Title: Cicero's Head in Melville's 'Bartleby, the Scrivener.'

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[(essay date December 2005) *In the following essay, Ryan examines the thematic significance of the bust of Cicero in "Bartleby, the Scrivener," analyzing the story within the framework of the Roman statesman's political and philosophical ideals.*]

A commanding image in **"Bartleby"** has never received extensive analysis despite its relevance to the current debate over the role of the lawyer.1 The invisibility of this image is in itself indicative of how unconsciously a social power structure may impose its definition of reality. As the silent protestor, Bartleby's language, unlike the lawyer's, is a language of the body. Critics have frequently emphasized his "dead-wall revery" as a central act of communication, but they have been less aware of his other communication through the fixity of his gaze. After the lawyer discovers that Bartleby has been living in his office, he calls Bartleby into his office area: "come here; I am not going to ask you to do any thing you would prefer not to do--I simply wish to speak to you." Drawn by the lawyer's "gentle tone," Bartleby "noiselessly slid into view."2 However, he refuses to answer the lawyer's questions about his personal life:

He did not look at me while I spoke, but kept his glance fixed upon my bust of Cicero, which as I then sat, was directly behind me, some six inches above my head."What is your answer, Bartleby?" said I, after waiting a considerable time for a reply, during which his countenance remained immovable, only there was the faintest conceivable tremor of the white attenuated mouth.(**BS** [**"Bartleby the Scrivener"**] 654)

Bartleby then repeats his preference "to give no answer" and "retired into his hermitage" (**BS** 654). What follows is the lawyer's admission that Bartleby's manner "nettled" him as he sees within it "a certain calm disdain" and furthermore "his perverseness seemed ungrateful, considering the undeniable good usage and indulgence he had received from me" (**BS** 654). Here as elsewhere we must remind ourselves that the lawyer controls the discourse both in terms of his role as boss and in his role as narrator.

There is a direct correlation between this moment in which Bartleby stares at the bust of Cicero and the moment that follows (the next day) when the lawyer finds Bartleby again "at his window in the dead-wall revery" (**BS** 656). When the lawyer asks him why he does not write, Bartleby's eyes remain fixed upon the "view" from his window: "Within three feet of the panes was a wall, and the light came down from far above, between lofty buildings, as from a very small opening in a dome" (**BS** 642).

"Why, how now? what next?" exclaimed I, "do no more writing?""No more.""And what is the reason.""Do you not see the reason for yourself," he indifferently replied.I looked steadfastly at him, and perceived that his eyes looked dull and glazed. Instantly I occurred to me, that his unexampled diligence in copying by his dim window for the first few weeks of his stay with me might have temporarily impaired his vision.I was touched. I said something in condolence with him.(**BS** 656)

Bartleby's most important communication occurs at these two moments of fixity, and the two moments are similarly constructed. In both moments intensity is suggested by Bartleby's reaction to what he observes. When he stares at the head of Cicero (returning the gaze of Cicero), "there was the faintest conceivable tremor of the white attenuated mouth"--the most emotion Bartleby displays within the entire story. And while Bartleby stares at the wall--earlier described as "black by age and everlasting shade" (**BS** 656) but here the effect of the blackness enhanced with a Rembrandtian tension of distant light "as from a very small opening in a dome"--he says to the lawyer, "Do you not see the reason for yourself" (**BS** 656). Despite the lawyer's curiosity and his urge to get information from Bartleby, his reaction in both cases is identical: he *ignores* the object of Bartleby's observation, assuming there can be no significance to either the head of Cicero or the wall. Yet the story suggests that these are commanding images and that Bartleby's reaction is directly associated with them. What Bartleby sees and the fact that the lawyer cannot see it (will not even *look toward it*) are equally important. Together they constitute the basic level of the lawyer's hegemony--his invisible lived reality assumed as natural--and Bartleby's confrontation with the lawyer's carefully structured world--his invisible, "screened" and "carpetless" world overseen by Cicero's head, as well as what lies beyond it (the wall).3

My argument diverges from Todd F. Davis who contends "that any information that we garner that might blemish the character of the lawyer is given knowingly by the lawyer himself."4 The lawyer cannot *look toward* either Cicero's head or the wall; thus Melville's focus is not on what the lawyer knowingly gives but rather on what David Kuebrich calls Melville's interest in disclosing "the underlying ideological assumptions (that is, the largely unconscious modes of thought and behavior)" that derive from "then-contemporary economic realities."5 Kuebrich's application of the theory of hegemony to the contrast between Bartleby and the lawyer (either looking at the head of Cicero and the wall or not) reveals that Bartleby sees the operating principles of the lawyer's world while the lawyer does not. Therefore, the lawyer is only capable of investigating Bartleby's lack of conformity as departure from nature and reason (which to the lawyer are indistinguishable from custom and common sense) since the human construct that provides the framework for the lawyer's world is invisible to him. The lawyer cannot *look toward* "the underlying economic and utilitarian assumptions that alienate the lawyer not only from his workers but also from his deepest self."6 For Bartleby to return the gaze of Cicero while the lawyer looks only at Bartleby establishes the contrast of recognition and assumption. The lawyer functions within the power of a newly formulated Wall Street culture based upon traditional Western values while Bartleby is frozen in his opposition.

