

## EPICURUS' DYING WISHES

### I

*creditur vulgo testamenta hominum speculum esse morum.*

Pliny the Younger, *Ep.* 8.18.1

It is now a recognised phenomenon in the study of ancient philosophy – especially of the Hellenistic period – that the various philosophical schools disseminated or fabricated stories about the life of their chosen founder which were supposed to embody the theories – especially the ethical theories – to which that school subscribed. This may be termed ‘biodoxography’: the presentation and manipulation of purportedly biographical anecdotes in order to illustrate a particular philosophical stance.<sup>1</sup> This biodoxography could be used for various and sometimes conflicting ends. While a particular philosophical school might attempt to publicise and embody in the image of its founder what it thought was an attractive model for living, opponents of that school were encouraged by this very biodoxographical practice to scrutinise the details of a chosen figure-head’s conduct in order to produce possible conflicts with the proposed doctrine. The greater the emphasis laid on the founder’s life as a model and paradigm of a particular philosophy, the greater the profit in finding some contradiction between his behaviour and the doctrine of the school.

Here I concentrate on one such exchange between the Epicurean school and Cicero, one of the Epicureans’ most vocal critics. The topic of this exchange is the behaviour of Epicurus in the face of his own death: what he said (or was reported to have said) on his deathbed, and above all his provision of a last will and testament. Was the very practice of producing a will consistent with Epicureanism and its famous assertion that ‘death is nothing to us’? If someone is convinced, as the Epicureans insisted, that death is the end of all sensation and the annihilation of a potential subject for good or harm, can he nevertheless be concerned to provide particular *post mortem* instructions for the disposal of his estate? I shall argue that the Epicureans’ egoistic ethical theory provides an obstacle to the formulation of any *post mortem* desires sufficient to motivate will-making, and that as a result Cicero’s objection is a strong one.

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<sup>1</sup> I borrow this term from Gigante (1986) 16. Cf. Declava Caizzi (1993).

## II

Cicero's general interest in wills was perhaps like that of most prominent Roman aristocrats in the later Republic, a time when great political and economic capital could be won through the manipulation and opportune publication of such documents.<sup>2</sup> His interest in Epicurus' will, however, is due specifically to the light which he thought it might shed on Epicurus' real attitude to death, which would presumably be most evident in his attitude to his own death, and particularly evident when his death was close at hand.<sup>3</sup>

Epicurus' will is introduced into Cicero's *De finibus* as a digression. In his response to Torquatus' exposition of Epicurean ethics, Cicero has been discussing the Epicurean attitude to pleasure and pain. He has become especially impatient with Epicurus' insistence that present physical pain can be counteracted by the recollection and anticipation of past or future pleasures. This possibility was most evidently displayed by Epicurus himself during his final days, when although afflicted with a terrible illness which caused excruciating pain, he nevertheless insisted that he could pass the time until his death in pleasure. Cicero finds this utterly implausible.

audi, ne longe abeam, moriens quid dicat Epicurus, ut intellegas facta eius cum dictis discrepare: 'Epicurus Hermarcho S. cum ageremus', inquit, 'vitae beatum et eundem supremum diem, scribebamus haec. tanti aderant vesicae et torminum morbi ut nihil ad eorum magnitudinem posset accedere.' ... 'compensabatur', inquit, 'tamen cum his omnibus animi laetitia quae capiebam memoria rationum inventorumque nostrorum.'

So I do not digress too much, listen to what Epicurus says as he dies, so you might understand that his deeds are not consistent with his theories. He said, 'Epicurus greets Hermarchus.<sup>4</sup> I write these words as I am living out this my final and blessed day. The disorders of my bladder and guts are so great that nothing could increase them, ... but nevertheless they are all compensated by the joy in my soul which I take in recalling my discoveries and theories.' *Fin.* 2.96

Cicero goes on to claim that this explanation of Epicurus' maintenance of *ataraxia* will not do. He contends that Epicurus is trying to counterbalance bodily pains with the pleasures of intellectual discoveries, pleasures of the soul, and this, Cicero thinks, conflicts with the Epicurean assertion that all feelings of pleasure and pain must be bodily (2.97). Whether or not this is a fair criticism of Epicurus is not my primary

<sup>2</sup> See Champlin (1991).

<sup>3</sup> Lucretius also claims that a person's true nature is revealed at such times of adversity: *DRN* 3.55–8.

<sup>4</sup> In Diogenes Laërtius 10.22 this letter is addressed to Idomeneus. See Laks (1976) 90.

concern here (although it is worth pointing out that it is not).<sup>5</sup> More important is the first sign of a general tactic which Cicero will pursue, namely the opposition of Epicurus' actions to his words (*ut intellegas facta eius cum dictis discrepare*). The critic of Epicureanism searches through the 'biography' of Epicurus and pits it against his theory. The *facta* are to be provided by the scrutiny of Epicurus' behaviour as revealed in his own letters, his own will and the like. This is surely better than using a second-hand source describing Epicurus' behaviour since then Epicurus will be convicted by his own words, spoken 'off-duty', when he is not engaged in explicit theorising (the *dicta*). Cicero repeatedly tells us that this is what he is doing.

nihil in hac praeclara epistula scriptum ab Epicuro congruens et conveniens decretis eius reperetis. ita redarguitur ipse a sese, convincunturque scripta eius probitate ipsius ac moribus.

You will find nothing written in that notorious letter [sc. the letter to Hermarchus/Idomeneus] that fits and is consistent with his pronouncements. So he is proved wrong by his own hand, and his writings are refuted by his own virtuous character. *Fin.* 2.99

Indeed, Epicurus is shown to be better than his word. His own actions reveal him to be concerned with his posthumous reputation and the well-being of his dependants in a manner not consonant with his own theories. Cicero has already taken much the same line on the Epicurean view of friendship – a topic to which I will return.<sup>6</sup> Here Cicero can pick on particular letters written by Epicurus as he was dying, as well as Epicurus' will to prove his point. This is why he also insists that he has been scrupulous in translating Epicurus' Greek (*modo totidem fere verbis interpretatus sum, Fin.* 2.99). He wishes to impress upon us that it is Epicurus who has convicted himself of inconsistency, and the best way to do that is to place side by side the supposed contradictory statements.

### III

Before passing to the substance of Cicero's complaints, and the general problem of Epicurus' will, it is worth pausing to ask whether the will preserved in part by Cicero and in full by Diogenes Laërtius is indeed genuine. The generally accepted answer is affirmative. There is no reason to think that the will preserved by

<sup>5</sup> It is not a fair criticism. For Epicurus, all pleasures are 'bodily' in the sense that pleasure is a *sumptōma* of atomic arrangements. Pleasures are not all 'bodily' in the sense in which 'bodily' is contrasted with 'psychic'. The soul is also a complex of atoms. For more criticisms of this Epicurean doctrine of 'compensating pleasures' see Plut. *Non posse* 1089D–1090C.

<sup>6</sup> See Cic. *Fin.* 2.80–1.

Diogenes is not genuine. It is plausibly Hellenistic in its dialect and is authentic in its legal details.<sup>7</sup>

There is also good evidence that Epicurus himself went to some lengths to ensure the preservation of his will. The will itself notes that a *dosis* was deposited in the Metröon of Athens, probably along with other documents relating to the school.<sup>8</sup> In this respect it appears that Epicurus was rather unusual. While it was common practice to leave wills with friends or relatives (often the/a beneficiary) and even state officials (see e.g. Isaeus 1.3), Epicurus is the only private individual known to have used what was mainly intended as the storage place of *dêmosia grammata* (*psêphismata*, decrees, judgements of law cases, indictments and so on) for storing private documents. This might well have ensured the preservation of either the original will or some other bequest relevant to the school alongside the various copies probably made for consultation within the Epicurean Garden. We have no indication where Cicero, Diogenes or their sources found and transcribed the will.

