contrary: as Cicero notes after the dictator's death, he hamstrung/obliged his enemies by the appearance of mercy/temperance.<sup>195</sup> Yet, from this passage of *Pro Ligario*, even if nobody else did, Caesar could hear irony: Pompey could allow himself to make this statement because with proper legitimisation, on the grounds of the authorisation of the senate he fought for maintaining the lawful order of the state whereas Caesar, who set the aim of overthrowing the order of the state, that is, as an illegitimate imperator was compelled to give evidence of *clementia*.

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<sup>187</sup> McDermott: *op. cit.* 343.

<sup>188</sup> *Ibid.* 344.

<sup>189</sup> Cassius Dio, *Historia Romana* 46, 12, 4.

<sup>190</sup> *Ibid.* 46, 23, 3.

<sup>191</sup> McDermott: *op. cit.* 345.

<sup>192</sup> *Ibid.* 346. f.

<sup>193</sup> Cicero, *Pro Ligario* 33.

<sup>194</sup> Cicero, *Pro Marcello* 17.

<sup>195</sup> Cicero, *Philippicae in Marcum Antonium* 2, 116.