In 1849 Melville purchased multiple works of Cicero, including Cockman's translation of *The Offices,* Duncan's translation of *The Orations,* and Melmoth's translation of "The Cato" and "Laelius," all within the *Harper's Classical Library.*7 With the first publication of **"Bartleby the Scrivener: A Story of Wall-Street"** in *Putnam's Monthly* (November and December 1853), Melville offers the reader a masterful portrayal of a lawyer about the same age as Cicero when he addressed his son in *De Officiis.* In Cicero, Bartleby sees the model for the lawyer's cultivated blinders. The dead wall reveals an existential void beyond the lawyer's cautious perception while the bust of Cicero reveals to Bartleby a sententious cultural paragon associated with the lawyer.

The head of Cicero is best understood as the ancient representation of the father "in law." Melville's reaction to Cicero is based on his response to a long tradition of worldly patriarchs--specifically, socially respected fathers who give guidance to their sons. In his novels Melville, fatherless after age twelve, directs his attack upon three sententious fathers: Lord Chesterfield, Benjamin Franklin, and Polonius. In Lord Chesterfield's popular letters to his illegitimate son, Melville uncovers the epitome of pompous, self-righteous, self-seeking worldliness. In ***Pierre*** Melville writes that "pretensions and substitutions are only the recourse of undergraduates in the science of the world; in which science, on his own ground my Lord Chesterfield is the poorest possible preceptor."8 In ***Israel Potter*** Melville similarly attacks Benjamin Franklin, whose autobiography begins as an address to his son. In the 1850s Franklin had already become a model American able to combine virtue and expedience. Although devoid of Lord Chesterfield's aristocratic pomposity, Franklin shares with Chesterfield a preoccupation with social surfaces and with social climbing. Giving shape to the American character, Franklin's worldly wisdom assumes that great energy should be devoted to developing a public persona. In ***Israel Potter*** Melville portrays Franklin as a man pursuing self-gratification while manipulating the world with poor Richard platitudes. In ***The Confidence-Man*** Charles Noble describes a third worldly-wise father; he insists that he cannot "bear to hear your veterans of the world affirm, that he who steers through life by advice of old Polonius will not steer among the breakers."9 Melville directly relates Polonius to Chesterfield when Charles Noble condemns Polonius for cramming his son "with maxims smacking of my Lord Chesterfield."10 In Noble's description, one sees Melville's impatience with such sanctimonious exemplars: "The bowing and cringing, time-serving old sinner--is such an one to give manly precepts to youth? The discreet, decorous, old dotard-of-state; senile prudence; fatuous soullessness!"11 Chesterfield, Franklin, and Polonius are fatherly mentors who guide their sons into the safe harbors of social compromise and adaptation.

Cicero can be seen as both establishing the principles for living which justify the worldly directives of Chesterfield, Franklin, and Polonius and also establishing the literary paradigm for the cultural elevation of such father-to-son communication. Lord Chesterfield's *Letters to His Son* is modeled after Cicero's *De Officii,* and Chesterfield repeatedly expresses his admiration for Cicero's teachings. He even refers to the bust of Cicero in his library which will remain in the place of honor unless his awkward son attains grace befitting display.12 The use of Cicero's bust in **"Bartleby"** suggests that Melville had read *The Offices* (as well as "Laelius: Or, an Essay on Friendship" and "Cato: Or, an Essay on Old Age") and was troubled by the affinity between it and Chesterfield's despised *Letters.* The lawyer's principles are not tainted by the callousness and superficiality of Chesterfield (nor relieved by the wit of Franklin).