It is perhaps surprising to find an Epicurean document in the centre of Athenian political record-keeping, catalogued according to the year's *archôn*, next to civic laws and decrees – especially given the Epicureans' notorious avoidance of political office or participation. However, it is clear that Epicurus was not unfamiliar with the workings of the Athenian legal system. Most of what follows will examine Epicurus' will in terms of his own philosophy. But it is important to remember that there was another audience to which the will had to be addressed, namely the surrounding Athenian society according to whose laws any inheritance had to be arranged. Recently, it has been pointed out that Epicurus' will contains a particular legal manoeuvre, designed to maintain the philosophical community of the Garden, but displaying close attention to the requirements of Athenian law.<sup>9</sup>

That manoeuvre is the following. Epicurus' property is given to Aynomachus and Timocrates on condition that they give the Garden to Hermarchus and the other

<sup>7</sup> See Gottschalk (1972) 317–18; Leiuo and Remes (1999) 163. Diogenes includes a number of other wills, by Plato (3.41–3), Aristotle (5.11–16), Theophrastus (5.51–7), Strato (5.61–4), and Lyco (5.69–74). Besides the general thought that a person's character might be revealed in his will, Diogenes presumably used them for the wealth of biographical and especially genealogical information which they contain. For a discussion of Cicero's paraphrasing of the will as found in Diogenes, see Laks (1976) 87. Compare *Fin.* 2.101 with DL 10.18. *memoria*, included by Cicero, is often used to justify the restoration εἰς τὴν ἡμῶν τε καὶ Μητροδόρου <μνήμην> κατατεταγμένην in Diogenes. Laks retains the transmitted text; cf. Laks (1976) 91.

<sup>8</sup> See DL 10.16, and for a discussion of Epicurus' practice of depositing letters in the public archive of Athens see Clay (1982), who convincingly argues that this practice lies behind the otherwise puzzling Epicurean penchant for listing the eponymous *archôn* of the year in which a particular letter or document was first written. Sickinger (1999) 133–4 argues *contra* Clay that, rather than the will itself, a separate bequest (a *dosis*) was deposited which would become active upon Epicurus' death. For a discussion of the Metröon see Cassius (1868), and Sickinger (1999) 105ff. and for literary and epigraphic *testimonia* see Wicherley (1957) §§465–519. I thank Stephen Todd for his help on this subject.

<sup>9</sup> See Leiuo and Remes (1999). Cf. Laks (1976) 80. At DL 10.120 it is reported that the Epicureans allow that the wise man 'will go to law': καὶ δικάσασθαι, but it is not made clear when and why. There is some epigraphic evidence that the office of Epicurean scholar was handed down by the last will and testament of the previous holder even in the second century CE. See Dorandi (2000).

Epicureans. So long as Hermarchus lives, he can remain in Epicurus' house in Melite, but on his death the house passes to Amynomachus and Timocrates. In this way Epicurus, an Athenian citizen, ensures that Hermarchus and the other non-Athenian Epicureans can remain in the Garden although they cannot legally inherit the property. Two citizens, Amynomachus and Timocrates are designated Epicurus' heirs, although they are probably not Epicureans themselves.<sup>10</sup> In return for acting as a medium for the transmission of Epicurus' property to the non-citizen members of the Garden they keep the house in Melite after Hermarchus' death.

So these particular portions of the will owe more to surrounding Athenian law than to Epicurean philosophy. However, the problem that will concern the rest of my discussion does not depend on any particular clauses in the will. It discusses rather Epicurus' motivation for writing any will at all. But still it will be worth remembering that Epicurus' will is designed for a double audience, for the Epicureans of the Garden to whom many of the injunctions are addressed and who would be expected to honour the particular practices which Epicurus recommends, and also for the surrounding non-Epicurean Athenians, since the Garden must comply with their particular legal codes in order to function as a philosophical school. This latter provides at least a good instrumental reason for Epicurus to write a will – it ensured the Garden's continuation according to Athenian law.<sup>11</sup>

#### IV

Cicero makes a number of specific complaints against the contents of Epicurus' will. In particular, he pokes fun at the provisions it contains for the celebration of Epicurus' birthday, a practice which was part of the cultic characteristics of the Epicurean Garden. The Epicureans' calendar was punctuated by monthly and annual festivals commemorating past prominent members of the school. Since this has been well discussed by other commentators, I shall focus on the most general of Cicero's complaints. He claims that merely by writing a will, regardless of its specific contents, Epicurus is contravening his own insistence that 'death is nothing to us', as concisely distilled into *Kyria Doxa* 2.<sup>12</sup>

<sup>10</sup> Leiwo and Remes (1999) 165. These two are not mentioned in any other Epicurean text. In the will Epicurus constantly stresses his affection for Hermarchus and his family and more generally for all the fellow Epicureans, but makes no reference to any particular connection with these two people.

<sup>11</sup> In addition to the will, we have evidence of a letter written by Epicurus during his final days, probably to a certain Mithres, who appears to be a friend. The fragmentary letter is retained in Philodemus' ΠΡΑΓΜΑΤΕΙΑΙ, *PHerc.* 1418 col. XXXI, and apparently contained a number of instructions for the care of Metrodorus' children after Epicurus' death. For text and commentary see Militello (1997).

<sup>12</sup> See *De finibus* 2.102–3 for Cicero's various complaints against the provisions contained in the will for the celebration of Epicurus' birthday and the various monthly festivals which it institutes. For a collection of sources dealing with this cult and a discussion of the Epicurean justification of this practice, see Clay (1986) and Capasso (1987) 25–38. Thompson (1981) 20 insists on the religious function of many earlier fourth-century wills which ensure the provision of sacrifices and cult for the deceased. We have extant remains of an Epicurean treatise dealing with the correct attitude to take towards the death of a friend: Carneiscus' *Philista* book two, *PHerc.* 1027. See Capasso (1988) and cf. *KD* 40.

There, the major supporting argument for the contention that death cannot harm or benefit us is that what is good or bad must be perceived as such, and can ultimately be analysed in terms of pleasure and pain. That is to say, unless something is perceived by a subject as pleasant or painful, that something cannot be good or bad for that subject. Since, therefore, at death the subject is annihilated and can no longer perceive, *post mortem* events can have no value for the subject. As a result, we have no rational basis for the fear of death, which Epicurus thinks is one of the major sources of human misery and is the foundation for many of the irrational or empty desires for fame and fortune with which people are afflicted.

Those who wish to object to this line of argument and offer a rational basis for the fear of death can try to argue that death or *post mortem* events can affect a subject by making one or more of a number of claims.<sup>13</sup> First, they can claim that there is in fact a *post mortem* subject which can perceive good or harm (the person's immortal soul or some such thing). Second, they can deny the claim that everything good or bad for a person must be perceived as such. The latter option tends nowadays to be more popular. Generally speaking, it is proposed that the deceased, while unable to perceive any *post mortem* events, might nevertheless be said to have *interests* which persist in the world. Those interests can be furthered or frustrated, and the now deceased person (or, if we are not comfortable with the idea of the agent persisting as a subject of harm after death, the *ante mortem* person who the now deceased used to be) may be said to be affected by the status of his or her interests. Perhaps the earliest philosophical statement of this position was made by Aristotle, who in the *Nicomachean Ethics* insists that one's *eudaimonia* may be affected to some degree by the fortunes of one's descendants and reputation (1100a21–1101b9).<sup>14</sup>

By offering such an account of the reasons for being concerned about *post mortem* events, we can produce good grounds for the practice of writing wills. If we accept a model of well-being which allows changes on the basis of *post mortem* events, that is to say if well-being can be altered after death, the agent will surely take every step possible to ensure that his interests will be fostered. So he will, for example, by the means of a legally binding will, try to ensure that his descendants will be cared for financially. Then he can die secure in the belief that he has done the best he can for his own well-being by insulating it as far as possible against potential *post mortem* harm. It is also clear why we all should respect the wishes enshrined in such wills. The executor of the will might be tied to the deceased in such a way that he would wish to act to promote the deceased's well-being. So he would do all in his power to ensure that the wishes are enacted. Similarly, the executor might see that at some stage he too will be in the position of writing a will and trying to ensure that his own interests are

<sup>13</sup> Another way of making the fear of death 'natural' is to claim that although irrational it has the functional benefit of saving us from harm. See Rorty (1983) 178ff., and cf. Warren (2001b). It is unclear to me, however, how much this functional fear of death would add to the functional fear of pain (which an Epicurean could accept wholeheartedly). The question here would be whether painless death is an evil, and – more importantly – why.