To this list of fathers harkening back to Cicero, I would add Lemuel Shaw, Chief Justice of the Massachusetts Supreme Court and Herman Melville's father-in-law. He is, I believe, the hidden father "in law" informing the depiction of Melville's lawyer. As Michael Paul Rogin explains, Judge Shaw's "ruling, like [Daniel] Webster's speeches, combined respect for the fathers, institutional conservatism, and capitalist progress."13 Rogin emphasizes Judge Shaw's progressive power within antebellum culture, that his "rulings advanced the railroads, textile mills, and other corporate enterprises that were transforming the Massachusetts landscape" (consider Melville's treatment of such progress in **"The Tartarus of Maids"**).14 According to Rogin, in the language of the new jurisprudence, exemplified by Shaw, the "public interest, it could be charged, was a mask for private interests."15 Shaw defended corporate, capitalist development in "the name of paternal community," though it ironically "dissolved the solid, personal ties of traditional agrarian and merchant life"16--a breakdown of familial tradition also described in Kuebrich's analysis of the lawyer's business culture. Most attuned to the study of hegemonic assumptions is Shaw's approach to social law as a derivative of nature:

Judges like Shaw self-consciously made new law, appropriate to the developing character of the country. They acknowledged their own, creative role in shaping legal institutions. They interpreted positive law in the light of the law of nature. Law was, in Shaw's view, an "ethical sense," "a source of wisdom and virtue, as well as power." It was "founded on a just view of natural right and natural justice adapted and fitted to become a system of practical rules by reason and experience."17

One need only add Hershel Parker's description of Herman Melville's economic dependence upon his generous and kindly conservative father-in-law to understand the complexity of Melville's own reactions to his good American lawyer,18 a man who is not condemned for his decisions but rather dissected to reveal the limitations of the vision on which these decisions are based. Judge Shaw became most controversial for the case of Thomas Sims. Despite his opposition to slavery, Shaw decided that the law required that this fugitive slave be returned to slavery: "when freedom threatened the social order, as in the European 1848, the fathers drew back. In a courthouse surrounded by chains, Shaw insisted he was bound by legal precedent and federal law to deny Sims his freedom."19 Like Melville's lawyer, the imperative is the preservation of the world on which his life and his power are based.

In the Cockman translation of *The Offices,* Cicero's four sources of honesty can be used as ethical, cultural guides to interpreting the lawyer's perspective. These four sources may be seen as assumptions that underlie the five social assumptions so effectively analyzed by Kuebrich. The four sources of honesty are:

(1) sagacious inquiry and observation for the finding of truth, which may be called by the general name of prudence,(2) a keeping of our words and actions within the due limits of order and decency; under which are comprehended temperance and moderation,(3) a care to maintain that society and mutual intercourse which is between them; to render to every man what is his due; and to stand to one's words in all promises and bargains; which we call justice,(4) the greatness and unshaken resolution to a truly brave and invincible mind, which goes by the name of magnanimity or fortitude.20

Within the explanation, including the recommended limitations of application, of these virtues of honest citizenship, Cicero reveals the underpinnings of the lawyer's actions.

**Prudence**

The lawyer boasts that according to John Jacob Astor his dominant virtues are "prudence" and "method" (**BS** 636). Prudence is Cicero's one category concerned with contemplation rather than action; however, in his guidelines for a prudent life, his main concern is avoidance of *too much* contemplation. He has little tolerance for those men who "bestow abundance of study, and a world of pains, on very difficult and obscure subjects, and such as, perhaps, when they are found out, are of but very little, or no concernment" (C [*Cicero*] 13-14). "Prudence," the appropriate equivalent to "sagacious inquiry," is restricted to pragmatic topics and even with such topics inquiry is only permissible if followed by social engagement. Cicero insists that no man "should be so taken up in the search of truth, as thereby to neglect the more necessary duties of active life: for after all is done, it is action only that gives a true value and commendation to virtue" (C 14). Intellectual specialization and devotion to contemplation distort rather than enlighten; such lack of "prudence" distracts men from their social purpose.

Based upon these assumptions, we may more fully appreciate the lawyer's self-assurance and his frustration with Bartleby's reverie. Prudence will guide one's action through reliance upon "common usage and common sense" (**BS** 645). The lawyer's tolerance is consistent with his balancing of disruptive forces to create a rational environment. He tries to use Bartleby in his limited capacity and later ignores Bartleby so that his environment may be regulated through containment of irrational forces. Davis explains this technique as follows: "the lawyer's world is Wall Street, the haven of capitalism, and, as should be the case with a capitalist, the lawyer cares neither for chronometrical concerns nor for the spiritual welfare of his workers; rather, he is concerned with production and expediency. When he tries to deal with any problem he looks to the physical world."21 More accurately, the lawyer *selectively* looks to the physical world as in the central images of *not* looking toward either the head of Cicero or the wall. Of course, the most comical case is the lawyer decision to *assume* that Bartleby is not present, at first hoping he can disconcert Bartleby by walking into him as though he were not there and then hoping his office may function effectively if he simply ignores Bartleby's existence.