<sup>14</sup> The most famous modern version of this argument is by Nagel (1979). The most recent discussion of Aristotle's position is by Scott (2000).

preserved and fostered after his death. In that case he has a stake in maintaining a system in which such wills are respected and enacted.<sup>15</sup>

So much for one possible justification of will-making. But what if the relevant premises concerning the possibility of *post mortem* effects to well-being are lacking? In the Epicurean system, the removal of the fear of death crucially depends upon the insistence that death is the end of all possibility of harm. There is no subject *post mortem* to suffer any harm. Further, Epicureanism identifies benefit and harm with pleasure and pain and the dead certainly do not feel either of those. This is where Cicero's criticism begins to take its hold.

quaero etiam quid sit quod cum dissolutione, id est morte, sensus omnis extinguatur, et cum reliqui nihil sit omnino quod pertineat ad nos, tam accurate tamque diligenter caveat et sanciat 'ut Arynomyachus et Timocrates, heredes sui, ...'

I also ask why it is that although all perception is destroyed with the annihilation that is death, and although there is nothing left behind which is at all of concern to us, nevertheless he so carefully and diligently sees to it and stipulates 'that Arynomyachus and Timocrates, his heirs...'  
(*Fin.* 2.101)

Cicero finds a clear inconsistency between Epicurus' theory and practice, between the grounds for the insistence that death is 'nothing to us' and the extreme care and attention lavished upon the provisions made in his will for measures that will necessarily not be enacted until after his own death. In the terms of Epicurus' own theory, these measures can have no effect on his well-being. Why bother at all to write a will, if one believes that it does not matter to oneself whether or not it is enacted?<sup>16</sup> Indeed, Cicero does not merely find Epicurean theory and practice inconsistent. Elsewhere, he takes the practice of writing wills to be one of the major indicators that we generally do believe that our souls are immortal and will survive our deaths. In which case, Epicurus' own actions can be cited as grounds for asserting the contradictory of his thesis.

quid procreatio liberorum, quid propagatio nominis, quid adoptiones filiorum, quid testamentorum diligentia, quid ipsa sepulcrorum monumenta, elogia significant nisi nos futura etiam cogitare?

What do the production of children, the promotion of a reputation, the adoption of sons, the care taken over wills, indeed the very monuments erected for tombs, the epitaphs, signify, if not that we are thinking also of things to come? (*Tusc.* 1.31)

<sup>15</sup> See Feinberg (1984), esp. 94–5, for a defence of this kind of position. Compare Pitcher (1984) and Grover (1989).

<sup>16</sup> A brief remark in Philodemus, *De morte* 39.11–15 records a claim attributed to Democritus that some people are so afraid of dying, and cling so tenaciously to life that they cannot bear to write a will. Presumably, then, it might be claimed that the act of writing a will shows that one is not so paralysed by the fear of death. This does not yet, however, do much to avoid the sort of criticisms which Cicero levels here.



Of course, the fact that we do feel such concerns does not show that we ought to feel such concerns.<sup>17</sup> But Cicero needs only the weaker descriptive point for his charge of inconsistency against Epicurus. Epicurus' behaviour betrays such concerns although his doctrine cannot sustain them. Furthermore, if Epicurus' will is addressed to fellow Epicureans, they too must be understood to deny that the dead have any sort of lingering interests. So if they act in accordance with the will they cannot do so simply because 'that is what Epicurus wanted', in the sense that if they were not to do so, somehow Epicurus would be harmed. But what other reason could they have?

Some recent writers have tried to offer explanations which dissolve the apparent contradiction. If they are successful then they will also provide a rebuttal of Cicero's argument.<sup>18</sup> Here is one recent attempt to justify the enactment of wills

The vast majority of us are greatly comforted now to know that after our deaths the law can be used to contribute to the good of the persons and the causes we care about. If maintaining this fiction of harm and wrong to the dead in our legal institutions is the most effective way of securing this comfort ... then keeping them is exceedingly well justified. (Callahan (1987) 352)<sup>19</sup>

While recognising that no real benefit or harm can come to the dead, this justification argues that we might nevertheless maintain a 'fiction' that it does in order to secure some generally and socially beneficial result, namely the *present* comforting thought that certain of our *present* interests will be promoted after our deaths. It is important to recognise that the time at which the proposed benefit from this practice is perceived is *ante mortem*, while we are still alive. At no time should we make the mistake of thinking that we would actually do harm to the dead if we do not enact their wishes. That is merely the most effective means of communicating and institutionalising the real and truly beneficial results of this practice. In fact, we respect wills because we presently are comforted by the thought that our own interests are to be similarly treated.

But here we might begin to see a further problem. In what sense are we really being comforted by maintaining this fiction? In Callahan's formulation above, he claims that we are 'greatly comforted to know now that after our deaths the law can be used to contribute to the good of the persons and the causes we care about'. This is in a way compatible with the view that the dead themselves have no *post mortem* interests since it describes a present state of mind – comfort felt while still alive. But there is still something lurking behind the notion of 'comfort' which an Epicurean would feel the need to question.

<sup>17</sup> Well noted by Soll (1998) 29.

<sup>18</sup> The bibliography dealing with the question of whether a materialist conception of death is compatible with allowing the dead to be harmed has grown enormously since Nagel (1979). For two examples of a defence of the general Epicurean position see Donnelly (1994) and Suits (2001).

<sup>19</sup> Cf. Griffin (1986) 22: 'Of course, a lot of desires of the dead do count morally, but that is because they affect the living. There is a good case for honouring wishes expressed in wills. Inheritance satisfies the desires of the living to provide for their offspring and encourages saving that benefits society generally.'



Epicurean texts, notably the inscription of Diogenes of Oinoanda, certainly insist that *present* pleasure can be caused by (the thought of) future events.<sup>20</sup> So an Epicurean would find nothing objectionable in Callahan's observation that we can take pleasure or comfort in imagining future states of affairs. But Callahan's formulation perhaps betrays what an Epicurean might think is a pernicious and persistent *investment* in what happens after my death. An Epicurean might reasonably ask why, if terrible things were to happen to people I love after my death, that would be of concern to me *even in the present*? The possible disaster thus imagined should not cause me any anxiety. If part of the Epicurean argument that death is nothing to us is that whatever happens after our deaths we can feel no affect, why am I now busying myself writing a will in order to be comforted now that certain events (which cannot affect my well-being) will or will not happen?

Let me explain this further, since there is a good objection to my position which must be met. Note the distinction between the following two claims:

- A. A *post mortem* event can harm or benefit one's well-being.
- B. The prospect of a *post mortem* event can harm or benefit one's well-being.

The objection I have in mind is the following. The apologist for Epicurean will-making might claim that although A. is incompatible with Epicureanism, since the implied time at which the harm is perceived is *post mortem*,<sup>21</sup> B. is not, since this formulation includes a still living subject, able to perceive pleasure and pain. In short, although what actually happens after my death cannot affect me at all *after my death*, I might nevertheless *now* be anxious during my life at the thought of such an event. Similarly, I might presently experience pleasure at the thought of some future event, whether or not it will turn out that I will be around when that event occurs, and whether or not the event will occur at all.<sup>22</sup> Whenever the supposed object of the pleasure takes place (in the past, present, future – even *post mortem* future), so long as the pleasure is perceived in the present then Epicurus' egoistic hedonism remains intact. Compare Callahan's position: we maintain the fiction of A. whereas in reality we are comforting ourselves by allaying the sort of fears included in B.