When the lawyer fears that this "demented man" has disrupted his rational world, he still holds back because he "thought it prudent not to break the dismission at once" (**BS** 656). Later, when alone with Bartleby, the lawyer finds himself "in such a state of nervous resentment that I thought it but prudent to check myself at present from further demonstration" (**BS** 661). He contrasts himself with a homicidal employer, "poor Colt," who had "imprudently permitted himself to get wildly excited" and had killed Adams (**BS** 661). At one point the lawyer begins to open himself to Bartleby but then quickly recoils because of a "prudential feeling": "To a sensitive being, pity is not seldom pain. And when at last it is perceived that such cannot lead to effectual succor, common sense bids the soul be rid of it" (**BS** 653). Common sense directs the individual away from excessive identification with incurable misery. The "inherent selfishness of the human heart" (**BS,** 653) is *not* blameworthy since the repulsion is rational.

**Temperance and Moderation**

Though repulsed by Bartleby's vision, the lawyer is initially drawn to Bartleby's decorum. In his manner, Bartleby displays an obedience to the Ciceronian category of "temperance and moderation" (which culturally are associated in the lawyer's mind with a gentleman). This category is closely aligned with "method," the lawyer's second grand attribute and is clearly the basis of Kuebrich's last assumption: "Emotion has no place in the workplace."22 Cicero describes this decorum as "a certain sweet air of gentility and good manners" (C 58). To achieve this demeanor, one must "lead a life of frugality and temperance, of strictness and sobriety" (C 64); to Cicero "nothing is more becoming than constancy and regularity" (C 74). From reasonable control one may achieve a "calm and peaceable state of the soul" (C 61) whereas if passion takes over, one must live with turbulence and tribulation. One's "motions" must be "restrained" to avoid "uneasiness or disturbance to the mind" (C 61). External signs of disturbance repulse Cicero for they exemplify a lack of restraint: "Do but mark those who are inflamed with a vehement anger or desire; who are transported with fear, or an overgreat joy; and you will see an alteration in their countenance, voices, gestures, and all their actions; which sufficiently gives us to understand ... how necessary it is to restrain and give check to the movements of the appetite ..." (C 61). The lawyer's office and work arrangements are best understood as applications (whether conscious or unconscious) of Ciceronian "temperance and moderation."

The lawyer wants us to appreciate his methodical world. He boasts that although lawyers are "proverbially energetic and nervous, even to turbulence," he has never allowed such emotions to invade his peace (**BS** 635). Rather he has remained "an eminently *safe* man" within "the cool tranquility of a snug retreat" (**BS** 635). From the perspective of Cicero's public man with a "calm and peaceable state of the soul" untouched by "uneasiness and disturbance of the mind," the lawyer imposes the model of Ciceronian citizenship. However, we first become aware of the cost of containment when the lawyer digresses to complain about his loss of the Office of Master of Chancery: "I seldom lose my temper; but must be permitted to be rash here and declare, that I consider the sudden and violent abrogation of the office of Master of Chancery, by the new Constitution, as a--premature act; ..." (**BS** 636). We are permitted to see the frustrated ambition and bottled anger, yet the lawyer catches himself before losing control. We may see the check as comical, but the lawyer assumes that such restraint is categorically admirable.

He assumes that we will be appalled by the emotions and appetites of his workers and will continue to admire his ability to remain calm and maintain balance. Turkey is chastised for his "sudden passion," his "most indecorous manner, very sad to behold in an elderly man like him" (**BS** 637). In the afternoon the "strange, inflamed, flurried, flighty recklessness of activity about him" (**BS** 637) is the antithesis of Ciceronian control. The lawyer despises his suspected drinking as it demonstrates a dominance of appetite and emotion. Similarly, Nippers is deemed "the victim of two evil powers--ambition and indigestion" (**BS** 638). Thus in the morning, his body is unleashed: "The indigestion seemed betokened in an occasional nervous testiness and grinning irritability, causing the teeth to audibly grind together over mistakes committed in copying; unnecessary maledictions, hissed, rather than spoken, in the heat of business; and especially by a continual discontent with the height of the table where he worked" (**BS** 639). Although the lawyer refers often to the appetites of his employees, he never suggests that he would touch a morsel within the confines of his office.

When he first stands before the lawyer, Bartleby seems a young man modeled after the lawyer's ideals and as such offers a sharp contrast to the afternoon Turkey and the morning Nippers. The lawyer hopes that this "man of so singularly sedate an aspect" will "operate beneficially upon the flighty temper of Turkey, and the fiery one of Nippers" (**BS** 642). In Bartleby the lawyer senses a kindred spirit (a spiritual son), thus establishing his role as father "in law." He describes Bartleby as "pallidly neat, pitiably respectable, incurably forlorn" (**BS** 642). These characteristics caricature the lawyer's own neatness, respectability, and sobriety. The lawyer is struck by Bartleby's "wonderful mildness" (**BS** 650) and cannot help but admire this "eminently decorous person" (**BS** 651). Much of the lawyer's early tolerance (as Bartleby begins to rebel) is practical, yet utility is coupled with carefully explicated Ciceronian characteristics: "His steadiness, his freedom from all dissipation, his incessant industry (except when he chose to throw himself into a standing revery behind his screen), his great stillness, his unalterableness of demeanor under all circumstances, made him a valuable acquisition" (**BS** 649). Even when he catches Bartleby in his law-chambers on Sunday morning, he is too impressed by "his cadaverously gentlemanly *nonchalance,* yet withal firm and self-possessed" manner to request explanation (**BS** 650). The lawyer, who has already demonstrated clear limitations in dealing with the appetite and emotion of his employees, has the added problem of an inverted effrontery from an apparently Ciceronian, model youth. He responds with the puzzlement of a man attacked by his own watchdog. When Bartleby rebels, the lawyer is still drawn to him. He notes the "singularly mild firm voice," the face so "leanly composed" (**BS** 643). The narrator admits that he would have dismissed him immediately had he shown "the least uneasiness, anger, impatience or impertinence in his manner" (**BS** 643). Melville emphasizes the lawyer's Ciceronian associations when the lawyer admits that given Bartleby's calm demeanor, he "should have as soon thought of turning [his] pale plaster-of-paris bust of Cicero out of doors" (**BS** 643-44).

**Justice**

Relative tranquility can only be regained if the lawyer believes that he has conformed to Cicero's category of "justice and liberality." This category is not easily attained by the lawyer. He senses an affinity of manner between himself and Bartleby, and such affinity is defined by Cicero as appropriate basis for friendship. With the lawyer's declarations of friendship, he accepts a stronger bond than employer to employee which complicates his attempt to conform to a Ciceronian sense of duty. Singleton stresses the lawyer's failure to live up to the Ciceronian ideal of a friendship obligation.23 However, much within *The Offices* clarifies the lawyer's confusion. Most of Cicero's discussion of "justice and liberality" is concerned with *reasonable* generosity. He warns that liberality must not "go beyond our estates" and that "we duly proportion our kindness, according to every man's merit and deserts" (C 28). Injustice may result from either "an unanswerable desire and greediness of getting" or from an irrational expansiveness that may both deplete one's estate and corrupt the recipient. As a *prudentially* generous man, the lawyer must consider the just limitations of his liberality; Bartleby should not be unduly rewarded. The lawyer identifies with his gentility and honesty but cannot excuse Bartleby's neglect of duty.

When the lawyer accepts the obligation of dealing with Bartleby's problem, it is with full recognition that for an honest man charity is a necessity. The lawyer follows the teachings of Cicero (more than the ideal of Christian charity) in his assumption that virtue and expedience should be harmonious. He argues that "charity often operates as a vastly wise and prudent principle--a great safeguard to its possessor." Since men may commit murder as a result of selfishness but never for "sweet charity's sake," "mere self-interest" should "prompt all beings to charity and philanthropy" (**BS** 661). Such logic may appall an idealist but is in keeping with Cicero's argument that prudential self-interest encourages virtuous behavior. When the lawyer decides to befriend Bartleby because it "will cost me little or nothing, while I lay up in my soul what will eventually prove a sweet morsel for my conscience" (**BS** 647), he expresses principles of harmony between virtue and expedience. Although the lawyer represses cupidity just as he represses volatility, Melville does not intend to expose a hypocrite but rather to investigate the unconscious reality of the neoclassical man.

The lawyer is also concerned with the just preservation of property. Even friendship should not require one to endanger one's estate. Cicero was deeply troubled by Roman practice of confiscating property and argued for the preservation of rights of property. This same attitude operates as a restriction on the lawyer's liberality (ironically even though he is renting his office space). The lawyer is professionally a "conveyancer and title hunter" (**BS** 641), and, as Singleton has demonstrated, the lawyer's reactions to Bartleby often turn upon problems of rightful occupation. When Bartleby transforms his office space into a "hermitage," the lawyer is troubled by Bartleby's usurpation of his space. When the lawyer discovers Bartleby living in the chambers, the encroachment expands to the entire law-chambers. He asks Bartleby, "what earthly right have you to stay here? Do you pay any taxes? Or is this property yours?" (**BS** 660). This concern becomes comical when the lawyer imagines Bartleby outliving him, then claiming "possession of my office by right of his perpetual occupancy" (**BS** 663). Concern for property is a key and, according to Cicero, justifiable limitation upon the lawyer's liberality.