Why do I think that B. does not give the Epicureans sufficient justification for writing wills? One argument is that Epicureanism elsewhere explicitly argues that we should

<sup>20</sup> Fr. 33.VIII.1ff. Smith: *καίπερ γὰρ ἠδομένων ἤδη τῶν ἀνθρώπων διότι | ἔσται τις αὐτῶν μετ' αὐ|τοὺς ἐπ' ἀγάθῳ μνήμη. | ὁμοῦς τὸ ποιητικὸν τῆς ἡδονῆς αὐθις γίνεται.* This fragment comprises a general attack on Cyrenaicism, which differed from Epicureanism in denying the possibility of taking pleasure from past or future events. See DL 10.137. Here I am indebted to the paper by David Sedley referred to by Smith (1998) 166.

<sup>21</sup> Lucretius explicitly ridicules such ideas in his 'Symmetry argument' at *DRN* 3.838–46. He argues that feeling anxiety at *post mortem* events is as absurd as feeling pain at the thought of pre-natal events.

<sup>22</sup> Cf. Gosling (1969) 9–11 who recognises that *post mortem* wishes, such as those expressed in wills, offer a possible counter-example to the thesis that all actions are chosen for the sake of pleasure. (10) 'The difficulty of these [sc. desires] is not tied to the fact of generosity but simply to the possibility of desires such that it is no part of their accomplishment that the subject should know of it or even be alive when it comes about.'

not allow ourselves to be affected by the prospect of events which when they occur will not cause us any benefit or harm. As part of his attack on the fear of death Epicurus argues that one cannot consistently hold both that ‘being dead’ is not an evil and that nevertheless the prospect of my future state of being dead is a reasonable cause of fear.<sup>23</sup> To do this would be like knowing that tomorrow’s dental appointment will involve no pain (because of the anaesthetic), but nevertheless fearing in prospect that same painless procedure.<sup>24</sup> B. seems to provide the corresponding claim that although these events will not be enjoyed when they occur, the Epicurean can nevertheless enjoy them in prospect. However – as I will argue in the next section – I still think that this provides insufficient reason for the particular practice of making a will.

## V

There are two major possibilities for an Epicurean attempt at justifying will-making. First, the Epicurean can try to find some sense in which he can take present pleasure in contemplating positive *post mortem* events which does not suggest that he can also be adversely affected by negative *post mortem* events, and claim that writing a will allows him to enjoy such contemplation. Second, he can try to argue that the pleasures promoted by a will, although not the testator’s own, provide sufficient justification for an Epicurean will-writer. The first tactic tries to identify some personal, albeit perhaps vicarious, pleasure. The second asserts some altruistic, pleasure-promoting motivation.

First, let us concentrate on how an Epicurean might argue that he receives present pleasure from writing a will. I shall try to explain my objection to the idea that prospective attitudes (anxieties and accompanying comforts) aimed at *post mortem* events offer a sufficient grounding for Epicurean will-making by examining the kinds of desires which are necessarily involved.

We might call desires of the kind which are enshrined in wills ‘*post mortem* desires’. This is a special class of desires which refer to states of affairs which post-date my death.<sup>25</sup> So two examples of such desires would be:

<sup>23</sup> *Ep. Men.* 125: ὥστε μάταιος ὁ λέγων δεδιέναι τὸν θάνατον οὐχ ὅτι λυπήσει παρῶν, ἀλλ’ ὅτι λυπεῖ μέλλον. ὁ γὰρ παρὸν οὐκ ἐνοχλεῖ, προσδοκώμενον κενῶς λυπεῖ. I discuss further the role played by this principle in the Epicureans’ arguments in Warren (2001b).

<sup>24</sup> I insist here on the force of ‘knowing’ that X will not be painful in order to head off any suggestion that some doubt about the truth of the dentist’s assurance that ‘it will not hurt a bit’ might allow in some prospective anxiety.

<sup>25</sup> Compare Luper-Foy (1987) who urges that an Epicurean cannot formulate any desires which might be compromised by his death. Luper-Foy does allow the Epicurean to formulate an ‘independent desire’, a desire which will or will not be fulfilled regardless of his actions, since he cannot possibly affect it (e.g. ‘I want it to be a fine day tomorrow’). My class of ‘*post mortem* desires’ is a subset of Luper-Foy’s independent desires, distinguished by the fact that there is a particular reason why the agent cannot do anything directly to ensure that he obtains what he desires. Luper-Foy insists that all such independent desires are motivationally inert, and the response of Rosenbaum (1989) 89 seems to me to leave this important point

- i. 'I want my ashes to be scattered over Parker's Piece.'
- ii. 'I want the weather to be fine on 21 July in the year 3000.'

Note that i. necessarily expresses a *post mortem* desire. It is impossible for my ashes to be scattered before I die. The desire in ii. is only contingently *post mortem* given that I will not live until the date that the desire will be satisfied. The desires expressed in a will are all necessarily *post mortem*.

There is nothing immediately and inherently contradictory in possessing such desires, even for an Epicurean. But the question I wish to stress is the following. What sufficient reason could an Epicurean have for formulating such a desire and then acting on it by writing a will?<sup>26</sup> The proposal currently under scrutiny is that the Epicurean simply writes a will for the pleasure he experiences at the time of writing as he contemplates possible future situations. In that case, a certain self-interest is outlined to motivate the action, which produces present pleasure.

I do not deny that such pleasures are possible. Even so, it seems to me that such an explanation is not sufficient to explain why the Epicurean should write a will. My worry can be most succinctly put in the following way: it is one thing to contemplate some future pleasurable event and take joy in it, but an altogether different thing to set about trying to ensure that this event will come about by constructing a legally binding document to be enacted after death.<sup>27</sup> To write a will is to take an active hand in attempting to bring about certain events, and such an action surely implies some commitment to the importance of those things actually occurring. If at the thought of various *post mortem* possibilities an Epicurean is stirred into drafting a will, then it is surely reasonable to suspect with Cicero that this betrays a lingering thought that he should do whatever he can to ensure that these *post mortem* circumstances obtain, either because he thinks that this will promote some *post mortem* interests or because he wishes to promote others' interests regardless of any vicarious pleasure this may provide. (This is the second of the possible justifications outlined at the beginning of this section; see VI and VII below.)

In short, it seems to me that nothing significant is added to the present pleasure of contemplating certain future possibilities by the writing of a will. (Although it may be

untouched. Cf. Williams (1973) 263, who gives an example of what he calls a 'non-I desire' (220 – desires not in any way *for* the desirer), designed to show that such desires are not necessarily altruistic: 'Some madman, not believing in life after death, might want a chimpanzee's tea party to be held in the cathedral, just because it would be such a striking event.' The denial of life after death is not meant here to be grounds for diagnosing the man's madness, but a mechanism for ensuring that this is not a tacit I-desire (since he thinks his ghost might be around to witness the event). Williams also notes the difficulties of analysing desires for such things as posthumous fame (one of my '*post mortem*' desires), since the desire passes the test of being an 'I-desire' (it is *for* the desirer) but necessarily the desirer cannot be contemporaneous with the intentional object of the desire.

<sup>26</sup> Epicurus insists on a subjective desire satisfaction – it is not enough for my *post mortem* desires to be satisfied if I do not perceive that satisfaction. Also see Scott (2000) 226 n. 25, who compares Aristotle's position with 'success theories' in which *ante mortem* projects and desires can be satisfied posthumously.