**Magnanimity or Fortitude**

In the final category of "magnanimity or fortitude," the lawyer conforms to Cicero's particular emphasis on constancy rather than courage. Cicero attempts to redefine greatness of soul as more dependent upon stability than boldness. He contends that "nothing is more brave than an evenness of temper in every condition" (C 54) and asks, "what can more show a robust mind and unshaken constancy, than to bear those heavy and numerous calamities, which are incident to mankind in this life, with such a firm temper and fixedness of soul, as never to offend against nature and right reason ... ?" (C 41). This "firm temper and fixedness of soul" cannot be attained through a retreat from society but rather must be maintained while serving society (C 44). When Bartleby momentarily "disarms" and "unmans" the lawyer (**BS** 650), the confrontation becomes a testing of the lawyer's fortitude. He attempts to live up to the Ciceronian ideal of the public man in control of himself. Such fortitude offers a model of the stalwart citizen as a replacement for the bold warrior. The lawyer expresses much of Cicero's contempt for a warrior's ostentatious aggression, catering to the mob and tainted by ambition. Cicero insists that courage is not a true virtue and that "men of great souls are apt to be ungovernable and ambitious" (C 38). One must avoid ambition just as one must avoid greed. Cicero contrasts those motivated by "this foolish desire of applause" with those motivated by "intrinsic goodness" (C 40). The lawyer immediately imitates Cicero's teachings when he introduces himself as "one of those unambitious lawyers who never addresses a jury, or in any way draws down public applause ..." (**BS** 635).

The lawyer's attempt at "greatness of spirit" seems frail not because he fails to obey his master but because Cicero's instructions are more dubious and defensive in this category. Plutarch's portrayal of Cicero contradicts the image of a statesman devoid of ambition or an orator indifferent to applause.24 Furthermore, Cicero's refutation of courage seems, in light of *Plutarch's Lives,* a rather weak defense of his own temperament. Plutarch is most critical of Cicero for his lack of daring.25 Melville expands upon this weakness within his portrayal of a lawyer who hates confrontation. His love of a "snug retreat" is derived in part from his fear of confrontation. The lawyer presents his meekness as decency, modesty, and "fixedness of soul." In truth the lawyer's physical recoil is an extension of his intellectual recoil. Just as he substitutes superficial common sense for plummeting the depths, he substitutes the safety of a controlled environment for the challenges of open exploration.

Cicero's hierarchy of the four categories also harmonizes with the lawyer's values. Cicero contends that "if the duties of justice, or preserving the community, and those of prudence, or the knowledge of truth, should come into competition one with another; the former, I think, should take place of the latter, as being more consonant to the dictates of nature ..." (C 89). Here Cicero makes his strongest bid for civil action versus contemplation. Since justice is the greatest virtue, it is also true "that duties which flow from society must as certainly be the greatest; for the deepest knowledge and contemplation of nature is but a very lame and imperfect business, unless it proceed and tend forward to action" (C 90). Within Cicero's tenants there is no justification for Bartleby's passivity. Even if Bartleby does see what the lawyer does not see, the lawyer rejects contemplation if it does not result in constructive civil action. Cicero explains that "the getting of knowledge is duty of much less concern and moment than the preserving this society and union amongst men" (C 92). Cicero would describe Bartleby's isolation as an unnatural retreat. He argues that man, given a free choice, "would avoid solitude, endeavour to find a companion in his studies, and always be desirous of teaching and learning, or hearing and speaking ..." (C 92). Within the Ciceronian paradigm, the lawyer is an embodiment of duty to society, while Bartleby is an embodiment of "inactive knowledge." The lawyer regards his own position as just and natural.

Melville's copy of *The Offices* concludes with Melmoth's translation of "Cato: Or, an Essay on Old Age" which explains how one should approach old age and death. Cicero contends that old age delivers us "from the tyranny of lust and ambition; from the angry and contentious passions; from every inordinate and irrational desire ..." (C 254). As an appropriate reaction to death, an aged man should realize that death "is an event either utterly to be disregarded, if it extinguish the soul's existence; or much to be wished, if it convey her to some region where she shall continue to exist for ever" (C 267). Based on this Socratic view, dismay and fear over decay and death are unacceptable, and as a Ciceronian man the lawyer represses these responses in order to maintain a healthy, rational persona. He refuses to deal directly with negative reactions, yet the anxiety is apparent throughout the story. The lawyer immediately presents himself as "a rather elderly man" (**BS** 635) and when he notes that Turkey is about his own age he does not specify the age but rather squeamishly refers to it as "somewhere not far from sixty" (**BS** 637). When the lawyer urges semi-retirement upon Turkey, Turkey silences him by forcing identification: "With submission, sir, we *both* are getting old" (**BS** 638). For the lawyer such an appeal "was hardly to be resisted" (**BS** 638).

The lawyer's age anxiety is most apparent in his reaction to the wall and to Bartleby. The ghostly pallor of Bartleby juxtaposed with the blackened wall offers the lawyer a frightening image of decay and death. His association of these images with death is emphasized by his word choices as staring at the wall is a "dead-wall revery" and Bartleby is a "pale form ... laid out, among uncaring strangers, in its shivering winding sheet" (**BS** 652). The final images--the pyramid-like Tombs, "wasted Bartleby" (**BS** 671) huddled cold against the cold stones, and the dead letters ("does it not sound like dead men?")--confirm a response antithetical to Cicero's recommendation to disregard death (**BS** 672). The lawyer's preoccupation with Bartleby results in part from his submerged preoccupation with death. He would consider himself morbid if personally fixated on the wall. He insulates himself while also expressing his fears through his preoccupation with Bartleby's life and death. The head of Cicero is itself an ironic addition to his death anxiety. While Cicero's teachings require dismissal of such anxiety, his plaster-of-paris bust is as pale as Bartleby and becomes another death mask. From *Plutarch's Lives* Melville would have known that after Cicero was assassinated and decapitated, his head was placed over the Rostra where the orators spoke.26 This adds an ironic fascination to Bartleby's fixed gaze as he sees the pale head of the master six inches above the head of the lawyer.

To study the hegemony of the lawyer is to study who within the culture controls the language and thus the power. Similar to the lawyer's lack of focus on the head of Cicero are his story's enormous gaps of information. Although the lawyer is verbose, he never gives his own name. Contrasting sharply with what William V. Spanos analyzes as Ishmael's immediate self-naming in ***Moby-Dick*** which defines his role as "the errant wanderer" and "the eternal as if,"27 the lawyer begins with, "I am a rather elderly man" and never names himself (**BS** 635). If, as Spanos has argued, "Ishmael's errant narrative is activated by an impulse to liberate what the metaphysical circle closes off, subdues, and eventually forgets," then the lawyer's narrative conforms to his selective, controlled gaze and is activated by the counter impulse to restrict. Although he considers it relevant to introduce himself in order to tell Bartleby's story, he introduces himself without a hint of his life outside the office. We only know that he lives within walking distance of his office. The lawyer defines his world, and his discourse tries to restrict our gaze within the confines of his cultural hegemony and steer us away from a vast reality that exists beyond it.

**Notes**

1. Past criticism has not completely dismissed the importance of Cicero within the story. For example, William B. Dillingham, *Melville's Short Fiction: 1853-1856* (Athens: U of Georgia P, 1977) 18-19, is on the right track when he contends that in looking at Cicero, Bartleby is actually seeing the lawyer, but Dillingham only associates Cicero with the lawyer in terms of their shared profession and shared love of eloquence. Marvin Singleton, "Melville's 'Bartleby' Over the Republic, a Ciceronian Shadow," *Canadian Review of American Studies* 6 (Fall 1975): 165-73, offers a more in-depth treatment of Cicero's importance in the story. He also concentrates on Cicero as a legalist, contending that Melville's use of Cicero derives from his fascination with jurisprudence and arguing that "Bartleby's trespass raised remedy and choice-of-law problems" (169). Singleton concludes that "Bartleby, the shade of Cicero, exemplifies the highest reach of ideal kin-friendship commitment within the aspiration of the stoic tradition" (170) and that "Bartleby called for the transcendent friend in an America lacking either legal or philosophical foundation for obligation of such simple intensity ..." (171-172). Although Bartleby as Cicero's specter is intriguing, Singleton is more convincing in his analysis of the lawyer's imitation of Cicero: "the lawyer's partiality for Ciceronian periods, not only in sentences, but in paragraphs, and ultimately, in the shape of the story itself, is clear. Rhetorical devices such as litotes abound in the lawyer's presentation; and the latinate quality of his diction is remarkable" (168). Furthermore, the lawyer expresses a crucial division within Cicero's character: "Bartleby reminds us that the original Cicero revealed two somewhat opposing sides of his character." These two opposing sides are the ethical statesman and the "prudent, even Polonius-like, Cicero" (167-68).

2. Herman Melville, "Bartleby, The Scrivener" *Pierre; Israel Potter; The Piazza Tales; The Confidence-Man; Uncollected Prose; Billy Budd, Sailor,* Harrison Hayford, Hershel Parker, and G. Thomas Tanselle, eds. (New York: The Library of America, 1984) 654. All further references to this edition are cited parenthetically and abbreviated "BS."