<sup>27</sup> Epicurus, remember, seems to have gone to unusual lengths in safeguarding the will: above n. 8.

the case that the act of writing down one's pleasant future fantasies contributes to the strength of their enjoyment.) Rather, writing a will is most plausibly interpreted as an attempt to take an active hand in bringing about those possibilities – and to do so is surely to imply that to some degree the present pleasure depends upon states of affairs which will come about after death. The will-maker feels comforted by the thought that his descendants, for example, will be cared for when he is dead. If this possibility is allowed, however, it seems to be impossible for Epicurus to continue to resist the claim that *post mortem* events may also have a harmful effect on present well-being, and this jeopardises his assertion that 'death is nothing to us'.

If the Epicureans are to avoid this difficulty they must resist the idea that the writing of a will is in any sense an attempt to bring about some *post mortem* state of affairs. In order to evade the charge that the Epicurean will-maker is in fact (and contrary to the dictates of *Kyria Doxa* 2) allowing *post mortem* events some bearing on his present state of well-being, some other characterisation of the point of will-making must be offered which does not make the joy felt at the thought of these events at all dependent on their coming about in the future. The Epicureans must redescribe the act of will-making. Instead of the setting down of some commands with the purpose of ensuring that certain events come about, they must instead claim that writing a will involves no such purpose. Rather, writing a will should be viewed as a kind of day-dreaming. By this I mean that the contemplation of the states of affairs described in the will is in itself a pleasurable act, and *that is all an Epicurean seeks when writing a will*. It does not matter in the slightest whether the events will in fact take place.

This does not strike me as a plausible redescription. First, I can see no reason why an Epicurean would produce a written document rather than merely sit and think pleasant thoughts about things which may or may not happen in the future. Certainly, the process of producing a will and of seeing that it is stored safely as Epicurus did would add nothing to the bare activity of thinking pleasant thoughts about the future. If anything, going to such trouble would appear to be a disturbance.

A further problem may be raised. The redescription I have offered to the Epicureans must include the claim that it does not matter whether the future events being contemplated will in fact take place. That is to say, it does not matter so far as the pleasure the Epicurean feels at the thought of them is concerned. But is this plausible? The Epicureans themselves, when discussing the pleasures of anticipation, regularly couple them with the pleasures of recollecting past events and treat the two as similar, differing merely in their being directed in opposite temporal directions.<sup>28</sup> But the pleasure to be won from recollecting a past pleasant event is certainly dependent on that past event having occurred and my having enjoyed it at the time. It makes little sense to say I remember a pleasant holiday in Italy last year if I did not go there. If anticipation is analogous to recollection, then any pleasure I might receive in thinking of a future event depends on that event coming about in the future and my enjoying it

<sup>28</sup> Cf. e.g. Cic. *Fin.* 1.57: *sed ut iis bonis erigimur quae expectamus, sic laetamur iis quae recordamur.*

when it does. Of course, it is not always the case that we can predict the future with great security, and we might therefore allow that it is possible to anticipate a merely probable or likely future event.<sup>29</sup> I can look forward to a forthcoming summer holiday with pleasure if it is reasonably likely that I will go and various pleasant things will happen. But even then, it is impossible for an Epicurean to look forward to *post mortem* events on the basis that they probably will occur and be experienced since by definition these events will not be experienced. The analogy with recollected pleasures cannot help. Instead, if such *post mortem* events can be objects of present pleasure it must be despite the fact that they will never be experienced. That is why I called this process a kind of day-dreaming – the enjoyment of things which we know we are not going to experience.<sup>30</sup>

Furthermore, as I have already noted above (p. 31), the Epicureans themselves construct an obstacle to the acceptance of such never-to-be experienced future states of affairs as reasonable objects of pleasure. They claim as part of their arguments against the fear of death that if a future event will not in fact cause pain when it occurs (since it occurs after the subject's death) then it should cause no pain in prospect. Any pain felt at present is 'empty'.

*Ep. Men.* 125: ὁ γὰρ παρὸν οὐκ ἐνοχλεῖ, προσδοκώμενον κενῶς λυπεῖ.

For that which when present causes no disturbance, when anticipated causes empty distress.

By calling such distress 'empty' the Epicureans do not mean that someone troubled by the mistaken thought of *post mortem* evils is not in fact feeling any pain, but rather that such pain can and should be removed. It is baseless and pernicious since the object of this anticipatory distress is in fact not at all distressing. There can be no *post mortem* pain, so it is absolutely senseless to worry now about it in advance. If anyone does worry, then it should be simple to point out this inconsistency among their beliefs.<sup>31</sup> If this is so then it seems that the Epicureans must also claim that if a future event will cause no pleasure

<sup>29</sup> The Epicureans take a moderate view on our ability to count on the future. *Ep. Men.* 127: μνημονευτέον δὲ ὡς τὸ μέλλον <οὔτε πάντως ἡμέτερον> οὔτε πάντως οὐχ ἡμέτερον, ἵνα μήτε πάντως προσμένωμεν ὡς ἐσόμενον μήτε ἀτελεπίζωμεν ὡς πάντως οὐκ ἐσόμενον. *Cic. Fin.* 1.62: [sapiens] neque pendet ex futuris, sed expectat illa, fruitur praesentibus. Also note Plut. *Non posse* 1089D: the Epicureans maintain that one can take heart in the present on the basis of a plausible expectation (πιστὸν ἔλπισμα) of some future event. See Warren (2001a).

<sup>30</sup> It may be argued that the Epicurean in question can choose to concentrate only on possible pleasurable *post mortem* events and ignore the possible unpleasant events. But the Epicureans themselves, in their discussions of recollection and anticipation, tend to stress that only in recollection is there the secure ability to 'edit out' any harmful past events and to concentrate on the positive. See e.g. *Cic. Fin.* 1.57. This must be based to some extent on the fixity (and therefore sure knowledge) of the past contrasted with the contingency of the future.

<sup>31</sup> See Lucr. *DRN* 3.870–83 for a picture of someone who says that he does not believe in the possibility of *post mortem* harm but is nevertheless worried at the prospect of his body's cremation.

when it occurs (since it occurs after the subject's death), then it causes merely empty pleasure in prospect.<sup>32</sup> Just as one cannot consistently both deny the possibility of *post mortem* harm and also feel present distress at the thought of some *post mortem* event, so one cannot both deny the possibility of *post mortem* benefit and also take pleasure in the present at the thought of some positive *post mortem* event. Since any Epicurean must deny the possibility of *post mortem* benefit or harm, he must also deny that one can consistently take pleasure in the present at the thought of such benefit or harm.

## VI

There is one remaining move for the Epicurean to make. He must claim that when he writes a will, rather than mistakenly contemplating any *personal* benefit or harm in the *post mortem* future, he is thinking about some benefit or harm felt by others – his descendants, for example – and taking pleasure in that prospect. They surely can feel pleasure or pain in his *post mortem* future (provided they outlive him). Now we can turn to the possibility of altruistic motivation for writing a will. In another prominent recent discussion of these issues Ernest Partridge accepts the impossibility of *post mortem* harm, but nevertheless thinks that the making of wills can be justified. He identifies three characteristics necessary to justify writing wills despite the non-existence of *post mortem* interests. These characteristics are:

- The ability to contemplate times and events beyond one's present temporal and physical location.
- The awareness of being bounded by temporal and physical limits.
- The capacity for moral abstraction. Partridge describes this in the following way. 'Things, places, conditions, ideas, institutions, and most significantly, persons outside himself and detached from his immediate moment and location must matter to [the agent]; he must care about their well-being as such, and not within some brief constraints of time and condition.'<sup>33</sup>

The first two requirements are easily satisfied by all normally functioning humans.<sup>34</sup> Partridge explains that the third characteristic – what he calls a 'capacity of moral

<sup>32</sup> Compare the discussion of true and false pleasures at Pl. *Phileb.* 35e–36b. Frede (1985) argues that pleasures can be false in the sense that the state of affairs which is the object of the pleasure did not occur or is not occurring or – in the case of false anticipatory pleasures – will not occur. In this sense the Epicureans could call the empty distress of *Ep. Men.* 125 false distress. Carone (2000) 275–9 argues against the view that a hedonist need not remove such pleasures from a life on the grounds that it is not possible definitively to rule out the possibility of the pain of disappointment which follows from the discovery of the falsity of the anticipated objects of pleasure. Of course, no such discovery will ever occur in the case of *post mortem* future objects – at least not so far as Epicurus is concerned – so they cannot be ruled out on purely hedonistic grounds.

<sup>33</sup> Partridge (1981) 255.

<sup>34</sup> Compare Locke's definition of a 'person' at *Essay* 2.27.9.

abstraction' – is the ability for someone to contemplate states of affairs beyond their own experience, and even beyond the possibility of their own experience without these states being utterly indifferent to them. This gives what is necessary for a will-maker who agrees that he will not be benefited even indirectly by the injunctions in his own will, since it allows the simultaneous acceptance that one cannot personally be affected by the events to which the provisions in a will refer, and that nevertheless one is not utterly indifferent to those events, since they will affect people and institutions for which one now has an appropriate tie of affection and concern, and whose well being one cares about *as such*.

Cicero denies that Epicureans can retain this capacity of moral abstraction. As he understands Epicureanism, all that matters to each Epicurean is his own pleasure, which might well be affected by others during one's lifetime, but by the Epicureans' own insistence cannot be so affected after death.<sup>35</sup>

From these remarks it should be clear that the problem for the Epicureans is not primarily caused by their hedonism, but by their egoistic hedonism. In other words, it might be held that pleasure is the good, but if it is not further specified that the only good for each agent is his or her own pleasure, it leaves room for the claim that one should act to promote as much pleasure in the world as possible – no matter whose pleasure it is.<sup>36</sup> In fact, in the absence of further specification this bare claim leads to a general utilitarian outlook. In that case, pain is bad no matter who experiences it, and this is by itself a sufficient reason for writing a will which contains various pain-reducing measures.<sup>37</sup>

At this point I shall introduce a second Epicurean, who also when close to death undertook to ensure that certain acts of munificence were carried out. Diogenes of Oinoanda, who died sometime in the second century CE in Lycia, made sure that a huge Epicurean inscription was erected, a work which he began in the full knowledge that he was old and ill and unlikely to see it completed. If we understand Epicureanism as Cicero does, we might also wish to ask why as an Epicurean Diogenes of Oinoanda would construct the inscription at all since he is so close to his own death. What possible personal gain might it provide? I have argued elsewhere that this very characteristic is

<sup>35</sup> Nagel (1970) 27–30 is critical of theories which require every intentional act to be motivated by an underlying desire. He points out that desires themselves may be motivated by a deeper level of considerations about my welfare or that of others. Still, the problem for the Epicureans can be cast in these terms. Why would they have any of the concerns relevant to the formation of these *post mortem* desires? This is the question of what motivates these desires. Nagel's favoured analysis of altruistic motivation rests on the postulation of something quite similar to Partridge's 'capacity of moral abstraction' (82–4).

<sup>36</sup> Nagel (1970) 85, recognising that the major opposition to his view comes from egoism, claims that it is difficult for an egoist to resist the slide from the claim that 'my pain is bad' to the claim that 'pain is bad *per se*, regardless of who experiences it.'

<sup>37</sup> Therefore Epicureanism is an agent-relative theory, while utilitarianism is an agent-neutral theory. For these classifications cf. Brink (1990). Incidentally, egoism *per se* is compatible with the view (like that of Aristotle) that one's well-being can be harmed after death. Hedonism is a subjectivist theory, and egoistic hedonism is a form of subjective egoism. This combination is what causes problems for the Epicurean in this context.



part of Diogenes' own self-presentation as the ultimate civic euergetist; he cannot possibly be seeking any personal advancement through his benefaction.<sup>38</sup> But for present purposes, my interest lies specifically in a brief explanation which Diogenes gives for his concern for future generations.

Diogenes explains that it is just (*dikaion*) to come to the aid of future generations (3.IV.13–V.4 Smith). Indeed, it is just to help them, he says, 'for they belong to us too, even if they have not yet been born' (*καὶ κείνοι γὰρ | εἰσὶν ἡμέτεροι καὶ εἰ | μὴ γεγόνασι πῶ*. 3.V.2–4 Smith). Two possible forms of justification present themselves: one based on personal relationships, and another based on issues of justice. Let us consider the second of these first. Diogenes asserts that these unborn generations are relevantly linked to him to the extent that they are bound with him in a community governed by the requirements of justice.<sup>39</sup> Perhaps Diogenes is not speaking at this point in absolute accordance with the substance of Epicurean doctrine. After all, he is announcing his project to the general public passing through the centre of Oinoanda – and they would not, at least not yet, be expected to accept Epicurean theory at this stage of their instruction. This appeal to justice is in that case an explanation understandable in non-Epicurean terms which might be thought to act as a *captatio benevolentiae* and draw in potential converts to read the rest of the message. In that case we should not be looking here for a full-blown Epicurean theoretical justification for Diogenes' *post mortem* generosity.

In Epicurean theory what is just is not merely what is expedient for one's own personal well-being,<sup>40</sup> but what in some particular set of circumstances can promote what is objectively good for all members of the society to which this particular code applies (see *Kyriai Doxai* 33 and 37).<sup>41</sup> If he is speaking in strict Epicurean terms, therefore, Diogenes would be asserting that these unborn generations are part of the group to whom these standards of justice apply, and that it will be of general advantage for him to produce this inscription.

This thought might also explain why the injunctions prescribed in an Epicurean will are carried out by other Epicureans who are also convinced that the deceased cannot be affected by their action or inaction. If, rather than expressions of personal interest and desires, the injunctions in the will are expressions of what is objectively to the advantage of the group, then the remaining group members, who share the values of the deceased, will unquestionably be concerned to promote those same values. The will is enacted because it is to the group's general advantage.<sup>42</sup>

<sup>38</sup> Warren (2000a). Diogenes also includes, in emulation of Epicurus, what looks like his own will (see esp. fr. 117 Smith).

<sup>39</sup> Cf. Long (1986) 307–8 and n. 23.

<sup>40</sup> Cicero repeatedly attempts to claim that despite his protestation that he will always obey law and custom an Epicurean hedonist would not obey any law which conflicted with his own utility. See *De legibus* 1.42–50. Cf. Vander Waerdt (1987).

<sup>41</sup> Cf. Lucr. *DRN* 5.958–9, 1154–5; Mitsis (1988) 80–1.

<sup>42</sup> Compare Partridge (1981) 259, who argues that wills are enacted as part of a kind of social contract. The living respect the wishes of the deceased in order to safeguard their own ability to write binding wills in the future.

In this way, according to the Epicurean theory, the will is *dikaion* and must be respected.<sup>43</sup> But still one might ask why Epicurus needed to write a will at all, if all that the will does is express measures to be taken for the general good of the surviving Epicurean community. If all the remaining Epicureans shared these values, would they not have carried out just what Epicurus requested whether or not there was a will telling them to do so? In the section of Hermarchus' work on justice, contained now in the first book of Porphyry's *De abstinentia*, the Epicurean remarks that in a world full of Epicurean sages there would be no need for written prescriptive laws. Everyone in that case would be able to see and remember what contributes to the utility of the community and would act accordingly (Porph. *De abst.* 1.8.4; cf. Diog. Oin. fr. 56.1.6–12 Smith). If prescriptive laws are superfluous in such a society, so are wills. Still, it would presumably be wrong for us to think that the Hellenistic Garden was a community of sages. We may assume that many of its members were new to Epicureanism, or had not yet progressed as far as Epicurus and the four *kathêgemones* towards sagehood. In that case it is still open for the better informed leaders of the group to point out what really would contribute to the general utility.<sup>44</sup>

But still a troubling question arises when it is remembered that Diogenes' inscription is the gift of a dying man. Why would Diogenes wish to invoke such ties at this time? The brief description of the original motivations for entering into such compacts found in *Kyria Doxa* 36 refers to mutual expedience guaranteed by the understanding that each person will not be harmed by another. Yet again, it must be underlined that Diogenes cannot in this case be acting with an eye to future reciprocation, or even future guaranteed security. Diogenes' desire to erect such an enormous inscription is precisely introduced as a post mortem desire, and no grounding in self-interest is available for such desires. In other words, the Epicureans' own explanation of the basis of and motivation for just action refuses to invoke precisely the sort of 'capacity for moral abstraction' required in Partridge's theory. Even if either of our dying Epicureans thought that it would promote general utility if certain steps were taken, what would motivate them to promote the taking of those steps, since at the time in question they will be dead, and no longer members of the relevant group?