3. Articles such as David Kuebrich's "Melville's Doctrine of Assumptions: The Hidden Ideology of Capitalist Production in 'Bartleby,'" *The New England Quarterly* 70 (Sept. 1996): 381-405, Barbara Foley's "From Wall Street to Astor Place: Historicizing Melville's 'Bartleby,'" *American Literature* (March 2000): 87-116), and Richard R. John's "The Lost World of Bartleby, the Ex-Officeholder: Variations on a Venerable Literary Form," *The New England Quarterly* 70 (Dec. 1997): 631-41, permit a fresh examination of Melville's historical occasion and his confrontation with the social implication of Western culture. Kuebrich argues that the lawyer is used by Melville to examine the destructive impact of "the lived dominance and subordination" which has evolved within a capitalistic class structure. See Raymond Williams, *Marxism and Literature* (Oxford: Oxford UP, 1977) 110. As aptly expressed by Kuebrich, "the lawyer exemplifies the values and attitudes of the Protestant entrepreneur who fused his Christian faith with emerging economic practices in such a way as to legitimate inequality and class privilege" (386). As explained by Kuebrich, the unconsciousness of the lawyer's assumptions is clarified through Antonio Gramsci's application of hegemony: First, they cannot be easily confirmed or refuted because they deal not with empirical facts but with abstract values such as "nature," "charity," "injustice," and the "rights of property." Second, they are either so commonplace in the culture or so integral to the lawyer's thought and behavior, or both, that he thinks of them not as human constructs but as natural laws operating through common sense. In other words, the lawyer's assumptions are not consciously adopted beliefs but elements in the preconscious mental framework that constitute his sense of reality. There is much about Antonio Gramsci's conception of the unconscious, or lived, dimensions of hegemony that is reminiscent of Melville's understanding of the nature and role of assumptions (Kuebrich 391). Kuebrich's explanation of Gramsci's 1930s application of hegemony to Marxist theory is in keeping with Raymond Williams's 1970s revival of Gramsci's theories. Williams emphasizes that hegemony operates as a more subtle control and a more amorphous process than direct domination and blunt ideology.

4. Todd F. Davis, "The Narrator's Dilemma in 'Bartleby the Scrivener': The Excellently Illustrated Re-statement of a Problem," *Studies in Short Fiction* 34 (Spring 1997): 183-93. Davis argues that the lawyer/narrator is a fundamentally good man who is conscious of his moral dilemma and is transformed through his experience with Bartleby.

5. Kuebrich, 388-89.

6. Ibid., 386. On a larger scale, Kuebrich proposes that "our capitalist economy and its ideological underpinnings are not subject to question because they are commensurate with the rational or natural orderings of society" (404). Applied to the head of Cicero, the lawyer cannot see the gaze that invisibly oversees his world. This gaze conforms to Michel Foucault's study of cultural power through surveillance (based upon Jeremy Bentham's panoptic architectural innovation in prisons): "There is no need for arms, physical violence, material constraint. Just a gaze. An inspecting gaze, a gaze which each individual under its weight will end by interiorising to the point that he is his own overseer, each individual thus exercising this surveillance over, and against, himself. A superb formula: power exercised continuously and for what turns out to be a minimal cost." Michel Foucault, "The Eye of Power," *Power/Knowledge: Selected Interviews and Other Writings 1972-1977,* ed. Colin Gordon (New York: Pantheon [1980]) 155.

7. Merton M. Sealts, *Melville's Reading: A Check-List of Books Owned and Borrowed* (Madison: U of Wisconsin, 1966) 51.

8. Herman Melville, *Pierre: or the Ambiguities* (Evanston & Chicago: Northwestern UP & Newberry Library, 1971) 225.

9. Herman Melville, *The Confidence-Man: His Masquerade,* ed. Hershel Parker (New York: Norton, 1971) 148.

10. Ibid.

11. Melville, *Confidence-Man* 150.

12. Earl of Chesterfield, *Letters of His Son,* ed. Oliver H. Leigh (New York: Tudor, n.d.) 93.

13. Michael Paul Rogin, *Subversive Genealogy: The Politics and Art of Herman Melville* (New York: Knopf, 1983) 36.

14. Ibid.

15. Ibid.

16. Rogin, 37.

17. Ibid.

18. Hershel Parker, "Damned by Dollars: *Moby-Dick* and the Price of Genius," *Moby-Dick,* ed. Hershel Parker and Harrison Hayford (New York: Norton, 2002) 714 and 723.

19. Rogin, 142.

20. Cicero, *Cicero: The Orations Translated by Dancan, The Offices by Cockman, and The Cato and Laelius by Melmoth,* Vol. 3 (London: A. J. Valpy, M.A., 1833) 12. All further references to this edition are cited parenthetically and abbreviated "C."

21. Davis, 188.

22. Kuebrich, 396.

23. Singleton, 168.

24. Plutarch, *Plutarch's Lives of Illustrious Men,* trans. John Dryden, vol. 3 (New York: John Wurtele Lovell, n.d.) 183-84.

25. Plutarch, 192.

26. Plutarch, 202-03.

27. William V. Spanos, *The Errant Art of* Moby-Dick, (Durham & London: Duke UP, 1995) 155.

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