## VII

Let us now explore the alternative line of justification suggested by Diogenes of Oinoanda's brief explanation. Here the discussion shifts from the Epicurean theory of justice to their support of ties of friendship. Already we have seen that Diogenes asserted a personal bond between himself and future generations, and clearly those who will benefit from Epicurus' will are his companions and friends –

<sup>43</sup> See Alberti (1995), *contra* Goldschmidt (1982).

<sup>44</sup> Cf. Plut. *Adversus Colotem* 1124D.

people who had close personal bonds with the school's founder. Indeed, whereas Diogenes' public inscription addresses the inhabitants of Oinoanda most generally, Epicurus' will is primarily addressed to the members of the Garden and to his own family. If any Epicureans could be said to have been bound by bonds of friendship and justice, it will be these. Furthermore, the vigorous promotion of the goods of friendship is one part of Epicureanism which has been seen to threaten the picture of their ethics as based entirely on the calculation of self-interest. If it can be accepted that an Epicurean could act to promote the interests of a friend independently of any further motivation based on self-interest, then the strict egoist requirement on Epicurean action will have been eroded, and room might be made for post mortem desires.

Unfortunately, the three Epicurean explanations of friendship offered by Torquatus have generally been thought to sit uneasily with Epicurean hedonism.<sup>45</sup> Cicero implicitly relies on what he perceives to be the incompatibility of the two when he picks on this trait to argue that Epicurus' behaviour was less reprehensible than his ethical theory (*Fin.* 2.80–1). Famously, in his exposition of Epicurean ethics Torquatus provides three competing Epicurean interpretations of the nature and foundations of friendship. One version without embarrassment makes friendship instrumental in this pursuit of pleasure, but – as we shall see – tries to find room nevertheless for genuine altruistic motivation (*Fin.* 1.66–8). A second, proposed by *Epicurei timidiore*s, makes pleasure the original motivation for friendship, but also claims that genuine friendship can blossom subsequently (1.69). A third view makes friendship a bond between wise men of such a sort that they love their friends no less than themselves (*ut ne minus amicos quam se ipsos diligant*: 1.70).

The existence of these three views is intended by Cicero to show that the Epicureans themselves were somewhat unsure what to make of the place of friendship within their ethical view. This uncertainty is in turn intended to be a symptom of an underlying problem for the Epicureans' theory. The three views give a gradually increasing rôle to genuine altruistic feelings, and therefore increasing emphasis on a 'capacity for moral abstraction'.

Cicero is constructing a dilemma. Epicurus thinks that he must make some room for friendship and altruism within his view of the good life, but if he remained consistent with his hedonism it would turn out that friendship is entirely instrumental. In that case, is an Epicurean friend a true friend at all? On the other hand, the more Epicurus insists that he would not always promote his interests to the detriment of others, the more it looks as if he is abandoning his original assertion that we should measure the value of

<sup>45</sup> Mitsis (1988) 98–128, Annas (1993) 236–44. O'Connor (1989) proposes that Epicurus' view of friendship does indeed exclude genuine altruism. For a general discussion of the conflict between subjective egoist theories of well-being and morality see Brink (1990) and cf. above n. 37. Brink's own proposed solution to this problem rests on accepting an *objective* theory of well-being or welfare. He calls his own version a 'neo-Aristotelian' account.

an action by the amount of pleasure it brings us. (This dilemma is well exemplified by the two assertions contained in *Sententia Vaticana* 23.)<sup>46</sup>

The problem is worse for Epicurus in the case of altruistic acts which are designed to take effect after the agent's death – just the sort of act in question here. For in those cases there is removed the remotest possibility that an act to promote another's interest might in the future be reciprocated. No possible future pleasure can be gained. To a large extent, then, the chances of resolving the problems of Epicurus' will-making and Diogenes of Oinoanda's civic euergetism stand or fall with the more general question of whether any altruistic motivations at all can be fitted into the Epicurean system. Indeed, these two cases of *post mortem* acts of altruism throw the question into its sharpest focus since in these cases, by the Epicureans' own admission, there is not even the remotest possibility of smuggling in any chance of the agent taking pleasure in the later enactment of his instructions.

The Epicureans must now try to avoid Cicero's dilemma.<sup>47</sup> The most promising line of argument is to claim that their particular brand of hedonism is not incompatible with genuine altruistic motivation. There is some evidence that the Epicureans did advocate what at least appears to be the sort of behaviour we might class as altruistic. For example, Diogenes Laertius includes the report that an Epicurean sage will on occasion even perform what may be termed the ultimate act of self-sacrifice; he will die for a friend (DL 10.120). However, Diogenes does not spell out under just which circumstances this sacrifice is appropriate, and while it is obviously the case that self-sacrifice is compatible with genuine altruism, it does not require it. Indeed, it is also possible to justify such acts as displaying self-interest. If the alternative to self-sacrifice is the death of a friend (which is the situation envisaged by Diogenes) then perhaps were that friend to die then the surviving Epicureans' life would be full of misery. Perhaps the Epicurean depended materially on this friend. Perhaps in the absence of this friend the Epicurean will not be able to live a life of *ataraxia*. In such circumstances, since death is not an evil then it is preferable to a continued painful life.<sup>48</sup>

The Epicureans' explanations of the origin and justification of friendship are therefore a better source. Let us leave to one side, however, the third of the models which Torquatus outlines, that of the past of mutual aid between sages. This model is explicitly said to work only between Epicurean sages since only they are able properly

<sup>46</sup> SV 23: *πάσα φίλια δι' ἑαυτὴν αἰρετῆ ἄρχῃν δὲ εἴληφεν ἀπὸ τῆς ὠφελείας. αἰρετῆ Usener; ἀρετῆ MSS.* O'Connor (1989) 186 resists seeing a tension between the two clauses in the emended version: all friendships are in themselves good things because they have been founded in utility. Eric Brown, in a recent paper, argues that Usener's emended text is philosophically objectionable (friendship cannot be 'choiceworthy in itself') but the MSS reading is philologically difficult. He concludes by speculating that the *Saying* was composed by later Epicureans who did indeed believe that friendship is intrinsically choiceworthy.

<sup>47</sup> Annas (1993) 240 argues that the Epicureans expanded the notion of the pleasure that we all should seek as a natural end such that it includes the pleasure to be had from genuine altruistic concerns. However, she finds little clear and unambiguous presentation of this potentially promising view in Epicurean texts.

<sup>48</sup> See my remarks about the Epicureans' view of suicide in Warren (2000b) 242 and n. 34. See also Konstan (2000) 15.

to form such compacts. It is therefore perhaps applicable to the case of Epicurus and Hermarchus, but certainly not to the case of Epicurus and Amynomachus and Timocrates – neither of whom are Epicureans, let alone sages. It is also certainly not the case that any such compact of mutual benevolence might be said to exist between Diogenes of Oinoanda and the present and future citizens of that city.<sup>49</sup>

The first of the three suggestions recognises that friendship is an instrument for the production of pleasure, but attempts to make room for genuine altruism by noting that the most efficient way to ensure the pleasures which flow from one's friends is genuinely to feel concern for them.

quod quia nullo modo sine amicitia firmam et perpetuam iucunditatem vitae tenere possumus neque vero ipsam amicitiam tueri nisi aequè amicos et nosmet ipsos diligamus, idcirco et hoc ipsum efficitur in amicitia et amicitia cum voluptate connectitur. (Cic. *Fin.* 1.67)

So in no way is it possible to secure firm and constant pleasure in life without friendship, nor is it possible to keep friendship itself unless we love our friends and ourselves equally. Hence this [i.e. loving friends and ourselves equally] does occur in the case of friendship and friendship is linked with pleasure.

This explanation therefore invokes a familiar paradoxical twist to the promotion of self-interest: it is best done by not behaving in a self-interested manner.<sup>50</sup> While it is undeniable that friendship can produce pleasure, the Epicureans might be open to the following complaints. First, all that is required for the enjoyment of the goods provided by friends is that one appear to be – rather than actually be – a friend oneself. This may, of course, require the occasional altruistic act, but this is hardly to say that one should in fact value one's friends pleasures as much as one's own. Second, this explanation offers an unstable mix of self-interest and other-regarding motivation which can be made to cause problems for the Epicureans. What should an Epicurean do if faced with an exclusive choice between

<sup>49</sup> Of course, Diogenes does seem to invoke a general concern for all humans: φιλανθρωπία. There are similar signs of the Epicureans' acceptance that there is a general psychological propensity for such affection in Hermarchus *ap. Porph. De abst.* 1.7.1: τάχα μὲν καὶ φυσικῆς τινοῦ οἰκειώσεως ὑπαρχούσης τοῖς ἀνθρώποις πρὸς ἀνθρώπους διὰ τὴν ὁμοιότητα τῆς μορφῆς καὶ τῆς ψυχῆς ... It would be difficult to deny some possible Stoic influence here. Cf. Konstan (2000) 16: 'In Epicureanism, the capacity for friendship and along with this, I suggest, a disinterested desire for the good of the other, are part of our biological heritage: we are as eager, in Lucretius' formulation, not to harm others as we are to go unharmed.' This may be true. However, what is needed is something stronger, namely the justification of this inherited practice to each agent on grounds consistent with Epicurean hedonism.

<sup>50</sup> This paradox is sometimes fashioned into a refutation of self-interest theories. See Sidgwick (1907) 136–7, 403; Brink (1990) 342–9. The second of Torquatus' proposed models goes so far as to claim that eventually friendship blossoms so as to promote altruistic motivation without any further self-interested aims. As such it seems to deny the Epicureans' claim that we should act always with a view to promoting our overall pleasure. Cic. *Fin.* 1.69: *itaque primos congressus copulationesque et consuetudinum instituendarum voluntates fieri propter voluptatem, ... tum amorem efflorescere tantum ut, etiamsi nulla sit utilitas ex amicitia, tamen ipsi amici propter se ipsos amentur.*

promoting his own interest and promoting that of a friend? All that the brief passage just quoted offers is that we are to love ourselves and our friends equally. But if we grant that such exclusive choices may have to be made, what should the Epicurean do? Should he act to promote his friend's pleasure, to his own detriment but in accordance with a genuine other-concern? But this other-concern was introduced precisely as a means to further one's own pleasure. Or should he instead on this occasion act to promote his own interests and to the detriment of his friend? In that case it can be argued that Epicurean friendship is indeed entirely one-way; the friend's interests are not valued in themselves but merely when either they further the Epicurean's own interest or can be fostered at no overall cost to the Epicurean. But this sort of picture does not seem to be genuinely altruistic.

More pressing for the specific role which altruism is supposed to play in my present discussion is the fact that friendship is intended in all three of Torquatus' suggestions to function as a means to generate or guarantee further pleasure for the Epicurean himself. But in cases of *post mortem* munificence there is no Epicurean to be benefited by his grateful friends. This problem can be circumvented to a degree by interpreting a will as a gesture towards one's friends (who are here understood to be the main beneficiaries of any bequest) which is known about and appreciated while the testator is still alive. In this situation, the knowledge that a friend will leave certain items in a will to another may ensure the continued assistance of this future beneficiary during the remaining period of the testator's life. The beneficiary reciprocates in advance, as it were, for the goods which he has been pledged and will receive when the other dies. It may even be the case that the time and trouble taken to write a will is repaid by the pre-emptive gratitude of the future beneficiaries. (The eventual acts of munificence contained in the will are, of course, no loss to the deceased.) However, notice that on this account the testator himself remains indifferent to whether the measures in the will are in fact carried out. The function of the will of ensuring the reciprocation of a friend ceases to be relevant once he dies. This may indeed be the most plausible account an Epicurean could give of the motivation and practice of will-making since it does identify a degree of self-interest which would motivate the formulation and (importantly) publication of promises of *post mortem* future other-regarding acts.<sup>51</sup>

Whether this is a plausible explanation of the two acts of Epicurean *post mortem* generosity which I have used to anchor the philosophical discussion of this paper is another question. Perhaps Epicurus benefited during his lifetime due to Aynomachus and Timocrates' knowledge of the measure he had placed in his will to an extent which justified the time, trouble, and expense of writing and ensuring the preservation of the document. The case of Diogenes of Oinoanda is less promising, however. The proposed beneficiaries of his legacy are for the most part non-Epicurean and not known to him personally. It can certainly not be argued that he received some benefit during his life from the future generations he has decided to aid.

<sup>51</sup> See Cic. *Fin.* 1.70: *perspicuum est nihil ad iucunde vivendum reperiri posse quod coniunctione tali sit aptius.*

## VIII

There have emerged two major difficulties for a defender of Epicurean will-making. The first is the difficulty of providing any demonstration of the compatibility of genuine altruism with egoistic hedonism. The Epicureans may be able to circumvent this by various contractual stories or with empirical or psychological observations that humans naturally do form true friendships. Nevertheless, there still seems to me to be a tension between the recommendation that one should act always to promote one's own subjective state and also the notion that others' well-being is to be valued *as such*, regardless of any personal stake. The provision of *post mortem* acts of kindness to others throws this difficulty into the sharpest relief. Second, there is the difficulty of providing room for any impulse to *post mortem* generosity or commands within a system which recognises no possibility of *post mortem* benefit or harm. While this may be thought to leave it entirely possible for an Epicurean to be extremely generous with his bequests – since he himself will have no need to retain any of his wealth – there appears to be little or no reason for an Epicurean to motivate himself to perform such acts of munificence.

There are still possible answers to the question of why Epicurus wrote a will and took such pains to see that it was safely preserved. We might have to think that Epicurus was indeed inconsistent and Cicero was right to press his criticisms. In the face of imminent death, Epicurus began against his philosophical judgement to worry that the affairs of the Garden after his death might after all be 'something to him'. So he made a will to try to preserve his (involuntary) *post mortem* interests. This depressing conclusion should be offered only in the absence of anything better.

There is an alternative view. We should also remember here what I called the 'double audience' of Epicurus' will. This is a will not only for the members of the Garden, but must also conform to the form and legal requirements of the surrounding Athenian society. The manner in which Epicurus handles the inheritance of his property makes it clear that he is aware of Athenian legal practice and convention. On this view, Epicurus' decision to make a will was determined not by his philosophical outlook at all, but by the fact that his philosophical school existed within a *polis* which did not share its views. Therefore, we might choose to conclude that Epicurus' will had the purely instrumental concern of ensuring the continuation of the Garden and of carving a legitimate place for this community within Athenian property and inheritance law.<sup>52</sup> The making of a will of some sort was unavoidable, and since the Epicureans recommend living by custom and law – in order to secure a quiet life within a city – these legal practices are adhered to but without the Epicurean being committed to them in the same way as the general populace might be.<sup>53</sup>

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<sup>52</sup> For the relationship between the Epicurean Garden and the surrounding non-Epicurean society see Long (1986) esp. 313–16.

<sup>53</sup> Cf. some of the assertions gathered in DL 10.118–20.



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